

Approved Meeting Minutes

Meeting Place: McFarland House

Address: 5 Perry Street, Penthouse Conference Room #315

Date: March 4, 2019

Purpose of the Advisory Group per [Act 173 of 2018](#): To consider and make recommendations on the implementation of a census-based model of funding for students who require additional support.

Present:

Council Members: Meagan Roy, VCSEA; Tom Lovett, CIS; Jeff Francis, VSA; Mill Moore, VISA; Marilyn Mahusky, VLA/DLP; Jeff Fannon, VT-NEA; Jay Nichols, VPA; Cheryle Wilcox, Department of Mental Health; Karen Price, VT Coalition for Disability Rights; Brenda Fleming, VASBO; Nicole Mace, VSBA.

Others: Philip Eller, VATF; Chelsea Myers, VSA; Cammie Naylor, DLP; Greg Van Buiten, Attorney

Agency Staff: Judy Cutler, Chris Case, Meg Porcella, Tom Faris, Tracy Watterson, Suzanne Sprague.

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

Chair Roy called the meeting to order at 9:34 a.m. The Advisory Group members introduced themselves. Roy said following the draft rules discussion, she will distribute the House Education Committee's draft of the Act 173 bill that included the Agency of Education's (AOE) technical corrections. Mace asked for an update regarding discussions with independent school organizations and the VSBA. It was reported that Secretary French or a designee would not be in attendance. Roy said she would check with Secretary French and add the topic to the next meeting agenda if he is ready to supply an update. Roy said there will be a discussion on topics for the next meeting agenda at the end of the meeting.

Review and Approve Minutes from February 4, 2019 Meeting

Chair Roy asked for a motion to approve the minutes from the February 4th meeting. Nichols moved to approve the minutes from the last meeting; Fannon seconded. There was no discussion. Roy called the vote and the motion passed. Mace abstained.

Reports

Chair's report – Chair Roy said that she provided an executive summary highlighting the Advisory Groups' work to the Senate Education Committee. She shared where there was consensus amongst the Advisory Group and where there was not. Chair Roy shared a similar update with the State Board of Education (SBE). She said the SBE is concerned with the timeline of the rules. Chair Roy said because of the tight timeline the Advisory Group will not have a chance to review the draft rules as a group before the SBE receives them. It was an area of concern with the SBE. Lovett said he met with superintendents, business managers and special education coordinators at the 3 independent schools who serve publicly-funded students. They voiced concerns regarding the timing of the weighting study, data on implementation and the implementation of MTSS (multi-tiered system of supports). Lovett said they requested a delay until all were in place. Discussion followed regarding attending

the SBE meeting to provide comment, concern that the Advisory Group will not see the rules ahead of the SBE, receiving the draft rules before the SBE, requesting a delay, lack of professional learning and unresolved issues, concerns with focus only on funding and not the implementation of MTSS, influencing rulemaking and speed of implementation. Chair Roy said she will testify again to the House Education Committee on a miscellaneous bill that includes technical edits from the AOE specific to Act 173. A draft was shared later in the meeting.

Cutler clarified that the timeline that the group is following is a self-imposed deadline by the AOE. The November 1, 2019, deadline allowed for three months of public comment. She added that a delay in sending the initial draft rules to the SBE for their April meeting instead of their March meeting would still allow for a sufficient public comment period. Chair Roy requested that the AOE move the release of the initial draft rules by one month to ensure that the Advisory Group has time to discuss them. She asked that they be sent ahead of time so the Advisory Group has ample time to supply feedback.

Mahusky's report – Mahusky shared a presentation with the Advisory Group which highlighted; the Disability Law Project and Vermont Family Network and a description of each organization; concern with AOE focus on funding rules and not opening the special education rules; adverse effect and response to intervention (RTI); General Assembly's mandate to change models for delivery of services and for students who require additional supports; DMG recommendations and UVM recommendations; dual purpose including programming and funding and aligning MTSS and special education rules; permissive use of funds and how to deliver services; timely identification, location and evaluation of students suspected of having a disability; monitoring by the AOE and clear guidelines; examples of Child Find violations; and, parent/advocate recommendations.

