

July 17, 2019

## Approved Minutes

### Present:

**State Board of Education (SBE):** Krista Huling, Chair; John Carroll, Vice Chair; Kyle Courtois; Jenna O'Farrell; William Mathis; John O'Keefe; Kimberly Gleason; and Oliver Olsen.

**Agency of Education (AOE):** Daniel French, Patrick Halladay, Emily Simmons, Judy Cutler, Donna Russo-Savage, Clare O'Shaughnessy, Ted Fisher, Maureen Gaidys.

**Others:** Chelsea Myers, VSA; Nicole Mace, VSBA; Traci Sawyers, VCSEA; Kelly Pahala, State Representative- Londonderry.

### Item A: Call to Order, Roll Call and Introductions, and Amendments to the Agenda

Chair Huling called the meeting to order at 8:56 a.m. She asked Board members to introduce themselves: Huling, Carroll, Mathis, French, O'Farrell, and Courtois. O'Keefe, Gleason and Olsen arrived after introductions. Chair Huling swore in Courtois with the oath of affirmation and allegiance. Chair Huling asked for any amendments to the agenda. There were none.

### Item B: Annual Snapshot

Chair Huling invited Patrick Halladay to address the Board. Halladay, Director of Education Quality Assurance, shared a PowerPoint presentation that addressed the Snapshot's purpose and design, qualifiers, what the Snapshot tells us, the logic of terminology, ratings of performance (performance and change), how it all comes together, and that this tool is not designed to rate schools but to give schools good data to drive their own continuous improvement. Halladay spoke about scaled scores, growth scores, the equity index, graduation rates (4 and 6 years), future indicators for college and career readiness, the schedule for development of indicators over the next 16-18 months, complementary suppression, overall trends, equity gaps, equity supports, and potential next steps.

There were questions and discussion on the creation of the Snapshot (Battelle for Kids), the effect on independent schools, access to suppressed data, individual and multiple markers, correlation between performance and staff turnover, return on investment, perception data, what can be looked for in the absence of these reports, anticipated lifetime of the Snapshot, identifying as an English Language Learner (ELL), using Free and Reduced Lunch (FRL) data, SBAC testing and long-term data, virtue in consistency, next steps to use this data, limits of this system, and gender gaps.

Chair Huling called a short break at 10:57 a.m. Chair Huling called the meeting back to order at 11:08 a.m.

### Item C: Act 173 Presentation

Chair Huling invited Judy Cutler, Legal Staff, to address the Board. Cutler asked to correct the record regarding a question from Gleason at the June meeting about the Act 173 Advisory Group (AG)

reviewing the essential early education rule revisions. She thought they had reviewed them but learned that was not the case. There were a few edits made at the last minute and she clarified that the AG did not see the essential early education rule revisions. She continued that she had spoken with the Early Education team and offered to provide some clarity that might give additional context. Cutler directed the Board to pages 77-78 (Rule 2361.2) and explained that these revisions were to provide some cohesiveness between the transition rules in Part C and Part B; they echo the rules in Part C and emphasize the transition and IEP eligibility requirements. She then directed the Board to page 81, (Rule 2361.4) and explained that these are a result of the developing PreK laws and are aligned to the PreK rules to acknowledge that children can receive early childhood special education within the universal PreK context.

Cutler discussed the Evaluation Rule that came as a directive in Act 173 that the AOE needs to provide rules around processes for reporting, monitoring and evaluation designed to... “ensure achievement of the goal under this act of enhancing the effectiveness, availability and equity of services provided to all students who require additional support in Vermont school districts and that supervisory unions are complying with IDEA.” Cutler spoke about the interpretation of that directive being that a rule needed to be created to evaluate how this is working. The rule is straightforward and says that the AOE will have a plan to evaluate once Act 173 is fully implemented, and that work is already underway.

Cutler continued to discuss the Local Education Agency Plan, which was taken from the current 2366 rule. It is an assurance that school districts sign annually assurance that states that they have a system in place and that operations are in line with state and federal obligations.

Cutler spoke about challenging decision points and said that within the AG there is consensus on some and not on others. The first point was the timing and deadline and that AG didn't have enough time to appropriately review the rules. Chair Huling spoke about being disappointed about the AG not being able to do this and the importance of having the AG advise the State Board. She spoke about a timeline for this and a joint meeting with the AG in October to present concrete recommendations. November/December would be discussions and voting on the recommendations. January/February would be taking testimony on the State Board's draft rules. March will be reflection/revision time. April will be a warned vote to initiate formal rulemaking. This is faster than what was legislated. Carroll reinforced the need for the Act 173 Advisory Group to present in October on alternative language, with concrete recommendations. Chair Huling shared that she would be attending the Act 173 AG meeting on July 24. French supported the timeline to move this work and that there is a work plan on Act 173. There was discussion on not initiating rulemaking until there was an agreed-upon draft, detailing the specific issues addressed, documenting special education costs, rules vs. guidance, that Olsen will be participating via phone in all AG meetings, and guidance being contingent on the timeline.

