

STATEMENT PROVIDED TO: State Board of Education Subcommittee on 2200 Series Rules
FROM: Meagan Roy, Ed.D. (Chair, Census-Based Funding Advisory Group)
TOPIC: Summary of Discussion, 2200 Series Public Comment
DATE: January 4, 2021

During the 20-21 school year the Advisory Group participated in a series of stakeholder meetings convened by the Agency of Education to inform the development of the 2200 Series draft Rules. The stakeholder group discussed a number of issues associated with the rule development, but in particular focused on two areas: 1). Ensuring that enrollment practices for independent schools that accept public dollars are non-discriminatory, particularly as it pertains to disability; and 2). Ensuring sufficient transparency around the rate setting process for independent therapeutic schools so that there are assurances that public special education dollars are being spent prudently. Ultimately, the Advisory Group **endorsed** the draft Rules that were informed by the stakeholder group and later opened for public comment during the 2021-2022 school year.

In late November of 2021, a number of public comments were submitted to the State Board that related to the same two primary issues of importance to the Advisory Group (non-discriminatory enrollment practices and rate setting for therapeutic schools). The State Board's subcommittee on the 2200 Series Rules asked that the Advisory Group discuss whether they would recommend changes to the SBE's current draft in light of the public comments, even though the Group had endorsed the existing draft language and believed it adequately addressed the language in Act 173. The Advisory Group noted that because the same two issues were again raised during public comment it would be prudent to consider the comments and determine whether adjustments to the language would be recommended.

The Advisory Group used the Subcommittee's line-by-line analysis of public comment to facilitate its discussion. Because each of the comments fell more broadly into the two primary issues noted above, our summary is organized around those two issues.

As a result of a lengthy discussion and consideration of the public comment, **the Advisory Group believes the language in the currently proposed rules could be improved for clarity around certain issues raised during public comment.** Although the Group made an attempt to draft language to recommend to the State Board, members did not feel they had adequate time to consider the draft and appropriately engage its relevant stakeholders about changes to the existing draft. Therefore, the Group requested an opportunity to come forth to the State Board with specific recommendations for language changes. As of the January 7th subcommittee meeting, however, the Advisory Group does not have language change recommendations. The following is a summary of the issues discussed:

Non-discriminatory enrollment practices

(2229.4 Procedure for Publicly Funded Students Receiving Special Education Services to Enroll in an Approved Independent School): A number of public comments centered around ensuring that independent schools who accept public dollars enroll students on a first-come,

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first-served basis regardless of disability status. The comments questioned whether 2229.4.1(a) ensured equal access to space at an independent school, because of the language “[T]o “enroll” a student means that an approved independent school will offer a position in the school to a student, provided that the provisions of this subsection relating to LEA responsibilities are met *and the student meets the other requirements of the school’s enrollment policies* [emphasis added].”

Although the Advisory Group felt, in its initial support, that this language did adequately signal nondiscriminatory enrollment procedures, the issue was important enough that it was willing to entertain clarifying language regarding “other requirements of the school’s enrollment policies.” However, as of the writing of this report there was not consensus agreement on alternative language. **The Advisory Group did affirm its full consensus support for ensuring that the 2200 series rules require nondiscriminatory enrollment practices, and that students with disabilities are not prevented from enrolling in independent schools accepting public dollars solely on the basis of disability.**

Financial Transparency and Accountability

(2232 Rate Approval for Therapeutic Approved Independent Schools): Public comments also raised concerns about the need for financial transparency and accountability as it relates to rate setting for therapeutic independent schools. The comments suggested that the current draft rules did not provide sufficient accountability to the Agency of Education for reporting of financial costs, and that this lack of accountability puts LEAs and taxpayers at risk of supporting costs that are not fully associated with providing services to students.

While the Advisory Group did have a lengthy discussion about these concerns, **it did not recommend changes to Rule 2232.** In making these determination it relied heavily on the perspective of Agency of Education staff, who reported that the current draft rule requirements provide appropriate transparency, and that additional reporting would be burdensome to independent schools and was not required to satisfy their accountability needs.

Submitted on behalf of the advisory group by:

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Chair