

State Board of Education

Draft Meeting Minutes

VIRTUAL Teams Meeting/Video/Teleconference

Call in #: 1-802-828-7667, Conference ID: 786 337 205#

1 National Life Drive, Davis 5

Montpelier, VT 05602-2501

Date: March 16, 2022

Present:

State Board Members (SBE): Oliver Olsen, Chair; Jennifer Samuelson, Vice-Chair; Patrick Brown; Tom Lovett; Jenna O'Farrell; Tammy Kolbe; Lyle Jepson; Kim Gleason; Gabrielle Lucci; Angelita Peña; and Dan French.

Agency of Education (AOE): Emily Simmons, Donna Russo-Savage, Wendy Geller, Amanda Gorham, Maureen Gaidys.

Others: Marcy Webster, Paul Forlenza, Erica Loomis, Richard Bland, Jim Brochhausen, Alan Ouellette, Tif Donza, Leigh Pelletier, Charles Safford, and Nick Donza.

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

Chair Olsen called the meeting to order at 8:02 a.m. and roll call was taken. There were no amendments to the agenda.

Item B: Public to be Heard

Paul Forlenza, Lincoln Selectboard, and liaison to Safe Community Schools group addressed the SBE and said Lincoln voted in August by 70% to withdraw and other towns also voted on March 1 by about 70% to withdraw. He wanted to confirm that election certification was received and if the schedule allows to invite them to the April SBE meeting. Chair Olsen explained that the flow of information is to the Secretary and then to the SBE. He noted that there is a 30-day wait period where citizens have the right to petition a revote and agreed that April would be a good time to begin the discussion. He also said there was legislation under active consideration in the General Assembly; the proposed legislation will provide much needed clarity and includes a specific provision that would apply to the circumstances of Lincoln.

Amy Hornblas, health educator in Vermont, spoke about the relief of removing masks, and the benefits of having fresh air exchange and not having moist fabric on your skin for hours on end. She expressed concern about the ineffective use of masks and residual effects that can be damaging to students. She wants to see a full assessment of what was used across schools for mitigation and a

measurement of the effectiveness and costs of these mitigation efforts. She will be submitting a Freedom of Information Act (FOIA) request to Secretary French today about all data collections being used or planned to be used and what type of information will be collected.

Item C: Review & Approve February 16, 2022 and March 9, 2022 Meeting Minutes

Samuelson moved to approve both sets of meeting minutes. Brown seconded. Gleason noted that her comments on rules being inconsistent with out of state tuition were shortened and wanted to go on record that keeping to the narrow lane of our role in proposed legislation, the SBE should have a conversation about any concerns or seek legal opinion if appropriate about proposed legislation and the SBE's role. Chair Olsen called the vote. The motion passed unanimously.

Item D: Board Announcements

Vice Chair Samuelson advised that Rule 7000 series became final on February 25, 2022. The paperwork for amendments to Rule 2200 series was completed March 15, 2022 and Simmons submitted this to the Secretary of State and Legislative Committee on Administrative Rules (LCAR). The hearing on the amendment to the Rule 2200 series should be coming up soon.

Item E: Student Report

Peña spoke about the positivity around not having to wear masks and the respectful culture around those who are still choosing to wear masks. She addressed students' mental health and said this is still a major concern and there are a lot of changes that could be made that have not been considered. A lot of mental health goes undiagnosed and that needs to be better understood. She spoke of European schools that are specialized and have shorter school days.

Lucci spoke about her Senate confirmation and needing to be able to think on her feet and said the Senate Education committee members were very nice to her. She also spoke about masks coming off this week and said she is nervous about it and will continue to wear one. She said most teachers and administrators are still wearing masks. Students and teachers seem happy to be making this step toward progress. Chair Olsen said Senator Campion praised her for her presentation to the committee.

There was discussion on mental health in schools, limited therapists/mental health professionals available, and the definition of excellence in schools.

Item F: Update on Chapter 11 – Gleason and Russo-Savage

Chair Olsen introduced this topic which has turned into bill, [H.727](#). Gleason spoke about most of the bill being technical and not controversial. There is a piece outstanding regarding the contractual relationship with educators when there is a withdrawal. Russo-Savage spoke about the provisions that would apply to the three ongoing actions, whether the SBE would have the last word, how much work will be required and if guardrails are needed. She said there is nothing in Chapter 11 that addresses contractual agreements following withdrawals, which would require individual negotiations. Russo-Savage has been working to redraft language and it is complicated because there are so many different possible scenarios. She sent language out yesterday for consideration and it is

hoped that this will be presented to the Senate Education Committee for further consideration. Chair Olsen thanked Gleason and Russo-Savage for their work with the House Education Committee to get a proposal to address/improve this. He said the message needs to be clear in ensuring a path to withdrawal and make sure that where there is withdrawal action, it is thoughtful and results in success for the district and most importantly the students of that district.

