

## State Board of Education

### Draft Meeting Minutes

**Meeting Place: Green Mountain Technology & Career Center**

**Address: 738 VT Route 15, Hyde Park, VT 05655**

**Date: December 18, 2019**

#### Present:

**State Board Members:** John Carroll, Chair; Jenna O'Farrell, Vice Chair; Peter Peltz, William Mathis, Kimberly Gleason, Daniel French, Sabina Brochu.

**Agency of Education (AOE):** Emily Simmons, Maureen Gaidys

**Others:** Mark Tucker, Superintendent, CCSU; Laura Soffo, VPI; Mill Moore, VISA; Jay Nichols, VPA; Jeff Francis, VSA; Marilyn Mahusky, Act 173 Advisory Group Vice Chair; Meagan Roy, Act 173 Advisory Group Chair; Chelsea Myers, VSA and P. Sharand, Barre City.

#### Call to Order/Roll Call/Introductions/Amendments to Agenda

Chair Carroll called the meeting to order at 8:40 a.m. He advised that Mathis would be coming, Lavoie might be coming, he had not heard from Courtois, Olsen was out of town and O'Keefe was busy with budget deadlines. He said there was a quorum. Chair Carroll said that item J, (the topic of reporting to the General Assembly) was completed with suggested changes from members. He also said that there would be no discussion at this meeting on Board norms and guidance, as preparing for the January meeting has been a demanding project and takes priority.

#### Welcome from Catherine Gallagher and Erik Remmers

Chair Carroll invited Catherine Gallagher, Lamoille North Supervisory Union superintendent and Erik Remmers, Green Mountain Technology and Career Center Director, to introduce themselves and address the group. Chair Carroll thanked them both for hosting.

Gallagher spoke about standing for equity, access and opportunity and how that serves as the framework for everything including board meetings, student conferences, faculty meetings and community outreach. She spoke about how everyone is an educator. Gallagher spoke about Act 46, proficiencies and restorative practices. She talked about how her 18-member board works well together and how relationships are developing, subcommittees in alignment with Education Quality Standards (EQS), significant and positive progress being made towards proficiencies, have infused and educated the greater community about the world playing field (European Union, colleges, etc.), outreach by students who have a good understanding of Proficiency-Based Learning (PBL) and the difference between PBL and the grading/recording piece, which had been filled with opportunity to shape this process. Gallagher continued to discuss their belief in the tenets of Act 77, highest achieving students and lower achieving

students doing things that might not have been imagined without Act 77, teaming with community health services to reduce truancy, that truancy rates are down 32% and that truant students come to school with the same challenges and are now provided with restorative work that helps them in accessing their education.

Remmers distributed a handout and spoke about flexible pathways and his idea that students of all ability levels and all post-secondary goals should be considering Career Technical Education (CTE) as part of their future plan. He spoke about additional CTE programs off-site, that data shows that conversations with teachers and counselors have the most influence on students enrolling in CTE and he encouraged the Board to think about CTE and its offerings and what can be duplicated. He shared that the percentage of CTE students considering college are in alignment with high school students considering college. He reminded the Board that CTE is another option, but certainly not a lesser option. Remmers spoke about looking at CTE in rural environments and examining graduation standards to see what can benefit the local communities, and that Act 77 is allowing schools to operate more like CTEs with hands-on, and experiential learning opportunities.

There were questions and discussion on CTE in rural environments and examining graduation standards to see what can benefit the local communities, that Act 77 is allowing schools to operate more like CTEs with hands-on and experiential learning opportunities, programs offered: creative media and art, computer networking, allied health, business administration, pre-tech (10<sup>th</sup> graders), construction, HVAC, automotive, electrical, sustainable agriculture and forestry and expanding their early education program.

## **Consent Agenda/Board Announcements/Student Report**

Consent Agenda: Chair Carroll asked for a motion to approve the consent agenda. Peltz moved and Gleason seconded. There was no discussion. Chair Carroll called the vote. The vote passed unanimously.

Board Announcements: There were no Board announcements.

Student Report: Brochu spoke about school demands increasing as it is exam time and that she is looking forward to the discussion on PBL and sharing her experiences.

