

State Board of Education

Approved Meeting Minutes

Meeting Place: McFarland House and via Skype Conference Call

Address: 5 Perry Street, Penthouse Conference Room #315, Barre, VT 05641

Date: March 18, 2020

Present:

State Board Members: John Carroll, Chair; Jenna O'Farrell, Vice Chair (via phone); Peter Peltz (via phone), William Mathis (arrived at 9:19 a.m.), Oliver Olsen (via phone), Kim Gleason (via phone), Kyle Courtois (via phone), Sabina Brochu (via phone), Kathy Lavoie, Daniel French (joined via phone at 9:52 a.m. and left meeting at 9:58 a.m.)

Agency of Education (AOE): Donna Russo-Savage (via phone), Jay Ramsey (via phone), Suzanne Sprague (via phone)

Others: Chelsea Myers (via phone), Vermont Superintendents Association; Jay Nichols (via phone), Vermont Principals' Association; Tammy Kolbe (via phone), UVM; George Belcher, Attorney

Call to Order/Roll Call/Introductions/Amendments to Agenda

Chair Carroll called the meeting to order at 9:11 a.m. He asked for a roll call. Chair Carroll mentioned that Secretary French will join for a short time to provide his Secretary's Report. He added that the House Education Committee Chair, Kate Webb, has been invited to the meeting and may join. Agenda items may be moved to accommodate their participation.

Consent Agenda/Board Announcements/Student Report

Consent Agenda: Lavoie made a motion to approve the consent agenda as presented. Olsen seconded. There was no discussion. The motion passed to adopt the minutes from the February 19th meeting. This was the only item on the consent agenda.

Chair's Report

Chair Carroll postponed the Board Announcements and gave his Chair's Report. He reviewed the schedule of meetings for the remainder of the year and through June 2021. He explained how the next 3 meetings and hearings would take place. He advised that the Rule Series 1300 and Rule Series 2360 adopted by the Board at the February meeting were presented to the Interagency Committee on Administrative Rules (ICAR) on March 9th and the Administrative Procedures Act (APA) process was set in motion. The public comment period begins in April. There will be three public hearings.

Chair Carroll said the Board will conduct its retreat in August. He added that there is a request for the Board to conduct 6 hearings/briefings on the Weighting Study to be completed by December 1, 2020 with the purpose to inform the general public of the purpose of the Weighting Study and to receive public comment.

Chair Carroll said that bill S.166, which is for reforming the State Board, is moving along. There are items included in it that require updating and hopefully will be addressed in the House Education committee. The bill was tied up in the rush to adjourn by the General Assembly (GA) and no action was taken on the Senate floor. He said that both the House Education and Senate Education committees are in support of the Board's new vision and that House Government Operations Committee has noted the good faith effort put forth by the Board to address previous concerns by the GA.

Chair Carroll said bill S.46 refers the Pupil Weighting Study. He explained the bill's purpose and reemphasized the Board's potential role to hold 6 hearings/briefings on the topic and that a report will be due to the Secretary of Education with the Board's findings. The purpose of the report is to assist the Secretary in preparing a plan for its implementation. Chair Carroll asked the GA for more resources since holding the new hearings/briefings will require more Board funds as each State Board meeting costs around \$7K. Mathis asked for clarification on the request for the 6 hearings/briefings. Chair Carroll recapped and further explained. Discussion followed regarding S.46 and legislative directive.

Chair Carroll spoke about bill H.209, the School Construction Aid bill. He explained the context and the interest of the GA for supplying some sort of aid for school improvements. The GA is looking to better understand and to inventory the facility needs across the state and to determine how each facility compares against modern school construction standards. In addition, an analysis must be completed on how to pay for any improvements over a stretch of time. Chair Carroll said that the bill requires the Board to update the Capital Budgeting Formula. He said the formula is contained in the State Board's Rule Series 6000. The formula is outdated. The completion date for the updated formula is November 1, 2020. The bill directs the Chair to advise the Secretary of Education on a facility needs study and to help write the specifications for a contract for an engineering firm to assess and study all 292 Vermont school buildings. Discussion followed regarding the Board doing the work, rule going to the Agency of Education under new vision, being a directive of the GA and advising the GA that the new language of S.166 has the Agency of Education doing this work.

