

**UTAH STATE BOARD OF EDUCATION  
MEETING MINUTES**

August 2, 2013

A regular meeting of the Utah State Board of Education was held August 2, 2013 at the Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah. Chair Debra G. Roberts conducted.

**Board Members present:**

Chair Debra G. Roberts	Member Michael Jensen
Vice Chair David L. Crandall	Member Jennifer A. Johnson
Member Dixie L. Allen	Member Jefferson Moss
Member Laura Belnap (non-voting)	Member James V. (Jim) Olsen (non-voting)
Member Keith M. Buswell	Member C. Mark Openshaw
Member Kim R. Burningham	Member Tami W. Pyfer
Member Leslie B. Castle	Member R. Dean Rowley (non-voting)
Member Barbara W. Corry	Member Isaiah (Ike) Spencer (non-voting)
Member Heather Groom	Member Teresa L. Theurer (non-voting)
Member Marlin Jensen (non-voting)	Member David L. Thomas

**Executive staff present:**

Martell Menlove, State Superintendent	Don Uchida, USOR Executive Director
Brenda Hales, Deputy Superintendent	Joel Coleman, USDB Superintendent
Judy Park, Associate Superintendent	Lorraine Austin, Board Secretary

**Others present:**

Peter Cannon, Central Davis County; Lisa Cummins, parent; Karlene Carper, parent; Sarah Scoresby, parent; Carrie Kearsley, parent; Kory Holdaway, UEA; Lydia Nuttall, parent; Amy Olson and family, parent and students; Kristia Price, grandparent; Christel Swasey, Teachers Against Common Core; Deon Turley, Utah PTA; Karen Moyle, parent/teacher; LeNell Heywood, grandparent; Barry Walker, Utah School Superintendents Association; Kraig Thorne; Brandi Snyder, parent; Jan Ferré, LCPD; Holly Richardson; Margaret Bird; Liz Tashjian, School Trust Investment Task Force; Daniel Burton, PubliusOnline.com; Ralph Johnson; Tracy Miller, Utah PTA; Andrew Laver; Karen Peterson, Utah PTA; Ric Cantrell, Utah Senate

**Opening Business**

Chair Debra Roberts called the meeting to order at 8:15 a.m. Member Dean Rowley led the Board in the Pledge of Allegiance.

### Board Member Welcome Message

Member Dixie Allen welcomed the Board. She read passages from the book, On the Death of Childhood and the Destruction of Public Schools, by Gerald Bracey, regarding NCLB, NAEP and textbook development. She expressed her feelings that as an educator, she believes the most important thing is investing in classroom teachers. She then shared a prayer.

### Recognition of Joel Coleman

Chair Debra Roberts acknowledged former Board member Joel Coleman, and thanked him for his service on the Board over the past 2-1/2 years. Mr. Coleman was recognized with the traditional gold bell. He commented on the pleasure it has been to work with Board members and USOE executive staff.

### Promises to Keep Highlight

Dr. Martell Menlove, State Superintendent of Public Instruction, reported on recent interactions he has had with teachers while visiting different Core Academy training sessions. He has watched some of Utah's best teachers helping other teachers learn how to provide high quality instruction, and felt that the experience teachers were having was exceptional.

### **Public Comment**

Duke Mossman, Northeast Regional Service Center Director - spoke on behalf of the Utah Rural Schools Association and the Utah School Superintendents Association. Mr. Mossman distributed and reviewed the document, *Consistent Access to Concurrent Enrollment*, and asked the Board to consider the proposal as part of its legislative budget presentation. [For more details, see General Exhibit No. 12443.]

Dr. Gary Thompson - indicated that based on his research, high stakes academic tests have not been proven to be statistically valid for a high percentage of Black, Latino and multiple categories of children of all races. He expressed concerns that amendments to Board rule considered today will provide academic and punitive consequences to children whose parents elect to opt out of Common Core testing.

Alisa Ellis - asked for an honest, open dialogue about the Common Core reform agenda. She indicated that parents want out of the Common Core.

Lisa Cummins - expressed that she is fighting a battle for her children's souls, and expressed concerns about the state longitudinal data system.

### **General Consent Calendar**

Motion was made by Member Keith Buswell and seconded by Member Mark Openshaw that the Board approve the General Consent Calendar with the following changes:

- Minutes of the June 6, 2013 meeting were added.
- The description of the American Institutes for Research contract (#F) was amended.
- The dollar amount for the USU Center for Persons with Disabilities contract (#Z) was changed to \$0, as the amendment is only for an extension of the grant period.

Motion carried unanimously.

#### 1. Minutes of Previous Meetings

Minutes of the State Board of Education meetings held June 6, 2013, June 7, 2013 and July 17, 2013 were approved.

#### 2. Contracts [For more details, see General Exhibit No. 12444.]

The following contracts were approved by the Board.

##### A. MicroScribe Publishing, Inc. \$35,000, 7/1/2013 to 6/30/2014, Fed.

To provide services to support students with disabilities under Individuals with Disabilities Education Act.

##### B. Wireless Generation, \$0, 07/1/2013 to 6/30/2014, Amend.

Amendment to exercise the first of three available renewal options; to end the contract on June 30, 2014; to clarify invoicing in 2013-2014 contract year.

C. Janet Hanson, \$90,000, 8/1/2013 to 7/31/2018, Fed.

To provide monitoring for the Utah Program Improvement Planning Systems (UPIPS); review files and procedures for LEA self-assessments and annual performance reports; monitor LEAs for compliance with the Individual with Disabilities Education Act and USBE Special Education Rules.

D. Stefanie Cragun, \$90,000, 8/1/2013 to 7/31/2018, Fed.

To provide monitoring for the Utah Program Improvement Planning Systems (UPIPS); review files and procedures for LEA self-assessments and annual performance reports; monitor LEAs for compliance with the Individual with Disabilities Education Act and USBE Special Education Rules.

