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Testimony on H.140

An Act Relating to the Advisory Council on Special Education

Given by:

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We understand that the purpose of the bill is to more closely align Vermont statute to the federal regulation. In reviewing the H.140 as passed by the House, the Agency considered changes with two criteria in mind:

- Alignment with federal statutory requirements, and
- Recommendations that ensure the advisory panel can continue in its federally defined advisory role.

In order to accomplish that goal, the Agency recommends that the committee consider the following:

Align the Statute Fully with Federal Requirements

1. Repeal the current statute (16 V.S.A. § 2945) because the federal regulation provides sufficient authority for the advisory panel to operate without a distinct Vermont statute.
2. The current state statute is out of compliance with federal regulation in two instances:
 - a. § 2945(I) uses the singular for representation from the higher education community. It should use the plural, "representatives."
 - b. § 2945(E) uses the singular for representation from the State juvenile and adult corrections agency. It should also use the plural.
3. The [IDEA B Grant Application FFY2019](#) only requires in assurance #21 of the annual application "that the State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §300.167-300.169."
4. The Agency of Education opposes any expansion of categories for personnel to serve on this panel beyond what is required by the federal regulations, in particular:
 - The addition of advocate positions, or advocacy organizations, on the panel. Since the parent training and information center (PTI) is a federally created entity, and federal regulations do not require state PTI advocate groups to be on the advisory panel, it is not intended to serve on this panel.
 - There is difference between advisory and advocacy groups. These roles need to remain separate and the AOE has previously provided this panel with training

on these differences in order for this group to fulfill its federally defined *advisory* role.

If the Senate Education Committee determines to revise the statute, as opposed to repealing it, then the Agency of Education recommends the following:

Recommendations

1. Agree with the current bill as passed by the House in changing the name from Advisory Council on Special Education to align with federal terminology "State Advisory Panel" on Special Education (34 C.F.R. § 300.167).
2. Remove language related to the Secretary of Education and the State Board of Education and replace with federal language of "State Education Agency (SEA)" (34 C.F.R. § 300.169).
3. Agree with House passed bill that membership terms should begin July 1 of the year of appointment to coincide with the State fiscal year.
4. Term limits should be included in statute and not in by-laws as they are unenforceable. Current by-laws:
 - include only a term limit for the chair,
 - task agency personnel with duties they are not obligated to perform,
 - include powers beyond what the panel is authorized to accomplish, and
 - Establishes ex-officio members without statutory authorization.
5. Refrain from passing legislation that increases the Agency of Education's workload. Example of this include a limit to the number of meetings where attendance by AOE personnel is required (currently they meet monthly which necessitates AOE staff to warn meetings, post agendas, minutes, process reimbursement claims, etc.)
6. Due to the potential size of membership to meet the categorical requirements in federal regulations, the Agency requests that the committee consider the addition of language to limit the number of meetings that are eligible for financial reimbursement to no more than two per fiscal year. Parents should also be the only ones receiving reimbursement for meeting attendance (15-16 people per meeting of the full panel).

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