Secretary French joined the meeting and advised that he was participating in a Press Conference that morning and would not be unable to attend the monthly meeting. Secretary French recused himself from the Macias deliberation. COVID-19 is taking up the majority of the Agency of Education's (AOE) work. It is a rapidly evolving situation and public health emergency. The AOE's focus is providing new guidance to support the Governor's directive to supply childcare to essential personnel. A lot of progress has been made to assure that meals will be provided to students. Work is ongoing regarding labor issues and making appeals to teachers to go to work and not forcing teachers to work as well as assuring that staff be paid. The AOE continues to

work on education continuity during the 2-week closure so to maintain academic supports as best as can be and ensuring that the most vulnerable students are provided for. The focus will shift to continued student growth and achievement if the closure goes past April 6th. High schools do this well but there is uneven bandwidth across the state and not regular access for all students at home in terms of laptops. The state will need to be more inventive regarding planning for continued student growth at the elementary school level. In accordance with the Governor's directive, the AOE has dispersed its workforce. The majority of AOE staff are working remotely and technology is in place to keep operations running. Secretary French mentioned that the agenda has a request for school calendar waiver authority during this time. Chair Carroll asked if there was any adjustment to the number of days referenced in the green sheet. Secretary French said that whatever the Board deems appropriate was fine. He added that he advised superintendents to consider the two-week closure days as actual attendance and/or that a waiver for such would be granted. Schools are operating as normal as possible. Olsen suggested removing the number of days and giving Secretary French full authority. Chair Carroll said to grant waivers as the Secretary sees fit. Olsen wondered if there was any emergency rulemaking that the Board may need to undertake to help enable solutions to the current events.

Student Report: Brochu said her school is doing their best with keeping the students learning. The students will be switching to online learning only beginning next week. Her school held a blood drive ahead of the COVID-19 crisis.

Board Announcements: None

Secretary's Report

Included in Chair's Report section.

Battenkill Valley SU (BVSU) and Southwest Vermont SU (SWVSU) – potential need for progress report

Olsen said this was a follow-up discussion concerning a decision of the Board to transition the school districts of Sandgate and Arlington into the Southwest Vermont Supervisory Union (SWVSU) which would result in the dissolution of the Battenkill Valley Supervisory Union (SU). He added the action was taken separate from the Act 46 process but raised as part of it. Olsen said the timeline illustrates an issue that has continued for 10 years. He explained that the initial recommendation came from the AOE which was to have the activity completed by July 1st, 2020. The affected SUs asked for an extension which the Board granted making the new date July 1st, 2021. Although the Board authorized Arlington and Sandgate to appoint members to the SWVSU to assist for planning purposes, that may not have happened. Olsen said that the concern is that the absence of activity makes him uncomfortable and there may be a request forthcoming of another extension or some change. He added his concern is the impact to the students in the region. He feels the Board should consider reinforcing the earlier order and help ensure that things proceed at an orderly pace.

Russo-Savage said that the Board authorized the two school districts to appoint members to the SWVSU Board, but it never required them to do so. She said that the Arlington School Board wondered whether the Board was considering a statewide approach to making changes to SU boundaries and had been considering asking it to hold off on the requirement of Battenkill Valley SU becoming part of the SWVSU until the Board decides to take action regionally. Russo-Savage said that she and Secretary French had a call with the Superintendent of the Battenkill Valley SU approximately in February, along with a few of the school board members about this being a possibility. She recalled Secretary French saying that he didn't think that was a significant enough justification to postpone what had been ordered of them. Olsen said he reviewed the past meeting minutes of both SUs and there is no evidence to support that there is a plan in place to add members to the SWVSU Board. The extra year granted by the Board has not been utilized. The recent discussion with Secretary French and Russo-Savage is another indication. Olsen suggested reinforcing the original Board order from November 2018 and making it clear they must proceed against that timeline and no further extension will be granted. Discussion followed regarding other district delays, Act 46 and supervisory union consolidation, reluctance of two SU Boards to move forward with the order, district thinking the boundary change might be modified, independent authority of the Board to redraw SU boundaries and interim superintendents.