## **Chair's Report**

Chair Carroll shared that the annual report is taking shape, with help from many Board members, and will be distributed to the General Assembly (GA) through the Agency of Education's (AOE) distribution system by January 3 and will also be hand-delivered to the Governor's Office and legislative leaders by Chair Carroll. He said the report is unusual as it is as much if not more about looking forward as looking back. He said it articulates the general functions of the Board and accepting and executing the directives of the GA (Act 46, Act 173, small school grant metrics, etc.), addresses the plan to have the reinvented Board be independent, that the education committee chairs and Lt. Governor are supportive of this vision, that there is interest in introducing legislation that will re-assign duties from the Board to the AOE and detail separation of function. He added that the climate in the State House is that there have been some reservations of the Board and its performance in years past. Chair Carroll spoke about the independent school rules and the Legislature's unprecedented directive

to cease work on them, that the Sunset Advisory Commission was prepared to eliminate the Board until they heard from the Chair and Peltz about the reinvention of the Board, and the need to restore the Legislature confidence in the Board. Chair Carroll spoke about the community of Barnard voting to join the Windsor Central Modified Unified Union School District (MUUSD) and that the community voted in favor of this. He acknowledged Carin Park and Pam Frazier and that it was a big success for the community and Act 46. Peltz added that another issue was funding. Chair Carroll said the goal for this session is to get legislative consent/support for the vision but that it is doubtful that resources will be addressed this session. Chair Carroll is working on a plan for bridging a way for the GA to direct funds to the Board and not through the AOE.

## **Secretary's Report**

In response to Gallagher's and Remmers' comments, Secretary French spoke about one of the structural changes made in the AOE last year was a decision to add the CTE team to the Flexible Pathways division, which aligns well.

Secretary French spoke about the new partnership with MetaMetrics, that will allow for reporting of Smarter Balanced Assessment Consortium (SBAC) scores using Lexiles and Quantiles, which will allow aligning of benchmark assessments and creation of a data continuum. There are a lot of resources available, and since Lexiles and Quantiles are available for most career pathways, it will help with student goal setting. Secretary French explained that this came out of the Act 173 work and the concerning trend of declining SBAC and NAEP literacy scores. Chair Carroll asked if the SBAC scores had been received and why they had not been shared with the Board. There was discussion on the Board seeing disaggregated data, who can access the data, that SBAC data will be released after the holiday, access for parents and districts through a portal and the need for disaggregating data before it is released to the public. Secretary French talked about the studies that informed Act 173 and its focus on the rulemaking process, that there is an opportunity, that District Management Group (DMG) addressed professional development (PD) and resources, and that it is worthy to highlight this as a policy issue. There was discussion on emphasis on literacy as foundational for success in other areas, tools deployed to address math as well. There was discussion on the Child Protection Registry (CPR) audit, that this will be released soon, that there were eight supervisory unions (SUs) that failed to use the CPR, how long this has been required, Act 1 of 2009, AOE's responsibility, 8% being a high error rate, hope of urgency for zero errors, that this could be a future agenda item, no margin for error, AOE's response to the auditor's report, and that new systems of checks and balances have been implemented. There was discussion on support to the field for SBAC conversion data, weighting study, MetaMetrics, psychometrics, coherence of curriculum, meeting with Curriculum Directors and varying responsibilities of these across the state, time spent on curriculum development versus teaching, and the potential role of statewide benchmark assessments.

## **Opportunity for Public to be Heard**

Chair Carroll asked if there were any members of the public to be heard. Jay Nichols, Vermont Principals' Association advised that it was hard to hear French and Gleason. Chair Carroll suggested that they move their seats so that they could be heard better.

Chair Carroll called recess at 9:50 a.m. Chair Carroll called the meeting back to order at 10:06 a.m.

