

**UTAH STATE BOARD OF EDUCATION
MEETING MINUTES**

May 13, 2016

A regular meeting of the Utah State Board of Education was held May 13, 2016 at the Utah State Board of Education Building, 250 East 500 South, Salt Lake City, Utah. Chair David Crandall conducted.

Board Members Present:

Chair David L. Crandall
1st Vice Chair David L. Thomas
2nd Vice Chair Jennifer A. Johnson
Member Dixie L. Allen
Member Laura Belnap
Member Leslie B. Castle
Member Barbara Corry
Member Brittney Cummins

Member Linda B. Hansen
Member Mark Huntsman
Member Stan Lockhart
Member Jefferson Moss
Member Spencer F. Stokes
Member Terryl Warner
Member Joel Wright

Executive and Board Staff Present:

Sydnee Dickson, Interim Superintendent
Scott Jones, Deputy Supt.
Rich Nye, Acting Deputy Supt.
Angie Stallings, Associate Supt.
Joel Coleman, USDB Superintendent

Darin Brush, USOR Executive Director
Lorraine Austin, Board Secretary
Emilie Wheeler, Board Communications
Specialist

Others Present:

Jay Blain, Lisa Nentl-Bloom—Utah Education Association; Dawn Davies, LeAnn Wood—Utah PTA; Karen Peterson, Governor’s Office; Brook Wilson, Kris Fawson—Utah Statewide Independent Living Council; Chris Godfrey, Utah School Employees Association; Peter Samore, KSL Radio; Erin Preston, Lear & Lear; LaVar Christensen, Utah House of Representatives; Sandra Curcio, Ability 1st Utah; Debra Mair, Utah Independent Living Center; Hal Sanderson, Canyons School District; Joylin Lincoln, Lakeview Academy; Allison Nicholson, Utah Education Policy Center; Marline Wilson; Jim Moss, School Board candidate; Natalie Grange, Jerry Record, Deborah Jacobsen—USBE staff

Opening Business

Chair David Crandall called the meeting to order at 8:00 a.m. Member Jefferson Moss led those present in the Pledge of Allegiance.

Acknowledgment of Student Art Work

Fine Arts Specialist Cathy Jensen informed the Board about the art work in the Board room from Compass Elementary, Monticello Academy, and Woodrow Wilson Elementary.

Public Comment

Debra Mair, Director, Utah Independent Living Center - in anticipation of the Board's consideration of the three year independent living state plan today, spoke about the importance of independent living centers, which were created by the Rehabilitation Act of 1973. There are six centers in Utah, and through the centers people learn daily living and social skills to be independent. The centers also help individuals coming out of high school transition to adult life. They are wonderful places that serve a niche in the community that no one else fills.

Lisa Nentl-Bloom, Executive Director, Utah Education Association - reported that last week when the discussion about SAGE and changing the Utah Core Standards came forward that brought great consternation among the organization's members. UEA issued a letter that asked members to remember that UEA has always believed that the Utah standards are a work in process. UEA wants the standards to be a living document that goes through a frequent review cycle, and are hopeful that is something the Board will consider. This is not the time to start over from scratch. In addition, while SAGE is not perfect, to start over and develop a new test not aligned to the standards also causes consternation among UEA's members. They encourage the Board to stay the course and engage in constant revision, but not start over. Ms. Nentl-Bloom also mentioned that while UEA is concerned about the teaching shortage the one thing UEA asks the Board not to do is to weaken the licensure system.

Cindy Phillips - spoke in favor of the Academic Path to Teaching (APT) that was proposed in the Law and Licensing Committee last night. She talked about her experience with the Alternative Routes to Licensure (ARL) program. After 24 years of teaching in a private school she was required to go through the entire three-year ARL program. It was expensive and time consuming. She was well-qualified educationally and experientially and nothing was waived. It was a difficult and cumbersome road which did not add much to her qualifications.

She suggested that the APT program being proposed doesn't water down any of the other routes, and that it is a path that demonstrates increased rigor in both content and pedagogy.

Joylin Lincoln, Board of Trustees, Lakeview Academy - expressed support for the Alternative Pathway to Teaching program as long as it will let principals and directors be the professionals they are and have more of a say in the pedagogy of what the teachers do in the classroom. She hopes the program will allow higher flexibility in schools amongst candidates and allow for additional training by the Boards' staff. She appreciates the Board's consideration of the program.

Cindy Davis, UVU Competency-based Advisory Board - thanked Chair Crandall for the reasoned and cautious letter sent out publicly this week and encouraged the Board to continue to look at Utah standards and assessments in ways that would be good for kids. In talking to others at UVU they feel the worst thing to do would be an about-face again on the standards. She asked the Board to move carefully and cautiously as they review core standards. She also advocated for keeping the informational piece in the reading standards. In addition, she encouraged the Board to keep the interactive pieces of the SAGE assessment that keep students engaged and give more information to parents.

Jody Murphy, stay-at-home mother with three children in public schools - expressed concern with the negativity towards the Utah core standards from politicians. She voiced that the standards better prepare students for the ACT, SAT and to compete nationally and internationally. She likes the rigor and the way the standards ask her children to think critically and creatively. Teachers have spent years learning the art of teaching the standards. To completely abandon the standards would require new standards to be written, new instructional materials to be purchased, and millions more hours and tax dollars spent on learning how to implement them. She urged the Board to listen to teachers and keep the standards.

Lydia Nuttall - reviewed her experience in attending a symposium several years ago honoring Utah's constitutional promises to children. The importance of teaching the stories of the founding of our nation was emphasized. She interviewed district superintendents, principals, and teachers at the symposium and the consensus was that they loved what they

were hearing, but didn't have resources. Therefore, she decided to take on the research of these stories. After 4-1/2 years the stories have been published and are ready for use in schools. She distributed the curriculum to Board members. She expressed appreciation for the resources from the Board's office and for the support she received at home.

Discussion with Governor Herbert

Governor Gary Herbert was welcomed to the meeting along with Tami Pyfer, the Governor's Education Advisor. Chair Crandall referenced a letter Governor Herbert sent him last week expressing concerns with the Utah Core Standards, specifically with language arts, mathematics, and the SAGE assessments. After meeting with the Governor, Board leadership invited him to speak with the Board today.

Governor Herbert expressed appreciation for the opportunity. He mentioned that when he was elected he swore an allegiance to the Constitution of Utah to support, obey and defend our Constitution. He well knows the significant obligation that is placed on the Board with its constitutional authority for control and supervision of Utah's public education system, and knows the Board takes that responsibility seriously. He acknowledged that he does not have the authority to change academic standards, but wanted to share a few of his thoughts on the matter.

The controversy surrounding Common Core is not new. Since 2010 when this Board adopted the core he has done what he could to examine the Core. He asked Attorney General Sean Reyes to determine if Utah ceded responsibility and control of its education system to the federal government through adopting the Core. A.G. Reyes determined the state has maintained its control. In addition, he called for an independent third-party review of the standards, chaired by Utah Valley University President Matt Holland. The review panel found the standards are good, and gave recommendations for improvements.

The Governor reported that he had thought that would end the controversy, but what he hoped for didn't happen; the concerns, in some cases, have escalated. He expressed that the divisiveness that has occurred on this issue is not helpful for the state and not good for parents, teachers, and students. He suggested the controversy must be solved and a way

found to pull together. Governor Herbert acknowledged that for some the Common Core seems to have expanded and appears to encompass curriculum and assessment. Data collection and computer testing are also lumped in with the Core and there is broad definition that the Core refers to anything negative about public education.

Governor Herbert asked the Board to consider moving beyond the Common Core as it is defined to a system that is tailored to meet the needs of Utah. Part of the need is to push the reset button. Many of the complaints revolve around the process and whether opportunities were provided for every voice to be heard. Some people feel their voices were not heard and they were disenfranchised from the process. There is a need to work together no matter who is right or wrong, and whether it is a misperception is irrelevant. He acknowledged that the Board has made changes to the Core, but asked that the Board begin anew and bring people to the table to resolve the issues and make sure Utah's curriculum, standards, data and testing come together.

The Governor noted that if we succeed it is imperative there are adequate resources. He has heard from teachers that there was not enough money for teacher training on the Core. He gave an assurance that he will work tirelessly with the legislature to make sure there are adequate resources so all teachers are prepared in the classroom. He explained that he doesn't expect this to happen overnight, but asked that the transition to something better start today.

