

**UTAH STATE BOARD OF EDUCATION  
MEETING MINUTES**

May 7-8, 2015

**BOARD STUDY SESSION, May 7, 2015**

The Utah State Board of Education held a study session on May 7, 2015 at the Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah.

Board members present included Members Laura Belnap, Leslie Castle, Barbara Corry, David Crandall, Brittany Cummins, Linda Hansen, Mark Huntsman, Jennifer Johnson, Jefferson Moss, Mark Openshaw, Spencer Stokes, Nancy Tingey, Terryl Warner, and Joel Wright. Board and USOE staff present included Brad Smith, Angela Stallings, Scott Jones, Joel Coleman, Lorraine Austin, Nicole Call, Jennifer Roth, Jennifer Throndsen, David Smith, Sue Okroy, and Jerry Record. Others present included Patti Harrington, USSA; Jake Dinsdale, Legislative Auditor General; Royce Van Tassell; Joylin Lincoln, Lisa Nentl-Bloom, UEA; Tracey Collins.

Chair David Crandall called the meeting to order at 4:08 p.m.

Associate Superintendent Scott Jones discussed the Budgetary Procedures Act Training with the Board.

The meeting adjourned at 5:08 p.m.

The Board Finance Committee, Law and Licensing Committee, and Standards and Assessment Committee met following the study session.

**BOARD MEETING, May 8, 2015**

A regular meeting of the Utah State Board of Education was held May 8, 2015 at the Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah. Chair David Crandall conducted. The meeting commenced at 8:05 a.m.

**Board Members Present:**

Chair David L. Crandall  
2<sup>nd</sup> Vice Chair Jennifer A. Johnson  
Member Laura Belnap  
Member Leslie B. Castle  
Member Barbara W. Corry  
Member Brittney Cummins  
Member Kristin Elinkowski (non-voting)  
Member Linda B. Hansen

Member Mark Huntsman  
Member Jefferson Moss  
Member C. Mark Openshaw  
Member Spencer F. Stokes  
Member Nancy Tingey (non-voting)  
Member Terryl Warner  
Member Joel Wright

**Board Members Excused:**

1st Vice Chair David L. Thomas  
Member Dixie L. Allen  
Member Freddie Cooper (non-voting)

Member Marlin Jensen (non-voting)  
Member Steven Moore (non-voting)  
Member Teresa Theurer (non-voting)

**Executive and Board Staff Present:**

Brad Smith, State Superintendent  
Sydnee Dickson, Deputy Supt.  
Scott Jones, Associate Supt.  
Angela Stallings, Associate Supt.  
Joel Coleman, USDB Superintendent  
Lorraine Austin, Board Secretary

Emilie Wheeler, Board Communications  
Specialist  
Debbie Davis, Board Internal Auditor  
Chris Lacombe, Assistant A.G.  
Nicole Call, Assistant A.G.

**Others Present:**

Joleigh Honey, JoEllen Shaffer, Marianne McEwan, Barbie Faust, and Jerry Record - USOE; Vonda Parriott and Kevin John - Board Internal Auditors; Lisa Nentl-Bloom, Jay Blain, Chase Clyde - Utah Education Association; Shelley Nordick, Jordan School District; Cathy Jensen, USOC; Kris Fawson, Utah Statewide Independent Living Centers; Tina Smith, Utah Association of Utah Public Charter Schools; Joylin Lincoln; Erin Preston; Morgan Jacobsen, Deseret News; Ben Wood, Salt Lake Tribune; Sam Ray and Rich Brotherson - North Sanpete School District; Aaron Thompson, USOR; Jason Burningham, Box Elder RDA; Brad Baird, EDC Utah; Logan Hall, Salt Lake City School District.

**Opening Business**

Chair David Crandall called the meeting to order at 8:05 a.m. Member Spencer Stokes led those present in the Pledge of Allegiance.

Members Dixie Allen and David Thomas were excused from the meeting.

### Board Member Message

Member Joel Wright welcomed the Board. He expressed that Utah's greatest advantage is the number of children in the state, and that is what makes Utah special. If we can use this public education system to give them the knowledge and the courage they need to thrive, Utah will be the most prosperous, healthy state.

### Introduction of New Employees

H.R. Director Dave Rodemack introduced new employees Kevin John and Karen Johnson.

### Acknowledgment of Student Artwork

USOE Fine Arts Specialist Cathy Jensen announced that ten educators were honored last week with Sorenson Legacy Awards for Excellence in Art Education. The artwork exhibited in the Board room this month is from students of the two visual artist winners—Patricia Clay, East High School, and Kathleen Briley, South Summit Elementary.

### **Recognition of Outgoing Board Members**

Chair Crandall reported that six members will be leaving the Board today—four that were designated in statute and two appointed advisory members. Two of those members—Kristin Elinkowski and Nancy Tingey—were present and given original children's art work. Member Elinkowski has been the State Charter School Board representative since 2014 and Member Tingey has been the Utah School Boards Association Representative since February 2015. Both expressed appreciation for their time working on the Board and the desire to strengthen the relationships of their respective organizations with the Board.

Others leaving the Board include Marlin Jensen and Teresa Theurer from the Utah State Board of Regents, Steven Moore from the Utah College of Applied Technology, and Freddie Cooper from the Coalition of Minorities Advisory Committee.

**Public Participation/Comment**

Chair Crandall informed of recent changes to the Board's public comment process. The Board moved its committee meetings to the evening to give the public more opportunity to attend, and each item on the committee may have public comment at the discretion of the committee chair. Contact information has also been included in the agenda for each Board committee. The public comment portion of the regular Board meeting will remain.

Lisa Nentl Bloom, Utah Education Association (UEA) Executive Director - the Board will be reviewing today the recommendations for educator evaluation percentages. UEA is appreciative of the recommendations, as both the Utah State Office of Education (USOE) and UEA have expended great efforts and resources to ensure these observations are effective. UEA is also supportive of the recommendation of Student Learning Objectives (SLOs) in regards to student growth, and the weighting of stakeholder input. Ms. Nentl-Bloom further commented that UEA believes some of the rules to be presented today are not ready and include time lines and procedures that are unclear.

Andrew Riggle - Disability Law Center Public Policy Advocate - recognized the work that the Board Law and Licensing Committee has done over the past several months on a proposed rule putting parameters around the use of restraint and seclusion. The Center appreciates the recognition of the need to put some parameters around this as well as include requirements for appropriate training for staff and the need to collect data on the usage of these interventions. He asked for Board support of the rule.

Cindy Davis - thanked the Board for its efforts on Utah's requested waiver renewal of the Elementary and Secondary Education Act to not jump through federally intrusive hoops. She also thanked the Board for seeking public input on the science standards and for its involvement in legislation to benefit schools.

**General Consent Calendar**

**MOTION** was made by Member Stokes and seconded by Member Openshaw that the Board approve the Consent Calendar.

Member Stokes referenced the report of contracts under \$100,000 on the Consent and asked why five of the contracts are over \$100,000.

**MOTION TO AMEND** was made by Member Stokes that item D, Contract Reports, be removed from the Consent Calendar. Without objection the amendment was made.

Member Stokes asked for more information about the temporary authorizations for licenses. Deputy Superintendent Sydney Dickson reported that the requests are for individuals currently employed in public schools that are in the process of earning a license. The authorization allows them to be in place while earning an appropriate license for what they are teaching. Member Stokes stated that the column headings on the report are confusing, and staff was given direction to revise the headings to make more sense.

Member Moss asked for information regarding the American Institutes for Research (AIR) contract amendment, asking about the process of developing test questions and the cost per item.

