

**Approved Meeting Minutes**

**Meeting Place:** McFarland House

**Address:** 5 Perry Street, Penthouse Conference Room #315

**Date:** February 4, 2019

*Purpose of the Advisory Group per [Act 173 of 2018](#): To consider and make recommendations on the implementation of a census-based model of funding for students who require additional support.*

**Present:**

Council Members: Meagan Roy, VCSEA; Tom Lovett, CIS; Jeff Francis, VSA; Mill Moore, VISA; Marilyn Mahusky, VLA/DLP; Jeff Fannon, VT-NEA; Jay Nichols, VPA; Sara Baker, VCSEA Special Educator; Cheryle Wilcox, Department of Mental Health; Lisa Bisbee, VT-NEA Special Educator; and Brenda Fleming, VASBO.

Others: Sue Wilborn, BRSU; Philip Eller, VATF; Chelsea Myers, VSA; Traci Sawyers, VCSEA; and Susan Marks, (via phone).

Agency Staff: Heather Bouchey (until noon), Dan French, AOE (joined at 12:45 p.m.); Alena Berube, Judy Cutler, Chris Case, Emily Simmons, Maureen Gaidys.

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

Chair Roy called the meeting to order at 9:43 a.m. Roy advised that Jay Nichols would be late and that Karen Price is unable to attend. She asked if there were any adjustments to the agenda. Mahusky asked if her letter could be discussed. Roy said that could be discussed during the rules discussion if there was time and if not, it could be discussed at the next meeting.

**Review and Approve Minutes from January 7, 2019 Meeting**

Chair Roy asked for a motion to approve the minutes from the January 7. Bouchey moved to approve the minutes from the last meeting; Baker seconded. Roy called the vote and the vote passed unanimously.

**Chair's Report**

Chair Roy shared that the report to the Legislature was submitted and thanked Agency staff for their help with this. On January 22, 2019, she presented to the House Education committee and tomorrow she will present to Senate Education committee. Roy shared that she gave an executive summary of the report and addressed the areas of agreement and disagreement. Roy said she would have Agency staff provide members with a copy of the executive summary and that is likely already posted on the Legislative website. Roy said there was discussion/questions on the capacity of the Agency, the unmet mental health needs of students, the tightness of the rulemaking timeline, the general timeline and what a delay would look like. Roy asked for discussion on this. There was discussion on how schools feel about this, that some are way ahead and some far behind, getting a cross section of school districts and where the challenges are, a delay in the rulemaking process, that many initiatives that involved schools and the state are under consideration for the delay, initiatives for the State House are not slowing down, delaying means they accumulate, not confusing perfection with not being able

to act in a timely manner, and that delay will not lengthen the implementation period. There was additional discussion on shifting resources and how special educators interact, reaching out to special educators, that this work is already happening, what would be gained by a delay, capacity of AOE to support either timeframe, doing a pilot, not having a one-size-fits-all approach, differentiation in professional development, and an AOE survey to the field (superintendents, principals, special education administrators) to get a sense of needs and implementation readiness. Case offered to discuss this at a later meeting; Fannon asked for a copy of the survey. Roy said this was a good conversation to continue. She shared that it was hard to write a report having only met four times and offered that the Advisory Group might report back to the committees prior to the next report being due.

**Federal Reporting Requirements for IDEA - AOE Presentation-** MOE and Allowable Costs  
Berube presented on the IDEA-B basics, the federal funding piece, reporting requirements, grant expenditures, not using the 15% CEIS (Coordinated Early Intervening Services), reporting requirements for CEIS funds, excess costs, and LEA MOE. Nichols asked for the chart of reporting requirements. Berube continued to discuss allowable costs, SEA monitoring requirements, responsibilities of the LEA and SEA, historical and redesigned monitoring, goals of a new monitoring system, changes proposed, separating the data needs from technology inefficiencies and the next steps.

There was discussion on the requirements of CEIS being burdensome, reallocation of IDEA money not spent, some people seeing Act 173 as a pathway to reducing costs, allowable costs and services provided that don't fall in this category, Bulletin 5 and its impact on Act 173, level of monitoring of the Agency for reimbursement grants, Bulletin 5 coming from the Agency of Administration, looking at other states with census-based funding models, the focus of this Act being more time with students, regulation trumping the Bulletin, child count, and the recent tool developed and shared with Business Managers. Berube gave a demonstration of this tool. There were questions on the NIPA index, market components and this calculator informing the Advisory Group on how to inform the General Assembly.

Chair Roy raised the issue of independent schools and the difficulty of having this conversation as a large advisory group. She suggested a smaller group being a more efficient way to address this issue. Lovett reminded the group that there was an earlier discussion and the entire Advisory Group had indicated that they wanted to be involved. Roy asked that members think about this and said she would revisit this at the end of the day. She clarified that this would be different than a subcommittee as it would be charged with providing options back to the committee for discussion and decisions. The topic would be funding special education for independent schools. There was further discussion on monitoring for FAPE, considering this and revisiting it next month, and the affect in the timeline.

Berube said she would share the allowable cost document but cautioned the group that it is a very rough draft. Chair Roy asked for questions and reactions. Roy acknowledged the hard work of Berube and her recognition that prior practices need revision.

