

**UTAH STATE BOARD OF EDUCATION  
MEETING MINUTES**

January 12, 2012

The Utah State Board of Education held a regular meeting on January 12, 2012 at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 8:15 a.m. Chair Debra Roberts presided. At the request of the Chair, Vice Chair Dixie Allen conducted.

Board Members present:

Chair Debra G. Roberts	Member David L. Crandall
Vice Chair Dixie L. Allen	Member Michael Jensen
Member Keith M. Buswell	Member Carol A. Murphy
Member Laurel O. Brown	Member James V. (Jim) Olsen (non-voting)
Member Kim R. Burningham	Member C. Mark Openshaw
Member Janet A. Cannon	Member Tami W. Pyfer
Member Leslie B. Castle	Member R. Dean Rowley (non-voting)
Member Wilford Clyde (non-voting)	Member Teresa L. Theurer (non-voting)
Member Craig E. Coleman	Member David L. Thomas
Member Joel Coleman	

Members absent:

Members Isaiah Spencer and Tim Beagley

Executive staff present:

Larry K. Shumway, State Superintendent of Public Instruction  
Martell Menlove, USOE Deputy Superintendent  
Brenda Hales, USOE Associate Superintendent  
Todd Hauber, USOE Associate Superintendent  
Judy Park, USOE Associate Superintendent  
Don Uchida, Executive Director, Utah State Office of Rehabilitation  
Steve Noyce, USDB Superintendent  
Lorraine Austin, Board Secretary

Others present: Kevin Abraham, Valley Academy; Michael Sears, USDB

Members of the Press: Lisa Schenker

**Opening Business**

Vice Chair Dixie Allen called the meeting to order at 8:15 a.m. Member Craig Coleman led the Board in the Pledge of Allegiance.

### Swearing In of Wilford Clyde

Wilford W. Clyde was sworn in by Superintendent Larry K. Shumway as an appointed member of the State Board of Education, representing the Board of Regents.

### Board Member Message

Chair Debra Roberts gave the welcome message. She shared an article from the New York Times, *Willpower—It's In Your Head*. The conclusion of research conducted by the author is that willpower can be quite limited, but only if you believe it is. She also read from Victor Frankl's book, Man's Search for Meaning, about life in a World War II concentration camp. He concluded that man does have a choice of attitude, no matter the circumstances. Chair Roberts thought it appropriate to begin this year with a reminder that we choose who we will become and the Board's job is to help children have choices, so they can choose who they will become. She expressed hope that the Board will move forward with its Promises to Keep goals this year and recognize the innate humanity that choice is.

### Promises to Keep Highlight - Technology

Superintendent Larry Shumway discussed how technology can inform Promises to Keep. All across the country people are developing technology resources to help educators. The great challenge in education is to find the way to connect teachers, schools and classrooms to that wealth of information and resources available. The increases in quality of instruction that can come through technology enhancements are enormous.

### **Public Participation**

Lydia Nuttall, a parent in Morgan School District, addressed the Board. She reported on a program she has started in Morgan County for families to learn more about the Constitution and other things of historical significance, and distributed materials from the program. [For complete details, see General Exhibit No. 11770.]

**General Consent Calendar**

Motion was made by Member Carol Murphy and seconded by Member Laurel Brown that the Board approve the General Consent Calendar as written. Motion carried unanimously.

1. Minutes of Previous Meeting

Minutes of the meeting of the State Board of Education held December 2, 2011 were approval as written.

2. Contracts

The following contracts were approved by the Board:

- a. State of Colorado by and on behalf of the Board of Trustees of the University of Northern Colorado for the use and behalf of the National Center for Severe and Sensory Disabilities, \$401,607, 12/15/2011 to 12/14/2012, Amend., Fed.

To evaluate ways to present graphics to students with print disabilities (students who can see, but can't read), and students who are blind/students with visual impairments for assessments.

- b. Sangam L.C. (Jason Allred), \$310,277.59, 07/01/12 to 06/30/17, Amend., Fed.

To lease office space for the Division of Rehabilitation Services Logan, located at 115 West Golf Course Road, Logan, Utah.

- c. University of Utah SRI, \$46,961, 10/01/11 to 9/30/12, Amend., Fed.

For evaluation of the Utah State Office of Education Prevention Dimensions Program.

