

Recap of the November State Board Achievement Committee, Gifted Testimony, and Accountability Committee Proceedings (LONG POST)

Highlights from 11.10.13 Achievement Committee – (The audio link will be provided at www.oagc.com/?q=advocacyupdates when available). In another fun-filled state board of education achievement committee that lasted almost three hours, members narrowly voted out a somewhat altered draft of the gifted operating standards on 3 – 2 vote. All “yes” votes were from appointed board members (C. Todd Jones, Tess Elshoff, and Joe Farmer) though follow-up comments from two of them indicated that they just believed the debate needed to move to the full board. “No” votes were from elected members Ann Jacobs and Sarah Fowler. It was clear from the beginning of the meeting that no issue would be allowed to move forward without the approval of the committee chairman, who used a combination of procedural moves and threats of legal action if committee members voted for specific amendments that he opposed.

The [draft of the operating standards](#) debated in committee was largely the product of Chairman C. Todd Jones. While this draft was based on the September 5 draft, it differed in the following ways:

- Reinstated some minimum minutes and caseload, but included a sunset provision which would eliminate these standards in June of 2015.
- Eliminated some general education settings.
- Introduced a waiver for districts performing at “A” level on the gifted performance indicator. The waiver would allow districts to waive the section covering personnel requirements. Districts would be allowed to perform for three years at sub-level performance before the waiver could be rescinded by the department.
- Reinstated language allowing the department to follow ORC and remove funding for districts in continued non-compliance.
- Inserted more reporting requirements for districts about services and funding on the annual self-report.
- Included requirements of the districts to give parents more information about how students were meeting WEP goals and to give parents of newly identified gifted students a list of services that the district had previously provided to gifted students.

After a very long introduction of the chair, [the draft, dated 11.9.13](#), was brought forward for committee discussion. Part of the introduction was Mr. Jones’ opinion that based on case law from 1935 which involved the case of the [PUCO vs. the State Controlling Board](#), that it would be unconstitutional to consider any funding accountability amendment. **(NOTE: Many board members completely disagree with Jones’ opinion).** Jones stated that if any board member brought such an amendment forward, he would rule it out of order and not allow a vote. With regard to any proposed amendments on removing the automatic sunset of the minimum caseload and minute requirements, Mr. Jones declared that he would personally testify against the rule at the JCARR meeting, recruit superintendents to sue the state, and at the full board vote on the gifted operating standards would introduce an amendment before the full board to replace the sunset. In addition, by way of retaliation of any vote he opposed in committee,

he would also introduce several other amendments to remove any items from the rule that members of the committee and the gifted community and other currently support.

One of the more interesting exchanges was between Jones and Senate Education Chair Peggy Lehner, who sat in on most of the meeting discussion. Jones indicated that allowing a year and a half for the sunset provisions to take effect would allow the general assembly to revised law if they wished to define parameters. Senator Lehner, in no uncertain terms, told Jones not to delegate the state board's job to the general assembly.

With that prelude, three board members (Jacobs, Fowler, and Elshoff) introduced several amendments. New amendments that were accepted included an amendment clarifying that minimum operating standards would apply to all gifted students, not just those gifted students who were served. In addition, the waiver language was adjusted so that districts scoring a "B" or "C" on the gifted performance indicator for two consecutive years would have their waiver rescinded and districts with a "D" or "F" grade on the gifted performance indicator would be rescinded immediately. The part of the amendment that would have limited the waiver to only minimum time and caseload requirements was stricken before the vote. Finally, an amendment that would allow the department to include additional elements to the self-report was accepted.

At that point, Ann Jacobs introduced an amendment to remove the sunset provisions of the minimum time and caseload requirements. Heated discussion ensued. With a vague offer from the chair to consider a compromise before the full board of the sunset provision to be included in a state board resolution rather than in operating standards, Jones, Elshoff, and Farmer voted the amendment down. Ann Jacobs then attempted to introduce an amendment to provide funding accountability. Jones swiftly ruled the amendment out of order and would not let it go to a vote. No one challenged his action. While there were still additional amendments that committee members had previously wished to introduce, it was clear that committee members (aside from the chair) appeared to be emotionally deflated. These amendments, which would have corrected major technical issues with the rule were never brought up, and the operating standards were voted out of committee to go before the full board in December. Unfortunately, OAGC will likely need to concentrate solely on the most important remaining issues, so these technical problems will probably remain an issue until the rule is re-opened again in five years.

