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## Act 173 Advisory Group

### Draft Meeting Minutes

**Meeting Place: McFarland House****Address: 5 Perry Street, Penthouse Suite, Barre, VT 05641****Date: January 6, 2020****Present:**

Advisory Group Members: Meagan Roy, VCSEA; Marilyn Mahusky, DLP/VLA; Lisa Bisbee, VT-NEA Practitioner; Peter Garrecht (VCSEA-selected special educator); Cheryle Wilcox, DMH; Tom Lovett, Council of Independent Schools; Jeff Francis, VSA; Brenda Fleming, VASBO; Jeff Fannon, VT-NEA; Mill Moore, VISA; Karen Price, VT Coalition for Disability Rights; and Sue Ceglowski, VSBA (by phone).

Agency of Education (AOE): Emily Simmons, Meg Porcella, Maureen Gaidys and Clare O'Shaughnessy (by phone).

Others: Chelsea Myers, VSA; Mike McRaith, VPA; Sandra Cameron, VSBA; Tammy Kolbe, UVM; Susan Aranoff, VT DDC; Marianna Donally, DMH; Traci Sawyers, VCSEA; Jo-Anne Unruh, Special Education Consultant; Philip Ehler, VATR; Kimberly Gleason, SBE (via phone); Representative Kate Webb, VT General Assembly.

**Call to Order/Roll Call/Introductions/Amendments to Agenda**

Chair Roy called the meeting to order at 9:41 a.m. and advised that the information provided by Mahusky/Vermont Legal Aid on the adoption of an MTSS rule might come up under the discussion on the report to the General Assembly and/or the Professional Development discussion. If needed, this item will be discussed under "Other Discussion."

**Review and Approve Minutes from November 4 and December 11, 2019 Meeting**

Chair Roy asked for a motion to approve minutes. Bisbee moved to approve minutes from the November and December meetings; Mahusky seconded. Nichols asked to take separate votes as he and others were not present for the November meeting. Chair Roy asked for a motion to separate the votes. The motion was amended to approve the November meeting minutes. Chair Roy called the vote. The vote passed; Nichols and Lovett abstained. Nichols moved to approve the December meeting minutes; Mahusky seconded. Chair Roy called the vote. The vote passed.

**Opportunity for Public to be Heard**

Chair Roy asked for any public comments. There were none.

## **Presentation – Weighting Study**

Chair Roy invited Dr. Tammy Kolbe to address the group and discuss the [Pupil Weighting Factors Report to the Legislature per Act 173 of 2018](#). Dr. Kolbe introduced herself, Associate Professor of Education Policy, UVM. She explained that she was one of a study group of three, which included Dr. Bruce Baker, Rutgers University and American Institutes for Research (Drew Atchison, Ph.D. and Jesse Levin, Ph.D.). Dr. Kolbe said she would be speaking to one part of the Weighting Study - the response to the legislative request that consideration be given to whether the special education census grant should be adjusted for differences in the incidences of and costs associated with students with disabilities (SWD) across school districts.

She walked the group through her presentation titled, “[Evaluating the Census-based Special Education Block Grant: Summary of Findings from Study of Pupil Weights in Vermont’s Education Funding Formula](#).”

Dr. Kolbe opened this topic up for discussion and questions. There was discussion on looking at this as a system, that weighting indirectly (not directly) affects local decisions with either option, low spenders remaining low spenders, taking a step back and looking at the entire system as a system, needing context for the overall system, taking time to examine the factors in the executive summary before proceeding, needing to generate a report to the GA, UVM’s prior report, and that an analytical approach is systematic.

Chair Roy asked Secretary French for comment. He spoke about the plan to debrief the report with key legislative/policy leaders to help them better understand it and to understand how the special education funding system will operate as a grant program in the context of statewide funding. He also spoke about it being difficult to embed some reaction to this study in the annual report to the GA with such a short timeline. Secretary French announced that he needed to step out at 11:00 a.m. and would return, but then would be out again this afternoon in order to take advantage of time with Dr. Kolbe to do a briefing together with VTDigger on the weighting study.

There was further discussion on using the executive summary, demographics, sharing this report with the Tax Structure Commission, the effectiveness of Act 46 where structure has changed but decision making process has not, the complexity of this work, having a consensus opinion before recommending changes to Act 173, need for understanding of how the two come together, that the report contains the best and strongest evidence, if there is national data to support IEP spending, under-identifying SWD as a factor, cost factors outside school district control, recommended weights, reason for no weighting around trauma, recommended categorical grant program related to trauma, and poverty as a decent proxy for trauma.

