

# State Board of Education

## Draft Meeting Minutes

**Meeting Place: Virtual Teams Meeting/Video/Teleconference**

**Call in #: 1-802-552-8456, Conference ID: 630 094 940#**

**Date: May 20, 2020**

### **Present:**

**State Board Members:** John Carroll, Chair; Jenna O'Farrell, Vice Chair; Dan French, Oliver Olsen, Peter Peltz, William Mathis, Kim Gleason, Kyle Courtois, Sabina Brochu, Kathy Lavoie (joined at 2:30 p.m.)

**Agency of Education (AOE):** Donna Russo-Savage, Emily Simmons, Suzanne Sprague

### **Item A: Call to Order/Roll Call/Introductions/Amendments to Agenda**

Chair Carroll called the meeting to order at 12:18 p.m. There were no amendments to the agenda.

### **Item B: Consent Agenda/Board Announcements/Student Report**

#### Consent Agenda:

Mathis moved to approve the consent agenda; Olsen seconded. There was no discussion. Sprague called a roll call vote. The motion passed with Olsen, Courtois, Mathis, O'Farrell and Peltz voting in favor. The consent agenda that passed were the following: Minutes – April 22, 2020 State Board of Education (SBE) meeting.

#### Board Announcements:

None

#### Student Report:

Courtois stated that he completed his AP classes. He has only a couple of classes remaining. Brochu stated that last day of school at Champlain Valley Union High School is June 5<sup>th</sup> and only three weeks away. Both student members discussed final examinations and remote learning.

### **Item C: Resolution for Kyle Courtois**

Gleason made a motion to adopt the resolution for Courtois. Vice Chair O'Farrell read the resolution. Olsen seconded. Sprague called a roll call vote. The motion passed unanimously with Olsen, Mathis, Peltz, O'Farrell, Gleason and Carroll voting in favor. Chair Carroll thanked Courtois for the two years spent serving on the State Board of Education. Gleason thanked Courtois for his time, talent and commitment to the State Board of Education and to education

in Vermont. She said that as a token of appreciation from Board members, a delivery was in route to him. Courtois thanked the State Board of Education for the opportunity.

## **Item D: Chair's Report**

Chair Carroll said that Act 173 Legislation or Bill S.343 had passed both the Senate and House. It extends the public comment period for rule series 1300 and 2360 to December 31, 2020 as the State Board requested. This extension allows for more written and verbal comment from the public and stakeholders. Chair Carroll said there will be a Board discussion soon about how and when to extend the comment period. In January 2020, the Board will need to decide which comments to incorporate into the current draft rules and adopt a proposed final draft of the rules. The next step will be to submit the final draft to the Legislative Committee on Administrative Rules (LCAR) and then the rules go through the final stages of the Administrative Procedures Act (APA) rulemaking process. Chair Carroll added that Bill S.343 extends the implementation by one year and will go into effect in July 2022. Additionally, the new rules will go into effect for the independent schools in July 2023. The legislation directs the Board to initiate the formal rulemaking process for independent schools by June 30, 2021.

Chair Carroll said the next topic is Battenkill Valley. He said that supporting documentation was included in the meeting materials packet. It included the letter from the Chair to the relevant parties as well as their response. He asked for a discussion on the next steps that the Board should take. Discussion followed regarding doing nothing, only 2 of the 6 addressees responded, consequences of failure to comply with Board's request, background and history, superintendents did not sign the response and hearing directly from superintendents. Chair Carroll asked Russo-Savage what would happen if the Battenkill Valley Supervisory Union (BVSU) does not comply with merging by July 1, 2021. Russo-Savage responded that it is not a governance entity like a school board, and an SU is an administrative service unit. Once July 1, 2021 arrives, the State will no longer recognize the BVSU since the order says it no longer exists past June 30, 2021. She assumed that any federal or state dollars that would have passed through to BVSU would go to the Southwest Vermont Supervisory Union (SWVTSU) instead.