Presentation: AOE MTSS Overview and IEP Legal Requirements

Tracy Watterson shared a presentation with the Advisory Group which highlighted: a comprehensive definition of MTSS; evidence based and systemic framework; theory of action for section 12 of Act 173 and improving and expanding delivery of service to students who struggle; brief history of systematic change; Vermont's MTSS Framework and culture of continuous improvement; equity-based, layered supports and moving away from tiers; components and opportunities of the field guide; language agreement in Act 173; language conflict in Act 173 and rigid tiers; and, Child Find. Discussion followed regarding violations of law in Vermont, ensuring systems are working together at the ground level and preparing teachers during postsecondary school.

Chair Roy said many schools have not implemented MTSS and asked if the AOE supplied supports to schools. She added it is related to the professional learning lift that is addressed in Act 173. Watterson said there are systems in place which are available to all but many do not take advantage of them. She identified grants such as SWIFT (Schoolwide Integrated Framework for Transformation) and SPDG (State Personnel Development Grant). There are trainings available by application on a first-come first-served basis which the AOE is moving away from. Other opportunities include professional learning, BEST/MTSS Summer Institute every year, MTSS office hours every month, online resources and self-paced modules online. The AOE is looking for new ways to support schools in a layered approach at the supervisory union level such as Network Improvement Communities and continuous improvement plans. Watterson added that the supports must match the need. She said that the AOE could do more and is working to do so. Case said the AOE does a lot of work which may not be communicated well or that is not understood to be related to MTSS. He added that work is ongoing regarding the technical assistance professional development and MTSS implementation is evolving.

Discussion followed regarding routine checks of public schools and penalties for failure, integrated field reviews, monitoring, applying support model to independent schools, rule deadline complicating work, concern with language in rule, being more systemic, rule versus policy or procedure, parent/family engagement, concern that technical assistance and professional learning will not be in place by the beginning of the school year, absence of a clear plan for schools is not helpful, more changes other than technical changes to the House Education Committee and progress monitoring. Francis voiced his concern that the Secretary or a designee was not present at the meeting. He asked that the AOE state back what it thinks the Advisory Group is asking to be assured everyone was on the same page. Case stated that the Advisory Group would like a clear plan, to express the framework that is being developed, identify the supports along with who will receive them and when, the need for more communications on rulemaking and on technical assistance professional learning. Watterson added that the Advisory Group also wants the schools with the most need to get the resources and attention needed and that measures need to be added to determine if a school's system is or is not working and improving in the areas that need it. Francis said the scope and magnitude of Act 173 far surpasses Act 46 and people of influence must be mindful of what is happening. There is the possibility that communities will represent that they do not know what is happening or resent that they have to make the change and will cause disruption with the progress. He added that we are all partners and we need to make sure everyone is included in the implementation of the law.

Chair Roy asked that an e-mail be sent to the Advisory Group once the agenda is posted to the web site so the Advisory Group is aware. She offered a proposal to the Advisory Group for how to use the remainder of the meeting time. Chair Roy suggested giving Cutler time for a rules update. The draft rules will be distributed to all the Advisory Group prior to the next meeting and written Advisory Group feedback will be shared with the Advisory Group. Chair Roy said there will be in depth discussion on the draft rules at the April meeting. She said that later in the meeting she would like input from the Advisory Group regarding her upcoming testimony to the House Education Committee on the technical changes made by the AOE and what her testimony should entail. Fannon asked that when the draft rules are sent to the Advisory Group that all documents that the AOE is working on be included as well.

Update: Draft Rules

Cutler addressed Francis' earlier question regarding the AOE's understanding of the ask of the Advisory Group and stated that it sounds like the Advisory Group would like MTSS rules. She asked the Advisory Group to consider how more rules might help the current situation or not and if a solution might be somewhere else.

