

UTAH STATE BOARD OF EDUCATION MEETING MINUTES

March 19, 2020

A regular meeting of the Utah State Board of Education was held March 19, 2020. Due to the COVID-19 pandemic, the meeting was held via teleconference. The meeting was streamed live to the public. Chair Mark Huntsman presided.

Members Present:

Chair Mark Huntsman
Vice Chair Brittney Cummins
Member Laura Belnap
Member Michelle Boulter
Member Janet A. Cannon
Member Cindy Davis
Member Jennie Earl

Member Jennifer Graviet
Member Scott L. Hansen
Member Mike Haynes
Member Carol Barlow Lear
Member Mark R. Marsh
Member Scott B. Neilson
Member Laurieann Thorpe

Members Absent:

Member Shawn E. Newell

Executive Staff Present:

Sydnee Dickson, State Superintendent
Scott Jones, Deputy Superintendent
Patty Norman, Deputy Superintendent
Angie Stallings, Deputy Superintendent

Minutes taken by:

Lorraine Austin, Board Secretary

Others Present:

Bryan Quesenberry, Michelle Beus—Assistant Attorneys General; Darin Nielsen, Sarah Young, Jennifer Thronsen, Ben Rasmussen, Kathleen Britton, Thalea Longhurst, Brian Olmstead, Jodi Parker—USBE staff

Opening Business

Chair Mark Huntsman called the meeting to order at 9:06 a.m. He acknowledged the USBE internal technology team for their work in setting up this virtual meeting—a first for the Board.

Executive Session

MOTION was made by Member Cummins and seconded 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 Members Belnap, Boulter, Cannon, Cummins, Davis, Earl, Graviet, Hansen, Haynes, Huntsman, Lear, Marsh, and Thorpe the Board went into closed executive session at 9:11 a.m.

Those present included the Members above and Sydnee Dickson, Patty Norman, Angie Stallings, Ben Rasmussen, Lorraine Austin, Bryan Quesenberry and Michelle Beus.

MOTION was made by Member Marsh and seconded that the Board come out of executive session.

Motion carried. The Board reconvened in open session at 10:35 a.m.

Educator Licensing Actions

MOTION was made by Member Belnap and seconded that the Board accept the Remand Order in Utah Professional Practices Advisory Commission (UPPAC) Case No. 19-1654.

Motion carried. Member Neilson absent.

MOTION was made by Member Belnap and seconded that the Board accept the UPPAC recommendation in Case No. 17-1454 to reinstate the individual's Level 2 School Counselor (K-12) license consistent with the terms of the Hearing Report; accept the UPPAC recommendation in Case No. 19-1613 to permanently revoke the individual's Level 2 Secondary Education (6-12) license; and to accept the recommendation in Case No. 19-1698 to issue a letter of reprimand to be in place not less than two years from the date of Board action.

Motion carried. Member Neilson absent.

MOTION was made by Member Belnap and seconded that the Board accept the UPPAC recommendation in Case No. 18-1842 to permanently revoke the individual's Level 2 Elementary Education (1-8) license pursuant to the Order of Default Findings; and accept the UPPAC recommendation in Case No. 19-1617 to issue a letter of reprimand in accordance with the Consent to Discipline, to be in place not less than two years from the date of Board action.

Motion carried, with Member Lear abstaining due to a conflict of interest. Member Neilson absent.

MOTION was made by Member Belnap and seconded that the Board accept the UPPAC recommendation in Case No. 19-1725 to suspend the individual's Level 1 APT license for not less than one year from the date of Board action pursuant to the Consent to Discipline.

Motion carried, with Member Davis abstaining due to a conflict of interest. Member Neilson absent.

MOTION was made by Member Belnap and seconded that the Board accept the UPPAC Consent Calendar.

Motion carried. Member Neilson absent.