The Governor reported that as he has talked with people the last few months he has heard them say they don't like Common Core, but when shown the standards, they like the standards. It is evident that better communication about the standards is needed. He also reported his surprise at how many people were passionately upset about SAGE testing. Computer adaptive assessments should complement the teacher in the classroom. He believes in the need to embrace technology and that computer adaptive testing has a role to play with helping with formative evaluation of students. Flexibility for teachers is needed in the classroom in order to maximize the time students have in the classroom. To address that issue, the Governor signed H.B. 200 which eliminated the mandated requirement for 11th grade testing, and H.B. 201 which eliminated the option to evaluate teachers based on SAGE testing

results.

Governor Herbert requested that the Board consider the elimination of SAGE testing. He expressed concern about the upcoming school year, and indicated that the Board should communicate to him and the legislature if there are changes needed in statute regarding computer adaptive testing or the SAGE test itself. If it is needed, there should be an opportunity to have a special session of the legislature and he will work with the Board and legislative leadership to facilitate that.

The Governor expressed appreciation for the invitation to talk with the Board and voiced that if we work together and resolve these issues and concerns the Utah public education system can be the best in the world today.

Board members expressed appreciation to the Governor for coming to the meeting and being part of the discussion.

Member Cummins commented that part of the issue is a communication breakdown between different bodies that have an interest in education. It is important to have a cohesive plan on what we're trying to get to, what data we need to measure, what tools we will use to measure, and how we will compare ourselves to other states in the nation. She reported that the Board is just putting in place a process reset where any constituent with a concern about a specific standard is welcome to contact any Board member and a revision process will be initiated. Also, she voiced that there is so much integration between standards, assessments, accountability measures, funding, and teacher retention that is important to slow down and take a holistic look at how they are tied together.

Member Allen noted that the SAGE assessment was chosen because the vendor was willing to change its tests to align to Utah's standards. People were asking for computer adaptive testing. She expressed her belief that a problem was created when legislation was passed to grade schools based on the SAGE assessment.

Member Huntsman stated that the Core that was in place two years ago isn't the same as the Core now. Vice Chair Thomas noted in the last Board meeting that only 30 to 35 percent of the original mathematics standards are in place. Improvements have happened and need to continue. Member Huntsman supports the idea of the Board, Governor and Legislature

working together to capitalize on improvements as they happen and working together to accelerate the process. He also commented that the intent of SAGE testing was not to measure schools and staff, but to provide data to teachers.

Member Castle commented that the Governor has received information from his appointed commission and the Attorney General regarding the legality and rigor of the standards, and indicated it seems to her his concerns are over the controversy regarding the standards. She acknowledged there are people that do not agree with the standards and indicated the Board is listening and making changes. She suggested that the problem is managing the controversy and moving forward without being derailed by political rhetoric. She stated that the Board needs to hold steady and continue on a course that has come together by a legitimate process. She asked the Governor to trust the Board and allow the Board to do what they have been authorized and taken an oath to do.

Governor Herbert responded that he does trust the Board and understands its authority. As Governor, he hears the people and responds to their concerns. The controversy and divisiveness are getting larger and that is the reason for his discussion with the Board. He can assist the Board in speaking to people's concerns by use of the bully pulpit. If something needs to be done before September it needs to start now. His intent in going beyond the Common Core is to maintain high academic standards, keep the federal government out of education in the state, and preserve local control of curriculum, testing, data collection and instructional practices.

Member Lockhart indicated he is relatively new to the board, but to the best of his knowledge there has been continuous improvement in the standards. There have been core standards for many years and he has been pleasantly surprised that the changes the Board is making are elevating the rigor for Utah students and preparing them for the world of the 21st century. The Board is going in the right direction and will continue to do so. The Common Core standards have been modified to the Utah Core standards. Member Lockhart suggested that the way the Core was implemented was a bit divisive and teachers were frustrated and didn't have the needed resources. He also reported that he is hearing that students don't care about SAGE because it doesn't mean anything, and suggested the ACT does mean something.

He suggested that if the purpose of the test isn't being met, it should be replaced. He committed to taking the Governor's suggestions seriously.

Member Wright expressed disagreement that all can come together. It is a top down process from Washington D.C. and a top down process from the state. He indicated his constituents are feeling their voices are heard less and less. Even if the Board replaces the Core it will be top down. His solution is to believe in our parents, teachers, and local districts and charter schools and allow them to come up with their own standards and testing and opt out of the state standards and assessments. With local control improvements can be made promptly.

Governor Herbert voiced his support for local control, but also acknowledged the reality of the challenge. He indicated it is probably unrealistic to have many different high school diplomas and recognized the need for some oversight. Such a change would probably require a constitutional change, but he is open to the discussion.

Member Warner commented that she, too, has been concerned with the divisiveness and appreciates the Governor's suggestions. She indicated she will continue to work with the people in her district to listen to them and hopefully bridge the communication gap.

Vice Chair Thomas gave a preface to motions he intends to make. The Board adopts academic standards in twelve different subject areas. The Board replaced its previous standards in English/language arts and math and adopted the Common Cores State Standards in August 2010 because they were of a higher quality and more rigorous than the 2007 standards. This was independently verified by the Fordham Institute and is consistent with the positions of ACT and the College Board; a blue ribbon panel convened by the Governor confirmed this as well. The goal of the Board will always be to have the highest quality academic standards that form the foundation for preparing students for college and careers. The Board comprehensively reviews standards in each of the subject areas generally every four to six years on a rotating cycle. The Board recognizes there are no perfect standards, and standards are a work in progress. Since the 2010 adoption of the English/language arts and mathematics standards the Board has comprehensively reviewed and revised those standards in 2013, and again revised the K-6 mathematics standards last month. Overall the standards

are substantially different than the Common Core State Standard adopted in 2010, especially in mathematics. The Board's strategic plan committed the Board to having college and career ready standards and that is what is in place.

The Board believes in data driven decision making and the reforming and upgrading of the educational standards are measured against the outcome of Utah students. The outcomes since 2010 when the Board started more aggressively updating Utah standards have been significant as measured by The Nation's Report Card: Utah's 4th grade reading scores have gone from being ranked 30th in the nation to being ranked 13th today; 4th grade math scores have gone from the mid-20s in ranking to 14th; 8th grade reading scores have gone from 25th to 13th; 8th grade math scores from 20th to 9th. Utah's graduation rate has increased from 77 percent to 84 percent. The achievement gap in 4th grade reading between the 25th and 75th percentiles has shrunk from being ranked 19th to 6th. In sum, the empirical data show that our reforms, including upgrades to standards, are working.

Vice Chair Thomas stated that while he recognizes that political crosswinds may swirl around us our political duty is to the school children of Utah. The Governor has come to ask the Board to consider another comprehensive review and update of the English/language arts and math standards, and while such a comprehensive review would be sooner than is generally in the Board's current schedule, he felt comfortable in looking at the standards again as long as there is funding and it is not a rushed process.

MOTION was made by Vice Chair Thomas and seconded by Vice Chair Johnson that the Board begin a comprehensive review and upgrade, in accordance with 53a-1-402.6 and 402.8, of the following subject areas: K-5 English/language arts standards; 6-12 English/language arts standards; English/language arts June 2010 appendix; K-5 mathematics standards; 6-8 mathematics standards; and high school mathematics standards. In addition, noting the budgetary impact that comes with the comprehensive reviews and updates, the review is contingent upon a one-time supplemental budget appropriation from legislature.

MOTION TO AMEND was made by Vice Chair Johnson and seconded by Member Stokes that this be referred to a committee of the Board to study how to timeline the standards, to determine the cost of the adoption of new standards using different

methods, and to bring back a recommendation for sequencing the review.

Without objection, Chair Crandall amended the motion and assigned the item to the Standards and Assessment Committee.

Member Hansen reported that local education agencies (LEAs) she has heard from have informed her they have purchased curriculum and if the standards are redone it will cause significant costs for them.

Member Cummins asked if the review of these standards would sideline the review of other standards that need work. Vice Chair Thomas indicated the appropriation would allow the scheduled reviews to continue.

MOTION TO AMEND was made by Member Wright and seconded by Member Lockhart that the Board consider having every LEA bring to the Board its own standards for consideration.

Vice Chair Thomas noted that input from LEAs is already included as part of the process. Member Wright responded that he specifically wants their input flagged, and added that he would like a process where LEAs can opt out of the state standards if they have a better process. It was noted that an opt out is not germane to the motion to amend.

