

---

## Act 173 Advisory Group

### Draft Meeting Minutes

**Meeting Place: Microsoft Teams Virtual Meeting**

**Call In: 1-802-552-8456**

**Conference ID: 708 247 729#**

**Date: August 3, 2020**

**Present:**

Advisory Group (AG) Members: Marilyn Mahusky, Disability Law Project; Jeff Fannon, Vermont-National Education Association (VT-NEA); Brenda Fleming, Vermont Association of School Business Officials (VASBO); Jay Nichols, Vermont Principals' Association; Tom Lovett, Council of Independent Schools; Peter Garrecht, Vermont Council of Special Education Administrators-selected special educator; Laurel Omland (representing Cheryle Wilcox), Department of Mental Health; Jeff Francis, Vermont Superintendents Association; Mill Moore, Vermont Independent Schools Association; Karen Price, Vermont Coalition for Disability Rights; Lisa Bisbee, VT-NEA-selected practitioner; Sue Ceglowski, Vermont School Boards Association; and Dan French, Agency of Education (AOE).

AOE: Meg Porcella, Maureen Gaidys

Others: N/A

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

Vice Chair Mahusky called the meeting to order at 9:03 a.m. She explained that Meagan Roy was unable to attend due to a conflict and that Mahusky would be chairing the meeting. She asked if there were any amendments to the agenda. There were none. Lovett moved; Fleming seconded to approve the agenda. Fannon questioned the last paragraph of the minutes that seemed conflicted over the date for the next meeting. Lovett clarified that the motion was to approve the agenda. Vice Chair Mahusky called the vote. The vote passed.

#### **Review and Approve Minutes from July 13, 2020 Meeting**

Vice Chair Mahusky asked for a motion to approve the minutes from the July 13 meeting. Fannon moved to approve the minutes; Fleming seconded. Fleming asked that the minutes be corrected to reflect that she was present at that meeting. Vice Chair Mahusky called the vote. The vote passed.

#### **Opportunity for Public to be Heard**

Vice Chair Mahusky asked for any public comments. There were none.

## Updates from Agency of Education (AOE) – COVID-19 and Rules Series 2200 Stakeholder Review

Vice Chair Mahusky asked Secretary French for an update on Rules Series 2200.

Secretary French shared that the AOE has produced a draft of rules series 2200 and met with stakeholders. There will be a follow up meeting and the independent school stakeholders will bring specific feedback to the AOE for consideration.

COVID-19 update: Secretary French said Vermont is still operating in a state of emergency and the Governor has given him authority to promulgate guidance. The foundational guidance, [A Safe and Healthy Start](#), was published in mid-June, and is still holding up well. It is important to acknowledge that Vermont's conditions are much different –an outlier with a high degree of suppression, and it is reflected in the guidance. AOE also issued guidance on [Hybrid Learning during the 2020-2021 school year](#). The current regulatory framework was reviewed, and it was determined that hybrid models are permissible. The last piece was [decision-making guidance for school district operations during the 2020-2021 school year](#), which clarifies at which step level (I, II, III) schools will operate. The decision-making guidance references steps as they relate to health conditions. The Vermont Department of Health will determine the step level for all Vermont schools. The current plan is to open all schools at Step II (open for in-person instruction with strict mitigation strategies employed). The decision of hybrid learning has led to a wide variety of plans being described. Not all school districts have finalized and released their plans; many plans that came out early are being revised. There is inflexibility on health guidance and flexibility on the hybrid implementation. There are issues of anxiety, trust, building accommodations, etc. and there is a lot of hard work taking place to figure it out.

Health, Hybrid Learning and Decision Making are the foundational pieces, from there is guidance related but not foundational: special education, mental health, student support systems, etc. This week guidance on athletics, school sports and recreational sports will be released. The Governor delayed the start of school to September 8. This is a universal start date that will allow districts more time to plan, train and prepare for the upcoming school year.

For education, there are two main financial resources: Coronavirus Relief Fund (CRF) and the Elementary and Secondary School Emergency Relief Fund (ESSER). CRF funding was \$1.2 billion and education received approximately \$50 million and those funds are just being made accessible. Funding under CRF for student meal programs was opened on July 27 and on July 28 there was approval for funding for \$40 million in reimbursement for public and independent schools. There is a separate fund of about \$6.5 million allowed for heating, ventilation, and air conditioning (HVAC) systems. There is a lot of planning, intensive work and anxiety. We are all watching other states and concerned, hence the mask order. The Legislature appropriated \$6.5 million for HVAC and each program goes through a vetting process that includes the Administration and the Joint Fiscal Office (JFO); this is to avoid spending money on expenses that will not be reimbursed. The \$6.5 million will be available soon. Efficiency Vermont is running the HVAC program, AOE will administer it.

The ESSER fund is about \$27 million; the AOE can reserve \$3 million for state-level activities. Districts can apply for those funds through the AOE's normal online portal. Those funds were held up through political maneuvering at the federal level based on Equitable Shares. ESSER funds were apportioned

to states and districts and AOE's historical understanding of equitable shares was based on poverty counts. The U.S. Department of Education (US ED) changed the ruling to expand funds available to spend with independent school partners to be based on total enrollment. This debate delayed the process for releasing ESSER funds about 45 days and several states are now suing US ED. Districts can now apply, the funds are still not flowing because there is interest from the General Assembly to claw back these funds to pay for the Education Fund deficit. AOE met with the Joint Fiscal Committee (JFC) last week and those conversations will continue. JFC has the right to authorize the use of these funds. Secretary French doesn't expect the issue of clawback to be clarified before the next two weeks.

There were questions on JFC and using ESSER funds to fill the Education Fund gap, the understanding that this was not permitted, AOE's conclusion that 90% of the funding had to go to Local Education Agencies (LEAs), Vermont's unique funding system, supplanting of funds, and that Vermont doesn't have an LEA contribution to education, only a state contribution. This discussion is continuing; no final answer yet. There was discussion on the step levels, that they are determined by the Vermont Department of Health, that "closed" means closed for in-person instruction, evidence of importance of in-person instruction for younger students, and districts having options under Steps II and III.

Fannon asked about the special education guidance coming out soon and for a timeline and a teaser. Secretary French said the production of several special education guidance was finalized and distributed last week. AOE is now supporting districts around re-opening and producing large volumes of guidance (specific to Individualized Education Plans and Social-Emotional Learning). There will be additional guidance on PreK and childcare and there is work to do in this area to bring PreK in harmony with the other re-opening guidance. This most recent guidance focuses on student support and tertiary systems. The special education guidance is more technical than usual.

Vice Chair Mahusky asked for an update on the Rule Series 2200. Secretary French explained that the AOE team met with independent school stakeholders and the stakeholders will bring back specific feedback to the AOE and a revised draft will be produced that will come back to the Act 173 Advisory Group. The estimated timeline is on schedule. AOE and the independent school stakeholder group will meet by end of the month and the revised rules might be ready for the Act 173 Advisory Group by September. Fleming clarified that the September meeting is scheduled for September 14. Meetings will continue to be remote.

## **Other**

There was no other business to be discussed.

## **Adjourn**

Vice Chair Mahusky asked for a motion to adjourn. Fannon moved; Francis seconded. Mahusky called the vote and adjourned the meeting at 9:35 a.m.

Minutes prepared by Maureen Gaidys.

---