

MINUTES

June 15, 2004

Minutes of the meeting of the State Board of Education held June 15, 2004, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 12:05 p.m. Chairman Kim R. Burningham presided.

Members present were:

Chairman Kim R. Burningham
Vice Chairman, Janet A. Cannon
Member Dixie L. Allen
Member R. Michael Anderson
Member Linnea S. Barney
Member Tim Beagley
Member Laurel Brown
Member Greg W. Haws
Member David L. Moss
Member Jed H. Pitcher
Member John C. Pingree
Member Joyce W. Richards
Member Debra G. Roberts
Member Sara V. Sinclair
Member Gary C. Swensen
Member Teresa L. Theurer

Member Edward A. Dalton was excused.

Also present were:

Executive Officer Patti Harrington
Associate Superintendent Patrick Ogden
Executive Director, USOR, Blaine Petersen
Public Affairs Director Mark Peterson
Board Secretary Twila B. Affleck

Associate Superintendent Raymond Timothy was excused.

Members of the Press:

Jennifer Toomer-Cook, Deseret Morning News
Ronnie Lynn, Salt Lake Tribune
Phil Jeffery, Governor's Office of Planning and Budget
Linda Rutledge, Interim Superintendent, Utah Schools for the Deaf and the Blind
Charles Housman, Salt Lake City School District
Patrick Galvin, Salt Lake City School District and University of Utah
Dan Rozanas, University of Utah
Shauna Carl, Salt Lake City School District

State Office of Education Staff:

Randy Raphael, Data and Business Services

Executive Session

Motion was made by Vice Chairman Janet A. Cannon and seconded by Member Debra G. Roberts to move into an executive session for the purpose of discussing personnel issues. The Board was polled and by unanimous consent of those present [John C. Pingree absent] the Board moved into an executive session at 12:10 p.m.

Motion was made by Member Teresa L. Theurer and seconded by Member Joyce W. Richards to reconvene into open meeting. Motion carried. The Board reconvened at 12:45 p.m.

Board Chairman Report

Chairman Burningham reported that the Legislative Executive Committee at their next meeting will be examining the RFP's for the tuition tax credit cost analysis investigation. Several interested parties have communicated with the committee that it is fine to do an RFP if you use an impartial source. They have received three RFP's, PolyCom, Utah State University and Price Waterhouse. The obvious one with a question is PolyCom. The money that was appropriated is \$150,000.

Executive Session Actions

Nominating Committee for the School and Institutional Trust Lands Board of Trustees

Motion was made by Member Laurel O. Brown and seconded by Member David L. Moss to appoint Margaret R. Bird and Janet Cannon representing the Utah State Board of Education on the Nominating Committee for the School and Institutional Trust Lands Board of Trustees, terms to expire March 22, 2008. Motion carried.

Disability Determination Advisory Council

Motion was made by Member Laurel O. Brown and seconded by Vice Chairman Janet A. Cannon to appoint Gordon Richins to the Disability Determination Advisory Council, term to expire June 2008. Motion carried.

Services for the Blind and Visually Impaired Advisory Council

Motion was made by Member Laurel O. Brown and seconded by Member Joyce W. Richards to appoint Karl Smith and Linda Collins and reappoint Ruth Wheeler to the Services for the Blind and Visually Impaired Advisory Council, terms to expire June 30, 2006. Motion carried.

Utah Professional Practices Advisory Commission Recommendations

Motion was made by Member David L. Moss and seconded by Member Greg W. Haws to accept the recommendation of the Commission and the hearing panel in Case No. 02-627 following a hearing that the educator license of a former teacher in the Ogden School District be reinstated. It was noted that the license was previously suspended as a result of the educator using school district computers to possess and view inappropriate material. Motion carried.

Motion was made by Member David L. Moss and seconded by Member Greg W. Haws to accept the Commissions recommendation of a stipulated agreement, including conditions of the agreement, in Case No. 03-640, whereby a former teacher in Granite School District voluntarily surrenders his educator license in lieu of a hearing for purposes of revocation for a period of not less than five years. It was noted that the educators revocation results from inappropriate sexual conduct with minors that occurred 15 years ago. The minors were not his students. Motion carried. (For complete details of the recommendations, see General Exhibit No. 9256.)

