

State Board of Education

Virtual via Microsoft Teams
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Draft Meeting Minutes

Date: August 18, 2023

Present:

State Board Members (SBE): Jennifer Samuelson, Chair; Tammy Kolbe, Vice Chair; Kim Gleason; Aaliyah Wilburn, Mohamedou Diop, Tom Lovett, and Jenna O'Farrell (joined at 1:31 p.m.)

Agency of Education (AOE): J. Deborah Ormsbee, Cassandra Ryan, Suzanne Sprague, Maureen Gaidys.

Others: Logan Chalmers, Media Factory; Sarah Buxton, SBE Attorney; Mill Moore, Vermont Independent School Association (VISA); Rep. Mary Katherine Stone; Rep. Seth Bongartz; Amanda Garces, Human Rights Commission (HRC); Jay Nichols, Vermont Principals' Association (VPA); Ranney Hudson, student representative, Mount Ascutney School Board; Jay Greene, Office of Racial Equity; and Ethan Latour.

Item A: Call to Order, Roll Call and Amendments to the Agenda

Chair Samuelson called the meeting to order at 12:32 p.m. and asked for a roll call. There were no amendments to the agenda.

Item B: Public to be Heard

Chair Samuelson asked for members of the public to address the SBE.

Representative Stone shared [this public comment from Representatives Stone, Arsenault, Graning, Burrows, Buss, Sibilila, Holcombe and Christie](#).

Representative Bongartz offered public comment and referenced the letter from [the four heads of independent schools](#) and stated that this letter makes clear that the independent schools are more than amendable to have the principles of Act 1 (non-discrimination) apply to them in a way that comports with the governance structure of independent schools. He said he needed to respond to the inflammatory letter from the Education Equity Alliance where it implies that independent schools are trying to position themselves to discriminate or to avoid the intent of Act 1 and they are absolutely not doing that. Knowing the dedication of these schools, it is discouraging to hear this. The vast majority of these schools serve kids across the socioeconomic strata the same as public schools. There is a process that determines if rules comport with legislative intent and that runs through the Legislative Committee on

Administrative Rules (LCAR). He added that the SBE's process has been fully open and transparent, and he thanked the SBE for its work.

Amanda Garces, Human Rights Commission, provided feedback on the proposed amendments. She expressed gratitude for the work and for the recent discussions regarding discrimination provisions, which represent a commendable step to insuring the protection of all students in our state. She said she observed that the current phase of this process may not sufficiently incorporate public input, potentially hindering the obtainment of an impartial outcome that truly addresses the interest of all students in independent schools. To uphold transparency, fairness, and equity principles, it is essential that our processes remain consistently inclusive. She understands the pressures and urgency but is concerned about the unprecedented, accelerated pace of the current process. This departure from established practices could inadvertently exclude voices crucial to shaping our communities' wellbeing. Every decision that is made profoundly impacts our communities, and it is the SBE's duty to ensure voices are not only heard, but genuinely valued. She strongly urged a moment of reflection on our current approach, aligning it with the guiding principles that have served us well in the past. The significance of listening to marginalized communities cannot be overstated; their unique challenges and perspectives are vital for comprehensive understanding of the issues at hand. She asked the SBE to reinforce its commitment to fairness and guarantee that individuals from all backgrounds have an equal opportunity to shape our collective future. She said she spent the last 24 hours attempting to comprehend the changes and their potential impact on the Education Quality Standards (EQS) and the rushed process prevented her from providing specific and substantial comments that she fears may not be heard during the Interagency Committee on Administrative Rules (ICAR) process. She is confident that, through collaborative effort, we can establish a decision-making process that genuinely serves the best interest of our entire community.

Jay Nichols, Executive Director, VPA, shared [this public comment from the VPA](#).

Ranney Hudson, student representative on the Mt. Ascutney School District Board, addressed the SBE. He said that, while there are independent schools that do not accept taxpayer dollars, a majority of them do, such as St. Johnsbury Academy, Lyndon Institute, Sharon Academy, and so many more, and taxpayer dollars go to those kids/schools, and it really does not serve those students right if independent schools do not have to follow equity mandates.

Jay Greene, Policy and Research Analyst, Office of Racial Equity, addressed the SBE. Jay will follow up with an official letter of comment from their office once it is approved by Executive Director of Racial Equity, Xusana Davis. Jay echoed Garces' comments and said that their office is concerned with the lack of procedural equity that is being shown in the process of adopting these new rules and the fact that these meetings are being held during typical working hours, which may prohibit adequate public participation from working parents, and the general lack of consideration for the needs of parents and students who use languages other than English. Jay was looking on the SBE and AOE website and did not notice any notices of language assistance, which is federally required to be provided free of charge to the recipient. There is no information to facilitate participation by parents of English language learner students who are likely to be impacted by these proposed rule changes,

especially the rule changes regarding culturally appropriate education standards. Jay will follow up and send official written comments.

Chair Samuelson reminded everyone that today's charge is to begin the formal Administrative Procedures Act (APA) rulemaking process and that the work done up until today is pre-filing work. As soon as the rule series is open, there will be times available for public hearings scheduled at different times on different days in an effort to maximize input from members of the public.