Cutler continued to talk about challenges with cost documentation and allowable special education expenditures and should these be addressed in rules or policy. Another area of challenge/discussion was to what extent will the Board want to take on substantive, programmatic issues (adverse effect, child find, etc.) and how the Board might want to control the scope of the work. There was discussion on the workings/deliberations of the AG, the number of members of the AG, Multi-Tiered Systems of

Support, specific language needed from the AG, if the process reflects further engagement, federal requirements and conversations with the Center for IDEA Fiscal Reporting (CIFR).

#### **Item D: Consent Agenda and Board Announcements**

Chair Huling asked for a motion. **MOTION:** Carroll moved to accept/approve the minutes from the June meeting; Gleason seconded. Mathis offered comment that oftentimes the minutes say that discussion continued, and he asked for more specifics. Chair Huling offered that the video was available for further details, if needed. **VOTE:** Chair Huling called the vote. The vote passed unanimously.

The following consent agenda item was approved:

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There were no Board announcements.

#### **Item E: Public to be Heard**

Chair Huling asked if there were any members of the public to be heard. There were none.

#### **Item F: Review of Process for Hearing Appeals**

Chair Huling invited Emily Simmons, General Counsel to address the Board. Simmons spoke about being 10 minutes ahead of schedule and that she was expecting someone at 12:00 p.m. Chair Huling offered to move ahead to the Chair's report. There were no objections.

#### **Item H: Chair's Report**

Chair Huling revisited her timeline/vision planning document titled, "Strategic Vision and Planning for September 2019- June 2020" and spoke about topics to be discussed at the September retreat and dedicating certain months to specific topics. She shared that the meeting minutes for the last year were shared with Board members and that it isn't the Agency of Education (AOE) that directs the work of the Board, but the law that directs this work. She asked members to think about what the Board does and/or is asked to do that doesn't add value and to compile these for the next meeting. There was discussion on clarifying the Board's role, review of Act 98, list of all references to the Board in Title 16 and request to resend this to the Board, and analysis from Mathis and Olsen done in January.

Chair Huling paused on the Chair's report and moved to item F.

#### **Item F: Review of Process for Hearing Appeals**

Emily Simmons, General Counsel, directed the Board to V.S.A. Title 16, Chapter 51, sections 1691-1708 and explained that this chapter takes up a lot of work of the AOE and governs the licensing process for professional educators and the enforcement of licensing standards. She spoke about a separate body, the licensing hearing panel, separate from the AOE, the Board and the Vermont Standards Board for Professional Educators. She explained the Board's discrete and important role: that once a decision is made on licensing conduct, that decision is appealable to the Board and again to the Washington Superior Court. She explained that section 1707 outlines this appeal process and that she isn't addressing any specific appeal. Simmons introduced George Belcher, attorney, who is close to finalizing a contract with the AOE to provide hearing officer services to include appeals to the Board.

Simmons shared the past process for hearing appeals. There was discussion on additional evidence only being allowed in regard to irregularities, arguments, identified Board representative reporting on the review hearing to the full Board and full Board voting on that, that the law is unclear on how many Board members are required to participate in the hearing, expectation to hear from the appellant and the AOE, section 1752, and hearing of facts being a public process with the normal exceptions for executive session.

Chair Huling said this was warned as action item and that O'Keefe had volunteered to serve; Mathis moved, and Carroll seconded. Carroll proposed to amend the motion and have three members serve and O'Keefe chair this group. There was discussion on two additional members. Carroll expressed interest in serving. Mathis withdrew his motion. **MOTION:** Mathis moved for two representatives, O'Keefe and Carroll; Gleason seconded. **VOTE:** Chair Huling called the vote. The vote passed unanimously. This is anticipated to come back to the full Board in the fall.

Chair Huling called lunch recess at 12:13 p.m. Chair Huling called the meeting back to order at 1:10 p.m.

