



LEGISLATIVE REPORT

Final Recommendations of the Census-Based Funding Advisory Group

Report to the House and Senate Education Committees; State Board of Education; and
Secretary of Education

June 30, 2023

Submitted by the Census-Based Funding Advisory Group

Legislation

This report is submitted pursuant to [Act 173 of 2018 Sec. 9 \(f\)](#) to the House and Senate Committees on Education and the State Board of Education (SBE) with “a status of implementation under this act and any recommendations for legislation.”

Charge of the Group

[Act 173 of 2018](#) created the Census-Based Funding Advisory Group “to consider and make recommendations on the implementation of a census-based model of funding for students who require additional support.” The group was convened in 2018, and by action of the General Assembly its existence was extended through both periods of implementation delay. The Group held its final meeting on June 5, 2023.

The Group is charged with the following:

- “[A]dvice the State Board of Education on the development of proposed rules to implement this act prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules;
- [A]dvice the Agency of Education and supervisory unions on the implementation of this act; and
- [R]ecommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of this act, including any statutory changes necessary to align special education funding for approved independent schools with the census grant funding model for public schools as envisioned in the amendments to 16 V.S.A. chapter 101 in Sec. 5 of this act.”

As of the final meeting, the Advisory Group has convened a total of 42 times. The following are the Group’s final recommendations, offered as a supplement to its January Final Report to the General Assembly. As such, it does not attempt to restate or repeat the recommendations made in January, but rather offers final recommendations for consideration.

Advise the SBE on Proposed Rules

Clarity on Multi-Tiered Systems of Support (MTSS) Implementation via Rulemaking

Implementation of multi-tiered systems of support has been required in Vermont education rule since the late 1990s. MTSS requirements are currently referenced in 16 V.S.A. § 2902 as well as the Education Quality Standards. Despite this, implementation of MTSS remains highly variable across the state. It is unclear if this variability is related to a lack of clarity in the Rules, or a lack of oversight and implementation support. The Advisory Group strongly recommends that the State Board contemplate the best way to provide increased clarity to Local Education Agencies (LEAs), whether through a

revision of the existing Education Quality Standards (that are currently open for revision), increased oversight, or another rulemaking mechanism. Without such additional guidance and resources, the Advisory Group believes the MTSS variability will continue to the detriment of students across the state.

Advise the Agency of Education and Supervisory Unions on Implementation

Professional Learning

It continues to be clear to the Group that continued inconsistent MTSS implementation will make it impossible to realize the positive intended impacts of Act 173. The Group reiterates its recommendation that the Agency develop a comprehensive plan that would:

1. Identify the evidence-based practices and framework for implementation.
2. Design a multi-disciplinary model for professional development that would be accessible to districts at all levels of implementation. The Agency must make clear that MTSS implementation is a full system obligation, not a special education obligation, and increase its targeted professional development for general educators (classroom teachers, principals, etc.).
3. Identify those districts that would need significant support in implementation so that professional development resources could be targeted. This method for identifying support should leverage current continuous improvement and quality review processes (e.g., Continuous Improvement Planning) and include a variety of funding sources to support LEAs.
4. Develop a clear mechanism for ongoing monitoring and support for MTSS implementation. This system should include a feedback method for families to be able to voice their concerns, especially regarding special education evaluation within the context of an MTSS.

Documentation of Maintenance of Effort (MOE)

Despite ongoing efforts of the Advisory Group to work with Agency staff on the development of flexible methods to document Federal Maintenance of Effort (MOE) requirements, the Agency continues to recommend highly restrictive documentation methods that would prevent districts from realizing the flexibility intended under the Act. It continues to be a firm recommendation of the Group that the Agency leadership be involved with ground-level staff to ensure that requirements are not developed that exceed Federal documentation standards.

Recommendations to General Assembly for Necessary Statutory Changes

Funding of Special Education Services at Independent Schools

Act 173 shifts Vermont's special education funding model from a reimbursement model to a census-based model. It did not, however, change how approved independent schools bill LEAs for the costs associated with providing special education services. Under the current language, LEAs receive a finite amount of state special education funding through the census grant. Independent schools, however, bill LEAs for the cost of providing special education services in an excess cost construct, which is an unchecked fee-for-service model. Independent schools are not capped in what they can bill an LEA, provided those costs are associated with the provision of special education services. This means that LEAs may be required to pay independent schools more than they receive in state special education support.

The Advisory Group recommends that the General Assembly examine the fiscal impact of Act 173 on districts that have non-operating grades. Specifically, the General Assembly should study the following in those districts:

- The total state special education support received
- The total excess costs billed to them from independent schools
- The impact of this difference on the full budget of the LEA

Oversight and Implementation Monitoring

Over the course of its existence, Advisory Group recommendations have been consistent, particularly in the area of professional development. Despite this, the Group has not seen significant progress in moving those recommendations forward. This causes the Group to be concerned about ongoing implementation after it ceases to exist in its advisory capacity. The General Assembly needs to understand that additional accountability and oversight is needed for full implementation of Act 173.

Throughout its time together, the Group has continued to affirm that the educational structures of MTSS required under Act 173 are critical to improving outcomes for struggling students in Vermont.

Respectfully submitted on behalf of the advisory group by:
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