

State Board of Education

Virtual via Microsoft Teams
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Draft Meeting Minutes

Date: October 25, 2023

Present:

State Board Members (SBE): Jennifer Samuelson, Chair; Tammy Kolbe, Vice Chair; Tom Lovett; Lyle Jepson; Kim Gleason, Richard Werner; Jenna O'Farrell; Aaliyah Wilburn; Heather Bouchey, Mohamed Diop (joined at 9:02 a.m.); Grey Fearon (joined at 9:03 a.m.).
Agency of Education (AOE): Josh Souliere, Brad James, Roseanne Neddo, Jennifer Perry, Cassandra Ryan, Nicole Lee, Emily Simmons, Jaime Kraybill, Suzanne Sprague, J. Deborah Ormsbee, Maureen Gaidys.

Others: Logan Chalmers, Media Factory; Ethan Latour; Shelia Soule, Steve Berbeco, Erica Loomis, Amanda Garces, Susan Aranoff, Emma Tagliaferro.

Call to Order, Roll Call, Amendments to the Agenda

Chair Samuelson called the meeting to order at 9:01 a.m. and took roll call. There were no amendments to the agenda.

Item A: Board Announcements

Chair Samuelson thanked everyone for shifting the meeting date and explained that there is an extended break in the agenda to accommodate Interim Secretary Bouchey's schedule. Chair Samuelson said that she also has a conflict and would be leaving the meeting at 9:30 a.m. but will rejoin at noon. In her absence, Kolbe will lead the meeting. Wilburn will be leaving at noon for a volleyball playoff game. Chair Samuelson then congratulated Aziza Malik, Champlain Elementary School, who was named the 2024 Vermont Teacher of the Year. The Teacher of the Year distinguished finalists were Cortney Poquette and Lindsey Cox, both of Winooski High School. She acknowledged their commitment and passion.

Jepson invited SBE members to join the [Chamber & Economic Development of the Rutland Region](#) (CEDRR) on Tuesday, November 14, from 5:00-7:00 p.m. for its [Annual Meeting](#), hosted by [The MINT Makerspace](#), located at 112 Quality Lane in Rutland. This event will provide an opportunity to tour the MINT and learn about [each shop](#) at the makerspace. There will also be food, drink, awards, and a special demonstration by [Rutland Area Robotics](#). Anyone interested in seeing middle and high school students from private, independent, public, and home schools working together and competing against each other is encouraged to attend.

Item B: Public to be Heard

Chair Samuelson reminded members of the public that public comment may be submitted in writing to SBE.PublicComment@vermont.gov. She asked if there were any members of the public who wished to speak. There were none. Chair Samuelson left the agenda item open and moved on to Item D.

Item D: Approve [Draft Meeting minutes from September 20, 2023](#)

Chair Samuelson moved to approve the September 20, 2023, meeting minutes; Kolbe seconded. There was no discussion. Chair Samuelson called the vote. The vote passed.

Chair Samuelson again asked if there were members of the public who wished to speak. There were none. Chair Samuelson left the agenda item open and moved on to Item E.

Item E: Student Report

Wilburn reported that school is going well and that she is involved in volleyball playoffs and traveling a lot. She is also working on a campaign with the Vermont Student Anti-Racism Network (VSARN) and the NAACP for a conference titled, "Let Me Be Great" on November 8, 2023. This is open to everyone, and she will provide further details to SBE members.

Fearon shared that fall sports are coming to an end. There are still no concert band performances planned, but there is an upcoming jazz band performance at a local pizza shop. He was elected as an officer for the junior class during the student government elections, and they are starting to plan fundraisers and organize the spring prom. He is also a representative on the school board, and this is a very busy time of year for the school board, as there are regular and frequent meetings.

Item H: Secretary Search Committee Update

Chair Samuelson indicated that she wanted to provide SBE members and members of the public with an update of the Secretary Search Committee's work to date and provide an overview of its process, especially since there had been some misinformation reported in the news. She reviewed that the Secretary of Education is the only Cabinet-level position for which the Governor does not have full discretion over the appointment, but instead relies on an independent entity, the SBE, to provide at least three names from which to make an appointment, which makes this process unusual. This committee looked at what has been done in the past and used the 2018 Secretary Search as the foundation of its process and then went above and beyond. The committee added to the process used by the SBE in 2018 by 1) using Department of Human Resources (DHR) as a resource (job description, posting, advertising), 2) asking the Office of Racial Equity (ORE) to review the proposed job description and incorporating many of its recommendations into the job description, and 3) hosting a public hearing to solicit input from the public. In total, twenty-one written comments have been received and have been posted as part of today's agenda so that all comments are in one central location that will be easy for members of the public to find. Included in this public comment is a compilation report submitted by the Vermont School Boards Association (VSBA)/Vermont Principals' Association (VPA)/Vermont Superintendents Association (VSA) with responses from almost 100 superintendents, principals, and teachers regarding the qualities and attributes they are seeking in the next Secretary of Education. Chair Samuelson expressed appreciation for this work and thanked the VSBA/VPA/VSA for taking this initiative.