Appointments

MOTION was made by Member Belnap and seconded that the Board appoint Kurt Farnsworth to its Assessment and Accountability Policy Advisory Committee, representing elementary principals, for a four-year term; appoint Linda Hansen to its Trust Advisory Committee as an individual with expertise in serving students who are at risk for underachievement, for the remainder of a vacant term through March 2023; and appoint Scot McCombs to its Digital Teaching and Learning Advisory Committee as a school district representative with expertise in digital teaching and learning.

Motion carried. Member Neilson absent.

COVID-19 Update

Chair Huntsman reviewed that on March 13, Governor Herbert announced the dismissal of school statewide for two weeks due to the Coronavirus outbreak. No update concerning expanding the dismissal has been received at this point.

Superintendent Sydnee Dickson provided an update from the COVID-19 Task Force, of which she is a member. She also addressed four areas affecting education—safety, food, academics, and mental support.

Safety

- In the aftermath of the earthquake centered in Magna on March 18, affected schools were able to quickly assess any damage. It was also assessed where food service had stopped.
- Initially under the dismissal, schools were instructed they could keep some teachers in the building and support students that may need to come in for special services. The Centers for Disease Control (CDC) now recommends less than ten people in a space and USB E staff are encouraging LEAs to have buildings empty as much as possible. The staff member school nurse liaison that also works in the Health Department is in contact with school nurses and giving them updates as needed.

Food

- USB E Child Nutrition staff have been amazing in working with LEA providers. School meals are being distributed with as little contact as possible. In areas where there are few meals being distributed, school food services are moving to summer meal sites where students can pick up the meals. There is a virtual map on the USB E website to identify sites where meals are available.
- Staff are participating on a Department of Workforce Services Child Care Task Force that includes food services, and particularly, childcare for health care workers.
- The U.S. Department of Agriculture has provided waivers from some federal regulations regarding food distribution.
- Congress passed COVID relief package #2 that provided nutritional aide and

Academics

- Superintendent Dickson expressed incredible pride in educators and school staff. Schools are still providing online education to students and e-learning is going well. Teachers are finding creative ways to reach out to students and reassure them.
- A reassessment of school moving forward will be done at the end of the two-week dismissal period.

- The Council of Chief State School Officers has been working with the Department of Education on blanket waivers for required assessments and accountability. A preliminary nod has been given that those waivers are being considered.

Mental Support

- This is a very stressful time for students, teachers, paraeducators, bus drivers and other school personnel. Leaders in the system are working to keep things calm and keep people engaged.
- USBE staff are putting together some virtual counseling recommendations that will be sent to schools, both for students and staff.

Waiver of Board Rule in Response to Health Department Directive

Deputy Superintendent Angie Stallings reported that USBE staff have researched Board rules from which local education agencies (LEAs) may need a waiver due to the current dismissal of school. Superintendent Dickson also reported that she has discussed with the Utah Speaker of the House and Senate President that in light of the situation state statute may need to be amended, and they have expressed support.

***MOTION** was made by Member Neilson and seconded by Member Boulter that in light of the national and state declarations of state of emergency due to the COVID-19 Pandemic, that through June 30, 2020, the State Board of Education grants to local education agencies (LEAs) a statewide waiver of:*

- 1) the 180-school day and 990-hour requirements of R277-419-4;*
- 2) the requirement that a school calendar be approved in an open meeting as described in R277-419-4(6);*
- 3) the transportation requirements of R277-600 which require an LEA to record and submit all student transportation costs, including miles and minutes, as described by USBE staff; and*
- 4) the requirement in R277-406-3(1) for a school to administer a third benchmark reading assessment sometime between the middle of April and June 15.*

That the following deadlines be pushed back by two months:

- 1) the April 1 deadline in R277-407-6, which requires an LEA governing board to annually adopt a fee schedule and fee policies for the LEA in a regularly scheduled public meeting by April 1;*
- 2) the April 30 deadline in R277-400-4, which requires a school to designate an Emergency Preparedness/Emergency Response week each year before April 30;*
- 3) the requirement in R277-419-5(7) that requires LEAs to apply by April 1 for CTE courses for the upcoming year;*
- 4) the April 1 deadline in R277-459-3(E) for a teacher to commit to spend the teacher's allocation of supplies and materials funding;*
- 5) the April 1 deadline for a school to approve, with the school's governing board, the school's trust land plan; and*
- 6) the April 1 deadline in R277-720-3(1) for an LEA to apply for a competency-based education designation.*