Item C: Executive Session

Chair Samuelson moved that the Board finds the premature general public knowledge of confidential attorney client communication made for the purpose of providing professional legal services to the body would clearly place the Board at a substantial disadvantage. Lovett seconded the motion. There was no discussion. Chair Samuelson asked for a roll call vote. The vote passed 6:0:0. Lovett, Wilburn, Gleason, Kolbe, Diop, and Samuelson voted in the affirmative. Chair Samuelson further moved that the Board enter executive session to receive confidential attorney client communications made for the purpose of providing professional legal services to the body pursuant to 1 V.S.A. §313(a)(1)(F). Lovett seconded the motion. Chair Samuelson asked for a roll call vote. The vote passed 6:0:0. Lovett, Kolbe, Wilburn, Diop, Gleason, and Samuelson voted in the affirmative.

The SBE entered executive session at 12:57 p.m. The SBE resumed its special meeting at 1:27 p.m.

Item D: Adopt Updates to Rule Series 2200 (Independent School Program Approval) and Vote to Initiate Formal Administrative Procedures Act (APA) Rulemaking Process for Rule Series 2200

Chair Samuelson reviewed her presentation titled, [Rule Series 2200 Phase II Update](#), which included a General Overview of the Three Categories of Work, Process to Craft Language that Embodies the Goals of Act 1 of 2019, Applying Principles and Goals of Act 1 to Independent Schools, "Lift and Shift" from EQS to Rules Series 2200, Annual Compliance Assurance (2223.4), New Procedure by which to Recognize Accrediting Organizations (2227), and Changes made since the SBE meeting on August 9, 2023.

Buxton explained the [highlighted changes in the Independent School Program Approval Rules 2200 Series](#) proposed and approved by the SBE Rule Series 2200 Committee.

There was discussion on attestations having validity to the AOE, section 2224.2.2, changing tool/rubric to "method" for compliance, method is only for reviewing non-discrimination procedures, asking for attached evidence of indicators, AOE needs a clear and consistent and standardized approach that is applied equitably across all schools, attestation should include evidence, limiting the evidence collected to non-discrimination and provision of special education services, not wanting to make work that doesn't serve a purpose, broadening evidence collected, self-assessments, Secretary's investigation process following receipt of a complaint, and the Secretary's authority to impose probation on a school.

Buxton asked if SBE members were agreeable to the changes as discussed and as made to the draft during the meeting. All members were in agreement. Kolbe reminded the group that the goal is to have a stable draft for ICAR and that there will be other opportunities for feedback and improvement. Kolbe also thanked Buxton for her work assisting the SBE with these rules.

The SBE reviewed the draft's most recent revisions again. There was discussion on the title of the rule not perfectly describing the contents of the rule and the need to flag this for a potential change, perhaps as the rule goes through the public comment phase.

Chair Samuelson moved that the SBE accept the changes to [Rule Series 2200 Version 9](#) and to adopt the proposed revisions of SBE Rules Series 2200; Gleason seconded. There was no discussion. Chair Samuelson asked for a roll call vote. The vote passed 7:0:0. Gleason, O'Farrell, Diop, Lovett, Wilburn, Kolbe, and Samuelson voted in the affirmative. Chair Samuelson further moved that the Chair be directed to initiate formal APA rulemaking for the proposed revisions to the Rule Series 2200 Version 9 and authorize the Chair to prepare and submit the required economic impact analysis. Lovett seconded the motion. There was no discussion. Chair Samuelson asked for a roll call vote. The vote passed 7:0:0. Kolbe, Diop, Wilburn, Gleason, O'Farrell, Lovett, and Samuelson voted in the affirmative.

Chair Samuelson thanked everyone and said the next steps will be working with Buxton to file paperwork with the Secretary of State and ICAR (anticipated hearing is September 11, 2023). When the official APA rulemaking process is begun, there will be a series of public hearings over various times and different days to enlist a broad range of public input. She will follow up on interpretive language needs mentioned during the public comment period.

Chair Samuelson thanked the SBE members for their work and attorney Buxton for her work in getting the rules to this point.

Item E: Public to be Heard

Chair Samuelson asked for members of the public to be heard.

Representative Burrows asked what Buxton's role is and asked her to read the proposed change to the Statement of Purpose. Chair Samuelson explained that Attorney Buxton was retained to provide legal counsel to the SBE on opening Rules Series 2200 and implementing the principles and goals of Act 1, addressing the annual assurance compliance form and crafting language regarding recognitions of accrediting agencies. The SBE has indicated its intent to bring Act 1 language to independent schools for some time, and, with regard to the annual compliance assurance form, it was clear last year that this needed to be addressed in the rules. Additionally, Rule Series 7000 is sunsetting on July 1, 2024 and when the SBE appeared before the Legislative Committee on Administrative Rules, it represented that a framework would be included in the Rules Series 2200. Attorney Buxton read the changed Statement of Purpose ([Rule Series 2200 Version 9](#), page 2, paragraphs 3 and 4).

Herb Olsen asked the SBE for help on a report that is due to be filed by the AOE by September 1, 2023, and required by [Section 9 of Act 176 \(2022\)](#) requiring AOE to issue a report of school closures to House and Senate Education Committees. The AOE is required to solicit and consider public comments on the subject. He has requested information from the AOE on several occasions and received no response. As an independent state board

composed of members acting independently from the agency, he surmised that it is one of the SBE's many responsibilities to give ordinary citizens a voice in the work of the agency and he asked for them to help ensure that the agency tells the public how they have and how they can have their observations and opinions heard on school closures in Vermont so that they can be included in the report that is supposed to be issued fairly shortly. Olsen will email Chair Samuelson with details to be forwarded to the AOE.

Adjourn

Kolbe moved to adjourn; Gleason seconded. There was no discussion. Chair Samuelson called the vote; the vote was unanimous, and the meeting adjourned at 2:56 p.m.

Minutes prepared by Maureen Gaidys.