Other Business

Member Dave Moss reported on the Charter School Governing Board meeting held June 14, 2004. The Board elected a chair, Brian Allen, and received update on the selection of an executive director. They discussed the charter school governance legislation, and board responsibilities. Member Moss indicated that Patricia Bradley has been meeting fairly regularly with the Charter School Association to keep the conversations going and the Board asked that that communication continue even though Ms. Bradley's will no longer hold the position. He further indicated that the position announcement closes July 1. There is a need for training for Board members and they will be attending the National Charter School Board Convention on July 16. They will also be meeting twice in July.

Vice Chairman Janet Cannon questioned if Ms. Bradley's term ends July 1, if she will be able to apply for that position. Member Moss indicated that it was his understanding that she could.

Chairman Burningham commented on a newspaper account that there are three charter school applications ready for review now. He is concerned that the State Board approved a waiver in policy for two charter schools to start this year. Member Moss indicated that the Board was aware of these applications but has not taken any action on them.

Member Dixie Allen reported that she and a team of educators attended a meeting in Phoenix, Arizona which was sponsored by the U.S. Department of Education and the NCLB Program on high school reform. They reviewed data from Utah and surrounding states comparing graduation rates, dropout rates, etc. She indicated that both she and Associate Superintendent Ray Timothy have copies of the data if anyone is interested in more detail. The Covey Program has sponsored the purchase of these to be sent to secondary principals and superintendents. The most important thing we can do right now is to train our administrators relative to the data that is available and what needs to be done. One of the major premises of the conference was put into three words of what we need to do with high school education: to have rigor, relevance and relationships.

Public School Projections

Associate Superintendent Patrick Ogden and Patty Murphy, Specialist Finance and Budget presented information on Public School Projections for the next twenty years. (For complete details, see General Exhibit No. 9357.)

Member Jed Pitcher suggested the information be shared with the legislature, higher education and with

gubernatorial candidates.

Performance Plus

Superintendent Patti Harrington presented the Performance Plus document and reviewed the revised language and the passages tied to state legislation (S.B. 154 (2003); S.B. 185 (2004); and S.B. 230 (2004.)). (For complete details see General Exhibit No. 9358.) Dr. Harrington also shared information on the Utah K-3 Literacy Framework including the K-3 Reading Achievement Program Local Property Tax Intention and the Jordan School District K-3 Reading Achievement Program Plan. (For complete details, see General Exhibit No. 9359.)

Dr. Harrington reported that she had just met with staff and has a number of changes to the document that will not change the intent of the document, but will clearly improve the semantics and clarity of it. She suggested that once the Board agrees on the basic concepts it allow semantic changes to be made.

Member Tim Beagley commented that the Board needs to think further ahead and what it will do with the document. He suggested that the document be broken up into small pieces with dollars attached and then prioritized for presentation to the legislature in January. Also to break out the parts that do not require funding.

Member Laurel Brown shared a paper she prepared relative to the Performance Plus document for discussion. Member Brown reviewed her concerns. (For complete details, see General Exhibit No. 9360.)

Member Dixie Allen commented that she understands the frustration that the Board feels, but the bottom line is the majority of what is found in the document we are already doing or will have to do regardless of what the Board does at the state level. The frustration coming from the public school setting is it is all talk and no action – just tell us what we need to do and we will do it. If you continue to say we aren't going to do it until we get the funding, it won't work.

Member Dave Moss questioned if the plan for prioritization would include allowing the different stakeholders to come in and have input on the prioritization, particularly those that will be impacted the most? Superintendent Harrington indicated that at every major juncture we have always convened that kind of group.

