

**UTAH STATE BOARD OF EDUCATION
MEETING MINUTES**

March 7, 2014

A regular meeting of the Utah State Board of Education was held March 7, 2014 at the Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah.

At the request of the Chair, Vice Chair David Thomas conducted.

Board Members present:

Chair David L. Crandall	Member Heather Groom
Vice Chair David L. Thomas	Member Michael Jensen
Member Dixie L. Allen	Member Jennifer A. Johnson
Member Kim R. Burningham	Member Jefferson Moss
Member Keith M. Buswell	Member C. Mark Openshaw
Member Leslie B. Castle	Member Debra G. Roberts
Member Kristin Elinkowski (non-voting)	Member R. Dean Rowley (non-voting)
Member Dan Griffiths	Member Teresa L. Theurer (non-voting)

Board Members excused:

Member Freddie Cooper (non-voting)	Member Marlin Jensen (non-voting)
Member Barbara W. Corry	

Executive staff present:

Martell Menlove, State Supt.	Russ Thelin, USOR Executive Director
Brenda Hales, Deputy Supt.	Joel Coleman, USDB Superintendent
Judy Park, Associate Supt.	Lorraine Austin, Board Secretary
Bruce Williams, Associate Supt.	

Others present:

William Evans, A.G.'s office; Lydia Nuttall, parent; Debi Tabor, Utah PTA; Melissa Veltri, America First Credit Union/Utah JumpStart; Steve Anderson, Deseret First Credit Union/Utah JumpStart; Mike Christensen, Utah School Employees Association; Justin Spears, UACPA/JumpStart; Pam Kennaly, Utah JumpStart Coalition; Jan Ferre, LCPD; Rich Nelson, UTC; Natalie Grange, USBE; Roxana Orellana, USOE, Keith Lawrence, USOE; Emilie Wheeler, USBE

Opening Business

Vice Chair David Thomas called the meeting to order at 10:08 a.m. Member Debra Roberts led those present in the Pledge of Allegiance.

Members Barbara Corry, Freddie Cooper and Marlin Jensen were excused.

Board Member Message

Member Jefferson Moss shared an experience he had recently in southern Utah visiting Monument Valley High School. It reminded him that Utah has a broad and diverse population. He reported on some of the exciting things going on at the school to address its population, including business partnerships, scholarships and incentives.

Member Moss gave an invocation.

Public Participation

Lydia Nuttall, parent, Morgan County - gave feedback regarding the Common Core and what she is hearing from some parents. There is frustration and a feeling there isn't freedom of choice. She asked if a compromise could be found.

Matt Bowman - re-extended his offer to assist the Board with distance education. He thanked the Board for acting so quickly on the Online Audit, and informed that the published audit has a number of inadequacies that he has provided to the Board's internal auditor.

Debi Tabor, Utah PTA - expressed that it has been a pleasure to sit on the Financial Literacy Task Force. She forwarded a request from Utah PTA that the Board support the recommendations of the Task Force.

Jared Gleue, Wells Fargo and JumpStart volunteer - expressed support for financial literacy and encouraged the Board to consider its importance.

Will Vandertoolen, AAA Credit Corp. Director of Counseling Services - reported that he sees the consequences every day of individuals that did not receive a good financial education. He added his support and encouragement for the Board to support the high school financial literacy course.

Steve Anderson, President, Utah Jumpstart Coalition - Jumpstart supports the Financial

Literacy Task Force and its recommendations.

Susan Speirs - President, Utah Association of CPAs - expressed support for financial literacy and ensuring that educators teaching the course receive the necessary professional development.

General Consent Calendar

MOTION was made by Member Mark Openshaw and seconded by Member Jennifer Johnson that Item E, R277-118 *LEA Post-employment Benefits Plan*, be removed from the Consent Calendar as the rule may need to be changed pending legislation.

Motion carried.

MOTION was made by Member Openshaw and seconded by Member Johnson that the Board approve the Consent Calendar, as amended.

Motion carried unanimously.

Board Leadership Election

Vice Chair Thomas announced that Members Barbara Corry and Mark Openshaw have submitted their names to run for Board 2nd Vice Chair. Vice Chair Thomas opened the floor for nominations. There were no new nominations. It was noted that due to illness, Member Corry was unable to attend the meeting.

MOTION was made by Member Openshaw and seconded by Member Griffiths that the Board suspend its rules in order to allow Member Corry to vote in absentia in the elections.

Motion carried unanimously.