## **Letter from Mahusky**

Chair Roy offered the remaining 15 minutes prior to lunch to Mahusky. Mahusky spoke about meeting with colleagues, advocates, and attorneys who represent parents (a group of people who represents parents and children) and shared the Agency's recommendation and the Advisory Group's support of this recommendation. Mahusky's group disagrees with this and thinks there are some aspects of the rules that should be considered to ensure a more streamlined delivery of the MTSS system. She spoke about the danger of not having timely identification, that it doesn't need to be onerous, that Vermont is one of few states with three gates for eligibility, and the opportunity for a joint presentation on the substantive issues of opening up adverse affect and ensuring that the MTSS work improves behavior. Roy asked for initial reactions to this letter and the desire to have this on next month's agenda and went around the table. There were reactions on the disincentive of identifying early, shifting emotionally challenged students to the local budget and out of special education, confusion and the understood proposal to sequence the rule revision process, that the overall recommendation of the Agency was that the rules are in alignment with IDEA and don't require substantive revision, that VCSEA supports the current process and the Agency's recommendation and approach to this work, concern with not identifying early, that funding and independent schools are heavy lifts, no problem with this being on next month's agenda, concern with not identifying, enough work with what we have and no need to open up the entire rules but worth a discussion, moving from the gates and discrepancy-based model toward something that more resembles Response to Intervention (RtI), ability to look at the rules in a more global way and that we can and should do this.

Chair Roy called lunch recess at 11:42 a.m. to reconvene at 12:45 p.m.

Chair Roy called the meeting back to order at 12:53 p.m.

## **Review and Discuss Draft Rules – AOE Presentation and Discussion**

Judy Cutler introduced herself and shared that Case had offered that the AOE could provide a presentation on MTSS at the next meeting if that would be helpful in responding to Mahusky's letter.

Cutler spoke about the efforts being focused on special education finance and census-based funding rules and the involvement of the stakeholder group and the cultural shift. She continued that the document distributed is a completed outline and partial draft and that prior to proceeding they need feedback from the Advisory Group. Cutler walked the group through the structure of the rules document. She discussed allowable costs, permitted use of funds, special education grants and reimbursements, and the next steps. Berube spoke about special education tuition and which programs are still relevant. Cutler continued with discussion of the rule bundles, technical revisions, the rulemaking process and public input. Roy spoke about the Advisory Group being representative and staying focused on their core responsibility as an advisory group and asked the group to be cognizant of the time available to get this work done and to consider this when planning future agendas. Cutler asked the advisory group two questions: 1) there is a definition section drafted and the Agency would like this group, as the body of such subject matters, to identify other definitions that should be included to make these rules helpful/useful and 2) what are some of the indicators important to evaluate achievement of the goals of the Act? And a follow up question of what body of the rules should the rules around evaluation of the Act live. Lastly, Cutler posed some take-home questions for the group regarding existing rules and the new funding model, what is missing, and other comments or questions. She asked that these be sent in writing so that they could be discussed with the larger team.

Cutler distributed the draft and Roy gave the group 15 minutes to read through the draft, recognizing that this isn't enough time for a thorough read and cautioned the group to be aware of the grain size of their questions. Cutler asked the group to provide comments and questions within the next two weeks. Simmons offered that if the group shares this, that they be clear that this is a rough draft and not a draft ready for formal input.

Chair Roy opened it up for questions/discussion. There were questions and discussion on grants being done quarterly except for EEE, coordinating the timing of reimbursements, why 5- and 6-year olds are identified as "child" and not "student," EEE vs. Early Childhood Special Education and why we still use both terms, delineation on the points of clarity, other definitions needed to make this document usable, redefining some words in addition to citing the source (federal rule), State-placed 3-year olds which would be defined as a "child" not a "student," eliminating "struggling student" as that could be any child at any given time, under 3.3.1 how it would be demonstrated that IDEA-Part B requirements have been met, 3.1 and the appropriateness for rules referencing guidance, 4.3.1, how we interpret success, and what evidence would support our assumptions. Roy asked if the group would like an internal deadline for giving feedback to Cutler and the Agency and suggested February 15. Roy suggested that all input (take-home questions and other input) be channeled through her and that she would forward this to the Agency and share it with advisory group members. Cutler agreed to send questions to advisory group members and to have the presentation posted on the website. Cutler reiterated that all feedback was appreciated. Fleming asked about some reporting (excess and state-placed) mimicking what is done for all other grants and matching the timelines.

Roy asked for input on next month's agenda. Suggested agenda items for March 4: feedback submitted to Cutler on the draft rules, a combined conversation with Mahusky and Price and hearing from the Agency on MTSS, and the funding of independent schools. There was discussion on doing this efficiently outside of full advisory group meetings, that it would involve conversations with special education directors, discussions underway with independent school organizations and the VSBA, uncertainty on monies available, the subcommittee needing to make specific suggestions for the funds, and this conversation not being relevant to many members of the group. Secretary French offered to have the Agency draft some suggestions to bring back to the Advisory Group. Lovett and Moore expressed preference for not having a separate subcommittee, but for the Agency to have a broader discussion and bring proposals back to the full group. Secretary French suggested mid to late March for a meeting. Secretary French asked if recommendations for changes to statute was also part of what was being asked to be examined. Roy said that March's meeting might be for a shorter duration.

### **Opportunity for Public to be Heard**

Chair Roy invited any members of the public to speak.

Philip Eller, Chair of Autism Task Force and Special Education Advocate, introduced himself and shared that he was pleased that Mahusky's letter would be on the next agenda. He spoke to the evaluation of the implementation of the law, and the Agency not addressing the larger issues of accessibility and accountability.

### **Adjourn**

Chair Roy adjourned the meeting at 2:22 p.m.