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## Act 173 Advisory Group

### Approved Meeting Minutes

#### Meeting Place: McFarland House

Address: 5 Perry Street, Penthouse Suite, Barre, VT 05641

Date: February 3, 2020

#### Present:

Advisory Group (AG) Members: Meagan Roy, VCSEA; Marilyn Mahusky, DLP/VLA; Lisa Bisbee, VT-NEA Practitioner; Peter Garrecht (VCSEA-selected special educator); Cheryle Wilcox, DMH; Tom Lovett, Council of Independent Schools; Jeff Francis, VSA; Brenda Fleming, VASBO; Mill Moore, VISA; Karen Price, VT Coalition for Disability Rights; and Sue Ceglowski, VSBA; Daniel French, AOE. Jeff Fannon, VT-NEA joined at 10:17 a.m.

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

Others: Marianna Donnally, DMH; Chelsea Myers, VSA; Philip Ehler, VATR; Kim Gleason, State Board of Education; JoAnne Unruh, HSD; Lola Duffort, VTDigger.

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

Chair Roy called the meeting to order at 9:36 a.m. She said the “other discussion” for the afternoon will be used if morning business is not finished.

#### Review and Approve Minutes from January 6, 2020 Meeting

Chair Roy asked for a motion to approve minutes. Moore moved; Price seconded. Price noted a typo on page 2. The word “finite” should be “final.” Chair Roy called the vote; the vote passed unanimously.

#### Opportunity for Public to be Heard

Chair Roy asked for any public comments. There were none.

#### Professional Learning

Chair Roy stated that the bulk of the agenda would be on Professional Learning (PL), to hear AOE’s response to the feedback from the [VSA-VPA Act 173 Professional Development Report](#).

Meg Porcella, AOE, Assistant Division Director, Student Support Services Division and Project Manager for much of the Act 173 work, AOE introduced herself. She is working to gain coherence and support the field in implementing the goals of Act 173. Porcella said the response to VSA/VPA report was overall, very positive. She shared a few takeaways for the AOE: 1) Agree with the need to specify roles and responsibilities at each level of the educational cascade; 2) Agree there is a need to develop a guaranteed and viable curriculum for the field; 3) Agree with many of the specific

professional learning elements identified; 4) Theory of action and measurement of success and 5) the needs assessment and focusing on high-needs systems.

Porcella spoke about the four systems levers, the subframing document on coordination of curriculum to be released next week, the needs based professional development document to follow that in four weeks, self-assessment tools, focus on high-needs systems, moving from coherence making to practical application. Porcella said there was a very positive meeting with AOE Act 173 Lead team and McRaith and Myers to discuss some of the practical applications. Takeaways from this meeting: 1) reinstating the quarterly meetings with education organizations (VSA, VPA, VCSEA, VCLA, etc.) with the goal of having a community of practice to help with consistent communication and application; 2) continuing to use some time at monthly Act 173 AG meetings to talk about Act 173 implications, and being intentional about that time; and 3) using the Professional Learning Network (PLN), a web space that AOE was using in conjunction with contractors as an opportunity for on-line modules of technical assistance.

There was discussion.

Secretary French said he agreed that the AOE is turning a corner and there should be an expectation that the AOE provide leadership through a very discrete implementation. He said he would welcome the AG's formal endorsement of the AOE's four levers or having the AG weigh in on what might be missing from the four levers. Chair Roy said that she thought the group informally, conceptually agreed with the four levers. Chair Roy posed the question to the AG of whether they are supportive of the AOE's four levers. Mahusky suggested thinking about this, reviewing the remaining two subdocuments that are forthcoming, and having it be part of a future agenda. Chair Roy concurred and encouraged folks to look at their notes and meeting minutes.

