

Annual Report to the Governor and the General Assembly

3 January 2020

(This report is submitted in compliance with 16 VSA §164(21), which requires the State Board of Education to “report annually to the Governor and the General Assembly on the progress it has made on the development of education policy for the State”)

The State Board of Education’s work in 2019

In the past year, 2019, the State Board of Education has engaged in several initiatives to “*advance education policy for the State of Vermont*” (16 VSA §164). The Board’s work spans three essential functions:

1. facilitation of major education initiatives of the General Assembly,
2. rule-making to guide the scope, quality, and accountability of pK-12 education, and
3. hearing Vermonters’ appeals of rulings of the Secretary of Education.

Facilitation of major education initiatives of the General Assembly: In recent years, the General Assembly has chosen the State Board of Education to facilitate implementation of major education initiatives of the Legislature. For example, in Act 46 the General Assembly directed the Board to implement the provisions of the Act in 2018 by adopting a State Plan for the consolidation of school governance. Then in Act 173, the General Assembly directed the Board to “*initiate rules that are necessary to implement the Act.*” Accordingly, throughout 2019 the Board has overseen the rule-making process to reform special education funding and practice, facilitating resolution of differences between the Agency of Education and key stake-holders. In 2020, the Board will complete an 18-month sequence to draft and formally adopt rules to implement Act 173.

Rule-making to guide the scope, quality, and accountability of pK-12 education: In contrast with year-by-year assignments from the General Assembly to facilitate major legislative initiatives, the Board also provides long-term continuity in the scope, quality, and accountability of pK-12 education. As directed by long-standing provisions of state law, the Board adopts rules to provide local school boards, schools, and educators with the regulatory guidance they need to implement legislative directives of the General Assembly. For example, as directed by 16 VSA §165, the Board adopts Educational Quality Standards to provide context and consistency to guide local schools’ curricula toward recognized best-practices. Similarly, other Board rules, each derived from specific provisions of statute, guide and shape special education, pre-kindergarten, career and technical education, independent schools (k-12 through post-secondary), adult education, licensing and training of teachers, and school district organization. The Board’s rule-making process conforms to the requirements of the Administrative Procedures Act (3 VSA Ch 25), thus assuring transparency, public input, and thoughtful deliberation.

Hearing Vermonters’ appeals of rulings of the Secretary of Education: By long-standing provisions of law, the State Board is the venue of appeal for Vermonters who challenge certain rulings of the Secretary of Education. In late 2019, the Board received two such appeals -- one in connection with an educator’s licensing, the other in connection with tuition rate-setting at an independent school. Both appeals are scheduled to be heard by the Board in early 2020.

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Rethinking the role of the State Board of Education

In addition to the Board's duties spanning the three essential functions described above, a substantial amount of the Board's time and attention is devoted to administrative duties, overseeing and approving the work of the Agency of Education. Most of these activities are vestiges from the days – before Act 98 of 2012 – when the State Board was, in effect, the board of directors of the then-Department of Education.

Act 98 made important changes. However, even though the Secretary of Education no longer reports to the State Board, many of the old pre-Act 98 statutes, rules, and practices persist.

For example, statute still requires the Board to ratify certain administrative determinations – e.g. approval of independent schools and one-time requests for waiver of school calendar rules – many of which could be more capably and expeditiously decided without Board review by the Agency of Education. Outdated statutory mandates such as these have two undesirable consequences:

- i. They needlessly burden the Agency and the Secretary with staffing demands that could be significantly reduced if the Board were not involved in administrative oversight; and
- ii. They divert the Board itself from addressing current challenges facing pK-12 education in our state, and they distract the Board from 'seeing beyond the horizon' to visualize the long-term future of education in Vermont.

The Board believes that education in Vermont will be better served if the Board moves away from *reactive* oversight of the Agency – and instead becomes *proactive* as an independent, non-partisan citizen overseer of education in Vermont. To that end, the Board should become independent of the Agency of Education, and the Board should have its own staff, free of Agency influence, answerable to the Board.

In its proactive, independent capacity, the Board should inquire widely about current issues and accountability and, as well, assess future strategic directions and needs in education in Vermont. In this proactive role, the Board would have no authority to define or to implement educational policy – only to inquire, to make findings-of-fact, and to inform the Legislature, the Executive, and the public.

Taken together, these changes in the Board's role and function would also contribute to better utilization of the staff and resources of the Agency of Education. The Agency would be relieved of the burden of administrative, legal, and policy support of the Board (approximately 3 FTE), enabling these resources to be applied to other pressing Agency needs. The Agency's budget would be relieved of \$80,000 in annual Board operating expenses. The Agency would be spared the inconvenience and delay occasioned by presenting administrative proposals for review/approval by the Board. And, for the first time, the Agency would be authorized to adopt its own rules governing administrative matters.

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Agenda for 2020: an independent State Board that better serves education in Vermont

The State Board of Education urges the Legislature now to complete the reforms begun by the General Assembly in Act 98 of 2012, namely:

>> to make the Agency of Education independent of the State Board by repealing vestigial provisions of law that perpetuate the State Board's undue involvement with administrative duties of the Agency; and

>> to make the State Board independent of the Agency of Education by fulfilling the General Assembly's promise that *"the Board shall be supported by adequate staff, who shall report to the Board."*

Accordingly, in the 2020 legislative session, the Board will seek the General Assembly's approval to strengthen the Board's independence and to redefine its roles and responsibilities as follows:

- A. to affirm the Board's continuing responsibility for the three essential functions for which it is uniquely suited:
 1. facilitation of major education initiatives of the General Assembly,
 2. rule-making to guide the scope, quality, and accountability of pK-12 education, and
 3. hearing Vermonters' appeals of rulings of the Secretary of Education;
- B. to affirm that the Board is empowered to advance and implement policy, but only within the explicit scope and content of legislation adopted by the General Assembly;
- C. to advance the Board's mission to undertake independent inquiries to evaluate existing practices, recent initiatives, and current concerns in pK-12 education and to present independent findings-of-fact to the Legislature, the Executive, and the public;
- D. to advance the Board's mission to study the future of education, to see beyond the horizon, to foresee where education must move in the next decades, and to provide the Legislature and the Executive the independent strategic overview needed to enact and implement coherent and sustainable policy for the future of education in Vermont;
- E. to appropriate necessary resources and staff to assure the Board's independent, non-partisan oversight of pK-12 education in Vermont and to provide reliable information to the Legislature and the Executive; and
- F. to repeal vestigial provisions of statute that perpetuate the State Board's undue involvement with administrative duties of the Agency of Education.

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In conclusion:

An independently-staffed, non-partisan State Board of Education, as proposed in this *Annual Report*, will complement and enhance the work of local districts and schools, the Agency of Education, the House and Senate Committees on Education, the General Assembly, and the Executive -- so that together we can more effectively “*advance education policy for the state of Vermont*”.

Respectfully submitted, 3 January 2020

John Carroll (Chair) *Norwich*

Jenna O’Farrell (Vice Chair) *St. Johnsbury*

Sabina Brochu (student) *Williston*

Kyle Courtois (student) *Milton*

Dan French (*ex officio*) *Montpelier*

Kim Gleason *Essex*

Kathy Lavoie *Swanton*

Bill Mathis *Brandon*

John O’Keefe *Manchester*

Oliver Olsen *Londonderry*

Peter Peltz *Woodbury*

For further information about the State Board of Education or this *Annual Report*, contact:

John Carroll, Chair, Vermont State Board of Education, at John.Carroll@vermont.gov