**MOTION TO AMEND** was made by Member Moss and seconded by Vice Chair Johnson that item C-6, AIR contract amendment, be removed from the Consent Calendar.

Motion to amend carried unanimously.

**MOTION TO AMEND** was made by Vice Chair Johnson and seconded by Member Belnap that the Board request staff to give a report to the Board about independent living centers and their reporting relationship to the Utah State Office of Rehabilitation (USOR).

Motion to amend carried unanimously.

Motion as amended carried unanimously.

**MOTION** was made by Member Openshaw and seconded by Member Stokes that the Board move its June meeting from June 25-26 to June 11-12, and its September meeting from September 3-4 to September 10-11.

**MOTION TO AMEND** was made by Member Stokes that the June meeting be

changed to June 18-19.

It was noted that June 18-19 conflicts with the Utah School Superintendents Association (USSA) Conference, normally attended by the USOE superintendency. Superintendent Smith indicated he would work with the USSA Executive Director regarding the superintendency participation.

Without objection, the motion was amended.

Motion as amended carried unanimously.

### **North Sanpete School District Report**

Superintendent Brad Smith shared that North Sanpete School District Superintendent Sam Ray talked with him this week regarding two items of critical import—the receipt by the state auditor of North Sanpete’s final audited financial report for the prior fiscal year as well as their status for being on track for the completion of the “On Track” plan presented in the last State Board meeting.

Superintendent Ray verified that the district audit has been certified and recorded. He reported on progress from the district “On Track” plan, indicating that the April items have been completed, including completion of the July through December 2014 school TES reconciliations, updating of the district FY 15 balance sheet reconciliation, receipt of budget summaries by principals and directors, and provision of the budget projections for FY 16 to the local board for consideration. In addition, the district is well on its way to completing the May plan items—a trainer for ALIO, the district’s accounting software, is coming to the district on May 14, and a current RFP is out for an HSA.

Superintendent Smith asked for a report on what aspects of ALIO the district is using. Business Administrator Darin Johansen responded that most of the modules have been set up but haven’t been taken fully advantage of. All of the transactions are not flowing through ALIO and the district is in a position now to use it fully.

Superintendent Smith questioned what arrangements have been made to engage their auditors so that as FY 15 comes to a close the audit process will begin. Mr. Johansen

responded that the district has been engaged with the auditors on other issues, but hasn't discussed the FY 15 audit yet. The plan is to begin the audit the end of August or first part of September as in the past. He will confirm this with the auditors. Superintendent Smith asked if this would give the district sufficient allowance to get its report in on time. Mr. Johansen affirmed it would.

Member Wright reflected that while many of the things the Board imposes on LEAs may seem burdensome, the reporting of financials is not. It is fundamental and critical to everyone involved including taxpayers and district personnel. He stressed the importance of the district not repeating the situation again.

Vice Chair Johnson reported that she asked Rich Brotherson, North Sanpete School Board President, last month whether or not his board would like any training. Mr. Brotherson responded to the Board that he hadn't had a chance to review the training areas suggested, but is still interested in doing so. Superintendent Smith offered support and assistance in training their board.

**MOTION** was made by Vice Chair Johnson and seconded by Member Moss that the Board receive North Sanpete's report today, that additional follow up be sent in a written report to the Board outlining whether the North Sanpete School Board is on track to meet its plan, and that there is at least one follow up visit onsite by USOE staff.

Motion carried unanimously.

### **Intergenerational Poverty**

The Board welcomed Greg Paris from the Department of Workforce Services (DWS), representing DWS Director Jon Pierpont, and Tracy Gruber, Director of the DWS Office of Child Care and senior advisor to the Intergenerational Poverty Initiative. Information about intergenerational poverty was distributed.

Background was given that in 2012 Senator Stewart Reid asked Jon Pierpont to look into intergenerational poverty (IGP), believing it differed from situational poverty. After analysis of the data, legislation was developed and passed that formed an Intergenerational Poverty

Commission and advisory committee. The Commission includes heads of the Departments of Human Services, Health, Workforce Services, the State Office of Education, and Juvenile Court Administrators. By statute, the State Superintendent of Public Instruction is a member of the Commission.

Ms. Gruber reviewed the information distributed to the Board, highlighting the following:

- The Utah child poverty rate has climbed 51 percent since 2005, impacting all areas of the state.
- Of adults utilizing public assistance for 12 months or more, at least 24 percent received public assistance as children.
- 52,000 children in Utah are already in the intergenerational poverty cycle.
- 236,000 children in homes receiving assistance are at risk of remaining in that system.
- In total, 288,000—roughly one third of Utah’s child population—is in the intergenerational poverty cycle or at risk of becoming part of the cycle.

The goal of the Intergenerational Poverty Act is to measurably reduce the incidence of children in Utah living in poverty as they become adults. Therefore, the data obtained from the agencies on the Commission, focused mainly on children.

- Children in the IGP cohort are generally twelve years old or younger.
- The most significant risk factors are single parent households, unemployed parents, and low parental educational attainment; residential mobility is another risk factor that could cause difficulties in the education of these children.

The Commission looked at educational outcomes, focusing on kindergarten and chronic absenteeism.

- Just over 71 percent of the IGP children are in half-day kindergarten; approximately 20 percent are in full-day kindergarten.
- The rates of chronic absenteeism (ten percent of the school year in absences) are 33 percent higher in kindergarten for students in intergenerational poverty than the

rest of the student population; the number is slightly less in third grade.

- Chronic absenteeism leads to lower standardized test scores, greater drop out rates, lower math and English/language arts proficiency by 8<sup>th</sup> grade, and lower ACT composite scores.
- Only 50 percent of IGP students graduate from high school.

Ms. Gruber stated that early childhood education is an important intervention. She indicated there is national data as well as data from the Granite School District preschool program on preschool outcomes that shows there are long-term, sustainable outcomes for these children in preschool. In Granite's program, the achievement gap has been closed in math and reading and those achievements have been sustained.

Member Stokes asked for Ms. Gruber's suggestion of what the laser-like focus could be educationally for these children. Ms. Gruber responded that the legislation is focused on data and determining strategies based on the data. There is a lack of data on kindergarten readiness assessments. From a research perspective, such data could help determine what is lacking and assist with the development of strategies. Another area that could make a difference is strategies for reducing chronic absenteeism. Member Stokes suggested that if the children could be identified and extra money appropriated for those students, it could make a difference in closing the achievement gap.

Vice Chair Johnson reported that she and Vice Chair Thomas met with Jon Pierpont and Governor's Education Advisor Tami Pyfer, and they made it clear that data is needed from both USOE and USOR.

Member Elinkowski questioned whether the research is conclusive on the effects of full-day kindergarten. Ms. Gruber responded that the last research she saw from USOE was from 2011, and it was pretty conclusive as to the positive effect.

Vice Chair Johnson asked that Superintendent Smith give the Board regular reports on the work of the IGP Commission and outline what is needed from the Board to move the work forward.

### **Utah Educator Effectiveness**

Linda Alder, coordinator of the Utah System for Educator Effectiveness, was welcomed. She gave background that as the pilot of the system began three years ago, three components were deemed necessary to provide multiple measures for educator evaluation: 1) observation of instructional quality, 2) evidence of student growth, and 3) stakeholder input. Data has been gathered during the pilot on the three areas, and based on the data, recommendations from staff have been forwarded to the Board for setting percentages for each component to be used by all districts in calculating the annual summative ratings for educators.

**MOTION** was made by Vice Chair Johnson and seconded that the Board set the component percentages for the Utah System for Educator Effectiveness at 20 percent for evidence of student growth, 70 percent for observation of instructional quality, and 10 percent for stakeholder input.

