



**Act 173 Advisory Group**  
**May 1, 2023, 9:00 a.m. – 11:15 a.m.**

Draft Minutes

**Microsoft Teams Virtual Meeting**

**Call In: 1-802-828-7667**

**Conference ID: 555 865 581#**

*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:**

Advisory Group (AG) Members: Meagan Roy, Vermont Council of Special Education Administrators (VCSEA), Rachel Seelig, Vermont Legal Aid; Jeff Francis, Vermont Superintendents Association (VSA); Sue Ceglowski, Vermont School Boards Association (VSBA); Peter Garrecht, Vermont Council of Special Education Administrators-selected special educator; Karen Price, Vermont Coalition for Disability Rights; Lisa Bisbee, Special Education Teacher/VT-NEA; Mill Moore, Executive Director, Vermont Independent School Association (VISA); Mat Forest, Council of Independent Schools (CIS); Jeff Fannon, VT-NEA; and Heather Bouchey, Agency of Education.

AOE: Meg Porcella, Jennifer Perry, Brad James, Maureen Gaidys.

Others: Susan Aranoff, Holly Rouelle, Chelsea Myers.

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

Chair Roy called the meeting to order at 9:03 a.m. and asked if there were any amendments to the agenda. There were none.

**Review and Approve Draft Meeting Minutes from March 9, 2023**

Francis moved to approve the minutes; Forest seconded. Ceglowski asked to have a correction - on page 4 in the paragraph above bold language. She asked to have “serving” replaced with “surveying.”

Chair Roy called the vote; the vote passed 8:0:2. Yeas: Francis, Bisbee, Forest, Moore, Richards (for Price), Garrecht, Seelig, and Ceglowski. Nays: none. Abstentions: Bouchey, Fleming.

**Opportunity for Public to be Heard**

Chair Roy asked if there were any members of the public to be heard. There were none.

Chair Roy said that at the last meeting there was discussion about having some Local Education Agencies (LEAs) in to talk about real-time implementation of Act 173. The education organizations reached out and there were two participants interested. Holly Rouelle, Champlain Valley School principal, will speak to the AG. The second participant is no longer able to make it. Chair Roy said

the goal is to have the AG informally engage and ask questions. Field participants were asked to share what is working well, what is not working well and what would be helpful in terms of implementation. AG members from the VSA, VSBA and Vermont Principals' Association (VPA) reached out to their membership, and this is who came forward to give feedback.

Chair Roy said there would be one more advisory meeting in June, and she asked what would need to be discussed in June. She noted that recommendations have been made and said she is not sure if any of those have changed. She asked Moore and Forest about independent schools (IS). Moore shared that he spoke with Secretary Bouchey and her team, and they are moving forward with supports now. It will be very helpful for about 24 IS that are new to special education. Forest said that there is a Tier 1 and Tier 2 Oversight Committee that is tracking data. For him it is fine-tuning things and that will hopefully continue to evolve, but it is cumbersome. He is anxious to see what comes out of the support from AOE. AOE confirmed that the support materials referenced by Moore and Forest went out on Friday.

Chair Roy moved ahead to the next agenda item since the meeting was running ahead of schedule.

### **Update from Stakeholder Group: Maintenance of Effort/Frequently Asked Questions (MOE/FAQ) document**

Perry shared that there was a small stakeholder meeting on March 13, 2023, and a third version of the FAQ was posted on the website that incorporated this feedback. It eliminated some duplication and incorporated an email address for sending and receiving questions/answers. The draft was shared with the stakeholder group in April. Perry thanked those who had provided feedback. Later in May, AOE will have a draft for AG's respective groups for additional feedback or a soft roll-out. Perry will send an email for a last call for feedback. She said she will ask if a meeting for finalization is preferred or if that is necessary. James, Bates, and Bouchey will have the final sign off on the document.