## **Act 173**

### Stakeholder Feedback – Act 173 Advisory Group (AG)

Chair Carroll invited Act 173 AG members to address the Board. Meagan Roy, Act 173 AG Chair, and Marilyn Mahusky, Act 173 AG Vice Chair, introduced themselves. Chair Carroll referenced two pieces of documentation that were provided in advance. Roy recapped what has happened since their last appearance before the Board. The Board had asked for recommendations and alternative language. Following the last Board meeting, there was a working meeting with Board members, AG members and representatives from the Federal Education Group (FEG) and that conversation was productive and used in creating the revised draft. The AG was pleased with the AOE and their revised draft which addressed the definition of special education and the funding sources. Chair Carroll interrupted and advised the Board that this was a specific part of the process and to keep the timeline in mind. The purpose around this discussion is for the AG to present their alternative language and the AOE's role is to respond today. Chair Carroll anticipates that there might be discussion and that it is the Board's decision on what will be adopted into the rules. At the next Board meeting, the AOE will present another revision of rules and the Board will adopt these rules and the 8-month rulemaking process will begin. Roy explained that the AG's regular December meeting was cancelled due to weather, so a special conference meeting was called; Secretary French was not able to participate so they have not heard feedback from the AOE on this draft.

Chair Roy spoke to the revisions: 1) state definition of special education is aligned with the federal definition (truncated version but with a reference to the full definition), 2) development of guidance and that stakeholder input should be solicited when the AOE develops this guidance, 3) student placement on an Individualized Education Program (IEP) in an approved special education independent school and that the original language be retained and that all costs of this placement be considered allowable, and 4) location of special education services so that when documenting Maintenance of Effort (MOE) it will be clear that services are provided in local settings.

There was discussion on the degree of authority carried by guidance, stakeholder input, allowable costs and extraordinary costs.

Chair Carroll asked Secretary French what he thought of the latest revision of the rules. Secretary French said he had not had a chance to debrief with staff or hear directly from the Act 173 representatives yet, but that the AOE would be on track with the schedule demanded by the Board. Chair Carroll offered to have the Board proceed with the AG's edits as recommended or be guided by AOE's views. There was discussion on the AOE not having an opinion, that the AOE is not prepared to give input today, that the agenda lists stakeholder input not AOE presentation, and that this delay might push the timeline out a month. Chair Carroll asked for comments from Board members. There was discussion on revisions not being problematic but clarifying, specific clarifications, independent school rules and when they will be addressed, relevance to special education funding rules, regarding location if there is language on who is providing these services, and that the AG is looking to align the state definition with the federal definition.

Chair Carroll asked if there was a motion and offered a suggested motion: that the Board endorses the 4 proposals recommended by the AG and urges the AOE to incorporate these into their final draft. There was discussion hearing from both groups and working together, urging the AOE to incorporate these rules into their next revision, realistic response time for AOE, making a motion contingent on AOE incorporating changes, Board providing guidance to the AOE on their comfort level of proposed changes, eagerness to move this process along, and being ahead of schedule but not wanting to fall behind. Chair Carroll proposed that unless the AOE came back with compelling reasons not to consent to these proposals, then these proposals should be in the final draft. Chair Carroll asked for a motion. O'Farrell moved to endorse the recommendations of the AG and urge the AOE to incorporate these changes into their next draft which will be provided in advance and voted on at the next meeting; Gleason seconded. There was no further discussion. Chair Carroll called the vote. The vote passed unanimously. Chair Carroll said this final version of the rules will be voted on at the January meeting in Rutland.

Roy continued that one of the core purposes of the AG is to advise the Board on its rulemaking and that this has required significant work to produce revised drafts in response to the AOE drafts. She added that the Legislature only funds 8 meetings a year for the AG and they have already had 6 meetings and have spent the bulk of their time on rules and that other responsibilities have not been addressed. Other elements of the rules series that needs to be updated is another concern (implementation of MTSS). Roy summarized that it is challenging when the AG is charged with drafting alternative language and it is starting to feel that it is beyond the scope of the AG to draft language. The AG encourages the Board to seek alternative support in drafting alternative draft language. There was discussion on the deadline for the rules, effective date of statute being July 2022, needing a timeline for completion of independent school rules, policy work plan on the AOE website, AOE's expectation to spend time on independent school rules once these rules are adopted, the weighting study, connection between special education independent school rules and general education rules, and changes needed to the implementation schedule. Chair Carroll spoke to the Board about needing to develop a new timeline and asked the AOE for a draft timeline that could be adjusted for the Board. There was discussion on the trajectory of the block grant going live, budget implications, factoring district considerations into the timeline, AG is required to issue a report to the General Assembly (GA) in January and that this will be discussed at the January AG meeting, intent of AG to make strong and detailed recommendations to the GA, and the need to petition Legislature for resources to avoid delay.

