



# Act 173 Advisory Group January 9, 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; Nancy Richards (for Karen Price), Vermont Coalition for Disability Rights; Jay Nichols, Vermont Principals' Association, (VPA); Brenda Fleming, VT Association of School Business Officials (VASBO) – joined at 9:19 a.m.; Lisa Bisbee, Special Education Teacher/VT-NEA; Mill Moore, Executive Director, Vermont Independent School Association (VISA); Jeff Fannon, Executive Director, VT-NEA; Mat Forest, Council of Independent Schools (CIS); and Dan French, Agency of Education.

AOE: Meg Porcella, Chris Case, Jennifer Perry, Bill Bates, Christopher Kane, Maureen Gaidys.

Others: Marianna Donnally, Amy Hornblas, Susan Aranoff.

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

Chair Roy called the meeting to order at 9:05 a.m. and took roll call. There were no amendments to the agenda.

### **Review and Approve [Draft Meeting Minutes from December 5, 2022](#)**

Francis moved to approve the minutes; Forest seconded. Francis said in the first reference to the December 9 meeting it says the hosts of the work session were VSA, VPA, VSBA and VCSEA. The hosts were just VSA, VASBO and VCSEA and this is referenced in the second sentence. He asked for this correction to be made. Chair Roy called a vote: Yeas: Nichols, Francis, Bisbee, Forest, Moore, Richards, Garrecht, Ceglowski. Nays: none. Abstentions: Seelig.

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

Chair Roy asked if there were any members of the public to be heard.

Amy Hornblas – Health Educator, with a background working with students with disabilities. She said she has researched the use of masks and there is no evidence of safety in wearing masks. The Northeast Kingdom (NEK) schools have been choosing to mandate masks as part of a protective action. She submitted a Freedom of Information Act (FOIA) request asking for evidence of safety and there was no evidence. Her

goal is to get this subject on the agenda; she is concerned that for students with disabilities, mask mandates is a dangerous device and there is evidence of harm. Disability protection laws are being used to mask students in Vermont schools and she wanted to bring this to the AG's attention.

### **Discuss/VOTE: Final Report to the General Assembly (GA)**

Seelig reviewed her edits which addressed 1) asked for clarity on not reaching consensus on how broad the rules needed to be to implement Act 173; and 2) striking "and the two additional changes..." and the following sentence. Chair Roy spoke about identifying areas where there was consensus. There was discussion on how to communicate that not everyone agreed to not postpone the implementation and acknowledging the timeline for professional development (PD) as being related to implementation.

Chair Roy shared that Fannon offered a comment that she would share with the AG as he was not present. She shared his comment which was around the overall question of whether Act 173 should be repealed because of the implementation challenges and the continued lack of targeted and supported implementation. He felt like there should be a comment from the AG on that. She asked for discussion on if that is a shared opinion. Nichols said he does not support delayed implementation or repeal but understands Fannon's concern. Forest agreed with Nichols. Seelig agreed with Nichols and suggested taking out the word "unequivocally" or stating that there is one member who disagrees. Bisbee expressed that she is worried that the changes coming will break the backs of a subgroup of teachers that are in high demand and in low supply; she is in support of Fannon's comment. Chair Roy offered if it would be a true statement with full AG support, to acknowledging that poor implementation of Act 173 will cause it not to realize its intent and that has been a concern for some time. Garrecht agreed with Bisbee and that it is a different environment pre- and post-pandemic. He works in a strong district, and he worries about districts that don't have the support they need. He said there needs to be a huge emphasis on PD. Francis said he agreed with all comments and said he could not support a delay and said if there was a way to convey the need for ongoing monitoring without perpetuating this AG, that would be good to include. He believes there is a long way to go to fulfill the vision of Act 173. He said it would be extraordinarily disruptive to repeal Act 173 at this point. Chair Roy concurred with Francis regarding disruption. She said increased flexibility, decreased administrative burdens, and prioritizing time working with kids and using the District Management Group best practices recommendations around quality is what VCSEA supports. She also echoed what has been said around concerns of implementation. Seelig stated that she is in strong opposition to any further delays in the remaining special education rules; that would be bad for students. There was discussion on changes in special education eligibility and specialized instruction. Richards said she also would not support a delay.