Member Wright restated the motion to amend that the Board make clear in the review of the Core standards and SAGE that the Board will actively consider giving every LEA the ability to formulate its own standards and testing system for Board approval with a three- to five-year window. Member Lockhart withdrew his second as this was different than the original motion to amend. Motion died for lack of a second.

Vice Chair Johnson noted that the Standards and Assessment Committee could look at the sequencing of standards in a holistic aspect. She disagreed that a review of the standards is early as they were adopted based on preparation almost a decade ago.

Member Castle suggested the need for a routine way of reviewing all standards and asked what the priority of the standards that haven't received a review will be. Vice Chair Thomas reiterated that the purpose of the requested supplemental appropriation is so there is the bandwidth to engage in the review of all standards when needed and not slow down that

process. Because of statutory changes in the process for adopting standards it is a much longer process that will be followed for all the standards reviews. It will be the responsibility of the Standards and Assessment Committee to give recommendations on when the reviews should take place. Member Castle questioned whether the Board will now request funding every time standards are reviewed and if this is the best use of funding. Vice Chair Thomas clarified that the request for one-time monies is a recognition that the Board did not budget for the additional review of the English/language arts and math standards in FY17 and there will be additional costs to moving the review up.

Member Belnap, Chair of the Standards and Assessment Committee, questioned the need for the motion as the Committee is constantly considering review of standards and accepts requests from the public. Governor Herbert's request would be considered as part of the process established for public requests.

Member Stokes moved the previous question. Motion carried unanimously.

The main motion carried, with Members Allen, Corry, Crandall, Cummins, Hansen, Huntsman, Johnson, Lockhart, Moss, Stokes, Thomas, Warner and Wright in favor and Members Belnap and Castle opposed.

Vice Chair Thomas reviewed that due to the requirements of the No Child Left Behind Act the Board has been required since 2002 to conduct high stakes year-end assessments in grades 3-11 for English/language arts and mathematics. In 2012 the CRT tests which had been used were computerized, which caused consternation because in the absence of enough computer labs LEAs could only move all students through the test by increasing the testing window. In 2014 the CRTs were replaced with the SAGE summative computer adaptive assessments. However, the same elongated testing window has continued, which has led many parents to rightly complain of too much testing. Further, the summative assessments have become less impactful as they are not tied to student grades or teacher evaluation. The power and promise of computer adaptive testing has always been in informing instruction through formative assessments—not SAGE summative assessments. With the passage of the Every Student Succeeds Act (ESSA) and its increased flexibility, there is now an opportunity for the Board to alter its year-end assessments and replace the tests in grades 9-11 with the 11th

grade ACT test. He indicated the ACT has a fairly strong correlation and alignment with the Utah Core Standards. If the ACT is used, the robust item bank currently in place for SAGE high school assessments could be used with formative assessments. Vice Chair Thomas informed that making such a change would require a statutory change. It was anticipated the discussion would take place in the 2017 Legislative Session, but the Governor has now offered an opportunity to consider it sooner.

MOTION was made by Vice Chair Thomas and seconded by Member Stokes that the Board begin the process of rulemaking to discontinue the SAGE summative assessments in grades 9-11 and replace them with the ACT test in the 11th grade which would be the high school summative assessment, conditioned upon the Utah legislature passing an amendment to 53A-1-603(1)(c). The Board further invites collaboration between the legislature, the Governor, and the Board during the interim to discuss assessment and accountability systems.

Member Lockhart reminded the Board that it will be looking at an RFP for a new testing system. Vice Chair Thomas noted that the legislative Education Interim Committee has invited the Board to two meetings to discuss assessment and accountability. If the Board passes this motion the discussion will be on the joint meeting agenda. Member Lockhart emphasized that the Board should be deliberate and intentional on what is tested and how testing will help students get a better education.

Member Cummins voiced that the question on why we assess and what data we are trying to gather needs to be answered prior to the discussion about specific assessments. Vice Chair Thomas responded that federal law requires assessment and he wants those assessments to be as useful as possible. He believes changing to the ACT will be more useful.

Chair Crandall restated the motion that the Board discontinue the SAGE summative assessments in grades 9-11 and replace them with the ACT test in grade 11, conditioned upon the legislature amending 53A-1-603(1)(c).

MOTION TO AMEND was made by Vice Chair Johnson that the Board assign the Standards and Assessment Committee to determine the costs of the change and bring back to the Board. Chair Crandall suggested the Accountability Task Force would be more appropriate for the assignment, and without objection, amended the motion and

assigned the determination of costs to the Accountability Task Force.

Main motion carried, with Members Castle, Crandall, Hansen, Huntsman, Johnson, Lockhart, Moss, Stokes, Thomas, Warner and Wright in favor and Members Allen, Belnap, Corry, and Cummins opposed.

Chair Crandall thanked Governor Herbert for coming. The Governor thanked Board members for their dedication and commitment to education in the state of Utah. All are here trying to do the right things for the right reasons.

Progress on History of Public Education Report

Associate Superintendent Angie Stallings reviewed the requirement for the Board to look back at the last fifteen years of education policy and rule. In 2015 Representative LaVar Christensen sponsored H.B. 360 *Utah Education Amendments*, which enacted 53A-1-102.5. Superintendent Stallings recognized Representative Christensen in the audience. A progress update will be given today on the report now required in statute. The report must be presented to the Education Interim Committee before November 30, 2016.

Superintendent Stallings welcomed Allison Nicholson from the Utah Education Policy Center, the entity with whom the Board has contracted to complete the report. Ms. Nicholson is working with Dr. Andrea Rohrer and a team at the University of Utah.

Representative Christensen gave an opening statement and thanked Board members for working side by side with him on behalf of “we the parents.” He indicated the legislation he sponsored is the beginning of a recodification of the education code. In order to determine where we are, how we got here, and where are we going a 15-year review was implemented. The next step will be the creation of a ten-year master plan.

Ms. Nicholson announced that Dr. Rohrer wanted to be here, but asked to be excused. She gave the presentation, *Report Update to the Utah State Board of Education—Utah Education Policy History*. She also reported that she has met with former Superintendent Brad Smith and Interim Superintendent Dickson regarding the report. She asked for feedback on how the Board would like to use the information.

Member Lockhart asked Representative Christensen why he sponsored the bill and how

it will help Utah students get a better education. Representative Christensen responded that the intent is to help the elected representatives to come together to work on recodification of the education code. The goal is to have a clear roadmap, master plan and a principled guideline that is intelligent and informed.

Member Lockhart suggested that the Board's work on its strategic plan also be reported to the Interim Committee. He would like to see obsolete code regarding education eliminated and to have data analysis, where possible, to give justification for eliminating that code; or if there is something that is clearly past what is relevant today, he would like those items flagged in order for the Board to make recommendations.

Ms. Nicholson indicated that the intent for implementation of the performance history is to identify where independent evaluations have occurred. To do an analysis for every policy or program implemented in the last fifteen years would require a very rigorous effort and would not be feasible for this report. Representative Christensen responded it isn't the intent to look at every minute item. He noted that the legislature has resources of its own and there are things that could be done internally so that efforts aren't duplicated.

Member Cummins voiced an interest in looking at past pilot programs and determining what it would cost to implement the successful programs on a large scale. If the programs can't be funded, she questioned why the pilots are continuing.

Vice Chair Johnson asked Ms. Nicholson how she is grappling with the fact that some programs were implemented with greater fidelity than others. Ms. Nicholson replied that performance history is subject to interpretation and she will need to rely heavily on the Board's staff to determine what information exists. It will not be possible to look at every program and answer all the complex questions.

Chair Crandall thanked Ms. Nicholson and Representative Christensen.

General Consent Calendar

MOTION was made by Vice Chair Johnson and seconded by Member Stokes that the Board approve the General Consent Calendar and the Addendum to the Consent Calendar, with the Contracts and Agreements section removed.

Motion carried unanimously.

Vice Chair Johnson asked for the following additional work on the contracts and agreements that were removed.

- MOU between the Utah System of Higher Education and State Board of Education on exchange of student records - legal and FERPA review.
- Utah Futures Interagency Agreement - FERPA review.
- Operating and Maintenance Agreement between the Division of Facilities, Construction, and Management and the State Board of Education - resolve issues with HVAC and lighting.

General Consent Calendar

A. Minutes of Previous Meeting

Minutes of the Utah State Board of Education meeting held April 14-15, 2016 were approved.