Porcella shared the document, [Local Comprehensive Assessment Systems - Act 173 Technical Guidance](#). These subframing documents inform what the performance indicators are for the evaluation plan/theory of action, which will inform what the AOE wants to see from the neediest systems. This document is structured to show what it would look like if the work is being done well. She spoke about a [dedicated Act 173 webpage](#) and suggested this as a helpful place for the AG to start their review. This guidance attempts to bake in the actual needs of PL and the four systems levers, which build on each other and relate to each other. Chair Roy concurred with Francis that the AG had not spent much time on PL.

## **Rulemaking Discussion**

Chair Roy spoke about an email with a specific request from the State Board of Education (SBE) and continued that the SBE wants the AG's response to AOE's proposed changes for rules series 1300 and the AG's input on the AOE's technical changes to the 2360 series and any other proposals (Mahusky's and Moore's). She said the AG needs to have a timeline discussion for the General Assembly (GA). Mahusky reminded the group that she had also sent changes with input from parents and parent-advocates. The timing is a challenge and SBE Chair Carroll has asked for changes by February 10. Chair Roy will send out agreed-upon changes on February 4, 2020 and she will need feedback by February 7, 2020 and will send it to Carroll by Monday.

Chair Roy started with the [proposed rule 1300 series side-by-side comparison document](#) and said she will go row by row and open it up to discussion if needed. There was discussion.

Chair Roy proposed that following the lunch break discussion will continue with the AOE's reaction/perspective to the MTSS rule and Moore's proposal and will do that first after lunch, then move to the weighting study, and resume the conversation on rules, since Secretary French needs to leave at 2:00 p.m. Francis asked for clear articulation on what is in dispute and why.

Chair Roy adjourned for lunch at 12:10 p.m. and said they would reconvene at 1:00 p.m.  
Chair Roy called the meeting back to order at 1:07 p.m.

Chair Roy said she would continue with the rules discussion to maximize the time with the AOE and move to the weighting study and meeting logistics to the end. She shared that she posed a question to Simmons over lunch and would ask it again now. Under the language of "a," would that suffice for full tuition to be attributable to MOE. Simmons' answer was yes. Chair Roy asked if that was regardless of whether or not rate setting has split those tuitions into general and special education – Simmons reminded the group that they won't be split because that rule will be stricken. There was discussion. Chair Roy asked in the interest of presenting feedback to the SBE on series 1300 and in agreement with the AOE, if the AG is willing to strike "e" acknowledging that this conversation will be brought up later in the series 2200 conversation. There was discussion.

Chair Roy asked for members to weigh in individually as to whether they are comfortable striking "e." Two members were comfortable, five were not comfortable, four were unsure, one abstained and one was absent. Chair Roy stated that the AG is not in consensus to strike "e" and said she will use the word "tuition" in the commentary, and she will present this to the SBE at the February meeting. AG members will receive the draft recommendation in advance and Chair Roy needs comments from AG members by February 7, 2020. There was discussion. Chair Roy proposed to have a comment that said there was not consensus with removing "e" and to not wordsmith any further.

There was discussion on Row 6 (1310.2 Collaborative Program Accounting).

Chair Roy moved on to rules series 2360 and explained that the AG had not spent much time discussing this. It was last discussed in April.

Simmons redirected to Row 7 (1310.3 Non-collaborative tuition) and explained that the draft rule presented to the SBE was before the June 2019 memos were withdrawn. It is important to note that the AOE is striking language that would have called for the separation of general and special education tuition.

Chair Roy opened it up for questions and comments. Mahusky referenced her letter and said she supports the AOE's changes and thinks there are some other rules that need to be changed within this series. There was further discussion. Chair Roy reminded the group that as an entity, they could address the SBE and they will have time to do so; this is not their last opportunity.

Chair Roy asked if there were any other comments and said VCSEA does not have issue with these technical changes. She asked if anyone else had issue(s). There were none voiced. Chair Roy said she

will report back to the SBE that the AG supports 2360 series technical changes and would like to have more discussion on the residential placement section.

