

Testimony to the Education Committee of the Vermont House of Representatives

Michael F. Giangreco, PhD
Professor, Department of Education (Graduate Special Education Program)
University of Vermont*

**Testimony is offered as a private citizen,
not in any official capacity representing the University of Vermont.*

February 6, 2018

Recent Background Informing My Testimony

- Reviewed the draft (1-29-18) of "*An act related to special education funding*"
- Read the *Study of Vermont State Funding for Special Education* (2017), by Tammy Kolbe, PhD and Kieran Killeen, PhD
- Provided external feedback (between April and August 2017) to the work conducted in Vermont schools by the District Management Group that is summarized in their report to the Vermont Agency of Education, *Expanding and Strengthening Best-Practice Supports for Struggling Learners* (2017)
- Director of Project EVOLVE Plus at UVM's Center on Disability & Community Inclusion (2006- present); working with schools and organizations nationally and internationally, including approximately 70 Vermont schools over the past 11 year, to examine and improve inclusive special education service delivery and practices
- Conducted a series of peer-reviewed research studies and published related articles on various aspects of inclusive education for students with disabilities in regular schools and classes, including personnel utilization

Contextual Points

- Vermont is fortunate to have so many qualified and dedicated teachers, special educators, related services providers, paraprofessionals, other support staff, and school leaders who work tirelessly to support all of Vermont's students. Our schools have always been acknowledged to be part of the bedrock of our democracy, communities, economy, and the future of our State. Any legislation should consider the potential impact on supporting these dedicated professionals. We all have a vested interest in keeping are schools strong!
- As any special education funding changes are considered, it is vital to do so with the understanding that under state and federal law (i.e., *Individuals with Disabilities Education Act, IDEA*), all students with disabilities who are eligible for special education are entitled to receive a "*free appropriate public education*" in the "*least restrictive environment*" with the necessary supports required to access education and make meaningful educational progress. In part, this means that the first placement option considered each year for each student with a disability is the age-appropriate general education classroom in the school the student would attend if not identified as disabled before considering any more restrictive options.

I raise this foundational context for two key reasons. (a) A change in how the State of Vermont distributes available special education funds to school districts, does not/should not mean that students will receive inadequate educational opportunities or services; that would be an unacceptable outcome. While the proposed legislation recalibrates how Vermont attempts to equitably allocate funds, it will shift more decisions about costs to local school districts. Local districts retain accountability for providing education and under the proposed legislation should have more incentive to closely scrutinize how they are delivering services and deploying personnel. In the best-case scenario, improved services to students will be delivered more efficiently when districts have more flexibility and control over how funds are used. The extent to which that occurs will only be clear after legislation is enacted. (b) Although I hope that is now a rare occurrence, given our knowledgeable citizenry, occasionally I hear (or hear about) Vermonters wondering why we don't simply congregate more students with disabilities together in an effort to save money. The short answer is simply that congregating students with disabilities together for administrative convenience or financial savings would be an egregious violation of students' educational and civil rights -- not to mention educationally antiquated. Decisions about program, placement, and services for students who are eligible for special education are required to be made on an individualized basis by a team that includes designated professionals, the student's parents/guardians, and whenever appropriate the student with a disability. If any of us encounter such suggestions, we need to be clear that such educational congregation for the purposes mentioned is not an option.

Does the proposed legislation sufficiently incorporate these criteria?

1. Equitably Distributes Available Funds and Reduces/Eliminates Incentives for Schools to Identify Students as "disabled"

Distributing funds based on overall student population numbers in schools rather than the percent of students identified as needing special education is more equitable in part because it should eliminate incentives to identify students as disabled in order to garner resources. In part, this change is important because students with virtually identical characteristics are labeled "disabled" in some districts and not in others. Similarly, students with similar characteristics may have substantially different reimbursable service profiles under the current rules. Variations in the actual percentage of students with disabilities do exist across communities, so other equity adjustments should be included. Part of ensuring equity means making adjustments for students and schools that face economic disadvantages. It is commonly accepted that schools that serve a greater proportion of students who are economically disadvantaged face additional challenges than schools in communities where more families are economically better off.

2. Simplifies the Funding by Process and Reduces Administrative Burden

Does the legislation offer simplification along with reduced paperwork expectations and related administrative burdens? Personnel time represents a substantial cost (e.g., special educators, special education administrators, state personnel auditing

allowable/reimbursable expenses) that could be saved and/or spent on supporting students. Will the regulations corresponding to the legislation explicitly reduce the paperwork and administrative burdens (e.g., time studies going away)?

3. **Predictability**

School leaders devote substantial time and effort to forecasting student needs, staffing, materials, infrastructure, and other issues that are reflected in their annual budgets. The legislation should facilitate their forecasting by increasing the predictability of expected state contributions. If I understand correctly, the phase-in and "long-term membership" provisions should contribute to predictability.

4. **Allows Greater Flexibility in Utilization of Funding to Spur Innovation**

The existing reimbursement funding system and some its corresponding rules sometimes worked at cross purposes with implementation of evidence-based and or promising educational practices, including those actively supported by the Vermont Agency of Education (AOE). For example, if approaches like MTSS (Multi-Tiered Systems of Support) and PBIS (Positive Behavior Interventions and Supports) are done well they have the potential to reduce the number/percentage of students in need of special education. Yet, under the reimbursement model the schools that were successful in preventing special education placements they garner less funding; this should be addressed in the census approach by allowing and encouraging preventive actions. Some aspects of the existing reimbursement approach drive practices in ways that are the opposite of the promising and evidence-based practice (e.g., grouping students with and without disabilities in natural proportions; flexible use of personnel to meet student needs such as having a regular education literacy specialist provide supplemental support to students with disabilities and their teachers). To the maximum extent feasible, while retaining required and expected accountability, schools need flexibility to innovate in a continually changing landscape. We have some outstanding educators and school leaders who are capable of innovating and our funding system should be encouraging their efforts, not unnecessarily constraining them.

5. **Protects Small Districts Against Unusual Circumstances Beyond their Control**

"The Unusual Special Costs..." provision seems designed to address this issue. There are highly unusual circumstances (e.g., a family in a small community adopts multiple children with intensive special educational needs) that can have a major impact on the school budget, so retaining some way to address this seems prudent.

Potential Actions if Enacted

1. Once enacted there should be a mechanism for reviewing the legislation's impact to determine: (a) if it is having its intended impact, (b) if there were any unanticipated consequences, and (c) to inform potential adjustments to improve the initial legislation.
2. Changing the funding system is an important step, but on its own will not address the variety of systems and practice issues confronting Vermont schools. Therefore, the Vermont Agency of Education should be supported to continue their existing initiatives and potentially extend into related, synergistic initiatives such as: (a) inclusive unified

school service delivery models (this is especially challenging in high schools); (b) alternatives to overreliance on paraprofessionals, (c) potentially revisiting past work that the AOE had done regarding related services decision-making to ensure its educational relevance and necessity, (d) addressing the LRE (Least Restrictive Environment) provisions of IDEA to ensure better equity across Vermont in terms of appropriately supported access to regular class placements for students with the full range of disabilities including those with intensive support needs, (e) develop acceptable ways to write/document supports and services in IEPs that meet federal requirements, but allow for flexibility and innovation, and (f) consider explicit School Quality Standards related to special education (e.g., Special Educator School Density; special educator FTE/total school enrollment).