

# Approved Independent Schools Study Committee

## Draft Meeting Minutes

August 14, 2017

### **Present:**

Committee members: Senator Philip Baruth, Chittenden County; Representative Emily Long, Windham County; Nicole Mace, VSBA; Liz Shayne, Schoolhouse Learning Center (CIS); Seth Bongartz, VISA; Jeff Francis, VSA; Jo-Anne Unruh, VCSEA; Molly Bachman, AOE; C.J. Spirito, VISA & Rock Point School

Agency of Education: Suzanne Sprague

Others: Laura Pelosi, MMR; Todd Bailey, LPA; Mill Moore, VISA; Patti Komline, VISA; Toby Howe, MMR; Sylvia Dodge, Lyndon; Traci Sawyers, VCSEA; Robert Roper, Stowe/EAI; Jim DesMarais, Legislative Counsel; Elizabeth Novotny, Mosaic Learning Center; Kevin Ellis, Ellis-Mills Public Affairs; Lisa Estivill, WCMHS; Michael Bielawski, True North Reports; Elizabeth Hewitt, VT Digger

Senator Baruth convened the meeting at 1:03 p.m. He advised the committee that there are a couple of designees at this meeting. Senator Baruth said there is no representative from the State Board of Education due to conflicting schedules. He added that for the same reason, the Vermont Family Network was unable to present at the meeting. Senator Baruth recapped the July 19<sup>th</sup> meeting. He continued that Jim DesMarais will begin an initial draft of the proposed Rule 2200 series.

### **Item 1**

Jeff Francis, Jo-Anne Unruh and Nicole Mace jointly presented. Francis said that the presentation was based largely on the perspective of the Vermont Superintendents Association and the Vermont Council of Special Education Administrators with organizational assistance from the Vermont School Boards Association. Francis said that the presentation provides context and addresses the Independent School proposal from the previous meeting. He said the input was derived through conversations with public school officials who are administrators. He discussed the following topics: Introduction and Legal Context; Public Mission versus Private Mission; Independent Schools Rely on Public Dollars for Viability and Vitality; Challenges to Well-Informed Discourse; Our Approach to the Rule 2200 Process.

Unruh discussed the following topics: Important Distinctions/Clarifications; Special Education – Access Issues; Special Education – Supervision Issues; Special Education – Billing Issues. Mace discussed the following topics: Enrollment and Retention; Discipline. Francis finished by discussing Demonstrating Financial Capacity. He said that he was content to rely on state officials to enact measures to assure the fiscal integrity and security of independent schools receiving public dollars. Francis passed out the Vermont Superintendents Association, Vermont Council of Special Education Administrators and the Vermont School Board’s Association proposed wording for updating the State Board of Education rule on open enrollment and special education services.

Senator Baruth led discussion on financial capacity. He asked DesMarais to develop language on financial capacity to include the Secretary's probable cause caveat of prime cause to trigger a deeper investigation.

## **Item 2**

Senator Baruth asked for comments or questions related to the Independent Schools Presentation from the July 19<sup>th</sup> meeting. Discussion followed.

Senator Baruth thanked today's presenters. He said that the mandate before the committee is how they will deliver and not whether they will deliver. Lengthy discussion followed on the independent schools providing special education services, qualified licensed special education staff, supervision and oversight, demand and capacity, 18-month special education approval process, open enrollment, indirect and direct costs associated with educating students with disabilities, and sharing of resources.

Senator Baruth asked for the creation of a subcommittee of four people, two representing independent schools and two representing the public side, that attempt to narrow the differences and agree to a mapable system that allows the law to be met, allows the students' needs to be met and allows the Independent School's capabilities to be taken into account. Mace pointed out that a subcommittee formed by the Committee would be subject to the open meeting law. Francis said he prefers the next meeting to be the Committee as a whole before going to a formal or informal subcommittee. He added that there are still some big issues and he would like them further discussed in plain view and that discourse is better in this setting. Bongartz said he wanted to develop an atmosphere of collaboration. He continued that if the independent schools are provided the resources then they are happy to take it on.

## **Item 3**

The Vermont Family Network presentation was postponed due to scheduling conflict.

## **Item 4**

Senator Baruth said that Jim DesMarais will respond to an article written by Christina Rainville that appeared in the summer 2017 issue of the Vermont Business Journal. DesMarais offered his legal opinion relative to the article. The article presented the author's view that Vermont's current education system allows discrimination against children with disabilities who want to attend publicly-funded independent schools. DesMarais presented a memorandum he had written at the request of Rep. Oliver Olsen in April 2017 concluding that it is his opinion that there is an insufficient basis to conclude that a court would find that an independent school is required to have open enrollment or offer special education services even though it receives public education dollars.

Senator Baruth said he considers the article and opinion a moot topic because he believes the committee's charge is to determine how and not whether the independent schools that receive public dollars will provide special education services.

## **Item 5**

Senator Baruth said the following topics will be on the next meeting agenda; new language regarding system of care/shared resources concept; draft language regarding financial disclosure; VFN presentation; CASE presentation.

Next meeting September 12<sup>th</sup> from 10:00 a.m. – 12:00 p.m. in room 10 at the State House.

The meeting adjourned at 3:12 p.m.

Minutes recorded and prepared by Suzanne Sprague.