

State Board of Education

Draft Meeting Minutes

Meeting Place: Virtual Teams Meeting/Video/Teleconference

Call in #: 1-802-828-7667, Conference ID: 476 942 76#

1 National Life Drive, Room 514

Montpelier, VT 05602-2501

Date: January 19, 2022

Present:

State Board Members (SBE): Oliver Olsen, Chair; Jennifer Samuelson, Vice-Chair; Patrick Brown; Tom Lovett; Jenna O'Farrell; Angelita Peña; Tammy Kolbe; Lyle Jepson; Kim Gleason; Gabrielle Lucci; and Dan French.

Agency of Education (AOE): Emily Simmons, Donna Russo-Savage, Maureen Gaidys.

Others: Mary Cullinane, Steve Cash, Mat Forest, Peter Burrows, Meagan Roy, Marilyn Mahusky, Meaghan Morgan-Puglisi, Susan Aranoff.

Item A: Call to Order/Roll Call/Amendments to the Agenda

Chair Olsen called the meeting to order at 8:04 a.m. and there was a roll call. There were no amendments to the agenda.

Item B: Public to be Heard

There were no members of the public to be heard.

Item C: Review & Approve December 15, 2021 and December 21, 2021 Meeting Minutes

Chair Olsen asked for a motion. Jepson moved to approve both meeting minutes; Lovett seconded. Kolbe and Jepson acknowledged the Chair for organizing the special meeting to recognize the students. Chair Olsen called a vote. The motion passed unanimously.

Item D: Board Announcements

Chair Olsen shared that the SBE has received a request from designated representatives of Stowe to address the SBE with their efforts to withdraw from their district. There are some legal questions. The AOE has provided some legal guidance; Stowe's town counsel has a slightly different opinion. Chair Olsen has requested a third advisory opinion from the Attorney General's Office. Chair Olsen recommended that the SBE not discuss this further until it hears back from the Attorney General's Office that this is within the SBE's jurisdiction. There was agreement to this.

Item E: Student Report

Peña spoke about the impact of COVID-19, that many students have had COVID-19, and parents are sending kids to school sick and how hard she has been trying to not get sick. Lucci spoke about the end to contact tracing and how nerve-wracking that is and that they are now using Test to Stay. She said students are working hard to stay safe and stay home when sick. She said in the absence of contact tracing it is going to come down to individual creativity to address how to keep self and each other safe.

Item F: Update on Chapter 11

Gleason said she, Russo-Savage and Simmons met with the House Education Committee and Legislative Counsel and had an overview of different configurations of governing models and discussed the conceptual need for technical corrections. They also discussed the thornier topics of being more systematic and thoughtful in offering tools to those seeking dissolution. They understood the importance of having this be a more intentional process. That section of updates to Chapter 11 are in an outline phase and Simmons and Russo-Savage are working on this and close to being able to share their work with the House Education Committee. Chair Olsen shared that he and Gleason will be testifying in House Education to share the SBE's perspective on a delay of Act 173 implementation and to also weigh in on the withdrawal issues.

Chair Olsen moved to Item K as the schedule was running ahead of itself.

Item K: Public Engagement Forums

Chair Olsen asked Kolbe to address this issue. Kolbe shared that the SBE has a shared interest in hearing from the public (families and students) and having that context is helpful in understanding topics that come before the SBE. The idea is to have meetings on a regular basis to better understand the frontline experiences, perhaps once a quarter. She mentioned promoting engagement, geographic representation, and adding some structure to this moving forward. There was discussion on meeting in the evening (2 hours), facilitation, in-person or virtual participation, regional representation, capturing the successes, purpose of convening, staying mindful of SBE authority, evaluating some data, and identifying themes related to regions.

Chair Olsen asked O'Farrell and Brown to lead this work.

Item M: Local School Board Governance Issues

Chair Olsen reminded members that there were grave concerns about adult behaviors witnessed in December and, since then, Samuelson and he have met with Vermont School Boards Association (VSBA) and learned what it is doing along the lines of training and supporting school boards. He sensed some interest in establishing some norms for school boards. He asked the SBE if this was a topic that the SBE wanted to pursue through the avenue of Education Quality Standards (EQS) rules. There was discussion on EQS needing standards for governance, legislative authority, this behavior is not a widespread issue, ensuring that the SBE doesn't become the disciplinarian, good governance is important to school improvement, and using a process that is positive. There was general consensus that this idea should be pursued further with the EQS Committee. Kolbe and Gleason will be co-chairs of that committee.

Item G: Ripton School District Withdrawal & Designation

Chair Olsen gave background. The SBE met with Ripton and Addison Central Supervisory District (ACSD) and others in September and the result is that Ripton needs to be assigned to a supervisory union (SU) or designated as its own supervisory district (i.e., a single-district SU), and they had no willing partners. More time was needed, and an extension was granted. Ripton has been asking the SBE to dictate terms of how the entities should negotiate these discussions and the reality is that the SBE doesn't have that authority. The sticking issue is around whether a town and its voters can overturn/veto a decision made by the school district. Action needs to be taken.