That said, the draft is still better than the 9.5.13 draft. Major changes still needed include:

- No funding accountability as required in Ohio Revised Code.
- An automatic sunset provision on minimum time and caseload requirements without regard to whether appropriate outputs are in place.
- Allows coordinator services and the duties performed by the coordinator to be optional.
- ORC language regarding service plans is still eliminated.
- Technical issues throughout.

While we had hoped for a more positive result, the outcome was inevitable given the make-up of the achievement committee and the manner in which the chair ran the committee. This battle was always

going to be end up being the responsibility of the full board. And there is still a very strong chance that gifted advocates will prevail on some of the remaining issues.

The Hannah Report provided the following coverage of the meeting:

Chair Jones presented a draft of the Gifted Rule 3301 stating, "The biggest change is elimination of permissive changes in providing gifted education. A district may choose to utilize different structures for the coordination of gifted services." He noted that in Board member Elshoff's draft, only having to show an A for a single year was insufficient to receive a waiver of certain sections and suggested the A level for two consecutive years. "If we know that a district has a withdrawal after a single year, we are going to discourage those districts from applying. If the scoring provides information as to why the grade went down, it should be considered," Jones said.

"We must have a specific authority to move forward on any regulatory basis," Jones continued. "The Supreme Court has taken this up and said the Controlling Board could not be empowered to change the governor's position. This ties our hands as to what is in Elshoff's plan. There is language in the bill that the legislature obligated ODE to direct money and to regulate issues of subgroups within schools. This is language that was not vetoed, but the governor made a veto statement regarding local control and flexibility with regard to spending gifted dollars."

Elshoff presented a letter from Rep. Amstutz regarding gifted education and his intent that they direct districts as to how to spend gifted funding. Jones responded, "Legislative intent statements are going to be supported by SBOE because it is useful, even though it is advisory. When there is a veto, that interpretation must be considered. Rep. Amstutz' policy intent is appropriate even though it is diametrically opposed to the governor's veto statement." (Note from Ann: This is Jones' opinion, not fact.)

Jones said statements regarding how districts must spend their gifted funds have been deleted from the statement. "I propose a compromise that could be challenged. But my hope is that this is in deference to the legislature. By setting a deadline of July 2014, we have the input of two legislatures and conceivably two governors." (Note from Ann: The governor's veto has nothing to do with minimum standards set by the state board of education. It is the express role of the state board to set these standards.)

Member Jacobs said, "You are stifling amendments by having this provision that is not in your purview to make. The statute is not completely obviated by the governor's veto."

Sen. Lehner said there were changes made from the governor's original proposal, but they were with the process rather than the funding.

Jones asked Sen. Lehner if she would recommend putting it back to the legislature. Sen. Lehner said she didn't think there had been adequate discussion as to the value of prescribing how the gifted funding should be spent. "We've heard from the gifted educators, but we haven't heard from the governor as to an explanation of his veto statement. The language is important, and we need legal advice," she said.

President Terhar asked about sun-setting in 2015, "How do we know this is the right time? We won't have outputs. Why not 2017?"

Jones said the output data is not available. "From my perspective, we should not have these provisions at all. I think a sunset is a reasonable compromise."

*Member Fowler proposed to amend the draft from three years to two. "A two year time frame would give you a trajectory," she said. Fowler's amendment was approved unanimously. **(Note from Ann: Hannah's report is inaccurate here. Fowler's amendment was with regard to the waiver not sunset provisions.)***

Jacobs moved to amend the language to explain which students would be affected by this resolution. President Terhar asked for an explanation of intent. "What would be the difference between 'gifted' and 'gifted services'? Do you see that as a major difference?" Jacobs said it would depend on the school district and would encompass more children than the previous language. Jacob's amendment passed unanimously.

Jacobs' amendment would have eliminated the sunset provision as well as the caseload and minimum minute requirement. Jones responded, "No good deed goes unpunished. I thought I had reached a compromise. This amendment would move us back to the status quo. If this is passed out of the committee, I will object to it in full committee. If it goes to court, I will testify in favor to create a temporary injunction against it. I believe this is outside of our authority, and I'm going to do everything in my power to reverse it."

Jacobs said that sunset clauses can be reopened and that the input she has received from her constituency is the opposite from that of Jones.

Jones also declared another amendment of hers regarding funding out of order because he said it went directly against the governor's veto. The draft passed 3-2, and all the other items on the agenda were referred to December's meeting.