#### **Item G: Update on Military Interstate Compact Commission**

Chair Huling asked David Young to address the Board and thanked him for his service as Commissioner. Young explained that the Military Interstate Compact Commission is also known as MiC3. He spoke about the compact being an important part of national legislation that ensures that for any military deployment that renders children accompanying, there are acts to ensure that children are not put at a disadvantage (kindergarten entrance age, sports participation, etc.) but can continue their education without significant disruption. He spoke about not having a large number of military families utilizing the compact in VT, accompanied and unaccompanied assignments, raising awareness with superintendents, that inbound or outbound deployment requires that children are not put in an disadvantageous situation, families' and guardians' rights under deployment, number of students affected in the state, inaccuracy of self-reporting, discretely tracking families and students, National Guard being a large component, upcoming two-day business meeting in October, the importance of spreading the word around the military compact, states similar to VT with comparable numbers of military families, that there were about 10 cases in the last year, continued work with the Attorney General's office, and hope to include information on the Military Compact Commission with military orders.

#### **Item H: Chair's Report**

Chair Huling returned to her Chair's report and asked for questions or comments on the timeline. She continued that the AG meeting is scheduled for July 24, 2019 and that Olsen would be attending this meeting via phone. She said there is no limit to the number of Board members participating if formal business is not conducted. Chair Huling asked that the meeting location and call-in information be forwarded to Board members. Chair Huling shared that Tammy Kolbe, UVM, has asked to speak with her regarding the weighting study and that Kolbe might be reaching out to other members as well. There was discussion on the purpose of this meeting, Kolbe being the coordinator of data for the report, highly technical aspect and context is needed, the impetus being the imbalance between rural and urban areas, the weighting study's impact on the Act 173 delay, small schools grants, rural districts making the necessary investments, and how equity and equality is defined.

Chair Huling spoke about the review visit planned to *The Compass School* and said this visit would be chaired by Carroll and include O'Keefe, Huling, Deborah Ormsbee (AOE), and Jen Ryan, Department of Financial Regulation (DFR). A preparatory meeting is scheduled for July 30 and the school visit will be August 13. Olsen asked why the review visit wouldn't wait until school was back in session; Huling countered that the concern is with financial capacity and that having school in session is not relevant to the review.

Lastly, Chair Huling spoke about a bill from NASBE dues for about \$25,000. She explained that in the past a reduced rate was negotiated. Chair Huling referenced the Board budget that was included in packets and asked if Carroll or Mathis would negotiate a reduced price. Carroll agreed to negotiate but asked what price would be agreeable to the Board. There was discussion on what the dues cover, if reduced dues would be worth it, how Carroll and Mathis have utilized their membership, that this is 20% of the remaining budget, relevance to the Board's work, NASBE's presence at last year's retreat, budget needed for legal services, voting on this at the next meeting, hope that NASBE would broaden horizons, working with high performing sister states to learn best practices, and other national conferences.

#### **Item J: Secretary's Report**

Chair Huling asked Secretary French to address the Board. French spoke about the Council of Chief State School Officers (CCSSO) and that there are some options available to Board members through this organization, specifically, three meetings a year: annual policy forum, legislative conference and summer leadership convening. French offered to share relevant upcoming conference information with the Board.

Secretary French shared a presentation on "Enhancing the Effectiveness of Student Supports through School District Systems" and said this presentation was originally developed for the VSA/VSBA before the Act 173 delay was considered and under the charge of speaking to Act 173 from the perspective of a superintendent/systems leader system to improve schools. Secretary French highlighted findings from the UVM study and the DMG report, explained Multi-Tiered Systems of Support (MTSS) and its history, and summarized context inventory. Secretary French spoke about a systems approach and current regulations that already address curriculum coordination, needs-based professional learning and development and implementation of local comprehensive assessment system. Secretary French spoke about local board governance, initiative fatigue, his theory of action, system roles and responsibilities, AOE's purpose statement, a shift to systems best practices, statewide systems, accountability of EQS, and curriculum playing a critical role in equity. There was discussion on Finland, Iceland, stress related to lack of formal systems, what can/cannot be controlled, ramping up PreK services, level of emotional disturbance in VT compared to the nation, timing and unifying, overlap between this theory and the Simplified School District model, unlocking the expertise of educators, mergers exhausting capacity, role of school boards in advancing governance, lack of measuring board effectiveness, lack of oversight of school boards, maintaining meaningful involvement of the public, uncontested school board elections, school board turnover and this being absent in the report card. There was further discussion on the most central tasks to accomplish in education, delivering on what was already established, broad demographic challenges, and bringing coherence to complex policy.

Chair Huling called a short recess at 3:00 p.m. Chair Huling called the meeting back to order at 3:15 p.m.

