



VERMONT STATE BOARD OF EDUCATION
Barre City Place
219 North Main Street
3rd Floor, Room 304
Barre, Vermont 0564

November 15, 2016

- Strategic Goals: (1) Ensure that Vermont's public education system operates within the framework of high expectations for every learner and ensure that there is equity in opportunity for all.*
- (2) Ensure that the public education system is stable, efficient, and responsive to changes and ever-changing population needs, economic and 21st century issues.*

Minutes

Present:

State Board of Education (SBE): Stephan Morse, Chair, Sean-Marie Oller, Vice Chair, Connor Solimano, Mark Perrin, Peter Peltz, Stacy Weinberger, Rainbow Chen, Bonnie Johnson-Aten, Bill Mathis.

Agency of Education (AOE): Deputy Secretary Heather Bouchey, Deputy Secretary Amy Fowler, Clare O'Shaughnessy, Haley Dover, Maureen Gaidys

Others: Nancy Dyke, Windham; J. Dyke, Windham; Nicole Mace, VSBA; Jeff Francis, VSA; Mill Moore, VISA; Jonathan Wolff, Primmer/Lyndon Institute; Tiffany Pache, VTDigger; Juliette Longchamp, VT-NEA; Emilie Knisley, Blue Mountain Union School District; Mark Vattes, College Board; Seth Hibbert, Let's Grow Kids; Clare Buckley, KSE Partners for VISA.

Item A: Call to Order

Chairman Morse called the meeting to order at 9:11 a.m. and the Board members introduced themselves.

Item B: Public to be Heard

There were no members of the public to be heard.

Item C: Consent Agenda

Vice Chair Oller moved to approve the consent agenda; this was seconded by Johnson-Aten. Chairman Morse asked for discussion. Oller addressed consent item C2 and asked for clarification on the relationship between the entities, who visited the school and if this approval extends the VSG license. Peter Gilmore and an AOE representative were identified as who visited the school. Chairman Morse decided to hold the vote on this motion until we could get clarification from AOE staff. Cassandra Ryan was summoned.

Item D: Board Announcements

Mathis shared that he has been working with NASBE and that there is a lot of chaos, confusion and uncertainty. They will be looking at a continuing resolution and he has no information to share on the next Secretary of Education for the U.S. Department of Education.

Chen shared that she and Solimano attended the Rowland conference and that it was good to get a shout out from Secretary Holcombe. She came away with a better understanding of Act 77. Solimano added that there are a lot of different approaches to Act 77 and that it was interesting to see the different approaches.

Chen shared that in light of recent events, there is fear and confusion among New Americans, people of color, Muslims, and many others in the communities and students are having trouble finding people to talk to and confide in, especially in the Burlington area. Her community has been working very hard to make sure that schools are a safe place. Chen mentioned this needs to happen statewide as well.

Board members expressed concern that this issue is not being addressed, support for making a statement of affirmative commitment, and asked how such a message would be disseminated. AOE offered to distribute their message to the field.

Motion: Oller moved that the SBE ask all educators to come together and ensure all our schools are safe and supportive places where all students, including working class and students living in poverty, students with disabilities, New Americans and original Americans, Muslim students and students of color can focus on learning, work hard, and work together to strengthen democracy and further our prosperity. This motion was seconded by Peltz.

Vote: Chairman Morse called a vote. The vote passed unanimously.

Cassandra Ryan joined the meeting to answer questions related to the consent agenda and independent schools. Oller asked if this extends the approval of VSG to 2018. Ryan responded that it does not, their approval will expire in June and they will need to re-apply.

Chairman Morse asked about the process for licensing independent schools in Vermont, if there is a financial review and if the SBE would benefit from having the independent schools represented at SBE meetings where they are seeking approval. Ryan responded that there is receipt of application, approval identification, assignment of contractor, and a review following the SBE rules and statute. If special education approval is sought, then special education staff conducts a separate visit in which files, processes and staff are reviewed. Ryan said that inviting independent school staff to the SBE meeting would give an opportunity for questions and that often times these representatives are interested in participating. Mathis raised concern around financial review and asked for the number of special education approved schools, noting that he had received conflicting information on that question the day prior. That information was not readily available. Mathis requested that Special Education staff attend the next SBE meeting and present on the special education approval process for independent schools.

Item E: Chair's Report

There was no report from the Chair.