Vice Chair Thomas read a statement from Member Corry. Member Openshaw also gave a statement.

The Board voted by ballot. The results were counted by Chair David Crandall and Board Secretary Lorraine Austin, with the results 7-7.

Distance and Online Education Programs Audit

Internal Auditor Natalie Grange gave a presentation on the Distance and Online Education Programs Audit, including recommendations for further direction and action.

Vice Chair Thomas reported that the Finance and Audit Committee discussed Board rule R277-419 *Pupil Accounting* in its meeting, and suggested that a task force be formed to review the rule and make recommendations for changes. The intent would be for the task forces to coordinate their work.

MOTION was made by Chair Crandall and seconded by Member Groom that the Board direct Superintendent Menlove to form a task force as outlined in the Online Education Programs Audit presentation, and bring a report and recommendations back to the Board within the time lines outlined in the presentation.

Motion carried unanimously.

MOTION was made by Chair Crandall and seconded by Member Openshaw that the Board direct Superintendent Menlove to form an R277-419 review task force, including at least two Board members, with the following time lines:

- April to August - bring stakeholders together.
- September 5 - report to the Finance and Audit Committee.
- October 3 - Finance and Audit Committee and Board to consider changes to rule and possible statutory changes.
- November - report the process to the legislative Education Interim Committee.

Motion carried unanimously.

It was noted that the online task force will be more organizational in nature, and the R277-419 task force will be more financial in nature. Members Allen and Groom expressed interest in serving on the online task force, and Members Buswell, Griffiths, and Moss expressed interest in serving on the R277-419 task force.

Other suggestions included the Board spending time discussing the issues in its next retreat, being as transparent with the meetings as possible, and adding a legislator to each group.

Vice Chair Election - continued

MOTION was made by Member Johnson and seconded by Member Groom that the Board take a two-minute recess.

Motion carried, and the Board recessed. The Board reconvened at 12:00 p.m.

MOTION was made by Member Buswell and seconded by Member Allen that the Board re-vote today for a 2nd Vice Chair, with Board members expressing their reasons for voting for each candidate prior to the vote.

Motion carried, with Members Castle and Johnson opposed.

A discussion was held about each candidate.

MOTION to move to the vote was made by Member Johnson and seconded by Member Castle.

Motion carried unanimously.

A second ballot was distributed and members voted. The votes were counted by Chair Crandall and Board Secretary Austin, with the results 7-7.

MOTION was made by Member Jensen and seconded by Member Allen that the Board postpone the election for 2nd Vice Chair until the April Board meeting.

MOTION to amend was made by Member Groom and seconded by Member Moss that the Board postpone the vote for a 2nd Vice Chair indefinitely.

Motion to amend carried, with Members Castle, Crandall, Griffiths, Groom, Jensen, Johnson, Moss and Thomas in favor, and Members Allen, Burningham, Buswell, Openshaw and Roberts opposed.

Amended motion carried, with Members Castle, Crandall, Griffiths, Jensen, Johnson, Moss, Openshaw and Thomas in favor, and Members Allen, Burningham, Buswell, Groom and Roberts opposed.

Utah Professional Practices Advisory Commission (UPPAC) Recommendations

MOTION was made by Member Allen and seconded by Member Buswell that the Board accept UPPAC's recommendation in the following cases:

- Case No. 13-1166 - suspension of the educator's Level 2 Secondary Education

License. The Educator may request a reinstatement hearing following satisfaction of all conditions in the stipulated agreement and completion of a criminal background check, no sooner than two years from the date of Board action. Any UPPAC recommendation for reinstatement following a hearing is subject to Board approval.

- Case No. 13-1162 - suspension of the educator's Level 1 Secondary Education License. The Educator may request a reinstatement hearing following satisfaction of all conditions in the stipulated agreement and completion of a criminal background check, no sooner than two years from the date of Board action. Any UPPAC recommendation for reinstatement following a hearing is subject to Board approval.

Without objection, both cases were referred to Executive Session for discussion.

Legislative Items

Discussion with Legislators

Representative Val Peterson was welcomed to the meeting. He distributed a handout and reviewed information regarding HB 150 *Science, Technology, Engineering, and Mathematics Amendments*.

Representative Francis Gibson was welcomed to the meeting. He reviewed HB 131 S3 *Public Education Modernization Act*. He clarified that funding for this program would not come from the WPU or be available to fund the WPU.

Legislation

Superintendent Menlove updated the Board on legislation.