Further discussion occurred regarding a letter to be drafted to both SUs requesting of them to act on the order and that no further extensions will be granted. The Board agreed to ask Chair Carroll to send the letter on its behalf once drafted. Olsen reminded the Board to not deliberate and comment on the draft offline and to make sure that a quorum of Board members is not engaged in drafting the letter. Mathis made a motion that the Chair issue a letter, on behalf of the Board, to the two SUs that the State Board of Education is reinforcing its order and expectation and that no extension to the date will be authorized. Lavoie seconded. Roll call vote passed unanimously. Olsen will write the draft with assistance from Russo-Savage and provide the letter to the Chair.

Chair Carroll recessed for break at 10:25 a.m. The meeting reconvened at 10:37 a.m.

Opportunity for Public to be Heard

None

Chair Carroll took a roll call. Present were Brochu, Courtois, O'Farrell, Olsen, Gleason, Peltz, Lavoie, Mathis and Carroll.

Chair Carroll reviewed the work of the Board which includes completing the rulemaking process for Act 173. He said that the process will include public hearings and modification to the rules based on the public comment. The process will take 6 months. He said that there are some Board projects that need to be completed in addition to the Act 173 rules. He will be looking for Board volunteers who will be the point person for each project. This will require work in between Board meetings. Chair Carroll stated that the work is becoming overwhelming for him and is not sustainable. The projects include APA process through completion, Rule

Series 2200 revisions dictated by Act 173, Weighting Study hearings, updating Rule Series 1200 if S.166 passes and to review and evaluate the Independent School approval process.

Weighting Study

Tammy Kolbe, UVM, introduced herself and addressed the Board regarding the Weighting Study. She provided an overview of the Weighting Study and referred to the slides in her presentation. She highlighted the legislative request, differences in the cost of education, adjusting for differences in educational costs, Vermont's school funding policy, weighting impact of equalized pupil calculation on tax rates, existing weights, stakeholder perspectives on cost factors and weights in Vermont's existing formula, stakeholder perspectives on special education census block grant calculation, stakeholder perspectives on small schools grants, other considerations identified by stakeholders, analysis steps, identified cost factors, recommended weights for equalized pupil calculation, evaluation of the assumptions of the special education census block grant, summary of findings, options considered for revising special education census grant calculation and conclusions.

Discussion occurred regarding foundational weights, long-term weighted per pupil count and membership, weights applied to pupil counts and not dollars spent, other states' formulas, teachers going to higher paying districts, gaps in quality, fairness and efficiency, appropriate adjustment of weights, Act 60 and small school grants, state wide teacher contract, impact of incorrect weights and census-based funding and the block grant model.

School Construction Aid

Included in Chair's Report section.

Chair Carroll recessed for lunch at 12:12 p.m. The meeting reconvened at 1:00 p.m.

Presentation from the Parties (If necessary) – Appeal of Mario Macias; Docket No. LI 17-253

Chair Carroll asked for members to identify themselves. Present were Courtois, Peltz, Brochu, O'Farrell, Olsen, Mathis, Lavoie and Gleason. Chair Carroll introduced George Belcher who served as legal advisor and hearing officer of the case. Belcher said was acting as assigned Legal Counsel to the State Board of Education. He read a series of statements into the record, as follows: The date is March 18, 2020; The matter being considered is the appeal of Mario Macias; The Docket number is LI 17-253; The present Board members have identified themselves for the record. Belcher noted the time as 1:05 p.m. and neither party involved have appeared nor has their counsel. The matter being considered is an appeal from a hearing panel decision. Notice of the report of the subcommittee was made to the parties on February 10, 2020. Appellate Counsel, Mr. Guzman, received his notice on February 13th, 2020. The Appellees Counsel received notice on February 18th, 2020. A notice of the hearing was sent to both parties on March 9th, 2020. The notice included the location, date and time of the meeting along with the agenda.

Belcher said that neither party was present, and they did not advise that they would be present. Chair Carroll asked Lavoie to confirm with the front desk that no one was waiting to enter.

Chair Carroll outlined the next procedural step which stated that the Board will enter a deliberative session. He defined the term and read the statute. He added the session will be conducted in private and the Board will take no action other than to cease the deliberative session. Chair Carroll asked for a motion. Lavoie confirmed that that neither party nor their counsel was in the lobby. Mathis read the following motion: I move that the State Board of Education enter deliberative session to consider the Report of the Board's Review Subcommittee regarding the Appeal of Mario Macias, Docket No. LI 17-253. Olsen seconded. Roll call vote was taken. The motion passed unanimously to enter deliberative session. Olsen asked if it was appropriate for the non-voting student member to be present during the deliberative session. Belcher said there was not a problem with the non-voting student member participating and contributing to the session. He added that the vote will be taken in open session.