Item G: State Assessment Vendor Request for Proposal (RFP) Update

Secretary French referenced the [Secretary's recommendation](#) to proceed with a new vendor, Cognia. He explained that these assessments are a requirement, as is the requirement to pursue a public bid and under the fiscal implications, these assessments are funded under the State Authorization Reciprocity Agreement (SARA), and it will add value and quality. Kolbe spoke about meeting with Geller and Gorham and explained that this is a shift away from the Smarter Balanced Assessment Consortium (SBAC) and that such a shift is a good opportunity to assess the big picture. She said Cognia allows the state to select from the item pool and build an assessment that is well-aligned with our values and Education Quality Standards (EQS) and offers flexibility. With transition, there is an opportunity to continue to use some SBAC items. There will be a process for stakeholder/educator involvement in developing this assessment and an opportunity to address accommodations for students with disabilities (SWD) and cultural competence. SBAC is adaptive and there is a burden on educators, Cognia is also an adaptive test and there are some things that will reduce burden on educators, but there are some things that will not change.

There was discussion on changes from the students' perspectives, adaptive feature is an important one, losing comparability to peer states, timeliness of SBAC data has been problematic, political history of assessments, opportunity to advance the quality of assessment and give useful information to local districts, Cognia's implementation plan has detailed support for the field, includes a science assessment, translation upgrades, design expectations, implications of data model and reporting capabilities, the RFP process, adopting the model to handle Vermont-specific data elements, structure of data reporting environment, long range planning for technical assistance, moving away from brittle/siloed approach, quarterly updates to data and visual platforms, statewide information system, same grade level testing, requirements of classroom time for test administration, interim assessments, AOE's expectation on the linking study and timeline, vision of connecting other data, longitudinal data, timing as an opportunity, and Cognia is the only vendor that addressed linking new and legacy assessments.

Kolbe moved that the Board provide the AOE the authority to move forward with the contract and any future amendments that need to happen and also encourage the AOE to work with the Board as a stakeholder as it engages in the process of finalizing this new contract and analyzing the assessments. Gleason seconded. There was no further discussion. Chair Olsen called the vote. The vote passed unanimously.

Item H: Public Engagement Forums Update – Brown and O'Farrell

Chair Olsen explained that this topic didn't get covered at the last meeting due to time constraints. Brown explained that he continues to try to encourage schools to attend SBE meetings. Regarding the

public engagement forums, there is work to be done on logistics including obtaining a moderator, timekeeper, and SBE members will be asked to address their different jurisdictions. O'Farrell said further discussion is needed on specific topics/questions and dates for the regional discussions.

Chair Olsen said he didn't think they should deviate from the prompts originally given: 1) what is your experience as educators, parents, and students in regard to academic achievement throughout the pandemic? what concerns do you have, what recommendations do you have to offer? 2) what have you experienced as educators, parents, and students in regard to the impact of the pandemic on students' mental health? What concerns/recommendations do you have to offer? 3) lessons learned that have had a positive effect on educators and students during the pandemic and how will you integrate this information/strategy into your teaching/learning in the future?

There was discussion on identifying opportunities for forward movement, priorities, balancing retrospective and prospective lens, structure of forums, vision for education 10 years from now, Google form for accessibility and collecting comments from those who cannot or do not want to participate live, script for facilitators, accessibility, and virtual vs. in-person participation. Brown suggested rolling out a written survey (Google forms) addressing retrospective and prospective themes and assess responses before proceeding further. There was discussion on not losing the question of mental health, facilitated discussion for mental health topics, including teachers in mental health, having less sessions, need for larger public engagement strategy, integration strategy, piggybacking with a regular SBE meeting. Chair Olsen suggested that Brown and O'Farrell be designated to decide on a path forward for public engagement and make a plan that would work best for the SBE. There was unanimous consent to delegating this authority.

Chair Olsen called a recess at 10:06 a.m. and reconvened at 10:16 a.m.