MOTION was made by Member Johnson that the Board take no position on SB 258 *Educator Licensure Amendments* as long as the licensure portion of the bill is stricken; and if the licensure portion is not stricken, the Board oppose the bill.

Motion carried unanimously.

MOTION was made by Member Griffiths and seconded by Member Moss that the Board support HB 131 S3 *Public Education Modernization Act*.

Motion carried, with Members Burningham and Castle abstaining.

MOTION was made by Member Moss and seconded by Member Allen that the Board

support HB 150 S1 *Science, Technology, Engineering, and Mathematics Amendments*.

Motion carried unanimously.

MOTION was made by Member Allen and seconded by Member Jensen that the Board designate SB 80 S1 *Statewide Online Education Amendments* as unnecessary.

Member Allen withdrew her motion.

MOTION was made by Member Allen that regarding SB 80 S1 *Statewide Online Education Amendments*, the Board direct Superintendent Menlove and Board members to continue to work with the sponsor to ensure that the Board retains its primacy over licensure.

Motion carried unanimously.

MOTION was made by Chair Crandall and seconded by Member Openshaw that the Board oppose HB 342 S2 *Powers and Duties of the State Board of Education*.

Motion carried unanimously.

Executive Session

MOTION was made by Member Allen and seconded by Member Griffiths that the Board move into Executive Session for the purpose of discussing the character, professional competence, or physical or mental health of individuals.

Upon unanimous voice vote of those present, the Board moved into Executive Session at 2:00 p.m.

Individuals attending Executive Session included: Members Allen, Burningham, Buswell, Castle, Crandall, Elinkowski, Griffiths, Groom, Jensen, Johnson, Moss, Openshaw, Roberts, Rowley, Theurer, Thomas; and Martell Menlove, Brenda Hales, Lorraine Austin, Heidi Alder, Rachel Terry, and William Evans.

MOTION was made by Member Johnson and seconded by Member Allen that the Board come out of Executive Session.

Motion carried. The Board reconvened in open meeting at 2:23 p.m.

Executive Session Items

Utah Professional Practices Advisory Commission Recommendations

The original motion to accept the UPPAC recommendations was divided.

Motion to accept the UPPAC recommendation in Case No. 13-1166 carried, with Members Castle and Johnson opposed.

Motion to accept the UPPAC recommendation in Case No. 13-1162 carried, with Members Allen, Burningham, Buswell, Groom, Jensen, Moss, Openshaw, Roberts and Thomas in favor, and Members Castle, Crandall, Griffiths and Johnson opposed.

State Charter School Board Appointment

MOTION was made by Member Groom and seconded by Member Johnson that the Board recommend that Mr. Bruce Davis serve an additional term on the State Charter School Board, and forward his name to the Governor for consideration.

Motion carried unanimously.

Superintendent's Report

Superintendent Martell Menlove and staff reported on the following:

- New USOE employees Becky Unker and Ginny Eggem were introduced.
- The 2014 Fingertip Facts are now available.
- A U.S. Department of Education comparison showing the difference between the FY 2014 appropriation and FY 2015 budget request of select education and related programs was distributed.
- Correspondence regarding the ESEA Flexibility waiver extension was discussed. The U.S. Department of Education must complete its Part B Monitoring report before Utah can apply for an extension.
- In future Superintendent's reports, items out for parental review and public input will be listed. Deputy Superintendent Brenda Hales summarized what is currently happening.
- A link was provided to the article, *Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices*.
- Recommendations on High School Mathematics Preparation for the Utah System of Higher Education was distributed.

Board Chair's Report

Chair Crandall reported on the following:

- Several Board members met with John Cohen of AIR, the contractor developing the SAGE computer adaptive testing system. Chair Crandall reported that it was a helpful meeting, and suggested that another meeting be scheduled for other Board members to meet with Mr. Cohen.
- Superintendent Menlove will be drafting a letter to the Attorney General requesting legal counsel on the Board's participation with the Utah Public Education Coalition. It was expressed that participation on the Coalition is valuable, but it may not be appropriate for the Board to be a voting member.
- Pam Perlich gave a presentation on the demographics and changing face of Utah in the last Governor's Education Excellence Commission meeting. It was suggested that Ms. Perlich be invited to give the presentation to the Board.
- Several board members will be attending the National Association of State Boards of Education (NASBE) Conference next week and will be meeting with Utah's congressional delegation.
- The Governor has appointed Terry Warner to fill the District 1 vacancy on the Board. She will go before the Senate next week for approval.
- Board P.R. Specialist Emilie Wheeler was recognized for her work during the legislative session.
- The process in the Attorney General's office of hiring an attorney for the Board is ongoing. Williams Evans from the A.G.'s office was thanked for filling in.