Vice Chair Johnson suggested that a communications plan regarding the evaluation system is critical, and asked that such a plan be brought to the Board. She also asked for information about how much flexibility in each component is given to the districts.

**MOTION TO AMEND** was made by Member Warner and seconded by Member Hansen that the evidence of growth component be based either on SAGE assessments or student learning objectives, but not both.

Member Cummins suggested that if the amendment passes it would eliminate SAGE as an option, because there are many subjects where SAGE isn't used.

Dr. Dickson reported that SLOs are a fairly new phenomenon, and staff have been working with districts to develop them. There is quite a bit of subjectivity in the SLO process, and larger districts have expressed that they would prefer to use the most stable measure along with SLOs and then transition to the SLO process as it gains competence, maybe over a three- to five-year period. Districts also mentioned that the tested subjects comprise about 30 percent, and teachers for those subjects have not been part of the SLO process. It would be difficult at this point to go entirely to SLOs.

Member Hansen asked how much local control there is regarding the use of

student growth percentiles and SLOs. Ms. Alder responded that under the current plan districts use SGPs for tested subjects and SLOs for non-tested subject, but within a tested subject, both could be used. At this point it is a district-wide decision. If both options are used, staff is recommending a slightly higher percentage be calculated for SGPs than SLOs. Districts have flexibility in the creation of SLOs and who uses them.

Motion to amend failed unanimously.

**MOTION TO AMEND** was made by Vice Chair Johnson and seconded by Member Hansen that the Board direct staff to bring a rule to the Board that includes the component percentages.

Motion to amend carried unanimously.

Motion carried unanimously.

### **New Charter School Applications**

State Charter School Board (SCSB) Member Tim Beagley was invited to join the Board for the discussion.

Chair Crandall reported that the SCSB met yesterday to review those applications for new charters that the Board did not approve in its last meeting. Mr. Beagley recapped that in the January SCSB meeting six charters were recommended for approval; the State Board approved three in its April meeting, but sent the applications for American Academy of Innovation, Athlos, and St. George Academy back to the SCSB for reconsideration.

Mr. Beagley reported that the primary concerns about the American Academy of Innovation were regarding details of the CTE programs, the budget, and grade configuration different than Jordan School District. After receiving more information, the SCSB reaffirmed its support of American Academy of Innovation.

Mr. Beagley reminded the Board that the concern regarding St. George Academy was over conflicting data that had been presented during the market analysis of the application and a remark regarding counseling students out. The school has provided an updated application with corrected information. Washington School District also testified on behalf of the school.

The SCSB reaffirmed its support of the school.

Mr. Beagley outlined three points of concern regarding Athlos Academy: 1) discrepancy in the role of the education service provider and data they provided; role of the governing board in hiring the director and administrative team; clarification on the distinguishing characters of the three pillars of their model. The SCSB felt those concerns were satisfied with additional information. However, as the process has taken some time, only one original governing board member remained, which raised concerns. The SCSB did not reaffirm its support of the application, and forwards it back to the State Board.

Member Elinkowski informed that the school isn't scheduled to open until fall 2016, and the school will work closely with staff to get prepared. The SCSB staff does a fantastic job of making sure schools are ready to open and are following their time lines.

Member Hansen reported that she attended the SCSB meeting yesterday, and informed that a suggestion was made to Athlos that they could come back in a year with the application with the possibility they could still open in 2016 on an expedited schedule. That would give the SCSB a chance to know their governing board. The SCSB vote was 4-2 against reaffirming support.

Vice Chair Johnson asked for legal counsel as to whether the State Board must give reasons if it rejects an application. Assistant Attorney General Chris Lacombe responded that Utah Code 53A-1a-505 states that the Board shall have a majority vote within 60 days of action of the SCSB to approve or deny an application. In order for the application to proceed, the Board needs to act on the application. Although the statute doesn't specifically require stating the reasons, he opined that it would be implicit in the discussions and deliberations that the reasons be stated, and further gave his opinion that it would be beneficial for the Board to do so.

Superintendent Smith asked what the scope of the Board's liability would be if they state the reasons for denial. Mr. Lacombe responded with his belief that the Board would have immunity, or at least qualified immunity.

Member Moss expressed concern that part of process requires doing due diligence and

he has apprehension because of the split vote of the SCSB. Member Elinkowski reported that she felt comfortable with the new governing board for the school because the new governing board president was one of the original members.

Mr. Beagley noted that there were also questions about the school's education service provider, and he felt more time would be beneficial. The school has a complicated business model.

Member Cummins asked for clarification of the timeline for which this charter school would be under if denied. Mr. Beagley indicated that grounds for the school's building would have to be broken by late fall in order to give reasonable opportunity to open in 2016. It would be difficult for them to open if the decision is pushed into next year.

Member Openshaw questioned why, if the applications were approved in January by the SCSB, the State Board did not see them until its April meeting. Member Elinkowski responded that the SCSB made the decision to wait until the end of the legislative session before submitting them to the State Board. In the past, the legislature has requested that the Board not approve too many new schools without knowing the legislative appropriation. Member Openshaw suggested looking at adjusting the window, as the 60 days had already expired by the time the State Board received the applications.

Member Warner asked if Athlos is a partner with Hawthorne Academy and Providence. Mr. Beagley indicated there is some discrepancy about the partnership that needs to be sorted out.

Member Castle asked Marlies Burns, the SCSB Executive Director, for her opinion about the three applicants. Ms. Burns responded that she has been part of the vetting process and feels that the six brought to the Board were strong applicants, narrowed from sixteen applications. Although there may be things that need to be tweaked before opening, she felt they could all be prepared to open on time. She affirmed her support for the SCSB actions.

Assistant Attorney General Nicole Call suggested due to reasonably imminent litigation the discussion of Athlos be held in Executive Session.

**MOTION** was made by Member Stokes and seconded by Member Openshaw that the

Board approve the charter application for St. George Academy.

Member Hansen noted that since the last Board meeting, the school's governing board met with representatives of Washington School District and have alleviated the district's concerns.

Motion carried; Member Belnap abstained.

**MOTION** was made by Member Stokes and seconded by Member Openshaw that the Board approve the charter application for American Academy of Innovation.

Motion carried unanimously.

**MOTION** was made by Member Stokes and seconded by Member Openshaw that the Board approve the charter application for Athlos Academy.

**MOTION** was made by Vice Chair Johnson and seconded by Member Moss that the Board table the motion pending discussion between Board leadership, Superintendent Smith and Assistant A.G. Nicole Call.

Motion to postpone to time certain carried; Member Wright abstained. The Board recessed.

#### **EXECUTIVE SESSION**

**MOTION** was made by Vice Chair Johnson and seconded by Member Stokes that the Board go into Executive Session to discuss reasonably imminent legislation.

Upon voice vote of the Board members present, the Board moved into Executive Session at 12:13 p.m.

Those present in Executive Session included Board Members Belnap, Castle, Corry, Crandall, Cummins, Elinkowski, Hansen, Huntsman, Johnson, Moss, Openshaw, Stokes, Warner, Wright; and Brad Smith, Sydney Dickson, Chris Lacombe, Nicole Call, and Lorraine Austin.

**MOTION** was made by Vice Chair Johnson and seconded that the Board come out of Executive Session.

Motion carried unanimously. The Board reconvened in open session at 12:35 p.m.

