

## UTAH STATE BOARD OF EDUCATION MEETING MINUTES

April 16, 2020

A regular meeting of the Utah State Board of Education was held April 16, 2020. The meeting was held electronically via teleconference due to the COVID-19 pandemic. The meeting was streamed live to the public. Chair Mark Huntsman presided.

### **Members Present:**

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

Member Jennifer Graviet  
Member Scott L. Hansen  
Member Mike Haynes  
Member Carol Barlow Lear  
Member Mark R. Marsh  
Member Shawn E. Newell  
Member Laurieann Thorpe

### **Members Absent:**

Member Scott B. Neilson

### **Executive Staff Present:**

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

### **Minutes taken by:**

Lorraine Austin, Board Secretary

### **Others Present:**

Joel Coleman, Carl Empey—Utah Schools for the Deaf and the Blind; Bryan Quesenberry, Michelle Beus—Assistant Attorneys General; Erin Preston—Lear & Lear; Jennifer Lambert—State Charter School Board; Sarah Young, Neil Stevens, Jennifer Thronsen, BettySue Hinkson—USB E staff

### **Opening Business**

Chair Mark Huntsman called the meeting to order at 9:01 a.m. and conducted a roll call of those members participating.

## **Utah Schools for the Deaf and the Blind**

### Monthly Budget Report

Carl Empey, USDB Finance Director, gave the financial report ending February 29. He reported that the budget is healthy and on track and no problems are anticipated. He also reported on number of students served, land grant enrichment balances, and donated funds.

Mr. Empey informed that USDB is in the process of preparing budgets for FY21.

### Superintendent's Report

USDB Superintendent Joel Coleman reported that for the Utah State Instructional Materials Access Center (USIMAC) there is now in place a web-based ordering system available to all the schools in the state.

Superintendent Coleman reported that USDB recently had an outstanding accreditation report. He quoted from the report that "the team had difficulty determining what themes were the most powerful capstones of these schools . . . innovation and culture of compassion are the terms most frequently used by stakeholders in defining the Utah Schools for the Deaf and the Blind." The superintendent further quoted, "Perhaps it is best said by a student of USDB, 'Really, the biggest thing I want to say is that deaf people, all of us, we have full potential just like anyone else. We can work, we can do anything that anyone else can do. We absolutely can do it.'"

Superintendent Coleman reported that USDB teachers have been using several tools to teach their students, including teleconferencing, phone calls, the CANVAS learning management system, and YouTube for online interpreting. Their teachers were very well prepared to begin.

The USDB is communicating with their teachers via email and other means as needed and are holding at least a weekly online sharing session. There are a few families of students that don't have internet access and staff have been dropping materials to them including technology tools. Administration is also concerned with social/emotional needs for students and their teachers are very tapped into that; a letter to parents goes out once a week. The

feedback from students and parents has been positive for the most part. Superintendent Coleman also noted that on Friday, some teacher recognition will be rolled out.

Chair Huntsman added that quite a few parents of USDB student have contacted him and he has also heard that their children are engaged and USDB staff is doing everything they can through technology. He thanked Superintendent Coleman and his leadership team for the work they are doing.

### **Board Member Message**

Member Shawn Newell welcomed the Board and complimented Board members and staff on their resilience and efforts in reacting to the current situation. He acknowledged the great responsibility it is to make sure young people are prepared to be productive and self-confident and how critical it is to have teams like this that exist and make those things happen no matter what is going on. He gave praise to teachers and thanked all who are providing education.

### **General Consent Calendar**

Upon the request of Member Earl, Item 3—USHE data sharing agreement—was pulled from the consent calendar.

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

Motion carried.

### **General Consent Calendar**

#### **3.1 Approval of Meeting Minutes**

The Board approved the minutes of its March 19 and April 2, 2020 meetings.

#### **3.2 Contracts/Agreements for Approval**

The Board approved contracts/agreements with the following entities:  
Department of Administrative Services, Division of Facilities Construction and

Management (DFCM); Knowledge Works Foundation; Language Testing International.

3.3 Utah System of Higher Education Interagency Data Sharing Agreement

This item was pulled.

3.4 Utah State Board of Education 2021 Meeting Schedule

The Board approved is schedule of meetings for 2021.

3.5 Contracts/Agreements for Review

Contracts/agreements with the following entities were provided for Board information: American Institutes for Research; Heidi M. Mucha PhD LLC; Dynamic Internet Solutions; Cambium Assessment, Inc.; Jason Wheeler dba Wheeler Occupational Therapy; Gartner, Inc.; ACT Inc.