B. Contracts and Agreement

The following agreements were removed from the Consent Calendar.

1. Utah Futures Interagency Agreement

UtahFutures is a web-based advisement tool designed to support students in Career Literacy and extended resources into and throughout adulthood. In collaboration with other partners, an agreement is to set forth the responsibilities of the Utah State Board of Education (USBE) and Utah Education and Telehealth Network related to a USBE employee who will coordinate the shared initiatives of the UtahFutures project.

2. Operating and Maintenance Agreement

Amendment to the Operating and Maintenance Agreement between the Department of Administrative Services, Division of Facilities Construction and Management (DFCM), and the Utah State Board of Education.

3. MOU - Utah System of Higher Education and Utah State Board of Education

This Memorandum of Understanding establishes provisions for the exchange and use of secondary education student records between USBE and USHE in support of concurrent enrollment students and student admissions to USHE institutions.

C. Requests for Temporary Authorizations

The Board approved temporary authorizations for licenses as submitted by school districts and charter schools.

D. List of Educator Licenses Processed

A summary of the total number of educator licenses and license areas processed in April 2016 was provided for Board information.

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

In its April 15, 2016 meeting, the Board approved R277-477 on second reading. The rule was amended to provide clarification on funding-related issues and increase transparency. No substantive changes were made since that time.

The Board approved *R277-477 Distribution of Funds from the Interest and Dividends Account and Administration of the School LAND Trust Program*, as amended, on third and final reading.

F. R277-491 School Community Councils

In its April 15, 2016 meeting, the Board approved R277-477 on second reading. The rule was amended to provide direction for school community council members who work at the school, and to improve communication concerning Digital Teaching and Learning grants. No substantive changes were made since that time.

The Board approved *R277-491 School Community Councils*, as amended, on third and final reading.

Monthly Budget Report

Deputy Superintendent Scott Jones gave the budget report for the month ending March 31, 2016. Vice Chair Johnson noted that one of the greatest weaknesses of the reports is the lack of encumbrances, which doesn't show that the amount that has been spent is the amount that was committed. Superintendent Jones also reviewed the discretionary funds and

indicated there is funding still available for use between now and the fiscal year end.

Utah State Office of Rehabilitation (USOR) Executive's Directors Report

USOR Executive Director Darin Brush introduced Rob Ferris, Chair of the State Independent Living Council.

Transition Plan

Director Brush gave an update on the transition plan for moving the USOR to the Division of Workforces Services (DWS). He and DWS Executive Director Jon Pierpont are making the presentation around the state. The areas of focus are communication, programs, employees, budget and finance, facilities, and technical support. There are many, many action items, but he stated with confidence that the transition will occur on October 1.

Member Lockhart asked how the quality of care and services is being addressed. Executive Director Brush responded that there is an open dialogue about this and a new discussion is emerging at DWS about sensitivity with people with disabilities. Advocates have met with DWS with their concerns, and Executive Director Pierpont has confirmed that access won't change.

State Independent Living Plan

Mr. Ferris gave a presentation on the Utah State Plan for Independent Living, which is updated every three years

Vice Chair Johnson identified three areas where changes may be needed prior to the document being signed.

- Page 28 - the reference to the OMB Circular needs to be removed as the Circular is no longer in effect. The document needs to be searched for this reference in other places. Executive Director Brush indicated the changes will be made.
- Pages 13-14 - Vice Chair Johnson questioned from where the budgetary estimates came. Mr. Ferris responded that these are the numbers that have been used in past years and are allocations from federal grants and funding from legislature. The

estimates are based upon historical numbers without an increase.

- Page 12, Goal 4.2 - Vice Chair Johnson indicated that as part of the advocacy goal it troubles her that a private entity is receiving the bulk of its money from state and federal sources; this goal is using public money to lobby for public money.

MOTION was made by Vice Chair Johnson and seconded by Vice Chair Thomas that the Board approve the Utah State Plan for Independent Living contingent on state and federal funds not being used to accomplish Goal 4.2.

Member Hansen voiced her feeling that advocacy support is important. Often these individuals are timid to come forward and advocacy training helps give them skills to speak up about their needs; self-advocacy is also a required part of the plan. Mr. Ferris concurred.

Motion carried, with Members Belnap, Castle, Crandall, Cummins, Huntsman, Johnson, Lockhart, Moss, Stokes, Thomas, Warner and Wright in favor and Members Allen, Corry, and Hansen opposed.

Executive Director Brush reported that there are two parts to advocacy. One is lobbying the legislature for additional funding and the other is self-advocacy to teach people to advocate for themselves. He asked for clarification if Vice Chair Johnson's motion covers both parts. She responded that it does as she does not intend for those funds to be used for teaching individuals advocacy.

Transition to Every Student Succeeds Act (ESSA)

Deputy Superintendent Rich Nye gave a presentation on how the federal Every Student Succeeds Act (ESSA) can inform the Board's previously prioritized imperatives and what can be expected moving forward with ESSA and the Board's Strategic Plan. He referenced a presentation on ESSA given to the Board by Peter Zamora from the Council of Chief State School Officer in a previous meeting. ESSA, which passed last December, reauthorizes the Elementary and Secondary Education Act, but with greater degree of flexibility, autonomy and latitude. Superintendent Nye suggested that the Board's Strategic Plan is a lens from which to view what ESSA asks the state to do. He reviewed ESSA recommendations, one of which is having work groups, and indicated that is something we already do.

Member Moss questioned what will happen if the Board has a disagreement with the feds regarding what College and Career Readiness means and if what the Board is doing doesn't meet their definition. Superintendent Dickson reported that she and Deputy Superintendent Nye attended a meeting on College and Career Readiness (CCR) and many states have already defined what it means for them. There didn't seem to be any push back from the U.S. Department of Education (USDE) on the state's definitions. She indicated that she and staff have started thinking about a definition.

Member Moss further asked what would happen if the USDE rejects the Board's definition of CCR. Superintendent Nye responded that the state would have to go through an appeal process explaining the reason for the definition. Member Moss commented that it seems there is only flexibility as long as it meets their standards. Superintendent Nye reported that the Department of Education has indicated they want to make sure there is equitable distribution of funds. There will be an approval process for the plan Utah submits that describes what the state chooses to do, and the Department can deny the plan. If the plan is not approved, the Department will work with the state.

Member Lockhart observed that the detractors of ESSA are still upset that the feds are telling us what to do and the supporters are saying it's better than what we had in the past. They're both right.

Superintendent Nye noted that there are still some things the state will be obligated to perform upon receipt of the funds.

Vice Chair Thomas reported that when the Board requested the last waiver from NCLB the Board did not use the Department's sheet, and in the last two or three years the Board cut most of the strings. When the transition between NCLB and ESSA begins on August 1, Utah will lose its waiver and drop back into an ESSA accountability plan which includes many things from which the state was exempted. He suggested the Board should be thinking about the minimum that can be done in order for the Board to not impair its strategic plan and access the federal money, contingent upon the legislature's approval. One of the key levers has been the assessment requirement. It will be important for the steering committee for the assessment system RFP to know the Board's direction on assessment.

Chair Crandall suggested that the Board's justification if the CCR definition was rejected would be that the standards are valid because they were adopted by the Board. Dr. Nye indicated the Board may be asked to provide certain data points. Chair Crandall responded that to do so would be meeting standards set by the Department, and felt in order to not bind a future Board, this Board shouldn't say anything other than the standards were adopted by the Board.

Member Warner asked what would happen if Utah doesn't hit the 95 percent testing threshold. Superintendent Nye informed that the Board would decide the consequences.

Superintendent Nye reviewed a proposed organization of workgroups. He indicated the timeline is beginning now. School year 2016-17 has been set apart as transition year to do the work. The State Plan needs to be in place for school year 2017-18. Dr. Nye proposed submitting the plan to the Board in March 2017.

Member Cummins observed that it appears the strategic plan workgroups are really organized for the federal state plan and need to be referred to in that way. She felt the strategic plan and state plan for reporting to the feds should be separate. Superintendent Nye responded that messaging is important, and the intent is to give the message that the federal plan is just one part of the strategic plan.

Superintendent's Report

Interim Superintendent Sydnee Dickson reported on the following.