**Advisory Group Review Task Force**

**MOTION** was made by Vice Chair Johnson and seconded by Member Moss that the Board create an Advisory Group Review Task Force to perform a comprehensive review of advisory groups to the Board or its entities, and direct the Board Chair to appoint five Board members to comprise the Task Force. The Task Force will provide a report in the Board's September meeting that includes: 1) the composition of each advisory group and its current relationship with the Board; 2) advisory group mechanisms for reporting to and advising the Board; and 3) any other assignments made by Board leadership.

Vice Chair Johnson expressed the need for such a review to ensure that the Board is hearing from all its advisory groups and to determine whether improvements can be made in the advisory group process.

Motion carried unanimously.

**Revisit Consent Calendar Items**Item D - Contract Reports

Deputy Superintendent Dickson responded to the question of why contracts over \$100,000 were on the report for those under \$100,000. The contracts for the Electronic High School and Utah Interactive are five-year contracts which are renewed year-to-year. The total showing for the Electronic High School changes yearly depending on the courses offered. The total showing is over the span of two years; the portion coming to the Board for approval is under \$100,000. The contract for Utah Interactive is similar. It was acknowledged that the format is confusing and needs clarification.

**MOTION** was made by Member Stokes and seconded by Vice Chair Johnson that the Board accept the contract reports.

Motion carried unanimously.

Item C-6 - American Institutes for Research (AIR) Contract

USOE Assessment Director JoEllen Shaeffer responded to questions on the AIR contract

amendment. Dr. Shaffer distributed more detailed information about the breakdown of funds being received.

Member Moss asked how test item development, for which the funds are directed, will occur; he also asked for information about the professional development also identified for use of the money. Dr. Shaffer responded that test items are written in Utah with AIR support. They are written by Utah teachers and go through the full development process. The goal over the summer is the development of 3200 items as well as reviewing reading passages and item review. Some of the money pays stipends for teachers writing the questions; some goes to the item development processes with AIR support.

Superintendent Smith asked for the breakdown of the over \$5.2 million allotted for Utah teacher item writing and AIR review. Dr. Shaffer outlined that the money goes to AIR for a gap analysis; also \$300,000 goes to AIR for reading passages, which includes paying for copyrights. Money is paid from AIR to Utah teachers for passage reviews, for item writer trainings for teachers writing items, and for teachers to come back for a review of the items. Once the test items have been piloted, teachers are brought back again to look at the data, and again for rubric validation. There are also fairness and bias review committees.

Member Moss questioned how much money AIR is receiving. Dr. Shaeffer clarified that AIR is offsetting funds from money received from Florida. She indicated that AIR includes all the costs together, and costs it out by task. She could obtain information from AIR as to the amount that goes to Utah teachers and the amount that goes to AIR. Member Moss asked for that information, and stated his desire to ensure that it is a Utah-driven process. Dr. Shaeffer invited Board members to observe the item writing process.

Vice Chair Johnson voiced a concern about the original AIR contract. About 1-1/2 years ago the Board received a report from its internal audit staff about the contracting process in general. She has concerns that the current AIR contract references the RFP application by AIR, but doesn't explicitly include it. She expressed the desire to see a better contract than what is in place.

Superintendent Smith reported that he has asked the Board's counsel to review the

contract and provide some advice on how it should be modified to encompass the issues stated by Vice Chair Johnson, as well as privacy and other protections. One of the concerns with this particular amendment is that given the way it was structured AIR is presently in possession of Utah's money, because the payment from Florida flows to the Board through AIR. He suggested that the contract amendment before the Board include a commitment that the parties will engage in a mutual reformation of the existing contract. He indicated AIR has expressed a willingness to do that.

Member Warner asked how teachers are chosen to participate in item writing. Dr. Shaeffer reported that there is a process to recruit teachers that want to work over the summer. There is a cadre of fantastic writers that have been involved in the process for several years. New teachers are also recruited that go through an item writer training. A training is planned for the summer. Member Warner asked whether Board members can notify teachers of the training. Dr. Shaeffer responded that any certified teacher in language arts, math and science can attend.

Superintendent Smith committed to reporting back to the Board within ten days with the breakdown of the \$5.2 million for Utah teacher item writing and AIR review.

## **Committee Reports**

### AUDIT COMMITTEE

Vice Chair Jennifer Johnson reported on items from the April 16 meeting of the Audit Committee. She reminded Board members not on the committee that they are welcome to attend those meetings. Backup material from the meeting was distributed to the Board.

Kevin John, head of the performance audit staff, was introduced, along with new performance auditors Vonda Parriott and Barbie Faust.

### Audit Release Process

Vice Chair Johnson reviewed a chart showing the procedures of the audit committee

and how audits happen. When an audit is in draft format it is protected from Government Records and Management Act (GRAMA) requests. Practice has been that the Audit Committee receives a draft of an audit and may make a motion to release the audit or finalize it to the public. Currently, the full Board doesn't see the audit before the public. The Committee has suggested a different procedure for the full Board and management to simultaneously see the report, by releasing the confidential draft document to Board members. An audit charter and audit rule are being written to incorporate the process.

Report No. 2015-12 Follow-Up Monitoring of Utah Schools for the Deaf and the Blind

**MOTION** from Committee that the Board release Audit Report No. 2015-12 to the public.

It was noted that concerns from previous USDB audits are much improved.

Motion carried unanimously.

Audit Brief - Report USOR 15-03 *Rehabilitation Client Allegation Review*

It was noted that audit briefs are prepared by the Board Internal Audit Section.

**MOTION** from Committee that the Board release Report USOR 15-03 *Rehabilitation Client Allegation Review* to the public.

Motion carried.

Audit Brief - Report 15-04A DSBVI Trust Funds

Kevin John reported that the auditors found that \$1,084 of the total DSBVI trust funds were used improperly. The Division of Services for the Blind and Visually Impaired (DSBVI) is aware and has put a process in place to ensure it doesn't happen again.

Member Hansen asked whether the funds will be replaced. Vice Chair Johnson reported that there is not a recommendation coming from Internal Audit to do so.

**MOTION** from Committee that the Board release Report 15-04A DSBVI Trust Funds to the public.

Motion carried unanimously.

**MOTION** was made by Member Hansen and seconded by Member Corry that the Board direct that the \$1,084 that was used improperly be replaced in the DSBVI trust fund.

Superintendent Smith indicated he will direct staff to trace where the money went, and to take it out of the program from where it was deposited and move it back into the DSBVI Trust Fund.

Motion carried; Member Wright absent.

#### Base to FINET Conversion

The Committee gave substantial discussion to the transition from the agency's current BASE accounting system to FINET. More information will be coming about the conversion.

#### Roads to Independence Contract

USOR Rehabilitation Services Director Aaron Thompson reported that independent living centers focus on assisting clients with community integration and living independently in the home. State funds are provided for assistive technology, and the Board approves contracts to provide for independent living services.

One of the contractors—Roads to Independence (RTI)—has been investigated and an independent audit is occurring. Throughout the process USOR has been reporting to the Audit Committee. A current contract is in place and a new contract has not yet come to the Board pending further information.

Member Belnap asked whether other options are available in the area served by RTI. Superintendent Smith replied that he was unaware of any, but if the contract were terminated a new provider would have to be found.

### **Finance Committee**

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

Taxing Entity Committee (TEC) to the Redevelopment Agency of Box Elder County for the EDA 2015-1 Economic Development Area Request

The Committee reviewed a request from the Box Elder County TEC seeking tax increment participation from the taxing entities in order to incentivize Proctor and Gamble to construct a new manufacturing plant in the EDA 2015-1 Economic Development Area.

The Committee passed a motion 3-2 giving direction to the Board's representative regarding the EDA.

**MOTION** from Committee that the Board direct its representative to vote "no" to approving the budget of the Box Elder County EDA 2015-1 Economic Development Area.