Member Laurel Brown questioned what graduating class will Performance Plus effect? Superintendent Harrington responded that it has not been determined as yet. However, since there has been a strong belief from the Board that we don't move forward until there is sufficient funding, the two are directly connected. Member Brown stated that there needs to be an appeal for funds for the interventions for children at risk who need it to pass UBSCT. She further stated that we are holding these students accountable without supports and are setting them up for failure.

Member Teresa Theurer commented that she agreed with Member Beagley in that there are parts that are already implemented we need the breakdown.

Superintendent Harrington indicated that there are also areas in the system that need to be reorganized, refocused and redirected to get after some of the issues associated with UBSCT and other matters. There are still some

needed resources to help students that are significantly behind and are not going to benefit by the best of instruction. Part of the Board action is going to force the system to look at the way we are focusing our resources and are we getting the best thing for the buck in our current system and also what we are going to do to help the child that is significantly behind, or that is significantly ahead.

Member Beagley commented that part of the prioritization can be at what point we start to hold students accountable.

Vice Chairman Janet Cannon commented that she is excited to know that we have a plan, and we will expect students to meet standards, that we have some pre and post testing, and our students and teachers will be responsible for growth. Performance Plus is an answer for those questioning what our plan is and how we intend to get there. She feels the Board needs to go forward with plan which is a good basis to obtain the funding.

Motion was made by Member Teresa L. Theurer and seconded by Member Debra O. Roberts that the Board allow Superintendent Harrington to take the information presented, fill in and fix little things and ask staff to break it down with suggested priorities and budget recommendations that could be given to the Board prior to the August meeting for review and then vote in the August meeting.

With her second Member Roberts spoke to the motion that this is a vision and we need the how and detail broken down. She indicated a vision doesn't have to be perfect because visions change and that is why we need to start to work on the how.

Member Dave Moss questioned that once we have recommended priorities what is next step of being able to involvement the stakeholders? Superintendent Harrington responded that she has the education leadership across the state coming together next Tuesday. At that time she will have the new edits available for them to review. They will then have all summer to convene their different groups in their communities. She will also take it with her as she visits legislators and other education groups across the state. Further, she would like to convene some focus groups including the minority communities to make sure that everyone is keenly aware of what is being required. The most important part of implementing standards based or competency based instruction is to make sure all players understand it sufficient to support it.

Member Teresa Theurer added to her motion to accept the draft document as the Boards current proposal.

Member Tim Beagley commented that one of the things that has been confusing to people is that we have had so many version and which one we are working on.

Member Beagley offered an amendment to the motion that because this document will look different once it is prioritized with budget figures, etc. that the Board rename it. Amendment was seconded by Member Linnea S. Barney.

Member Teresa Theurer commented that she felt renaming it would just provide more confusion.

Member Linnea Barney commented that we do need clarity as to what version we are talking about.

It was clarified that the name has been expanded with a date at the bottom.

Amendment to the motion failed with Members Barney and Beagley voting in favor; Members Allen, Brown, Cannon, Haws, Moss, Pingree, Richards, Roberts, Swensen and Theurer voting against; Member Anderson absent.

Member John Pingree proposed an amendment that as we prioritize we have the K-3 reading and that clearly needs continued funding; we then add the next segment would be 4-6 reading. Amendment was seconded by Member Gary C. Swensen.

Member Laurel Brown indicated that this would be contrary to the original motion.

Member Dixie Allen commented that Superintendent Harrington is meeting with key stakeholders and she will have more information after meeting with that group.

John Pingree withdrew his amendment.

Original motion carried with Members Allen, Barney, Beagley, Brown, Cannon, Haws, Moss, Pingree, Richards, Roberts, Swensen and Theurer voting in favor; Member Anderson absent.

Board Chairman Report Cont.

Chairman Burningham reported that some Board Members attended NASBE meetings this past week. His participation on the Board of Directors is very interesting and we are making some interesting decisions. One of the things discussed was what NASBE should study in the next few years. They are talking about studying in the next year value added assessment and how it relates to students and teachers and the other possible study item will be middle school reading.

