

State Board of Education AOE/SBE Roles and Responsibilities Subcommittee

Draft Meeting Minutes

Meeting Place: Virtual Teams Meeting/Video/Teleconference

Call in #: 1-802-828-7667, Conference ID: 887 831 908#

1 National Life Drive, Davis N532

Montpelier, VT 05620-2501

Date: January 11, 2022

Present:

State Board of Education (SBE) Subcommittee Members: Tammy Kolbe, Lyle Jepson, Jenna O'Farrell, Oliver Olsen

Agency of Education (AOE): Emily Simmons

Others: None

Call to Order/Roll Call/Amendments to the Agenda

Chair Tammy Kolbe – reviewed the meeting objectives:

- Seek consensus among subcommittee members of framework for delineating AOE & SBE roles and responsibilities for rulemaking
- Clarify SBE roles and responsibilities in appointing Secretary of Education.

Review/Approve December 6, 2021 Meeting Minutes

Minutes from the previous meeting were approved.

Public to Be Heard

No public comment.

Review plan for subcommittee's work and meeting objectives

Review/discuss proposal to delineate roles/responsibilities between AOE and SBE for rule making

Review of Rule Making – DRAFT document. Discussion regarding the procedure that would be in place if SBE does not endorse the AOE process of enacting public engagement in the Initiation. If the SBE doesn't support the rulemaking, it should not go to ICAR. SBE needs reassurance that the AOE responds

to public comment. If not, that information will also be sent to ICAR. SBE needs to certify if a process was followed and if the final text is responsive to the inputs throughout the process.

SBE may want to preserve some ability to control over the final text. Although, SBE may not be able to “control” both content and process. If SBE is focusing on process, the SBE needs to be clear how the AOE needs to respond to public comment, and respond contrary to the comments, that there’s some sort of response to that from SBE, and it goes forward to ICAR/LCAR. ICAR will be informed of disagreement with the rulemaking. SBE will certify AOE’s response and was the response appropriate process-wise. SBE is understanding that ICAR would stop the process if SBE wasn’t endorsing AOE, and it would not proceed to LCAR.

SBE cannot have veto over the text. SBE role is the ability to make a determination that will be sent to ICAR, ultimately LCAR, as to whether the AOE followed the proper process, and some finding of the SBE that the final text was responsive to the inputs. This preserves the AOE’s right to make the final decision, although SBE can weight in around process being followed. SBE would issue an “opinion” or “certification” as to was the process followed.

SBE may require responses in writing from the AOE, establish the number of stakeholder meetings, number of groups, number of hours, etc. There could be pre-established “checks” along the way.

The end certification may assist in getting to ICAR/LCAR and limit the degree of back and forth after pre-filing later on. We may have better policy going into filing. We know where the disagreements are prior.

The certification process allows the SBE perhaps more weight that actually writing the rules. We strive to import the efficiency of rulemaking and have strong policies.

Post-filing – AOE would be supervising the rule making process moving to ICAR/LCAR. This process is defined in the administrative rules. Opportunity later on for a governmental subdivision to compel public hearing (SBE is considered a governmental subdivision). This could happen if SBE continues to have additional concerns post-filing. SBE has this authority already in regulations. There is a defined number of public hearings (1).

Plan SBE approves should include all the pre-work (drafting) and what the formal APA public process will look like. There needs to be an opportunity to refine the plan at the end of public input process (on the way to LCAR), there will be an opportunity for the SBE to request the AOE to revise the plan and for the AOE to offer changes. AOE would like to see timelines on the process and filing that is respectful of the AOE workflow. It would perhaps give SBE 1 meeting before moving forward to ICAR. All work should be in writing as directly related to amendments on the working plan. If the process is revised, there should be timelines in place.

ICAR period – SBE role: Formal public process at ICAR, managed by AOE, according to the terms agreed upon up front, with the SBE having the ability to ask for a modification pre ICAR. SBE and AOE both can change formal public process that becomes part of the package that goes to ICAR. ICAR endorses, goes on to LCAR. SBE issues a certification the AOE managed the public process well and been responses.

We don't want to develop a process that involves stakeholders on the back end. Stakeholders need to be informed when it is appropriate for them to be involved on the front end. Meetings that happen after the process is closed allow subgroups to have a "second bite of the apple".

Next steps & task assignments

Adjourn

The meeting adjourned.

Minutes prepared by Jenna O'Farrell