Member Huntsman explained that one issue of concern was that the plan being considered may be too generous for Proctor and Gamble. His position is that the project is in a rural area that has gone through the process; also, the school district is supportive. Proctor and Gamble has done a similar project that was successful, and this project will bring in 150 to 200 jobs.

Member Moss expressed his belief that the Governor's Office of Economic Development (GOED) should take the lead on the project. The original project mentioned was a combination of various entities and it was not all on the backs of the local district and local county.

Member Wright reported that Proctor and Gamble has received \$85 million for its previous project, and asked for a report on that project. He shared the concern that this is on the backs of education, and added that the gross profit to Proctor and Gamble does not filter down.

Member Corry stated that in her experience on local school boards they work with state and local leaders on RDAs and start with the premise that the land is not making any money. RDAs have the promise of money coming in later, and in small rural schools that's really important.

Brad Baird, Economic Development Corporation of Utah, was invited to provide information. Mr. Baird reported that Proctor and Gamble has submitted an application for the

project to GOED that has been approved, and that the company is working with GOED similar to its last project. There is anticipation that the state will offer an additional incentive on the project.

Jason Burningham, Box Elder Redevelopment Agency, commented that the percentage for this project is very similar to the original project. The payout is post-performance driven, and the company must justify the amount.

Member Warner reported that when La-Z-Boy left that area there was a great deal of negative economic impact. She asked about the unemployment in the area of the first Proctor and Gamble project. Mr. Baird responded that unemployment has gone from 9.8 percent to 3.4 percent. The company has been a good partner that has enhanced the economy. He clarified that the project before the Board today is not the second phase of the original project, but is a new product line.

Member Stokes commented that the state loses out on the property tax for the project and the income tax that comes to public education. He suggested sending a message to GOED that if it is going to give the school children's money away, GOED needs to have a discussion with the Board. Although local communities benefit from such a project, the state level receives a double hit. Mr. Baird suggested that the president of EDC Utah and Val Hale from GOED come talk with the Board about how the decisions were reached.

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

#### Interim Budget and Status of Funds Report for the Utah State Office of Rehabilitation

The Committee reviewed the USOR budget summary as of April 30, 2015. It is anticipated there will be leftover funds from the \$6.3 million legislative appropriation due to implementation of the Order of Selection.

#### USOR Request for Federal Reallotment Money

Analysis indicates that the USOR will be unable to sustain the required level of client services beginning July 1, 2015 unless the agency receives federal reallocation money.

**MOTION** from Committee that the Board give approval for USOR to request \$9 million federal reallocation funding on or after July 15, 2015.

Motion carried unanimously.

#### USOE/USOR Memorandum of Agreement (MOA)

The Committee postponed discussion on this item and referred it to the Audit Committee.

#### Review of USOR Legislative Requirements

The Committee reviewed information on USOR building block performance measures and questions from the Legislative Fiscal Analyst's Office regarding how funds are distributed within the state when passed through to local government entities. Proposed answers were presented. The LFA Office needs a response to the questions by June 1. Vice Chair Johnson asked Board members to review the questions and proposed answers.

#### USDB Quarterly Budget Report for the 3<sup>rd</sup> Quarter (January 1, 2015 - March 31, 2015) of State Fiscal Year 15

The Committee received the USDB report. USDB Superintendent Joel Coleman gave a progress report of USDB's financial situation since he became the USDB Superintendent. He indicated the school has adopted a mind set that nothing is sacred except taxpayers and the families they serve. He expressed his belief that USDB is within a 4-5 year cycle of becoming the best school for the deaf and the blind in the nation.

Member Castle commented that there was a period of time where the Board received complaints weekly about the school. She reported that she hasn't received any complaints that she remembers since Mr. Coleman became the Superintendent, and lauded him for the job he has done.

### Distribution Formula for Permanent State School Fund

The Committee reviewed a proposed resolution regarding an amendment to the Utah Enabling Act allowing Utah to set the distribution policy for the permanent State School Fund.

**MOTION** from Committee that the Board adopt *A Resolution Establishing the Official Position of the Utah State Board of Education Regarding an Amendment to the Utah Enabling Act Allowing Utah to Set the Distribution Policy for its Permanent State School Fund.*

Motion carried unanimously.

### Training on Finance and Audit Items

The next finance training for Board members will be on the Money Management Act. USOE staff have been asked to make recommendations for a training schedule.

### Finance Committee Requests for Data

A new request was made that staff canvas LEAs to determine their criteria for approving RDA/EDAs.

### Discussions with Congressional Staff

Casey Snider from Congressman Bishop's office and Kelsey Berg from Congressman Chaffetz' office came to the committee to discuss legislation and negotiations between key stakeholders regarding potential changes in Trust Lands in the eastern part of the State.

Parker Erickson from Congressman Chaffetz' office met with the Committee to establish a relationship with the Board. He was made aware of the proposed resolution on changing the distribution formula for the permanent State School Fund.

## **Law and Licensing Committee**

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

### R277-609 Standards for LEA Discipline Plans

Amendments to R277-609 to include protections for all Utah students regarding the use of emergency safety interventions were reviewed. The Committee proposed additional amendments, and an updated rule was distributed. The Committee approved amendments to R277-609 on first reading.

**MOTION** from Committee that the Board approve R277-609 *Standards for LEA Discipline Plans* on second reading.

Member Warner thanked the Disability Law Center for its collaboration on this rule.

Motion carried; Member Johnson absent.

#### Least Restrictive Behavior Interventions (LRBI) Technical Assistance Manual

The Committee deferred approval of the Manual to a future meeting following final approval of R277-609.

#### Utah Professional Practices Advisory Commission Rules R277-200 through R277-206

House Bill 345 *Education Abuse Policy*, passed in the 2015 Legislative Session, changed rulemaking authority from the Utah Professional Practices Advisory Commission (UPPAC) to the Utah State Board of Education. New rules R277-200 through R277-206 were created in response to the legislation. The Committee approved the rules, with amendments to R277-200 and R277-202, on first reading. Updated rules amended by the Committee were distributed.

**MOTION** from Committee that the Board approve the following rules on second and final reading, direct staff to prepare rules regarding presumptions which will be brought to a future Board meeting for review and approval, and file the rules following this approval:

- R277-200 *Utah Professional Practices Advisory Commission (UPPAC) Definitions.*
- R277-201 *Utah Professional Practices Advisory Commission (UPPAC) Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions.*
- R277-202 *UPPAC Hearing Procedures and Reports.*
- R277-203 *Request for Licensure Reinstatement and Reinstatement Procedures.*
- R277-204 *Utah Professional Practices Advisory Commission Review of License Due to*

*Background Check Offenses.*

- R277-205 *Alcohol Related Offenses.*
- R277-206 *Drug Related Offenses.*

Motion carried; Member Johnson absent.

Repeal of Utah Professional Practices Advisory Commission (UPPAC) Rules

R686-100 through R686-105

Due to legislation outlined in the item above, and upon approval of new rules R277-200 through R277-206, UPPAC rules R686-100 through R686-105 were presented for repeal. The Committee approved repeal of the rules on first reading.

**MOTION** from Committee that the Board repeal the following rules on second and final reading, but delay the filing until after rules R277-200 through R277-206 have been filed:

- R686-100 *Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions.*
- R686-101 *UPPAC Hearing Procedures and Reports.*
- R686-102 *Request for Licensure Reinstatement and Reinstatement Procedures.*
- R686-103 *Utah Professional Practices Advisory Commission Review of License Due to Background Check Offenses.*
- R686-104 *Alcohol Related Offenses.*
- R686-105 *Drug Related Offenses.*

Motion carried; Member Johnson absent.

