

State Board of Education

Approved Meeting Minutes

Meeting Place: Virtual Teams Meeting/Video/Teleconference

Call in #: 1-802-552-8456, Conference ID: 295-558-941#

Date: April 22, 2020

Present:

State Board Members: John Carroll, Chair; Jenna O'Farrell, Vice Chair; Dan French, Peter Peltz, William Mathis, Kim Gleason, Kyle Courtois, Sabina Brochu, Kathy Lavoie.

Agency of Education (AOE): Emily Simmons, Judy Cutler, Anne Bordonaro, Suzanne Sprague, Maureen Gaidys

Others: Mark Anderson, INSPIRE Board Chair; Wanda Minoli, DMV Commissioner; Michael Smith, DMV; and Sven Fedorow, DMV.

Item A: Call to Order/Roll Call/Introductions/Amendments to Agenda

Chair Carroll called the meeting to order at 12:48 p.m. There were no amendments to the agenda.

Item B: Consent Agenda/Board Announcements/Student Report

Consent Agenda:

O'Farrell moved to approve consent agenda; Mathis seconded. There was no discussion. The Chair called a roll call vote. The motion passed with Courtois, Gleason, Lavoie, Mathis, O'Farrell, and Carroll voting in favor. The consent agenda that passed included the following: Minutes – March 18, 2020 State Board of Education (SBE) meeting.

Student Report:

Brochu shared that everything is challenging at this time and that it can be hard to work entirely online and focus when working at home. Courtois added that it is hard to be home all the time doing schoolwork; it is an odd dynamic, but that it is what needs to be dealt with for the time being.

Board Announcements:

Gleason expressed extreme gratitude for seeing education at work – in communities, with teachers, at AOE and the collective effort towards addressing guidance and equity issues. She gave a heartfelt thank you to everyone. O'Farrell echoed this and added that it is a huge lift for schools to do what they are being asked to do (childcare). She said food distribution efforts in

the NEK have been extremely responsive and gone above and beyond. Broadband has been a huge issue – and now we have data.

Item C: The INSPIRE School for Autism

Chair Carroll introduced this item by giving background. In July 2019, it was brought to the SBE's attention that INSPIRE School for Autism was having some financial difficulties. The SBE received a briefing on the situation and at the July 2019 SBE meeting they invoked a provision of statute that the SBE made a finding based on the evidence presented that the school no longer had the financial capacity required to conduct its business. This is important as the State has a legitimate fiduciary responsibility as this school receives public tuition money. The General Assembly (GA) requires the SBE to monitor the financial capacity of approved independent schools and advise when there is concern. INSPIRE presented information at the August meeting and since then INSPIRE has been very conscientious about keeping the SBE informed. INSPIRE's Board of Directors has stepped up and provided cash and there has been great cooperation from the school and the board. The SBE was last briefed in September and written updates have been received since then. Mark Anderson, board chair, was invited to address the SBE.

Mark Anderson introduced himself and thanked the Chair and the SBE and said that INSPIRE is in much better shape than they were in July. They have settled all long-term debt, no longer owe the IRS, built a budget based on anticipated low enrollment and had increases in enrollment which allowed them to pay off debt earlier than anticipated. They have hired a permanent director and other professionals and to date are in a strong position. Most school districts have continued to support INSPIRE financially through the COVID-19 crisis, INSPIRE also received financial assistance from the federal government (payment protection program) which provided a good buffer for operation into the unknown future.

Chair Carroll offered that this is a success story. INSPIRE suffered internal mismanagement issues that were not apparent to INSPIRE's Board of Directors (BOD) until many funds had already been diverted. The BOD responded swiftly and appropriately with funds and making difficult decisions. Chair Carroll commended Anderson and asked that he convey gratitude to the INSPIRE Board for bringing this school back to financial strength. Chair Carroll asked if there were questions. There were none. Chair Carroll asked for a motion and added that since the SBE had declared that INSPIRE lacked financial capacity that they have an obligation to declare that the concern of financial capacity no longer exists. Lavoie moved that *"... the State Board acknowledges the corrective actions undertaken by The I.N.S.P.I.R.E. School for Autism to address the Board's 19 July 2019 finding that "the School lacks financial capacity to meet its stated objectives" and that the School has restored fund balances and kept the Board informed of its financial situation; and that the State Board finds that The I.N.S.P.I.R.E. School for Autism no longer appears to lack the financial capacity to meet its stated objectives."* Gleason seconded. There was no further discussion and Chair Carroll called a roll call vote. The motion passed with O'Farrell, Peltz, Mathis, Lavoie, Gleason, Courtois, and Carroll voting in favor. Anderson thanked the SBE for the oversight provided and encouraged the student members to keep up the good work and wished them well.