That the waivers be based on the following conditions:

- 1) The LEA follows state and local health official orders and timelines for dismissal, soft closure, or complete closure of schools;*
- 2) The LEA implements the LEA's School Closure Continuity of Education Plan, which may not be inconsistent with health department directives and for which the LEA has available personnel and funds; and*
- 3) The LEA provides as much notice and communication to students and parents of the suspension and reconvening of school services, including meal services, as soon as is reasonably possible and in languages spoken by families within the LEA where applicable.*

And that the Board directs staff to continue to distribute state funding to LEAs, and other entities that receive funding directly from USBE, through June 30, 2020.

Motion carried unanimously.

Waiver of Assessments

Assistant Superintendent Darin Nielsen discussed waivers needed from state and federal statutes concerning statewide assessment and accountability. Since the Centers for Disease Control (CDC) has recommended social distancing for the next eight weeks, it would be difficult for students to participate in assessments.

MOTION was made by Member Marsh and seconded that the Board suspend the requirements for schools to administer statewide assessments for the 2019-2020 school year and direct the Superintendent to pursue all related and necessary waivers with the U.S. Department of Education and engage with legislators to exempt the Board and schools from administering statewide assessments through legislation if needed.

Motion carried. Member Neilson absent.

Utah Prevention Needs Assessment (SHARP Survey)

Brian Olmsted, Coordinator for Student Support, reviewed the changes to the SHARP Survey to be administered in 2021. He noted that the data gathered is not used as a student record, sold to external third parties or identifiable to a single student.

Some Members questioned the removal of the item regarding the perceived reasons for being bullied. Mr. Olmsted explained that a good amount of information was received from the previous survey administration and it could be added back into the 2023 survey. There is limited amount of space on the survey, so it is necessary that some items are removed so other information can be gathered.

Board Members were invited to contact Mr. Olmsted with recommendations for wording changes and other concerns for him to take back to the survey committee.

Capstone Academy Appeal

Assistant Attorney General Bryan Quesenberry informed that a panel of four Board Members recently participated in a hearing where evidence and arguments were presented from Capstone Classical Academy and the State Charter School Board (SCSB) under the direction of a hearing officer. The purpose of the hearing was to hear the appeal from Capstone

of the State Charter School Board's decision concerning closure of the school. A report of the hearing and recommendations from the panel were provided to the Board.

MOTION was made by Member Cummins and seconded that the Board accept the recommendation of the hearing panel and uphold the State Charter School Board's decision to terminate the charter of Capstone Classical Academy effective at the end of the 2019-2020 school year.

Vice Chair Cummins noted that she was a member of the panel and explained that part of the reason the panel made its recommendation was because of money Capstone owes that is due at the end of the summer. After further review of the testimony, she has noted some inconsistency with the due date and asked for clarification. She expressed concern with moving forward with the motion if there is uncertainty.

MOTION was made by Member Hansen and seconded that the Board postpone the motion to the next Board meeting in order for the panel to resolve any ambiguities to the information received and to issue a new recommendation if needed.

Board Members expressed concern that the hearing provided the opportunity for all sides to present their best evidence and that with the postponement new information could be considered without allowing both sides to respond. AAG Quesenberry recommended having the panel members meet to review and determine next steps.

Motion to postpone carried, with Members Boulter, Cannon, Cummins, Davis, Earl, Graviet, Hansen, Huntsman, Lear and Thorpe in favor, and Members Belnap, Haynes and Marsh opposed. Member Neilson absent.

Veto Request

Board Members received information that the Governor has 20 days from the end of the legislative session to veto a bill, which this year is until April 1.

