

VT Rule Series 1300 & 2360:

Summary of Census-Based Funding Advisory Council Input

Meagan Roy, Chair
Census Based Funding Advisory Group

House Education Committee

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Agenda

- Overview of Act 173 & Charge of the Census-Based Funding Advisory Group
- Review of Advisory Group's input to Rulemaking Process
- Identification of Key Issues as they relate to the intent of the legislation

Overview of Act 173

and

Charge of the Census-Based Funding Advisory Group

Act 173:

Priorities

- “...enhance the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont’s school districts”
- “To support the delivery of these services, the State funding model for special education[...]will provide more flexibility in how the funding can be used, is aligned with the State’s policy priorities of servicing students who require additional support[...]and will simplify administration”

Advisory Group

Act 173 creates a census-based funding advisory group with three duties:

1. Advise the State Board of Education on the development of rules necessary to implement the Act
2. Advise the AOE and supervisory unions on the implementation of the Act; and
3. Recommend to the General Assembly any statutory changes necessary or advisable to meet the goals of the Act.

Rulemaking Process:

Advisory Group Input

“Guiding Principles” for Rule Development

- Contemplate rule changes that are **necessary** to implement the Act: The specific charge outlined in Act 173 is “**...the development of proposed rules to implement this act...**”
 - 1300 series draft is a new rule series that specifically addresses special education funding in a census-based funding model.
 - Technical changes were also made to the 2360 series to align with the 1300 proposal and to adjust relevant definitions
- Ensure alignment with Federal Special Education regulations: Act 173 was designed to strengthen the system of supports for all students; it was not, however, intended to replace or expand entitlements created by federal law. **The approach taken in development of the current rules was to ensure alignment with Federal regulations - not to expand entitlements.**

Timeline for AG Input

- October & December, 2018: *Subcommittee on Rules*
 - Agency presented a “Proposed Rules Structure” for input
- February & March, 2019:
 - AOE shared draft outline of Rules (Feb) and substantive draft (March); requested individual written feedback
- April & May 2019:
 - Agency heard full Advisory Group feedback on draft
 - Agency directed further input to State Board
- July, 2019:
 - [Federal Education Group Presentation](#)
 - SBE asked for an AG response to the Agency draft, including recommended language changes
- September 2019 - February 2020:
 - Workgroup with FEG, AOE, Advisory Group members (Oct)
 - Advisory Group formal recommendations to State Board (Dec)
 - SBE approved documents to initiate Rulemaking (Feb)
- May 2020 - December 2020:
 - Public comment period (extended to 12/31/20) - identified additional issues not addressed in existing draft
- January & February, 2021:
 - Stakeholder group meetings to resolve issues raised during public comment

Key Issues Identified

Definition of Special Education

Previous Proposal(s):

Maintained Vermont's existing definition of special education that restricts special education services (and therefore allowable expenditures) to those services that are not provided within a school's typical system of supports

Advisory Group Concerns:

- Existing definition was unnecessarily restrictive and conflicts with the Federal definition of special education
- Inclusion of the phrase “...*that cannot be provided within the school's standard instructional conditions or provided through the school's educational support system*” imposes limits on the ability of an IEP team to select accommodations, strategies and specialized instruction that are allowable under the Federal definition, and may limit the ability of an LEA to select the most appropriate intervention for students - **a key premise that Act 173 sought to address**

Advisory Group Recommendation:

Affirmed the definition of Special Education included in current version of 2360

Maintenance of Effort (MOE)

Previous Proposals:

Applied current VT definition of allowable costs (and reimbursable special education services) to documentation of MOE under the census-based funding model, therefore eliminating the flexibility intended under Act 173

Advisory Group Concerns:

- Conflation of what is reportable to demonstrate MOE, the allowable use of state & local funds, and what is allowable for IDEA-B funds
- Overapplication of what is allowable for IDEA-B funds to use of state & local special education funds, **which effectively would eliminate the flexibility intended under Act 173**

Advisory Group Recommendation:

Affirm the language currently in 1300/2360 Series. **Further recommendation to work with the Agency in development of cost documentation guidance, which will be critical to realize the flexibility intended in the legislation**

Stakeholder Group - Public Comment

Membership

- State Board Subcommittee members
- Disability Law Project
- Special Education Advisory Panel
- Vermont Council of Special Education Administrators
- (Census-Based Funding Advisory Group)

Collaboration

- Written responses to public comment
- Two collaborative meetings

Adverse Effect

Issue Identified During Public Comment:

Existing adverse effect documentation requirements are unnecessarily restrictive and complicated. Significant implementation variability exists, resulting in students being found eligible for special education in some districts but not others.

Issues Addressed by Stakeholder Group:

- Documentation of adverse effect
- Addition of “functional skills” as a basic skill area

Advisory Group Recommendation:

Affirms the definition(s) of adverse effect in current draft of 2360 series

Implications for Act 173:

- May result in increased identification of students with disabilities, with no concurrent increase in state special education funding once the shift to a census model occurs

Specific Learning Disability (SLD) - Response to Intervention

Issue Identified During Public Comment:

Current research does not support the use of a “severe discrepancy” calculation to determine the existence of a specific learning disability. While existing Vermont rule allows other evidence-based measures, public commenters urged that Vermont eliminate the use of the discrepancy calculation, similar to other states

Issues Addressed by Stakeholder Group:

- Elimination of the severe discrepancy model
- Elimination of the need to calculate adverse effect for SLD

Advisory Group Recommendation:

Affirms the definition(s) of adverse effect in current draft of 2360 series

Implications for Act 173:

- Relies heavily on a high-functioning MTSS in order to make sound eligibility decisions - therefore, professional development is even more critical

Parental Input

Issue Identified During Public Comment:

Families at times do not feel as though there is a documented way of providing input into the IEP process, and asked that more formal inclusion of the input could occur in the IEP documents

Issues Addressed by Stakeholder Group:

- “Consent” or approval of an IEP
- Appropriate documentation of family input
- Ensuring streamlined paperwork procedures in keeping with intent of Act 173

Advisory Group Recommendation:

Affirms the addition of reflecting parental input in the Content of the IEP, as in current draft of 2360 series

Implications for Act 173:

- Minimal