#### **Item K: Strategic Vision Work**

Chair Huling introduced this topic by saying that at the last meeting there were several areas identified: equity, achievement, student wellness and a sustainable system. She referenced the PreK Final legislative report and suggested using this and examining it in respect to the identified areas and to inform decisions that will be made at the fall retreat. Chair Huling commented on having information broken out by county, which is difficult and the need to look at options and how they vary geographically. She questioned if three-, four- and five-year olds are included and if the state pays two or three years of PreK. There was discussion on the point of contention being around five-year-olds, request to change statute that didn't happen, guidance, the difference and conflict in definitions of "PreK" and "PreK child," that clarity is needed for guidance, data needed to inform changes, barriers to those who don't utilize PreK, that the report was commissioned when data was not well organized, historically marginalized participation, efficiency of having two agencies involved in this work, need for PreK options close to home community, Chittenden county as an exception, re-imagining the use of our facilities and considering this alongside economic development, thinking systemically, school construction, providers struggling in the regulatory environment, pursuing regional solutions, breaking down silos, cross-agency collaboration and integration, silos in the legislature, and advocating for a vision that will work. She asked that the Board to think about how to approach the areas identified: equity, achievement, student wellness and a sustainable system and to use the information in these reports to formulate further discussions.

#### **Item L: The I.N.S.P.i.R.E. School**

Chair Huling invited Emily Simmons to introduce this topic. She referenced a memo sent to Board members that addresses the statute and financial reporting triggers that might warrant review or discussion by the Board. She spoke about a confidential licensing investigation in October 2018 that raised some financial concerns and that it was determined that the Board should be advised, but that due to multiple sensitive issues under consideration, there was a delay in notifying the Board. She referenced the relevant issues of concern outlined in her memo. There were questions on public funding and enrollment. Simmons deferred these questions to *The I.N.S.P.i.R.E. School* representatives.

Chair Huling asked representatives of *The I.N.S.P.i.R.E. School* to introduce themselves and address the Board. Craig White, school founder and co-chair, Michael Bandler, CPA, introduced themselves. Bandler spoke about \$1.4 million billed for the last eleven months, the majority not from Vermont, but New Hampshire. Bandler estimated less than 25% coming from Vermont. Olsen asked for a general overview. White explained that the school was in its 12<sup>th</sup> year and started with 3 students. In this last year, there have been challenges - a business manager who handled finances and an executive director who handled academics. Neither are still employed; the business manager is being investigated for criminal charges and the executive director is relocating. Dr. Ray Stevens will be interim executive director as of July 21, 2019. He continued that the board is comprised of five members, who have collectively contributed \$100,000 in the last several months. Bandler said all employees have been paid, employee benefits have been paid, and insurance is current and reinstated. Bandler estimated approximate misappropriations of about \$25K and explained that financial statements provided to the board were inaccurate and spending decisions were made and money committed based on gross misinformation. The problem was twofold: financial decisions were

based on bad information and financial controls were weak/nonexistent. There was discussion on Bandler's licensure (VT and NY), executive director transition, recouping monies from auditing firm, the nature of the services of the accounting firm in question, and delinquencies of filing 990s.

Chair Huling outlined the process for moving forward, up to and including a review team visit. She asked if there was a motion to support or deny financial well-being of this entity. **MOTION:** Carroll moved that the Board determines that *The I.N.S.P.i.R.E. School* lacks financial capacity to meet its state objectives; Olsen seconded. Carroll explained the next steps in the process and said that good information was provided and asked for affirmation in writing. There was discussion on reasonable doubts, positive changes made, thorough explanations, coincidence of the business manager termination and executive director resignation and impacts on program components. **VOTE:** Chair Huling called the vote. The vote passed unanimously.

There was discussion on communicating what is needed from *The I.N.S.P.i.R.E. School*, that Simmons would communicate with the school's legal staff, and that financial capacity does not mean money. Chair Huling thanked the school's representatives for their information.

Chair Huling asked for agenda items for the next meeting: NASBE, *The I.N.S.P.i.R.E. School*, and the Annual Board Retreat. Huling suggested PreK. French suggested a presentation from the AOE data team, but said he won't be at the August meeting, so suggested saving that for the September retreat. The Compass School was suggested. There was discussion on concerns with higher education. Chair Huling reminded members to review agendas and Act 98 and compile a list of proposed changes to be determined prior to next legislative session. O'Keefe suggested school safety.

#### **Adjourn**

Chair Huling asked for a motion to adjourn. **MOTION:** Courtois moved to adjourn; Gleason seconded. **VOTE:** The vote was unanimous. The meeting adjourned at 4:49 p.m.

Minutes recorded and prepared by Maureen Gaidys.

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