

**UTAH STATE BOARD OF EDUCATION  
MEETING MINUTES**

July 17, 2014

A regular meeting of the Utah State Board of Education was held July 17, 2014 at the Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah.

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

**Board Members present:**

Chair David L. Crandall	Member Michael Jensen
Vice Chair David L. Thomas	Member Jennifer A. Johnson
Member Dixie L. Allen	Member Steven R. Moore
Member Kim R. Burningham	Member Jefferson Moss
Member Freddie Cooper (non-voting)	Member C. Mark Openshaw
Member Barbara W. Corry	Member Debra G. Roberts
Member Kristin Elinkowski (non-voting)	Member R. Dean Rowley (non-voting)
Member Heather Groom	Member Terryl Warner

**Board Members participating electronically:**

Member Keith M. Buswell	Member Teresa L. Theurer (non-voting)
Member Leslie B. Castle	

**Board Members excused:**

Member Dan Griffiths  
Member Marlin Jensen (non-voting)

**Executive and Board staff present:**

Martell Menlove, State Supt.	Lorraine Austin, Board Secretary
Brenda Hales, Deputy Supt.	Natalie Grange, Board Internal Auditor
Judy Park, Associate Supt.	Emilie Wheeler, Board Communications Specialist
Bruce Williams, Associate Supt.	
Joel Coleman, USDB Superintendent	

**Others present:**

Jeff Pollock—deaf community; Karla Rush, Brian Dulude, Everette Bacon, Mike Harve, Ray Jones, Adam Rushforth, Fang Yang, and James Reed—Division of Services for the Blind and Visually Impaired; Debby Llewelyn UAPCS; Dalaina Tonks, Mountain Heights Academy; Laura Belnap, Utah Online School; Carolyn White and JoDee Sundberg, Utah School Boards Association; Jan Ferré, LCPD; Logan Toone, Davis School District; Brooke Wilson, Julie

Beckstead–Utah Independent Living Center; Laney Benedict, Utah PTA; Elizabeth Garbe–UWSL; Nathan Allred–Nebos for Parental Rights; Joene Nicolaisen–Division of Services for the Deaf and Hard of Hearing; Jay Blain–Utah Education Association; Kylie Lincoln, Dwight Kirby, Tami Hirsch, Nancy Hart–students; Larry Ballard–citizen; Sandra Nielsen–Juab School District; Kris Fawson–people with disabilities; Marshal Garrett–Logan City School District; Tamara Afton–UCRP; Susan Pulsipher–Jordan School District; Bryce Huefner, taxpayer; Wendy Hart, Brian Halladay, Paula Hill, Jeff Rowland, Jennifer Huefner, Jill Jaeger, Sam Jaeger, Roy Howard, Lisa Cummins, Lydia Nuttall, Judge Norman Jackson, Pamela Budge, Joylin Lincoln, Siri Davidson, Tina Cannon, Pamela Smith, Autumn Cook–parents; LeNell Heywood–grandparent; and Cammie Nebeker, Sheryl Nelson, Nina Rogers, Quenton Price, Kurt Mannering, K. M. Wallace, Jacey Rogers, Thad Summerhays, Travis Petersen, Lee Petersen, Kathleen Miller, Kevin Bell, James David, Kathy Patty, Karen Johansen, Kathlyn Astle, Alisa Ellis and Lynnette Benedict.

### **Opening Business**

Vice Chair David Thomas called the meeting to order at 4:05 p.m. Member Groom led those present in the Pledge of Allegiance.

David Jones, Assistant Attorney General, introduced Chris Lacombe, the Assistant Attorney General assigned as the attorney for the State Board of Education. Chris was welcomed to the meeting.

### **General Consent Calendar**

**MOTION** was made by Member Johnson and seconded by Member Openshaw that the Board approve the Consent Calendar, with item A, minutes of the June 6, 2014 meeting, removed.

Motion carried unanimously.