Executive Officer Report

Superintendent Patti Harrington reported that she has been visiting every office in the building to familiarize herself with staff. She has also scheduled visits with the Governor and Lt. Governor.

General Consent Calendar

Chairman Burningham noted that it is our understanding that the Governor is reviewing policies relative to transportation. We understand what the current policy is and have followed a very good policy in the state office with regard to the state owned vehicle provided to the superintendent. There is some question as to whether or not we should change Item G. He requested a motion to accept the General Consent Calendar with the exception of Item G.

Motion was made by Member Tim Beagley and seconded by Member Gary C. Swensen to accept the General Consent Calendar with the exception of Item G, State Superintendent of Public Instruction Salary and Benefits. Motion carried with Members Allen, Barney, Beagley, Brown, Cannon, Haws, Moss, Pingree, Richards, Roberts, Swensen and Theurer voting in favor; Member Anderson absent.

1. Minutes of Previous Meeting

Minutes of the Meeting of the State Board of Education held June 1, 2004.

2. Distribution of Funds to Arts and Sciences Organizations, R277-444

S.B. 1 passed by the 2003 Legislature, provided an appropriation to the Utah State Office of Education to distribute funds to organizations who participate in the Arts and Sciences Outreach Program and directed the Board to make rules governing the eligibility, funding distribution, and reporting requirements.

Based on the legislation, amendments to R277-444, Distribution of Funds to Arts and Sciences Organizations, are being recommended as follows:

- 277-444-1-J, K, and L have been added to define new subgroups formed by the legislature..
- R277-444-2-C has been added to clarify the purpose of the Arts and Science Outreach Program.
- R277-444-3 A, B, C, D, and E have been added to clarify eligibility for the subgroups created by the legislature, and A was moved to F.
- R277-444-4 C reverted to previous language. D was added to account for the new Subsidy subgroup. E and C were moved to become C and E. F and G were added to respond to the change of having the Board determine funding allocations instead of the Legislature.
- R277-5 -C was clarified and an evaluation component added to assist in making funding allocation decisions and support organizations evaluation rigor.

The Committee modified page 3, lines 91 and 94 to make lettering consistent.

The Board approved R277-444, Distribution of Funds to Arts and Sciences Organizations on second reading at the June 1, 2004 meeting. There have been no substantive changes to the rule since that time. It is recommended that the Board approve R277-444, Distribution of Funds to Arts and Sciences on third and final reading. (For complete details of the rule, see General Exhibit No. 9361.)

3. Licensing Routes, R277-503

Educator licensing rule R277-503 is revised to reflect changes regarding teacher preparation. The changes include greater clarification regarding Alternative Routes to Licensure (ARL).

The Board approved R277-503, Licensing Routes on second reading at the June 1, 2004 meeting. There have been no substantive changes to the rule since that time. It is recommended that the Board approve R277-503, Licensing Routes on third and final reading. (For complete details of the rule, see General Exhibit No. 9362.)

4. Electronic High School, R277-725

Amendments to R277-725, Electronic High School provide for an Electronic High School diploma once a student has satisfied the high school graduation requirements established by the Board. The rule provides for eligibility criteria, graduation criteria, and standards for awarding diplomas.

The Board approved R277-725, Electronic High School on second reading at the June 1, 2004 meeting. There have been no substantive changes to the rule since that time. It is recommended that the Board approve R277-725, Electronic High School on third and final reading. (For complete details of the rule see General Exhibit No. 9363.)

5. Monthly Budget Report

The Monthly Budget Reports provide information to the Board in meeting its fiduciary responsibilities toward the Utah State Office of Education, the Utah State Office of Rehabilitation and the Utah Schools for the Deaf and the Blind. (For complete details, see General Exhibit No. 9364.)

6. Ratification of Employment

Judy Park was ratified as an Educational Director, Evaluation and Assessment in the Student Achievement and School Success Division.

Maureen Cunniff was ratified as an Educational Specialist, Evaluation and Assessment in the Student Achievement and School Success Division.

Ken O'Brien was ratified as an Educational Specialist, Science Curriculum in the Student Achievement and School Success Division.