R277-419 Pupil Accounting

The Committee reviewed amendments to R277-419 to provide that an LEA may enroll students in both traditional and nontraditional programs and clarify that a home school program does not qualify for public school funding. The Committee made amendments to the rule and an updated rule was distributed to the Board.

The Committee approved amendments to R277-419 on first reading.

**MOTION** from Committee that the Board approve R277-419, as amended, on second and final reading, and direct staff to file the rule following this approval.

Motion carried; Member Johnson absent.

R277-417 Prohibiting LEAs from Offering Incentives or Reimbursements for Enrollment or Participation

During the April meeting of the Law and Licensing Committee, there was discussion regarding repealing emergency rule R277-419-9 and creating new rules to codify portions of R277-419-9. New rule R277-417 codifies a portion of that rule.

The Committee made amendments to R277-417 and an updated rule was distributed.

**MOTION** from Committee that the Board approve new rule R277-417 *Prohibiting LEAs from Offering Incentives or Reimbursements for Enrollment or Participation* on second and final reading, and direct staff to file the rule following this approval.

Member Belnap referenced Section 3D(1), lines 80-81, and questioned whether there would ever be an instance where reimbursement would be given to all students. Associate Superintendent Angela Stallings responded this was something the Committee didn't consider. Superintendent Smith opined that a Title I school might have the obligation to provide fee waivers or reimbursements to all.

**MOTION TO AMEND** was made by Member Belnap and seconded by Member Castle that lines 80-81 be removed and the lines following be renumbered.

Motion to amend carried.

Motion as amended carried.

R277-418 Nontraditional and Competency Based Program Standards

New rule R277-418 was written, as the rule above, to codify portions of emergency rule R277-419-9. The rule defines a non-traditional program and provides administrative procedures and requirements for nontraditional programs.

The Committee made amendment to the rule, and an updated rule was distributed to the

Board. The Committee approved R277-418 on first reading.

**MOTION** from Committee that the Board approve new rule R277-418 *Nontraditional and Competency Based Program Standards* on second and final reading, and direct staff to file the rule following this approval.

Motion carried.

R277-487 Public School Data Confidentiality and Disclosure

The Committee reviewed amendments to R277-487 made to incorporate student privacy issues currently in emergency rule R277-419-9. The amendments require an LEA to ensure that a third party working with the LEA complies with certain student privacy and data security requirements.

The Committee made further amendments, and an updated rule was distributed to the Board. The Committee approved R277-487, as amended, on first reading.

**MOTION** from Committee that the Board approve R277-487 *Public School Data Confidentiality Disclosure* on second and final reading, and direct that the rule be filed following this approval.

It was noted that the Committee gave staff direction to bring this rule back for additional discussion to include a chief privacy officer.

Motion carried.

R277-500 Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks

The Committee reviewed proposed amendments to R277-500 made in response to 2015 legislation, H.B. 124 *Education Background Check Amendments*. In addition, the rule was considered for continuation.

The Committee made additional amendments and an updated rule was distributed to the Board. The Committee approved amendments to R277-500, and continuation of the rule, on first reading.

**MOTION** from Committee that the Board approve R277-500 *Educator Licensing Renewal,*

*Timelines, and Required Fingerprint Background Checks*, as amended, and continuation of the rule, on second reading.

Motion carried.

*R277-516 Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees*

The Committee reviewed proposed amendments to R277-516 made in response to 2015 legislation, H.B. 124 *Education Background Check Amendments*. The Committee made additional amendments, and an updated rule was distributed to the Board.

The Committee approved amendments to R277-516 on first reading.

**MOTION** from Committee that the Board approve R277-516 *Education Employee Required Reports of Arrests and Required Background Check Policies for Non-licensed Employees*, as amended, on second reading.

It was noted that the Committee held a discussion regarding the effect this policy may have on volunteerism, in particularly on field trips with a non-licensed volunteer parent. There may need to be some legislative changes.

Motion carried.

### **Standards and Assessment Committee**

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

*R277-107 Educational Services Outside of Educator's Regular Employment*

Rule R277-107 was reviewed by the Committee consistent with the Utah Administrative Rulemaking Act five-year review requirement. The committee took no action on the rule.

The Committee had a robust discussion regarding Section 6(D), lines 155-162. Member Stokes expressed the concern that any time there is a gift or award to a teacher it wouldn't be allowed under the rule.

Member Belnap reminded the Board that the Utah Employees Ethics Act is overarching

here. Associate Superintendent Angela Stallings noted that the rule came before the Board because it is up for five-year review and must be filed by July 1, 2015 or it will expire. She reported that the Utah Employees Ethics Act wording is a little different than the rule wording, so the rule could be amended to make it consistent with the law. The language could also be changed to say that employees are subject to the Ethics Act.

**MOTION** was made by Member Belnap and seconded by Member Corry that the Board approve R277-107 *Educational Services Outside of Educator's Regular Employment*, as amended, and continuation of the rule, on first and second reading.

Motion carried; Member Wright absent.

#### Secondary Mathematics Standards Release for 90-day Review

In March 2015, a Standards Review Committee for Secondary Mathematics made general recommendations for revising the Utah Core Secondary Mathematics Standards, and the Board approved the committee recommendations. The Standards were revised based on the recommendations.

**MOTION** from Committee that the Board approve releasing the revised Secondary Mathematics Standards for 90-day public review.

Motion carried; Member Wright absent.

#### Fine Arts Standards Revision

The Fine Arts Standards have been revised by a team of fine arts teachers, district curriculum specialists, and university representatives. New draft standards have also been created in Media Arts.

The Committee gave direction to staff to reformat the standards and bring them back for consideration in June.

#### Uniform Growth Goal Recalculation

R277-406 *K3 Reading Improvement Program and the State Reading Goal* includes

provisions for the Board to develop uniform standards for acceptable growth goals that a local education agency (LEA) adopts. LEA funding is tied to successful attainment of the Uniform Growth Goal.

A new growth plan was reviewed by the Committee, and the Committee directed staff to incorporate the plan into a Board rule, ensuring that schools will not lose funding, and bring the rule to the Committee for consideration.

#### School Readiness Funding

The School Readiness Initiative passed during the 2014 Legislative Session authorizes the Board to solicit proposals from qualifying public school early childhood education programs for quality school readiness grants. Four LEAs were funded through grants in FY 2015; however, additional funds remained and the grant application process was reopened. The Committee received recommendations for funding additional programs.

**MOTION** from Committee that the Board approve funding from the School Readiness Initiative for Grand School District and Logan City School District.

Motion carried; Member Wright absent.

#### Distribution of FY 16 Funds to Science Education Enhancement Institutions (iSEE) and Provider Organizations

In accordance with R277-444 *Distribution of Funds to Arts and Sciences Organizations*, the Board administers allocations and budget requests associated with the Science Outreach line item funding amongst the current informal science education enhancement (iSEE) institutions. In the 2015 Legislative Session, an additional \$940,000 in ongoing money was allocated for the current iSEE organizations and an additional \$850,000 was allocated for new iSEE provider organizations.

The Committee received recommendations for the distribution of those funds.

**MOTION** from Committee that the Board approve the recommendations as proposed for distribution of the new money to iSEE providers.

It was noted that the two new organizations recommended are Hawk Watch and Thanksgiving Point.

Motion carried; Member Wright absent.

#### R277-410 Accreditation of Schools

Recent changes in accreditation procedures are not currently reflected in Board rule. In the Board's April 2015 meeting, the Law and Licensing Committee reviewed amendments to R277-410 to incorporate changes to accreditation procedures.

