

Testimony to House Committee on Education

John Carroll
Chair, State Board of Education
21 April 2020

Re: dr req **20-0954** (draft 1.1; 4/10/2020)

Rules re Census-based Funding: Act 173 directs the State Board of Education to adopt rules necessary to implement census-based funding of special education. Since May 2019, the Board has evaluated draft proposals of the Agency of Education and the Census-based Funding Advisory Group. In February 2020, the Board formulated and adopted its draft Rules 1300 and 2360, which will govern the implementation of census-based funding. In early March the Board submitted its draft Rules to the Secretary of State to begin the formal APA process for adopting administrative rules. Under the provisions of the APA process, the “public comment period” opened on 17 May and, after three public hearings, will close on 27 May. Per the APA process, the Board may modify the draft Rules based upon information it receives in the public comment period. Then the final proposal is submitted to the SoS and to the Legislative Committee on Administrative Rules (LCAR) before becoming final in October. As currently written, the Rules for Census-based Funding will go into effect on 1 July 2021.

>> We advocate that dr req **20-0954, Sec 4** be modified to provide that the public comment period for Rules 1300 and 2360 be extended to 31 December 2020 and that the period for completion (3 VSA § 843(c)) of the APA process for Rules 1300 and 2360 be extended accordingly.

>> We support the provision at **Sec 7** which refers to Sec 5 of Act 173 (census-based funding), and which postpones the effective date of Rules 1300 and 2360, and related statutory provisions of Act 173 regarding census-based funding, for one year, i.e. until 1 July 2022.

Rules re Independent Schools: Act 173 directs the State Board to adopt amendments to Rule 2220 governing funding of special education services provided by “approved independent schools”. In discussion with stakeholders at the Board’s February meeting, it was agreed that the start-date for formal rule-making re independent schools should be postponed ‘til early 2021. And there was consensus that it would be advantageous to have the new census-based funding rules and the new funding rules for independent schools go into effect on the same date.

>> We advocate that dr req **20-0954, Sec 4** be modified to provide that the statutory deadline for "initiating rule-making" for Rule 2220 (i.e. beginning the formal APA process), which is currently required to begin 1 November 2020 (Act 173, Sec 22 (b)), be postponed to 1 March 2021.

>> We question the provision at **Sec 7** which refers to Secs. 20a-21of Act 173 (approved independent schools), and which postpones the effective date of Rule 2220, and related statutory provisions of Act 173 regarding funding of special education services provided by approved independent schools, for another year, i.e. until 1 July 2023.

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