**MOTION** was made by Member Johnson and seconded by Member Moss that the following changes be made to the June 6, 2014 meeting minutes:

Pages 11 and 12, under Board Graduation Initiative: add “effective immediately” to the motions.

Motion carried.

#### **A. Minutes of Previous Meetings**

Minutes were removed from the Consent Calendar for further action.

B. Monthly Budget Report

The Board received the monthly financial report for the Utah State Office of Education, Utah State Office of Rehabilitation, and Utah Schools for the Deaf and the Blind.

C. Contracts

The Board approved the following contracts:

1. Utah State Office of Education, \$130,000, amendment

Amendment to a Memorandum of Agreement between the Utah Department of Human Services Division of Substance Abuse and Mental Health and the Utah State Office of Education for USOE to be paid an additional \$130,000 by DHS for Prevention Dimensions, and to extend the end date of the Agreement to June 30, 2015.

2. Utah State Office of Education, \$160,777, federal

Payment to the Utah State Office of Education from the U.S. Department of Education for a NAEP Coordinator.

3. Waterford Institute, Inc., \$21,855, 08/01/2014 to 07/31/2019, amend.

Pilot program for a home-based education technology program to develop school readiness skills of preschool children (UPSTART).

4. Alpine Square Associates, \$181,500, 05/01/2015 to 04/30/2020, federal

To lease office space for the Division of Rehabilitation Services located at 65 South 360 East, American Fork.

5. Measurement Incorporated, \$2,466,123, 08/01/2014 to 07/31/2019

To provide a comprehensive writing instruction and assessment system designed to assist students in Grades 3 through 12 with improving their writing skills.

6. The National Center for the Improvement of Educational Assessment, \$267,430, 08/01/2014 to 04/15/2015, federal

1) To support the development, pilot testing, and implementation of Utah's

educator evaluation system; 2) to assist in implementing UCAS, Grading Schools, NCLB Accountability system, and other accountability issues, 3) to support implementation of SAGE; and 4) to facilitate and manage Utah's Technical and Policy Advisory Committee.

7. Amplify, \$3,000,000, 07/01/2014 to 06/30/2015, amendment

To provide portable assessments in reading for K-3 grade and to provide comprehensive online reporting and instructional tools for teachers and administrators. Purpose of amendment #3 is to add funds for FY 2014-2015, clarify invoicing and change name of company from Wireless Generation to Amplify.

D. Contract Reports

The Board received the following reports:

1. Contracts less than \$100,000 approved by the State Superintendent or USOR Director.
2. Contracts with renewals within the next six months.

E. National Association of State Boards of Education (NASBE) Dues

The Board approved payment to NASBE for 2015 membership dues of \$23,406, NCOSEA membership dues of \$130, and the 2015 standard subscription of \$20, for a total of \$23,556.

F. List of Educator Licenses Processed

A report of the total number of educator licenses and license areas processed in June 2014 was received by the Board.

**Public Comment**

Elementary and Secondary Education Act (ESEA) Flexibility Waiver

Logan Toone, Assessment Director, Davis School District; Steve Carlsen, President, Utah Schools Superintendents Association - spoke in favor of the Board extending the waiver.

Lydia Nuttall, Morgan County parent; Gayle Ruzicka, Utah Eagle Forum; Wendy Hart; Norman Jackson, retired Judge; Alisa Ellis; JaKell Sullivan, Wasatch County parent - expressed concern with federal involvement and asked the Board not to extend the waiver.

**Elementary and Secondary Education Act (ESEA) Flexibility Waiver**

Vice Chair Thomas made a presentation regarding the pros and cons of extending the ESEA Flexibility Waiver.

Chair Crandall reported on meetings Board members have had with House and Senate leadership. House and Senate leadership expressed their support of the Board not extending the waiver, with the understanding that they might be called on to provide some appropriation to ease the transition back to full implementation of the No Child Left Behind (NCLB) Act.

