

November 2015 State Board of Education Achievement Committee Meeting Re: Gifted Standards

(Note: As usual, this report may contain imperfect quotes due to the speed of the discussion and limitations of the author.)

Gifted Standards Reboot (Achievement Committee recap) – Sue Zake, ODE Director of the Office of Exceptional Children provided an overview of the gifted rule input survey. (Please go here to see the ODE presentation on gifted). She cautioned that the results of the survey were preliminary and stated that the scaled item results needed to be interpreted along with the comments from each section (which begs the question of why they are not presented together). Over 3400 surveys were submitted with almost 3700 comments posted. Respondents were mostly from traditional school settings and mirrored the general breakdown of rural, suburban, and urban settings. (Note from Ann: Given the biased nature of the questions, the responses are probably more skewed to favor the draft than not. Nevertheless, it appears there was major pushback in some areas revealed in the comment sections.

Identification Section -- The first section reviewed was identification where the majority of respondents indicated that they agreed that the proposed rule clearly provides guidance needed to support gifted students and clearly defines opportunities for identification of students as gifted. Board member Melanie Bolender cautioned committee members to be wary that the results are not a “clear majority” as there was significant disagreement. C. Todd Jones disagreed with Ms. Bolender. Ms. Bolender indicated that one-third disagreed with the statements and that the committee should watch that. Sue Zake indicated that there were fewer comments in this section than in others. Board member Mike Collins indicated that there were graphics in the presentation without actual comments. He wanted to see comment trends. Sue Zake said those were not ready yet.

Service Section – With regard to the question on flexibility, again the majority of respondents agreed with the (skewed) survey question that the proposed rules provide flexibility to districts. However, 47% disagreed that the standards would result in quality gifted services. There were numerous comments about teacher qualifications. Superintendents/Principals indicated more guidance was needed. There was too much flexibility in terms of who could do what. Gifted intervention specialists (GIS) did not support district-determined qualifications. Parents wanted credentialed GISs. Board member Stephanie Dodd requested that next month more detail was provided in writing. Board member Pat Bruns asked whether the actual questions were reflected in the ODE presentation. They were.

Funding and Accountability – Sue Zake indicated that the funding results in the grading scale needed to be tempered by the comments. There appears to be wide-spread confusion about funding and what the current standards say. With regard to the gifted performance indicator, 46% agreed that it was an essential element to evaluate gifted services.

General Comments -- Sue Zake spoke about the strong desire for greater transparency in the proposed rules and that many respondents indicated that the standards were too vague and did not provide enough guidance.

Timeline – The new timeline was shared with the committee. In December, the committee will get more information from the comments section of the ODE survey. Then in January and February, stakeholders will be invited to the committee and there will be possible committee action in March.

Committee Member Discussion –

Pat Bruns asked if the standards were in cycle for review. Diane Lease, ODE legal counsel, shared that the standards were delayed, and that, in fact, were in danger of being invalidated by JCARR (Joint Committee on Agency Rule Review) as they are two years past the review cycle deadline. She indicated that she had to go to before JCARR to testify about why there was a delay. She explained that they were being reviewed now and that they were scheduled to be ready sometime this spring. She indicated that JCARR members were satisfied with that explanation.

Melanie Bolender stated that she understood why there was a delay but was curious about why the document that had previously been passed by the achievement committee wasn't the one up for discussion. Why start from scratch? She stated that she believes that gifted students are an asset to the state.

Todd Jones stated that the original draft was the creation of the gifted field (not true – it was driven by ODE and all stakeholder groups). The superintendent decided not to use that draft as a basis. Jones declined to speak to the standards drafted by the gifted advisory council as he had “grave doubts” that they were adequate because of the inadequacies of the council. He said he didn't wish to speak publicly about his concerns, but that he would talk privately to members about them. He then described the previous committee work in 2013, spoke to the feedback, input, another offered draft (from board member Tess Elsoff) and that he constructed a new draft that was a compromise. (Note: This is statement is a surprise as the Ethics Commission has cleared Mr. Jones of the charge that he was responsible for the draft language passed by the 2013 Achievement Committee.) Jones went on to explain that due to an ethics complaint filed against him in late 2013, the draft was put on hold. His view was that due to the statements of stakeholders that the 2013 draft passed out of the achievement committee was a “compromised document” and it was better to avoid the compromises of the past. He also stated that the committee and board had changed so much that it was better to start fresh.

Bolender and committee member Rebecca Vazquez-Skillings stated that they appreciated that explanation and looked forward to the upcoming discussions.

Committee member Ron Rudduck stated that there was a good deal of work and effort that went into the 2013 draft. He said that he respected what the gifted stakeholders and public offered in testimony and will continue to use the some of the work as a guide. He indicated that it would be good starting point.

Jones indicated that he has increasing concerns about the gifted advisory council and made comments about how he doesn't like how the committee work has been characterized by advocates and that he will have to endure the attacks from the distorted views of the stakeholders.