MOTION was made by Member Lear and seconded that the Board request the Governor to veto H.B. 332 Special Needs Scholarship Amendments.

Member Lear spoke to her motion outlining the following concerns: The appropriation is about \$60,000 and will require Board staff to manage the program including approving and

monitoring private schools and scholarship organizations and a number of other requirements that will take considerable time; the program duplicates the Carson Smith scholarship program that is barely filled; there is no sunset date; giving tax credits to those that will use the program doesn't seem fiscally wise and is unnecessary.

It was noted that the Board opposed the bill in the regular session and that the Utah School Boards Association, Utah School Superintendents Association, Utah PTA, Utah Education Association, the Legislative Coalition of People with Disabilities, and others were opposed.

It was also noted that there have been changes to the bill that Board members may not have had a chance to review.

Motion carried, with Member Earl opposed. Member Neilson absent.

R277-101 Public Participation in Utah State Board of Education Meetings

Ben Rasmussen, Director of Law and Professional Practices, reviewed amendments to R277-101 made to comply with the Open and Public Meetings Act requirement concerning electronic meetings.

Member Hansen suggested that the word, "health," be struck from line 75. Without objection, the change was made.

MOTION was made by Member Hansen and seconded that the Board approve emergency rule R277-101 *Public Participation in Utah State Board of Education Meetings*, Draft 1, as amended, on final reading.

Motion carried. Member Neilson absent.

General Consent Calendar

The data-sharing agreement with the Utah System of Higher Education under item 11-7—Data Sharing Agreements, was pulled from the Consent Calendar for further work. The University of Utah Neuropsychiatric Institute agreement under 11-2—Contracts/Agreements, and items 11-13—R277-419, and 11-15—Utah Digital Media Arts Festival, were also removed for further discussion.

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

Motion carried. Member Neilson absent.

GENERAL CONSENT CALENDAR

11.1 Approval of Meeting Minutes

The Board approved the minutes of its February 6-7 and March 5, 2020 meetings and the minutes of the February 7, 2020 Utah Schools for the Deaf and the Blind Governing Board meeting.

11.2 Contracts/Agreements

The Board approved contracts/agreements with the following: MIDAS Education; Voyager Sopris Learning, Inc.; WestEd; Gartner; University of Utah—First Star Academy for Foster Youth; CGI Technologies and Solutions, Inc.; and US Foods. The University of Utah, University Neuropsychiatric Institute agreement was pulled for further discussion.

11.3 USDB Contract

The Board approved a contract between the Utah Schools for the Deaf and the Blind and Multidimensional Software Creations.

11.4 CBE Grant Program Applications

The Board approved the local education agency (LEA) plans for the Competency-Based Education Grant Program in FY2021 as recommended by the Competency-Based Learning Advisory Committee.

11.5 Requests for Temporary Authorizations

The Board approved temporary authorizations for educator licenses as requested by LEAs.

11.6 Perkins V State Plan

The Board approved the revised Utah Perkins V State Plan.

11.7 Data Sharing Agreements

The Board approved interagency data-sharing agreements with the University of Utah and Gear Up. An agreement with the Utah System of Higher Education (USHE) was removed for further work.

11.8 STEM School Designations

The Board approved STEM School Designation Awards, as recommended by the stakeholder review team, for the following schools: Bountiful Jr. High, Canyon Creek Elementary, Gerald Wright Elementary, Green Acres Elementary, Odyssey Elementary, Paradise Canyon Elementary, Shadow Valley Elementary, Sunrise Ridge Intermediate, West Bountiful Elementary, and Windridge Elementary.

11.9 R277-604 Private School, Home School and Bureau of Indian Affairs (BIA)

Student Participation in Public School Achievement Test

The Board approved R277-604 *Private School, Home School and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Test, Draft 2*, on final reading.

11.10 Utah Special Education Advisory Panel (USEAP) Recommendations

The Board accepted the recommendations from USEAP proposed in the Teacher Preparation and Retention memorandum.