Chair Carroll asked what the Board could do to encourage support to the parties. Russo-Savage said that the Agency of Education (AOE) would offer assistance pertaining to documentation to the Federal Government, new business ID numbers, new student IDs, transferring systems and other business-related functions and assistance that is in line with what it would provide to any supervisory union. Chair Carroll suggested sending a new letter and addressing it to those addressees who did not respond to the initial letter and asking what progress has been achieved. He additionally asked the Board if all six addressees should be invited to speak to the Board at the next meeting. Gleason felt it would not be time well spent if the Board was not interested in extending their deadline. Olsen suggested including in the letter the offer of technical assistance from the Board, if there was perceived benefit from that. Chair Carroll said he will send a letter to all 6 addressees with these thoughts.

Chair Carroll said that at the April 2020 meeting a proposal was tabled on the topic of Driver Education. The Board hoped to receive a new proposal that addressed the concerns of the Board including data on public safety, and evidence that there is support from others that expressed concerns. Chair Carroll added that he understands both parties including the Driver Education community and the Department of Motor Vehicles have been working together for some other solutions that negates the need for a waiver from the Board. Mathis called a point of order on the Board discussing a motion that had been tabled. Chair Carroll said he was only updating the Board on the status of the topic. He was not suggesting any action. Gleason said addressing a waiver if necessary, in June, for students currently in the program was not timely and will be past the end of the school year. Chair Carroll said his impression from third parties was that the plan being worked on solves most of the problems of delayed access by means other than a waiver.

### **Item E: Stakeholder Conversation regarding the COVID-19 State of Emergency**

Chair Carroll invited Jeff Fannon, Vermont National Education Association (VT-NEA), Jeff Francis, Vermont Superintendents Association (VSA), Jay Nichols, Vermont Principals' Association (VPA) and Sue Ceglowski, Vermont School Boards Association (VSBA) to engage in a panel discussion regarding the COVID-19 State of Emergency.

Fannon addressed the Board. He said that educators in the state are having a hard time with the remote learning environment. Fannon said some educators are increasingly concerned about many students who are not getting services, barely attending classes, not turning in assignments and are not capable of getting online. Fannon said that the supports at home that are typically received in school are not being provided. He said the equity gap is growing. The longer the state remains in the remote learning environment the more significant the gap will become. Fannon said the haves will continue to have and the have nots will continue to fall behind. He added these are not normal times and many kids are not getting the education they need. His members are concerned about the gap widening. Special education remains a real concern for his members. Fannon questioned how schools can be reopened in a way that is safe for everyone.

Francis addressed the Board. Superintendents are working more closely together than ever before while navigating through the crisis. He is in near constant contact with many superintendents. In order to prepare for this discussion, he had conversations with several superintendents. Francis said that thematically his message is consistent with Fannon's points. He said that inequity across the state is highlighted and magnified at this time. Internet access, adult support and adequate learning environment at home are all factors. In terms of recognizing assets, communities have been supportive of the work and efforts happening on behalf of school children in the challenged environment. The challenges are technological, economic, change in how people are accustomed to operating, fear associated with navigating the crisis, diversity in communities, and the nature of communities that are not well resourced. The element that is now better understood goes to inequity in the state and family dynamics and the learning process. Families are more stressed, and the stress is evident in the families that are less stable and resourced.

Francis said the State of Vermont has done a good job. He added there are tremendous challenges associated with the integration of statewide guidance and how it manifests in schools that are faced with hourly operational decisions. Francis said that because of how the state is emerging from or navigating through the crisis, it's very challenging to have the information needed to make an informed decision. Chair Carroll asked Francis to give example of statewide guidance that is missing that schools are waiting to receive. Francis said that his comments are not meant to be criticisms and are observational. He said Driver Education, food, personnel safety and managing remote learning rely on a systematic approach. He said it's so multifaceted that it is remarkable that people have done as well as they have. It will be a constant navigation from this point forward. A big example that will resonate with people is the tradition on how to honor senior students. But when guidance changes in terms of social distancing and what constitutes a safe practice from a health standard, it culminates in pressureful moments with wanting to do the right thing in terms of health and safety and giving students the recognition, they need. Francis added that he did not mention the big question around the funding.