- d. Utah Afterschool Network, \$94,360, 12/01/11 to 11/30/12, Fed.

To facilitate the development of a comprehensive afterschool/community school professional development system by fostering multiple pathways for training and technical assistance to ensure high quality programs that meet the needs of a diverse population.

- e. NCS Pearson, \$89,914, 8/31/11 to 8/31/15, Amend., Fed.

To provide statewide student record exchange (UTREX).

- f. Wilson Properties & Assoc. L.C. c/o Smoot Commercial Brokers, \$377,487  
12/31/11 to 12/31/16, Amend., Fed.

To lease office space for Division of Rehabilitation Office at 2984 North Hill Field Road #A, Layton, Utah.

- g. The National Center for the Improvement of Educational Assessment \$227,870,  
12/2/11 to 4/14/13, Amend.

To extend the contract expiration date to April 14, 2013; to assist the state with the design of the grading schools accountability system; to assist the state with the preparation of an NCLB waiver application; and to support the Utah Educator Effectiveness Project.

- h. Wireless Generation, \$4,250,000, 12/15/11 to 12/14/13

To provide portable assessments in reading for kindergarten through 3<sup>rd</sup> grade students and to provide comprehensive online reporting and instructional tools for teachers and administrators.

- i. Jensen & Keddington P.C., \$232,936.56, 1/01/12 to 1/01/14, Fed.

To provide services for audit requirements and comply with federal regulations.

- j. Jensen & Keddington P.C., \$10,587.76, 9/30/11 to 9/30/12, Amend., Fed.

Financial compliance reviews of sponsoring organizations of family day care homes under the Child and Adult Care Food Program.

[For complete details, see General Exhibit No. 11771.]

3. R277-107 Educational Services Outside of Educator's Regular Employment

In its December 2, 2011, meeting the Board approved R277-107 on second reading. The rule had not been substantively amended since 2000. Amendments were made to include a new section specific to ethics and make terminology changes.

The Board approved R277-107 *Educational Services Outside of Educator's Regular Employment* on third and final reading. [For complete details, see General Exhibit No. 11772.]

4. R277-476 Incentives for Elementary Reading Program

In its December 2, 2011 meeting, the Board approved the repeal of R277-476 on second reading. The rule concerns a program that is no longer funded. The Board repealed R277-476 *Incentives for Elementary Reading Program* on third and final reading. [For complete details, see General Exhibit No. 11773.]

5. R277-503 Licensing Routes

In its December 2, 2011 meeting, the Board approved R277-503 on second reading. The rule carves out a niche for educators in the Alternative Routes to Licensure program to teach in an online setting.

The Board approved R277-503 *Licensing Routes* on third and final reading. [For complete details, see General Exhibit No. 11774.]

6. R277-484-3 Data Standards

In its December 2, 2011 meeting, the Board approved R277-484-3 on second reading. The rule was amended to change the date for districts to submit data for the Bus Driver Credential Report.

The Board approved R277-484-3 *Data Standards* on third and final reading. [For complete details, see General Exhibit No. 11775.]

7. R277-511 Highly Qualified Teacher Grants

In its December 2, 2011 meeting, the Board approved the repeal of R277-511 on second reading. It was determined the rule should be repealed because funding has been discontinued.

The Board repealed R277-511 *Highly Qualified Teachers Grants* on third and final reading. [For complete details, see General Exhibit No. 11776.]

8. R277-512 Online Licensure

In its December 2, 2011 meeting, the Board approved continuation of R277-512 on second reading. The rule was reviewed for continuation as part of its five-year review, as well as needed amendments. It was determined the rule needs to be continued, but required significant revisions to be addressed in the future.

The Board approved continuation of R277-512 *Online Licensure* on third and final reading. [For complete details, see General Exhibit No. 11777.]

9. R277-513 Dual Certification

In its December 2, 2011 meeting, the Board approved the repeal of R277-513 on second reading. It was determined the rule should be repealed because much of the language and processes in the rule are outdated. Language that continues to be necessary was incorporated into R277-520-4 *Appropriate Licensing and Assignment of Teachers, Appropriate Licenses with Areas of Concentration and Endorsement*.

The Board repealed R277-513 *Dual Certification* on third and final reading. [For complete details, see General Exhibit No. 11778.]