E. Barbara Deb Spark, \$18,000, 9/1/2013 to 8/31/2014, Fed., Amend.

To provide monitoring for the Utah Program Improvement Planning Systems (UPIPS); review files and procedures for LEA self-assessments and annual performance reports; monitor LEAs for compliance with the Individual with Disabilities Education Act and USBE Special Education Rules.

F. American Institutes for Research, \$706,947, 6/15/2013 to 1/31/2018, Amend.

To amend the scope of work to include (a) Brailing the summative/interim item bank; (b) opening the testing window early in the 2013-2014 school year; and (c) releasing the secure browser in September for the 2013-2014 school year.

G. Experis IT Services, US LLC, \$150,000, 6/1/2013 to 6/30/2014, Amend.

Extends the contract for one more year.

H. SLEA, \$0 (change of ownership), 4/1/2013 to 3/31/2014, Fed.

To lease office space for the Division of Rehabilitation Services Richfield office located at 150 West 1500 South Main.

I. DFCM, \$3,083, 7/1/2013 to 6/30/2014, \$3,083, Fed.

To begin the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, located at Washington Regional Center, 2540 Washington Blvd, Ogden, Utah.

J. DFCM, \$180,942, 7/1/2013 to 6/30/2014, Fed., Amend.

To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, located at 500 South 1595 West, Salt Lake City, Utah.

K. DFCM, \$124,027, 7/1/2013 to 6/30/2014, Fed., Amend.

To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division of Services for the Blind and Visually Impaired, located at 250 North 1950 West, Salt Lake City, Utah.

L. DFCM, \$108,000, 7/1/2013 to 6/30/2014, Fed., Amend.

To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division of Services of the Deaf and Hard of Hearing, located at 5709 South 1500 West, Taylorsville, Utah.

M. DFCM, \$42,211, 7/1/2013 to 6/30/2014, Fed., Amend.

To being the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, located at 950 East 25<sup>th</sup> Street, Ogden, Utah.

N. DFCM, \$11,321, 7/1/2013 to 6/30/2014, Fed., Amend.

To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division of Rehabilitation, located at 275 West 1100 South, Brigham City, Utah.

O. DFCM, \$8,147, 7/1/2013 to 6/30/2014, Fed., Amend.

To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division of Services for the Blind and Visually Impaired, located at 2540 Washington Blvd., Ogden, Utah.

P. DFCM, \$49,736, 7/1/2013 to 6/30/2014, Fed., Amend.

To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division os Services for the Blind and Visually Impaired Training Housing, located at 1991 West 400 North, Salt Lake City, Utah.

Q. DFCM, \$47,970, 7/1/2013 to 6/30/2014, Fed., Amend.

To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division of Services Provo Regional Center, located at 150 East Center, Provo, Utah.

R. Old Dominion Freight Line, Inc., \$330,000, 7/1/2013 to 6/30/2014, Amend.

For transportation of USDA dry and temperature-controlled commodities to recipient agencies statewide.

S. Camomile Holdings dba Shade Tree Building LLC, 738,510, 7/1/2014 to 6/30/2019, Fed., Amend.

To provide space for the Division of Rehabilitation Services located at 926 West Baxter Place, South Jordan, Utah.

T. SLEA, \$244,800, 4/1/2014 to 3/31/2019, Fed. Amend.

To lease office space for the Division of Rehabilitation Services Richfield Office, located at 150 West 1500 South Main, Richfield, Utah.

U. Public Service Commission of Utah, \$10,000, 7/1/2013 to 6/30/2014

The Division of Services to the Deaf and Hard of Hearing, Southern Utah Office of the Deaf and Hard of Hearing will distribute telecommunication devices for the deaf and hard of hearing provided by the PSC and train on its use. Individuals will be approved to receive devices by the PSC.

V. WIDA Consortium, \$1,970,000, 8/15/2013 to 6/30/2015, Fed.

WCER offers evaluation services on behalf of WIDA that are designed to assess the progress of children in attaining English proficiency. As part of these evaluation services, WCER offers the English language test, Assessing Communication and Comprehension in English State to State English Language Learners under the brand name ACCESS for Ells.

W. Utah Statewide Independent Living Council, \$159,653, 10/1/2013 to 9/30/2014, Fed., Amend.

To provide resources to the Independent Living Program in accordance with Title VII Part B and the State Plan for Independent Living.

X. University of Utah SRI, \$59,639, 10/1/2013 to 9/30/2014, Fed.

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

Y. LMTB and Associates LLC, \$55,650.67, 12/1/2011 to 11/30/2016, Fed., Amend.

To lease office space for the Division of Rehabilitation Services located at 1067 East Tabernacle, St. George, Utah.

Z. USU Center for Persons with Disabilities, \$0, 8/1/2011 to 6/30/2014, Fed., Amend.

This amendment extends the grant period.

3. R277-410 Accreditation of Schools

In its June 7, 2013 meeting, the State Board approved amendments to R277-410 on first and second readings. The rule was amended to remove the requirement for all charter schools to be a member of and accredited by AdvancED Northwest. The Board approved R277-410 *Accreditation of Schools* on third and final reading. [For more details, see General Exhibit No. 12445.]

4. R277-412 State Capitol Visit Program

In its June 7, 2013 meeting, the State Board approved new rule R277-412 on first and second readings. The rule was created as a result of H.B. 363 *Public Education State Capitol Visit Funding*, passed in the 2013 legislative session. The rule provides criteria and procedures for the Board to identify schools to participate in the field trips. The Board approved R277-412 *State Capitol Visit Program* on third and final reading. [For more details, see General Exhibit No. 12446.]

