

## State Board of Education

### Draft Meeting Minutes

**Meeting Place: Virtual Teams Meeting/Video/Teleconference**

**Call in #: 1-802-552-8456, Conference ID: 580 055 130#**

**Date: May 19, 2021**

#### **Present:**

**State Board Members (SBE):** John Carroll, Chair; Jennifer Samuelson, Vice-Chair; Kim Gleason; Sabina Brochu; Jenna O'Farrell, Oliver Olsen; Angelita Peña; Tom Lovett; Lyle Jepson; and Dan French.

**Agency of Education (AOE):** Emily Simmons, Cassandra Ryan, Donna Russo-Savage, Judy Cutler, Maureen Gaidys.

**Others:** Mill Moore; Sean-Marie Oller; Peter Burrows; Jessica Westclark; Peter Lynch; F. Rendol Barlow; Chris Leopold; Alison Joseph Dickenson; Don C.; Joanna Doria; Ben Marks; John Wetzell; Mark Oettinger; Lynn Morgan; Sean Toohey; Molly Witters; Cheryl Charles; Hardy Merrill; Barry and Warren King; Jack Bryar; Chris Pratt.

#### **Item A: Call to Order/Roll Call/Amendments to the Agenda**

Chair Carroll called the meeting to order at 8:30 a.m. and took roll call. Chair Carroll advised on an amendment to the agenda. Item M was postponed in its entirety to occur before the end of May. A Doodle poll will be distributed soon to SBE members, once dates are cleared with the Secretary, Chair, and attorneys. He asked for a quick response on the poll so that the meeting could be scheduled before the end of May. It will be a public meeting.

#### **Item B: Consent Agenda**

Gleason moved to approve the consent agenda; Lovett seconded. The vote passed unanimously. The consent agenda consisted of the meeting minutes from the April 21, 2021 State Board meeting.

#### **Item C: Board Announcements**

Gleason shared that the Vermont State College (VSC) System and Vermont Student Assistance Corporation (VSAC) were teaming up to [provide one tuition-free college class](#) to the graduates of the classes of 2020 and 2021.

#### **Item D: Student Report – Student Survey Results**

Brochu shared the results of the student survey. She gave background/general information on the survey then shared the [Student Survey Presentation](#). The presentation showed type of

instruction (remote, in-person, hybrid), average number hours of sleep each night, time spent outside the house, access to a trusted adult, access to a trusted peer, stress/nervousness levels, concentration difficulties, recreational screen time, academic/work-related screen time, feeling not in control of your situation, loss of interest/pleasure in doing things, worry about self and/or loved ones getting sick, and various coping mechanisms used to deal with COVID-19 impacts.

There was discussion on assessing the differences between students who participated in the survey and those who didn't, how the information will be used (longitudinally), mental health resources available to students, presenting the data to the Vermont Principals' Association, reality of screen time, building better school schedules, suggestions for improvements besides increasing mental health counselors, mental health impacts of fully remote students, fully remote learning being advantageous to some students, and the lack of accountability associated with remote learning.

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

Chair Carroll reminded members of the public to limit comments to two minutes and to only address items on the agenda, and not to comment on any topic that is or might come before the SBE in its quasi-judicial capacity.

John Pelletier, resident, Lamoille South Supervisory Union, introduced himself. He said it had been a year since this issue was brought forward. There has been a lack of meaningful student performance data since June 2019, and this defies common sense. He thought this was resolved with a new tool as communicated in a memo from the Secretary, but data suppression is still not fixed and the timeline for correction could be years. There has been no meaningful public data since the 2000 Smarter Balanced Assessment Consortium (SBAC) data, and he has no idea of how his schools are performing or how much educational harm has occurred in the schools due to the pandemic. The Every Student Succeeds Act (ESSA) state plan was never approved by the SBE, Governor, or Legislature. This is not a policy coherence issue but a compliance issue.