Item F: Secretary's Report

Secretary Holcombe acknowledged the issue of safety that Chen had brought up and reinforced the need to go above and beyond to help students feel safe. She has sent one memo already and will continue to communicate with the field.

Act 46: Two of the three merger proposals that went to vote, were approved. There is a new system under formation in Grand Isle. These are three towns that decided to stop operating and begin tuitioning in grades 7 and 8 and is a case where tuitioning has been preserved. Barre did not pass. Once these votes are finalized, voters in 58 towns and 14 SUs voted to merge 66 school districts. Voters in 4 SUs did not approve (23 districts). Of the 87,000 PK – 12 students in Vermont, about 44,075 (51%) live or will live in a unified system. There will be a second meeting in January to accommodate the large number of merger proposals. Board members were encouraged to respond to the meeting invite as soon as possible. The Secretary advised that this is not a time to miss meetings; the districts have been working hard and we need to make sure the board has a quorum to review and act on the proposals in a timely way, even though it is an extra meeting.

Chairman Morse reminded the Board that the regular January meeting is January 17, 2017 and an extra meeting has been scheduled for January 20, 2017.

Secretary Holcombe and Deputy Secretaries Fowler and Bouchey are headed to D.C. next week to meet on federal policy and federal equity issues, as well as with a representative of the new President's transition team.

Item G: Committee Reports

There were no committee reports.

Item H: Transition

Chairman Morse acknowledged that this is the first time going through such a transition since the Commissioner has become a Secretary and that he has made contact with the transition team. Sometime between now and the beginning of January, the SBE will need to present the Governor-elect with three potential candidates for Secretary of Education to choose from. Morse will get more details from the transition team on how to proceed and suggested that it might make sense to form a committee. Mathis asked if this applied if there was no vacancy. Morse said that typically there is a separation, but this is unclear. Mathis added that the search process is very time consuming and puts the AOE in turmoil, and that he would like to avoid that. Morse stated that state law says that until the Governor-elect makes a re-appointment, that person can stay in that position. Secretary Holcombe stated that the new Governor should choose his own team, and has offered to work to ensure there is a smooth transition.

Chairman Morse called a 10 minute break at 9:56 a.m.

Chairman Morse called the meeting back to order at 10:07 a.m.

Item I: Presentation of ESSA Plan

Deputy Secretary Fowler offered two updates on assessments:

1) NECAP is in its last year of being used as it is not aligned with our standards. We have been looking for a replacement and working with several other states via NGSS to partner and create a science assessment. We will find a partner with the same expectations, but there is no MOU yet. This is good news and it has taken 6 months to get this point.

2) We have started working on the Smarter Balanced assessment and are currently undergoing peer review for this to be sure that we meet the criteria; it was a federal requirement that we have an independent review. There is no official word, but it looks like the test will be approved. There were some specific accommodations for visually and hearing impaired.

Deputy Fowler shared an update of the ESSA plan. The draft that was shared with the Board is not a final draft, but she will share the revised version with Board members.

[Deputy Fowler's Presentation, Item I](#)

The Board asked if this would satisfy federal requirements, whether non-academic indicators were factored, if additional indicators could be added, and how items were prioritized.

Deputy Secretary Fowler explained that this will satisfy federal requirements, non-academic indicators were considered, there are not enough resources to add additional indicators, and that prioritization included significant stakeholder input and consideration of existing measurement tools. Fowler also explained how the decision for weighting was made.

Peltz asked if resources are given directly to schools for personnel support. Fowler replied that they are given to the SU to use as they see best (with restrictions for personnel, consultants, trainings, etc. Mathis asked how socioeconomic status was controlled for, adding that some will have harder circumstances and that there is no way to adjust for this. Deputy Fowler said that every effort that could be made to control for demographics, could also skew data and make schools appear over-performing, and that resources could be pushed inappropriately. She cautioned that it is a delicate dance.

Secretary Holcombe added that achievement gaps are identified at an early age, that schools have to be proactive, and that when this happens, performance can improve. She added that we want to hold schools accountable for being proactive and we also want to be sure we want to be sure that we are not punishing schools for circumstances beyond their control. Secretary Holcombe said that some of the best teaching is happening in the low-performing schools.

Deputy Secretary Fowler asked for thoughts/opinions on field visits. Chairman Morse said that the narrative explanation to accompany this presentation is super helpful. Weinberger stated that the more information the better for the public to comment and support and that the sharing of this plan could be very helpful.

Item J: Merger Proposal Update

Donna Russo-Savage shared a handout on [Merger Proposal Updates](#).