The Committee took no action. There were concerns about the process that the Board can approve accreditation, but cannot remove accreditation. The Board can remove approval of the accreditation or invite AdvancedEd to do another review of the school. It was noted that the Board already has the authority to ask AdvancedEd for a review and this does not need to be in rule.

**MOTION** was made by Member Belnap and seconded by Vice Chair Johnson that the Board approve R277-410 *Accreditation of Schools* as amended, and continuation of the rule, on first and second reading.

**MOTION TO AMEND** was made by Member Stokes and seconded by Member Openshaw that Section 4G, lines 97-102 be removed.

Deputy Superintendent Dickson suggested that one advantage to leaving the wording in the rule is it might give schools a better understanding that at any time the Board can ask for a review or withdraw its approval.

Motion to amend carried, with Members Castle, Cummins, Corry, Crandall, Hansen, Huntsman, Johnson, Moss, Openshaw, Stokes and Warner in favor, and Member Belnap opposed.

Motion carried; Member Wright absent.

#### Standards Adoption Process

In its April 2015 meeting, the Committee determined that an official process for

standards adoption by the Board was necessary to ensure that Board members and staff had a common understanding and expectation of what the process entails. A proposed process was developed and presented to the Committee.

Member Cummins reviewed that the twelve-step process is designed to allow the revision process to move forward in a open and public manner, but without micro-management. The process allows for feedback from the Board all along the way. The Committee suggested that the updated process would replace the Board timeline and approval for standards currently in place.

**MOTION** from Committee that the Board approve the standards adoption process as amended.

Member Castle asked if there are efforts being made to include in this vetting process a way for minorities or non-English-speaking people to be involved. Member Belnap reported that there will be subtopics under the process, and this could be one. Dr. Dickson responded that staff is working to ensure that committees are more representative of the students they serve. Member Belnap suggested putting the standards out in different languages during the 90-day review.

Member Moss indicated it would be helpful for him to know the reason for revising the standards before the process begins. Member Cummins responded that the process was developed with the intent that it can be stopped at any point.

Member Openshaw noted that he likes the idea of beginning with the current standards and building on what we know is good, which ensures that the roots stay ours. Member Cummins commented that there may be a need to look outside of Utah to make sure Utah educators have all the resources they need and we are not isolating them.

Motion carried; Member Wright absent.

**MOTION** from Committee that the timeline approved by the Board be replaced with the new process.

Member Corry voiced a concern that if the timeline is eliminated, something might be missed. Dr. Dickson responded that in the past, most of the standards revisions have been

requested by the field.

Motion carried; Member Wright absent.

Member Belnap reported that the Committee also reviewed how the standards are formatted, and saw a need for a standard format.

**MOTION** from Committee that the Board direct staff to develop proposed standardized frameworks and terminology for standards and technology.

Member Castle asked for the predicted timeline for the Fine Arts Standards revision, and questioned whether if those standards must go through the standardized formatting, they will be ready for the 2015-2016 school year. Member Belnap reported that the intent is for the Fine Arts Standards to come back to the Committee in June. Fine Arts Specialist Cathy Jensen expressed hope that the Standards would be ready in time for professional development in 2015-2016 and implementation in 2016-2017.

Motion carried; Members Stokes and Wright absent.

### **Superintendent's Report**

Superintendent Brad Smith reported on the following:

- A schedule for USOE budget presentations was distributed. Board members were invited to attend.
- A very specific issue has emerged regarding parental opt out. With Senator Osmond's amendment to the parental bill of rights and testing opt out procedure, the provisions take effect on May 12. It is anticipated the Board will pass a rule to implement the changes. The Board has up to 120 days after the effective date of the law to pass a Board rule. Senator Osmond, legislative staff, and USOE staff anticipated the amendments passed would not be effective until the 2015-16 school year. However, now the presently existing statute will be repealed as of May 12, and the parental opt out provisions that similarly exist will be repealed. Also, a Board rule is in process, and people from the field are repeatedly asking for the rule. Superintendent Smith recommended the Board allow the clock on this rule to wind

down, as it doesn't make sense for the Board to make a policy that will only be in place for a week or so.

- A proposed memo from Superintendent Smith to LEA heads regarding fees for the use of the Aspire system was distributed. The Free Market Protection and Privatization Board issued a decision in January finding that Aspire, the student information system that the USOE runs, constitutes unfair competition, and they made a series of recommendations. During the 2015 legislative session Superintendent Smith represented to the Education Appropriations Subcommittee that immediate steps would be taken to mitigate the concerns of the Privatization Board. In order to charge a fee for use of the system, that fee must be approved by the legislature. Notwithstanding the request for authorization to charge a fee, the fee authorization failed to be requested, and therefore, the office does not have legal authorization to charge a fee. This memo corrects the expectation that a fee would be charged, and without further direction from the Board, the memo will be sent today.
- The Governor's office has requested that Superintendent Smith join with Governor Herbert in executing a letter calling on members of Congress to look at ESEA reauthorization. In particular, this is an authorization to direct governors to enter into the authorization process. It is focused on those non-education parts of cooperation that are required, such as early childhood education and workforce services. Superintendent Smith requested that Board leadership review the letter and give him feedback, including a direction to sign or make amendments to the letter. It was suggested that Board members review the letter and give feedback to Board leadership. Vice Chair Johnson indicated she would like to know what type of bill language would be sought by such a letter.
- Superintendent Smith is working with Associate Superintendent Stallings to draft an outline of the regulatory structure required in S.B. 235 *Education Modifications, School Turnaround and Leadership Development Act*. The responsibility for this

program will be retained in his office directly. Projects presently in development are the Principals Academy and the University of Virginia turnaround leader program. It is anticipated something will be in process that can be presented to Senator Niederhauser in the fall.

- A framework from the Board retreat is being developed and a series of strategic planning meetings will be held throughout the summer, with the intent that a few Board members could attend each meeting.

### **AIR Contract Revisited**

JoEllen Shaeffer provided more information about the AIR contract, and Superintendent Smith reviewed the breakdown of the \$5.2 million referenced in an earlier discussion with rough figures from AIR: approximately \$2 million will go to Utah teachers and/or for the sponsoring of the teacher groups, including hard costs for travel, lodging and stipends; \$3.2 million does include some fees to Utah teachers employed by AIR, but the remainder will go to AIR for their labor and psychometric work. The urgency is that if the contract amendment isn't approved today, the anticipated work cannot start in June.

Superintendent Smith requested that the Board approve the AIR contract amendment with three caveats: 1) that a provision be included for a fully reviewed and drafted contract governing the Board's entirety of the relationship with AIR; 2) that a line item breakdown be provided; and 3) that the Board allow some discretion on the Superintendent's part that if the answers sought are not satisfactory, he is not compelled to execute the contract.

Vice Chair Johnson requested that Board leadership be involved in the review as well.

It was clarified that teachers paid a stipend through AIR to develop test questions for Utah are not employed by AIR, and the test questions they develop will belong to Utah. Some teachers may be hired as independent contract employees by AIR to be involved in AIR processes. That employment is independent of the contract with Utah and does not affect Utah ownership of its questions.

Member Moss expressed discomfort with that process. He questioned whether part of

the \$3.2 million going to AIR includes \$5,000 paid to independent contractors. Superintendent Smith indicated that it is his understanding that as part of their provision of services, AIR provides additional material necessary to validate the questions. Contractors are hired to do validation work on Utah questions. Member Moss questioned why we aren't paying our teachers directly for test item development and paying AIR less.

