

TESTIMONY PROVIDED TO: Senate Education Committee

FROM: Dylan McNamara, Ph.D.

TOPIC: Act 173/Committee Bill Response

DATE: April 17, 2019

In 2016 the General Assembly directed the AOE to contract for two studies (i.e., UVM Funding Study and DMG Report). The UVM study reviewed the current special education funding model and ultimately recommended shifting to a model that contained costs but also encouraged innovation, flexibility, desirable practices, and simplified the reimbursement process. The DMG report also offered recommendations related to increasing the effectiveness and efficiency of how SUs/SD meet the needs of struggling learners.

It is important to note that Act 173 was passed in response to the UVM study and DMG report. It appeared to remove obstacles and create opportunities in regards to how SUs/SDs meet the needs of struggling learners. Specifically, the passage of Act 173 appeared to offer increased flexibility, allow for innovation/ implementation of best practices, enhance the equity of services available to students, and decrease administrative paperwork associated with reimbursement. For these reasons VCSEA wholeheartedly supported Act 173.

VCSEA has been closely following Act 173 implementation and participates in the Census-Based Funding Advisory Group that the law created. While this change is long-overdue and represents what we know about best practice, it also represents a major shift in education funding and practice and it must be implemented in accordance with legislative intent. At this point in time, VCSEA supports a delay in implementation due to several factors outlined below:

1. The AOE recently proposed “Special Education Finance and Census-Based Funding Rules” to support the implementation of Act 173. The rules regarding “allowable expenditures” and “permissive use of funds” provide very limited opportunities for innovative, preventative, or a change in practice. In our communications with AOE regarding how the proposed rules do not offer increased flexibility, we have been told that the proposed rules as written are “what’s required” and that the “flexibility associated with 173 was oversold.” It is our position that any legislation that simply cuts costs and limits flexibility and innovation will be counterproductive to increasing the effectiveness and equity of supports for students.
2. The proposed time and effort documentation significantly increases administrative burden associated with reimbursement and accountability. For example, instead of asking a special educator to document a detailed schedule 4 separate weeks throughout the year, they may be required to document a detailed schedule daily. That is nearly a 20 times increase in time documentation. Clearly, this is not simplifying or streamlining the work as intended. In our communications with AOE, we have been told that they are simply aligning the rules with federal requirements. VCSEA is not confident that the AOE is accurately interpreting the requirements and we encourage the Agency to consult with contacts at OSEP and/or look at other states who have leveraged a census model to decrease administrative oversight and increase effectiveness of services. VCSEA also remains committed to working collaboratively with AOE and other organizations to find solutions that preserve the intent of Act 173.

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3. VCSEA believes that strong vision, leadership and support from the AOE are essential to realize this legislative intent of Act 173 and help SUs/SDs improve outcomes for Vermont's children. Despite efforts and good intentions, there appears to be a lack of capacity to support implementation of Act 173. For example, Act 173 called required AOE to coordinate professional learning and technical assistance in regards to the implementation of Act 173. Currently, there is lack of a comprehensive AOE Professional Development Plan as the end of the 2018-19 school year draws near.

Additionally, two AOE positions (authorized as of July 1, 2018) included in Act 173 to support implementation have remained vacant and the special education attorney position in Act 173 was re-appropriated by AOE to sustain another non-special education attorney position within the agency. There is a special education attorney on limited contract but that individual has not been an active participant in the Census-Based Advisory Meetings or been available to meet with that group or VCSEA members in person regarding the rules. VCSEA believes that more legal special education expertise as envisioned in Act 173 is needed to help navigate the rule changes that impact implementation. In addition, the recent departure of the AOE Chief Financial Officer (who has a significant understanding of Act 173) causes great concern.

To conclude, VCSEA remains committed to working collaboratively as we all aim to improve the efficiency and effectiveness of our educational support systems. While we support the legislative intent of Act 173, it is clear that the draft special education funding rules proposed by the AOE does not provide the opportunities or remove barriers in our work. In fact, as written the rules will make it more challenging and burdensome. For these reasons, we advocate for a delay, so that these challenges can be adequately addressed.