Item D: Chair's Report

Chair Carroll said that a letter was sent out via email to the board chairs and superintendents of Battenkill Valley Supervisory Union (BVSU) and Southwest Vermont Supervisory Union (SWVTSU) notifying them of the SBE's concern and that the SBE has no intention of further extending the deadline to integrate BVSU with SWVTSU. The letter was drafted by Olsen, with assistance from Russo-Savage and it is too early to know what, if any response there might be from them. Chair Carroll said he had sent SBE members a copy of his testimony from April 21 to the House Education committee and suggested that this be discussed under Item H. He continued that this has been a difficult and confusing time for all and that there have been some frustrations. On the day that the Senate was prepared to vote in the affirmative for the bill to separate the SBE and AOE to create greater autonomy, the Senate shut itself down. He was excited to hear the discussion for this bill that was worked on so hard in January and February, but this didn't happen. Chair Carroll said it is likely that this bill, along with several other hundreds, will die this session. He worked with Gleason and Peltz on this and the plan will be to go back again next year.

Item E: Secretary's Report

Chair Carroll invited Secretary French to address the SBE. Secretary French spoke about a series of transitions navigating the COVID-19 crisis – initially with an emergency order shutting down schools and then maintaining academic progress of students. When the Governor's order changed to close schools to all in-person instruction for an extended period and perhaps until the end of the school year, the effort transitioned to Continuity of Learning (COL), which is the expectation that schools would continue to educate as if in regular, in-person instruction. COL plans are required to be submitted to AOE and districts are well in the process of doing this. The decision to maintain school calendars/April vacations was made to preserve flexibility in June as teachers are only contracted for a finite number of school days and we didn't want to work through April vacation with the goal of ending the school year early, not knowing if the public health situation might change with a chance of resurrecting in-person instruction. He spoke about entering a period of relative stability compared to the first two weeks. May 8 is the deadline for AOE to produce guidance on end of year celebrations, including graduations. AOE will be working with public health to gather data and projections and provide guidance on or before May 8.

Secretary French spoke from a policy perspective about the revenue forecast that came out identifying the significant shortfall in the Education Fund and how since then, he has been working on the financial implications the COVID-19 emergency. There is a deficit for FY20 and the AOE is working to understand the CARES Act revenues and specific guidance on how much and when these funds will be delivered. The financial context is serious. There is a significant issue relative to the financing of the public education system. The CARES Act funding is anticipated at about \$30 million and the Education Fund shortfall is estimated at \$90 million. Even if all the CARES Act monies could be applied to the Education Fund, there would still be a \$60 million gap. He continued that the AOE will be working closely with legislative

leaders and others. Financial implications of this crisis are not well understood, and we are working to raise this awareness.

There was discussion on where the \$60 million shortfall comes from, how it would be covered, that next year will be worse, analyzing the cost of the effects, spending constraints at the local level, a COL Task Force that met for the first time on April 17 and will meet throughout the summer, parsing the issue down to near-term fiscal issues (FY20) and long-term issues (FY21 and 22), energies focused on FY20, the Legislature usually addresses yield value and tax rates this time of year, and that the AOE's work will continue in partnership. Secretary French said this crisis will have a profound impact on the K-12 system and we are not sure what those impacts will be, but folks are aware of the significance of this historic moment and that the implications are of a magnitude that we have not experienced before.

There was discussion on spotlighting effective systems/structures that we might want to build from, more broadly deploying the Vermont Virtual Learning Cooperative (VTVLC), no clear patterns of good technology use at elementary levels, adding on to high-school teaching capabilities as an outcome, collectively harnessing all Vermont teachers to work collaboratively to include that all students have high-quality learning materials, building an ecosystem for Vermont teachers to collaborate and share best practices, and the need to scale these systems better.