- The Education Interim Committee will meet next week and staff will discuss competency-based education with them. Dr. Dickson shared with the Board a presentation on competency-based that she intends to give to the Interim Committee. Her role will be to create a framework to talk about competency-based.
- A call has been sent out to LEAs to determine their interest in engaging in the competency-based grant program outlined in S.B. 143 (2016 Legislative Session). Seven charter schools and seven district superintendents have expressed interest. It is not the intent for the Board to dictate a model, but the Board will have some rulewriting responsibilities.

Member Hansen asked if there are considerations that must be made for how special education fits into competency-based programs. Dr. Dickson indicated the Board may want to think about policy levers that will be helpful. Member Cummins asked if there are roadblocks for the districts implementing the program, such as seat time.

Superintendent Dickson reported that the identification of barriers are called for in the planning phase and will come to the Board. Member Lockhart commented that more formative testing will be needed.

- Update on building security - due to capacity issues with the security system all the doors to sections can't be locked down yet. Staff is considering other options in regards to security including a buzz-in entry in the main entrance and key card entry to all doors on the main floor.
- Superintendent Dickson lauded staff on the hard work they do on the Board's behalf and thanked them for their support of the Board. She also gave public recognition to the support staff in the Administration area for their great work.

Office Transition Plan

Superintendent Dickson discussed the transition to change the office name from the "Utah State Office of Education" to "Utah State Board of Education." She referenced information distributed regarding the costs of changing signage, letterhead, business cards, etc. The biggest cost will be man hours to revise and improve the Website.

Board Chair's Report

The following was reported as part of Chair David Crandall report.

- The Board retreat will be held June 3-4 at the Zermatt in Midway, beginning at 3:00 p.m. The intention is for the Board to review its strategic plan and determine an action plan for the coming year.
- Member Mark Huntsman, Chair of the Superintendent Selection Committee, distributed information on the work of the committee and a timeline.
- Vice Chair Thomas reported that the Board received a letter from the U.S.

Department of Education concerning transgender students' use of restrooms and dressing room facilities.

MOTION was made by Vice Chair Thomas and seconded by Member Stokes that the Board direct its attorneys to review the letter from the Department of Education and craft a letter to LEAs to give them instruction and guidance on this issue.

Motion carried, with Member Belnap opposed.

Member Belnap questioned whether the letter will come back to the Board for approval when it is prepared. Vice Chair Thomas responded that it would be too late by the next meeting. He suggested the letter be screened by Board leadership prior to it being sent.

Standing Committee Reports

STANDARDS AND ASSESSMENT COMMITTEE

Committee Chair Laura Belnap reported on the following items from the Committee.

Approval of Previous Meeting Minutes

The Committee approved the minutes of its April 14, 2016 meeting.

Child Sexual Abuse Prevention Instructional Providers

The Committee reviewed information regarding the list of potential providers for child sexual abuse prevention instructional materials.

MOTION from Committee that the Board approve the following as providers for the sexual abuse prevention program:

- Youth - Family Place, Child Lures, Utah Valley Family Support Center
- Youth Serving Adults - Younique Foundation, Child Lures, Utah Valley Family Support Center
- Parents and Guardians - Younique Foundation, Child Lures, Utah Valley Family Support Center.

Motion carried.

East Hollywood High School Request for an Alternative High School

Representatives from East Hollywood High School presented information as to why the school should be designated as an alternative school. The Committee invited East Hollywood to participate in the Board's restructuring of the accountability process.

A motion to designate East Hollywood as an alternative school failed in committee.

Murray RDA Modification Proposals

The Committee reviewed two requests for support from the Redevelopment Agency of Murray City. The first proposal was to modify the budget of the Smelter Site URA to include a twelve percent education mitigation payment to the Murray City School District for the remainder of the URA term. The second proposal seeks to expand the tax collection area of the CBD Urban Renewal Area by 9.66 acres.

MOTION from Committee that the Board direct its representative to the taxing entity committee to vote consistent with the Murray City School District on both projects.

Motion carried unanimously.

R277-419-2 Pupil Accounting

The Committee reviewed proposed changes to R277-419-2 to update the definition of "qualifying school age." Revision 1 of the rule, including an additional committee amendment, was distributed to the Board. The Committee approved R277-419-2, as amended, on first reading.

MOTION from Committee that the Board approve R277-419-2, as amended, on second reading.

Motion carried unanimously.

R277-403 Student Reading Proficiency and Notice to Parents

This item was not discussed. The rule will come back to the Committee in its June meeting.

R277-404 Requirements for Assessment of Student Achievement

The 2016 Legislature passed H.B. 40 *Agency Reporting Requirements*, which allows a school district or charter school to waive the requirement in Utah Code Section 53A-1-603 to administer the SAGE assessment for the district or charter school's 11th grade students.

R277-404 was amended to update the rule consistent the new legislation, provide technical and conforming changes, and include specific names of required assessments.

Revision 1 of the rule containing additional amendments made by the Committee was distributed to the Board. The Committee approved R277-404, as amended, on first reading.

MOTION from Committee that the Board approve R277-404 *Requirements for Assessment of Student Achievement*, as amended, on second reading.

Vice Chair Johnson pointed out the reference to the USOE Testing Ethics Policy in lines 169-173 and asked whether that policy should be in rule. Ms. Allison Nicholson responded that the policy was recently revised and is incorporated by reference. Vice Chair Johnson noted that the policy date needs to be updated.

MOTION TO AMEND was made by Vice Chair Johnson to add that the rule will be further amended to incorporate the Testing Ethics Policy into the rule.

Motion to amend carried.

Vice Chair Johnson noted that in lines 234-235 the reference to the parental exclusion form needs a date. Associate Superintendent Stallings indicated the change will be made.

Motion carried unanimously.

High School SAGE Testing

The Committee heard information regarding high school SAGE testing and discussed two main purposes of assessment: 1) To drive instruction; and 2) for accountability. The Committee suggested a larger discussion is needed on why we gather data and the purpose of the data.

Social Studies Standards Release for 90-day Review

The Secondary Social Studies Standards Revision Writing Committee completed its draft

of the secondary social studies standards, which was presented to the Committee.

MOTION from Committee that the Board approve the release of the revised Social Studies Standards for a 90-day public review period.

Vice Chair Johnson stated that she is opposed to the release until a discussion of boards, commissions and other county-type positions is incorporated into the standards. It is a request she made in 2014.

Motion carried, with Members Allen, Belnap, Castle, Corry, Crandall, Cummins, Hansen, and Huntsman in favor and Members Johnson, Lockhart, Moss, Stokes, Thomas, Warner, and Wright opposed.

Member Belnap asked for the information Vice Chair Johnson requested to be made part of public comment on the standards.

Rubric for Process of Designating an Alternative or Special Needs School

Rule R277-497-6 allows for an exemption to School Grading for schools designated as an Alternative or Special Needs School. The Committee reviewed rubrics developed by staff.

MOTION from Committee that the Board direct that the accountability standard of alternative schools be studied and revised by the Accountability Task Force.

Motion carried.

Data (Address) Collection and Use

Several school districts have requested assistance by the Board to determine a method by which student address information (data) received from charter schools is received and verified for the purposes of the local replacement funding calculation. Staff presented three proposed courses of action: 1) USBE process to upload student addresses to determine "District of Residence" (DOR); 2) USBE does not upload and process address to determine DOR, but adopts rule requiring charters to provide address to district upon request; and 3) USBE process to upload student addresses to determine DOR, then provide the SSID file to the applicable district to verify; if there is a discrepancy the district can contact the charter to verify the SSID address.

Motion in Committee to approve Course of Action #1 for one year and readdress the process next year to see if any changes need to be made failed.

School Turnaround Plans

State Turnaround Specialist Sheryl Garner reviewed information on the 26 turnaround plans that have been submitted; of the 26, only two plans were approved. Staff has identified revisions that need to be made in the other plans, to be returned in August.

MOTION from Committee that the Board approve the two plans that did not need revisions as well as the revision plans for the other 24.

Motion carried.

STEM School Designations 2016

The Utah STEM School Designation Pilot concluded in April 2016. As a result of the pilot, nineteen Utah school were recommended for STEM School designation awards for 2016-17.

MOTION from Committee that the Board approve the STEM School designation for the following schools: Beehive Science and Technology Engineering Academy, Crimson View Elementary, DaVinci Academy, Hurricane Elementary, Neil Armstrong Academy, Foothill Elementary, Manila Elementary, Mountainville Academy, Overlake Elementary, Quest Academy, West Point Elementary, Green Acres Elementary, Itineris Early College High School, Sunset Elementary, Utah County Academy of Sciences, Draper Park Middle School, Mount Jordan Middle School, and Union Middle School.

