

**TESTIMONY PROVIDED TO:** House Education Committee

**FROM:** Darren McIntyre (Executive Director)

**TOPIC:** Special Education in Vermont

**DATE:** October 27, 2021



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Thank you for the opportunity to provide the committee with an update of how students, staff, and school communities are doing through the perspective of Vermont Council of Special Education Administrators (VCSEA).

## **COVID19 Impacts**

### *Critical Staffing Shortages*

As is the nation, Vermont is experiencing almost unprecedented workforce shortages, including special educators, related service providers, behavior interventionists and paraeducators. Although these shortages have existed for years, LEAs report even more critical shortages due to the pandemic. Many Vermont schools currently have vacancies which remain unfilled. Staffing shortages result in LEAs needing to “triage” their existing staff to cover essential services (classrooms and students who require 1:1 support), and therefore preventing special educators from providing services as outlined in IEPs. This has put an enormous amount of strain on the educational system. The lack of substitute teachers to cover vacancies and COVID related staff absences is compounding the strain and burnout felt by educators. The VT Agency of Education policy change in August related to provisional licenses for special educators, while helpful, is a short-term solution for a long term issue.

### *Mental Health & Wellbeing of Students and Staff*

Overall, we are noticing that students are very happy to be in school. We knew going into this year that we would be “meeting the students where they are” and supporting their development academically, socially, and emotionally. We also knew that there would be noticeable impact for many students on development in all of those realms from the pandemic’s interruption of school and healthy activities. What we have learned in the first 8 weeks of school is that the degree of social/emotional immaturity overall is even more than what we anticipated for many students. For example, some 3rd grade students seem to need the level of support that we might expect for 1st or 2nd graders. We expect this to be temporary and are adjusting our support to meet their developmental needs. The way this looks on a daily basis is that some students are having a hard time with transitions, high energy at times in which we are striving for focused and calm energy, and the need to slow down the pace to advantage opportunities to teach self-reliance, self-regulation, communication, problem solving, and other SEL skills. We are making progress, but at the same time we are seeing an increase in requests for special education evaluations. It is very important that we not “story” this as “the students are behind.” Instead, we want to recognize that students are “exactly where they should be” as they live through this unique time in their lives. These are unprecedented times for all human beings.

## **Act 173**

The cost of special education is largely a function of systems that schools need to create in order to support access to general education instruction for students with disabilities. These costs are unlikely to be impacted without significant changes to the *general education* system and its ability to meet the needs of all learners without relying solely on special education services. While Act 173 was developed in part to address this through the strengthening of MTSS systems within schools, there have been few concrete steps taken to support schools in developing or strengthening their MTSS.

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### *MTSS Implementation*

In order to meet the goals of ACT 173 the following needs to be addressed within our MTSS structures:

- The creation of universally designed (UDL) general education classrooms is critical to ensuring that general education can meet the needs of students with disabilities. Paraeducators, often placed in classrooms to make up for a lack of UDL, continue to be a primary cost driver of creating access to general education for students with disabilities in Vermont classrooms.
- Mental health services continue to be an enormous factor in the rise of special education costs because schools ultimately become responsible for providing mental health services. This is a result of a deep need to increase investments in childrens' mental health through the agency of human services in order to adequately support children and families.
- The general education system requires targeted professional development so that classroom teachers can create access to their instruction for all students. While this is true for all academic areas, it is particularly critical in the area of early literacy. Primary level general educators require systematic professional development in how to teach reading to all students.

### *Impacts of Rule Changes*

Significant changes to the Vermont Special Education Rules will go into effect July 1, 2022. As this committee is likely aware, the changes include the development of new funding rules and a new definition of special education that came directly as a result of the passage of Act 173. In addition to those changes, however, two additional rule changes were made regarding special education eligibility decisions. These changes (to the construct of adverse effect and how to determine whether a student has a specific learning disability [SLD]) came about through the public comment period associated with the rules being opened - not as a result of Act 173.

The change to SLD identification and adverse effect are significant. They will require LEAs to undergo significant professional development. It goes without saying that the COVID19 pandemic has exacerbated the challenges for schools to implement professional development for these sweeping changes. Further, determining SLD using a response to intervention model (as required in the new Rules) requires that schools have a robust multi-tiered system of supports. VCSEA feels it's important for your committee to understand that it's not Act 173 that required these rule changes that are significantly impacting schools.

### *Funding/MOE Issues*

As VCSEA has shared before, we continue to believe that it's critical for the general assembly to understand the construct of Federal Maintenance of Effort (MOE) and the impact a reduction in state special education funding as a result of 173 could have on a district's ability to meet MOE. School districts are required to spend at least as much as they did the year before in state and local funds collectively in special education. If a school district spends less than it did the year before, they risk losing considerable Federal grant funds. While there are some federal exemptions, efficiency generally is not one of them. Therefore, a district has two potential outcomes once the state contributions for special education costs decrease: 1) the district can increase the local contribution to special education (spending additional "general education" dollars); or 2) the district can

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decrease special education spending, not meet the federal maintenance of effort requirements and be required to send federal dollars back equal to the underspent amount.

## **Legislative Issues**

### *The Weighting Study*

Again, as shared in previous testimony VCSEA believes it is critical that the general assembly be aware of the intersection and collective impact of the pupil weighting study, the shift to a census-based funding model for special education (Act 173) and the subsequent need to address the Federal construct of Maintenance of Effort within special education funding.

## **Recommendations**

- The largest and most complex rule changes are those of adverse effect and specific learning disability determination. We want to bring awareness that these are not related to implementation of Act 173 and we are seeking committee support to see if there's a mechanism for delaying a portion of these two most substantial rule changes. Another related consideration may be consideration to eliminate the need for time studies. Completing time studies requires a significant amount of time and data collected is not being utilized. If time studies were eliminated this would allow LEAs more time toward implementation of adverse effect and SLD determination rule changes.
- We ask that the committee support methods to increase access to mental health services and professionals for children not just in schools but throughout our communities. In addition, continued opportunities for professional development related to social emotional learning and trauma informed training.
- We are working among VCSEA members to help collaboratively provide support for new leaders and new special education teachers. We ask the committee to consider avenues to support increased opportunities (given teacher shortages and the increase in provisional licenses) for mentoring, instructional coaches, and overall retention of special education directors and teachers.
- We respectfully ask that no new education legislation be introduced this year. Currently, schools have more that they can handle. We are at a breaking point.