There was discussion on guidance for prekindergarten (PK) continuity of learning, challenges with school systems taking on childcare, how social distancing affected this, economic stability policy, remote learning for PK students doesn't have much validity, focus on social and emotional learning and needs, flexibility for baseline support, and asking districts to reach out and offer support. There was additional discussion on guidelines for middle schools as this level seems to be less structured than that at the high school level, impact of this crisis, retention of learning, managing variations in budgets, fluidity of the financial situation, how to re-engage and assess the loss of learning, prudent to plan for that eventuality, differences needed in teacher preparation programs, best practice pedagogies for teaching online, communication of the significant deficit to the general public, correlation of perceptions, technology/literacy/assessment instruction, social/emotional learning and how teachers are supported to teach the most vulnerable.

Secretary French concluded by saying that the cost of this crisis is unknown; there is a temptation to use the federal money to resolve this, but that won't work for the long term. Chair Carroll asked the SBE to think about if there is a role for the SBE to play in helping to convene a conversation to look out five years and consider where we have failed and where we have succeeded and how education should look different. There is a huge variation across the state of the readiness of schools and their communities to be able to get up to speed on initiatives (PBL, census-based funding, etc.). Chair Carroll asked the SBE if they could visualize convening a day-long meeting with people who are blue sky thinkers that might help to do different and better than we are today. Secretary French said the COL Task Force is starting to surface the strategic implication in the near term and that their work will be done in August and that might surface some work that the SBE could pick up and run with.

Chair Carroll commented that there were 34 participants on the call, more than at a typical SBE meeting.

Item F: Opportunity for Public to be Heard

Chair Carroll asked for members of the public who wished to speak.

Richard Carney, Newbury, introduced himself as a full-time driver educator and traffic safety teacher at Woodstock Union High School and owner of Upper Valley Driving Academy. He is president of the Vermont Driver Traffic Safety Education Association (VDTSEA) and is sharing the unified voice of the Association's Board of Director's membership regarding the proposed waiver request pursuant to State Board Rule 2351. The VDTSEA membership unanimously opposes the proposed rule changes and questions the need for such change without input from educators. He spoke about findings contrary to that of the Department of Motor Vehicles (DMV). The VDTSEA has reached out to legislators, school administrators and parents and found no significant pressure to waive behind-the-wheel instruction requirements. Instead, they have found appreciation for their commitment to continue giving students the best driver education possible. He continued that this is not best practice and that this will result in increased crash rates and motor vehicle violations, that 10 hours of behind-the-wheel instruction is recommended, that what Vermont requires is far below the national standard, that the Drivers Education Board of Directors have collaborated on providing driver education COL plans, that emails were sent with an offer of collaboration, and his recommendation that the SBE not approve this proposal.

George Rooney – introduced himself and said he was there to support Carney and his statements and to support the driver education community. As former past president of VDTSEA, as an instructor at Middlebury High School, and as a member of the community he has a vested interest. He continued that he has been in contact with parents, legislators, and others and he does not feel the pressure to drop the six hours of behind-the-wheel instruction. Of 39 students, only 1 has asked about this and only 2 parents have inquired. He spoke about the best instruction happening in the car, said he sent emails to all members, and that waiting a few more months won't hurt. He concluded that this is not a good idea and supports the VDTSEA opinion.

Barb Brody – introduced herself as a driver and traffic safety educator for 35 years who has taught at the high school level, currently teaches at the Center for Technology in Essex, has taught at the university level and worked at the AOE as their Traffic Safety Consultant. She wholeheartedly agrees with Carney's opinion and added that members should have received her letter and should know her concerns. She said there is a better solution than having parents teach the behind-the-wheel phase of driver education. She asked the SBE to please consider denying this waiver and finding a better solution to this problem.

Jody Normandeau, Dummerston – introduced herself and said she sent Carroll an email and in hearing this conversation said she understands their frustration and would like to see something substantive in their approach to get driving instruction with an approved instructor. In her area, they have one instructor and a waiting list of students and families that cannot

afford private instruction. She said there should be a solution for those students who are in the works.

Melissa Manson, Franklin County, introduced herself as a private driver educator. She checked in with her parents and 13 of the 14 parents were adamantly opposed and preferred professional instruction over teaching their children their own bad habits. She is 100% committed to doing everything to reach the common goal of successful and safe drivers and is strongly opposed to waiving this requirement.