11.11 Board Policy 5006, Utah Special Education Advisory Panel

The Board approved Board Policy 5006, Utah Special Education Advisory Panel, Draft 1.

11.12 R277-708 Enhancement for At-Risk Students

The Board approved and continued R277-708 *Enhancement for At-Risk Students, Draft 1*, on final reading.

11.13 R277-419 Pupil Accounting

This item was pulled for further discussion.

11.14 Contracts/Agreements for Review

The Board was provided with contracts and agreements under \$100,000 for information.

11.15 Utah Digital Media Arts Festival Co-Sponsorship

This item was pulled for further discussion.

R277-419 Pupil Accounting

Questions were asked as to whether there is a specific place in the rule that ties to competency-based learning. Sarah Young, Director of Strategic Initiatives, responded that the Board doesn't currently have language that ties competencies to the standards, but staff is working to develop them in alignment with the Portrait of a Graduate. Jennifer Throndsen, Director of Teaching and Learning, also responded that staff is in the stages of developing competencies and will recommend updates to the rule as the work is finalized.

MOTION was made by Member Cummins and seconded that the Board approve R277-419 *Pupil Accounting*, Draft 2, on second and final reading.

Motion carried, with Members Belnap, Boulter and Earl opposed. Member Neilson absent.

University of Utah, University Neuropsychiatric Institute Agreement

Jennifer Throndsen, Director of Teaching and Learning, provided information that the agreement is an enhancement to a study originally done by the University of Utah and is one that staff has requested.

MOTION was made by Member Cummins and seconded that the Board approve the Interagency Data Sharing Agreement with the University of Utah.

Motion carried. Member Neilson absent.

Co-sponsorship of Digital Media Arts Festival

Information was provided by Thalea Longhurst, Director of Career and Technical Education Services, that it will be decided within a week whether to cancel the event or hold it as a virtual event. It will be determined at that point whether fees will be refunded.

Audit Committee Report

There was no action forwarded from the Audit Committee's February meeting.

Finance Committee Report/Recommendations

Committee Chair Laura Belnap reported on the following items from the February 7, 2020 committee meeting. Information on items not reported will be included in exhibit to the meeting minutes.

Medicaid Billing

MOTION from Committee that the Board direct USBE contract staff to work jointly with the Utah Department of Health staff on language for a Request for Proposal (RFP) for the Medicaid administrative claiming.

Motion carried. Member Neilson absent.

USBE Carry Forward Balance Requests

MOTION from Committee that the Board approve the carryforward spend plan for FY2020 for the Student Advocacy Services Section from EDEQ and SAAM programs.

Motion carried. Member Neilson absent.

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

The Committee reviewed Draft 4 of the rule, which contained changes requested by district superintendents. The Committee approved and continued Draft 4 on first reading.

MOTION from Committee that the Board approve and continue R277-477, Draft 4, on second and final reading, pending a review by the Board's Trust Advisory Committee.

Member Belnap reported that since the committee meeting, the Trust Advisory Committee reviewed Draft 4 and recommended the changes outlined in Draft 5.

MOTION to amend was made by Member Belnap and seconded that Draft 5 replace Draft 4.

Motion to amend carried.

Motion, as amended—including removing the language concerning the TAC review—carried. Member Neilson absent.

Board Resolution Regarding School Trust Lands and Funds

MOTION from Committee that the Board adopt the resolution: "Establishing the Official Position of the Utah State Board of Education regarding School Trust Lands and Funds."

Motion carried. Member Neilson absent.

Law and Licensing Committee Report/Recommendations

Committee Chair Carol Lear reported on the following items from the February 7, 2020 committee meeting. Information on items not reported will be in the exhibit to the meeting minutes.

American Leadership Academy Request for Continuation of a Waiver from R277-419-4

American Leadership Academy has been operating for the past 2-1/2 years under a waiver of the 180-day requirement in R277-419-4. In compliance with the original waiver, the school provided an application for continuation of the waiver.

MOTION from Committee that the Board approve the request from American Leadership Academy for a continuation of a waiver from the 180-day requirement in R277-419-4.