5. R277-425 Budgeting, Accounting, and Auditing for Utah Local Education Agencies (LEAs)

In its June 7, 2013 meeting, the State Board approved amendments to R277-425, and continued the rule, on first and second readings. The rule outlines specific uniform budgeting, accounting, and auditing procedures for LEAs pursuant to Generally Accepted Accounting Principles (GAAP) and Generally Accepted Auditing Standards (GAAS). The Board approved and continued R277-425 *Budgeting, Accounting, and Auditing for Utah Local Education Agencies (LEAs)* on third and final reading. [For more details, see General Exhibit No. 12447.]

6. R277-470 Charter Schools - General Provisions

In its June 7, 2013 meeting, the State Board approved amendments to R277-470, and continued the rule, on first and second readings. The amendments reflect changes proposed by the State Charter School Board. The Board approved and continued R277-470 *Charter Schools - General Provisions* on third and final reading. [For more details, see General Exhibit No. 12448.]

7. R277-481 Charter School Oversight, Monitoring and Appeals

In its June 7, 2013 meeting, the State Board approved amendments to R277-481, and continued the rule, and first and second readings. The rule was amended to remove the requirements for elementary charter schools to be accredited, and to include auditing requirements. The Board approved and continued R277-481 *Charter School Oversight, Monitoring and Appeals* on third and final reading. [For more details, see General Exhibit No. 12449.]

8. R277-482 Charter School Timelines and Approval Processes

In its June 7, 2013 meeting, the State Board approved amendments to R277-482, and continued the rule, on first and second readings. The rule was amended to make minor changes to the current timeline for approval of new charter schools and school expansions. The Board approved and continued R277-482 *Charter School Timelines and Approval Processes* on third and final reading. [For more details, see General Exhibit No. 12450.]

9. R277-487 Public School Data Confidentiality and Disclosure

In its May 2, 2013 meeting, the State Board approved amendments to R277-487 on first and second readings. The rule was discussed by the Instruction, Assessment and Technology Committee in September, October and November 2012, and the rule received final approval of the Board in December 2012. During the process, a section on educator evaluation data that had been inserted into the rule was removed because 2013 legislation with clarification language was anticipated. Clarifying language was not provided in the 2013 Legislative Session, consequently, the section on educator evaluation data needed to be included in the rule.

The Board approved R277-487 *Public School Data Confidentiality and Disclosure* on third and final reading. [For more details, see General Exhibit No. 12451.]



10. R277-492 Utah Science Technology and Research Initiative (USTAR) Centers Program

In its June 7, 2013 meeting, the State Board approved amendments to R277-492, and continued the rule in accordance with the Utah Administrative Rulemaking Act five-year review requirement, on first and second readings. The Board approved R277-492 *Utah Science Technology and Research Initiative (USTAR) Centers Program*. [For more details, see General Exhibit No. 12452.]

11. R277-526 Paraeducator to Teacher Scholarship Program

In its June 7, 2013 meeting, the Board continued R277-526, in accordance with the Utah Administrative Rulemaking Act five-year review requirement, on first and second readings. The Board approved continuation of R277-526 *Paraeducator to Teacher Scholarship Program* on third and final reading. [For more details, see General Exhibit No. 12453.]

12. R277-606 Grants to Purchase or Retrofit Clean School Buses

In its June 7, 2013 meeting, the State Board repealed R277-606 on first and second readings. All objectives of the rule have been met, therefore the rule is now unnecessary. The Board repealed R277-606 *Grants to Purchase or Retrofit Clean School Buses* on third and final reading. [For more details, see General Exhibit No. 12454.]

13. R277-609 Standards for School District, School and Charter School Discipline Plans

In its June 7, 2013 meeting, the State Board approved amendments to R277-609, and continued the rule, on first and second readings. The rule was amended to reflect required changes made in H.B. 134 *Parental Notification Related to Student Safety*, 2013 Legislative Session. The Board approved and continued R277-609 *Standards for School District, School and Charter School Discipline Plans* on third and final reading. [For more details, see General Exhibit No. 12455.]

14. R277-613 School District and Charter School Bullying and Hazing Policies and Training

In its June 7, 2013 meeting, the State Board approved amendments to R277-613, and continued the rule, on first and second readings. The rule was amended to reflect required changes made in H.B. 134 *Parental Notification Related to Student Safety*, 2013 Legislative Session. The Board approved and continued R277-613 *School District*

*and Charter School Bullying and Hazing Policies and Training* on third and final reading. [For more details, see General Exhibit No. 12456.]

15. R277-620 Suicide Prevention Programs

In its June 7, 2013 meeting, the State Board approved new rule R277-620 on first and second readings. The rule was written to address the requirements of H.B. 15 *Suicide Prevention Programs*, passed in the 2013 Legislative Session. The Board approved R277-620 *Suicide Prevention Programs* on third and final reading. [For more details, see General Exhibit No. 12457.]

16. R277-750-3 Education Programs for Students with Disabilities - Standards and Procedures

In its June 7, 2013 meeting, the State Board approved amendments to R277-750-3 on first and second readings. Changes to the Utah State Board of Education Special Education Rules necessitated amendments to R277-750-3. The Board approved R277-750-3 *Education Programs for Students with Disabilities - Standards and Procedures* on third and final reading. [For more details, see General Exhibit No. 12458.]

17. The Negotiated Agreement between the Utah Schools for the Deaf and the Blind Education Association (USDBE) and Utah Schools for the Deaf and the Blind (USDB), School Year 2013-2014

The Board ratified the Negotiated Agreement between the USDB and the USDBEA. [For more details, see General Exhibit No. 12459.]

18. National Association of State Board of Education (NASBE) Dues

The Board approved payment of \$23,556 to the National Association of State Boards of Education. [For more details, see General Exhibit No. 12460.]

19. Adoption of Per Diem Rates

In accordance with its Bylaws, the Board adopted the per diem rates for boards established by the director of the State Division of Finance [63A-3-106 and 107]. [For more details, see General Exhibit No. 12461.]