Gleason moved that the State Board of Education:

1. **FINDS** that the conditions outlined in its Motion Conditionally Approving the Withdrawal and Reconstitution of the Ripton School District, issued on May 19, 2021, have been met; and
2. **FINDS** further that:
 - a. None of the available options for providing supervisory union (SU) services to the Ripton School District is a good one; and
 - b. The most prudent option at this time is to designate the Ripton School District to be its own supervisory district (i.e., a single-district SU); and
3. Pursuant to 16 V.S.A. § 724(c) and to the request of the elected school board of the Ripton School District, the State Board
 - a. **APPROVES** the request of the Ripton voters to withdraw from the Addison Central School District pursuant to 16 V.S.A. § 724(c);
 - b. **DECLARES** that the **WITHDRAWAL** of Ripton from the Addison Central School District shall be effective on **July 1, 2023**; and
 - c. **DECLARES**:
 - That the Ripton School District is **RECONSTITUTED** as a prekindergarten through grade 12 school district;
 - That the Ripton School District shall assume sole responsibility for the education of its resident students in prekindergarten through grade 12 on **July 1, 2023** and that, until such time, the Addison Central School District/Supervisory District shall continue to be responsible for the education of all students residing in Ripton;
 - That until **July 1, 2023**, the Ripton School District and its duly elected school board shall exist solely for the purpose of transitioning to full operations; and
 - That the Ripton School District shall not be entitled to administrative or other SU services from the Addison Central Supervisory District; and
 - d. **DECLARES** that pursuant to 16 V.S.A. § 261(c), the Ripton School District is **DESIGNATED** to be its own supervisory district (i.e., a single-district SU) that shall be fully operational as a supervisory district on **July 1, 2023**.

O'Farrell seconded. There was discussion on school quality with small districts, needing assurances from Ripton, primary concern is students, SBE's limited role, and that this highlights the need for the Legislature to address these concerns. There was discussion from ACSD on doing what is best for all students, single school can outweigh the greater district need, need to move forward with significant work, clarity is needed so all stakeholders can move forward. Steve Cash, Chair of Ripton School

District Board thanked the SBE and spoke about failed attempts at negotiation, disagreement with interpretation of statute that Ripton can be a standalone district, focus on quality education for its students, impact of a community on education, exploring collaborative education models, working with Lincoln and consultants, and relationships with SBE and AOE. Burrows thanked all parties and said it had been a long road and that ACSD has looked closely at this and has a shared path forward and the next step is clarity and support; ACSD is willing to assist Ripton as they transition to a single school district. Cullinane said ACSD would welcome Ripton back if it is not successful in pursuing other options. There was additional discussion. Chair Olsen called the vote. The motion passed unanimously.

Prior to taking a recess, Vice Chair Samuelson advised that a revised spreadsheet pertaining to Agenda Item H was emailed to members shortly after this meeting started and, although there were no substantive changes, members might want to refer to it when discussing this agenda item.

Chair Olsen called a recess at 9:38 a.m. Chair Olsen called the meeting back to order at 9:53 a.m. and turned the meeting over to Vice Chair Samuelson and said he needed to step away at 11:00 a.m. for a short while.

Item H: Review Public Comment & Potential Changes in Response to Public Comment on Proposed Amendments to Rule Series 2200 and 7000

Chair Samuelson gave background information on the work of the Rule Series 2200 subcommittee. Olsen added that there is a backlog of independent schools (IS) to be approved and that the SBE is holding on those approvals until these rules can go to completion.

Russo-Savage addressed proposed changes to Rule Series 7000: 1) housekeeping changes that would immediately repeal several rules that either serve no independent purpose or merely cross reference other statutes/rules, and 2) a substantive proposal that would repeal Rule 7320 (accreditation agencies) effective 7/1/24. Gleason moved to approve Rule Series 7000 as presented and move them on to the Legislative Committee on Administrative Rules (LCAR) process. Lovett seconded. Olsen offer a friendly amendment that the Chair would be authorized to sign appropriate paperwork. This amendment was accepted. Samuelson called a vote and the vote passed unanimously.

Samuelson then asked Meagan Roy, Chair of the Act 173 Advisory Group (AG), to address the SBE. Roy explained that the AG endorsed this draft of rules that are noted as either fully resolved or resolved with new or amended language as presented in the spreadsheet. There were many stakeholders involved in drafting the proposed changes to the Rules, and most of the issues raised in public comment addressed non-discriminatory enrollment practices and rate setting, which were the same issues that were the focus of the AG's work. Although the AG met to revisit its consensus language in light of public comment, the AG is not recommending changes to Rule 2232; this language came out of a compromise by the stakeholder group and the AG is comfortable that the language should remain as originally presented in proposed Rule 2232. The AG has not yet acted on non-discriminatory enrollment practices but acknowledged that language changes would be helpful and tasked members of the stakeholder group to address those changes. The AG hopes to have revised language and to share with the SBE its consensus opinion at the next SBE meeting. There was discussion on the work of the stakeholder group, working productively towards consensus language, and the timeline for this work.