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

Secretary French started with the COVID-19 response. He spoke about the improving conditions, a lot of effort towards vaccinating students aged 12 and older, new guidance on masking received from the Centers for Disease Control (CDC), and continued use of school guidance for masking as much of the student population was still unvaccinated. Schools are very involved in summer planning and [Summer Matters](#) is a large initiative to expand access to summer programming. The Legislature has been busy focusing on how to organize the federal dollars for emergency response in education in the next several years. Those negotiations are going well, and the Legislature is winding down this week.

There was discussion on the work of the Legislature and Chair Carroll acknowledged Secretary French for the time and attention that he has given to Legislature during these challenging times. Secretary French said we are fortunate to have such a supportive Legislature who prioritizes education and has been willing to work through some very complex issues. There was further discussion on good communication versus using committees of conference,

harmonious work, school-based student vaccination clinics, and communication on parental consent/other resources for student vaccinations.

## **Item H: State Report Card and Data Suppression**

Secretary French spoke about a [memo from 2019](#) and the [recent memo that he provided to SBE members on data suppression](#). He spoke about agreeing with some of Pelletier's comments and building out infrastructure that can be better controlled (Vermont Education Dashboard). He explained that fixing the Report Card is a function of the ESSA state plan and since the Report Card is approved by the U.S. Department of Education (US ED), that will require changes to the ESSA state plan. Stakeholder engagement should be solicited when the ESSA state plan is revised and the SBE should have a direct vote on the state plan. There was no SBAC administered in 2020 and we have received a waiver for the accountability provision for this year, so there are two years of no accountability data. Lastly, we are required to go out to bid for a new testing vendor and have solicited bids; this is another piece of decision making that we are working on.

There was discussion on having a more holistic view, prioritizing elements of the data model under ESSA, school climate collection requiring a whole new survey, defining data suppression, history of No Child Left Behind (NCLB), shifting accountability from the school level to the supervisory union/district level, unintended consequences of the ESSA state plan and Report Card, perennial issue of small "n" sizes, control of data in the Vermont Dashboard versus the Report Card, value of the school climate survey, SBAC data is the least impactful data as it comes out too late, needing more meaningful data at the school level, design of suppression logic, lessons learned to apply going forward with contract structure and project management, AOE's ability to modify business logic that drives suppression, impact of the creation of the Agency of Digital Services (ADS) and reorganization of AOE's Data Division, Secretary French's initial skepticism of the Report Card, issues with design criteria and needing control of the entire system, extensive resources needed to replace the Report Card, school climate data is critical, need for school-specific data, timeline for ESSA state plan, SBAC administration (online), schools' immediate access to SBAC results, need to look at regulation and accountability this fall, AOE could have timeline for ESSA state plan post-pandemic (by September), how Integrated Field Reviews (IFRs) intersect with this, impact of political volatility on assessments, state-level partnership with MetaMetrics (Quantile and Lexile scores), assessment technology as a key variable, testing and lack thereof for the assessment system, delivering a simpler data model, differences between the Vermont Dashboard and the Snapshot, visualization of data on the AOE's website, and elimination of legacy data products.

Chair Carroll called a recess at 10:16 a.m. and re-convened at 10:30 a.m.

## **Item I: SBE Rules 2240-Overview of approval process for post-secondary institutions**

Cassandra Ryan, Director of Regulatory Compliance and Risk Management, introduced herself and shared her presentation titled, [State Board of Education Rule 2243.3, Renewal of Certification](#). She spoke about types of post-secondary approvals, credit bearing review, degree granting authority, approval term, renewals for out-of-state post-secondary institutions,

renewals for post-secondary schools chartered in Vermont, complications of renewal accreditation requirement, Vermont Higher Education Council (VHEC), possible revisions to improve the accreditation process, and proposed amendments to the rule.

There was discussion on differences in renewal for in-state and out of state post-secondary schools, process for VHEC, support for the revisions and proposed amendment, accreditation specified by New England Commission of Higher Education (NECHE), background on why two schools (Center for Cartoon Studies and New England Baptist College) were grandfathered, sustainability and duplication of programs as part of the application, suggestion that the SBE look at list of accrediting agencies and set a rubric to evaluate them, and the rulemaking process related to Rules Series 2200, including 2240.