10. R277-519 Educator Inservice Procedures and Credit

In its December 2, 2011 meeting, the Board approved the continuation of R277-519 on second reading. The rule was reviewed for continuation as part of its five-year review, as well as needed amendments. It was determined that the rule should be continued, but requires significant revision to be addressed in the future.

The Board approved continuation of R277-519 *Educator Inservice Procedures and Credit* on third and final reading. [For complete details, see General Exhibit No. 11779.]

11. R277-520-4 Appropriate Licensing and Assignment of Teachers

In its December 2, 2011 meeting, the Board approved R277-520-4 on second reading. The rule was amended to incorporate necessary language from R277-513 *Dual Certification*, which was recommended for repeal.

The Board approved R277-520-4 *Appropriate Licensing and Assignment of Teachers* on third and final reading. [For complete details, see General Exhibit No. 11780.]

12. R277-714 Dissemination of Information About Juvenile Offenders

In its December 2, 2011 meeting, the Board approved R277-714 on second reading. The rule had not been substantively amended since 1994. The rule was amended to remove unnecessary language and make minor terminology changes.

The Board approved R277-714 *Dissemination of Information About Juvenile Offenders* on third and final reading. [For complete details, see General Exhibit No. 11781.]

13. R277-718 Utah Career Teaching Scholarship Program

In its December 2, 2011 meeting, the Board approved the repeal of R277-718 on second reading. The rule has not been substantively amended since 1987. The rule was recommended for repeal because funding for the program has been discontinued. The

Board repealed R277-718 *Utah Career Teaching Scholarship Program* on third and final reading. [For complete details, see General Exhibit No. 11782.]

14. R277-730 *Alternative High School Curriculum*

In its November 4, 2011 meeting, the Board approved repeal of R277-730. The rule had not been substantively amended since 1987. It was determined that standards and procedures in the rule are outdated and no longer applicable, therefore the rule is unnecessary.

The Board repealed R277-730 *Alternative High School Curriculum* on third and final reading. [For complete details, see General Exhibit No. 11783.]

15. R277-915 *Work-based Learning Programs for Interns*

In its December 2, 2011 meeting, the Board approved R277-915 on second reading. The rule had not been substantively amended since 1997. Amendments included terminology changes.

The Board approved R277-915 *Work-based Learning Programs for Interns* on third and final reading. [For complete details, see General Exhibit No. 11784.]

16. Monthly Budget Report

The Monthly Budget Report was provided to give information to the Board in meeting its fiduciary responsibilities toward the Utah State Office of Education, the Utah State Office of Rehabilitation and the Utah Schools for the Deaf and the Blind. [For complete details, see General Exhibit No. 11785.]

17. Educator Licensing Requests for Temporary Authorizations

A list of Requests for Temporary Authorizations as submitted by the school districts was provided. The Board approved the temporary authorizations. [For complete details, see General Exhibit No. 11786.]

18. Ratification of Hiring

The Board ratified the hiring of Jennifer Slade as an Education Specialist in the Utah State Office of Education Educational Equity Section.

19. List of Educator Licenses Processed

A summary of the total number of educator licenses and license areas processed in December 2011 was provided. [For complete details, see General Exhibit No. 11787.]

20. Claims Report

The Claims Report for November 2011 was provided for Board information. [For complete details, see General Exhibit No. 11788.]

21. Notice of Vacancy

There will be one vacancy for the district superintendent position on the Instructional Materials Commission as of April 2012.

The Board recessed to committees at 8:55 a.m. The Board reconvened at 10:25 a.m.

### **Superintendent's Report**

Superintendent Larry K. Shumway reported on the following.

- Provo School District issues - Superintendent Randy Merrill has resigned, and Bob Gentry is serving as the interim superintendent.
- Preliminary approval from the U.S. Department of Education has been received granting a one-year extension of the use NWEA.
- 2011 Class Size and Pupil Ratio Report was reviewed.
- 2011 Cohort Graduation and Dropout Rate Report was reviewed.
- Legislative Fiscal Analyst's Minimum School Program and Utah State Office of Education In-depth Review was presented.
- A proposed letter to legislative leadership from Board Leadership requesting a comprehensive study of the structure of public education funding in Utah was reviewed.