#### Stakeholder Feedback – Vermont Legal Aid/Disabilities Law Project (VLA/DLP)

Mahusky introduced herself in the role of advocate with VLA/DLP. She shared a document and said these rules are much broader and incorporate all the changes they (VLA/DLP) would like to see in the rule 2360 series. She recognized that there is value in narrowing the proposed rule series 2360 rules changes as they pertain to Act 173. There have been conversations with Vermont Council of Special Education Administrators (VCSEA), and others and consensus has not been reached, so these recommendations are from the advocacy community. There are some rules that are tied to Act 173 – definition of special education and adverse effect and inconsistency among districts in how that is applied. They would like to have this rule eliminated. Mahusky gave highlights on rules to be addressed under Act 173. She said that under Act 173, the AOE is required to create guidance for MTSS and are recommending



language that schools have a policy and follow it; currently there is no rule on MTSS and making a rule is recommended. She offered that a statement of purpose is included and that it is important these rules are tied to the 1300 rules series.

Chair Carroll asked if these recommendations were discussed with the AG and Mahusky clarified that they were not and that they were discussed with other education entities. Chair Carroll revisited the timeline, specifically a public comment period in March and April. There was discussion on looking at financial rules separately from program rules, focus on the 1300 series, need to strike relevant portions applied in new rules, timelines, rule series 2360 being opened so that relevant portions can be addressed, aligning everything with federal rules, adverse affect in federal rules, and the due date for initiating funding rules is August. Mahusky offered to provide a redlined version of rules series 2360 to the Board and said she would continue to push for these changes.

### **New England School for Girls (NESG)**

Chair Carroll invited Emily Simmons, General Counsel, to address the Board. Simmons explained that NESG was approved last year and has received approval from Department for Children and Families (DCF) to expand enrollment from 35-49; the current approved capacity is 35. Chair Carroll asked for the rationale for seeking an increase in the age range. Simmons clarified that the enrollment is mainly out-of-state students and that she is unable to say why. Chair Carroll asked if there were any concerns with students of such wide age ranges grouped together. There was discussion on AOE's oversight being on the educational piece of mixed ages, that these discussions would occur at the IEP level, the staffing pattern of the school, that all students attending this school are out-of-state residents, having AOE staff who visited the school present at this meeting, capacity concerns affected by having AOE staff here, and the Chair's rejected offer to invite NESG representatives to this meeting as the matter seemed straight forward. Chair Carroll asked for a motion. Gleason moved to accept the Secretary's recommendation; Peltz seconded. There was discussion on the request being reasonable, staffing ratios and resources. Mathis moved to call the question. The motioned carried. The Chair called the vote; the motion passed unanimously.

Chair Carroll called recess at 11:49 a.m. Chair Carroll called the meeting back to order at 12:39 p.m.

### **Item I: Overview of Act 77 and Related Regulations pertaining to Proficiency-Based Learning (PBL)**

Chair Carroll introduced Item I and explained that the Board would be making more of an effort to be informed on topics of interest or concern. This topic was suggested by Gleason and is also a topic of interest in the Legislature. Secretary French referenced his PowerPoint presentation, [The Origins of Vermont's Proficiency-Based Learning Policy](#) and two other documents that he provided for background ([The Transformation of Education in VT \(2008\)](#) and [Opportunity to Learn \(2009\)](#)). He spoke about an initiative, High Schools on the Move (2002), and a transformation retreat in Grafton and the resulting Transformation Policy Commission. He explained the political trajectory and the timeline of relevant statutory language. He noted that Act 77 (2013) references flexible pathways, personalized learning plans (PLPs), dual enrollment and early college and that there is no reference to PBL. The PBL requirement exists

in SBE rules 2120.5 and 2120.7. He continued with the timeline for PBL and with 2020 being the compliance deadline for implementation of PBL. He spoke about the regulations being silent on Proficiency-Based Grading (PBG), various ways of reporting proficiency grading, and regulatory requirements for PBL also being applicable to the regulation of elementary and middle level education.