20. List of Educator Licenses Processed

A summary of the total number of educator licenses and license areas processed in June and July 2013 was provided for Board information. [For more details, see General Exhibit No. 12462.]

## 21. Monthly Budget Report

A monthly budget report was provided to give information to the Board in meeting its fiduciary responsibilities toward the Utah State Office of Education, Utah State Office of Rehabilitation, and Utah Schools for the Deaf and the Blind. [For more details, see General Exhibit No. 12463.]

## 22. Ratification of Hiring

The Board ratified the hiring of the following USOE personnel: Connie Nink - Educational Specialist, Teaching and Learning; Todd Vawdrey - Educational Specialist, Assessment and Accountability; C. Kim Deamer - Educational Specialist, Assessment and Accountability; Debra Lewis - Educational Specialist, CTAE.

The Board recessed to committees at 8:50 a.m.

The full Board reconvened at 10: 45 a.m.

## **Superintendent's Report**

Superintendent Menlove and others reported on the following.

- April Nichols, Human Resources staff, introduced new USOE employees: Rachel Terry, Todd Billings, Theresa Silcott, Debbie Lewis, Jordan Bryant, Michelle Martin, Mary Ann Morehouse, and Brenda Stephenson.
- An update on the USOE building renovation as a result of flooding was given. Work is essentially completed.
- A letter from the Utah School Superintendents Association (USSA) regarding changes in timelines for implementation of teacher evaluation was reviewed. USSA is requesting the Board's support for the proposed changes.
- Work of the STEM Action Center was reported.
- Dr. Menlove reviewed a letter he sent to Senate President Niederhauser regarding implementation of S.B. 271 3<sup>rd</sup> substitute *School Grading Amendments*. The letter expresses the Board's commitment to comply with the law. It also gives an indication that if there is formal direction given through a special legislative session or legislative movement, the Board is willing to make the necessary adjustments, but it would take some time to do so.

- The Public Education Appropriations Subcommittee will meet August 28, 2013. There will be no Education Interim Committee meeting in August.
- Member Dixie Allen reported that the Utah Public Education Coalition will meet on August 12, 9:30 a.m. at the UEA office to discuss grading schools.

[For more details, see General Exhibit No. 12464.]

## **Board Chair's Report**

### Board Legislative Task Force Report

Member Jefferson Moss reported on the work of the Board Legislative Task Force. Members include Members Moss, Groom, Pyfer, Thomas, and Johnson. The group has been discussing ways to be more engaging with the Legislature. They will be meeting with Senate and House leadership and with every legislator, as possible, in different areas of the state. They recently gave a presentation on Core Standards to members of the legislature.

### Audit Report

USBE Internal Auditor Natalie Grange reported on non-LEA monitoring work. Initially, 236 non-LEA entities were identified, excluding the Child Nutrition Program. The entities were reviewed to determine if they were completing the audits in accordance with rules and guidelines. Two had significant findings and corrective action letters have been sent and sufficient responses received.

Ms. Grange also reported on audit Report No. 2012-24 *Utah's Diagnostic Assessment System Contract for K-3 Reading*. In 2011, legislation was passed that required the State Board to contract with an educational technology provider, through an RFP process, for a diagnostic system for K-3 reading intervention. Two of the main criteria for the RFP were that the vendor must support the DIBELS assessment and that the benchmark assessment must be available to download to a portable technology device and be available in standalone mode without the use of an Internet connection.

Wireless Generation was awarded the contract. One other vendor responded to the RFP, but was not qualified to proceed because the vendor did not support the DIBELS assessment.

It was noted that Wireless Generation has an agreement with the creator of DIBELS to exclusively administer DIBELS on portable electronic devices.

The audit reports that although there are many vendors in the current marketplace, the combination of the designation of DIBELS and the specific requirements for technology in the legislation effectively reduced most of the competition before the RFP was issued.

The audit also pointed out discrepancies in the contract terms and periods of service, along with unclear professional development deliverables. An amendment to the contract has been negotiated which has resolved these issues.

Ms. Grange reviewed the audit recommendations which include reviewing technical specifications in Code, working with legislators to revise the statute, revising the contract, and improving contracting practices. [For more details, see General Exhibit No. 12465.]

#### Chair's Report

Chair Debra Roberts and Board members reported on the following:

- Member Kim Burningham distributed and reviewed information on the recent annual conference of the National Association of State Boards of Education (NASBE). Members Buswell, Corry, Groom, and Moss also attended. Member Barbara Corry was elected a member of the NASBE Board of Directors. [For more details, see General Exhibit No. 12466.]
- Chair Roberts, Superintendent Menlove and other board members recently met with Lt. Governor Bell and the Governor's staff regarding school grading.
- Chair Roberts stated her desire to bring to the Board for consideration a resolution on public education in relation to the family.
- It was noted that the Communications Chair will be invited to Board Leadership meetings.
- Dates of upcoming meetings/events were reviewed.

**Assessment Item Parent Review Committee Application**

The State Board is directed in UCA 53A-1-603 to “require each school district and charter school, as applicable, to administer a computer adaptive testing system.” The statute also establishes a committee consisting of 15 parents of Utah public education students to review all computer adaptive test questions. Five members of that committee must be appointed by the Chair of the State Board of Education. The others are appointed by the Senate President and Speaker of the House.

Chair Roberts reviewed with the Board an application she created for interested parents to apply for membership on the committee. [For more details, see General Exhibit No. 12467.]

Motion was made by Member Mark Openshaw and seconded by Member Tami Pyer that the Board approve the Assessment Item Parent Review Committee Application.

Motion carried.