Motion carried.

SAGE Item Development Plan

In its April 2016 meeting the Board approved moving forward with a SAGE item development plan. The specifics of the development were discussed by the Committee.

MOTION from Committee that the Board approve the SAGE item development plan and move forward with new item development for grades 3-8 only.

It was clarified that funding has been set aside for this purpose and that the items would be finished in time for the 2018-19 school year.

Motion carried, with Members Corry and Warner opposed.

Kindergarten Data Points

The Committee heard information regarding kindergarten data points and statewide kindergarten assessment. No action was taken.

Digital Studies

The Committee discussed information on the high school digital studies requirement as well as the intent of the Digital Literacy Task Force from 2012. No action was taken by the Committee.

LAW AND LICENSING COMMITTEE

Committee Chair Leslie Castle reported on the following items from the Committee.

Approval of Previous Meeting Minutes

The Committee approved the minutes of its April 14, 2016 meeting.

Leadership Learning Academy Charter Amendment

The Committee reviewed the Leadership Learning Academy governing board's request to open a charter satellite campus in the 2017-18 school year and the Academy's innovative teaching model of Project CHILD.

MOTION from Committee that the Board approve an amendment to Leadership Learning Academy's charter to open a satellite campus in the Ogden City School District in the 2017-18 school year.

Motion carried.

School Counselor Performance Standards

The Committee discussed the Utah Effective School Counselor Performance Standards which were developed to be a resource for professional school counselors and educational leaders.

MOTION from Committee that the Board adopt the Utah Effective School Counselor Performance Standards.

Motion carried, with Member Belnap opposed.

R277-515 Utah Educator Standards

The Committee reviewed proposed amendments to R277-515 to provide clearer definitions for issues surrounding grooming and boundaries, to add provisions regarding educator use of technology, to provide clarification and matters to report, and to add a provision that educators must review the rules for standards and reporting and annually sign a form acknowledging that they've read and understand the rules.

The Committee approved the amendments to R277-515, Revision 2, on first reading.

MOTION from Committee that the Board approve R277-515 *Utah Educator Standards*, Revision 2, on second reading.

Motion carried.

R277-516 Background Check Policies and Required Reports of Arrests for Licensed Educators, Volunteers, Non-licensed Employees, and Charter School Governing Board Members

The Committee discussed amendments to R277-516 recommended by the Board's UPPAC Task Force to clarify when reporting of the educator misconduct is required and to add a provision for the Superintendent to withhold funds from an LEA if the LEA fails to meet reporting requirements under the rule. The Committee approved R277-516 Revision 1 on first reading.

MOTION from Committee that the Board approve R277-516 *Background Check Policies and Required Reports of Arrests for Licensed Educators, Volunteers, Non-licensed Employees, and Charter School Governing Board Members*, Revision 1, on second reading.

Motion carried.

R277-216 Surrender of License with UPPAC Investigation Pending

The Board approved new rule R277-216 on second reading at its April 2016 meeting. Since that time, further amendments to the rule were recommended by the Board's UPPAC Task Force to include additional reporting requirements when an educator chooses to voluntarily surrender the educator's license and to clarify the applicability of the rule to an educator who voluntarily surrenders the educator's license if the educator is not being investigated by the Utah Professional Practices Advisory Commission. The Committee approved R277-216, Revision 2, on second reading.

MOTION from Committee that the Board approve new rule R277-216 *Surrender of License with UPPAC Investigation Pending*, Revision 2, on third and final reading.

Motion carried; Member Wright absent.

Alternate Routes to Licensure

The Committee discussed the current requirements for an applicant to receive a Utah Educator License through the Alternate Route to Licensure (ARL) program and other alternate pathways to licensure as detailed in R277-503. The Committee discussed a new potential pathway, the Academic Path to Teaching, and directed staff to amend R277-503 to include the APT pathway and bring the rule to the Committee in June.

R277-707 Enhancement for Accelerated Students

The Committee reviewed R277-707 in accordance with the Division of Administrative Rules five-year review requirement. The rule was updated to conform to the style manual and to make clarification regarding expenditures in Gifted and Talented programs. The Committee approved R277-707, as amended, and continuation of the rule, on first reading.

MOTION from Committee that the Board approve R277-707 *Enhancement for Accelerated Students*, as amended, and continuation of the rule, on second and final reading and direct staff to file the rule with the Division of Administrative Rules.

Motion carried; Member Wright absent.

Board Policy 2001 *Board Compensation*

During the 2016 Legislative Session H.B. 445 *State School Board Amendments* was passed setting compensation for Board members to be equal to members of the Legislature. The legislation allows the Board to determine which meetings and activities qualify for the purpose of compensation. Board Policy 2001 has been developed to provide this determination. The Committee approved the policy.

MOTION from Committee that the Board adopt Board Policy 2001 *Board Compensation*.

Motion carried; Member Wright absent.

Board Records Retention

The Committee discussed a request from a recent Audit Committee meeting that staff review the risks associated with records retention and archives issues. Staff reported that the Board currently adheres to the policies established by Utah State Archives. Staff also presented three policy options on the handling of private email for the Board's consideration.

A sheet outlining the options was distributed to the Board and reviewed by the Board's Records Officer, Ben Rasmussen.

Member Lockhart indicated he would like to follow the best practice used by the Legislature regarding emails.

No action was taken.

R277-533 *District Educator Evaluation Systems*

H.B. 201 *Student Testing Amendments* was passed in the 2016 Legislative Session. The legislation prohibits a school district from using student scores on the SAGE end-of-level assessment for the evaluation and compensation of the school district's educators and administrators. Rule R277-533 was amended to update the rule consistent with the legislation. The Committee approved R277-533, Revision 2, on first reading.

MOTION from Committee that the Board approve R277-533 *District Educator*

Evaluation Systems, Revision 2, on second reading.

Motion carried; Member Wright absent.

R277-490 *Beverly Taylor Sorenson Elementary Arts Learning Program (BTSALP)*

The Committee discussed proposed changes to R277-490, which was amended to make the rule consistent with H.B. 40 *Agency Reporting Requirements* and provide technical and conforming changes. The Committee approved R277-490, as amended, on first reading.

MOTION from Committee that the Board approve R277-490 *Beverly Taylor Sorenson Elementary Arts Learning Program*, as amended, on second reading.

Motion carried; Member Wright absent.

R277-710 *Intergenerational Poverty Interventions in Public Schools*

The Committee discussed proposed changes to R277-710, which was amended to make the rule consistent with H.B. 40 *Agency Reporting Requirements* and provide technical and conforming changes. The Committee approved R277-710, as amended, on first reading.

MOTION from Committee that the Board approve R277-710 *Intergenerational Poverty Interventions in Public Schools*, as amended, on second reading.

Motion carried; Member Wright absent.

R277-713 *Concurrent Enrollment of High School Students in College Courses*

The Committee reviewed proposed amendments to R277-713 to make the rule consistent with H.B. 183 *Concurrent Enrollment Education Amendments* and S.B. 152 *Accelerated Foreign Language Courses* passed in the 2016 Legislative Session. Substantive changes to the rule include provisions that describe teacher eligibility for a concurrent enrollment course and clarify central administration of the program. The Committee approved a repeal/reenact of R277-713, Revision 2, on first reading.

MOTION from Committee that the Board approve the repeal/reenact of R277-713 *Concurrent Enrollment of High School Students in College Courses, Revision 2*, on second reading.

MOTION TO AMEND was made by Vice Chair Johnson that lines 336-337 of the rule be amended to read: “To ensure that a student is prepared for college level work, an LEA shall appropriately evaluate the student’s abilities prior to participation . . . “

Without objection the motion was amended.

Motion as amended carried; Member Wright absent.

R277-923 American Indian and Alaskan Native Education State Plan Pilot Program

The Committee reviewed new rule R277-923 which was developed in accordance with S.B. 14 *American Indian and Alaskan Native Amendments*, 2016 Legislative Session. The rule provides criteria for applying for grant applications for the pilot program and implementing and monitoring the program. The Board approved new rule R277-923, Revision 1, on first reading.

MOTION from Committee that the Board approve R277-923 *American Indian and Alaskan Native Education State Plan Pilot Program*, Revision 1, on second reading.

Motion carried; Member Wright absent.