Nichols addressed the Board. He said that special education is a big issue for members of the VPA. He said that the U.S. Secretary of Education, Betsy DeVos, has some latitude to waive some of the rules around special education and some of the rules don't make sense around certain things that can't be done or are very hard to do because there is no access to the students. The federal government has not been supportive on that topic. He added that the guidance around graduation has changed a couple of times. The guidance came from questions brought from the field to the AOE. The AOE is trying to provide clarity. Sometimes the clarity causes angst among some members. He added it's that type of situation.

Nichols said that he wanted to be clear that they are not doing remote learning. We're doing remote learning in a crisis. Students did not sign up for it and the teachers were not trained to do it. The pandemic has highlighted the inequities in the system and may have increased them. Some students are doing well. But many are struggling. If a student is home with a parent who struggled with school or doesn't have the skill set to support the student in academic endeavors, it makes it even harder for those students. In the fall, students will return with significant academic regression. The students at home without the support lose the most. Another concern is the socio-emotional trauma that students will have when they return to school. He is worried about the lack of revenue that will lead to cuts in human resources. Nichols added that principals are worried about the lack in staffing and what will be needed at the start of school. He said schools are working very hard to provide students with food, connections and academic supports. He added that broadband must become a fundamental right. Nichols said that the VPA appreciates the responsiveness of the AOE.

Ceglowski addressed the Board. She said that the previous critical issues brought forward by Fannon, Francis and Nichols have in common the need for resources to address them. She said there is a significant deficit in the Education Fund for FY21. The Legislature is working to address it. There is an issue with the federal funds and the lack of flexibility on how the funds can be used. It is hoped that more flexibility will be allowed so the funds can be used to help fill the hole in the Education Fund directly rather than have a complicated work around. Ceglowski

added that there are 19 school districts without approved budgets. The issue is being amplified by COVID-19 and problems scheduling a vote, timing of when to bring proposed budgets to a vote, whether economic conditions will create a less favorable environment for achieving approval and how to efficiently respond to the challenges of serving school children through the COVID-19 crisis and beyond. Schools are operating without an approved budget or with a budget that is insufficient to respond to their needs. Ceglowski has testified in the House Education Committee on the topic and advised them that districts are trying hard to secure voter approval. She mentioned in regards to special education the difficult situation school boards are in due to the Governor's order that school districts must pay staff in accordance with their regularly scheduled hours whether they are working those hours or not and the lack of information on whether school districts can expect to be reimbursed for special education costs. If the costs are not reimbursed or only partially reimbursed, then school boards could find themselves in a position where they would have to deficit spend.

Board discussion followed regarding equity, assessing the opportunities on an equity scale to help drive policy, lessons learned and how to do better, method of delivering education, amazing work by all schools, best practices, framework or guidance to help schools, professional development, human services needs for students, anticipating probable scenarios and planning for them, public health forecasts informing the Governor's office and strengthening the Vermont family.

### **Item G: Opportunity for Public to be Heard**

John Marchei from the Northwest Evaluation Association (NWEA) addressed the Board. He referenced a comment made by Fannon on the role of assessments and where some of the State's attention should be as students are brought back to the classroom environment. He asked the Board if there have been any conversations around where students will be when they return to school and how teachers and school systems are going to understand the best way to deliver instruction. Chair Carroll said that most teachers will be able to form a reliable assessment of where their students are when they are seeing them face to face over a period. He added that most will be concerned with the well-being and health of the students in addition to their educational situation and how much erosion of learning or readiness to learn may have taken place. Marchei said his question is only a small piece of considerations everyone needs to be thinking about and the socio-emotional well-being of the students is most important.

Rachel Seelig, a staff attorney from the Disability Law Project from Vermont Legal Aid and the Chair of the State Advisory Panel on Special Education addressed the Board. She appreciated the previous conversation around how COVID-19 is impacting students. She made two additional points regarding how inequities have been highlighted during the crisis. She said the State is receiving a significant amount of money through the Cares Act and 90% will be going to the school districts. The money has a list of permissible uses. She encouraged some sort of framework or guidance to help district prioritize using those funds to address the inequities that have become apparent through the emergency. For students with IEPs, assessments are important both during the continuity of learning through remote learning and over the summer for those students who receive summer services. We need to be objective in understanding the losses being anticipated. The losses for students with disabilities can change their eligibility for

other services like extended school year. There is guidance on compensatory education and extended school year released by the AOE that concerned the Disability Law Project because it suggests holding off on assessments until schools return to normal. Our concern is that it can be a long time before schools return to normal. She added waiting until the fall does a disservice to the most vulnerable students.