Rudduck replied that he understood the comments about the process, but that he was concerned about the product. He wants to do what is best for kids.

Bruns requested the 2013 draft and was told that it was already sent to the committee. She also thought it would be a good idea to get the stakeholders to get together to look at all the needs. She agreed with Ms. Bolender that the committee needed to look comments to begin seeing common threads. Sue Zake stated that the comments would be shared in December by respondent type.

And this is when things went sideways:

Dodd stated that she had asked for comments from the gifted survey last week and was told that because a public records request was made for the comments that legal counsel told her she couldn't have them. Why not?

Diane Lease answered that she didn't say Dodd couldn't get them.

Tom Gunlock (board president) then brought out the state board policy and procedures manual and stated that on page 11 the document said that the board delegates authority to superintendent to monitor ODE staff. On page 25, the manual states that the request for work product by committee needs to go through board chair, legal counsel, the board liaison, or the board president. He went on to say the board can't ask super to manage staff if board members circumvent procedures. Dick Ross will manage the staff as to when Dodd would receive the information requested. (This has been a recurring statement from Gunlock.)

Diane Lease then stated that public records requests are first come, first served. This was treated as a public records request, and that Dodd would have to wait in line.

Dodd indicated that she was told as a board member she would access to information to do her board work. She also confirmed that board liaison Meghan Wadsworth knew about the request as directed by procedure. Dodd then asked Ross when she would have the information, and he said he would ask staff and let her know by the next day.

Bruns stated she was confused about why Dodd couldn't get data.

Jones stated that Dodd needed to work through the committee chair to get information. (The next day, Dodd indicated that as Jones has indicated in the past that he only checks his board email once a month, it didn't make much sense to email him the request.

Vazquez-Skillings wanted to move the discussion to the next day.

Dodd then asked where the marked-up version of the gifted draft was. Sue Zake said she should have received this, but Dodd said that the marked-up version should be in the board books so constituents could see them.

Lease stated that ODE was prohibited from doing this (Note from Ann: This is a new twist. The draft in 2013 was posted on the ODE website so I'm not sure what has changed in two years.)

Board member Mary Rose Oakar said that there seems to be a common theme that people don't understand what the standards for gifted students are and that maybe the stakeholders including gifted kids should come to testify. She indicated that her work on the committee for students with disabilities that is important to hear from parents of special needs kids.

Jones stated that he would invite the gifted association and “for a change” include other stakeholder groups such as principals and superintendents. (Note from Ann: Several administrators including superintendents supported gifted students in testimony during the 2013 gifted operating standards proceedings.)

Board member Ann Jacobs asked if the committee was going to stick with the board policies and procedures and whether the chair would be operating differently this time. In the past he previously has said that his vote would negate the views of the majority of the committee which contradicts board policies and procedures.

Jones stated that (as he has previously) his interpretation of the budget bill gifted veto from two years ago as well as that of “many other” (unnamed) attorneys was such that he had to rule an amendment to the standards in 2013 as out of order as it was in contempt of the operating standards, the Ohio constitution, and even the U.S. constitution. (Note from Ann: OAGC strongly disagrees with this as does the Speaker Pro Tempore of the Ohio House among others.) Jones went on to state that if the chair had a legal opinion contrary to the majority of the committee that he veto power.

Jacobs – Where in Robert’s Rules of Order does it allow you to do this?

Jones – It’s in the audio tapes from 2013. He wasn’t going to waste the committee’s time on this. He then went on to state the stakeholders would be invited to testify in January and that he would not limit the path of the committee due any time constraints.

Dodd – Who created the survey questions? Sue Zake responded that ODE staff in research and evaluation reviewed the items. Typical period for input was two to four weeks. There were three weeks to provide input into this survey.

Rudduck – Can questions and recommendations to add to the proposal be considered by the committee?

Jones – Hold your proposals until all the stakeholders present. He didn’t want “first move advantage” to go to one stakeholder group. He was more concerned about getting this right. If the committee needed to do multiple drafts and ask for more input than the committee would do this. There was no need to shorten the process.

Bruns – Would Jones recommend that stakeholders bring concrete ideas to be considered? (Yes.)

Rudduck – Should the committee consider mid-monthly meetings?

Jones – Yes, perhaps maybe have one hearing that starts at 1:00 pm that would go until everyone had their say. (Note from Ann: This may actually limit testimony. Witnesses should always feel free to testify during public testimony to the full board during public testimony.)

Vazquez-Skillings – Is JCARR good with an extended process?

Jones – There is no statutory obligation to have gifted standards. I am not concerned about this. The idea that a district will drastically change services if there are no standards is just silly. (Note from Ann: Actually, there are multiple references to gifted operating standards in Ohio Revised Code. Also, we have seen drastic changes in services over the past two years – some as a result of the gifted performance indicator and some as a result of the lack of ODE enforcement of the current standards.)

