

# UTAH STATE BOARD OF EDUCATION MEETING MINUTES

March 13, 2017

A meeting of the Utah State Board of Education was held March 13, 2017 at the Utah State Board of Education Building, 250 East 500 South, Salt Lake City, Utah. Chair Mark Huntsman presided.

## Board Members Present:

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|---|--------------------------|
| Chair Mark Huntsman                         | Member Jennifer Graviet  |
| 1 <sup>st</sup> Vice Chair Terry Warner     | Member Linda B. Hansen   |
| 2 <sup>nd</sup> Vice Chair Brittney Cummins | Member Carol Barlow Lear |
| 3 <sup>rd</sup> Vice Chair Alisa Ellis      | Member Scott B. Neilson  |
| Member Laura Belnap                         | Member Kathleen Riebe    |
| Member Michelle Boulter                     | Member Spencer F. Stokes |
| Member Janet Cannon                         | Member Joel Wright       |
| Member Lisa Cummins                         |                          |

## Executive Staff Present:

|  |   |
|--|---|
| Sydnee Dickson, State Superintendent   | Emilie Wheeler, Communications Specialist |
| Scott Jones, Deputy Superintendent     |   |
| Rich Nye, Deputy Superintendent        | Lorraine Austin, Board Secretary          |
| Angie Stallings, Deputy Superintendent |   |

## Others Present:

Michael Bell, Bryan Quesenberry, David Thomas–Assistant Attorneys General; Jan Ferré–Legislative Coalition for People with Disabilities; Patsy Milligan, Sue Okroy, Kathleen Britton, Matthew Anderson, Brad Cummings, Natalie Grange, Debbie Davis–USBE staff; Lisa Nentl-Bloom, Jay Blain, Tracey M. Watson–Utah Education Association

## Opening Business

Chair Mark Huntsman called the meeting to order at 4:00 p.m. Member Scott Neilson led those present in the Pledge of Allegiance.

Chair Huntsman thanked Board members and staff for their work during the legislative session.

### General Consent Calendar

The following items were removed from the Consent Calendar at the request of Board members: R277-211-6, Interagency Agreement with the University of Utah, and contract amendments for Jennifer Mortensen and Judith Sepulvida.

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

Motion carried unanimously.

### R277-211-6 Proposed Consent to Discipline

Member Lear expressed concern that past educator letters of reprimand that will now be made public on the Board website were negotiated with the understanding that the letters would only be available under the Government Records Access Management Act (GRAMA). She voiced that this is unfair to those educators and stated that the agreements should not be renegotiated by a rule of this Board.

MOTION was made by Member Lear and seconded by Member Gravier that the Board amend R277-211-6(3) to add item (k) to state that only letters of reprimand that include the statement in R277-11-6(3)(j) may be posted on a public database.

It was clarified that currently in the rule the existence of the letter is made public, but not the actual letter. An individual must file a GRAMA request to obtain the letter.

Assistant Attorney General Bryan Quesenberry reported that it is his legal opinion that the change is legal, as the former letters of reprimand contain verbiage indicating they are governed by GRAMA, and GRAMA allows that the classification can be changed any time.

Motion failed, with Members Boulter, Cannon, Gravier, Lear, Neilson and Riebe in favor, and Members Belnap, B. Cummins, L. Cummins, Ellis, Hansen, Huntsman, Stokes, Warner and Wright opposed.

MOTION was made by Member Stokes and seconded by Member Hansen that the Board approve R277-211-6 *Consent to Discipline* on third and final reading.

Motion carried, with Members Belnap, Boulter, B. Cummins, L. Cummins, Ellis, Huntsman, Neilson, Hansen, Stokes, Warner, and Wright in favor, and Members Cannon,

Graviet, Lear, and Riebe opposed.

### Contracts

Member Lisa Cummins questioned why contracts for Electronic High School teachers are being extended when the program will no longer be in place. It was noted that students will be finishing courses through June 2016. The contracts for Judith Sepulvida and Jennifer Mortensen are being amended so they can finish the financial literacy courses that were being taught by a teacher who passed away.