Chair Carroll called for a recess at 2:15 p.m. Courtois left at 2:15 p.m.

The meeting resumed at 2:22 p.m. Sprague called roll. Present were Olsen, Mathis, Gleason, O'Farrell, Peltz and Carroll.

## **Item H: Secretary's Report**

Secretary French said that he broke his report into three sections and that he will pause after each section for questions.

Secretary French said he was pleased with how the statewide mitigation strategy has paid off. It's important to acknowledge that the emergency is not over and will not end with the school year. He commented on the guidance related to the end of year celebrations and graduations which was published on May 8<sup>th</sup> and revised on May 18<sup>th</sup>. The Governor's original order said the school would be closed for in person instruction through the rest of the school year unless a new order replaced it. The Stay Home Stay Safe order expired on May 15<sup>th</sup> and has been extended. With the original order, he was required to provide such guidance by May 8<sup>th</sup>. He said that May 8<sup>th</sup> was used because it was as close as possible to graduation with the best understanding of the public health context and being far enough from graduation to give local decision makers enough time to plan. There was certain negotiation with the dates and tension involved with decision makers wanting certitude and at the same time flexibility was needed to adapt.

Secretary French said the guidance reads that schools may hold in person graduations. The guidance was kept in alignment with the Governor's order of 10 persons maximum. As that number evolves, there is a possibility that larger sized groups may be allowed. In conversations with the Department of Health, they seem to point to that number increasing by June 1. Secretary French said he has been working with districts as they navigate a creative process under the guidance. Discussion followed regarding returning to school, planning for the fall and high schools and superintendents collaborating and sharing ideas.

Secretary French said that there were two schools of thoughts regarding schools reopening. He said the primary school of thought was looking towards the summer, the emergency is over and what to do about summer remediation opportunities for students and extracurricular opportunities for students. The second school of thought was that the emergency is not over and it's premature to plan for a recovery of the emergency. It's clear that the emergency will not be over in the summer and planning for the fall is the focus. The plan is to use summer as the launch pad for fall. Guidance needs to be supplied far enough in advance but also, it's possible to prepare guidance prematurely absent of a good understanding of the public health context.

Secretary French said that the Centers of Disease Control (CDC) has produced interim guidance. He said he is meeting with the Department of Health to determine the public health

concerns to begin a concrete planning framework. In looking at what other states are doing, it's important to build in flexibility and have some options. He said he will share his initial framework with the VSA, VPA, VT-NEA and VSBA. There is a limited window of opportunity to complete the planning. Secretary French said that the intention is to open school for in person instruction and remote learning will be a necessary option. Discussion followed regarding vulnerability of school staff, distance learning not working for some students, provision supports services, assessing impact on students and an update on waiving school calendar days.

Secretary French said at the beginning of the crisis, the focus was on emergency management. Congress started work on the Cares Act. There is education specific Cares Act funding. The Elementary and Secondary School Education Relief Fund (ESSER) totals thirty-million-dollars and 90% of that funding must go to the local education agency (LEA). There is also the Governor's Emergency Education Relief Fund (GEER) which totals four-million-four-hundred-dollars. The AOE has received the authorization to administer the ESSER funds. The Executive Office of the Governor will administer the GEER funds. The AOE was poised to administer the ESSER funds but stopped after the U.S. Department of Education released guidance that gave pause on how to release funds to private schools. The guidance was inconsistent with how Title I is calculated. There was an appeal to the U.S. Department of Education to provide greater clarity or change their minds.