She detailed which proposals were approved by the voters and which were not, and reminded the Board that the numbers are tentative until at least December 8, 2016 because the three most recent votes are in the reconsideration period. Russo-Savage said that there is a possibility of requests for re-votes in several instances. In January there could be as many as 10 new proposals; several are side-by-sides. It is also possible to have several proposals in December, and some in February. Chairman Morse asked if all Board members had responded to requests for Act 46 meetings with Russo-Savage. Secretary Holcombe encouraged Board members to respond if they had not already.

Vice Chair Oller asked for clarification on the Board's approval of the GISU merger proposal, where she was absent – and if the low number of students (not near 900) needed further approval from the Board. Russo-Savage explained that the Board had approved three alternative options. There may be a need to re-align SU boundaries in the future.

Blue Mountain Union School District Update

Emilie Knisley, Blue Mountain interim superintendent, introduced herself. She reported that an update was given last December and again this past June. She asked what the Board would like in the terms of an update. Secretary Holcombe clarified that it would be helpful for the Board to hear some of the conversations that have been occurring in this very small district.

Knisley stated that BMUSD has about 400 students, with one PK- 12 building that serves Groton, Ryegate and Wells River. There have been conversations with SAU 23 (NH) and the school board was not interested in pursuing this because a new building would need to be built. Last fall/winter BMUSD was part of an exploratory study with Rivendell, Thetford, Waits River, Newbury, Oxbow and Blue Mountain, out of which emerged a 706(b) study –and BMUSD is still part of this study with some of those districts. There are some bumps in the road. There are a series of possibilities on the table:

- 1) continue the conversation of creating a single K-12 district with Bradford, Newbury and Oxbow
- 2) having conversations with Danville, who has agreed to a casual conversation
- 3) change Blue Mountain from PK -12 operating to PK – 8 operating / 9-12 tuitioning, with a possibility to pair up with surrounding districts
- 4) retaining partnership with Bradford and Newbury and reconfiguring how some of the schools serve students. The community is not much in favor of that, as they are closer to Spaulding than Oxbow and there are concerns for students in poverty and how they would access extra-curricular/athletic activities.

Trying to find a place amongst many different and surrounding operating structures is tough. They will continue to work through these challenges.

Chairman Morse asked about the time frame. Knisley shared that there is a Board retreat scheduled for November 30 that Nicole Mace will facilitate. It is unlikely that a decision will be made in time for a Town Meeting Day vote, perhaps a June vote. Peltz asked if the problem is

like structures. Knisley said the problem is mostly the distance to be travelled. Chairman Morse said he found this report encouraging and Knisley acknowledged that progress has been made.

At noon Chairman Morse called a recess until 1:00 p.m.

Chairman Morse called the meeting back to order at 1:02 p.m.

Item L: SBE Budget Presentation

Secretary Holcombe shared the [FY 2018 State Board of Education Draft Budget](#).

She explained that there are new contractual obligations – the new piece is contracting with the field and Act 46 and some of the struggling areas. The biggest expenses are increases due to a possible increase in legal services and supporting the bigger asks of Act 46 work. Chairman Morse asked if we would look at this schedule prior to the new FY which starts in July 2017. Secretary Holcombe said we were told to plan for a level-funded budget and will work with the new Administration. Currently the SBE is folded into the AOE budget.

Secretary Holcombe shared a memo to the Board on [FY 2018 Upward Pressures and Assumptions](#). She walked the Board through the seven budget items that total a little less than \$750,000. Chairman Morse asked for questions and comments. There were none.

Secretary Holcombe stated that affordability is a real issue and that we can't give everybody everything that they want. We will need to make some tough decisions. Chairman Morse said we need to address the capacity issues of the AOE before those of the Board. Secretary Holcombe confirmed that Board will always need support from AOE to push through and move issues - and that the AOE is prepared to deliver that.

Mathis distributed his [Draft Budget Message from the Board](#) and asked for thoughts and discussion. The Board discussed inserting dollar figures into the last paragraph, keeping it to one page, incorporating Secretary Holcombe's prior presentation, acknowledging the reality/challenge that the money is not here and that the increased pressures are external, unfunded mandates and concern over the alignment of the Board's message with the Secretary's message.

Mathis and Peltz will work on a revised draft to be shared at the next Board meeting. If a revised draft is needed sooner, then that draft will be circulated and finalized via email.

There was no further discussion on the budget.