There was discussion on the connection between PBL and PBG, educators wanting something different from traditional grading, need to make learning more relevant to students, controversy if PBG is not required, development of standards leading to curriculum coordination, Personalized Learning Plans (PLPs), legislative intent, Carnegie units, nuances of interpretation, Vermont's decision to personalize learning in law and in regulation, leftover responsibilities from Act 98, and why PBL was not part of Act 77.

Chair Carroll spoke about conversations with the House and Senate education committees on PBL, and how and why the former Board adopted PBL, that this was essentially an unfunded mandate, and that this was decided upon without consideration for initiative overload. Discussion continued that this is an example of why separation of the Board and AOE is important, that this is a good example of why it might be good to dissolve the Board, that coherence of policy is crucial, importance of having a Board like the current Board to do this work and that they do the best they can. Nichols spoke about AOE hiring *Great Schools Partnership* to train school leadership staff and that some systems focused on PLPs and others on PBL and that it is too much to expect schools to focus on both at the same time.

Brochu excused herself from the meeting at 1:30 p.m. Chair Carroll thanked her for coming despite having academic and extracurricular commitments. He said it was important that her voice was heard. Gleason spoke about how Brochu has enlightened her on the PBL process.

Chair Carroll spoke about the importance of not bringing individual personal experiences to the PBL examination process, but instead using the hearings to act as a quasi-judicial Board and not gathering information outside of these hearings. He spoke about this Board having a tendency to minimize its understanding of the optics and emphasized that the Board is not yet ready to make recommendations around PBL and thinks it is politically prudent to have the Legislature give some recommendations. There was discussion on where the Board should situate itself in relation to education policies, curriculum, who controls what is taught in schools, Legislature's role, the Board retaining authority over Education Quality Standards (EQS) and freeing up other responsibilities to pursue activities like what is planned for January.

## **State Board Work Session**

Chair Carroll spoke about the January meeting resulting in a report by the Board, not AOE staff, to the GA that would convey what the Board was told; not thoughts or opinions. There was conversation on any risks that AOE might have around PBL and a possible Request for Information/Request for Proposal (RFI/RFP) for a student information system. Chair Carroll reviewed his overview and spoke about the purpose of the January meeting being to gather information on an education-related topic, prepare a report and deliver it to the GA (and other specified parties). He emphasized that the topic of impartiality is important and that the Board needs to be as open and impartial as possible. He encouraged Board members to not read up on PBL and to ignore opinions and mis-information on this topic until after the hearings and stressed the importance of hearing this information on the public record and from

knowledgeable sources. He explained balanced testimony and that there would be a vetting process for individuals recommended to testify. There was discussion on data available for schools that are in various levels of implementation, needing evidence to share statewide on PBL, some PBL implementation is assessed through Integrated Field Reviews (IFRs), Board needing a briefing packet, briefing packet available to public and neutralizing polarization through how it is framed.

Chair Carroll explained the plan for the January meeting: start at noon with a regular Board meeting (90 minutes), 2 hours of testimony from 6 expert witnesses (20 minutes each), witnesses will be required to provide written testimony, media and public are encouraged to attend, then 30 minutes of public comment (balanced), break for supper (not dinner because it will be simple) and invite the public and witnesses to have supper with the Board, at the Board's expense. Chair Carroll asked for volunteers to help promote this. Supper will end at 5:50 p.m. and the Board will meet until 7:50 p.m., hearing from 6 more expert witnesses (20 minutes each), followed by 30 minutes of public comment, 10-minute debrief and adjournment. There was discussion on the genesis of PBL and employers wanting to see graduates prepared, involving/inviting employers and college admissions staff, CTE having a long-standing history of proficiency focus, witnesses need to have expertise and specific knowledge, that the Board won't accomplish all that is hoped, this is an opportunity to prove to the GA that we can be useful, need time reserved to work on the report, will do that offline following the meeting because it cannot wait until February, working on staff support for the Board, student interns as a possibility, inviting eTV, editing the video to promote this, possibly commissioning Vandagriffe (RETN) to do this work. Chair Carroll asked for assistance in vetting witnesses for testimony; Peltz expressed interest. Carroll asked if Fisher had any capacity; French said not with legislative session starting. Peltz gave kudos to Fisher for the daily media clips.

## **Adjourn**

Chair Carroll adjourned the meeting at 2:26 p.m.

Minutes prepared by Maureen Gaidys.