**Utah Professional Practices Advisory Commission (UPPAC) Recommendations**

Motion was made by Member Dixie Allen and seconded by Member Michael Jensen that the Board accept the UPPAC recommendation in Case No. 12-1102 and suspend the educator’s Level 2 Secondary Education license. The educator may request a reinstatement hearing following satisfaction of all conditions in the Stipulated Agreement and completion of a criminal background check, no sooner than eighteen months from the date of Board action. Any UPPAC recommendation for reinstatement following a hearing is subject to Board approval.

Motion carried unanimously.

Motion was made by Member Barbara Corry and seconded by Member Dixie Allen that the Board accept the UPPAC recommendation in Case No. 10-987 and reinstate the educator’s Level 2 School Counselor and Special Education License.

Motion carried unanimously.

Motion was made by Member Kim Burningham and seconded by Member Dixie Allen that the Board accept the UPPAC recommendation in Case No. 12-1086 and suspend the educator’s Level 2 Elementary Education and Secondary License. The educator may request a

reinstatement hearing following satisfaction of all conditions in the Stipulated Agreement and completion of a criminal background check, no sooner than three years from the date of Board action. Any UPPAC recommendation is subject to Board approval.

Motion carried; Members Johnson and Pyfer opposed.

Motion was made by Member Dixie Allen and seconded by Member Barbara Corry that the Board accept the UPPAC recommendation in Case No. 11-1001 and reinstate the educator's Level 2 Elementary and Special Education License.

Motion carried unanimously.

Motion was made by Member Dixie Allen and seconded by Member Michael Jensen that the Board accept the UPPAC recommendation in Case No. 10-961 and reinstate the educator's Level 2 School Counselor and Administrative/Supervisory License.

Motion failed 7-7, with Members Allen, Burningham, Buswell, Corry, Jensen, Roberts and Thomas in favor, and Members Castle, Crandall, Groom, Johnson, Moss, Openshaw and Pyfer opposed.

Motion was made by Member Tami Pyfer and seconded by Member Jennifer Johnson that the Board accept the UPPAC recommendation in Case No. 13-1117 and suspend the educator's Level 1 Special Education license. The educator may request a reinstatement hearing following satisfaction of all conditions in the Stipulated Agreement and completion of a criminal background check no sooner than six months from the date of Board action. Any UPPAC recommendation for reinstatement following a hearing is subject to Board approval.

Motion carried unanimously.

Motion was made by Member Dixie Allen and seconded by Member Kim Burningham that the Board accept the UPPAC recommendation in Case No. 12-1101 and suspend the educator's Level 2 Secondary Education license. The educator may request a reinstatement hearing following satisfaction of all conditions in the Stipulated Agreement and completion of a criminal background check, no sooner than twelve months from the date of Board action. Any UPPAC recommendation for reinstatement following a hearing is subject to Board approval.

Motion carried unanimously.

[For more details, see General Exhibit No. 12468.]

### **School Trust Investment Task Force Report and Recommendations**

The Board approved a resolution on February 8, 2013, which created the School Trust Investment Task Force to study “the appropriate and prudent investment oversight, process, and structure” of the permanent State School Fund, and to submit legislative proposals, if necessary.

Task Force members were appointed and the task force has met over the spring and summer months, with Board Member Jennifer Johnson chairing. The Task Force has made recommendations concerning characteristics of an ideal governing structure, preferred structures for oversight and investment of the permanent State School Fund, distribution policy, reporting requirements, risk tolerance, audits and custody.

Member Johnson presented the final report and recommendations of the Task Force outlined in *Recommendations on Investment Oversight of the Permanent State School Fund*. She acknowledged the diligence and faithfulness of the members of the Task Force and USOE staff and thanked them for their work. David Hemingway and Liz Tashjian from the Task Force were present, along with Margaret Bird, former director of the USOE School Children’s Trust Section, Timothy Donaldson, current School Children’s Trust Director, and USOE staff Paula Plant and Karen Rupp. [For more details, see General Exhibit No. 12469.]

Director Tim Donaldson indicated that the Task Force looked for the best long-term policies for the Fund beneficiaries, and he endorsed every recommendation in the report.

In response to a Board member question, Member Johnson explained that governance structure Option 6—Investment Board with State Treasurer—was questioned in terms of its legal viability. The issue of legality was not brought up until the last meeting, after the Task Force had chosen Options 6 and 7 as their top options, and no members indicated they would change their votes. Details are found in the minority report in the document.

The following public comment on the report was given.

Karen Peterson, Trust Lands appointee for Utah PTA - applauded the Task Force process; although there were differences of opinion from task force members, her overall observation was that when the time came to vote, everyone voted that it is time for a change. The report is a good roadmap for moving forward.



Jay Blain, Utah Education Association (UEA) - expressed that UEA feels this was an inclusive process, and input was allowed from stakeholder groups. UEA's emphasis is on the protection of the Permanent Fund and they will continue to advocate for a structure that maintains that focus and protects the Fund. He believes these recommendations accomplish that.

Joel Coleman, Superintendent, Utah Schools for the Deaf and the Blind - reported that there are three trust funds that come under the oversight of Board, including a blind trust and a deaf trust. He formally requested that if a motion is made to approve the recommendations, the blind and deaf trusts be included, with the exception of the distribution formula.

Paula Plant read a statement from Task Force Member Rich Cunningham in support of the recommendations.

Task Force Member David Hemingway, Executive Vice President, Zions Bank Corporation - thanked Member Johnson and USOE staff for their work with the Task Force. Mr. Hemingway reported that he was one of the signors of the minority report. All members of the task force voted for an independent board that was empowered, rather than an advisory board. The issue on which Task Force members were not unanimous was whether to go to the expense of creating a new department with new employees to manage the Trust, or whether to have the execution carried out by the State Treasurer. He questioned whether the Board of Education wants to recommend spending \$750,000 to \$1 million for additional salaries and office expenses.