Jami-Jon Pearson was ratified as an Educational Specialist, TIPS in the Student Achievement and School Success Division.

Gerolyn Hargrove was ratified as an Educational Coordinator, Curriculum in the Student Achievement and School Success Division.

Travis Cook was ratified as an Educational Specialist, Youth in Custody in the Law, Legislation and Educational Services Division.

Anne-Marie Harrison was ratified as an Educational Specialist, School Improvement Data Spec. in the Law, Legislation and Educational Services Division.

7. Certificated Staff Salary Increase

It is the responsibility of the State Board of Education to set the salary schedule for the certificated staff of the State Office of Education, including the superintendency and the Executive Director of the Utah State Office of Rehabilitation.

The Board approved a 1.0% cost-of-living increase for licensed staff, the state superintendency including the Executive Director of the Utah State Office of Rehabilitation, and administrative and Board staff effective June 19, 2004 as provided for by legislative appropriation.

8. Jean Massieu Charter School Transfer

The Board authorized the transfer of the remaining balance of FY 2004 spending authority under 53A-17a-148 and up to \$300,000 from FY 2005 Minimum School Program carry forward balances to the Jean Massieu Charter School. The total amount transferred from both fiscal years shall not exceed \$350,000.

9. Claims Report

The Claims Report in the amount of \$161,552,862.95 for May 31, 2004 was approved. (For complete details, see General Exhibit No. 9365.)

Item G, State Superintendent of Public Instruction Salary and Benefits

Under the authority of 53A-1-302 of the Utah Code, the State Board of Education hereby sets the salary of State Superintendent of Public Instruction Patti Harrington at \$74.72 per hour. The salary may be reviewed, and if appropriate, adjusted annually following the legislative session.

In addition, the State Superintendent is afforded all benefits available to other state officers as outlined in 67-22-2 of the Utah Code including a vehicle for official use including daily commuting.

Chairman Burningham noted that as currently stated the Board would be authorizing continuation of the present policy which is consistent with the state policy. There were some Board Members who felt we would be wiser to make a more affirmative statement.

Associate Superintendent Patrick Ogden indicated that this is limiting it more so than in past. Currently in state statute, although it does not refer to the state superintendent, other state department directors it gives them a vehicle for business and personal use without any kind of clarification as to what that personal use is.

Member John Pingree thought at the last discussion the Board was going to just pay her to have a car. Chairman Burningham indicated that it was discussed but because the Governor has recommended that all of the policies be reevaluated, some felt we should wait to see what that recommendation would be. Member Pingree felt that there should be a state vehicle available for the executive staff to check out and use for official business.

Motion was made by Member Greg Haws and seconded by Member Teresa L. Theurer to adopt Item G, State Superintendent of Public Instruction Salary and Benefits as written. Further, that at the time the Governor's committee makes a recommendation the Board revisit the issue at that time.

Member Gary Swensen spoke against the motion indicating he was uncomfortable with any personal use of the car.

Vice Chairman Janet Cannon spoke in favor of the motion. She indicated we have a woman of integrity in Superintendent Harrington and we should leave it as it is currently stated in state statute.

Motion carried with Members Allen, Barney, Beagley, Brown, Cannon, Haws, Moss, Richards, Roberts and Theurer voting in favor; Members Pingree and Swensen opposed; Member Anderson absent.

Chairman Burningham commented that careful examination indicates that we have never had a problem with the state vehicle and we will not have a problem.

Member Greg Haws commented that in his prior life as tax accountant the issue of business and personal use of a vehicle is not a clear cut. This position not only protects the superintendent but protects us. We are providing a vehicle not as fringe benefit, but so she will serve us and the state and go when and where we want her to go and get there safely. When you start giving car allowances you deal with the same issue and now you have to maintain a log for reimbursement for mileage and other costs and this becomes more complicated.

Motion was made by Member John C. Pingree and seconded by Member Debra G. Roberts to adjourn.

Meeting adjourned 4:10 p.m.