State Board of Education Meeting – Public Testimony 11.12.13

Due to protracted discussion on another issue, the state board public meeting ran several hours overtime. The only board members remaining for public testimony on non-agenda items were Debe Terhar, Tom Gunlock, Sarah Fowler, Ron Ruddock, Joe Farmer, and Mark Smith. Stephanie Todd came in after the 2nd witness. Bryan Williams and Mike Collins came in after the 3rd witness. Several witnesses testified including Kim Curran, Charlie Toland, Sandra McGuire, Sarah McGuire, Sandra Freeman, Pat Farrenkopf, and Kathy Stanley. Marty Bowes, superintendent of Perry Local Schools also planned to testify, but after waiting for three hours needed to get back to his district. Testimony was excellent. The link to the hard copies can be found [here](#). The only questions or comments are summarized below:

For Kim Curran – From Tom Gunlock – Have you talked to your local school board. Answer – I've talked to everybody who I can talk to. Gunlock – What did they say? Answer – They have limited resources. There are scheduling problems. Gunlock – It seems like your issue is local. The proposed rules from Ann

are what we are doing today. And things aren't going well. Answer – Most people do not want to be involved. Most parents would rather keep quiet and not complain. Gunlock – It was just a suggestion, but that's what I would do. But it was just a suggestion.

For Charlie Toland – From Debe Terhar – Have you talked to your new superintendent? He is excellent, and I don't believe he would limit services. Answer – There are more political factions that are bigger than gifted in the district. They want to limit many programs. Debe Terhar: I encourage you to talk to your new superintendent. Answer – I will.

Sandra McGuire –Statement from Sarah Fowler: I find it is interesting to note that a standardized measure can't measure growth beyond the year.

Hannah's coverage is as follows:

Kimberly Curran, parent of four gifted children from Northridge County, testified to the loss of all gifted funding in their small, rural district. She told of the dilemma of her son, who was a victim of the loss of services. Vice President Gunlock said she might get more results if she went to her local school board with other parents. Curran stated that there were not enough parents willing to come forward.

Charles Tolland, parent of two gifted children in Hilliard Schools, also testified on behalf of gifted programs. "Gifted students need for the state to provide leadership and direction," he said.

Parent Kathy Stanley stated, "Unless you set mandates for gifted students, they will not happen in all districts. It's time to change the mindset of gifted students having a leg up."

Pat Farrenkopf, gifted coordinator for New Albany Schools, said, "Instead of ODE increasing the quality of instruction to support gifted children, even the newest version of the Draft Gifted Operating Standards essentially takes us back to the future by eliminating standards of quality service and creating a condition of haves and have nots for our gifted students."

Sandra Freeman, coordinator of gifted education, Western Buckeye Education Service Center, said she serves local districts in rural Van Wert County and Paulding County in Northwest Ohio. She gave testimony that high quality gifted serves should be staffed by licensed, experienced gifted educators.

Sandra McGuire and her daughter Sarah from the Olentangy Schools, gave many examples of the detrimental effects due to the lack of gifted funding.

Martin Bowe, concerned citizen, submitted written testimony stating that he had concerns with the waivers that are written into the standards. "This appears that such a district is absolved of all expectations, not just those affecting their practice. I wonder if such a broad response is wise?"

Accountability Committee – The accountability committee met after the full state board meeting was adjourned. One of the topics was the development of the gifted performance indicator and dashboard. These items, despite repeated requests, have never received any stakeholder input and apparently are now scheduled to be voted out of committee next month. The committee discussion was perhaps the

most interesting of the two days as several board members began to realize the predicament of removing inputs for defining service while simultaneously defining adequate outputs to measure success, one of which is level of services provided. In other words, if services are degraded to mean practically anything than the service measure becomes meaningless. It was clearly an “ah ha” moment for several board members even though [testimony](#) on this very issue had been presented previously. The most telling exchange began when President Debe Terhar asked how gifted services were defined and whether they were differentiated by the level of service time. When told by staff that those definitions were part of the operating standards, several other committee members began to ask questions about the relationship between inputs and outputs. Mark Smith thought that services should be rated based on level of quality including the elements of (wait for it) time and staff levels provided. Matt Cohen of ODE, who was leading the discussion, said what Dr. Smith was describing were inputs and they should be defined in the operating standards.” Board member Bryan Williams said (and I am paraphrasing here), “I’m beginning to understand what the gifted people are talking about now. Maybe we should approach this from an inputs basis.” After some additional discussion where I was allowed to provide a few comments, Chairman Gunlock scheduled another meeting for next week for an extended discussion on this issue.