### **Item J: New England Culinary Institute (NECI)**

Ryan introduced this topic and explained the process that ensues when a post-secondary institution closes. There was a suggestion that the domain of the website be redirected to the new records custodian. *Jepson moved that the State Board of Education approves The North Coast College (NCC) as the designated entity pursuant to 16 V.S.A. § 175, to act as the permanent repository for NECI's student academic records.* Samuelson seconded the motion. There was discussion on the benefit to NCC to take on these records. A roll call vote was called. The vote passed 8:0. Yeas: Gleason, Jepson, O'Farrell, Olsen, Samuelson, Lovett, Brochu, Carroll.

### **Item K: SBE Rules 2220 Committee Update**

Olsen shared a presentation on his committee's work that included the high-level direction of this effort, timeline, standards for recognition of accrediting agencies, and ideas for potential overlay regulations.

There was discussion on statutory changes needed, impact on AOE's workload, costs for third party accreditation, quality of New England Association of Schools and Colleges, Inc. (NEASC) approval/review, recent addition of appendix to NEASC's approval checklist, and assurances that the oversight of educational and residential components are linked.

### **Item L: Vote to adopt PROPOSED INTEGRATED ACT 173 and RELATED REVISIONS of SBE RULE 2220 for APA Rulemaking**

Chair Carroll turned meeting facilitation over to Samuelson, who gave some background information and asked Simmons to address the SBE. Simmons outlined substantial changes or items of special interest: definition section and new term of "therapeutic independent schools," page 10 - procedure for enrolling publicly funded students in approved independent schools, page 16 - all new language on rate-setting and page 8 - additional language for programs that operate a residential component, and conforming changes that start on page 18 (renumbering, reorganization and replacing "Commissioner" with "Secretary").

*Chair Samuelson asked for a motion that the SBE accept the changes to Rules Series 2200 that have been recommended to it by the various Act 173 subcommittees as presented today and adopt the proposed revisions of SBE rules series 2200.* Olsen moved; Lovett seconded the motion. A roll call vote was

called. The vote passed 8:0. Yeas: Olsen, Jepson, Brochu, Gleason, Carroll, O'Farrell, Lovett, Samuelson.

Chair Samuelson explained that the next step was the timeline and she explained that, although the proposed revisions were accepted and could be immediately filed with ICAR, doing so would result in most public comment occurring over the summer. Instead, Chair Samuelson thought that it would be better to defer commencing the formal APA rulemaking process until after the Board's meeting in June. Doing so would remain compliant with the statutory deadline of June 30, 2021 but would push out the timing for public comment until late August - early October. Chair Samuelson felt that this timeline would better accommodate the schedules of those who might wish to make public comment but who might not be available over the summer. *Chair Samuelson entertained a motion to direct the Chair to initiate formal APA rulemaking process for the Board's proposed revisions of rules series 2200 before the statutory deadline of June 30, 2021.* Olsen moved; Gleason seconded. A roll call vote was called. The vote passed 8:0. Yeas: O'Farrell, Carroll, Brochu, Lovett, Gleason, Olsen, Jepson, Samuelson.

Vice Chair Samuelson returned the gavel to Chair Carroll. Chair Carroll thanked all the people involved with getting this rule revision to this point. He explained again that item M would not be discussed today, as stated at the start of the meeting. Chair Carroll said the meeting will resume at 1:15 p.m. with item N. Lovett suggested moving to item Q since they were ahead of schedule. Chair Carroll concurred.

### **Item Q: Chair's Report, SBE Agenda and Workplan**

Chair Carroll spoke about the broad scope of the SBE's duties and responsibilities: implement any directives or education initiatives of the General Assembly (GA), offer analysis and/or recommendations to the GA for legislative reforms concerning education, rulemaking, convening discussion on important topics and trends, and adjudicating the rights and interest of Vermonters who wish to appeal decisions of local school boards or the Secretary of Education.