R277-752 Adult Students with Disabilities and Informed Consent

In its March 18, 2016 meeting the Board approved new rule R277-752 as a 120-day emergency rule to comply with 20 USC 1415(M)(2) in the Individuals With Disabilities Education Act (IDEA). The Committee reviewed the rule in its April meeting and directed staff to collect additional feedback from stakeholders and bring back to the Committee in May. The rule will lapse on July 16, 2016 unless adopted through the Board’s regular rulemaking process.

After discussion regarding the purpose of the rule, the Committee voted unanimously to table the rule.

USBE Special Education Rules Manual and R277-750 Education Programs for Students with Disabilities

The Committee reviewed amendments to R277-750 to incorporate the Special Education Rules Manual into the rule, and reviewed updates to the Manual. The Committee

approved the USBE Special Education Rules Manual, as amended, and R277-750, as amended, on first reading.

MOTION from Committee that the Board approve the USBE Special Education Rules Manual, as amended, and *R277-750 Education Programs for Students with Disabilities*, as amended, on second reading.

Associate Superintendent Stallings noted that the manual will come back in June as more public hearings are required under IDEA. Vice Chair Johnson commented that the inclusion of the manual into the rule may be premature.

Motion carried, with Members Allen, Castle, Corry, Crandall, Cummins, Hansen, Huntsman, Stokes, Thomas, and Warner in favor, and Members Belnap, Lockhart, Johnson, Moss, and Wright opposed.

R277-752 Adult Students with Disabilities and Informed Consent

Vice Chair Johnson asked for clarification if action isn't taken on R277-752 today. Superintendent Stallings indicated if no action is taken the emergency rule will sunset in July and there will be a gap until the Board's meeting in August.

MOTION was made by Vice Chair Johnson and seconded by Member Stokes that the Board adopt R277-752 on second and final reading and direct staff to file the rule with the Division of Administrative Rules.

Vice Chair Johnson expressed the importance in not having a gap when the rule wouldn't be in place, to make sure the rights of students are preserved.

Member Warner reported that she has discussed the rule with the Disability Law Center's attorney and it is her understanding that federal law indicates a student is presumed competent until otherwise deemed incompetent by a judge. The rule presents a dilemma for the Board.

Vice Chair Thomas reiterated that federal law presumes that once an adult student turns 18 the student is competent to make decisions. The question that was presented when the rule was put in place was that notice was provided to parents while the student was a minor that they needed to get guardianship or a power of attorney when the student turned

18 or the student would be deemed competent for the purpose of making informed consent to participate in the Individual Education Plan (IEP) meeting. Since the parents did not obtain guardianship the members of the IEP team felt they were in a difficult ethical situation, believing the student was not competent to give informed consent. The Committee discussed last night whether the rule is needed, and heard from the disability community that the rule is not necessary.

Member Castle indicated that the Board's attorneys have weighed in with a different opinion.

Chair Crandall tabled the motion and indicated the legalities will be discussed in Executive Session as part of a discussion of pending or reasonably imminent litigation.

FINANCE COMMITTEE

Committee Chair Jennifer Johnson reported on the following items from the Committee.

Approval of Previous Meeting Minutes

The Committee approved the minutes of its April 14, 2016 meeting.

Monticello Academy Charter Amendment

The Committee reviewed a request for an amendment to its charter from the Monticello Academy governing board.

MOTION from Committee that the Board approve the amendment to Monticello Academy's charter to serve up to 25 students in grade 10 during the 2016-17 school year only.

Motion carried.

Recognitions

The Committee received an update on the Minimum School Program automation. The changes are important for compliance, flexibility and efficiency, and building an audit trail.

Section Budget Reviews

The Committee reviewed the budgets of Assessment, Information Technology, the State Charter School Board, School Finance, Minimum School Program, and Internal Accounting. Of note is the backup material or assessment.

The State Charter School Board (SCSB) gave background on what the Charter Board does, and the Committee raised a question about the SCSB's compliance work. There is information available in the Charter Board's offices for review.

Out-of-state Tuition Procedures

Staff reviewed a policy proposal created by School Finance regarding the payment of out-of-state tuition submitted by local education agencies for reimbursement. The Committee gave direction to staff to prepare a rule incorporating the policy proposal.

R277-911 Secondary Career and Technical Education Program

The Committee reviewed amendments to R277-911 concerning CTE Maintenance of Effort. The Committee made additional changes. The Committee approved R277-911, Revision 1, on first reading.

MOTION from Committee that the Board approve R277-911 *Secondary Career and Technical Education Program* Revision 1 on second reading.

Motion carried.

R277-99 Definitions for State Board of Education (Board) Rules

The Committee reviewed amendments to R277-99 and approved the rule, as amended, on first reading.

MOTION from Committee that the Board approve R277-99 *Definitions for State Board of Education (Board) Rules*, as amended, on second reading.

Motion carried.

R277-726 Statewide Online Education Program

The Committee reviewed amendments to R277-726 to split the allocation that is intended for private school and home school students 50/50. The Committee received comment from Dr. Galey Colosimo, Principal of Juan Diego Catholic High School. The Committee made no additional amendments, and approved the rule, as amended, on first reading.

MOTION from Committee that the Board approve R277-726 *Statewide Online Education Program* on second reading.

Motion carried.

Discussion on Proposed Changes to R277-708 *Enhancement for At-Risk Students Program*

In reviewing Minimum School Program formulas by program to ensure that allocation methodology comply with the stipulations of applicable statute and Board rule, School Finance staff noted issues with both the source of data and filter applied to data used in the Enhancement for At-Risk Students calculation. The Committee reviewed recommendations for changes to R277-708 and gave direction to staff to prepare amendments to the rule.

Execution of Risk Management Funding

Deputy Superintendent Jones reviewed a personnel plan with the Committee for use of the \$1,012,000 appropriated by the legislature during the 2016 legislative session for the purpose of compliance and risk mitigation. Proposed positions are as follows:

- | | |
|---|-------------------|
| • Managerial Accountants/Compliance Officer | \$ 580,000 |
| • School Finance USA/IDEA | \$ 50,000 |
| • Policy Specialist/Rule Writer | \$ 82,200 |
| • Internal Accounting FTE | \$ 150,000 |
| • Internal Contract Attorney (Internal Acctg) | <u>\$ 150,000</u> |
| | \$1,012,200 |

MOTION from Committee Motion that the Board adopt the plan for execution of risk management funding.

Motion carried; Members Hansen, Lockhart and Warner absent.

Aspire Fee Implementation

The Free Market and Privatization Board recommended that the USBE charge a fee for local education agencies (LEAs) using the Aspire system. The Competition Review Board found that the Board has an unfair advantage because it can offer Aspire to LEAs at no charge. It was clarified to the Committee that the legislature approved the Board's ability to charge a fee for Aspire on a fee schedule, but the Board can determine whether or not to impose a fee. Deputy Superintendent Jones reviewed with the Committee three courses of action submitted for consideration. It was also reported that the Board's Audit Committee prioritized an audit of the Aspire program in its last meeting. The Committee also heard public comment from several organizations concerning the fee.

A motion in Committee to implement the fee in SFY 18 and not require mandatory participation by the LEAs failed, with Members Johnson and Moss in favor and Members Corry and Huntsman opposed. Member Huntsman indicated he would like to see the results of the audit prior to making a decision.

MOTION from Committee that the Board not implement a fee this year or next year, but discuss this issue when the audit on the system is complete, at which time this would immediately be taken up by the Board.

Motion carried; Member Hansen absent.

Chart of Accounts Progress Update

Finance Director Natalie Grange reviewed with the Committee a schedule of meetings for chart of account review and school level reporting work groups. Kudos were given to Ms. Grange and her staff.

Washington County School District Audit

The Committee reviewed a letter from Washington District Superintendent Larry Bergeson in response to two audits conducted in his district: 1) State Auditor Report No. 15-WGSD-3L, *Washington County School District Report on Internal Control and Compliance Over*

Credit Card Use; and 2) USBE Internal Audit Report 2015-14, *Enterprise High School*. The letter outlines the steps the district has taken in response to the audits.

MOTION from Committee that the Board require the Washington School Board Chair to provide an initial update letter in one month as to how they are responding to the audits, then an additional letter in one year outlining implemented improvements and a description of the risk assessment process.

Motion carried; Members Hansen and Lockhart absent.

Vice Chair Johnson distributed to the Committee and Board a list of questions questioning the role of the Board in financial accountability for funds sent to LEAs when there is a separate LEA Board/local control.

Federal Grants Management Progress Report

An update was provided to the Committee that an offer has been extended for the Federal Grants Compliance Officer position.