Standing Committee Reports**FINANCE AND AUDIT COMMITTEE**

Committee Chair David Thomas reported on the following audit items, and Committee Vice Chair Keith Buswell reported on the following finance items.

North Sanpete District Audit Report

North Sanpete School District has not yet turned in its required audit report; therefore, funding to the district is being reduced until the report is received. It is anticipated the report will be submitted by April 1.

Summary of Fiscal Year 2013 Single Audit for LEAS

The Committee released the audit. Three entities—Kane District, Pacific Heritage School, and Pioneer High School—showed material weaknesses in their audits.

Taxing Entity Committee to the Redevelopment Agency of Mt. Pleasant City's Neighborhood Development Project Area

The Committee approved USOE staff member Cathy Dudley as the Board's representative to the taxing entity, and directed her to vote for the requested three-year extension (if the school district votes in favor), with an amendment that the project be capped at \$492,003.

R277-419 Pupil Accounting

The Committee discussed areas in which the rule may need to be changed, and recommended that a task force be formed for further study and recommendations.

R277-477 Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program

The committee reviewed R277-477 and proposed amendments regarding expenditure of the School LAND Trust Program monies. A handout outlining the amendments was distributed to the Board.

The Committee approved the amendments to R277-477 *Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program* on first reading, and moved that Board approve the rule, as amended, on second reading.

Motion carried unanimously.

Committee Chair Mark Openshaw reported on the following items from the Committee.

R277-102 Adjudicative Proceedings

The Committee reviewed R277-102 in accordance with the Utah Administrative Rulemaking Act five-year review and continuation requirement. They also reviewed a proposal from staff to repeal/reenact the rule because of numerous changes needed. The Committee did not approve the repeal/reenact as proposed. Chair Crandall will contact the Attorney General to obtain a legal opinion to ensure the rule meets the Board's needs, and the rule will be brought back to the Committee.

The Committee approved continuation of R277-102 *Adjudicative Proceedings* on first reading, and moved that the Board approve continuation of the rule on second reading.

Motion carried unanimously.

R277-105 Recognizing Constitutional Freedoms in the Schools

The Committee reviewed R277-105 in accordance with the Utah Administrative Rulemaking Act five-year review and continuation requirement.

The Committee approved continuation of R277-105 *Recognizing Constitutional Freedoms in the Schools* on first reading, with the understanding that the rule will come back for review as the agenda allows. The Committee also approved on first reading amendments to the rule to change the term "district" to "LEA" where appropriate.

MOTION from Committee that the Board approve continuation of R277-105 and approve the rule, as amended, on second reading.

Motion carried unanimously.

R277-601 Standards for Utah School Buses and Operations

The Committee reviewed R277-601 in accordance with the Utah Administrative Rulemaking Act five-year review and continuation requirement.

The Committee approved continuation of R277-601 *Standards for Utah School Buses and Operations* on first reading, and approved amendments to the rule to remove the text in Section 3 numbered "B," and remove the word "voice" in line 38 (Section 3-A(1)(b)). A handout

with the changes was distributed.

MOTION from Committee that the Board approve the proposed amendments to rule R277-601, and continuation, on second reading.

Motion carried unanimously.

R277-725 *Electronic High School*

The Committee reviewed R277-725 in accordance with the Utah Administrative Rulemaking Act five-year review and continuation requirement, and amendments to make the rule consistent with current state law and legislative audit recommendations. The committee made an additional amendment to line 93, Section 7(B), to add “legal guardians.”

The Committee approved continuation of and amendments to R277-725 *Electronic High School* on first reading, and moved that the Board continue and approve the rule, as amended, on second reading.

Motion carried unanimously.

R277-916 *Career and Technical Education Introduction and Work-Based Learning Programs*

The Committee reviewed R277-916 in accordance with the Utah Administrative Rulemaking Act five-year review and continuation requirement.

The Committee approved continuation of the rule on first reading; Member Castle absent.

MOTION from Committee that the Board approve continuation of R277-916 *Career and Technical Education Introduction and Work-Based Learning Programs* on second reading.

Motion carried unanimously.

R277-410-5 *Accreditation of Schools—Accreditation Procedures*

The Committee reviewed amendments to R277-410-5 to reinstate provisional status for new schools requesting accreditation through AdvancED.