Chair Carroll spoke about three bills that are close to passage:

- 1) H.426, an act relating to addressing the needs and conditions of public-school facilities in the State. This is on the Senate calendar for action. There are two sections in this bill that require attention of the SBE in the coming months. Section 3(a) directs the SBE Chair to advise the Secretary on school construction standards and section 3(b) directs the SBE to update the capital outlay formula and provides for technical consultation with a report due January 15, 2023.
- 2) Another bill almost ready for passage is S.13, an act relating to pupil weighting factors report, which passed the House and will likely be on the Senate's calendar for May 20. Section 2 creates a task force for implementation of the pupil weighting factors report that must be convened by Secretary French by August 1, 2021 and complete a report by January 15, 2022.
- 3) S.115, an act relating to making miscellaneous changes in education laws, is an important bill. Section 12 changes the date the SBE must adopt ethnic and social equity standards from June to September. Section 8 addresses the roles and responsibilities of the SBE and AOE, with recommendations due to the GA by December 15, 2021 on the re-assignment of roles and

responsibilities. Section 20 updates and narrows the powers and duties of the SBE; it takes the first two pages of S.166 and incorporates them into S.115 and eliminates the language used to justify the SBE's over-reach (establish policy). It further directs the SBE to focus on a strategic vision, to not review the AOE's budget, execute special assignments, specifies that rules must be within the limitations of legislative intent and section 19 directs the Governor to broaden the diversity of the SBE to include and consider gender, race, and ethnicity.

Chair Carroll announced that he will retire from the SBE at the end of June 2021 and had advised the Governor of his intent. He said he valued working with this board and so many other good people. The main reason was that he felt he had accomplished the most important things he set out to do – saving the SBE from itself and re-establishing a positive and forward-looking relationship with the GA. He said the GA has renewed confidence in the SBE and that speaks strongly to the quality and integrity of this board. He said the main driver of his decision was that he wanted to get on with his life and this work took a lot of time away from his family. He said there is a lot of talent on this board, and he felt he is leaving behind a strong, healthy, talented, diverse group of dedicated men and women. He intends to preside over the special meeting regarding Kurn Hattin and part of the June meeting. He hopes that by the June meeting, the SBE will decide on a process for transitioning leadership, to be completed by the June 16, 2021 meeting.

Chair Carroll called lunch recess at 12:18 p.m. and reconvened at 1:17 p.m.

### **Item M: Kurn Hattin – Secretary's Recommendation**

Not addressed at this meeting.

### **Item N: Windham Northeast Union Elementary School District – continuation of governance structure per 16 V.S.A. § 721a(c)**

Jack Bryar, Grafton, Windham Northeast Union Elementary School District Board Chair, introduced himself. He represented the communities affected by the decision of governance and said it is in the best interest of the state, students, and members for this union to continue to exist. It is consistent with the goals of Act 46 and with union school statutes, works efficiently, district does a good job, together they are more stable and have more predictable taxes, part of a stable supervisory union and have one of the better high schools in the state. They committed to unification years ago (2019) and tried to connect Athens and Grafton with Westminster, but the geographic realities made that difficult and they have effectively been operating separately in all but name and there is no real negative impact on educational quality. Academic achievement is on par with the state, despite being rural and poor (~ 60% of students eligible for free-and-reduced lunch). All office functions and transportation have been merged, are proof that small schools work, entire town is the campus, parental confidence is strong, have studied finances for existing as two-town district and concluded that there would be no adverse impact and stability would be ensured. In summary, there is no interest in the community to separate, without question they do not want to destabilize, the ask is that the idea of dissolution be set aside until such time as this petition is brought before the SBE and allow them to proceed as a two-town district until there is evidence that they are failing. Bryar humbly asked approval to continue as a two-town district.

Chair Carroll clarified that this is about a union elementary school district, not to be confused with a supervisory union.

Olsen moved that pursuant to 16 V.S.A. § 721a(c), the State Board of Education:

1. Finds that it is in the best interests of the State, the students, and the members remaining in the union district for the Windham Northeast Union Elementary School District to continue to exist, and
2. Declares that the Windham Northeast Union Elementary School District shall continue to exist despite the withdrawal of Westminster as a member.

There was discussion on shared resources and collaboration. A roll call vote was called. The vote passed 8:0. Yeas: Samuelson, Brochu, Lovett, Gleason, Jepson, O'Farrell, Olsen, Carroll.

