

Report of the Census-Based Funding Advisory Group

Act 173 Section 9.

REPORT

**January 15,
2019**

**Report to the House and Senate Committees on
Education
State Board of Education**

**Submitted by The Census-Based Funding Advisory Group
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Background

Act 173

[Act 173 of 2018](#): An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

The Act changes the funding model for special education from a reimbursement model to a census-based model. This new model allows more flexibility in how funds can be used, simplifies administration of funds at both state and local levels, and aligns with policy priorities, including the opportunities identified in the District Management Group (DMG) report.

The act reinforces Vermont’s commitment to comply with all provisions of the Individuals with Disabilities Education Act (IDEA) with an emphasis on maintaining state and local funding levels. Additionally, the act ensures that all students eligible for special education receive a free and appropriate education in the least restrictive environment in accordance with an Individualized Education Program (IEP).

Charge of the Group

The Act created the Census-Based Funding Advisory Group “to consider and make recommendations on the implementation of a census based model of funding for students who require additional support.” Specifically, the Group is charged with the following:

“[A]dvice the State Board of Education on the development of proposed rules to implement this act prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules;

[A]dvice the Agency of Education and supervisory unions on the implementation of this act; and

[R]ecommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of this act, including any statutory changes necessary to align special education funding for approved independent schools with the census grant funding model for public schools as envisioned in the amendments to 16 V.S.A. chapter 101 in Sec. 5 of this act.”

Membership

The Act defines the membership of the Advisory Group as follows:

- The Executive Director of the Vermont Superintendents Association or designee;
- The Executive Director of the Vermont School Boards Association or designee;
- The Executive Director of the Vermont Council of Special Education Administrators or designee;
- The Executive Director of the Vermont Principals’ Association or designee;
- The Executive Director of the Vermont Independent Schools Association or designee;

- The Executive Director of the Vermont-National Education Association or designee;
- The Secretary of Education or designee;
- One member selected by the Vermont-National Education Association who is a special education teacher;
- One member selected by the Vermont Association of School Business Officials;
- One member selected by the Vermont Legal Aid Disability Law Project;
- One member who is either a family member, guardian, or education surrogate of a student requiring special education services or a person who has received special education services directly, selected by the Vermont Coalition for Disability Rights;
- The Commissioner of the Vermont Department of Mental Health or designee;
- One member who represents an approved independent school selected by the Council of Independent Schools; and
- One member selected by the Vermont Council of Special Education Administrators who is a special education teacher and who teaches in a school that is located in a different county than the special education teacher selected by the Vermont-National Education Association under subdivision (8) of this subsection.

As of the writing of this report, the Advisory Group has convened four times (September 14, October 12, December 3, January 7).

Initial report to the Committees on Education and State Board of Education

Introduction

The Group recognizes Act 173 as landmark legislation designed to improve the systems of support (and therefore outcomes) of struggling students in Vermont. The legislation addresses two essential components: high quality systems of support for struggling learners, and a funding structure for special education that allows flexibility to implement the former. In addition, the Group recognizes that the stakeholders represented are here as partners in serving the needs of Vermont children. The Group is committed to implementation of the Act in a way that provides excellent educational opportunities for students.

Although the group seeks to reach consensus, it also recognizes that consensus cannot be found on every issue, and on those issues where consensus is not reached seeks to inform the legislature on areas of agreement and disagreement

Advise the State Board of Education on Proposed Rules

The Agency of Education has proposed an approach to Rulemaking that identifies three main “parts” of the Rules to be addressed:

1. Part B Rules (the main portion of the rules that address IDEA): AOE recommends limiting the scope of revision for these rules, as they are already in alignment with current Federal statute.

2. Special Education Funding: AOE recommends pulling this chapter out of the rules and completely revising this section to align with the Act.
3. Special Education Funding for Independent Schools: Within the Funding chapter, there would be specific rules about funding special education for independent schools. The advisory group addresses its recommendation for this portion of the rules later in this report.

The Advisory Group indicated support for this approach, primarily because the timeline outlined in the Act limits the scope of what can be addressed in order to have the rulemaking process concluded by November of 2019 as required in the Act. The Group recognized that there was dissenting opinion about an approach that does not fully reopen the bulk of the Part B Rules. Group members with this perspective felt there are additional issues in the current special education Rules that need to be addressed.

Advise the Agency and Supervisory Unions on Implementation

Magnitude of Change

The advisory group would like to reiterate to the General Assembly that implementation of Act 173 represents programming and funding changes that will be significant for schools. Implementation will include systems and structural changes, significant professional development, and a shift in budgeting and funding that will impact practice.