Item J: Independent School Approval Review Committee - Lovett

Lovett explained that there is a significant backlog of approvals and included in the work of this committee is tutorials (4) and kindergartens (3) and he suggested that the committee also take on the Teen Parent Education (TPEs) programs (6). He explained that the process for approval is lengthy: application, site visit, report and written recommendations, legal counsel review, submitted to the school, and school has 30 days to respond. He said four schools are reviewed and under legal review. There are several that have updated applications and where reports are drafted or almost drafted. There are 60 schools that have had approvals postponed. There are 27 schools whose approvals expire June 30, 2022. There are 23 approvals that expire June 30, 2023; 8 that will expire in 2024 and 4 that will expire in 2025. The Committee is recommending that other schools who have already filed applications will not need to refile but will need to sign off on assurances. Also suggesting that desk reviews will be used for approval of kindergartens (all licensed and accredited by Department for Children and Families (DCF)), any school that is simply amending its application if it has been visited in the last three years, and general education schools with no special education programs if they are approved by NEASC (New England Association of Schools and Colleges). SBE will not see many approvals before fall. Lovett suggested that there might be a way to contract site visits or use the Council of Independent Schools (CIS) to address backlog. He asked the SBE how to stagger approvals and avoid the onslaught of 60 schools every 5 years (staggered by approval date, type of school, etc.)

The AOE will provide a list of schools proposed for desk review and a draft of assurances that schools will be asked to sign (those amending an existing application) and there will be a communication plan for how approvals will be addressed going forward.

Chair Olsen offered that the tutorials, TPEs, and kindergartens would fall under the jurisdiction of the Committee and that the SBE would proceed on that basis unless there were objections. There were no objections. Chair Olsen suggested that Lovett and his committee work with the AOE and come back to the April SBE meeting with a definitive list of independent school approvals and a rationale for why a site visit would not be required, a proposal for staggered approval and criteria for recommendation. Chair Olsen said he felt strongly that any school that hasn't been approved, needs to follow the new rules; he said they all should receive the same treatment in their approval. There was discussion on criteria for choosing desk or site review, impact on reviews when rules change in 2023, ensuring that independent schools have time to comply with new assurances, approval process will look the same (Rule 2226) whether approved or approved but ineligible for public tuition, public tuition would be a separate question. Chair Olsen asked Lovett and his committee to report back in April on the transition plan for schools currently approved.

Item K: Stowe Update - Review and Discuss Attorney General's Opinion

Chair Olsen gave some background on this topic. He spoke about his history with the SBE and in full disclosure said he voted in favor of the final order of Act 46 but had voted in the negative about the Stowe merger. In the past year, Stowe voted to withdraw from its unified district; many months later the other communities in the district ratified that vote. AOE's General Counsel gave an opinion that under current law, there was not a legal path available for Stowe to withdraw. Stowe's attorney, Dina Atwood, [had a different opinion, \(March 2021\)](#). In December 2021, Stowe petitioners asked to be placed on the SBE agenda. With conflicting legal opinions, independent legal guidance was sought from the Attorney General (AG), specifically related to the legal authority of the SBE. He and Samuelson met with the AG several times and received [an informal opinion from the AG](#). It is clear that the SBE does not have the authority to take this up. He clarified that today's discussion is about the legal authority of the SBE and not the substance of the withdrawal issue. He also wanted to give petitioners a chance to address the SBE.

Brochhausen introduced himself as a Stowe resident who was involved with Act 46 and the school board. Regarding Act 46, he and his board relied on guidance from AOE and the Vermont School Boards Association (VSBA) and worked hard on the Alternative Governance Structure (AGS) to make sure that Education Quality Standards (EQS) were addressed but these were twice rejected by the SBE. He explained the construction of Lamoille South Unified Union (LSUU) and the creation of articles of agreement, which were agreed upon. He noted that London's research didn't examine the LSUU articles of agreement. He quoted [Article 14 on page 11 of LSUUSD articles of agreement](#). He believes that AOE utilized education attorneys to draft the articles, and that London might have a different perspective on what was provided by the AOE as it seems to conflict with §724. He said if the AOE misrepresented the articles of agreement, that is not the problem of Stowe, Morrisville, and Elmore, who followed the laws. He expressed concern over the lack of disclosure over AGS being the only option. As the laws are currently written, Stowe could have voluntarily merged, taken the incentive, and then voted to separate, but the town was not advised of that. He finds it unbelievable that the legislature would intend these nuances in law to be an obstruction to the SBE hearing his

proposal. He said merged districts are failing students and taxpayers. He said he thinks the legislative intent is to charge the SBE with the responsibility that communities having the best possible plan in place and for this Board to correct any past mistakes.

Chair Olsen noted that [H.727](#) includes a specific provision that addresses challenges and provides a path forward. The SBE is supportive of the intent of this bill and provision that address the concerns identified by Stowe.