Waiver Request – State Board Rule 2351 - Driver Education

Chair Carroll asked who would speak from the AOE on this item. Simmons identified Rachel Smith, attorney, as the person to present this case. Smith spoke about being contacted by the DMV to work together on this waiver request. She said DMV is very concerned with the backlog of tests that will accrue and they believe that the testing requirements will serve as an adequate check to ensure that students who haven't received enough driver education will not receive a license. DMV staff is available for questions. She continued that it is the AOE's position that in this state of emergency, there are a likely number of people who will face hardship if they cannot test for their driver's license (employment, childcare, etc.) and that makes this an appropriate request. She added that AOE would like to amend the waiver to go through the end of the State of Emergency or the end of FY20 school year, whichever is longer, for administrative convenience.

Lavoie moved that pursuant to its power to waive rules under State Board Rule 1260, the State Board waives until the end of the State of Emergency, or the FY2020 school year, whichever is later, the requirement in State Board Rule 2351 that, to be approved, a driver education course must include at least 6 hours of behind-the-wheel instruction by a certified driver education instructor. Gleason seconded.

There was discussion on why it would be the later of those two dates, having maximum flexibility in the waiver, representation from the DMV, what section of rule applies, and what is at stake. Wanda Minoli, DMV Commissioner, introduced herself and Michael Smith and Sven Fedorow, from DMV. They spoke about the administrative rule for the private instructors and trying to bring the two rules together, so they are consistent and that is part of the proposal. There was discussion on the problem that we are trying to solve, hardship for students unable to get their licenses, and the backlog at the DMV. Commissioner Minoli spoke about how the State of Emergency greatly impacted exams (medical, new drivers, learner's permits, CDLs) and the result was that over 2,000 exams were cancelled. She spoke about limited capacity within the DMV, the need to be creative in addressing this capacity, that new drivers and permit exams are high volume, opportunity for private driver educators to assist in testing, and the one piece for which they cannot find an alternative for is the 6-hour, in-car, instruction rule.

There was a question about pressure from legislators. Commissioner Minoli responded that she had multiple conversations with legislators and that if she could reword the motion she would rewrite "significant pressure" but she is being asked as a commissioner for alternatives for providing testing. There was discussion on a survey of educators willing to perform road tests, reference to an April 9 letter, and lack of outreach or consultation with stakeholders. Chair

Carroll questioned if parents could provide this instruction as well as certified instructors and how there could be no educational implications as stated in the recommendation. Simmons stated that every decision that is made during this state of emergency has an educational implication and everyone is trying to use their best sense and keep the best interests of students at the forefront and that the AOE views this waiver as neutral relative to all the other static that students are experiencing now. There was discussion on how many students this would affect, that in a typical semester 1,800 students participate in driver education programs and another 600 through private driver education programs, and that no one at AOE believes that this is optimal, but this situation calls for balancing best practice with capacity. There was discussion on having data on students who pass without taking these 6 hours of instruction, costs associated with tests, equity issues, capacity, survey results, DMV proposal to certify driver educators to give the driving exam and looking at other opportunities as businesses are reopened.

There was discussion on the Senate Education committee being concerned with the public safety/liability that would result without these 6 hours, that this proposal was developed without any significant consultation of driver education instructors, and that this feels like a very top-down/expedient way to address this issue. It was suggested that item be tabled and brought back later with broader stakeholder input/consult and wider engagement.

Simmons offered that AOE's primary goal is to address the needs of that group of students who for their high school career have been planning on becoming licensed as part of their PLP and added that the waiver is for only 6 hours of in-car instruction. Gleason said she had no problem with tabling this. Courtois said the proposal feels rushed and that safety is being compromised. Mathis said there was no sense of urgency and he was still not clear on the resolution of the backlog. Peltz said he wished to hear from the students impacted by this and added that in his area and other parts of the state, this would have a very adverse effect.

Mathis moved to table the question. Gleason seconded to table to a future date with responsiveness to the areas of concern raised. Chair Carroll called a roll call vote. The motion passed with Courtois, Gleason, Lavoie, Mathis, O'Farrell, and Carroll voting in favor. Peltz voted nay and asked to explain his vote. Peltz explained that he voted against this because he is unsure of the impact of students not represented at today's discussion and he is concerned about that impact.