[For complete details, see General Exhibit No. 11789.]

### **UPPAC Process Review**

Dr. Bruce Landesman, Associate Professor of Philosophy at the University of Utah, was welcomed to the meeting. He discussed with the Board its process for reviewing recommendations from the Utah Professional Practices Advisory Commission (UPPAC) and revoking or reinstating educator licenses. In response to questions from Board members, his main points included:

- Criteria for permanent revocation of an educator's license should be very specific in detailing professional conduct, and context must play a role.
- There may be cases where automatic suspension should take place at a district level, depending on the danger posed to students.
- It was noted in the Board and UPPAC rules on sanctions for educator misconduct, that there are no explicit criteria the Commission might use to determine whether a particular type of professional conduct requires a certain type of sanction.
- It was noted that there are no specific criteria that must be satisfied in order for an educator license to be reinstated.
- Since the Board has final legal authority for determining action on a license, it is important for the Board to know all the reasons, for and against, for taking a specific action.
- Different criteria should be used to revoke a license and reinstitute a license.
- Whether an educator is a good teacher is irrelevant if they have violated their professional responsibilities and have created harm for students or committed a crime. However, poor teaching may be part of a reason to not reinstate a license.
- Legal definitions of crime, while a good guide, may not be sufficient in determining action. The definition of abuse might be a good case where some written criteria would be helpful.

Vice Chair Allen thanked Professor Landesman for his insights. Board Leadership will consider future action regarding the UPPAC process.

### **Technology Standards**

Associate Superintendent Judy Park reviewed the Utah State Board of Education Technology Standards 2012, first presented in August 2011. The Technology Standards have been vetted through twenty-six different stakeholder groups, and the final standards represent the many comments and edits recommended.

Essential components of the Technology Standards are: 1) access to technology—including 1:1 ratio of device to student; 2) professional learning opportunities; and 3) ongoing technical support.

Associate Superintendent Park distributed information about the costs of implementing the standards, and the Board discussed funding of technology needs.

Motion was made by Member Janet Cannon and seconded by Member Laurel Brown that the Board approve the Technology Standards. Motion carried unanimously. [For complete details, see General Exhibit No. 11790.]

### **Board Chair Report**

Chair Debra Roberts reported on the following:

- A handout for legislators on the Board's Computer Adaptive Testing (CAT) proposal has been developed. Other legislative handouts will be developed, as well as a handout on Frequently Asked Questions. [For complete details, see General Exhibit No. 11791.]
- The Board's Funding Committee has met twice, and will suspend future meetings until after legislative session.
- The Governor's Education Commission has developed its legislative proposal.
- A report from the Utah Women's College Task Force will be coming out in February. Some pieces of legislation may be sponsored as a result of the task force work.
- The State Board Recruiting and Nominating Committee has been formed.
- A work/study session to discuss ESEA waivers will be held February 2 at 2:00 p.m. There will also be a work/study session on December 6.
- The Board will hold a retreat—possibly in southeastern Utah—on August 2 or 4, in conjunction with the August 3 Board meeting.

### **2012 Legislative Session**

#### Trust Lands

Representative Ken Ivory was welcomed to the meeting. He gave the video presentation—*Enforcing the Terms of Western States' Enabling Act*. The Representative has been meeting with Utah's Attorney General and Lt. Governor to write a comprehensive lands bill that sets a

deadline for the federal government to dispose of all public lands directly to the state. Six western states will be running legislation together. He asked for the Board's support for the bill. [For complete details, see General Exhibit No. 11792.]

### Legislation

HB15 *Statewide Adaptive Testing* was reviewed. It was suggested that the money appropriated by the legislation be made non-lapsing. Member David Thomas will follow up with the sponsors.

Deputy Superintendent Martell Menlove reviewed other education-related bills for the upcoming legislative session. The Board will begin taking positions on bills at its legislative meeting on January 26. [For complete details, see General Exhibit No. 11793.]