Professional Learning

The Group has expressed support for targeting professional learning resources to the districts most in need of support based on identified metrics, rather than providing resources on a first-come-first-served basis. An inter-Division collaborative team staffed by the Agency of Education will provide technical assistance and support to supervisory unions whose schools are eligible for comprehensive support under federal ESSA legislation. Comprehensive support eligibility derives from a school accountability calculation aimed to provide those schools struggling the most to achieve required benchmarks with additional supports under Vermont's ESSA State Plan. Additionally, schools that are identified as having an equity gap in accountability metrics will be offered access to Networked Improvement Communities (NIC). NICs provide an important peer-to-peer professional learning opportunity for LEA staff and administrators.

The Group has considered the use of existing tools for measuring technical assistance and professional learning outcomes. These would include, but are not limited to, the Annual Snapshot, Supervisory Unions' continuous improvement plans, Integrated Field Review (IFR) Reports, and the annual MTSS Survey. The use of existing tools is preferred in order to minimize duplication of work and requirements placed on supervisory unions.

Recommendations to General Assembly for Necessary Statutory Changes

Act 173 Sec. 9 directs the Group to advise the General Assembly concerning any statutory changes that the Group sees as necessary, including "any statutory changes necessary to align

special education funding for approved independent schools with the census grant funding model for public schools as envisioned in the amendments to 16 V.S.A. chapter 101 in Sec. 5 of this act.”

Timeline of Rules

The timeline of rules is ambitious, and while the Agency is proceeding with the timeline as outlined, the Group may recommend adjustments to the timeline. The Agency has developed an outline for its proposed body of rules and identified specific categories of new rules necessary to implement the Act. However, the Agency’s efforts to craft new rules consistent with the Act, particularly with respect to evaluation and monitoring, has necessitated inventorying current Agency practices and procedures. For the census-based funding rules to effectuate flexibility without imposing additional administrative burdens on supervisory unions, it will be necessary to streamline some of these existing Agency processes.

Direction to the Agency regarding use of IDEA-B funds for professional development: The Act required that the Agency set aside funds for FY19, 20, 21. The Advisory Group recommends extending that timeline to be FY20, FY21, FY22, recognizing that professional development will be ineffective if it begins midyear (which would be the case if the Agency was required to expend funds by the end of FY19).

Independent School Funding Proposal

There is a recognition on the part of the Advisory Group that the current excess cost construct for funding special education students in independent schools requires adjustment in the new funding structure. Act 173 and the census block grant are designed to incentivize the public system to serve students differently and more cost-effectively. Without any similar incentive for independent schools who serve substantial numbers of publicly-tuited students, we anticipate that costs for the provision of special education services will remain the same. If there is not parity between the public and independent system, public schools will be at a fiscal disadvantage because they would need to either cut programs in their schools or fund public school special education by increasing taxes. Such a scenario would not only treat public schools differently than private schools that receive public funds, but it would treat towns differently based upon whether some or none of the towns in an SU have non-operating school districts.

The Group discussed a conceptual framework that would draw a distinction between large and small independent schools and how they are funded. Under this construct, large schools (defined as schools with a total enrollment above 100 and more than 65% of its student body publicly-funded) would be funded similarly to public schools under the new law, and small schools (defined as schools with fewer than 100 students enrolled and less than 65% publicly funded) would be funded in a reimbursement construct.

The Group reached consensus on the overall conceptual framework of distinguishing independent schools by size and varying the funding model that way.

The Group recommends to the General Assembly (approved with a 11-2 vote -1 abstention) the proposal as outlined at its January 7th meeting, with the understanding that the group would continue to investigate the intricacies of the funding model and may adjust its recommendation based on those findings.

There was significant discussion about the definition of small and large independent schools. Although the vote of the Group was a clear majority, the dissenting opinion was that the definition of large school should be limited to a school with more than 50 students on IEPs.

The Group was unanimous in its recognition that therapeutic independent schools function wholly differently from general education independent schools, and are an important component of Vermont's continuum of services in special education. The Group agrees that any rulemaking regarding the funding of special education must ensure the continued viability of those schools.

Hold on additional legislation

The Group agreed that Act 173 represents landmark legislation for schools, and passage of additional education legislation will put implementation in jeopardy.

Census Grant Calculation

The Advisory Group may come to the General Assembly with a recommendation to revisit the calculation of the census-based grant currently cited in statute. Issues identified by the Group include:

- Statute is currently unclear as to whether the CPI adjustment applied in 2025 will continue to be applied as a cost of living adjustment or whether the intent is to hold the grant stable over time.
- The Weighting Study convened by the Act will yield important information that may impact the viability of the calculation.
- Although the Act created the grant calculation based on modeling included in the UVM Funding Study, none of those models was applied as outlined in the final version of the Act. Thus, the calculation has not been tested to determine its impact on local districts. The Agency will be releasing a tool for districts to use to estimate their grant; this information may prompt the Group to recommend adjustments based on modeling that did not occur prior to the writing of the Act.

Next Steps

The Advisory Group will be viewing and providing input to the Agency on drafted rules

The Advisory Group will continue the discussions regarding independent schools and professional learning.

Additional reports will be provided to the general assembly as necessary.