Member L. Cummins expressed concern regarding the Interagency Agreement with the University of Utah for the Safe Utah tip line and funding the program without provisions for data security in place. She referenced a presentation given to the Board by Representative Steve Eliason where he outlined giving all students access. She questioned if students and parents are aware of how students might be tracked and whether students under 13 are using the site.

Lillian Tsosie-Jensen, USBE Education Specialist responded that students and parents have the right not to participate and are notified by the school when the program is launched. She indicated there is no locator tracking in the program and unless a student provides information, there is no way to identify that student.

MOTION was made by Member Belnap and seconded by Member B. Cummins that the Board approve the contract amendments for Jennifer Mortensen and Judith Sepulvida.

Motion carried unanimously.

MOTION was made by Member B. Cummins and seconded by Member Hansen that the Board approve the Interagency Agreement between the Utah State Board of Education and the University of Utah on behalf of its University of Utah Hospitals and Clinics, University Neuropsychiatric Institute to provide a crisis and safety tip and text line.

Motion carried, with Member Lisa Cummins opposed.

### Consideration of Veto Requests

The Board determined there were no bills for which the Board will request a veto from

the Governor.

#### *R277-409 Public School Membership in Associations*

Deputy Superintendent Stallings reviewed the passage of R277-409, reminding the Board that the rule passed in October 2016 and is now in effect. In December the Board passed an updated version which included additional requirements related to student transfers and eligibility, as well as an appeals panel. That version of the rule was published in the *Utah State Bulletin* on January 1, 2017. The Board held a public hearing on the rule on January 19 and in its February 10 meeting passed a motion to delay implementation of the updated rule. Superintendent Stallings informed that if the Board takes no action on the updated rule by May 1, it will not go into effect and will be removed. The original version will stay in effect.

Superintendent Stallings reviewed R277-409 Version 2, prepared with proposed amendments as a result of feedback from Board members and the public, and taking into account H.B. 413 Public School Membership in Associations, which passed during this legislative session.

Member Graviet reported on a meeting with the Utah High School Activities Association Board of Trustees of which she was a part, and noted that the UHSAA has made some changes to its bylaws that take care of many of the amendments made in the updated rule. The Association has changed its appeals process and has decreased its board from 30 to 15 members. She expressed that it was a positive experience.

Member Stokes reiterated that the conversations with UHSAA have been productive; however, he believes there are a number of things not covered in legislation that are covered in Version 2 of R277-409, such as student data privacy issues and a database for monitoring and tracking coaches and volunteers. He recommended the Board pass Version 2 and reconsider the rule after the UHSAA has made additional changes.

MOTION was made by Member Belnap and seconded by Member Warner that the Board approve R277-409 Version 2.

Rob Cuff, UHSAA Executive Director, and Kristen Betts, UHSAA Board of Trustees, were invited to comment. Ms. Betts expressed appreciation for the meetings they have had with

legislators and Board members. She reported the UHSAA Board still has concerns about the rule, but they are moving forward and the UHSAA Constitutional Bylaws Committee will be meeting this Friday on the transfer rule.

Mr. Cuff indicated the main questions they have are with definitions, particularly with boundary schools and recruiting. Ms. Betts questioned whether the audit requirement needs to be included as the association is already being audited by the state. In addition, lines 66-75 require the association getting information from LEAs that they may not want to give.

Motion to approve R277-409 Version 2 failed, with Members Belnap, Stokes, Warner and Wright in favor and all others opposed.

MOTION was made by Member Graviet and seconded by Member Cannon that the Board repeal R277-409.

Member Graviet suggested the Board consider governing the association by incorporating references in other rules.

Motion failed, with Members Cannon, L. Cummins, Graviet, Lear, Neilson, Riebe, and Warner in favor, and Members Belnap, Boulter, B. Cummins, Ellis, Hansen, Huntsman, Stokes, and Wright opposed.