### **Minimum School Program Consolidation**

The Legislative Committee of the Utah School Boards Association (USBA), Utah School Superintendents Association (USSA), and Utah Association of School Business Officials (UASBO) has taken positions on further consolidation of the Minimum School Program (MSP) by altering existing distribution formulas. This consolidation is often referred to as "moving above the line" and further employs the Weighted Pupil Unit (WPU) distribution. The USBA/USSA/UASBO Legislative Committee requested that the State Board of Education join them in taking formal positions on whether or not specific MSP line items should be collapsed into a WPU distribution and/or "moved above the line." Deputy Superintendent Martell Menlove reviewed the specific positions taken.

Motion was made by Member Laurel Brown and seconded by Member David Crandall that the Board not support any changes structurally to the Minimum School Program, pending a study of public education funding structure as requested in the letter to legislative leadership from Chair Roberts, Vice Chair Allen, and Superintendent Shumway.

Motion carried; Member J. Coleman opposed. [For complete details, see General Exhibit No. 11794.]

**Board Committee Reports**

## ACCOUNTABILITY, FINANCE AND ASSESSMENT COMMITTEE

Committee Chair David Thomas reported on the following items from the committee.

Charter School Revolving Account Loan Recommendations

The State Charter School Board made recommendations in its December 8, 2011 meeting that three charter schools receive loans per Utah Code Annotated 53A-21-522(3) *Charter School Revolving Loan Account*. Motion from Committee that the Board approve loans from the revolving loan account for:

- Aristotle Academy - \$150,000
- High Mark Charter School - \$300,000
- Valley Academy - \$263,000

Motion carried unanimously. [For complete details, see General Exhibit No. 11795.]

Taxing Entity Committee Meeting Outcomes

The Taxing Entity Committee outcome of the Redevelopment Agency of Salt Lake County's West Millcreek Urban Renewal Area meeting held during December 2011 was reported to the committee. Board representative Larry Newton voted on behalf of the Board to approve changing the trigger date from 2012 to 2015. [For complete details, see General Exhibit No. 11796.]

R277-497 School Grading System

The State Board of Education is required in Utah Code 53A-1-1111 through 1113 to develop a system and make rules to grade schools. The Board approved the system for grading schools in its November 2011 meeting. The Committee reviewed R277-497 *School Grading System*, which puts the system into rule, and made further amendments outlined on a distributed sheet.

The Committee approved R277-497 (4-1), as amended, on first reading, and moved that the Board approve the rule on second reading.

Motion carried; Members Burningham, Castle, and Murphy opposed. [For complete details, see General Exhibit No. 11797.]

Waiver Request - R277-800-12 *Utah Schools for the Deaf and the Blind, Utah State Instructional Materials Access Center (USIMAC)*

The Committee heard a request that R277-800-12 be waived on a one-time basis to allow the USOE Special Education Section to use IDEA funds designated for statewide activities to pay for all LEA-requested USIMAC services between January 1, 2012 and June 30, 2012. The waiver would allow for a period of time to study the actual needs of USIMAC when the fiscal restraints are removed from LEAs. R277-800-12 states that LEAs are responsible for 75 percent of USIMAC costs while the other 25 percent is taken from the USIMAC legislative allocation.

The Committee approved the one-time waiver of R277-800-12 as requested, and moved that the Board approve the waiver. Motion carried unanimously. [For complete details, see General Exhibit No. 11798.]

#### INSTRUCTION, SUPPORT AND TECHNOLOGY

Committee Chair Janet Cannon reported on the following items from the Committee.

R277-600-7 *Student Transportation Standards and Procedures, Alternative Transportation*

Rule R277-600-7 allows that the cost incurred by the school district by providing a subsistence allowance to parents for a student's room and board—when a student lives away from home at a site nearer to the assigned school—is an approved cost that may be reimbursed with state pupil transportation funds if the student does not have a school facility or bus service available within approximately 60 miles of the student's residence.

Further, the rule allows that within the reimbursement for room and board, the subsistence allowance may include the cost of two round trips per year for the student to return home. Providing reimbursement for 18 round trips each school year was felt to be more adequate in supporting families who have students living away from home to access educational opportunities.

The Committee forwarded further amendments on a distributed sheet. The Committee approved R277-600-7 *Student Transportation Standards and Procedures, Alternative Transportation*, as amended, on first reading, and moved that the Board approve the rule on second reading.

Motion carried unanimously. [For complete details, see General Exhibit No. 11799.]