The Board entered deliberative session at 1:14 p.m.

The Board returned from deliberative session at 1:35 p.m. Board members present were Courtois, Gleason, Brochu, O'Farrell, Olsen, Mathis, Lavoie, Peltz and Chair Carroll.

Action on the Recommendation of the Review Subcommittee on the Appeal of Mario Macias; Docket No. LI 17-253

Belcher stated for the record that the State Board of Education returned from deliberative session. He confirmed the time as 1:35 p.m. Mathis checked that neither party nor their counsel was in the lobby. Lavoie read the following motion: I move that the Board affirm the Decision of the Hearing Panel in the matter of in re Mario Macias, Docket No. LI 17-253, the Decision of the Hearing Panel being dated February 14, 2019; and, that the Report of the Review Subcommittee, dated 02/08/2020 be adopted, including the Facts, Discussion and Conclusions of Law therein; and, that the Appeal of Mario Macias in Docket No. LI 17-253 be dismissed and the process of the Review Subcommittee, including the delegation of this matter, is ratified. Olsen seconded. Chair Carroll took a roll call vote. The motion passed unanimously.

Consideration of School Calendar Waivers and COVID-19

Chair Carroll reminded the Board of the earlier discussion with Secretary French and modification to the number of days requested in the waiver. Discussion followed regarding request coming in consultation with the Commissioner of Health, current calendar year, whether the motion is necessary, Governor's action, S.166 to move authority to the Secretary, state's action, schools delivering instruction remotely and teacher contracts and requisite number of days worked. O'Farrell made the following motion: I move that the State Board authorize the Secretary to, on its behalf, grant waivers as the Secretary sees fit for any unanticipated closures under 16 V.S.A. 1071(c) that are the result of consultation with the Secretary of Education and the Commissioner of Health or an order of the Department of Health in the 2019-2020 school year. Olsen seconded. Discussion followed regarding the flexibility with number of days, Governor's authority, allowing for quicker decision-making,

snow days and delegating the authority to the Secretary. Chair Carroll took a roll call vote. The motion passed 6-2. Yea votes - Courtois, Gleason, Lavoie, O'Farrell, Olsen, and Carroll. Nay votes - Mathis and Peltz.

Chair Carroll asked if there were any members of the public present. There were none.

State Plan for the Strengthening Career and Technical Education for the 21st Century Act (Perkins V)

Jay Ramsey, Assistant Director, Student Pathways Division and State Director for Career Technical Education (CTE), reviewed Perkins V and gave a State Plan overview. Ramsey explained what Perkins is, the strategic vision for CTE, State Plan role definitions, State Plan decision making lenses, process timeline, alignment opportunities, education and CTE systems alignment, CTE and workforce development systems alignment, State Plan priorities, strategies, local requirements, continuous improvement cycles, comprehensive needs assessment, local application criteria, accountability, focus on students, alignment across federal programs, secondary alignment across programs, State accountability, post-secondary alignment across programs, accountability process and access to funds. Discussion occurred regarding Work Keys Assessment, peer states and accountability, college and career readiness program, teachers with industry-specific credentials, funding formula and the impact on attendance, Adult CTE and access of technical education programs to high school students.

Mathis read the following motion: I move that the State Board of Education endorse the State Plan for the Strengthening Career and Technical Education for the 21st Century Act. Lavoie seconded. Discussion followed regarding spending more time on this topic, inviting Ramsey back to discuss long range future of technical education and process of final presentation of the plan to CTE centers. Chair Carroll called a roll call vote. The motion passed unanimously.

Chair Carroll said the Board was forwarded a document written by Mathis which proposed communication of the Weighting Study to the GA. He asked the Board to send comments on the document's content and the appropriateness of communicating on the topic in this way to both Mathis and to the Chair.

Chair Carroll said that he will be sending an email to all Board members which will include a summary of tasks that need leadership by Board members. He requested that each Board member advise on which task they would like to volunteer.

Adjourn

Mathis moved to adjourn. Lavoie seconded. The meeting adjourned at 3:01 p.m.

Minutes prepared by Suzanne Sprague.