

State Board of Education AOE/SBE Roles and Responsibilities Subcommittee

Draft Meeting Minutes

Meeting Place: Virtual Teams Meeting/Video/Teleconference

Call in #: 1-802-552-8456, Conference ID: 464 416 858#

1 National Life Drive, Davis N532

Montpelier, VT 05620-2501

Date: December 6, 2021

Present:

State Board of Education (SBE) Subcommittee Members: Tammy Kolbe, Chair; Oliver Olsen; Lyle Jepson; Dan French

Agency of Education (AOE): Maureen Gaidys

Others: N/A

Call to Order/Amendments to the Agenda

Chair Kolbe called meeting to order at 2:30 p.m. Gaidys apologized for inadvertently leaving O'Farrell off the invitation for this meeting.

Review plan for subcommittee's work and meeting objectives

Approval of November 22, 2021 Meeting Minutes

Public to Be Heard

Chair Kolbe asked if there were any members of the public who wished to address the committee - there were none.

Working Session

Chair Kolbe suggested that the committee focus its attention on roles and responsibilities for rulemaking and asked Secretary French to present the AOE's proposal. The Secretary outlined the AOE's thinking on the issue.

The AOE believes that the SBE should not undertake rulemaking because it does not implement the rules and should not direct AOE's actions. Additionally, the Secretary feels that SBE-directed rulemaking takes significant capacity away from AOE and that this capacity should be utilized to adopt regulations that are supported by AOE after a rigorous stakeholder process. The Administrative Procedures Act is designed to ensure that agencies listen to the input of affected parties when adopting regulations. SBE should have an opportunity to comment on AOE rules prior to pre-filing with the Interagency

Committee on Administrative Rules (ICAR) to provide an additional opportunity for stakeholder engagement through SBE.

The committee discussed the AOE's proposal. Olsen suggested a concept where the Agency would be responsible for rulemaking, but would need approval from the SBE, which would retain authority to take over rulemaking if it felt that greater public oversight was warranted. Olsen highlighted problems from five years ago, when the AOE drafted controversial rules behind closed doors and then suggested an aggressive timeline for adoption that left little meaningful opportunity for public participation.

After further discussion, the committee found common ground around a conceptual idea where the AOE would be responsible for rulemaking, but the SBE would have a role to safeguard the process and ensure that the public, including relevant stakeholders, were given meaningful opportunity to participate in the drafting process. Committee members acknowledged that more work would be needed to flesh out the details.

Next steps & task assignments

For next steps, the committee agreed that the Secretary and Chair Kolbe would work on a draft document to provide more detail for the aforementioned concept. Chair Kolbe and Secretary French expect to have a draft ready within the next several weeks. In the meantime, Kolbe will work on an interim report, which will serve as a status update, to fulfil our statutory obligation. The goal is to have a draft of a full report ready for the SBE to review at its January 19, 2022 meeting.

Adjourn

The meeting adjourned at 3:50 p.m.

Minutes prepared by Oliver Olsen