#### R277-521 Professional Specialist Licensing

Rule R277-521 has not been substantively amended since 2002. Staff reviewed the rule and determined that the provisions of this rule are no longer necessary for USOE licensing and employment. The Committee approved the repeal of R277-521 *Professional Specialist Licensing* on first reading, and moved that the Board approve repeal of the rule on second reading.

Motion carried unanimously. [For complete details, see General Exhibit No. 11800.]

#### R277-615 Standards and Procedures for Student Searches

R277-615 is a new rule that directs local education agencies to adopt rules or policies with procedures that protect students against unreasonable and excessive intrusion while on school property or at school-sponsored activities consistent with Section 53A-11-1305 *Board rules to ensure protection of individual student rights*.

The Committee made further amendments as outlined on a distributed sheet. The Committee approved R277-615 *Standards and Procedures for Student Services* on first reading, as amended, on first reading, and moved that the Board approve the rule on second reading.

Motion carried unanimously. [For complete details, see General Exhibit No. 11801.]

#### Necessarily Existent Small Schools

The Utah Rural Schools Association (URSA) made a presentation to the Board in its December 2011 meeting. This presentation is part of an ongoing conversation that may result in legislative action and/or amendment of R277-445 *Classifying Small Schools as Necessarily Existent*. The Committee received greater detail. There may be some additional legislation on these schools coming forward for next year's legislative session. [For complete details, see General Exhibit No. 11802.]

## CURRICULUM, STANDARDS, AND STUDENT SUCCESS

Committee Chair Laurel Brown reported on the following items from the Committee.

### Early Childhood Standards

Various entities invested in early childhood education have come together around developing and implementing standards for early childhood education in order to have a more comprehensive approach to school readiness. The Committee reviewed proposed *Early Childhood Standards* from the Utah State Office of Education. There was some concern about the concept of having standards at the preschool level. The Committee voted unanimously to pass the standards on for public comment.

Motion from Committee that the Board move Early Childhood Standards forward for public comment. Motion carried unanimously. [For complete details, see General Exhibit No. 11803.]

### R277-705 Secondary School Completion and Diplomas

Consistent with the Utah Administrative Rulemaking Act five-year review requirement, the Committee reviewed R277-705 to determine if the rule should be continued. The Committee approved continuation of R277-705 *Secondary School Completion and Diplomas* on first reading, and moved that the Board approve continuation of the rule on second reading.

Motion carried unanimously. [For complete details, see General Exhibit No. 11804.]

### **Executive Session**

Motion was made by Member Tami Pyfer and seconded by Member Laurel Brown that the Board move into Executive Session for the purpose of discussing the character, professional competence, or physical or mental health of an individual.

The Board was polled, and upon unanimous consent of those present, moved into Executive Session at 2:50 p.m.

Motion was made by Member Debra Roberts and seconded by Member Keith Buswell that the Board reconvene into open meeting. Motion carried.

The meeting reconvened at 4:12 p.m.

**Executive Session Action Items**Utah Professional Practices Advisory Commission (UPPAC) Recommendations

Motion was made by Member Carol Murphy and seconded by Member Tami Pyfer that the Board approve the recommendation of UPPAC in Case No. 11-1034 and accept a stipulated agreement of a former educator in Granite District to voluntarily surrender his educator license in lieu of a hearing for the purposes of suspension of his license from the date of formal action by the State Board. Motion carried unanimously.

Motion was made by Member Murphy and seconded by Member Pyfer that the Board approve the recommendation of UPPAC in Case No. 11-1039 and accept a stipulated agreement, with conditions, whereby a former employee of Lakeview Academy Charter School voluntarily accepts suspension of her license as of the date of formal action by the State Board of Education.

Motion carried unanimously.

[For complete details, see General Exhibit No. 11805.]

Instructional Materials Commission Appointments

Motion was made by Member Craig Coleman and seconded by Member Debra Roberts that the Board appoint to the Instructional Materials Commission: Jared Carmen as a Lay Citizen Commissioner, and Carolyn Johnson as an Elementary Principal Commissioner, both terms expiring four years after approval.

Motion carried unanimously.

**Adjournment**

Motion was made by Member Carol Murphy and seconded by Member Janet Cannon that the meeting adjourn. The meeting adjourned at 4:15 p.m.

Lorraine Austin, Secretary to the Board

Approved February 3, 2012