Tami Pyfer, Governor's Education Director, read a statement from Governor Herbert, making it clear that whether to extend the waiver is a decision for the Board. He expressed an opinion doubting the constitutionality of the waiver. The Governor also expressed that a request for funding should the Board not extend the waiver would need to be one of the Board's top priorities.

Vice Chair Thomas indicated that the Board would need a supplemental increase for the upcoming school year if the waiver is not extended. A special session of the legislature would be needed to provide \$26 million in supplemental funding. He asked Ms. Pyfer to talk with the Governor about a possible special session.

North Dakota Superintendent Kirsten Baesler and North Dakota Department of Education staff Lori Matzke and Greg Gallagher joined the meeting electronically. Superintendent Baesler reported on North Dakota's experience as a state that does not have a flexibility waiver, and gave a recap of how North Dakota came to the decision and what factors have impacted the state.

She reported that prior to requesting the waiver, a committee of North Dakota educators met for 18 months and agreed to move ahead with college and career ready standards and principal and teacher evaluations. They disagreed with the U.S. Department of Education (USED) in the area of determining Annual Measurable Objectives (AMOs) versus Adequate Yearly Progress (AYP), and wanted a more gradual timeline for Priority schools. As they could not come to an agreement with the Department, North Dakota pulled its application and continued under NCLB.

Continuing under NCLB meant more schools went into school improvement and failing school designations, professional development money was set aside, and they were under the Supplemental Education Services (SES) requirement. They worked with USED and received a mini-waiver for the specific component of the SES set-aside. No dollars for professional development have been lost; the money has been set aside and designated to address specific issues. The North Dakota superintendents association, teachers association, and school boards association came together and all supported the decision to not seek the waiver.

In response to Utah Board member questions, Superintendent Baesler and her staff gave the following information:

- North Dakota's per pupil funding is currently \$8,810 and will be \$9,100 next year.
- North Dakota receives between 6-10 percent federal funding.
- To achieve an agreement between educators, superintendents, teachers and local boards, a committee was created including higher education, the teachers association, the schools boards association, superintendents, and principals. That committee drafted the original waiver application.
- Before adopting standards, content area teachers and higher education representatives are organized to review standards, considering standards from other states and nationally recommended standards.
- The state has adopted the North Dakota standards for English and math based on the Common Core State Standards, and North Dakota is part of the SMARTER Balanced Consortium.
- Locally elected school boards make the decisions for how their districts spend Title I funding.
- The mini-waiver from USED allows districts to submit an application to be a SES provider. This helps with the requirement that if schools don't make AYP, a certain portion of funding must be set aside for supplemental education services. Under NCLB, a district can't be that provider. With the waiver, their school districts can submit an application to be a provider under the same criteria as other programs.
- North Dakota received a second mini-waiver to allow carryover funds to extend state

school improvement grant funding.

- The state does not feel the ten percent set aside for professional development is burdensome because there is so much professional development happening anyway. The set aside can be used district-wide, and almost all professional development requests meet the criteria. The RFP process has also been streamlined.
- North Dakota is having some pushback because of adopting standards based on the Common Core, but there are some significant differences from other states, such as: the standards were adopted based on the recommendations of teachers; they aren't tied to Race to the Top funding or the ESEA waiver; teachers, principals and superintendents are supportive, and; there is no high stakes testing for teachers or students.

Vice Chair Thomas expressed appreciation to the North Dakota representatives for participating in the meeting, and they extended the invitation for Board members to personally contact them.

USOE Title I Director Karl Wilson reported that currently Utah has 15 Title 1 Priority schools and 28 Title 1 Focus schools designated under the flexibility waiver. Under the waiver, states may identify the lowest performing schools and focus on those schools for improvement. If Utah had been under NCLB in 2013 with the requirement of 100 percent proficiency, 130 Title I schools would have moved into some stage of school improvement. Rather than the Title I funding focusing on the lowest performing schools, the funds would have to be spread out among all schools in improvement.