Task Force Member Elizabeth Tasjian, University of Utah Department of Finance - clarified that although there is a minority report, there was not a massive disagreement among committee members. There was some uncertainty about what is permissible under statute, Utah Constitution, and the U.S. Constitution. In response to questions about prudent investing, she indicated that returns cannot be guaranteed. The Task Force spent many hours discussing balancing the needs of school children today with school children in perpetuity. Task Force members did feel the number of returns could be better.

David Hemingway - reported that there is precedent under Utah law for setting up an independent board that has authority to tell the State Treasurer what to do. Currently that is being done through the Money Management Council.

Dave Jones, Attorney General's Office - reported that income generated from properties held in trust are public monies, and constitutionally, the State Treasurer is the custodian of public monies. In the early 1980s, the legislature created the state Money Management Act, and that Act created a division of investments in the office of the State Treasurer and further created an investment council within the division of investments. The State Treasurer brought legal action to determine whether the Act was unconstitutional in that it attempted to interfere with his duties as the State Treasurer. The Supreme Court determined that "to impose ministers upon the State Treasurer to whom he can neither hire nor fire and who choose the depositories of funds entrusted to his care, which if lost, will result in liability to the State Treasurer and his bondsmen, is an undue interference with his Constitutional rights and duties." Mr. Jones concluded that legislatively creating a board that would supervise the duties provided to a constitutional officer is a problem. Board members further discussed issues about the legalities and suggested perhaps looking at additional case law.

Motion was made by Member Barbara Corry and seconded by Member David Thomas that the Board thank the School Trust Investment Task Force members for their service, and instruct the State Superintendent and staff to work to enact legislation to implement, so far as possible, all the recommendations of the Task Force, applicable to the Permanent School Trust Fund and the USDB blind and deaf trust funds. Staff is instructed to report back to the Board after the legislative session has begun and a bill is numbered.

Motion carried unanimously.

### **Executive Session**

Motion was made by Member Tami Pyfer and seconded by Member Heather Groom that the Board move into Executive Session for the purpose of discussing the character, professional competence, or physical or mental health of individuals, and potential litigation. A voice vote was taken, and upon unanimous consent of those present, the Board moved into Executive Session, following lunch, at 1:30 p.m.

The following were present in Executive Session: Board Members Allen, Belnap, Burningham, Buswell, Castle, Corry, Crandall, Groom, Michael Jensen, Johnson, Moss, Olsen,

Openshaw, Pyfer, Rowley, Roberts, Spencer, Theurer and Thomas; and Martell Menlove, Brenda Hales, Lorraine Austin, Heidi Alder, Kristina Kindl, and Rachel Terry.

Motion was made by Member Barbara Corry and seconded by Member Dixie Allen that the Board move out of Executive Session.

Motion carried. The Board reconvened in open session at 2:44 p.m.

### **Executive Session Items**

#### Utah Instructional Materials Commission Appointment

Motion was made by Member Mark Openshaw and seconded by Member Dixie Allen that the Board appoint Susan Harrah to the Utah Instructional Materials Commission, representing elementary principals, for a four-year term.

#### Utah Professional Practices Advisory Commission (UPPAC) Recommendations

Motion was made by Member Tami Pyfer and seconded by Member Jefferson Moss that in UPPAC Case No. 10-961, the Board has determined that the recommended disposition does not present a reasonable resolution of the case, therefore certain members of the Board will prepare other findings, conclusions, or dispositions.

Motion carried; Members Burningham and Thomas opposed.

Members Pyfer, Castle and Groom will prepare the findings.

### **Computer Adaptive Assessment System Update**

USOE Assessment Director John Jesse updated the Board on the development of computer adaptive assessment through the SAGE program (Student Assessment of Growth and Excellence). The development team has spent this week with teachers reviewing secondary mathematics and science items and will review English/language arts items next week. [For more details, see General Exhibit No. 12470.]

**Board Goals and Legislative Priorities**

The Board was presented with a list of possible Board and legislative goals for 2013 taken from Board discussions and resolutions. [For more details, see General Exhibit No. 12471.]

Motion was made by Member David Thomas and seconded by Member Kim Burningham that the Board adopt professional development for 8<sup>th</sup> grade math teachers, working in conjunction with the STEM Center, as a Tier 1 legislative goal.

Motion carried unanimously.

Motion was made by Member David Thomas and seconded by Member Mark Openshaw that the Board adopt a one- to-one device initiative as a Tier 1 legislative priority.

Motion carried unanimously.

Motion was made by Member Kim Burningham and seconded by Member Keith Buswell that the Board adopt I-a and I-b from the goals sheet as a Tier 1 legislative priority, changing the wording in I-a(2) to read “More time/resources for increasing performance of students ~~for lowest performing students~~ such as extension of kindergarten; before- and after-school programs; summer school.”

Chair Roberts pointed out that I-a would be a legislative priority and I-b would be an internal Board goal.

Member Moss expressed discomfort with making such a specific policy decision without more time for debate and data review.

Motion failed, with Members Allen, Burningham, Buswell, Corry, Jensen and Roberts in favor, and Members Castle, Crandall, Groom, Jensen, Moss, Openshaw and Thomas opposed. Member Pyfer abstained.

Motion was made by Member Tami Pyfer and seconded by Member Jefferson Moss that the Board postpone the discussion on setting goals and legislative priorities, and that the goals be organized in a different format.

Superintendent Menlove reported that the USBA Delegate Assembly will occur before the Board has another meeting, and it would be helpful to him as he participates if he had some direction.

Member Pyfer amended her motion to postpone the discussion on setting Board goals and priorities with the exception of a discussion on proposed Goal IV on school grading, and authorize Superintendent Menlove to report to the USBA Delegate Assembly the Board's general support for initiatives to increase student reading proficiency, provide professional development for 8<sup>th</sup> grade math, provide one-to-one devices, and improve graduation rates. Member Moss agreed to the amendment.