Item H: Act 173 Discussion/Update

Chair Carroll spoke about a joint bill with House and Senate Education committees that would address scheduling challenges with Act 173 and its roll out. Under existing law and rule, rules series 1300 and 2360 would go into effect on July 1, 2021; these are the same rules for which there will be a public hearing following this meeting at 4:00 p.m. Stakeholders have advocated that the implementation date should be pushed back a year to July 1, 2022. The SBE has been asked if they would extend the public comment period to accommodate those members of the public who would like to give comment but are too overwhelmed for various reasons related to COVID-19.

Chair Carroll has asked the House Education committee to incorporate into the bill provisions that would allow this, and they endorsed this idea so it will likely survive the legislative process. Since the bill has not yet passed, the SBE will continue with the three public hearings as scheduled: April 22, May 6 and May 20. He added that it would be nice if the Act 173 rules were implemented in synchronization with the new independent school funding rules. This was discussed in February, but it was agreed to not to hold up Act 173 implementation and it was agreed further that the independent school rules would be best implemented a year later, in 2022, simply because the independent schools would need that time to prepare. Now that the consensus has been established that the Act 173 rules will be rolled back to 2022, the independent school stakeholders want their rules rolled back to 2023. Chair Carroll questioned this in his testimony the day prior and spoke to the benefits of simultaneous implementation and added that AOE opposed that idea. He said the sentiment of the committee was to align with the AOE on that question. Finally, Chair Carroll advocated that the date for initiating independent school rulemaking should be pushed back and there was general agreement that we are not ready for rules this November. He continued that different dates were offered up and they settled on June 2021 for initiation of independent school rules. This means draft rules need to be ready by this fall.

Emily Simmons, General Counsel, clarified that the date will be June 30, 2021 for initiating rulemaking on the rules series 2200 as that is the date that Legislative Council decided on. There was discussion on testimony given by Jeff Fannon, VT-NEA, and that teachers are profoundly unprepared for this as little has been done regarding professional development (PD) to prepare the schools for changing their methods of practice. Secretary French acknowledged Fannon's point of view and its validity. He continued that this is a huge lift, bigger than Act 46 and spoke about the UVM study and that if the financial incentives are wrong, we won't be able to enable our best practices in PD. There was discussion on coordination of curriculum, systems levers and difficulty in developing a support continuum without a well-articulated curriculum.

Chair Carroll acknowledged that there was not enough time left for Secretary French to address policy coherence, so he suggested a recess at 3:28 p.m. with a plan to reconvene at 3:55 p.m. He explained that starting at 4:00 p.m. the meeting would be a public hearing and that it was not necessary, but desirable, to have a quorum for a public hearing. Simmons clarified that was correct that there would be no decisions made, deliberations, or conversations. She further explained that the SBE doesn't want to give the impression of giving favor to any one public participant over another.

Item J: Policy Coherence

This item was not discussed.

Chair Carroll called a recess at 3:32 p.m. and asked SBE members to reconvene at 3:55 p.m.

Chair Carroll reconvened at 4:03 p.m. for the Public Hearing part of the Board meeting and asked members of the public to keep their comments to 10 minutes and offered warnings of 1 or 2 minutes.

Public Hearing on Rules Series 1300 and 2360

Karen Price, Vermont Family Network (VFN), introduced herself and said she would also provide [her public comments in writing](#).

Chair Carroll clarified that Price was reviewing what she considered essential elements of the Disability Law Project's (DLP) proposal that were not incorporated into the draft rules as they currently exist.

Philip Eller, Chair Task Force on Autism, introduced himself and [gave his public comment on rule series 2360](#).

Chair Carroll confirmed that the process employed by New Hampshire is a useful model. Eller concurred.

Greg VanBuiten, Milton – introduced himself and said he would like to speak at the next public hearing. Chair Carroll advised him to be in touch with AOE to get on the schedule for that hearing.

Katie Ballard, Essex, introduced herself and expressed appreciation for the time and energy spent on this during the national crisis. She is a parent of two students with disabilities and a member of Decoding Dyslexia. On behalf of Decoding Dyslexia, she recommends extending the public comment period. For many, it has been very hard to give the appropriate time to public comment and to participate remotely with challenges such as pressing home situations, lack of reliable wifi and other issues and a whole lot of other things taking priority over this.

Chair Carroll offered that the second public hearing would be on May 6 from 4:00 – 7:00 p.m. and again on May 20 and that the SBE intends to extend the public comment period for another seven months.

Adjourn

Chair Carroll thanked the State Board members and adjourned the meeting at 7:00 p.m.

Minutes prepared by Maureen Gaidys.