

STATEMENT PROVIDED TO: State Board of Education

FROM: Meagan Roy, Ed.D. (Chair, Census-Based Funding Advisory Group)

TOPIC: Recommendations regarding Act 173 Rulemaking

DATE: December 18, 2019

The SBE has asked the Census-Based Funding Advisory Group to develop formal recommendations regarding the Agency of Education's draft rules, originally presented to the Group in April of 2019. At the October 16th SBE meeting, members of the Advisory Group presented a series of recommendations to the SBE regarding the Agency of Education's then-current version of the 1300 series (Special Education Funding). Shortly after that meeting, a work session was held with members of the Advisory Group, Agency of Education, SBE and a representative from the Federal Education Group. This work session provided an opportunity to discuss a number of issues related to the draft and resulted in the Agency of Education's revised draft (Version 3), presented to the Advisory Group on November 4th and to the State Board on November 20th.

The Advisory Group expressed appreciation to the Agency for the substantive changes to the definition of special education that was reflected in their revised version. In addition, the Agency's newest draft addressed the previous concern about conflating the funding restrictions for Federal funding, state funding and requirements to document Maintenance of Effort. The Group signalled preliminary agreement with many aspects of the Agency draft and agreed to further discuss and adopt a formal recommendation to the SBE for their December 18th meeting. It was the hope of the SBE that these recommendations could be joint recommendations of the Advisory Group and Agency of Education. It is important to note that the Secretary of Education was unexpectedly unable to attend the December 11th Advisory Group Meeting (which was a Special Meeting convened upon the cancellation of the regularly scheduled December meeting due to weather). Therefore, these recommendations are presented without formal input from the Agency.

The following is presented as the Census-Based Funding Advisory Group's recommendations to the SBE:

Revised Draft Rules (Advisory Group response to Agency of Education Version 3 Draft):

The Advisory Group is formally recommending the attached draft rules. This draft largely aligns with the Version 3 presented by the Agency with the following additions:

- The definition of special education is now aligned with the Federal definition, but 1303 does not include the full text of the Federal rule, for purposes of streamlining this section. This revised draft includes a more specific reference to the Federal rule
- Additional language requiring the Agency to seek stakeholder input in the development of guidance related to Maintenance of Effort (1304.1(d) and 1307(d))
- Retaining the Advisory Group's original recommended language regarding student placement by an IEP team in independent special education schools (currently in this draft as 1307(e); the Group is flexible if this language should be in a different part of the Rule)
- Additional language under 1307(b) regarding the location of special education services

Recommendation for SBE Support during Rulemaking Process

The Advisory Group has a statutory role to inform the State Board of Education in the development of Rules to implement Act 173, and has appreciated the SBE's diligence to securing that input. At several times during the process, the SBE has asked that the Group draft alternative language when areas of disagreement with the Agency of Education exist. This has proven to be a challenging endeavor for a group charged with meeting only eight times per year that also has additional statutory responsibilities to inform other audience relative to the legislation. The Advisory Group has already identified additional issues within the Rules that will require significant input; namely, special education funding for independent schools, and other areas of the 2360 Series that may need to be addressed. The Advisory Group already (appropriately) provides input to Agency of Education drafts. When

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that review and input is expanded and the SBE requests that the Group draft alternative language, this becomes problematic for the structure and makeup of the group.

In light of the fact that our time is limited, that the role we play is advisory in nature and the complexity of this task is significant, we believe the State Board would be well served to engage whatever support they need in order to responsibly engage in the development of their Rules.