Motion carried.

Motion was made by Member Dixie Allen and seconded by Member Barbara Corry that the Board will support the school grading program if it includes growth for all students.

Superintendent Menlove reported that he has attended meetings with Senate President Niederhauser where school grading was discussed. At this point in time, no changes to SB 271(S3) *School Grading Amendments* passed in the 2013 legislative session, have been proposed by any group including the sponsor of the legislation or President Niederhauser. He feels President Niederhauser is comfortable with the growth calculation as outlined in the legislation.

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

Motion was made by Member Jennifer Johnson and seconded by Member Tami Pyfer that the Board consider holding a special meeting to spend more time on the Board goals and legislative priorities.

Motion carried.

## **Board Standing Committee Reports**

### COMMUNICATIONS COMMITTEE

Committee Chair Tami Pyfer reported on the following items from the committee.

A member of the public, Matt McCarty, was invited to give feedback to the committee regarding the Board Communications Plan.

The Committee will take more time to strengthen the communications message and determine strategies for implementing the message. More time also needs to be spent being proactive and getting information out on compelling stories that are happening in the classroom right now. [For more details, see General Exhibit No. 12472.]

#### ACCOUNTABILITY AND FINANCE COMMITTEE

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

##### Taxing Entity Committee to the Redevelopment Agency of the City of North Salt Lake Orbit Economic Development Project Area

Orbit Irrigation Products desires to expand its lines to operate the new PVC-Lock production line. It is estimated that the Orbit Economic Development Project Area will create at least 60 new jobs. The total increment to the RDA would be \$4,700,748 with \$1,566,916 going back to the taxing entities.

The committee gave direction to Cathy Dudley, its representative to the RDA, to vote in favor of the project. [For more details, see General Exhibit No. 12473.]

##### R277-113 LEA Fiscal Policies and Accountability

Rule R277-113 sets expectations for local boards to establish fiscal policies and procedures manuals for cash receipting, cash disbursements, fund raising, and donations and gifts. The committee reviewed amendments to the rule, including updated code references and modification of the definition of school-sponsored activities to only apply to curricular school clubs.

The committee approved R277-113 *LEA Fiscal Policies and Accountability*, as amended, on first reading, and moved that the Board approve the amended rule on second reading.

Motion carried.

Superintendent Menlove commented that LEAs across the state have received notification that the state auditor will be auditing them on this particular rule. [For more details, see General Exhibit No. 12474.]

R277-477-4 Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program Distribution of Funds - Determination of Proportionate Share

The committee reviewed proposed amendments to R277-477-4 to provide greater clarity and ensure that the rule is in line with statute.

The committee approved R277-477-4 *Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program Distribution of Funds - Determination of Proportionate Share* the rule, as amended, on first reading, and moved that the Board approve the amended rule on second reading.

Motion carried. [For more details, see General Exhibit No. 12475.]

Pupil Transportation and Drug and Alcohol Testing Policies and Procedures

The Pupil Transportation and Drug and Alcohol Testing Policies and Procedures manual was presented to the committee in March 2013. At that time the committee directed staff to convene the Drug and Alcohol Policy Committee to develop a driver/doctors disclosure form, a policy to identify under what conditions a local school district may order a separate test, and a policy addressing professional development needs.

The committee reviewed the updates and moved that the Board approve the Pupil Transportation and Drug and Alcohol Testing Policies and Procedures.

Motion carried. [For more details, see General Exhibit No. 12476.]

Exceptions to Contracts Requiring Board Approval

The Committee continued discussions regarding potential exceptions to contracts requiring full Board approval. Currently, every contract comes to the State Board for approval.

The committee moved that the Board adopt a temporary policy: 1) to allow the State Superintendent to authorize contracts under \$100,000, with a monthly summary of those approvals coming to the Board; 2) that the Board be given 60 days notice of all contract extensions; and 3) that the State Superintendent at his discretion may bring any contract to the Board.

The temporary policy would be in effect until it is put into Board rule.

Motion carried.

#### CURRICULUM, STANDARDS AND STUDENT SUCCESS COMMITTEE

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

##### Social Studies Materials

Mrs. Lydia Nuttall, a parent from Morgan County, presented curricular information she has developed on social studies to the committee. She was invited to present the material in a breakout session at the upcoming social studies symposium. [For more details, see General Exhibit No. 12477.]

##### State Reading Goal - Uniform Growth Criteria

Reading plans are required from all local education agencies (LEAs) receiving K-3 Reading Improvement Program funding. This funding is tied to the State Reading Goal, which states that all students will be reading at grade level by the end of grade three. Board rule R277-406 *K-3 Reading Improvement Program and the State Reading Goal* requires the Board to determine and set uniform growth goals for districts based on the number of third grade students reading at grade level.

A recommendation from USOE staff for determining a uniform growth goal was reviewed and given preliminary approval by the Board in its June 7, 2013 meeting.

The Committee approved the growth criteria as presented and moved that the Board give final approval to the uniform growth goals.

Motion carried. [For more details, see General Exhibit No. 12478.]

##### Smart School Technology Program School Participation

During the 2013 Legislative Session, S.B. 284 *Smart School Technology Act* was passed. The law establishes a program to encourage the deployment of whole-school technology in public



schools. Board rule R277-617 *Smart School Technology Program* governs how schools will be selected for the program.

The Board gave preliminary approval for 13 schools to participate in the program in its June 7, 2013 meeting. The vendor had not been chosen at that time, therefore the cost and number of students able to participate was unknown. The Board met on July 17, 2013, after the vendor was selected, and gave final approval for five of those schools to participate. From the other eight schools, some declined and others could not provide the required match. The application was reopened to allow additional schools to participate to fill all the available seats, and an updated list of schools was reviewed by the committee.