Item M: PreK Update

Secretary Holcombe told the Board that a transition relief memo was issued last year and this is the first year of full implementation. Given the value of early intervention, this is very exciting. This is a mixed delivery model with complex statutory and regulatory constructs. Every Act 166 provider needs a fingerprint-supported background check. The federal regulations changed for childcares and now they too need a fingerprint-supported background check. In the interest of reducing duplication and the cost of delivery, AOE agreed that the Child Development Division

(CDD) would fingerprint all private providers. The challenge is that this has been substantially delayed and many providers have not cleared. We have issued several memos to offer some flexibility in how to deal with this and to honor the intent of the law. However, a complication is that in October, we need to count ADM as per statute to set the tax rate for the following year. If some providers are delayed from entering, their students don't enter our official count in time to be counted as students for the purpose of estimating the ADM count for the following year's tax rate. This means that in any district where entry was delayed, they would have an artificially low count that could potentially result in an injuriously high tax rate for the following year. The AOE has initiated a second count and communicated with several legislators to request support for legislative approval of this second count for the coming year, in place of the statutorily defined count we conducted in October. This would allow the second count, which will capture latecomers (those students in private providers who cleared late), to be used as the basis for the tax rate. We expect to have the final certification of that second count in January. The goal is to hold districts and taxpayers harmless in the face of the delay.

Item N: Legislative Priorities

Mathis shared a [Draft Discussion Paper](#) that will serve as the annual report to the legislature and the legislative agenda. The hard numbers are needed from Secretary Holcombe for page 2. Mathis asked for input.

Peltz suggested Act 77, which might be included under PLPs. Secretary Holcombe said she thought EQS is covered and can be supported. She reminded the Board that we are in a very constrained environment and to prioritize what is most important. Board members suggested citing state statute, being careful with the tone as we head into the transition. Mathis and Peltz will rewrite the section related to goals.

The Board worked through the four page document and offered various input: that the ultimate decision on tuitioning is a local one and this needs to be stated, that an extension under Act 46 would not help anyone and perhaps should not be championed by the Board, that the Board needs to be calm and reflective, and that the success of Act 46 should be demonstrated, tuitioning, staffing of the Board and the Agency, and that enhancing fiscal efficiency ties into the Board's goals.

Jeff Francis asked to comment and introduced himself as the Executive Director for the Vermont Superintendents Association. Francis commented that on the first page, last paragraph, first sentence, "schools are essential partners in this work" – and then the first section on the second page where staff is referenced... "School governance – Act 46 – consists of one position, the government relies on vested interest organizations to provide support, and as a matter of principle this is unwise governance." Francis stated that these two statements are incongruous. Those associations are the ones that have contributed to the success of Act 46. Francis asked the Board to strike "Act 46" and instead insert "Act 166, Act 60, Act 77, efforts to combat implicit bias, and our efforts to support traumatized children." The progress that had been made in this state educationally, absent the contributions of the professional associations that work with schools would not be anywhere close to the progress that has been made over time in each of those arenas. He went on to say that the notion that Act 46 would be singularly referenced as

the reason for staffing needs is ludicrous. The point is that we all need to be working together to improve public education – that is about equity and expanding opportunities for every child in a cost-effective manner. Chairman Morse acknowledged that the Board would not be anywhere near as successful as they have been without the support of these outside organizations. Chairman Morse suggested that these points be communicated to the author. Mathis had no issue with striking this.

Chairman Morse called a 10 minute break at 2:04 p.m.

Chairman Morse called the meeting back to order at 2:19 p.m.

Item O: Update on Rule Series 2200

Chairman Morse thanked Clare O'Shaughnessy for her work clarifying the ICAR process; he also thanked Mathis and Vice Chair Oller for the work that they put into presenting the SBE proposed rules. Chairman Morse warned that he was going to be more direct and candid than usual in analysis of these rules, which have been controversial from the beginning and a year in the making. He said that the AOE and the Board has handled this situation well and the process has been more than fair. He was shocked yesterday to attend the 90-minute ICAR meeting and said that early on it was clear that a decision had already been made by ICAR to not advance the rules. To note, the Chair of ICAR offered the motion of sending these rules back to the Board. Morse did not feel that this was a fair hearing at all – and that was very rare and very un-Vermont. There was a lot of mis-information circulated and presented yesterday. In the end, the rules were not accepted by ICAR and were sent back to the Board for reconsideration. Chairman Morse said he left the room yesterday looking at the political climate and believing that these rules were done for now and he doesn't see any political viability in moving these rules forward.