Carry Forward Balance Reconciliation

The Committee reviewed the process staff is using for reconciliation of year end closure of line items/programs to ensure accuracy and reliability of carry forward balances.

MOTION from Committee that the Board direct School Finance staff to reconcile to the previous close (2015) and bring the results back to the Board for further direction and consideration.

Motion carried; Member Hansen absent.

Indirect Cost Rate Implementation and SFY17 Proposal

The Board recently utilized an outside firm, Maximus, to review, compile and submit an Indirect Cost Rate proposal for the Board of Education and Utah State Office of Rehabilitation.

MOTION from Committee that the Board direct staff to extend the current contract with Maximus to do further indirect cost rate study for FY 17 and establish the LEA indirect cost rate.

Motion carried; Member Hansen absent.

Effect of the USOR Move on the Indirect Cost Pool

The transition of the Utah State Office of Rehabilitation (USOR) to the Department of Workforce Services is currently under way. Staff reviewed with the Committee the impact to the Board of an estimated loss of \$1.8 million funding from the indirect cost pool (ICP) due to the USOR move. In addition, for several years the Board has charged USOR an indirect cost pool rate above the services they have received. It is estimated that five finance positions currently funded by the ICP will transition to DWS, reducing the amount of the estimated deficit from \$1.8 million to \$1.45 million. The Committee was presented with three courses of action to consider.

MOTION from Committee that the Board direct staff to effect budget remediation in the current fiscal year to not charge USOR staff for services they are not receiving.

Motion carried; Member Hansen absent.

MOTION from Committee that the Board direct staff to implement Course of Action #2, reducing USOR ICP funded positions as part of the upcoming budget for SFY 17.

Motion carried; Member Hansen absent.

Data and Information Requests

The Committee received requests for new information.

Audit Committee Report

Committee Chair David Thomas reported on items from the last Audit Committee meeting. He noted that the Audit Committee made motions to amend its audit rules in order to take into consideration a number of things passed in the last legislative session and to specifically address the independence of the audit director. The Committee also voted to combine two audits.

MOTION from Committee that the Membership Value Data audit and LEA Allocation Formula be rolled into the Hot Spot audit.

Motion carried; Member Hansen absent.

Board Member Comments

Vice Chair Johnson pointed out that Teacher Appreciation Week happened in between Board meetings. She gave a thank you to teachers and educators in general and expressed appreciation for the work they do.

Member Wright stated that we are currently in a high-tension election season, and supposed that staff member have very definite and firm opinions on the gubernatorial elections and perhaps State Board of Education elections. He reminded staff that they can't use taxpayer resources or time for electioneering in any way. He encouraged Superintendent Dickson, with the approval of Board leadership, to send an email to all the Board's employees informing them of the law and outlining what they can and can't do, and asking them to report any violations.

Superintendent Dickson reported that the office Leadership Council discussed the matter this week and particularly discussed use of social media, where a re-posting can be seen as an endorsement. She committed to reinforcing it to the whole building with an email. Member Belnap stated that staff members are entitled to their own opinions of candidates, but agreed they must not use state resources to share them. Member Wright expressed concern that staff not use their titles to promote one agenda or another unless the Board has given them direction to do so, and indicated that by virtue of being in certain positions, some individuals have lost some of their freedom of political expression in that position.

Member Belnap reminded Board members that information they receive that is confidential or under attorney-client privilege needs to be kept private.

Executive Session

MOTION was made by Vice Chair Johnson and seconded by Member Stokes that the Board go into Executive Session for the purpose of discussing the character, professional competence, or physical or mental health of individuals.

Upon voice vote of the Board members present, the Board moved into Executive

Session at 3:35 p.m.

Those present in Executive Session included Members Allen, Belnap, Castle, Corry, Crandall, Cummins, Hansen, Huntsman, Johnson, Lockhart, Moss, Stokes, Thomas, Warner and Wright; and Sydnee Dickson, Joel Coleman, Angie Stallings, Ben Rasmussen, Nicole Call, Bryan Quesenberry, Emilie Wheeler, and Lorraine Austin.

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

Motion carried. The Board reconvened in open meeting at 4:25 p.m.

Executive Session Items

Licensing Actions

MOTION was made by Member Stokes and seconded by Vice Chair Johnson that the Board adopt the Remand Order in Utah Professional Practices Advisory Commission (UPPAC) Case No. 15-1272.

Motion carried unanimously.

MOTION was made by Member Stokes and seconded by Vice Chair Johnson that the Board accept the UPPAC recommendation in Case No. 13-1174 and revoke the individual's Level 2 Education License from the date of Board action.

Motion carried unanimously.

MOTION was made by Member Stokes and seconded by Member Huntsman that the Board approve the UPPAC Consent Calendar.

Motion carried unanimously.

Appointments

MOTION was made by Vice Chair Johnson and seconded by Vice Chair Thomas that the Board appoint Natalie Grange to the Transparency Advisory Board.

Motion carried unanimously.

MOTION was made by Vice Chair Johnson and seconded by Vice Chair Thomas that the Board appoint David Long to the Utah Education and Telehealth Network Board to fulfill the

remainder of the term for Doug Wright, ending 2018.

Motion carried unanimously.

MOTION was made by Member Hansen and seconded by Member Huntsman that the Board appoint the following individuals as lay citizen representatives to the Utah Instructional Materials Commission for terms July 2016 through June 2021: Carrie Rogers Whitehead, Stanley Ellington, Kara Sherman, and Oleah Morris.

Motion carried unanimously.

MOTION was made by Member Stokes and seconded by Vice Chair Thomas that the Board appoint the following individuals to the Utah Schools for the Deaf and the Blind (USDB) Advisory Council for terms July 1, 2016 to June 30, 2018: Chris Bischke, Wayne Andrus, Chris Edwards—representing persons with interest in or knowledge of deafness, blindness, or deafblindness; Sterling Hilton, representing individuals who are deafblind or a parent of a deafblind child; Philippe Montalette, representing individuals who are deaf or hard of hearing; and Sandy Ruconich, representing individuals who are blind or visually impaired.

Motion carried unanimously.

MOTION was made by Member Stokes and seconded by Vice Chair Thomas that the Board appoint Roberta Dunlap to the Interpreters Certification Board for a three-year term.

Motion carried unanimously.

MOTION was made by Member Stokes and seconded by Vice Chair Johnson that the Board appoint Terryl Warner to the Pareducator Scholarship Selection Committee.

Motion carried unanimously.

MOTION was made by Vice Chair Thomas and seconded by Member Stokes that the Board appoint the following individuals to the Digital Teaching and Learning Advisory Committee: Rich Nye, Ray Timothy, Sarah Young, Paul Sweat, Fred Donaldson, Jim Langston, Charlie Roberts, and as an alternate, Sam Quartz.

Motion carried unanimously.

Executive Session

MOTION was made by Member Stokes and seconded by Vice Chair Thomas that the

Board go into Executive Session to discuss pending litigation.

Upon voice vote of the Board members present, the Board moved into closed Executive Session at 4:30 p.m.

Those present in Executive Session included Members Allen, Belnap, Castle, Corry, Crandall, Cummins, Hansen, Huntsman, Johnson, Lockhart, Moss, Stokes, Thomas, Warner and Wright; and Sydnee Dickson, Angie Stallings, Ben Rasmussen, Nicole Call, Bryan Quesenberry, Emilie Wheeler, and Lorraine Austin.

MOTION was made by Member Moss and seconded by Vice Chair Thomas that the Board come out of Executive Session.

Motion carried. The Board reconvened in open meeting at 5:35 p.m.

R277-752 Adult Students with Disabilities

MOTION was made by Vice Chair Johnson and seconded by Vice Chair Thomas to take the motion on R277-752 off the table.

Motion to remove from the table passed; Members Allen, Belnap, Cummins, Warner and Wright absent.

Motion to approve R277-752 on second and final reading and direct staff to file immediately failed, with Members Huntsman, Johnson, Lockhart and Moss in favor, and Members Castle, Corry, Crandall, Hansen, Stokes, and Thomas opposed. Members Allen, Belnap, Cummins, Warner and Wright absent.

Adjournment

MOTION was made by Vice Chair Thomas and seconded by Vice Chair Johnson that the meeting adjourn.

Motion carried. The meeting adjourned at 5:36 p.m.

Lorraine Austin, Board Secretary
Minutes approved August 12, 2016