Member Johnson requested more input from outside organizations and legal advice prior to making a decision about the waiver. Members Moss and Groom also asked for a legal opinion and financial analysis.

Members Burningham, Buswell and Warner suggested extending the waiver now and continuing to gather input and information, with the possibility of withdrawing later if necessary. Concerns were also expressed about financial issues and not applying for the waiver when school districts have already made plans for the next school year.

**MOTION** was made by Member Burningham and seconded by Member Allen that the

Board instruct Board leadership and USOE staff to: 1) seek an extension of the ESEA flexibility waiver for this year; 2) seek a future decision on withdrawal from the waiver based on a decision which will involve many stakeholders—local schools boards, parent organizations and teacher organizations; and 3) seek a future decision about possible withdrawal from the waiver based on legislative commitment to appropriate additional money to cover the costs incurred in rejecting the waiver, not simply supplanting funds.

Member Corry and Allen reminded the Board of the burden on school districts with only a month left until school starts if the waiver is not extended.

Member Johnson noted that funds will not be lost, but reallocated. The money amounts to 30 percent of Title I monies.

Member Roberts asked for consideration of the state's most vulnerable individual students, and the immediate impact on them. She also noted that with the waiver the state has chosen its own accountability system, and when Utah applied for the waiver there was not anything in it that was not already being done due to Board choice or state law.

**MOTION** was made by Member Johnson and seconded by Member Moss that the motion be postponed indefinitely.

Chair Crandall indicated that the Board does need to make a decision on the waiver, but he is not comfortable without doing so prior to receiving more information. He reported that Board leadership will be meeting with the Utah School Superintendents Association next week on this issue. If a decision is not made today, there would still be time in the Board's August meeting.

Member Openshaw noted that the rush has been caused by the delay with the Department of Education getting their required report back to Utah.

Motion to postpone failed, with Members Crandall, Groom, Jensen, Johnson, Moss, Openshaw in favor, and Members Allen, Burningham, Buswell, Castle, Corry, Roberts and Warner opposed.

**MOTION** was made by Member Moss and seconded by Member Groom to postpone the motion to the Board's August 8 meeting.

Motion carried, with Members Castle, Crandall, Groom, Jensen, Johnson, Moss,

Openshaw and Thomas in favor, and Members Allen, Burningham, Buswell, Corry, Roberts and Warner opposed.

### **Resolution on Local Control of Curriculum**

The Board was presented with Resolution No. 2014-01 *A Resolution Establishing the Official Position of the Utah State Board of Education Regarding Local Control of Curriculum.*

**MOTION** was made by Member Allen and seconded by Member Roberts that the Board accept the Resolution as written.

**MOTION TO AMEND** was made by Member Johnson and seconded by Member Openshaw that paragraphs 2 and 6, regarding Utah's Recommended Instructional Materials (RIM) database, be deleted.

Motion to amend failed, with Members Crandall, Groom, Johnson, Moss and Openshaw in favor, and Members Allen, Burningham, Corry, Roberts, Thomas and Warner opposed; Members Buswell, Castle and Jensen absent.

Motion failed, with Members Allen, Burningham, Corry, Openshaw, Roberts, Thomas and Warner in favor, and Members Crandall, Groom, Johnson and Moss opposed; Members Buswell, Castle and Jensen absent.

Chair Crandall indicated that the Resolution will be put on the August 8 Board meeting agenda.

### **Superintendent Search**

Ms. Connie Linardakis from Search Group Partners (SGP) was introduced. Search Group Partners was awarded the bid to become the recruiting firm for the State Superintendent search. Ms. Linardakis distributed a draft job specification for Board member review.

Member Johnson noted that part of the contract requires the Board to notify SGP of individuals that Board members are recruiting. Board members will notify the Board secretary of applicants they are pursuing for forwarding to SGP.