Bland introduced himself as an attorney that has worked in Vermont for 30 years and also served on Stowe school board for 6 years. He said that Simmons' and London's opinions rely on different rationales, it appears that the SBE does not have jurisdiction. He said neither opinion addressed that to deny Stowe's request for a withdrawal after a vote and ratification is discriminatory. He provided [his own opinion](#) but said he would not address that again. He made two points: 1) we have been treated differently by the SBE, and a lot of time has gone by and until this Board grants our request for a hearing on the substantive basis of the withdrawal, the request is denied and 2) it is not just the opinions of Simmons and London, it is how this Board has interpreted and applied the law as a quasi-judicial body. How the SBE has treated Ripton, Readsboro, Westminster and Lincoln and their decision to not grant Stowe's request for a hearing and a withdrawal, is not fair or equal. He asked the SBE if Stowe has been treated fairly and equally or differently.

Chair Olsen stated that he is responsible for the SBE's agenda and that criticism around agenda setting and timing should be addressed to him and not the rest of the SBE.

There was discussion on legal opinions, [Title 16, Chapter 11, §721 and §724](#), legislature's awareness of issues, frustration on both sides of this issue, [H.727 \(re: Stowe, see Sec. 5 page 154\)](#), and timeline for this issue.

Brochhausen advised the SBE that 1) the voters who voted for the articles of agreement had no way to understand that there was more behind §724 and 2) Morristown and Elmore pick up 55% of Stowe's capital improvements and that will happen in the next few months and that bond will likely fail and it will be difficult to have these three communities work in harmony.

Bland said no offense was intended toward Chair Olsen. He said things change and existing law differs from what is being considered by our legislative body. Despite respectful disagreement with the opinions of Simmons and London, it is important to appreciate that the three communities voted in February 2019 to form the LSUUSD and to suggest that those communities did not vote or that the votes did not count, is fiction.

Chair Olsen concluded that the SBE will wait until the legislative session has concluded to take any action on this topic. He thanked Bland and Brochhausen.

Item L: Establish Rule 2200 Advisory Commission Pursuant to 16 V.S.A. § 164(1)

Chair Olsen said it was discussed and suggested that an advisory commission of a small group of practitioners from the field be established to get some real-world experience and shape recommendations for Rule 2200. He has reached out to several superintendents. He asked for the SBE to create an Advisory Commission and appointments would follow that action. There was discussion on this being a positive policy move, recognizing the geographical diversity of districts in Vermont, "small" meaning under 10 members, this would be a public body subject to Open Meeting Law

(OML) and receive standard support from AOE, process for making appointments, how this commission would liaise with the SBE, student voice, and that the purpose of the commission is not intended to offer fundamental policy changes.

Samuelson moved that the SBE establish a Rule 2200 Review Commission and delegate to the Chair the authority to appoint members to that commission; Kolbe seconded. There was no further discussion. The vote passed unanimously.

Item M: Retreat Planning/Item O: SBE Agenda and Workplan

Absent objection, Chair Olsen said he would combine item M and O. He suggested a retreat in late May/early June. There was discussion on retreat dates, time frame, schedule of past retreats, combining retreat with May 18 meeting, timing of the retreat for student members, and the week of May 23.

Chair Olsen asked for themes to be addressed at the retreat: public forums, overall visioning process for the SBE, SBE's governance practices, expectations around public engagement, DEI (Diversity, Equity, and Inclusion) work, Education Quality Standards (EQS), and building coherence.

Chair Olsen reviewed upcoming agenda items for the April meeting: preliminary discussion with Lincoln, report and proposal from Independent School Approval Review Committee, Act 1 presentation, presentation from Champlain Valley School District (CVSD) on DEI, and unified district sharing lessons learned from unification process (more probable for May).

Item N: Professional Development (PD) for the SBE

Chair Olsen asked for someone to take the lead on this and opened it up for discussion on how it is envisioned that this will work. Chair Olsen asked members to think about what topics are of interest and how this PD would be best delivered and said he will revisit it at the next meeting.

Chair Olsen spoke about experience at a recent board meeting where there was public comment at the beginning and end of the meeting and said he liked that approach. He asked the SBE for their input on this. There was discussion and general agreement to try this.

Brown asked about if/when there would be a return to in-person meetings. Chair Olsen suggested using the retreat as the first test at in-person meetings and then perhaps alternating meetings with virtual, in-person and hybrid. Chair Olsen said the format of meetings would be discussed as a future agenda item.

Adjourn

Gleason moved to adjourn; Samuelson seconded. Chair Olsen called the vote; it was unanimous. The meeting adjourned at 12:04 p.m.

Minutes prepared by Maureen Gaidys