Chair Huntsman directed that the rule be brought back to committee for further work.

#### Board Policy 3005 Employee Overtime Compensation

Deputy Superintendent Stallings reported that S.B. 127 State Board of Education Amendments passed in the 2017 Legislative Session. One of the provisions in the bill exempts the Board and its employees from the state's overtime policies and gives the Board the flexibility to establish its own policies.

Board Policy 3005 has been prepared to indicate the Board is adopting the state Division of Human Resource Management policies until such time as the Board may want to implement other policies. The bill will take effect on May 9 and this policy would establish a status quo.

MOTION was made by Member B. Cummins and seconded by Member Hansen that the Board approve Board Policy 3005, Employee Overtime Compensation.

Motion carried, with Member Lear opposed.

#### Executive Session

MOTION was made by Member Stokes and seconded by Member Belnap that the Board move into Executive Session for the purpose of discussing pending or reasonably imminent litigation and the character, professional competence, or physical or mental health of individuals.

Upon voice vote of all Board members, the Board moved into executive session at 5:45 p.m.

All Board members were present along with Sydnee Dickson, Scott Jones, Angie Stallings, Lorraine Austin, Emilie Wheeler, David Thomas, Bryan Quesenberry, Michelle Watts, and Ben Rasmussen.

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

Motion carried. The Board reconvened in open session at 6:47 p.m.

#### Executive Session Items

##### Licensing Actions

MOTION was made by Member Stokes and seconded by Member Neilson that the Board adopt the Board Findings in Utah Professional Practices Advisory Commission (UPPAC) Case No. 14-1241 and revoke the individual's Level 2 Secondary Education License.

Motion carried; Member Lear abstained and Member Belnap was absent.

MOTION was made by Member Stokes and seconded by Member Neilson that the Board adopt the UPPAC recommendation in Case No. 16-140 and deny the background check clearance until August 7, 2018.

Motion carried; Member Belnap absent.

MOTION was made by Member Stokes and seconded by Member Boulter that the Board adopt the UPPAC recommendation in Case No. 17-EH14 to issue a letter of reprimand to be in place no less than two years from the date of Board action.

Motion carried; Member Belnap absent.

MOTION was made by Member Stokes and seconded by Member Boulter that the Board adopt the UPPAC recommendation in Case No. 16-1334 to suspend the individual's Level 2 Secondary Education License for no less than six months consistent with the Consent to Discipline.

Motion carried; Member Belnap absent.

MOTION was made by Member Stokes and seconded by Member Boulter that the Board adopt the UPPAC Consent Calendar.

Motion carried; Member Belnap absent.

#### Trust Advisory Committee Appointments

MOTION was made by Member Stokes and seconded by Member Boulter that the Board appoint the following to its Trust Advisory Committee (TAC): Jay Blain, four-year term, representing educators who have expertise in trust lands and school community council issues; Nancy Kennedy, four-year term, representing local school board members; Jason Theler, four-year term, representing elementary school principals; Shawn McLeod, four-year term, representing secondary school principals; Carolyn White and Dawn Davies, two-year terms, as at-large members; Susan Edwards, four-year term, as an at-large member; Tyler Slack, two-year term, representing parents who have expertise in trust lands and school community council issues; Sarah Thomas, four-year term, representing parents from rural areas who have expertise in trust lands and school community council issues.

Motion carried; Member Belnap absent.

#### Digital Teaching and Learning Advisory Committee Appointment

MOTION was made by Member Stokes and seconded by Member Cannon that the Board appoint Duke Mossman to its Digital Teaching and Learning Advisory Committee.

Motion carried; Member Lear abstained and Member Belnap was absent.

Adjournment

MOTION was made by Member Stokes and seconded by Member Boulter that the meeting adjourn.

Motion carried. The meeting adjourned at 6:50 p.m.

Lorraine Austin, Board Secretary  
Minutes approved May 5, 2017