

**APPROVED MINUTES****Purpose**

The Individuals with Disabilities Education Act (IDEA) requires that each State establish and maintain an advisory panel for the purpose of advising the State special education staff regarding the education of eligible children with disabilities.

**Date/Time:** Thursday: June 20, 2019 (9:30 am – 1:30 pm)

**Location:**

College of Fine Arts (CAPS)  
32 College Street  
Montpelier, VT 05602

**Agenda:**

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| 9:30-9:35    | Introductions/Call to Order   |
| 9:35-9:45    | Public Comment  |
| 9:45-9:50    | Review & Approve Agenda   |
| 9:50-9:55    | Approve Minutes for April 18, 2019 Meeting  |
| 9:50-10:15   | AOE Update  |
| 10:15-10:30  | Membership Update   |
| 10:30-10:45  | Break   |
| 10:45 -11:00 | OSEP Required Reports   |
| 11:00-11:15  | Legislative Update/H140   |
| 11:15-11:30  | Act 173 Update  |
|              | <ul style="list-style-type: none"><li>• Act 173 Advisory Update</li></ul>   |
| 11:30-12:00  | Other Business  |
|              | <ul style="list-style-type: none"><li>• Schedule Meetings for 2019-2020</li><li>• Prepare Agenda September 2019 Meeting</li></ul> |
| 12:00        | Adjourn   |

**Present:**

Troy McAllister, Sherrie Brunelle, Mary Barton, Joy Wilcox, Nancy Richards (by phone), Karen Price, Danielle Howes (by phone until 11:15), Robin Hood, Carrie Lutz, Randi Kulis, John Spinney (AOE Liaison), Jacqui Kelleher (SDSE AOE until 1:00 pm)

**Guests:** Philip Eller

**Introductions/Call to Order:**

The meeting was called to order at 9:30 a.m. by Chair, Troy McAllister. A quorum was in attendance. Following introductions, the Chair welcomed new members and the AOE's new state director of special education. Troy noted that while the agenda referenced adjournment at 12:00 p.m., the Council meetings generally run until 2:30 p.m. so, the timeline for today's meeting would be extended to accommodate full

discussion on the agenda items. Sherrie noted that the shortened agenda was based on the elimination of the presentation by Disability Law Project attorney, Rachel Seelig, regarding the need for special education rule revisions associated with Act 173. She explained that a conflict arose after Ms. Seelig agreed to present. However, Ms. Seelig will be available to make a presentation at the Council's September meeting.

**Public Comment:**

Public comment was solicited but none provided.

**Review & Approve Agenda:**

Joy asked if an update could be provided regarding the communication website that the AOE hoped to have up by April 24<sup>th</sup>. The Chair noted that this could be part of the AOE Update agenda item.

**Review & Approve Agenda:**

The Chair reiterated that the time allocations on the agenda would be modified as needed so a complete discussion of agenda items could take place. The agenda was accordingly approved.

**Approve Minutes for April 18, 2019 Meeting:**

Joy noted a correction required with respect to agenda item "AOE Memo on Initial Evaluations and Reevaluations" (page 8). The comparison reference should be to "determinations of adverse effect" rather than "eligibility." Sherrie will make the correction. Mary moved to approve the minutes as corrected. The motion was seconded. The question was called, and the minutes were approved with Robin Hood, Carrie Lutz, and Randi Kulis abstaining.

**AOE Update:**

Jaqui Kelleher introduced herself and shared her extensive background in education serving in positions at the local, state, and federal levels as well as positions in higher education. She spoke also about being a parent of four children with disabilities and how that impacts her work. Jaqui expressed excitement about the opportunity to work collaboratively with the Council on a number of issues. She values the Council's role having served on the state advisory panel in Connecticut. The Council welcomed her to her new position and expressed its strong interest in working with her and her staff going forward.

**Communication Website:**

Jaqui advised that she did not have an update regarding the communication website but would report back on that issue. She advised that the AOE will need help/input on the website from Council members over the summer.

**Duties of the Council and AOE -- Collaboration:**

Jaqui discussed her plans with respect to the Council's duties under IDEA and Vermont law noting:

- She/the AOE is working on streamlining the monitoring and supervision system required by IDEA and would like feedback on that process. In particular, she will make sure that the Council has the opportunity to provide input where corrective action is required as an outcome of monitoring.
- She wants and looks forward to Council input on proposed regulations as they are developed and go through the public comment process.

- She will make sure that the Council has the opportunity to provide input on all data and reports to the OSEP required by IDEA, a challenge given that the AOE still has three (3) data positions unfilled.
- She will seek Council input as the IDEA Part B grant is developed.

In summary, she looks forward to full utilization of the Council’s knowledge and expertise in all of the areas required by the IDEA and on a broad array of issues related to serving children with disabilities.

The Council expressed its appreciation for her willingness and commitment to working with the membership in a positive and supportive way.

