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Agency of Education
State Board of Education

March 11, 2022

Hon. Kathryn Webb, Chair, House Committee on Education
Hon. Brian Campion, Chair, Senate Committee on Education
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Re: Background and Remaining Points of Disagreement in SBE / AOE Report

Dear Chairs Webb and Campion:

In reference to our joint report: *Roles and Responsibilities for the Vermont State Board of Education & Agency of Education*, we wished to provide an update and clarification of several items where the Agency of Education and State Board of Education continue to differ in our perspective in the best approach to reorganizing roles and responsibilities between the State Board and the Agency.

In Act 66 of 2021, the General Assembly directed both AOE and SBE to jointly consider how to restructure roles and responsibilities of the State Board and the Agency across the gamut of both organization's responsibilities and activities. The Act requires the AOE and SBE to present joint recommendations where possible, and explicitly note areas where disagreement remains and provide separate proposals.

This work was primarily conducted by a subcommittee of the State Board, of which we are both members, and Dr. Kolbe is chair. This work was highly productive and efficient, and yielded a work product which met the approval of our fellow board members and is workable for the agency. On the whole, the report represents a consensus position of the State Board of Education and Agency of Education, and was approved by vote of the board at their February meeting.

There does remain one area of where both parties differ as to the best path forward. On the whole, these areas are relatively minor, particularly compared with the broad consensus we have forged. Given the strength of the work reflected in the report, it seemed advisable to note these points of disagreement under separate cover, rather than devoting significant time and space in the body of the formal report.

We note for your consideration, the sole point of disagreement and separate recommendations below:



On page 3 of the report, the following recommendation is made:

- The **SBE** should retain its role and responsibilities to **prescribe rules of practice governing appeals and dispute resolution processes**, including those processes administered by AOE.

The State Board stands behind this recommendation as its position, however the Agency of Education does not agree, for the following reasons:

1. In the following section on Rulemaking (pages 4 and 5), both organizations jointly propose a framework where the AOE will be responsible for rulemaking activities, while the SBE will oversee the rulemaking process and ensure public input.
2. The rules of practice governing appeals and dispute resolution already exist (in Rule Series 1200). Amending these rules would be subject to the same APA governed-process, where the Agency and State Board propose the division of labor in item 1, above. These rules dictate appeals processes that are internal to AOE operations.
3. Keeping this recommendation would require the Agency to establish a substantially different process for any changes to the above rule series only, while following on the jointly agreed process for all other rules.
4. Under the consensus recommendation for rulemaking, the SBE retains approval (by vote) over any proposed-AOE process for amending appeal or dispute resolution processes, as well as the ability to structure the public input process in a way that ensures any due process concerns from the public are well heard.

Accordingly, the Agency's position is that amendments to the rules of practice governing appeals and dispute resolution processes should be handled in the same way both the State Board and the Agency agreed on for all other rules, with the Board approving the Agency's plan, and ensuring sufficient public input.

We think this item is viewed as a policy decision point for your consideration as you consider legislation to enact this restructuring. As noted above, we stand by the consensus recommendations in the report, and respectfully request your swift consideration of the recommendations therein.

Thank you for your consideration.

Sir



Daniel M. French, Ed.D.
Secretary of Education



Tammy Kolbe, Ed.D.
Member, State Board of Education
Chair, Roles and Responsibilities Subcommittee