## **Discussion – Report to the General Assembly**

Chair Roy spoke about getting a sense of what should be included in the report to the General Assembly (GA). She referenced a [draft outline of the Report of the Census-Based Funding Advisory Group](#) and said the goal was to flesh out the key points. She advised the group that this report to the GA is not the finite opportunity to give recommendations to the GA. Chair Roy said she would take notes and work with designated AOE staff to formalized and submit the report. She walked the group through the draft report.

There was discussion on getting verbal reaction/response from the AOE on the [AG's recent revision to the draft rules](#). Chair Roy asked Emily Simmons, General Counsel, to address the AG. She walked the group through the proposed changes – 1) accepting the changes to definitions; 2) 1304.1(d) will have alternate language that adds clarity to what the AOE is supposed to do; 3) 1307 – documenting MOE will be the same as above; 4) 1307 continued - some reorganization needed around subdivisions c and d and AOE would not propose adding the fourth prong to the rules since it is covered in “a” as these costs would be specified in the student’s IEP and would be approved by AOE as an appropriate element of MOE and this is the level of detail that would be articulated in technical guidance not rules, 5) three prongs were designed to align to federal guidance and this would be a departure from that; and 6) edits needed for “d” to use student-centered language.

There was discussion on proposed rule that costs are allowable for students placed by an IEP team in an independent school approved for the specific disability(ies), eligible services, some pieces earmarked for guidance, technical guidance being more responsive, budgeting for reinforcers, needing time to create new rules, the June memos, the independent school rules being a separate piece of work, both sides concerned with unintended consequences, standing by AG’s December 11 actions and consensus preferred over impasse.

Chair Roy adjourned for lunch at 11:57 a.m. to reconvene at 1:00 p.m. Chair Roy called the meeting back to order at 1:00 p.m.

### **Report – VSA/VPA Professional Development Workday**

Chair Roy invited Chelsea Myers, Communications Director, VSA and Mike McRaith, Assistant Executive Director, VPA, to address the group and share their [VSA/VPA Report on Professional Development Workday](#). McRaith talked about the VPA and VSA and their attempt to test the temperature of the field’s understanding of Act 173 and the need for professional development (PD) in this arena. Myers clarified that the stakeholders represented geographic and governance structure variations and she summarized the desired professional development key elements that came from this activity.

Chair Roy opened it up for questions/discussion. Chair Roy requested that the AOE react to the recommendations that came from this activity at a future AG meeting.

Chair Roy stated that the rest of the meeting would involve discussion on the report to the General Assembly, schedule and format of future meetings, and input from Mahusky.

### **Other Discussion**

Report to the GA: There was feedback on identifying rules series 2360, including the VPA/VSA summary of PD with the report, inviting AOE to include any comment to the summary prior to report being submitted, having a conversation at a future AG meeting about recommendations, educating and informing parents, and requirement in the law to disseminate information to parents. Chair Roy said she plans to submit the report by January 31.

Future Meetings: Chair Roy said that statute allows for 8 meetings per year and the AG has already met 6 times. Francis suggested keeping the meetings as scheduled and hearing from Secretary French at the next meeting after he has had time to look into this. The AG will meet in February and decide at

that time on future meetings. Chair Roy suggested using the February meeting to start the dialog with the AOE on PD.

Adoption of MTSS: Mahusky referenced [Vermont Legal Aid's-Disability Law Project's letter to Chair Roy and Secretary French](#) and spoke about the adoption of an MTSS rule and that legislation does not require a rule, but requires the AOE to adopt policies and procedures and that she doesn't think that carries enough weight. There was discussion on Tier 2 support, unintended consequences, MTSS not being pre-special education, that federal law requires and ensures that evaluations cannot be delayed, that MTSS as a rule creates rigidity which is not what is desired, schools should be able to articulate how decisions are made, rules are better respected than guidelines and policies, need to include general education teachers in communications, and collaboration between special and general educators.

Chair Roy suggested follow-up discussion at the February meeting on adopting an MTSS rule, continued dialog on AOE rules series 2360 and other sections of rules series 2360, and the State Board of Education (SBE) appreciating continued input from the AG to inform the rulemaking process. Moore expressed displeasure and confusion that that rule series 2360 was going to the SBE without input from the AG. Chair Roy asked if the AOE could have dialog at the next meeting even as the SBE timeline continues to progress so that they could resume discussion and gather information on this to inform the process as it moves forward. Gleason added that input from the AG is important to the SBE and will continue to be important. There was discussion on the need for external support for drafting alternative rules so that PD could have some attention. Chair Roy will reach out to Secretary French in advance of February meeting.

## **Adjourn**

Chair Roy adjourned the meeting at 2:12 p.m.

Minutes prepared by Maureen Gaidys.

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