Chair Roy asked Secretary French for his opinion on the MTSS rules. Secretary French said their inclusion is not supported. This was considered as the lever under Act 173, but it's too complex and has been around for years. He said the focus on the four sublevels was an attempt to make MTSS very practical and think those sublevels deconstruct MTSS. Secondly, there is already statutory language on this topic (Title 16, § 2901, 2902 and 2903). Benchmarks assessments have been introduced into major statutory language on literacy and is part of literacy reform. He referenced a December press release. Additionally, in regard to adequate process and referral, he is not sure that is consistent with best practice.

Secretary French excused himself at 1:55 p.m. Chair Roy detailed the time check with 50 minutes left to the meeting.

Chair Roy asked for thoughts, comments, reactions to French's commentary on the MTSS rule. There was discussion. Chair Roy summarized that there is no opposition to having a stand-alone MTSS rule, but the AG is not ready with proposed language but they are ready to suggest that the SBE might want to consider opening up a stand-alone rule and then the AG would have more opportunity to give feedback.

Chair Roy spoke about rules series 2200 and that the AG needs to weigh in and it will be another short turnaround. She said her understanding was that the AOE was going to start some small group work. She asked if there were any meetings scheduled with the independent schools. Moore said not yet, but that he keeps hearing about a meeting being scheduled. Chair Roy said Carroll had proposed a timeline for the AG and that Secretary French wanted to engage with the AG on that topic. There was discussion. Chair Roy summarized that the AG would support a delay of implementation so that they could exercise due diligence.

Moore spoke about [VISA's Draft Changes to Special Education Rules 2360-2369](#) and the three kinds of changes proposed, one of which is a modification to the timeline for deadlines. Since the deadline for the SBE is imminent, he's said he was abandoning the timeline issue. He said that he thinks everyone, AOE included, is struggling with the calendar and rigid timeline. The second change is the right for a dissatisfied independent school, to appeal. The third change is deletion of the references to the schools that have approval of special education categories (13 categories). The reason for is that it will be possible as discussion continues on rules series 2200, if not desirable, to approve special education schools for special education or not. Changes made in series 2200 will not require changes to series 2360; there won't be a need to reopen the rules series 2360. He asked for the AG to endorse this proposal (appeal process and school approval language). Chair Roy said she would check the pulse of the group. Moore said he wants this included in the packet to the SBE next week. Chair Roy expressed concern over the appeal and whether this is in alignment with federal law. Moore spoke to the intent being not to affect the purpose of the IEP but whether the school can accomplish what the IEP requires. Mahusky agreed with Roy and thinks it could run afoul of federal law. There was further discussion.

Chair Roy suggested including Moore's draft changes in what was sent to the SBE, with commentary that this was initial discussion and that these were the questions that came up for the AG and it is the AG's belief that an in-depth conversation is required on this topic as part of the rules series 2200 discussion. Moore said he needs to think if he wants to give up on this because of the inconvenience factor and/or or take this on independently. There was further discussion.

### **Next Meeting**

Chair Roy said that in January it was acknowledged that there were only two meetings remaining, according to statute; now there is one. She had asked Secretary French if the AG could meet more than the required number of times (8) and he is checking. There was discussion. Wilcox said the "*Success beyond Six*" report was completed and would be provided to members.

Chair Roy will capture the AG's thoughts in a statement to the SBE, send it to AG members on February 4, 2020 and will need feedback by February 7, 2020. She will reiterate that in her email to AG members. She will communicate with Secretary French with a copy to the education committee chairs on using funding and continuing to meet. "*Success Beyond Six*" will be a future agenda item and there will be more discussion on the rules series 2200. Chair Roy apologized for keeping the group late. Fleming expressed appreciation for Roy's leadership of this group. Francis acknowledged Moore, Mahusky and others for their work and contributions.

### **Discussion - Weighting Study**

There was not time to address this agenda item.

### **Adjourn**

Chair Roy adjourned the meeting at 3:01 p.m.

Minutes prepared by Maureen Gaidys.

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