

Rulemaking Subcommittee
Census-based Funding Advisory Group
Barre - 12.30 pm - 2.30 pm, Dec 3 2018

Members: Meagan Roy VCSEA, Tom Lovett Council for Independent Schools, Marilyn Mahusky DLP, Karen Price VCDR, Jeff Fannon NEA, Sara Baker VCSEA special educator

Audience: Judy Cutler, Alena Berube, Phillip Eller, Traci Sawyers, Chris Kane

Committee Chair: Meagan Roy

Note-taking: Karen Price

Minutes approved from previous meeting
Lovett motioned, Baker Seconded

Committee was asked to share initial thoughts and reactions (as representatives of their various organizations) to the morning whole committee presentation:

Baker (Special Educator): Financial information presented seemed to imply subcommittee would be more limited in scope than originally thought - how about topics such as eligibility and adverse effect?

Lovett (CIS): There are three categories of independent schools - specialized special education placement schools (expenses most likely covered by public schools), large schools that serve all categories of disability and smaller schools not offering all categories. Rules will impact how money will flow and relationships with districts

Mahusky (DLP): After presentation, rather than looking more holistically, our scope seems narrowed. We talked originally about ways that special education should incorporate MTSS, delivery of services, ability to monitor school practices. We know that delivery of services varies throughout Vermont. Schools that now struggle could continue to struggle. If we keep special education in a box, this could make Rules more effective. Funding cannot be kept separate from the delivery of services.

Price (VCDR): Concerned about accountability. How will success be measured? Will it be with dollars spent or not spent rather than if children are receiving the services they need?

Fannon (VTNEA): Concerned about AOE developing policy as well as rules. Policy vs. rules - there are different implications. Are we writing rules without statutory guidance? Much has been said about the possible reduction in paperwork, how much of a genuine reduction will there be? We want more time and services for children, not less.

Roy (VCSEA): Appreciated AOE chunking the work into pieces. Need to ensure rules do not build bureaucracy at the expense of serving students. Is timeline too ambitious

to do justice to all three sections? How will schools document cost differently from current time documentation construct? We want better services for better outcomes for students. Efficiency is important -we want to eliminate what pulls services away from students.

General discussion:

The statutory changes in 173 do not apply for most part for Independent schools except for funding. Should Rules be completely open for independent schools?

Mahusky: Legislative charge is about strengthening MTSS, focusing on struggling students, early intervening services and professional development. Believes it is important to look at rules about Child Find, adverse effect, there are places where the Act affects the substance, not just funding. Believes rules need to be reopened to look at everything. If it is not the role of the committee, what would be the vehicles for other parts of the Rules that need change?

Cutler: AOE will be fielding part 2 of reworking and revising the Rules. The funding changes will have an effect. How best to handle Part 2? AOE hopes to get input from the committee. Should step 2 happen during public comment time? AOE would welcome input now from this committee.

Shared document outlining the input the Agency is seeking.

Main goal for AOE is to implement Act

Where "Revisions not anticipated" is stated it means that this rule change will not dilute IDEA.

Discussion:

Kane: Speaking for the Agency's MTSS team: MTSS does not lend itself to a formal rule structure; it's a philosophy. The flexibility inherent in the model would be challenged by burdensome rules.

MTSS field guide is currently being revised. The group supports it as a system that is flexible, where there is problem solving, and supports provided when needed without rules regarding time frames. There are currently inconsistencies between Act 173 and the MTSS field guide that need to be resolved.

We want meaningful rules that are detailed enough to provide guidance yet not be burdensome.

What data sources already exist to help evaluate?

Policy vs Rules - how to make that decision?

Parent involvement is an Indicator in the APR. There is consistently a poor response rate from parents. Families input need to be considered in an evaluation of the Act. How to get that information when parents already barely fill out survey for APR indicator? APRs are outcome focused. Has it declined in importance in Vermont? Has district wide information been disseminated for the last reporting period? Should the state look at APRs as part of the evaluation? Will it be helpful? What is the stick for

benchmarks if they are not met? There are corrective actions when APR not met - but what does it mean for the individual child who is not getting appropriate services? How are we measuring that individual students are get their needs met?

Maintenance of effort requirements

Time study burden falls to practitioners. Important that the funding doesn't dictate what's written into an IEP (allowable vs not allowable, eligible vs non-eligible, what needs to be reported is what the child is needing). We should expand on what/who is allowable.

AOE stated that the time study will be going away. There still needs to be a way to show time and effort. OSEP dictates what information has to be reported. State does not want to demand more but must provide what is requested.

AOE is hearing that some districts are experimenting with practice changes in response to this Act; AOE needs to hear what concrete ways this may be happening.

Price: Families are hearing that one on one help is going away. Many parents believe that the gold standard is having the one on one aid. There has to be better communication on what replaces a one on one and how a better services delivery and transition might look like. It was suggested that schools may be making a decision to give up special education reimbursement thereby paying for services "out of pocket." This may be less about creativity and more about giving up reimbursement. Larger districts have the bandwidth to do that.

The reality is that a lot of districts will be receiving less state money for special education and will have to draw on the general fund.

This could impact IEP services and is topic for conversation for the larger group

Fannon: The 4 year phase-in was part of the law, supposedly to give time to digest but we're running into Rule making, seems premature - are we rushing?

What about learning from other states - how to make shift to delivery of services, is there anything substantive to learn?

Act doesn't take into consideration size of school, bigger districts have scale advantage.

Act 46 has created new school districts for which this will be an added burden - can they get an exception? We don't want to delay flexibility. Small schools need that the most

There is an issue with districts who tuition with census block funding and who will be charged excess cost at independent schools. Agency has set a maximum rate for tuition with no cap for excess costs. Decision the LEA has to make with their census dollars - does it make sense to send child to a specific independent school? There is a difference when the placement is a team decision vs placement for a district with no high school. An indirect consequence of this Act could result in discrimination for students with disabilities who wish to go to an independent school.

Questions:

What Ideas does this subcommittee have about reporting, monitoring and evaluation? Will a report at the end of the year reporting how much was spent on students be sufficient? Will looking at state expenditures be enough? Child specific expenditures still have to be tracked. Perhaps we can find a logic statement that is acceptable to the feds. Fading out support presents a problem with accounting time. Need to revisit the three questions the feds have put out. What is a service for a child on an IEP? Could extraordinary expenses be defined by service page? Can we relate information needed to information already generated?

Overarching ideas not already covered:

Discrepancy model for SLD

DMG identifies factors in its report that are part of MTSS but legislators wrote in a hierarchical structure for MTSS. Act requires AOE predict length of time a child should stay in a tier, AOE does not want to develop time in tier requirements. But we want to avoid a child being stuck in a level indefinitely. What warrants further action when a child is in a tier for a period of time? There needs to be monitoring and steady evaluation. The MTSS field Guide doesn't give time measurements and is changing the termination to layers not tiers. The MTSS field guide should be released in Jan. 2019.

Guidance cannot run afoul of anything in the law

Students who need additional support: How to evaluate students who are not on IEPs or Section 504 - how to measure from district to district? MTSS is for all students - identification criteria for groups may not be necessary
Weighting study will be concluded in the fall and will be presented in the Legislature. It will be outside the scope of this committee.

AOE - not sure what the product will be in Jan. They have a good foundation to work on.

Comments from audience: Phil Eller (Chair of Autism Task Force) Adverse effect is an issue. How does MTSS help kids with disabilities? Vermont has an onerous adverse effect rule. This affects children with high functioning ASD and ED. How can their needs be met within this model?

Meeting adjourned