The committee moved that the Board approve Pinnacle Canyon Academy, North Davis Jr. High, and Newman Elementary for participation in the Smart School Technology program.

Motion carried. [For more details, see General Exhibit No. 12479.]

#### R277-403 Student Reading Proficiency and Notice to Parents

Rule R277-403 was previously amended and received final approval by the Board in its June 7, 2013 meeting. Prior to filing the amended rule with the Division of Administrative Rulemaking, language in the rule was found that was inconsistent with statute. The committee reviewed proposed amendments to correct the inconsistencies, specifically in the Authority and Purpose and reporting to parents provisions.

The committee approved R277-403 *Student Reading Proficiency and Notice to Parents* on first reading, as amended, and moved that the Board approve the amended rule on second reading.

Motion carried. [For more details, see General Exhibit No. 12480.]

#### R277-438 Dual Enrollment

#### R277-726 Statewide Online Education Program

Rules R277-438 and R277-726 were amended to provide language for students with disabilities who enroll in the Statewide Online Education Program under dual enrollment programs.

The committee tabled the discussion on amendments to R277-438 and R277-726.

The committee approved continuation of R277-438 *Dual Enrollment* on first reading, in accordance with the Division of Administrative Rules five-year review requirement, and moved that the Board approve continuation of R277-438 on second reading.

Motion carried. [For more details, see General Exhibit No. 12481.]

### Secondary Social Studies Standards Update

The State Board had requested that the Secondary Social Studies Standards be evaluated and that recommendations be made regarding possible revisions to the standards. USOE staff reported the progress of those efforts to the committee. A final draft of the standards will come to the Board in May 2014. [For more details, see General Exhibit No. 12482.]

### INSTRUCTION, ASSESSMENT AND TECHNOLOGY COMMITTEE

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

### School District Educator Evaluation Plans

Board rule R277-531 *Public Educator Evaluation Requirements* outlines provisions for new statewide educator evaluation programs. As part of this rule, districts are required to submit preliminary plans to the Public Educator Evaluation Requirements Advisory Committee (PEER). These plans serve to inform USOE staff of compliance with code and rule, as well as resources needed to develop and implement effective educator evaluation practices.

PEER has reviewed the preliminary district plans and made recommendations to assist with improvement and compliance. A review of the PEER Advisory Committee evaluation was presented to the committee, and the committee received a report from Sydnee Dickson, USOE Director of Teaching and Learning.

The committee moved that the Board approve the preliminary district evaluation plans.

Motion carried. [For more details, see General Exhibit No. 12483.]

R277-106 Utah Professional Practices Advisory Commission Appointment Process

Rule R277-106 was reviewed in accordance with the Utah Administrative Rulemaking Act five-year review and continuation requirement. The rule was amended to provide updated terminology to make it consistent with other rules. The committee reviewed the amendment and made an additional amendment outlined on a distributed sheet.

The committee approved continuation of R277-106 Utah Professional Practices Advisory Commission Appointment Process, and amendments to the rule, on first reading, and moved that the Board approve the amended rule, and continuation of the rule, on second reading.

Motion carried. [For more details, see General Exhibit No. 12484.]

R277-502 Educator Licensing and Data Retention

The committee reviewed proposed amendments to R277-502 to reflect a more consistent approach to teacher preparation. USOE staff have been discussing this issue with the Utah Council of Education Deans, and have come to consensus about the changes that need to occur in order to recruit and retain the best candidates into Utah teacher preparation programs.

Member Tami Pyfer reviewed amendments to the rule. She reported on a meeting she attended where the comment was made that Utah is attracting the bottom third of college graduates for its teacher education programs. Member Pyfer indicated that she has information showing this is not the case, and asked Associate Superintendent Judy Park to follow up and prepare a report for the legislature to dispel that feeling.

The committee approved R277-502 Educator Licensing and Data Retention, as amended, on first reading, and moved that the Board approve the amended rule on second reading.

Motion carried. [For more details, see General Exhibit No. 12485.]

R277-404 Requirements for Assessment of Student AchievementR277-705 Secondary School Completion and DiplomasR277-402 Online TestingR277-405 Requirements for Assessment Pilot ProgramR277-473 Testing Procedures

During the 2013 Legislative Session, S.B. 175 *Assessment of College Readiness* was enacted. This legislation eliminated the statutory requirement for the Utah Basic Skills

Competency Test (UBSCT) and requires the administration of a career and college readiness assessment. In addition, parents and educators have requested clarification of parents' ability to exempt their children from school assessment requirements.

Rules R277-404 and R277-705 reflect new career and college readiness assessment requirements, eliminate UBSCT requirements and include language which clarifies policy for parent exemption of student assessment requirement. Rules R277-402, R277-405 and R277-473 were presented for repeal to eliminate UBSCT and pilot requirements and to eliminate duplication.

On first reading, the Committee repealed R277-402 *Online Testing*, R277-405 *Requirements for Assessment Pilot Program*, and R277-473 *Testing Procedures*; approved continuation of R277-705 *Secondary School Completion and Diplomas* and R277-404 *Requirements for Assessment of Student Achievement*; and approved amendments to R277-404 and R277-705. The committee moved that the Board take the actions as outlined above, on second reading.

Motion carried.

It was suggested that Rule R277-404 come back to the committee for further discussion on the parent opt-out provision.

[For more details, see General Exhibit No. 12486.]

### Board Bylaws

The Committee continued its review of the Board Bylaws. It will meet again in a separate meeting and recommendations for changes will be presented to the full Board in its September meeting. [For more details, see General Exhibit No. 12487.]

### **Adjournment**

Motion was made by Member Keith Buswell and seconded by Member Jennifer Johnson that the meeting adjourn.

Motion carried. The meeting adjourned at 5:08 p.m.