There was discussion on help from the AOE with one-off questions, field is more conservative now than they need to be, this will change once confidence builds, a number of LEAs across the state that failed their MOE test (after justification), and looking at that number in the new model for comparison purposes. Perry said the AOE will be able to see trends based on submissions. Transparency will be improved and there will be a historical trail of information. She added that she is very impressed with all the supervisory unions/school districts (SU/SDs) and their first MOE calculator rollout. Many put much of their documentation into the calculator. This is not required but allows some business offices to have an easy connection between their back-up documentation and the calculator. Moving forward we don't expect the FAQ to be rolled out and finalized; over the next 12-18 months trends will come up that have not yet been identified. Chair Roy added that it might be helpful to survey on whether or not districts have been able to decrease paperwork and increase flexibility, as intended by the law.

### **Input on Implementation of Act 173**

Chair Roy introduced Rouelle, principal at Chamberlin School in South Burlington, and explained that the AG has spent a lot of time advising the AOE on implementation and thought it would be helpful as the AG makes final recommendations to the AOE to have some input from the field.

Rouelle said she has been a principal for 12 years and is also on the executive council of VPA. She said on paper, Act 173 aligns really well to multi-tiered systems of support (MTSS) framework and addresses functional performance. The trainings that she has attended have been excellent. The downside is that this is paid training and there are some districts that have not been able to take advantage of it. The training also helped administrators realize how much work is to be done before true readiness for Act 173 implementation is achieved. They have only spent one morning in-service with general educators. They took a proactive stance and looked at layered supports and gave general educators an overview. There is little knowledge of the intricacies of Act 173 for general educators. Special educators are feeling without a bottom line of 15% it feels vague, and they are unsure of criteria and specificity to qualifying students for IEPs. There is worry that this is linked to paid professional development and there is not staff capacity to give staff time off to collaborate on this training together. The daily realities of staffing issues take a toll. There are many questions that cannot be answered; not receiving clear guidance from the state. Timeliness is another issue; sometimes information is received just prior to presentation. Some special educators are having trouble finding the law on the website and have reported that the two case studies posted are inaccurate. There are many forms/templates that need to be updated and we feel like we are not ready to implement Act 173 and some changes will not be finalized until fall. Special educators are worried that they will end up in mediation with families as they do not know the law well enough. As an administrator, there are PCB issues, glitches with the new assessment system and other pressing demands. It is a challenging time right now for special educators and as a principal. Special educators are really worried about the language in Act 173 around appropriate instruction in reading and math in a general education setting and that there are multiple layers of instruction in the area of identified need and that it is trained teachers and with fidelity – and who makes that decision around fidelity.

There was discussion on general educators feeling ownership of roles and responsibilities under Act 173, evaluation needs to happen by supervisor not peers, and the reality is that special educators do not have the capacity to thoroughly explore resources. Rouelle said every day is triage on who can cover what, and there is not time for special educators to read through the abundance of material, and this is from South Burlington, so she cannot imagine what it is like for other, less-resourced districts.

Chair Roy asked if the AOE has made a concerted effort to speak to the general education audience around Act 173. Porcella responded that across different divisions, they have included achieving the goals of Act 173 into the MTSS framework. She spoke about the system needing to be examined and improved. The MTSS framework is the vehicle to look at systems (district, school, classroom) so that general educators know they are implementing a program with fidelity. She spoke about the State Systemic Improvement Plan and the Project AWARE (Advancing Wellness and Resiliency in Education) grant and working with systems towards improvement.

Chair Roy asked about needing to demonstrate adverse effect by saying that evidence-based first instruction has been provided and that there is no mechanism in an eligibility meeting to evaluate colleagues, yet a decision must be made. Some people are worried that a team will be left with saying that because they are in the process of implementation, but not there yet, thus they cannot guarantee access and cannot make a determination.