Search Committee Chair Jefferson Moss drew attention to a time line proposed by the Superintendent Search Committee for moving ahead with the search and interviews.

**MOTION** was made by Member Roberts and seconded by Member Groom that the Board adopt the time line as written, recognizing that there may have to be adjustments, but that the final date for accepting applications for the initial screening of applicants remain August 20, 2014.

Motion carried. Members Buswell, Castle, Jensen and Openshaw absent.

Member Moss explained that as part of the contract, SGP will provide profiles for the candidates they will forward to the Board. In order for applicants from both avenues of recruitment to be treated equally, there is an option in the contract for SGP to do the additional work of preparing leadership profiles for candidates applying directly to the Board. The cost would be \$1,000 per profile. It is estimated there may be 5-6 additional profiles needed.

**MOTION** was made by Member Moss and seconded by Member Johnson that the Board approve additional funding to SGP of \$1,000 per candidate profile as determined by the Search Committee.

Motion carried; Members Buswell, Castle and Jensen absent.

Member Johnson explained that assessment of all the candidates is also optional work that could be performed by SGP, at \$300 per candidate.

**MOTION** was made by Member Moss and seconded by Member Johnson that the Board approve funding for SGP to perform assessments of up to twelve candidates, at \$300 per candidate, as determined by the Search Committee.

Motion carried; Members Buswell, Castle and Jensen absent.

### **Taxing Entity Committee (TEC) to the Redevelopment Agency of the City of St. George Dixie Center Economic Development Project Area**

Associate Superintendent Bruce Williams presented information about the project and the request from the Redevelopment Agency to amend the original project area budget in order to extend the timeframe of the project area by six years and collect the necessary funds

to construct improvements for further development.

**MOTION** was made by Member Allen and seconded by Member Corry that the Board direct Cathy Dudley, its representative to the TEC, to vote yes on the request.

Associate Superintendent Williams explained that the project is to shore up the bank of the Virgin River, and without that work, the land cannot be developed.

Motion carried, with Member Johnson opposed; Members Buswell, Castle and Jensen absent.

### **Executive Session**

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

Upon voice vote of those voting members present, the Board moved into Executive Session, following dinner, at 7:40 p.m.

Individuals present in Executive Session included Members Allen, Burningham, Corry, Cooper, Crandall, Elinkowski, Groom, Johnson, Moss, Moore, Openshaw, Roberts, Rowley, Thomas and Warner, and Martell Menlove, Brenda Hales, David Jones, Chris Lacombe and Lorraine Austin.

**MOTION** was made by Member Johnson and seconded by Member Groom that the Board move back into open session.

Motion carried. The Board reconvened in open session 7:50 p.m.

### **Board Legislative Priorities**

**MOTION** was made by Member Johnson and seconded by Member Openshaw that the Board adopt full funding and increase in the WPU as legislative expectations for the 2015 Legislative Session.

Motion carried; Members Buswell, Castle and Jensen absent.

**MOTION** was made by Member Corry and seconded by Member Allen that further discussion of legislative priorities be tabled until the August 8 Board meeting.

Motion failed, with Members Allen, Corry, and Roberts in favor, and Members Burningham, Crandall, Groom, Johnson, Moss, Openshaw, Thomas and Warner opposed. Members Buswell, Castle and Jensen absent.

Board members individually identified their top legislative priorities and the Board narrowed those priorities.

**MOTION** was made by Member Moss that the discussion be halted and continued in the August 8 meeting, beginning with the top nine identified priorities as follows: 1) Board attorney; 2) ESEA waiver; 3) technology initiative; 4) early reading; 5) math professional development; 6) graduation initiative; 7) freezing the basic rate; 8) WPU; and 9) professional development.

Motion carried; Members Buswell, Castle and Jensen absent.

### **Adjournment**

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

Motion carried. The meeting adjourned at 8:37 p.m.

Lorraine Austin, Board Secretary  
Minutes approved August 8, 2014