**Proficiency Based Graduation Requirements-Access Plan:**

John reported that the AOE is seeing significant disparities across the state as to what the expectations are with setting PBGRs. There is clear inequity and feedback is needed. He shared the latest draft of the PBGR-Access Plan and advised that he’s seeking further recommendations for edits, but time is short. There was discussion regarding elements of the plan and recommendations that when the document is released that there is a guidance document that goes out with the form that includes examples of appropriate modifications to the indicators. John suggested using the “Kevin” case study from the Leann Jung case studies/training modules available on the AOE website. Since this item was not on the agenda today, John said he would send the revised draft to the Chair for distribution to the Council. He asked that members get any comments back to him by Friday, June 28<sup>th</sup>. The Council agreed to provide input using the model template discussed at the last Council meeting or even by general email.

**Peer Mentor Grant:**

John shared information about the RFP for the peer mentoring grant the AOE obtained which is yet to go out. The grant is designed to blur the lines between special education and general education or students with disabilities and those without. The grant is for a pilot of a “College Steps” type of model putting students with and without disabilities together in a mentoring relationship.

**Membership Update:**

**Appointment to the Council:**

This issue is linked to the H. 140 agenda item and events that occurred during the legislative session, specifically the implications of the most recent appointment of five special education administrators to the Council. Troy reiterated that there was a misunderstanding between the AOE and the Governor’s office. Each thought the other would vet appointee candidates. So, when the slate of possible appointees was sent to the Governor, the Governor assumed the AOE had vetted the potential employees and accordingly appointed everyone on the list. The Governor’s office doesn’t vet potential appointees. Given the IDEA requirement that a majority of members appointed be parents of children with disabilities under age 26 or individuals with disabilities, there is now an even greater challenge meeting the majority requirement. The problem is exacerbated by the fact that the application form does not offer a place for the applicant to designate what role they wish to serve on the Council. As Chair, Troy has worked with the current administration to add a space for this information.

Of those administrators present, none had applied for appointment. It appears that names of potential candidates (professional and parent) were solicited by AOE from staff and those names went to the Governor’s office. Some received a phone contact from the AOE. Others didn’t even know of their

appointment until they received the notice of appointment in the mail. The new administrators expressed a sense of discomfort regarding their appointment given the problem it presents. They were assured that this was not a situation that they had any control over. We simply need to figure out how to proceed from here.

This led to a discussion of how recruitment and appointment is handled. Troy advised that there has been a lack of a clear and consistent appointment process for a many years. It is an issue the Council has been unable to resolve over time. He reported that process is handled differently under each Governor elected. Each council, commission, or board may have a different process. We simply were not able to get a definitive response as to the Council appointment process from the AOE perspective over the years.

Questions were raised about current membership. Troy explained that there is no accurate list of members. It depends on where you look for it. But the Council membership has never been in compliance with IDEA, largely due to the restrictions placed under current VT law. He agreed to send a current list as we understand it.

There were questions about what the Council's bylaws say with regard to membership. Sherrie advised that the bylaws allow for creation of a membership committee, but due to a lack of membership on the Council or a defined appointment process, this committee was not established subsequent to the adoption of new bylaws in 2017. She agreed to send everyone a copy of the bylaws.

The Council then discussed various processes for appointment to the Council. They felt that it is important for the Council to be a part of the process. In some states, applications for appointment go to the Chair or membership committee of the Council who then can make recommendations to the Secretary. Jaqui described the process she's familiar with which includes issuing an alert that new members are needed. It also includes a requirement that potential appointees attend two meetings as an observer. After this the Council would vote on which applicants to forward to the Governor for appointment. This type of process would also allow the Council to monitor and ensure compliance with IDEA requirements related to membership. Randi suggested that perhaps the Council could create a process that could be submitted to the Secretary for consideration through Jaqui, in her role. Both Council members and Jaqui agreed that this was a good direction moving forward.

### **Member Recruitment:**

Problems with recruitment and retention of members, especially parents, was discussed. It has been, in part, a reflection of the VT statutory limit on the number of members. Other factors are

- The frequency, time and duration of meetings that are particularly problematic for parents;
- The steep learning curve for new members from other agencies and for parents;
- The lack of training and orientation for new members; and
- The amount of time between application and a decision regarding appointment. Members commented on parents or individuals with disabilities who had applied but never received a reply.

The Council members discussed how the Council might address these barriers. Robin suggested that a request to special education administrators for potential parent nominees, perhaps through the AOE weekly field memo. Phil asked about distribution via various newsletters. Varying the time of day for

meetings was also suggested. Reducing the number of full Council meetings is contemplated by current legislation (H.140 and H.521) is expected to impact recruitment.

Joy moved that a committee be created to work over the summer to develop a recommended new member recruitment, appointment, and orientation/training process. Randi seconded the motion. Following some further discussion, Sherrie called the question. By unanimous vote the motion carried. Volunteers to participate in the group were Joy, Troy, Mary, Nancy and/or Karen, Carrie and/or Robin and Jaqui. Members of the work group will collect information from other states as a starting point. Danielle offered the ICC Manual as well.

### **OSEP Required Reports:**

Jaqui reported that she will ensure that the Council receives and has an opportunity to provide comment on all OSEP required reports. She also would like the council to review data related to significant disproportionality due in the fall as well as data related to adverse effect, discipline and other required AOE reports.