### **Item 0: Ripton – requested withdrawal from Addison Central School District per 16 V.S.A. § 724(c)**

Chair Carroll stated that the primary question before the SBE is what would happen if the Ripton school was unable to open in compliance with state law or if it had to close for some reason, where would those students attend school and secondarily, the long-term sustainability of a small district reliant on tuitioning students. Molly Witters, Ripton representative, introduced herself and thanked the SBE. She spoke about the [letter sent to the SBE that confirms capacity](#), deep community support around a vital and successful elementary school, its sound structure and dedicated staff, that it is an essential structure in the community, and the town's hope that the SBE will recognize and support the process in which they are engaged.

There was acknowledgement that Ripton provided excellent information. Olsen made the following motion: That the State Board of Education:

1. Finds that if it reconstitutes the Ripton School District for prekindergarten through grade 12 effective on July 1, 2022, the students living in Ripton “will attend a school that is in compliance with the rules adopted by the State Board pertaining to educational programs” in the 2022-2023 academic year;
2. Approves the request of the Ripton voters to withdraw from the Addison Central School District pursuant to 16 V.S.A. § 724(c);
3. Declares that the withdrawal of Ripton from the Addison Central School District shall be effective as of July 1, 2022; and
4. Declares: a) That the Ripton School District is reconstituted as a prekindergarten through grade 12 school district; b) That the Ripton School District shall assume sole responsibility for the education of its resident students in prekindergarten through grade 12 on July 1, 2022 and that, until such time, the Addison Central School District shall continue to be responsible for the education of all students residing in Ripton; c) Between May 19, 2021 and July 1, 2022, the Ripton School District shall exist solely for the purpose of meeting each of the conditions outlined below and transitioning to full operations; and d) The Ripton School District shall not be entitled to administrative or other services from the Addison Central Supervisory District until such time as the State Board makes a determination of supervisory union boundaries.

Provided, however, that the approval, the declarations, and the effective dates of July 1, 2022 in this motion are conditioned on completion of each of the following on or before September 8, 2021 in a manner satisfactory to the State Board: i. Election of School Board Members. The Secretary of State calls a special election at which the Ripton School District voters elect school board members pursuant to 16 V.S.A. §

424(c). ii. *Negotiation of Financial Agreement.* The Ripton School Board and the Addison Central School Board negotiate and finalize the proposed financial details of withdrawal pursuant to 16 V.S.A. § 724(c), which proposal is presented to the voters residing in the non-withdrawing towns of the Addison Central School District for approval. iii. *Approval of Financial Agreement.* The voters residing in each non-withdrawing town within the Addison Central School District vote to approve the negotiated financial arrangements pursuant to 16 V.S.A. § 724(c). iv. *Written Report to State Board of Education.* The Ripton School Board notifies the State Board in writing no later than September 8, 2021 of the results of the activity in subdivisions (ii) and (iii) above. v. *Attendance at State Board of Education Meeting.* Members or representatives of the Ripton School Board and the Addison Central School Board appear before the State Board at its regularly scheduled meeting on September 15, 2021 to answer questions regarding the activity in subdivisions (ii) and (iii) above, recognizing that the results of the subdivision (iii) vote may not be final.

Lovett seconded. Olsen went on record to caution to the Ripton representatives on a predicted dynamic that will play out in the community. Due to the vagaries of the education financing system, there are issues with the funding formula that are rendered in a way that is not kind to communities that tuition students. He advised that Ripton should expect significant fluctuations in per pupil spending and tax rates. The dynamic of operating at some grades will pose a significant threat to the operation of a public school. It will be a challenge. There was further discussion on upcoming student enrollments and sustainability, assurance of nearby schools taking students, historical ability of sustainability, effective date of withdrawal, transitional period not contemplated in statute, difficulties in predicting enrollment, not losing sight of the secondary level, and thinking outside the box.

Samuelson moved to call the question. A roll call vote was called. The vote passed 6:1. Yeas: Lovett, Brochu, Gleason, Samuelson, Olsen, O'Farrell. Nays: Lovett. The motion passed; debate ceased. A roll call vote was called for the motion. The motion passed 8:0. Yeas: Jepson, Samuelson, Lovett, Brochu, Olsen, Gleason, O'Farrell, Carroll.