The proposed gifted indicator is mostly a re-do of the gifted ranking system, which OAGC considers to be a very weak and ineffective tool. A link to the proposed indicator is [here](#). It is wholly inadequate especially as Todd Jones in the October Achievement Committee indicated that output measures would likely need to include above-grade level assessments for gifted students. It is particularly appalling that ODE staff has indicated that they would like to set the met cut scores so that 70 – 80% of districts could meet them. The Hannah report described the meeting this way:

Dr. Matt Cohen, chief research officer for ODE, and Chris Woolard both spoke about the new Gifted Dashboard. Chris Woolard spoke about the Gifted Indicator, Dashboard, and Report Card. He stated that the SBOE must review and revise the gifted indicator to include Gifted Value-Added. The indicator will be reported on the 2013 and 2014 Report Cards, and included in the 2015 ratings. Concurrently, the gifted dashboard will be developed. The gifted rankings should be aligned to these measures.”

“The decision points include weighting, deciding which gifted students to include, how to deal with schools with no gifted identification, units of measurement (scale), meeting/not meeting an indicator, and dashboard components,” Cohen stated.

In the rankings, it works out that Value-Added comprises a third, performance index is a third, and the opportunity measures represent a third of the measure. Woolard said they want to translate that into an indicator and asked for feedback from the committee.

Also important are which gifted students should be included in Value-Added (includes math, reading, and superior cognitive). The Performance Index measures in the rankings are subject- specific and include the superior cognitive students, and the opportunity measures are the only measures that capture all categories of gifted students, Woolard noted.

“How do we deal with schools with no gifted students, he asked? In order to be ranked, you have to have data. Should that count against that school?” Woolard asked the committee.

The final component concerned which components to put on the gifted dashboard. He noted, “Since this indicator is going to be part of the graded system, we’re going to build a drill down page within the district’s achievement component. With our advanced reports, you will be able to see comparison rankings to other districts and previous years.”

President Terhar asked what “receiving gifted services” means. Woolard said this is data coming in from EMIS that these are the kids that are identified as gifted and are receiving services. Terhar asked, “Would there be more weight given to districts that are providing services one time a week as opposed to a district that provides services five times a week? We have to compare apples to apples. The term receiving services’ is too broad.”

Dr. Smith suggested creating a list of three indicators with a scale of 1-5 to break down the rankings into gradations. Matt Cohen said, “What you want to do is determine quality of services through the standards. Trying to do it through the indicators is doing it backwards.”

President Terhar said, “Then we’re going toward inputs.” Cohen countered, “If you get too prescriptive, then you’re going in the weeds.” Smith said, “You can set certain standards that are not prescriptive.”

Cohen said, “You need to grapple with the services first before you deal with accountability. You should not use the accountability measures to create inputs.”

Williams said, “This population is all over the map, and technology will change everything anyway. This conversation is crystallizing everything that has been going on in the gifted discussion. Not all gifted students are created equally. Are we pursuing an achievable goal by even attempting to have an output grade on this?”

“You have three components out there which are undifferentiated. That is an input measure. Secondly, you have the performance index of gifted students, which measures an output of a test score. Third, you have the same data but translated into value-added. Value added looks at the position of students in the continuum of their scores,” Cohen explained.

Tina Thomas-Manning said, “You don’t grade districts on special education. You get grades on the grades or progress because it’s a unique grouping of students. Gifted kids need individualized programs, just like special education students.”

*Ann Sheldon, executive director, Ohio Association for Gifted Children, was then asked to join the discussion and noted that indicators for the special education population are mandated. “Special ed. has the IEP, which is very prescriptive. Often a prescriptive plan like a WEP (Written Education Plan) cannot be adequately created for a gifted student because there are so many unknowns.” **(Note from Ann: The last part is not an accurate quote. What I really said was the WEP is often not worth the paper it is written on.)***

Cohen said he will come back with a “yardstick” and ask the committee to put all of these elements into a single indicator. “The weighting question still needs to be addressed. How should the variables be considered and integrated into one measure? I will give distribution data that will help to determine cut off. The types of service is a discussion that the committee and the SBOE is going to have. Once we have that information, we can move forward quickly.”