Chairman Morse asked O'Shaughnessy, AOE attorney, who also sits on ICAR and recused herself from yesterday's committee meeting, to come to the table. She shared copies of the statute related to the rulemaking process and offered to discuss the process of rulemaking with the Board. She said that it was very unusual that the public was asked to appear and speak and that 70 minutes was devoted to this. Fourteen other rules were reviewed in a 50-minute timespan. A lot of input was complaining, with no specific reference to statute. She stated that a lot of people who think that these rules prevent school choice and they do not.

O'Shaughnessy clarified the purpose ([3 V.S.A. § 820](#)) and /process of ICAR ([3 V.S.A. § 836](#)): pre-file rules with ICAR, file the proposed rules with the Secretary of State, publish the rules via the Secretary of State, honor a period of public comment, and file the final rules with the Legislative Committee on Administrative Rules (LCAR). She explained that LCAR is where the substance and legality come into play and where there is a more thorough examination of the substance of the rules. ICAR's function is not to approve or deny these rules, but to advise you on how best to maximize public input. She stated that these rules can still be taken to the Secretary of State's Office and then on to LCAR. ICAR will submit their specific recommendations to the Board, and most of them will likely deal with the economic impact of these rules. The memo from ICAR will have a prescribed strategy for maximizing stakeholder/public input and after receiving and reviewing this, the Board can attach a memo saying what was, or wasn't done. As

part of the process, four public hearings have already been scheduled. Two of these hearings (Manchester Elementary and St. Johnsbury) could serve as stakeholder input meetings, as they are located in areas where it is easy to engage independent schools. She went on to say that there is no prohibition on taking these rules forward, so long as the Board does what was requested by ICAR.

O'Shaughnessy said the Board should consult their own legal counsel in moving forward with these rules.

The Board discussed the reference to legal authority at the ICAR meeting, the irregularities of the procedure, whether or not a complaint should be filed and what that would or would not serve, the issue of misinformation, and that the economic impact issue was presented by a lawyer, (not theirs), and referenced a loss of tax base of \$194 million.

Nicole Mace asked to comment and introduced herself as the Executive Director of the Vermont School Boards Association. She thanked the Board for initiating these rules which are really about ensuring equal opportunity and access to publically-funded education. She noted evidence of unprecedented lobbying in advance of yesterday's ICAR meeting and said members of ICAR also commented on this. Mace said she attended the ICAR meeting, but was not prepared to comment, as her understanding that was not appropriate at this meeting.

Mace shared a [Statement from Nicole Mace, VSBA](#). Mace added that VSBA has identified a larger group of organizations working to advance human and civil rights and who are interested in weighing in on these rules: ACLU-VT, Disability Law Project, Vermont Legal Aid, Green Mountain Self Advocates, Outright VT, Partnership for Fairness and Diversity, Human Rights Commission, and the Vermont Family Network. She urged the Board to take action to hear all voices and not just those represented by powerful lobbyists.

Chairman Morse asked if there were other comments or any comments from the public. There were none.

Motion: Vice Chair Oller moved that as soon as notice is received from ICAR that the Board abide by their recommendations and file these rules with the Secretary of State. Johnson-Aten seconded the motion.

Discussion: Chairman Morse reiterated that as important as this issue is, it is a dangerous route to take in this political climate. Johnson-Aten, Weinberger, and Mathis stated that it was dangerous not to take this route. Perrin said if you remove the politics, we should still move ahead. Mathis said we could make a better case, but the real fundamental questions are about equality. Peltz said at this political crossroads, this is more compelling.

Vote: Chairman Morse called a vote. The vote passed unanimously.

Vice Chair Oller confirmed the January meeting dates of 1/17 and 1/20 and that these meetings would be held at the AOE in Barre, VT and that the December meeting would be held on December 20, 2016.

Chairman Morse reminded everyone that there are dates already secured for public meetings on Rule Series 2200, which may change to stakeholder meetings. They are scheduled for November 22, 2016 at 6:00 p.m. at Manchester Elementary School and December 6, 2016 at 6:00 p.m. at St. Johnsbury Academy. More information on this will be forthcoming.

Motion: Vice Chair Oller moved to adjourn. Peltz seconded this motion.

Vote: Chairman Morse called a vote. The vote passed unanimously.

Adjourn

The meeting adjourned at 2:54 p.m.

DRAFT