

Approved Independent Schools Study Committee

Draft Meeting Minutes

July 19, 2017

Present:

Committee members: Rebecca Holcombe, AOE; Senator Philip Baruth, Chittenden County; Representative Emily Long, Windham County; Bonnie Johnson-Aten, SBE; Nicole Mace, VSBA; Liz Shayne, Schoolhouse Learning Center (CIS); Michael Livingston, Sharon Academy (CIS); Seth Bongartz, VISA; Jeff Francis, VSA; Jo-Anne Unruh, VCSEA
Agency of Education: Molly Bachman; Haley Dover; Karen Joyce; Suzanne Sprague
Others: Maggie Lenz, TSA (Montpelier); Laura Pelosi, MMR; Todd Bailey, LPA; Mill Moore, VISA; Patti Komline, VISA; Dillon Burns, Vermont Cares Partners; Toby Howe, MMR; Emily Simmons, VSBA; Sylvia Dodge, Lyndon; Tracy Keller, GMVS; Susan Marks, AOE Consultant; CJ Spirito, VISA/Rock Point School; Traci Sawyers, VCSEA

Item 1 and 2

Secretary Holcombe convened the meeting at 1:04 p.m. She invited the members to introduce themselves. Secretary Holcombe said the committee's purpose is to make recommendations on the rules that govern how the state supports state goals through education in the independent sector, specifically with respect to fiscal assurance, special education and enrollment. She said the goal is to make solid recommendations that the committee can all stand behind.

Secretary Holcombe handed out a worksheet to be used as a working document that may help guide each member through the process. She said that the state has statutory obligations with regards to fiscal assurance as well as to taxpayers to make sure it is using their dollars in a fiscally responsible way and to meet its statutory obligations with respect to students with disabilities.

Item 3

Secretary Holcombe said that the chair of the committee will assume the agenda, carry the meeting and help prepare agendas for upcoming meetings moving forward. She invited nominations for the chair. Bongartz nominated Senator Baruth. Representative Long seconded the nomination. Secretary Holcombe asked for any additional nominations and seeing none called for a vote. Senator Baruth was elected chair of the committee.

Chair Baruth thanked Secretary Holcombe for her work with the committee and on the agendas for the last two meetings. He added that he thought the first meeting was particularly helpful. Chair Baruth said the charge of the committee is designed to come up with actual language that would codify a new way of approaching the three issues for approved independent schools. He said he would like the committee to work with draft language at the next meeting. Chair Baruth would like to deal with the fiscal disclosure topic first since this was close to final in the draft language. He said open enrollment will be next followed by special education which will consume the bulk of the time. Chair Baruth reminded the committee that the charge is not a matter of whether an approved

independent school will deliver special education services but rather how they will deliver the services and which categories they will serve. He asked everyone, including members of the public, to submit language to members of the committee to be considered.

Item 4

Susan Marks, AOE Special Education Consultant from WestEd, National Center for Systemic Improvement, gave an Overview of Special Education Law.

Chair Baruth asked if the bullets in the Placement slide were in rank order and noted that this is the first place that independent schools are mentioned. Marks explained that the list outlines the continuum of placements that can be considered when placing a student in the least restrictive environment. Holcombe clarified that the whole presentation applies to independent schools that service special education students, but that this particular slide just describes the continuum of placements. Marks added that on this particular slide, the reference to “independent schools” at the more restrictive end of the continuum refers to independent schools that specialize in special education students with more intensive needs. The least restrictive environments on the continuum are either public or independent schools that provide special education supports in a general education environment. Mace added that this is an IEP placement decision and not parent placement. Chair Baruth asked what happens if the IEP team determined that a student should go to a certain school and the parent is from a choice town and wants the child to go to different school. Unruh said it depends on the IEP process itself and what needs are to be met by the IEP. She added there is not a simple answer. Mace said it would be Due Process. Livingston asked if the IEP team has an obligation to notify the parents of all possibilities available to their child. Marks said if the school offered the continuum of placement, then no they do not have to offer selections. Unruh said other options need to be considered to make sure the placement is appropriate.

Marks said that reimbursement for parentally placed students is ordered only if an independent hearing officer discovers that the LEA did not offer FAPE (Free Appropriate Public Education). Shayne said that her school is a general education school that does not provide special education services. Shayne said that many students who are parentally placed are later identified as requiring special education services. Shayne asked Marks what the district’s obligations are to the child. Marks said there is an obligation under IDEA for a district to use a portion of their money to provide services to students who are in independent schools by parental choice. She said the students are not entitled to FAPE. She continued that the student may have a service plan and be entitled to a related service such as speech or physical therapy or occupational therapy. There is an obligation for districts to use a limited portion of their money for students who are parentally-placed in independent schools and this percentage is based on the number of students who are parentally-placed when FAPE is not an issue. Unruh said that the LEA needs to speak to the independent school to determine the portion of the limited funds that would be made available. Unruh also stated that it is the district’s discretion as to how to spend the service plan funding within their limited resources based on the needs the district has determined.

