

State Board of Education Independent School Rules Update Committee Meeting

Approved Meeting Minutes

Meeting Place: Virtual Teams Meeting/Video/Teleconference

Call in #: 1-802-552-8456, Conference ID: 256 051 215#

Date: January 29, 2021

Present:

State Board Committee Members: Oliver Olsen, Chair; Kim Gleason, Jennifer Samuelson

Others: Mill Moore, Vermont Independent Schools Association (VISA)

Agency of Education (AOE): Emily Simmons, General Counsel; Suzanne Sprague

Adopt Minutes from Prior Meeting

Olsen called the meeting to order at 2:04 p.m. There were no amendments to the agenda. Samuelson moved to adopt the meeting minutes from the January 15th meeting. Gleason seconded. There was no discussion. The motion passed unanimously.

Public Comment

None

Working session on proposed changes to Rule Series 2200

Olsen reviewed the note from the Chair of the State Board of Education (SBE), John Carroll, which indicated his timeline and expectations. He expects the committee to finalize and submit to the full SBE recommendations for changes to potentially be incorporated into the overall rulemaking process dictated by Act 173 that are not specific to Act 173. Olsen said that representatives from the Vermont School Boards Association and the Vermont Superintendents Association were unable to attend due to scheduling conflicts and that he would like them included in the process. Discussion followed about scheduling, expanding the options for meeting dates and finding consensus from all stakeholders on the proposed changes.

Olsen hoped to finalize the complaint process and to address updating the independent schools' approval standards. He reviewed the New England Association of Schools and Colleges (NEASC) approval standards and suggested using some of NEASC's requirements as SBE standards. He said if an independent school was NEASC accredited it was automatically approved. If the school was not NEASC approved, then some of the elements of NEASC

standards would be required and added to the state approval process. Olsen said the standards by which a complaint could be made would be discussed. Discussion followed regarding the difference between an approved and recognized independent school, reputation, perceived quality associated with being approved, statutory definitions being confusing, and parents determining if the school meets the needs of the student.

Olsen began discussion on the complaint process and at what point would the information becomes public. He added that, at a minimum, the data should be captured in aggregate. Moore asked if probation was an attempt to solve the problem or a punitive measure. He said that parents could withdraw students based on the status or the school could close. Anything that damages the reputation of an independent school will have immediate consequences in attendance and a school could find itself in financial trouble. He asked that the committee consider this step carefully.

Discussion followed regarding a school being on probation without it being public information, opportunities to remedy the problem prior to being put on probation, current process is very public, graduated process and probation after good faith efforts have not resolved the issue. Simmons clarified the difference between a public record and a document labeled as confidential. She added there are very few documents at the AOE that are unable to be released if a public records request was made. She said information that was exempted from a public records request includes student records and personally identifiable information (PII). Further discussion followed regarding probation being a public record, 1 V.S.A. 316, Freedom of Information Act (FOIA), appearing to cover-up status, technical assistance and educating schools into compliance, various types of complaints, inclusion on register being a heightened level of discipline, frequency of complaints received at the AOE, broad complaints received from both public and independent schools, complaints that result in a formal investigation and/or complaints that result in probation.

Samuelson read the draft wording from 2223.8.2 and wondered if probation deserved to be on the register. Olsen said that it doesn't make sense to publish something on independent schools if the same was not done for public schools and added that a register should be maintained by the AOE and include formal investigations and schools on probation; all of which would be subject to a FOIA.

Olsen reviewed the draft language and suggested changing the wording from "formal investigation" to "recommendation for suspension or revocation". Olsen described various scenarios and how each would be documented on the register. Discussion followed regarding who was making the determination of probation if it was not the outcome of a formal investigation, length of probationary period, Secretary of Education's unilateral authority to place a school on probationary status with an appeal process to the SBE, not having a formal fact finding investigation, resolution by a school to avoid being listed on the register, probation status not appearing on register, existing structure, and emphasizing the importance of informally resolving the issue in the language.

Olsen suggesting changing the first “may” to “should”; adding “regulatory guidance” and removing “corrective action” and “technical assistance”. Further wordsmithing of the draft language continued: adding “the Secretary should first determine whether the matter can be resolved through informal means”; adding “such as provision of regulatory guidance, and work with the school to confirm corrective action is taken by the school”; and, adding “upon a determination that informal means will not be appropriate to the violation or if the matter is not resolved informally”.

Olsen was pleased with the progress made by the committee. He wanted to address matters related to independent school approval standards and the laws that apply to approved independent schools. There are two paths to approval of an independent school; the NEASC process and the alternate route governed by the approval standards in the SBE rules. Olsen asked if a NEASC approved independent school received a complaint against it indicating that it was not adhering to one of the NEASC standards that were not part of the SBE standards, if a complaint could be lodged. Simmons said it would not be appropriate for the AOE to investigate. Moore said that NEASC would handle the complaint and if NEASC found the school to be deficient it would report it to the AOE.

Olsen wondered if NEASC finds fault in an approved independent school and NEASC revokes their accreditation or places the school on probation what affect it would have on its approval under SBE rules. Moore said if an approved independent school’s NEASC accreditation was revoked or conditioned the school would have to report it to the AOE immediately. Simmons indicted that it was listed under section 2224. Samuelson suggested adding the language to section 2223.8.B. Olsen said the SBE rules should bring in the Act 173 provision that the school should notify the AOE in the same manner that was done for financial capacity. Olsen suggested there should be action triggered so that the school either restores its NEASC accreditation or goes through the standard independent school approval process and wondered if the school’s approval status should be automatically suspended.

Discussion followed regarding notification to the AOE and SBE, Act 173 language specific to financial capacity, adding a subparagraph under 2223.8, not having two processes, five-year approval and renewal and requiring schools to report changes in accreditation. Olsen asked Simmons to suggest language that would make it the duty of the school to disclose any negative events if the accreditation was used as basis of approval. He added that a school should be given an opportunity to demonstrate to the AOE’s satisfaction that they would otherwise meet state approval standards and if not, the Secretary would provide a recommendation to the SBE to reconsider its approval status. Simmons suggested inviting NEASC to a meeting. Olsen said NEASC standards should be aligned with SBE standards.

Olsen said he would schedule more meetings. He said the Chair of the SBE asked that the committee review the standards around residential components which are missing in the current language. Olsen suggested that any school with a residential component must be NEASC approved. NEASC has standards that govern residential life. Simmons said that regulatory oversight falls to the Department of Mental Health or the Department for Children

and Families if they are considered treatment facilities. Olsen asked Simmons to research which independent schools have boarding programs and which are NEASC approved.

Adjourn

The meeting was adjourned at 4:04 p.m.

Minutes prepared by Suzanne Sprague, Agency of Education