Secretary French said that funding is a challenging piece. There is hope that Congress will appropriate additional funds. States are asking Congress for greater flexibility on how to use funding. There is a one hundred and sixty-seven-million-dollar hole in the Education Fund. Discussion followed regarding deficit question, cost liability, extending the Cares Relief Fund (CRF) deadline, COVID-19 effect on society unknown, disseminating funds to school districts, funding problem will be ongoing, skinny budget, pressure to spend less on education, being a short-term financial challenge and looking for opportunities, remote learning and the Vermont Virtual Learning Cooperative.

### **Item I: Board Discussion on future agenda item**

Chair Carroll reviewed the State Board of Education meeting schedule through September 2020. He said that meetings can be added or removed if necessary. He asked the Board if it would like to convene a meeting like the current meeting in June or August and create a forum for a broader public understanding of the issues. Gleason thought that June might be too soon. She thought it may be more effective if the meetings were in person or partially in person and added that she would like to convene conversations in the future, but the topics are not clear yet. O'Farrell said she wants the forums to be valuable to the field. Chair Carroll said the virtual meetings are not the ideal platform. Discussion followed regarding the role and authority of the State Board, provoking conversation, what does the Board do with what is learned, hearing from all sides of the conversation, equity being a theme, framing the discussion to specific goals, spreading the conversations over several meetings, develop best practices and recommend guidelines and addressing what students need to be successful. Chair Carroll asked Board members to write down their ideas about who the Board would want to hear from and share their papers with the other Board members.

## **Item J: Policy Coherence**

This item was not discussed.

Chair Carroll called for a break at 3:55 p.m. The meeting reconvened at 4:00 p.m.

### **Public Hearing on Rules Series 1300 and 2360**

The following people provided public comment on Rule Series 1300 and Rule Series 2360.

Janna Osman, Vice President of Advanced Learning at the Stern Center for Language and Learning – She spoke that adverse effect should no longer be operationalized in the Special Education rules. She said functional performance should be considered in evaluations not just academic performance. She added the eligibility rules should be changed to reflect it. She said that there are injustices throughout the entire disability determination and eligibility system.

Rachel Seelig, Chair of the State Advisory Panel on Special Education – She explained the member representation of the Advisory Panel and its role and purpose under the Individuals with Disabilities Act (IDEA). She said the IDEA tasks the group to provide public comment when rules are considered that affect students with disabilities. She said that the Advisory Panel now supports Vermont’s definition of special education aligning with the federal definition. The Advisory Panel recommends changing the definition throughout the rules to avoid confusion. She would like the rule to include and define when there is a need for special education and written so students don’t lose access to non-special education providers. She would like language in the rule to allow Multi-Tiered System of Supports (MTSS) services and not to delay evaluations. She said that the Advisory Panel agrees there should be a separate rules series on MTSS.

Cynthia Gardner-Morse, Literacy Tutor – She said she would like students to be tested earlier for Specific Learning Disability (SLD) and would like the rules to ensure early identification of students. She said the Discrepancy Model used to base eligibility is a problem. The criteria are too restrictive and allows only the lower 7% to be eligible. She added that adverse effect is being used in Vermont to restrict students from receiving special education services and should be addressed. She said she is concerned with special education funds being given to school districts in block grants. It will directly interfere with students with disabilities right to a free and appropriate education.

Katie Ballard, Parent Advocate and Sandra Chittenden, Parent Advocate – They would like the adverse effect rule removed from the series because it requires the child to fail before qualifying for special education services. It is often used to delay students receiving services. They would like the significant discrepancy requirements for determining SLD in the rules removed to eliminate the barrier for assessing children with SLD. They would like the State Board to add a definition to the term dyslexia. They would like mandatory screening for students in K-6. They would like language included that any evaluator or educator that has concerns with a child related to a learning disability or is identified as having an SLD make recommendations to the IEP team and parents that would further identify if the student has any other learning disabilities. They would like the State Board to consider using different terminology to identify students labeled with emotional disturbance. They would like the language regarding



placement updated to provide for the most inclusion with parents as possible. They would like the parent consent and participation portion of the rules reviewed to seek more input from parents to be equal members in IEP discussions.

## **Adjourn**

Chair Carroll thanked the State Board members and adjourned the meeting at 7:01 p.m.

Minutes prepared by Suzanne Sprague.