There was discussion on changes to eligibility decisions, swinging eligibility in a different way than people thought, re-writing literacy and math curriculum in absence of evidence-based instruction, students whose attendance is terrible (and not linked to disability) and have not had high-quality instruction because of that, IDEA and rule-out if instruction has not happened, lack of qualified substitutes to provide high-quality instruction impacting adverse effect, professional development has not been sufficient, one of the reasons these rules were changed is because the federal definitions do not require a separate finding for specific learning disability (SLD), changes made in adverse effect definition were supposed to increase flexibility, sounds like some of the very basic changes in these rules are not understood, recommendations need to include that professional development and clarity needs to happen by July 1, students cannot wait any longer for these rules to go into effect, time that could have been spent on using the Act 173 resources have been diverted to new testing program, special educators need considerable time and are stretched thin, cannot afford to have these special educators take time away from students, hard to imagine teachers calling out colleagues for lack of fidelity, special educators feeling the pressure, and leaning on LEAs to explain to families what is going on. Secretary Bouchey noted that there will be a transition period and it is important to keep this in mind.

Chair Roy thanked Rouelle for joining. Rouelle thanked the group for inviting her to speak to the group.

Chair Roy reiterated that the AG wanted to hear from the field because the last set of recommendations in the report acknowledged that the AG exists to make recommendations to the AOE. She observed that she is not sure of the mechanism for ongoing checks for progress. The law requires that AOE monitors and serves as the accountability factor but is there anything that the AG needs to do in the absence of such mechanism.

Seelig suggested that some iteration of this group or some other mechanism for periodic checks be able to meet and provide ongoing input and feedback around concerns that have been raised (rule changes, MOE, independent schools, professional development). Chair Roy asked if the AG wanted to make a recommendation that there be another group that assists with monitoring or that there should there be some specificity to the AOE for monitoring. Forest supported and thought it might be beneficial to have an external group going forward for support and to get a pulse on what is happening across the state.

## **Discussion: Update on Weighting Model**

Chair Roy explained that the AG had discussed making a recommendation on changing how the census-based grant is calculated. James said he was working on modeling and the AG agreed to look at this before making any recommendation regarding weights. To date, there has been no recommendation, instead it was decided to let the census grant and new weights come into play before recommending any changes.

James spoke about the [spreadsheet that summarized the different categories of weights](#). He explained how the files were organized by supervisory union/district. It starts with long-term Average Daily Membership (ADM) and that is a 2-year average of ADM plus state-placed students from the prior year (using FY22 and FY23 data for FY 24 counts). He explained that the PreK students are deflated (-0.54), Middle is 0.36 and Secondary is 0.39. Columns 8 and 9 use a weight of 1.03 for economically disadvantaged students. Columns 10 and 11 are English Language Learners with a weight of 2.49 each. Sparsity weights examine population per square mile and

weights for less than 36 people per square mile is 0.15, for population of 36-55 people per square mile weights are 0.12, and for populations of 55 or more but less than 100 people per square mile, the weight is 0.07. Small school weight is 0.21 for schools that meet sparsity of less than 55 and enrollment less than 100. For schools with sparsity of less than 55 and with enrollment of greater than 100, the weight is 0.07. Column 22 is the sum of aggregate weights. Column 23 is the sum of districts meeting sparsity criteria. Column 25 is the long-term ADM divided by the long-term weighted ADM. If the percentage is lower than the state percentage, then it is advantaged. If higher than the state percentage, then it is disadvantaged. The Equalized Pupil Comparison tab on the spreadsheet shows the equalized pupil weights and the weights under current law. Equalized pupil weights will not be used in FY 2025, this allows the comparison of new weights to current law.

This was raised because right now the census grant is calculated on your pupil count, not your weighted pupil count. The concern is that census grants work well when there is reasonable similarity in percentages of special education eligibility. Vermont does not have that right now; Vermont has a lot of variability. The AG has landed that what really needs to be addressed is the issue of weights and with the application of new weights - funding changes. That would rectify the different demographics of various schools. The AG did not recommend changes to the census grant calculation because it was felt that the rightsizing needed to be on the education funding side, not on the special education calculation. This group has been resistant to making any recommendation that would cause funding to incentivize in either direction, eligibility for special education. We wanted to see these new weights so that we can hold to our recommendation or adjusting our recommendations.