The committee carefully reviewed all public comments and relied on them to inform/prepare questions that will be asked of the candidates. The job was posted on September 13, 2023 and, after extending the deadline by one week, the posting closed on October 12, 2023. Nineteen applications were received, and all have been reviewed. Interviews are scheduled for next week and will be held in executive session. The same questions will be asked of all candidates and the committee will use a rubric in scoring the candidates' responses. The plan is for the committee to come before the full Board in November and discuss the committee's recommendation, with the goal of voting as a full Board for at least three candidates to recommend to the Governor for his consideration.

Diop applauded the process and expressed appreciation to the Secretary Search Committee for its process and to all who provided public comment and specifically the education partners and their survey. Gleason asked if there was a broad geographic reach of interested applicants. Chair Samuelson confirmed that there were out-of-state applicants in the candidate pool.

Chair Samuelson again asked if there were members of the public who wished to speak. There were none.

Chair Samuelson left the meeting and Vice Chair Kolbe moved to the next item (9:25 a.m.).

Item C: Act 173 Update

Vice Chair Kolbe provided some background on Act 173 and said this item was a request from the SBE that the AOE provide additional information on the implementation of the fiscal component of Act 173. She introduced Brad James, Director of Education Finance.

James explained that this is the second year since moving from a reimbursement system to a census-block system. All the Local Education Agencies (LEAs) are moving toward the same amount per year by fiscal year 2027. There was concern that there was not going to be enough money coming from the census block grant, but AOE has not heard many complaints and will continue to monitor this. The extraordinary special education expense reimbursement will continue to be calculated, but the amount has changed per statute. What is lost on the census block grant will likely be gained through the extraordinary special education expense reimbursement. James noted that there was a suggestion from the Act 173 Advisory Group (AG) that AOE was not being flexible with documentation. He said over the course of implementation, AOE has rolled out a few methods that are less restrictive and it has not received much feedback from LEAs. Another new change is that LEAs must do their own Maintenance of Equity (MOE) calculations. The Center for IDEA (Individuals with Disabilities Education Act) Fiscal Reporting (CIFR) has provided a MOE calculator and AOE is backfilling that with information from prior years. LEAs are adding current/new information and AOE is working with them to complete this information.

There was discussion on interplay with tuition for independent schools and navigating what is received through the census block grant, special education is an LEA-specific cost, ongoing challenge with LEA delegating authority but still responsible for Individualized Education Program (IEP) implementation, tracking reimbursements, impact of the pandemic on special education monitoring, potential need for rules to clarify relationships between LEAs and independent schools around service provision and obligations, AOE is working through the new rules with the independent schools, using this transition period before changing or

creating new rules, consistency of cost of services across LEAs, monitoring of reasonable costs, self-reporting of independent schools, accountability measures, tracking at the LEA-level vs. state level where challenges/themes could be identified, being mindful of equity, and reimbursement to Career Technical Education (CTE) Centers.

Vice Chair Kolbe spoke about rules and how the interpretation of law impacts how state dollars can be used and the underlying tenets of increased flexibility for LEAs. She asked how/why there are still requests coming from the Act 173 AG for the SBE to look at the possible need for additional rulemaking for appropriate spending under federal and state laws. She asked whether the disagreement is around the need for legislation/rule to address/ensure sufficient flexibility in utilizing Multi-Tiered Systems of Supports (MTSS) and provide necessary services for students on IEPs.

James offered that there was consultation with Brustein & Manasevit, PLLC. He spoke of services being provided to mixed groups of IEP/non-IEP students, which is new. Discussion continued on AOE not hearing much negative feedback from the field, AOE believes they have become more flexible and are still on a learning curve. He added that AOE provided four regional trainings last year and did not hear negative feedback. Special Education staff are also not hearing negative comments from the field. AOE is working with LEAs to address the calculation and allay their fears; some Human Resource systems can assist with this. There are a variety of ways for services to be documented, and AOE is being responsive individually with districts as needed.

Interim Bouchey spoke about making a better distinction between the services allowed and the documentation required. She suggested that flexibility was conflated between service provision and documentation and that could be clarified for better understanding.