Lease – JCARR indicated that they were fine with the current schedule of early spring.

Here is the Hannah account of the discussion:

State School Board Hears Pushback on Proposal to Change Gifted Rules, Addresses Other Issues

The State Board of Education took an initial look Monday at responses to a survey on proposed new rules for gifted education, and heard directly from parents and educators worried that the changes will diminish the services gifted children receive.

Discussion of proposed revisions to the state operating standards for gifted education in the Achievement and Graduation Requirements Committee also spiraled into a debate over board policies and procedures that might resurface at the full board meeting Tuesday.

The board is restarting development of updated gifted standards after final approval of a previous draft was deferred in early 2014 because of legal confusion. Then-Board President Debe Terhar had delayed final consideration so the board could consult the attorney general's office on the boards' rule-making authority on the subject given Gov. John Kasich's line-item veto of budget language regarding gifted education.

Board member C. Todd Jones said the latest version is a general framework that can be revised based on feedback from interested parties. He said development of a previous draft was driven too much by gifted intervention specialists and coordinators, without adequate input from school administrators and others.

"It drove from one perspective, and there's nothing wrong with that perspective, but it's not a complete perspective," Jones said.

"By starting with a base template, we can get public comment and get further views on what needs to be included and shouldn't be included in gifted operating standards," he said.

But those testifying to the board Monday said Jones' draft gives too much leeway to school districts to define what constitutes gifted education services, who can deliver them and for how much time students can expect to receive them.

Erica Reaves, mother of a Columbus gifted student, said she didn't realize the extent of Ohio's requirements for gifted education until she moved back to Columbus from Michigan, where there was no requirement for teachers to be specifically licensed in gifted education to deliver services.

"We need credentialed staff. In Michigan, we didn't have that," she said. "Sometimes, gifted children are deemed -- 'Oh, they're smart, they'll be fine' ... They still need attention, they still need the proper services," Reaves said.

Christine Foster, mother of students in Hilliard schools, said her experience of repeated denials and appeals trying to get the minimum age for her daughter to enter first grade waived colored her view of local schools' service to gifted children. She said the situation was only resolved after she asked the Ohio Department of Education (ODE) to intervene.

"This doesn't really inspire my confidence in schools at the local level to adhere to the practices set at ODE. I just don't want the gifted program to go the same route," she said. "We don't want these kids to fall through the cracks. We need to have rules, we need to have criteria, we need to be able to hold schools accountable," Foster said.

Brenda Gift, director of student services and special programs at the Educational Service Center of Lake Erie West, objected to the proposed elimination of a minimum duration for gifted education services, saying direct contact time with teachers is important. Noting the proposed language to let districts determine the criteria for who's qualified to teach gifted children, she asked in what other fields a license or credential is displaced by district-determined criteria.

"This is not about flexibility. It's about respect. Our gifted students don't deserve a hard time for being awesome," Gift said.

Board President Tom Gunlock suggested that Jones and Ann Sheldon, executive director of the Ohio Association for Gifted Children, meet to discuss the issues. "I'm going to suggest you get together and have a conversation because I think it would be beneficial on both sides of the topic if you get together and hash some of this stuff out," he said.

"I would be happy to have a conversation with Chairman Jones," Sheldon said.

Sue Zake, director of the Office of Exceptional Children, presented a general overview of results from an online survey the department presented to gather feedback on the proposed changes to the gifted operating standards. She said she'd return with a deeper analysis, including greater insight into the sentiments expressed in about 300 pages' worth of written comments.

Some of the general themes of comments that Zake relayed corresponded with the sentiments of those testifying, with parents responding to the survey often saying the proposed rules don't allow for appropriate services.

"In general, there is a desire for greater transparency. That was a common theme throughout the responses, and that the draft operating standards are too vague and don't provide enough guidance," Zake said.

Board member Stephanie Dodd prompted the policy and procedure debate when she questioned why her desire to see all 300 pages of survey comments was being treated as a public records request, subject to ODE's policy of processing requests in the order they're received.

Board President Tom Gunlock invoked the board's policy and procedures manual, saying it calls for requests to be routed through himself, the committee chair, the superintendent or the board relations office. He said that's meant to keep the board focused on policy and allow Superintendent Richard Ross to manage the administrative resources of the department.

"If we want to change that, I'm fine with it. But we need a [board] majority to change it, and then we can live by a separate set of rules," Gunlock said. "We set this thing up and we're going to follow it."

Dodd responded by noting the manual elsewhere states that requests for information that's "readily available" and "not overly burdensome" can be answered by the board relations office. "SurveyMonkey, I've used it many times. It's a simple PDF download ... I'm just asking if I can get a copy of that," she said.

Board member Rebecca Vazquez-Skillings moved that the discussion resume during Tuesday's full board meeting, saying she didn't want procedural issues to overwhelm discussion of the gifted standards. Gunlock said it could be addressed under old business.