Chair Roy said it is important to acknowledge the variability across the state and that is not resolved. There was discussion on a heavy lift for general educators, time for general educators to get up to speed, ensuring that special educators are not required to take up all the slack, adding information on the charge of the group and recommending statutory changes to page 1 of the draft report, adding statutory changes to a future agenda and reporting on that before the AG disbands.

Chair Roy summarized the suggested changes that she will make to the draft report: highlight issues where there is not consensus, clarify on the two additional rule changes that were delayed, acknowledge that many but not all members were concerned about details of the plan in the PD section, acknowledge that poor implementation will inhibit achieving the tenets of the laws, that there is not consensus on

recommending any repeal, acknowledge that we are in a different place post pandemic, convey the need for ongoing monitoring of implementation, state that there are members of AG who strongly oppose any further delay of rules, acknowledge variability of implementation but affirming the intention of the law being sound, acknowledge that we are not making recommendations for statutory changes at this time but reserve the right to come back to the GA with recommendations specific to the census grant and independent schools.

Chair Roy shared additional information, sent via email from Fannon regarding the education fund surplus. His email asked the AG to consider recommending to the legislature that the \$63 million surplus should be used to provide PD to as many school districts as possible. He also wanted to acknowledge that a lot of the surplus was unused special education expenses, which might have had more to do with unfilled positions remaining vacant. She asked the AG if they wanted to include this in the annual report or address this later. There was discussion on not understanding the scope of these funds, support for putting any money available towards supporting special education, that this is beyond the AG's role to address surplus funds, needing a better understanding of who needs what help, and competing needs in the system. There was more discussion on a correction on page 4 regarding an effective date and the process for submitting the report.

Nichols moved to direct the Chair to issue a final report to the GA as per today's discussion; Forest seconded. Chair Roy called the vote. The vote passed unanimously.

#### **Discussion: Follow-up from the December 9, 2022 Working Session**

Chair Roy said the working session happened and in the interim, there was agreement that the AOE would convene a working group to produce a Frequently Asked Questions document and additional guidance to the field.

Porcella shared that the subgroup referenced by Chair Roy will be meet Wednesday, January 11, 2023 and members will be receiving a Maintenance of Effort-FAQs (MOE-FAQ) document that will offer a format for the meeting. All next steps or pending actions are included in the draft FAQ, as well as questions generated at the December 9 meeting and the role impacted by the question.

Chair Roy said the December 9 meeting included a panel of AOE staff and Business Manager and Special Education Directors. The purpose was to acknowledge to the field that how MOE is calculated is largely determined by the Local Education Agency (LEA), and because statewide funding no longer relies on the same level of documentation as before and there is much more leeway. The working session gave some examples and shared some more flexible options that districts can use to decrease paperwork and determine if those would suffice. They discussed federal requirements and what the AOE has offered and other potential options. The outcome of a FAQ was discussed by this group. The goals are to work with AOE to compile these other methods for documenting MOE, ensure that they comply with federal rule and put them back out to the field. Porcella added that AOE has continued to work directly with LEAs, providing personalized technical assistance.

This will be back on the agenda as a report out from the stakeholder group. **Discussion: Professional Development**, Meg Porcella, Assistant Director, Student Support Services Division

## Statewide Personnel Development Grant (SPDG)

Porcella shared that this grant was received from the Office of Special Education Programs (OSEP) and the PD that will result from this is clearly linked to the goals of Act 173. The Communications package for part B (PK-elementary) will provide an opportunity to participate in the first cohort and will be released the last week of January/first week in February. Education partners will be contacted to receive a short pitch from Porcella on this opportunity, staff impact and why participation is important. There was discussion on giving preference to those districts that need the most help, anticipating serving three supervisory unions in the first cohort, Multi-Tiered Systems of Support (MTSS) implementation in general, continuing to hear from the AOE on MTSS implementation from a systemic perspective, organizing this around the levers, and adding this to an upcoming agenda.