Marks completed 2/3rd of her presentation and said that hard copies are available for the group to finish the presentation on their own.

Item 5

Seth Bongartz, VISA/Burr and Burton Academy, presented on behalf of the Vermont Independent Schools Association and the Vermont Council of Independent Schools. He presented specifically on enrollment policy, special education and financial accountability.

Bongartz described the diversity of each independent school and how each has their own mission and goals and were created to serve diverse student needs. He stated that 77% of all publicly funded students attend one of the 6 independent schools that serve all special education categories. Bongartz said that 372 publicly tuitioned students attend an independent school without any special education approvals. Bongartz classified the independent schools into groups and provided numbers of publicly tuitioned students in each group.

Bongartz explained some of the challenges to expanding special education services. He stated that it takes a general education independent school 18 months on average to get special education approval. He identified other challenges that deter independent schools from getting approval, including the costs associated with staffing and training; that the school may not receive a student in the special education category; and the scarcity of qualified staff. He said working with multiple districts/supervisory unions on reporting and billing processes is burdensome. He stated that the current practice is to exclude independent schools in the continuum of placement. Bongartz said if the state /districts give the independent schools more resources, they would agree to serve students with disabilities.

Bongartz said that some solutions could include, incentivizing special education expansion; employing a "best fit" approach (e.g. let students go to the school that is the "best fit"); acknowledging the unique independent school missions which may mean not all schools are a good fit for all students; modifying existing processes with no new mandate; and, providing more resources to independent schools to address costs, administrative burdens and scarcity of licensed personnel.

Bongartz said that in regards to financial capacity that many of the small independent schools cannot afford an audit every year and suggests that one of these alternatives be accepted instead: financial statement by an accrediting agency; statement or letter of financial capacity by an LCPA or CPA; audit from present or prior physical year; IRS Form 990; statement of financial capacity by a peer review team or independent reviewer. Chair Baruth asked about a triggering mechanism that would allow the State to investigate schools when there is prime cause in the event that it was believed a school was in financial trouble. Secretary Holcombe noted that current rules accept NEASC accreditation in lieu of other financial reporting, and provided examples of when the state might have cause for further review (e.g. reports of financial impropriety with public dollars, signs of extreme fiscal stress such as that exhibited by Austine School.)

Bongartz said that independent schools are required to follow anti-discrimination laws.

Francis asked for an agenda item at the next meeting to delve into this presentation. He continued that he would like to know the process for applying to an independent school. Francis asked what is the appropriate standard or approach when an institution accepts public dollars. Chair Baruth suggested slightly more formal responses to this presentation. He asked that questions be put in writing and shared with Seth Bongartz, and responses will be formalized.

Mace said that she would like to know the steps that must take place in order to be enrolled in an independent school even though there is a stated commitment to accept all students. Mace also asked what procedural safeguards are in place in the independent school sector that guard against inadvertent discrimination. Unruh asked at what point in the admission process is it identified that a student has a disability or not and how is a student assured retention.

Chair Baruth asked that the independent school representative formalize answers to questions. He asked everyone with questions to e-mail Bongartz, Shayne and Livingston directly. Chair Baruth said the questions and responses will be posted on the Agency of Education web site. He added that a link will be provided. He reminded the members to be mindful of public meeting laws and to not copy all members to avoid establishing a quorum.

Item 6

Chair Baruth said that agenda items for the next meeting will be a combined presentation by Jeff Francis, VSA, and Joann Unruh, VCSEA, responses to the independent school proposal and legal overview from direct insight from HRC, VT Legal Aid or Vermont Family Network.

Chair Baruth said if anyone has any suggestions on the three areas; open enrollment; financial capacity; or, special education, please send them in to be considered by the committee.

Chair Baruth said the meetings going forward will keep the same schedule as supplied earlier by the Agency of Education but the location will be moved to the State House and that he would arrange for space at the State House. He thanked the committee for electing him chair and ended by saying that he considers the committee's work to be a failure if there is any kind of split in agreeing with the recommendations put forth. Chair Baruth is determined to make it 10-0.

The meeting adjourned at 3:07 p.m.

Minutes recorded and prepared by Suzanne Sprague.