James said the census block grant is based on the 3-year average of ADM. We are working towards a universal block grant. James offered to put 3-year ADM numbers next to long-term weighted ADM to have a comparison. There would be a set amount of money and pluses and minuses. Fannon requested this additional column for comparison. James said he would provide it. Chair Roy expressed a concern that came from the VCSEA – the desire to not incentivize the eligibility of special education and the belief that eligibility should be a standalone decision related to the student's need and should not be connected to any potential impacts related to funding. One of the main drivers of the change in weights is the potential correlation between students in poverty and students eligible for special education. The change in weights accounts for that difference demographically on the general education funding side. If further adjustment is made to the census grant to use a weighted pupil count, then that issue is addressed twice. That is why the VCSEA's position has not changed. James added that poverty weight has increased by a factor of four from 0.25 to 1.03, which is significant. What these weights are doing in a lot of districts is giving extra tax capacity to provide more money.

There was discussion on using free- and reduced-lunch (FRL) eligibility, new form that collects those who don't fill out FRL paperwork, and weight needs to be based on socioeconomic level.

## **Discussion: Advisory Group Work Plan**

Chair Roy advised that there is one more meeting in June and suggested building an agenda for that meeting and/or considering any parting recommendations that should be added to the report that was submitted to the General Assembly in January. She called on AG members to answer the question on whether there are additional recommendations to be made and if a June meeting is needed.

Fannon: We have changed much along the way – change one variable and study it – and we have changed multiple variables – and to say that we have any good ideas yet on how this would play out could be significant and consequential for schools. Someone needs to look at the intended and unintended consequences of Act 173 and changing variables along the way. Someone needs to look at that and the needs of special and general education and ensure that we are meeting the intention of Act 173 – to help more kids, not less.

Francis: Irrespective of how this conversation goes, we should have a June meeting. It is hard to wrangle this with other competing legislative priorities at this moment. No additional recommendations at this moment but would likely have some suggestions at the June meeting. Shouldn't close the door on the work today but should focus and prepare for the June meeting.

Bisbee: Not sure we need to continue beyond this year because we are only advisory and do not have any oversight. She is happy to meet in June. She would like to see when AOE reaches out to people about Act 173 implementation, that this outreach goes beyond LEAs and includes teachers' voices.

Forest: Agree with needing an oversight group, or discussing what that might look like at the June meeting.

Moore: Agree with Forest. Also very concerned about 24 independent schools that are new to special education and will likely have IEP students in their school starting in June. Having some support/oversight would be very helpful.

Richards: Agree that June meeting should happen, and follow-up would be good.

Garrecht: I agree with Francis. We need to continue to seek feedback on implementation, consequences, and needs around Act 173. Since special education rules will take effect after our group is finished, we will not be able to get information on how this works. Input from stakeholders is a significant need in this area.

Seelig: Makes sense to have some ongoing group, oversight or means of accountability or ongoing advisement. When the implementation of Act 173 is assessed, feedback should come from teachers as well as families.

Ceglowski: Supports a June meeting. She has raised this before – the impacts of having a census grant model for public school and reimbursement model continuing for private institutions remains a concern.

Chair Roy said in order to make the June meeting as productive as possible, she has two asks for each AG member:

- 1) Talk to your respective organizations that you represent and bring some ideas for accountability (list of things accountability should include, ideas for a structure, etc.)
- 2) When seeking input from respective organizations, ask if there are other recommendations that the AG should consider.

Chair Roy said the June meeting is scheduled for June 5, 2023. The audience for this meeting is the General Assembly, State Board of Education, and the AOE. It is possible that the General Assembly will have adjourned by then. She advised AG members to have those audiences in mind when they come prepared to share recommendations. She added that one thing that didn't come up in this rundown was initiating rulemaking for the MTSS rules. Moore offered that the SBE is going to revisit the 2200 rules at some point and that might be another good reason to have a group similar to this.

## **Adjourn**

Chair Roy adjourned the meeting at 10:58 a.m.

Meeting Minutes prepared by: Maureen Gaidys