### **Item P: Addison Central School District (ACSD)- continuation of governance structure per 16 V.S.A. § 724(c)**

Chair Carroll introduced this item and added that the question before the SBE is shall that district remain similar, the same or be changed in some way.

Peter Burrows, ACSD superintendent, introduced himself. He shared a presentation titled, "[The Road Ahead](#)" that covered 16 V.S.A. § 724(c), the composition of ACSD, Act 46 requirements, approval by SBE (per 16 V.S.A. 706(c)), ACSD history, accomplishments, and what lies ahead.

*Olsen moved that pursuant to 16 V.S.A. § 724(c) the State Board of Education:*

- 1. Finds that "it is in the best interests of the State, the students, and the school districts remaining in the unified union school district that the Addison Central School District continue to exist," and*
- 2. Declares that "the Addison Central School District shall continue to exist despite the withdrawal of Ripton as a member."*

Gleason seconded. There was discussion on public comment from smaller towns, that current voting structure ignores voices of smaller communities, and lessons learned from this process.



Chris Leopold, legal counsel for ACSD, introduced himself. He explained that under the equal protection clause, ACSD and its state counterparts had several options on how to compose their board of school directors (traditional proportional representation, hybrid model with allocated representation voted on by all voters, and weighted voting) and that ACSD chose the current model (hybrid), and the board will revisit this with new 2020 census data when it is released.

Burrows spoke about challenges to his community not being unique. He discussed spending over the excess spending threshold, cutting people and programs to stay below the threshold, a greater community conversation around sustainability, and being proactive. There was discussion on assurances from underlying towns that they want to remain as is, that public notice of this meeting and topic went out to all towns, who should be heard from on this topic, statute is vague and cites "relevant parties," SBE authority, mechanism for individual town voice exists (petitioned vote) and setting precedent.

Burrows summarized that the ACSD board has seen the impact of being a single district and fully supports continuing so and has stated such.

A roll call vote was called. The vote passed 8:0. Yeas: Brochu, Lovett, Gleason, Olsen, O'Farrell, Jepson, Samuelson, Carroll.

Chair Carroll spoke about needing to address the question of to which supervisory union or union school district shall Ripton be assigned. This would not be decided today but he wanted concurrence via a motion that gives notice to the parties that the SBE will consider this question.

*Olsen moved that the State Board of Education:*

- 1. Notifies all interested parties of its intent "to review on its own initiative" supervisory boundaries in connection with the assignment of the Ripton School District to a supervisory union pursuant to 16 V.S.A. § 261(a); and*
- 2. Invites the Ripton School Board, when elected, to discuss potential future supervisory union boundaries with the Addison Central School Board and the board of one or more neighboring supervisory unions as appropriate and to develop a proposal to present to the State Board regarding the supervisory union to which the Ripton School District should be assigned. a. Members or representatives of the Ripton School Board may appear before the State Board at its regularly scheduled meeting on September 15, 2021 to make proposals and answer questions regarding assignment of the Ripton School District. b. Members or representatives of the board of one or more other supervisory unions and supervisory districts may appear before the State Board at its regularly scheduled meeting on September 15, 2021 to present written or oral testimony, or both, regarding potential supervisory union boundaries.*

Samuelson seconded the motion. Chair Carroll reminded the SBE that it has authority over reviewing/redefining supervisory union boundaries. There was discussion on supervisory unions not being efficient, forcing a supervisory union structure on a unified union school district, consideration of consolidating some supervisory unions, hearing from local communities on potential solutions, and opting out of unified districts and suggestions for legislative change addressing the SBE concerns related to this.

A roll call vote was called. The vote passed 8:0. Yeas: Lovett, O'Farrell, Olsen, Brochu, Samuelson, Jepson, Gleason, Carroll.

## **Adjourn**

Gleason moved to adjourn; Olsen seconded. Chair Carroll called the vote. The vote passed and the meeting adjourned at 2:55 p.m.

Minutes prepared by Maureen Gaidys