## **Discussion: Professional Development Rule Implementation**, Christopher Kane, Interim State Director of Special Education

Kane shared that there is a lot of information on the [special education rules webpage](#) and there is also an evaluation manual/implementation guide that contains updates and provides context for the changes that have happened and provides the eligibility and evaluation process for the current rules. Kane said districts are looking for specific individualized support; there are several districts that are receiving support through the State Systemic Improvement Plan (SSIP) and have access to an assistance coach. Some districts with specific needs around instruction, intervention and eligibility would have access to an assistance coach. Time has been spent on developing materials focused on general education (adverse effect, SLD, etc.) and what this means to staff with implementing these changes. These have not been officially announced and shared with the field. AOE is also working with VFN to make sure parents and families are informed about rule changes. Also working on a finance update and how LEAs access their Coordinating Early Intervening Services (CEIS) funds and allowable spending to support the growth of MTSS. AOE has updated and will be issuing Forms 2 and 3 with all changes relative to Adverse Effect and Specific Learning Disability (SLD) and updates to the Individualized Education Program (IEP) form and a companion explainer and guidance. AOE is finding that many of the questions are answered in the resources that have been provided and are working on a communication plan for this. Materials used in the special education mentor program have been updated. Have surveyed special education administrators to get specific feedback on areas of need (implementing MTSS, communication/messaging to teachers and general educators, functional skills, and impact on eligibility process.) Webinars of materials will be available to the field soon.

There was discussion on AOE having a good sense of where the state is with implementation, checking with the field to assess readiness, technical support/training specifically for independent schools, LEAs needing some advice on how to work with independent schools, inconsistency across LEAs with billing and other processes, and a sense of urgency with independent schools who will need to deliver these services in less than nine months.

There was further discussion on having a second public comment section at the end of the meeting and that public comment could be given throughout the meeting.

Aranoff asked Secretary French about his testimony last year to the Senate Education committee where he changed the position of the AOE regarding rule adoption and field readiness. She asked what his test/standards would be now so that we are not in this same position, to delay these rules in May 2023. French said his testimony stands for itself and where we were coming out of the pandemic. He explained that there were many variables that went into understanding where the field was regarding educational recovery. We feel better about things now and will reserve the right to weigh in based on his understanding. He said his decision was based on his assessment of the education system to embark on this very complicated policy, there was no single benchmark indicator, but he will pay close attention to this group's and other stakeholders' opinions. He supports the intent of Act 173 and does not support any further delay in implementation.

There was further discussion on less requests for support this year over last year and that this might be due to the field being overwhelmed, AOE has additional updates to the evaluation manual and a self-assessments webinar for LEAs to review their system and capacity to perform these processes.

### **Review Advisory Group Workplan**

Chair Roy reviewed the AG's work plan and recapped upcoming agenda items:

February 6, 2023: Update from stakeholder group on MOE/Technical Guidance, additional recommendations for the General Assembly around the impact of 2200 series on the census grant and independent schools (need information from LEAs), and an update on rate-setting from AOE. Chair Roy will follow-up with VCSEA to see if there is a way to survey LEAs for impacts. It was suggested that the field be invited to testify at the next meeting or the March meeting.

March 13, 2023: Professional Development Update (Kane), AOE Update on MTSS and rule changes (Porcella or Case), and a status update on MOE FAQ (recurring agenda item).

Chair Roy explained that the provision to meet entirely virtually sunsets on January 15, 2023 and starting on that date a physical location will need to be made available to the public by the AOE. She asked the AG if their preference was to be mostly virtual, hybrid or in-person. Virtual was the preference. Going forward, a physical location will be posted and included on agendas and AOE will provide a meeting space with a speaker phone,

### **Adjourn**

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

Meeting Minutes prepared by: Maureen Gaidys