Simmons shared a [cover memo from the Rule Series 2200 Rulemaking Committee to the SBE](#) and walked the SBE through a [spreadsheet detailing public comment](#). There was discussion on clarification on non-discriminatory practices still being a work in progress, composition of the stakeholder group, distinction in enactment dates, the Interagency Committee on Administrative Rules (ICAR), and timeline for approval and feedback. Chair Samuelson suggested that Simmons walk through the spreadsheet's yellow columns (issue is resolved by a decision of the committee, but the draft rule will need to be amended as described by the proposed response). There was discussion on distance learning, the Vermont Virtual Learning Cooperative (VTVLC), specificity to documentation, section 2229 responds to delivery of services once enrolled, statute addresses collaboration, and being clear on assurances.

Samuelson said she would entertain a motion that the State Board of Education accept the proposed recommendations of the Rule Series 2200 Subcommittee that are noted on the spreadsheet titled "Comments on Rule 2200 at the End of Public Comment Period" that was submitted and discussed at Agenda Item H to the Board's January 19, 2022, meeting as either fully resolved or resolved with new or amended language and give provisional approval of them. After the Board grants its provisional approval, any new or amended language will be incorporated into the final draft rules and the Board will vote its final approval of the entire Rule Series, as amended, at a subsequent meeting. Lovett moved and O'Farrell seconded. Samuelson called the vote and the vote passed unanimously.

Item J: SBE & AOE Roles & Responsibilities Report to the Legislature

Kolbe thanked everyone who worked on this committee and shared a high-level review to get the full SBE's feedback and some direction for the committee to take in drafting its report to the Legislature. She offered [an Update on Work Completed and Next Steps](#). There was discussion on the Secretary being appointed, rulemaking and reliance on AOE staff, staffing needs for the SBE, budget for SBE to prioritize needs, ensuring accountability of student outcomes, eliminating conflicts of interest, National Association of State Boards of Education (NASBE) membership, distinction between rules, a conceptual shift in rules belonging to the AOE not the SBE, AOE has the apparatus for administering rules and is held accountable to the rules, exploring the value of membership in national organizations, consideration given to how other states delineate responsibilities, aligning with how other state agencies handle rulemaking, and not needing control but needing to be involved.

Chair Olsen asked for a motion to delegate final authority to the SBE/AOE Roles and Responsibilities Committee to publish and submit to the Legislature the final report. Gleason expressed having reservations with the process for the appointment of the Secretary of Education and suggested the need for a special meeting to approve the committee report. Olsen suggested asking the committee to finalize the report and have the SBE approve this report at a special meeting, to be scheduled. Kolbe thanked her committee for their work.

Item L: SBE Input on Potential Act 173 Delay

Chair Olsen said he will be testifying before the House Education Committee at 1:00 p.m. on a potential delay to Act 173 implementation and wanted to get a sense of the SBE's opinion on that topic. He outlined the three implications of delaying Act 173: 1) delay in the block grant funding, 2) delay in specific rules on administration of special education law and, 3) implementation date of independent school (IS) rules. Olsen offered some considerations: parts of Act 173 have already been

delayed, implementation dates are out of sync (census block and IS rules), and financial implication have direct impacts on students with disabilities. Secretary French said he will have a formal opinion in early February, after hearing from the AG, and he spoke about the systems response and understanding the impact of the pandemic on social and emotional needs and bringing education recovery work into sync with the roll out of Act 173 and the pupil weights and the larger funding formula.

There was discussion on having implementation synchronized, recognizing the harm of delay, importance of having the weighting study implications, not delaying the implementation for independent schools, hesitancy to delay anything but the financial piece, concern with delaying any pieces, timing is now – schools need the flexibility, some supervisory unions (SU) are ready and if there would be a provision to have these SUs move forward, impact on service delivery and human capital who will need much technical support, and challenges with running two different special education funding systems simultaneously. Chair Olsen summarized discussion and said the recommendation would be to not delay any elements of Act 173 with the rationale of districts knowing about this and budgets going out to vote and impact to students, and challenges centered around the finances of moving to block grant model. Recommendation is not to delay but acknowledge struggling districts and Legislature might want to think about providing some transitional funding to assist with this. To keep people on task, he suggested some targeted interventions and financial support. Gleason referenced the report of the Act 173 AG that was sent to SBE members earlier in the day and the options identified in it.

Chair Olsen shared that Gleason will be joining him at the Legislature on anything related to Chapter 11 revisions.

Item N: SBE Agenda and Workplan

Chair Olsen said O'Farrell and Brown will work on scheduling the public engagement sessions. Olsen will work with Samuelson and Roy on a date of a special meeting to 1) finalize outstanding issues on rule series 2200 and 2) finalize the report from the SBE/AOE Roles and Responsibilities committee. Olsen said he spoke with Amy Minor, Vermont Standards Board for Professional Educators (VSBPE) Chair, about barriers to entering the teaching profession and will bring that topic to the February meeting. He asked for other topics: IS approval process update, retreat planning, and professional development for the SBE.

Adjourn

Gleason moved to adjourn; Jepson seconded. Chair Olsen called the vote, and it was unanimous. The meeting adjourned at 12:48 p.m.

Minutes prepared by Maureen Gaidys