

**Report of the
Census-Based Funding Advisory Group
DRAFT**

January 15, 2022

Legislation

This report is submitted pursuant to Act 173 of 2018 Sec. 9 (f) to the House and Senate Committees on Education and the State Board of Education with “a status of implementation under this act and any recommendations for legislation.”

Background

Act 173

Act 173 of 2018: An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

The Act changes the funding model for special education from a reimbursement model to a census-based model. This new model allows more flexibility in how funds can be used, simplifies administration of funds at both state and local levels, and aligns with policy priorities, including the opportunities identified in the District Management Group (DMG) report.

The act reinforces Vermont’s commitment to comply with all provisions of the Individuals with Disabilities Education Act (IDEA) with an emphasis on maintaining state and local funding levels. Additionally, the act ensures that all students eligible for special education receive a free and appropriate education in the least restrictive environment in accordance with an Individualized Education Program (IEP).

Charge of the Group

The Act created the Census-Based Funding Advisory Group “to consider and make recommendations on the implementation of a census based model of funding for students who require additional support.” Specifically, the Group is charged with the following:

- “[A]dvice the State Board of Education on the development of proposed rules to implement this act prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules;
- [A]dvice the Agency of Education and supervisory unions on the implementation of this act; and
- [R]ecommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of this act, including any statutory changes necessary to align special education funding for approved independent schools with the census grant funding

model for public schools as envisioned in the amendments to 16 V.S.A. chapter 101 in Sec. 5 of this act.”

Membership

The Act defines the membership of the Advisory Group as follows:

- The Executive Director of the Vermont Superintendents Association or designee;
- The Executive Director of the Vermont School Boards Association or designee;
- The Executive Director of the Vermont Council of Special Education Administrators or designee;
- The Executive Director of the Vermont Principals’ Association or designee;
- The Executive Director of the Vermont Independent Schools Association or designee;
- The Executive Director of the Vermont-National Education Association or designee;
- The Secretary of Education or designee;
- One member selected by the Vermont-National Education Association who is a special education teacher;
- One member selected by the Vermont Association of School Business Officials;
- One member selected by the Vermont Legal Aid Disability Law Project;
- One member who is either a family member, guardian, or education surrogate of a student requiring special education services or a person who has received special education services directly, selected by the Vermont Coalition for Disability Rights;
- The Commissioner of the Vermont Department of Mental Health or designee;
- One member who represents an approved independent school selected by the Council of Independent Schools; and
- One member selected by the Vermont Council of Special Education Administrators who is a special education teacher and who teaches in a school that is located in a different county than the special education teacher selected by the Vermont-National Education Association under subdivision (8) of this subsection.

As of the writing of this report, the Advisory Group has convened 27 times (2018: September 14, October 12, December 3; 2019: January 7, February 4, March 4, April 1, May 6, July 24, September 16, October 7, November 4, December 11; 2020: January 6, February 3, July 13, August 3, November 2, December 7; 2021: January 4, February 1, March 1, April 5, June 7, October 4, December 6, December 22). Per **Act 28 of 2021**, the Advisory Group shall cease to exist on June 30, 2023.

Report #4 to the Committees on Education and State Board of Education

Introduction

The Census-Based Funding Advisory Group has continued its work throughout this unprecedented time in education. As school districts navigate the process of simultaneously responding to and recovering from the ongoing pandemic, the Group continues to recognize that the educational

structures of MTSS required under Act 173 are critical to improving outcomes for struggling students in Vermont.

As the General Assembly is aware, the implementation of Act 173 has been delayed twice, both times because of a recognition of the significant work needed in Vermont districts in order to adequately implement the shifts in instruction to better meet the needs of all Vermont learners. While the Advisory group unequivocally believes that Act 173 is critical for the development of robust and equitable educational support systems in our schools we are also keenly aware of the implementation challenges that continue to plague districts across the state. As a result, the Group has discussed at length the implications of further delay. These discussions are summarized below, along with a formal recommendation from the Group.

The Advisory Group strives to reach consensus in its work and has been able to adopt unanimous recommendations regarding revisions to the 2200 series and delay. In the event that consensus cannot be reached, it is the Group's intention to inform the General Assembly regarding the areas of agreement and disagreement.

Advise the SBE on proposed rules

[1300/2360 Series \(Special Education Funding & Programmatic Rules\)](#)
([summarize the recommendations regarding implementation timeline](#))

2200 Series (Independent Schools)

As described in the 2021 Report to the General Assembly ([link 2021 Report](#)), the Advisory Group participated in a series of stakeholder meetings convened by the Agency of Education to inform the development of the 2200 Series draft Rules. The stakeholder group discussed a number of issues associated with the rule development, but in particular focused on two areas: 1). Ensuring that enrollment practices for independent schools that accept public dollars are non-discriminatory, particularly as it pertains to disability; and 2). Rate setting for independent therapeutic schools. Ultimately, the Advisory Group endorsed the draft Rules that were informed by the stakeholder group and later opened for public comment during the 2021-2022 school year.

In late November, a number of public comments were submitted to the State Board that related to the same two primary issues of importance to the Advisory Group (non-discriminatory enrollment practices and rate setting for therapeutic schools). Even though the Group endorsed the existing language and believed it adequately addressed the language in Act 173, it noted that because the same two issues were again raised during public comment it would be prudent to consider the comments and determine whether adjustments to the language would be recommended.

As a result of a lengthy discussion and consideration of the public comment, the Advisory Group formally requested that the General Assembly consider the following changes to the 2200 Series Rules:

[rule language & relevant summary of discussion w/ recommendation as applicable]

Advise AOE and supervisory unions on implementation

Professional Development for MTSS and Associated Rule Changes:

The Advisory Group continues to have significant concerns about the magnitude of implementation impact for LEAs related to Act 173. In addition to the MTSS implementation that has been discussed at length, the passage of the 2360 Series Rules has created two additional and significant changes that school districts are required to implement. Guidance for implementation of the rule changes has only been partially released as of the publication of this report, leaving less than six months for school districts to adequately train their special education and general education staff. While a full technical description of how the rule changes impact schools is beyond the scope of this report, it is clear to the Advisory Group that the changes only magnified the challenges school districts are facing regarding implementation - all during a time when schools are critically understaffed and still reacting to the ongoing impacts of COVID19.

The Agency of Education has released a timeline of guidance documents and pre-recorded webinars to the field, focused on what they identify as the critical elements of the Rule Changes. These guidance documents focus almost entirely on the rule changes, as opposed to the broader systemic implementation of MTSS that is required under Act 173. It is the opinion of the Advisory Group that a much broader and deeper understanding of the MTSS implementation will be required for successful implementation of the Act. The Group has continued to express its concern with what it believes is a lack of adequate, targeted support for LEAs related to MTSS. This has now been magnified by the additional requirement to be prepared to implement the Rule changes, most of which were not directly related to Act 173.

Recommendations to General Assembly for necessary Statutory changes

The Advisory Group is required to make recommendations for any necessary statutory changes to the Act. The Advisory Group is recommending the following:

Language changes

As described above, the Advisory Group is recommending the following changes to the 2200 Rule Series:

[include any recommendation coming out of Jan 3rd or remove this section if no changes recommended]

Implementation Timeline Changes

[highlight discussions from the meeting, along with pros/cons, and then describe the formal recommendation of the Group, if any]

Submitted on behalf of the advisory group by:

Meagan Roy, Ed.D.
Chair

Agency of Education