The Committee approved amendments to R277-410-5 *Accreditation of Schools—Accreditation Procedures* on first reading, and moved that the Board approve the rule, as amended, on second reading.

Motion carried unanimously.

R277-503-4 Licensing Routes

The Committee reviewed amendments to R277-503-4 to define the role of a teacher and address participation in the ARL program. The Committee made additional amendments in lines 58-68 to change the numbering.

The Committee approved amendments to R277-503-4 *Licensing Routes* on first reading, and moved that the Board approve the rule, as amended, on second reading.

Motion carried unanimously.

Utah Military Academy Charter Approval

The State Charter School Board (SCSB) met recently and heard presentations from applicant groups seeking approval to establish a charter school under UCA 53A-1a-501.9. The statute promotes the establishment of charter schools employing new and creative methods to meet the unique learning styles and needs of students.

The SCSB forwarded a recommendation for one applicant, Utah Military Academy, to be approved for opening its first campus in fall 2014.

MOTION from Committee that the Board approve Utah Military Academy's charter to open its first campus in the 2014-2015 school year as outlined in its application, and waive the time lines in Board rule R277-482 *Charter School Timelines and Approval Processes*.

Member Elinkowski reviewed the application with the Board. She noted that the SCSB approved a second campus to open in 2015-2016 upon conditions of meeting specific criteria.

Motion carried unanimously.

STANDARDS AND ASSESSMENT COMMITTEE

Committee Chair Dixie Allen reported on the following items from the Committee.

Computer Literacy Task Force

The committee received a report and recommendations from the Computer (Digital) Literacy Task Force. The Task Force recommendations were distributed to the Board.

General Financial Literacy Task Force

The committee received a report and recommendations from the General Financial Literacy Task Force.

Board of Education Graduation Initiative

The Committee directed USOE staff to consolidate the recommendations from the three task forces organized under the Board's Graduation Initiative, conduct discussions, and return to the Board when ready for Board discussion and action.

Student Assessment of Growth and Excellence (SAGE)

The committee received an update on SAGE, including a summative timeline and information brochures.

Vice Chair Thomas mentioned that in the recent meeting with AIR, they discussed time periods in which to test. The Board has designated the spring test as mandatory. AIR indicated there is good evidence that for growth, a spring test is better; however, there is also benefit to a fall test. At some point the Board may want to consider a mandatory fall test.

Member Johnson suggested that the public may need to be better informed that this first test will be an operational field test. Superintendent Menlove indicated he will contact the legislative Education Interim Committee leadership and request that this be an item for discussion in the April Interim meeting.

Board Member Closing Comments

Member Openshaw reported that he is working on ideas for a Board social.

Member Buswell suggested the Board start considering its next big idea, as it did with the 1-to-1 device initiative.

Member Elinkowski reported that the State Charter School Board was made aware of findings reported in the Online and Distance Learning audit over a year ago, and directed the USOE Charter Schools Director in 2012 to send a letter to all charter schools, serving as written notice for them to stop offering unapproved programs. The SCSB is supportive of the Online audit, and warning letters to several of the charter schools are awaiting approval from the

Attorney General's office.

Member Griffiths asked Board members to give thought to the items for discussion at the upcoming retreat in May. He suggested three items: 1) the Online audit and R277-419 task forces; 2) UPPAC; and 3) addressing Common Core concerns.

Member Johnson reported that she is creating a communications piece outlining the rulemaking process in terms of public comment. She has heard concerns from various entities that it is difficult to make public comment to the Board, and suggested discussing it at the retreat.

Governor's Education Director Tami Pyfer was invited to give a public education report from the Governor's office. She indicated the Governor is very supportive of funding growth and the WPU. He is also supportive of technology in the classroom, but feels it is important to have a solid plan in place and follow good models. The Governor has also discussed looking at performance measures for technology and having a technology partnership with districts, including an inventory of LEAs to determine their technology use. She asked for the Board's support in joining with the Governor to conduct the inventory. Vice Chair Thomas indicated support for such a partnership.

Ms. Pyfer also reported that she has been working to improve the school grading bill, and would like to bring a plan regarding a school report card to the Board in its next meeting.

ADJOURNMENT

MOTION was made by Member Johnson and seconded by Member Openshaw that the meeting adjourn.

Motion carried. The meeting adjourned at 4:02 p.m.

Lorraine Austin, Board Secretary
Minutes approved April 4, 2014