Cutler said that there have been internal conversations at the AOE regarding pushing the draft rules back by one month and presenting the draft rules to the SBE in April rather than March. This delay would allow the Advisory Group to review the full draft rules and provide feedback prior to the SBE receiving the draft rules. The SBE did indicate that they were uncomfortable with the timeline. If issues like MTSS, monitoring, etc. need to be further discussed, it will impact the rules and might not be possible because the rulemaking team is focused on the census-based funding model rules, technical updates to Part B and it does not include the independent schools. It was determined to address them separately. The AOE is still going forward with separating the funding rules from the special education body of rules. They have reviewed the Advisory Group feedback and have made some of the suggested changes.

Cutler shared that the team has focused on the monitoring rule section. They have researched other states for possible guidance and are in the process of determining how monitoring will be handled in the draft rules or as policies, procedures or guidance. Mace said that the VSBA writes the model policies and would be looking to the AOE and others for guidance on best model policy to be certain that it was in compliance. She added that the VSBA does not write procedures and the VSA, VPA and Special Education Directors would similarly be looking for guidance. Cutler said the policies and procedures would be related to the AOE. Mace said that all systems will require policies and procedures to understand how decisions are made. Discussion followed regarding the timeline and the date the Advisory Group will have the draft rules. Chair Roy asked if the March 20th date, which was the original due date to the SBE, would be a reasonable delivery date. Cutler agreed that it was a reasonable expectation. Chair Roy asked if it was reasonable to expect the guidelines, policies and procedures along with the draft rules on March 20th for preparation of a discussion at the April 1st meeting as well as a presentation/discussion and supports as they currently exist. The AOE said that they would confirm back. Chair Roy said if this was not possible then she may have to go to the SBE and suggest a delay.

Chair Roy shared draft language from the House Education Committee which contained technical changes to the Act made by the AOE. Cutler said the AOE recommended the language and they consider them to be clarifying and technical. Chair Roy said that the House Education Committee asked for the Advisory Group's opinion on March 12th. Chair Roy said she will take feedback offline. She asked if there was any point to making technical changes when the bigger conversation has been around a possible delay. Francis said it would be good to have a bill exclusively on Act 173 so that it can be modified and that Chair Roy's testimony should be clear that it is a work in progress. Chair Roy said that based on her notes her testimony will convey that delay, in both rulemaking and implementation, has increasingly become a discussion of the Advisory Group, the Advisory Group is still looking for additional information and will hear in April from the AOE about professional learning, deciding what should be a policy, procedure, guidance and rule and that there may be more substantive changes. Discussion followed regarding delay.

Chair Roy asked the Advisory Group to review the technical changes and e-mail feedback to both Cutler and Roy. Chair Roy will work with the AOE regarding sharing the feedback to the technical changes, draft rules, feedback specific to the draft rules and any additional necessary information on or around March 20th.

Opportunity for Public to be Heard

Chair Roy invited any members of the public to speak.

Greg Van Bruiten, Attorney, said he represents parents in special education cases. He said he was glad to see the collaboration amongst the stakeholders and a fair amount of common ground.

Philip Eller, representing the Autism Task Force, said he was supportive of opening the rules and addressing adverse effect. He spoke to the effect on dozens of students because of how it is understood and implemented and often not meeting the needs of students on the spectrum.

Adjourn

Chair Roy said the next meeting on April 1st will be a full meeting from 9:30 a.m. – 2:30 p.m. with a break for lunch. Mace asked that Secretary French convene the discussion with the independent school organizations and the VSBA. Chair Roy agreed to check with the Secretary and said the discussion on independent schools is relevant and connected to the funding rules.

Chair Roy adjourned the meeting at 12:20 p.m.

Minutes recorded and prepared by Suzanne Sprague.