### **Legislative Update – H.140/H.521**

Troy reported that there were major changes to the bill by Senate education. The bill was incorporated into a larger bill (H. 521). The Senate Education Committee version of the bill removed most of the prescriptive provisions inserted by the House Education Committee essentially saying the Council had the duties specified by federal law (IDEA). The Senate also added required membership by a representative from the designated Parent Training and Information (PTI) center (VT Family Network) and the Protection and Advocacy System (Disability Law Project of VT Legal Aid). The legislation did not pass this session, in part because the legislature ran out of time. However, it is expected to pass when the legislature reconvenes in 2020.

### **Act 173 Update:**

H. 521 also included an extension of time for implementation of Act 173 as supported by the Act 173 Advisory. While the bill in total did not pass, this provision was incorporated into another bill that did pass. Despite this, Jaqui and John reported that the AOE has established a schedule for drafting proposed rules and marshalling them through the rule making process, including public comment. Concerns raised about placing caps on funding under Act 173 that cannot be imposed on independent (private) schools. There were also concerns about doing rule making over the summer which might lead to insufficient public comment. Jaqui reported that she would be meeting with Secretary French in a couple weeks to discuss Act 173 in greater detail.

### **Other Business:**

#### **AOE Request for input on inclusionary practices:**

Jacqui shared a request for SEAC comment related to inclusionary practices which led to a discussion about whether the AOE is requesting comment from the Council individually or as a group. John commented that for his current purposes

### **Schedule Meetings for 2019-2020**

Council members discussed how scheduling can impact recruitment and retention of members as well as the responsibility of the Council under IDEA. The expected changes resulting from anticipated changes in 16 VSA § 2945 in the next legislative session. The consensus was that we needed to schedule Council

meetings at different times and at a lesser frequency. Randi moved and Karen seconded a motion to schedule meetings for September, November, January, March and May. Of these September, January and May will be daytime meetings (9:30 am to 2:30 pm) with November and March meetings held in the evening (4:00 pm to 7:30 pm). Following discussion and a friendly amendment by \_\_\_\_\_, to meet on the 3<sup>rd</sup> Thursday of the month, the vote was unanimous in support of motion and motion carried. Following, the Council discussed location and remote access to meetings. The consensus was that the meeting location needed to be centralized rather than moving around the state as that had not been effective in the past. Members agreed that the site used for the current meeting met the criteria for a central location with sufficient parking. Troy will reserve the room for the 2019-2020 meetings. There was also a consensus that remote access needed to be provided. There was discussion of various platforms available and the pros and cons of each. At issue is a State "policy" to use a specific platform which might not be the most useable/desirable one. Troy agreed to check with the State's IT division.

### **Full Council Meeting Schedule: 2019-2020**

- September 19, 2019 (9:30 am-2:30 pm)
- November 21, 2019 (4:30 pm-7:30 pm)
- January 16, 2020 (9:30 am 2:30 pm)
- March 19, 2020 (4:30 pm-7:30 pm)
- May 21, 2020 (9:30 am-2:30 pm)

### **Executive Committee Meeting: 2019-2020 (Times to be determined)**

- October 17, 2019
- December 19, 2019
- February 20, 2020
- April 16, 2020

### **Prepare Agenda September 2019 Meeting**

Troy advised that he did not have the time to create the agenda given obligations of his work. There was consensus that the Council will establish the agenda at each meeting for the following meeting. Certain agenda items are standard for all meetings with substantive additions. Standard agenda items include:

- Introductions/Call to Order
- Public Comment
- Review & Approve Agenda
- Approve Minutes for Previous Meeting
- AOE Update
- Legislative Update
- Other Business
- Prepare Agenda for Next Meeting

Additional **agenda items for the September 19, 2019** meeting include:

- Election of Officers
- Committee Assignments/Define role
- Ad Hoc Membership Committee Report
- Disability Law Project Presentation on Rulemaking/Act 173

- AOE Update on Rulemaking/Act 173
- Child Count Data Report

The Council agreed that a notice be included with the agenda and draft minutes for each meeting advising that:

- If a member is unable to attend, they (should) (need to) advise the Chair of their inability to do so in advance;
- If a member wishes to attend remotely, they (should) (need to) notify the Chair of their plan to do so in advance; and
- Given limited time and resources for lunch at the meeting location, members should bring lunch to the meeting.

### **Resignation**

Sherrie advised that due to changed job responsibilities, she is no longer doing special education work. For this reason, she is resigning from the Council at the end of the calendar year. This timeline will allow some continuity during a transition period. She reported that her colleague, Rachel Seelig, has requested appointment to the Council as an at large member under the current statute and will serve as the Protection & Advocacy representative assuming enactment of pending legislation regarding the SEAC. Sherrie shared her belief that Rachel will be a valuable addition to the Council. She also expressed her appreciation for the commitment and dedication of core members of the Council through some difficult years. With changes at the AOE and enactment of pending legislation she feels the future for the Council looks brighter.

**Meeting Adjourned at 1:30 pm**