Item F: Rules Series 2000 Update

Gleason said the original public comment period was scheduled to close on October 15, 2023, but the committee decided to extend it until midnight October 25, 2023. She referenced the [SBE rulemaking webpage](#), where all public comments received thus far have been posted. Sarah Buxton, who has been retained by the Board to assist in this process, will be compiling these comments for the EQS Committee's consideration. The committee will be meeting to consider these comments and provide a response to each one. This committee will meet regularly through the end of the year and will be working with the full SBE for a few dates to provide discussion on the process and hopefully be able to propose a formal recommendation of any amendments/changes by the end of the year.

Vice Chair Kolbe noted that there had been some press related to Rule Series 2000 and offered some context to the SBE's stated intent to align language in both rule series (2000 and 2200) and that both rule series are open. There is no requirement that public comment may not be received after today. There is no settled language, but the intent is for these two sets of rules to mirror each other and to make sure that language is consistent with federal and state law. To not do that would put the rule at risk of a lawsuit and/or make the rules not able to be implemented. Gleason added that public comment related to aligning language should be submitted to both sets of rules separately, via the same email address, SBE.PublicComment@vermont.gov. Public comments will be reviewed separately by each committee. Jepson commented that journalism colleagues are often under deadlines and that we want to encourage them to reach out and get accurate information because much is

subject to interpretation. He expressed appreciation for patience with the process as the SBE works to keep the public informed. Vice Chair Kolbe reminded the group that, as a Board, members had agreed to forward all press inquiries to the SBE Chair. Lovett asked about the status of the [IRIS document](#), discussed at the last SBE meeting. Vice Chair Kolbe said this document was delegated to the EQS committee, but the committee will first process public comment received regarding proposed updates to EQS prior to addressing the IRIS document.

Item G: Future Meeting Planning

Vice Chair Kolbe reminded the SBE that the November meeting would include an executive session that would likely be a substantial conversation around the candidates to forward to the Governor for the Secretary of Education appointment. Other items for November meeting: update from the EQS Committee with draft document to be reviewed, Rule Series 2200 update, update on construction funds, and an update from Katie Ballard, Special Education Advisory Panel.

Gleason offered a proactive conversation on legislative initiatives and/or what is anticipated, for the November or December meeting. Lovett suggested getting an update on the MTSS implementation of Act 173 for both public and independent schools sometime after the November meeting. Vice Chair Kolbe said the SBE has made an effort to get out and meet in-person in public spaces and asked for suggestions for places for the SBE to meet in-person and/or any specific presentations that would be of interest to the SBE. Diop asked for some more information/discussion on MTSS and some professional development for the Board on this topic. Gleason asked for an AOE update on District Quality Standards (DQS) implementation.

Item J: Rule 2200 Update

Vice Chair Kolbe shared an update from Chair Samuelson on Rule Series 2200. Samuelson and Attorney Sarah Buxton met with the Interagency Committee on Administrative Rules (ICAR) on October 9, 2023. ICAR passed the proposed rule unanimously and provided a few technical suggestions that have been incorporated into the filing document. The proposed updates to the rule series have been filed with the Secretary of State, and the next step is to hold public hearings. Three public hearings are scheduled for Friday, November 17, 2023, from 11:30 a.m.-1:00 p.m.; Tuesday, November 21, 2023 from 4:00 p.m.- 5:30 p.m.; and Monday, November 27, 2023, from 6:30 p.m.-8:00 p.m. Written public comment is always welcome and can be emailed to SBE.PublicComment@vermont.gov. The public comment period for this rule series closes on December 5, 2023.

Vice Chair Kolbe recessed for a break at 10:27 a.m. to resume at 12:00 p.m.

Chair Samuelson called the meeting back to order at 12:01 p.m.

Item K: AOE Update on Independent School Compliance with Changes to Rule Series 2200

Chair Samuelson moved, pursuant to 1 V.S.A §313(a)(1), that the Board finds that the premature general public knowledge of confidential attorney-client communications made for the purpose of providing professional legal services to the State Board of Education would clearly place the Board at a substantial disadvantage. Lovett seconded the motion. There

was discussion on who was providing legal services. Jaime Kraybill, Assistant Attorney General, is providing legal services to the Board. The vote passed unanimously. Chair Samuelson moved that the Board enter executive session to receive confidential attorney-client communications made for the purpose of providing professional legal services to the Board pursuant to 1 V.S.A. §313(a)(1)(F). Lovett seconded the motion. There was no discussion. The motion passed unanimously.

The Board entered executive session at 12:08 p.m.

The Board ended executive session and returned to the regular meeting at 1:56 p.m.

Item L: Public to be Heard

There was none.

Lovett moved to adjourn; Gleason seconded. There was no discussion. The meeting adjourned at 1:59 p.m.

Minutes prepared by Maureen Gaidys.