Member Huntsman also expressed concerns and indicated he would like to read the contract himself. He felt the issues can't be resolved until the Board has reviewed the contract.

**MOTION** was made by Vice Chair Johnson and seconded by Member Corry that the Board approve the contract as presented with the provision that both Board leadership and Superintendent Smith can decline signing the contract if there is additional cause for concern, and that the contract be made available for Board review.

It was suggested that as Board members review the contract, they pass along concerns to Board leadership.

Vice Chair Johnson expressed that if the contract is not approved, another summer for test item development could be lost. Another option would be for the Board to hold an electronic meeting to further address the contract if needed.

Motion failed, with Member Corry, Cummins, Openshaw and Johnson in favor, and Members Belnap, Castle, Crandall, Hansen, Huntsman, Moss and Warner opposed; Members Stokes and Wright absent.

**MOTION** was made by Member Moss and seconded by Member Huntsman that the Board receive the details of the contract and hold an electronic meeting to discuss approval of the contract as soon as possible.

Motion carried; Member Stokes and Wright absent.

### **Executive Session**

**MOTION** was made by Member Moss and seconded by Member Corry that the Board go into Executive Session for the purpose of discussing the character, professional competence,

and physical or mental health of individuals and pending litigation.

Upon voice vote the Board moved into Executive Session at 4:15 p.m.

Those present in Executive Session included Board Members Belnap, Castle, Corry, Crandall, Cummins, Elinkowski, Hansen, Huntsman, Johnson, Moss, Openshaw, and Warner; and Brad Smith, Sydnee Dickson, Lorraine Austin, Nicole Call and Chris Lacombe.

**MOTION** was made by Member Cummins and seconded by Vice Chair Johnson that the Board come out of Executive Session.

Motion carried. The Board reconvened in open meeting at 4:50 p.m.

### **Executive Session Items**

**MOTION** was made by Vice Chair Johnson and seconded by Member Moss that the Board deny the application for Athlos Academy for the following reasons and send it back to the State Charter School Board:

1. The recent turnover of the Athlos Academy Board during the critical charter approval process.
2. The current governing board has only three people so it constitutes a quorum when two of them talk or meet with each other; thus, it would be difficult to get work done without violating the Open and Public Meetings Act.
3. There are concerns with the accuracy of information about relationships the educational service provider of Athlos has with two Utah charter schools.
4. Information regarding past history in other states causes concern that there may be a lack of clarity between the governing board of Athlos and the administrative leadership of the school provided by the educational service provider.
5. The change in decision by the Utah State Charter School Board between its January and May 2015 meetings regarding their recommendation on this application.
6. There was testimony today that some months of further application revision would be productive.

Motion carried; Members Stokes and Wright absent.

**Digital Teaching and Learning Program**

Associate Superintendent Stallings distributed information about the Digital Teaching and Learning Program established by S.B. 222 *Digital Teaching and Learning Program Proposal* (2015 Legislative Session). She gave a brief summary of what has happened to date to move forward with implementing the program and a proposed timeline was distributed. She indicated the next step for the Board is to select members for the required task force.

**MOTION** was made by Vice Chair Johnson and seconded by Member Moss that the Board appoint Vice Chair David Thomas and Members Mark Openshaw and Laura Belnap to the Digital Teaching and Learning Task Force.

Motion carried.

Superintendent Stallings will work with those Board members and Superintendent Smith to fill out the rest of the task force.

**Science Standard Adoption Process**

Deputy Superintendent Sydnee Dickson updated the Board on the three public meetings that have been held on the Secondary Science Standards. Two others are still to be held. Once the meetings have been completed, the data from the meetings will be gathered and the raw data, as well as a summary, will be provided to the Board.

Dr. Dickson reported that for the most part the attendance at meetings has been balanced between those that support the standards and those that do not, and a great deal of data has been collected. She noted that the comments have generally fallen into two categories—those specific to the standards and those that are philosophical. There have also been questions regarding the definition of a standard. Staff are already considering the feedback.

Member Moss commented that there has been some confusion regarding the intent of the meetings, and it needs to be made clear that the public meetings are part of the process and the standards are not set.

Dr. Dickson responded that it is being made clear up front at the meetings that the

input is going back to the Board. She noted that staff are there to listen and capture the comments, and as a result, there will be changes to the standards.

Member Hansen asked whether the standards will be presented to district superintendents. Dr. Dickson explained that staff has worked directly with the district curriculum directors, and that superintendents have been invited to the public meetings. There is not a specific meeting for superintendents, but one could be scheduled if they desire.

Member Moss reminded the Board that there has been a request to stop the process. He commented that he too had concerns, but it is clear that some of the concerns are unfounded. The standards are a living document and there will still be changes.

It was also made clear that after the 90-day comment period is over and changes are made to the standards, they must still come before the Board for approval.

Member Corry expressed her appreciation to Dr. Dickson and her staff that are going to the meetings.

### **Executive Session**

**MOTION** was made by Vice Chair Johnson and seconded by Member Moss that the Board go into Executive Session to discuss the character, professional competence, or professional or mental health of individuals.

Upon voice vote of the Members present, the Board moved into Executive Session at 5:25 p.m.

Those present in Executive Session included Board Members Belnap, Castle, Corry, Crandall, Cummins, Hansen, Huntsman, Johnson, Moss, Openshaw and Warner; and Sydnee Dickson, Lorraine Austin, Ben Rasmussen, Rachel Terry, and Chris Lacombe.

**MOTION** was made by Member Cummins and seconded by Vice Chair Johnson that the Board come out of Executive Session.

Motion carried. The Board reconvened in open session at 5:55 p.m.

### **Executive Session Items**

Utah Professional Practices Advisory Commission (UPPAC) Cases

**MOTION** was made by Member Corry and seconded by Member Hansen that the Board accept the UPPAC recommendation in Case No. 14-1226 and suspend the educator's Level 2 Education License for two (2) years with conditions from the date of Board action pursuant to a stipulated agreement. Reinstatement, following a UPPAC hearing and recommendation, is subject to Board approval.

Motion carried, with Vice Chair Johnson opposed; Members Castle, Stokes and Wright absent.

**MOTION** was made by Member Warner and seconded by Member Moss that in Case No. 12-1058 the Board accept Assistant Attorney General Chris Lacombe's findings in the State Board of Education Decision and Remand Order and send the case back to UPPAC for a hearing.

Motion carried; Members Stokes and Wright absent.

Appointments

**MOTION** was made by Member Hansen and seconded by Member Corry that the Board appoint Jet Viehweg Warr to the State Instructional Materials Commission as a secondary teacher representative for a term of four years from the date of appointment.

Motion carried; Members Stokes and Wright absent.

**MOTION** was made by Member Hansen and seconded by Vice Chair Johnson that the Board appoint the following to the Paraeducator to Teacher Scholarship Selection Committee for one-year terms: Linda Hansen—USBE representative; Marilyn Likins and Janet Gibb—general public representatives.

Motion carried; Members Stokes and Wright absent.

**MOTION** was made by Vice Chair Johnson and seconded by Member Huntsman that the Board direct Superintendent Brad Smith to appoint additional members to the Paraeducator to Teacher Scholarship Selection Committee as needed.

Motion carried; Members Stokes and Wright absent.

### **Board Member Closing Comments**

Vice Chair Johnson announced that it is Teacher Appreciation Week, and expressed her thanks to Utah teachers for their work.

### **Adjournment**

**MOTION** was made by Member Openshaw and seconded that the meeting adjourn.

Motion carried. The meeting adjourned at 6:00 p.m.

Lorraine Austin, Board Secretary  
Minutes approved June 19, 2015