Motion carried, with Member Cannon opposed. Member Neilson absent.

R277-306 Educator Preparation Programs for School Psychologists, Audiologists, Speech-Language Pathologists, Speech-Language Technicians, Counselors, and Social Workers

Following a recent public hearing, the Board made R277-306 effective but directed staff to bring the rule back to committee with specific language for ongoing maintenance of school social worker licensing. The committee approved Draft 2 of the rule on first reading.

MOTION from Committee that the Board approve R277-306 *Educator Preparation Programs for School Psychologists, Audiologists, Speech-Language Pathologists, Speech-Language Technicians, Counselors, and Social Workers*, Draft 2, on second and final reading.

Motion carried. Member Neilson absent.

R277-613 LEA Disruptive Student Behavior, Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct Policies and Training

In past meetings, the Committee discussed amendments to clarify training requirements in the rule and to update LEA reporting obligations. The Committee considered Draft 5 that includes amendments suggested by Member Hansen. The Committee made additional amendments and approved Draft 5, as amended, on first reading.

MOTION from Committee that the Board approve R277-613 *LEA Policies and Training Regarding Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct*, Draft 6, on second and final reading.

Chair Huntsman recognized that there has been considerable input from stakeholders and the public on this rule and thanked them for their feedback.

Motion carried. Member Neilson absent.

Standards and Assessment Committee Report/Recommendations

Committee Chair Jennifer Gravier reported on the following items from the February 7, 2020 committee meeting. [Information on items not reported will be included the exhibit to the meeting minutes.]

Core Guide Development Process

Over the course of several meetings, the Committee and Board have discussed a process for reviewing the core guides that are developed in support of state core standards. Staff presented an updated process.

MOTION from Committee that the Board approve the Core Guide Development Process, Draft 6.

MOTION was made by Member Graviet and seconded that the motion be amended to replace Draft 6 with Draft 7.

It was noted that Draft 7 contains technical corrections, but no substantive changes.

Motion to amend carried.

Motion, as amended, carried. Member Neilson absent.

MOTION was made by Member Earl and seconded that the Board direct staff to remove the current health core guides from the USBE website by March 25, and as the development process for new core guides is completed, the new guides be placed immediately on the website.

Member Earl spoke to her motion, noting that this would provide an opportunity to clean up the current guides. She emphasized that taking down the health core guides doesn't remove the resources from the website.

Other members expressed concern that the guides would be removed without any warning to teachers, particularly during the current situation.

Motion to amend was made by Member Hansen and seconded that only the links on the core guides be removed.

Jodi Parker, Educational Specialist, informed that in the November 2019 Standards and Assessment Committee meeting, staff were directed to take the health core guides through the checklist in the process as it was proposed at the time. She reported that all the guide resources on the USBE website went through that checklist and staff is currently working to remove any links. She noted that if the core guides are pulled, there won't be new guides until at least August.

Amendment failed, with Members Belnap, Boulter, Cummins, Davis, Earl, Hansen and Haynes favor, and Members Cannon, Graviet, Huntsman, Lear, Marsh and Thorpe opposed.

Motion failed, with Members Belnap, Boulter, Earl and Hansen in favor, and Members Cannon, Cummins, Davis, Graviet, Haynes, Huntsman, Lear, Marsh, and Thorpe opposed. Member Neilson absent.

Board Chair's Report

Chair Huntsman thanked Board members, the education community, parents and students for the way they are addressing the challenges before them, and for doing their best to stay safe. He voiced that it has been a privilege to work with Board members and staff.

Chair Huntsman announced that he may call special meetings of the Board, as necessary, during this time.

Board Member Comments

Member Belnap thanked staff and Board Leadership for their work during the legislative session. She noted that almost all the board's priorities passed.

Adjournment

The meeting adjourned at 3:28 p.m.

[For additional information on items from the meeting, see General Exhibit No. 20-08.]

Lorraine Austin, Board Secretary
Minutes approved April 16, 2020