3.6 Special Education Annual Performance Report and State Systemic Improvement Plan

The Utah Special Education Annual Performance Report and State Systemic Improvement Plan for federal fiscal year 2018 that was submitted to the federal Office of Special Education Programs was provided for Board information.

3.7 NASDTEC Clearinghouse

Information regarding an amendment to the Board's signatory agreement with the National Association of State Directors of Teacher Education and Certification (NASDTEC) was provided for Board information.

Utah System of Higher Education (USHE) Data Sharing Agreement

Clarifying information was given concerning the college and career ready indicators that will be shared as part of the agreement, including ACT and AP test data and course-taking patterns.

**MOTION** was made by Member Cummins and seconded that the Board approve the Interagency Data Sharing Agreement with USHE.

Motion carried; Member Earl absent.

### **Monthly Budget Report**

Deputy Superintendent Scott Jones presented the budget report for the month ending March 31, 2020. He indicated the Board remains fiscally solvent and able to meet all requirements and he feels confident with the budget through fiscal year 2020. The legislature is now in special session to look at the impact of the current situation to FY21 budget.

Superintendent Jones reported that the legislature did a sweep of any one-time carryforward money in the agencies that was not obligated. The amount swept from USBE was \$13 million and \$960,000 from USDB. It is the intent the money will be returned through a legislative process by way of a senate bill being discussed by the legislature today.

### **Lumen Charter Settlement Proposal**

Member Lear declared a conflict of interest and indicated she would abstain from the discussion and vote.

Bryan Quesenberry, Assistant Attorney General, provided background that USBE fiscal monitoring staff reviewed certain expenditures of Lumen Scholar Institute from fiscal years 2016, 2017 and 2018 and found just under \$30,000 in state and federal expenditures for unallowable costs--\$4,770 federal and \$24,887 state. In addition, there will be interest on the federal amount of \$373.09. Lumen initially appealed the findings but then decided to propose a settlement to the Board and has submitted a settlement agreement.

Neil Stevens, USBE Fiscal Monitor, reviewed a memo with recommendations that he submitted in response to the appeal.

Some members were uncomfortable discussing the settlement in an open meeting. Erin Preston, the attorney representing Lumen, responded that Lumen agreed to the discussion in an open meeting due to the difficulty of participating in a closed session in the current circumstances. She stated that the Board and state have shown leniency to other schools and indicated Lumen is asking for leniency in a different form. She asked the Board to consider that Lumen will pay now and that they feel there are material issues with the information provided from the fiscal monitors.

**MOTION** was made by Member Hansen and seconded to postpone the item until after a discussion in executive session.

Ms. Preston presented the offer of cash for payment, and asked that if that offer is rejected, Lumen be treated the same as American Preparatory Academy and allowed to offer indemnification of federal costs and pay the state funds over a ten-year payment plan.

Motion carried; Member Lear abstained.

### **Charter Satellite Requests**

Michelle Beus, Assistant Attorney General, reviewed that the State Charter School Board (SCSB) provided notification on February 6, 2020 to the Utah State Board of Education that it authorized new replication/satellite charter schools for Freedom Preparatory Academy, Ascent Academy, and Wallace Stegner Academy. The Board of Education does not approve the authorizations but has the authority to ask the SCSB to reconsider its action and correct deficiencies in the authorization process. Under this authority, in its March 5 meeting the Board directed the SCSB to reconsider whether these charter schools met the threshold requirements of R277-552-6 in order to apply for expansions and if they did, to provide evidence of that eligibility to the Board. It was concerning to Board member whether the schools were meeting academic standards, complying with all laws and rules and meeting their charter agreements. AAG Beus cited how many contractual goals each school was meeting.

In its March 12 meeting, the SCSB reconsidered its action in upheld its decision. Additional documentation was provided to the Board.

Board members discussed that more clear evidence is needed that the schools qualified to apply under each of the criteria and that information is needed to show what the SCSB considered in making its decision despite the schools not meeting their goals. Members also questioned SCSB's characterization of not complying with the Open and Public Meetings Act as a material concern, not a governance concern.

Member Haynes spoke as the Board's liaison to the SCSB, reporting that he sat through the presentations of the three schools and saw some additional research information and was

impressed with what they were able to do. He indicated he trusts the work of the SCSB and the job they did in reviewing the data.

Jennifer Lambert, SCSB Executive Director, pointed out that the minimum standards apply to whether the SCSB should accept an application, not to whether the application should be approved. She indicated that staff gave deference to the schools in accepting the applications and allowing them to provide information to the SCSB if there were questions.

**MOTION** was made by Member Cummins and seconded that the Board send to the State Charter School Board for reconsideration, as stated in UCA 53-G-502(4)(b), the applications filed by Freedom Preparatory Academy, Ascent Academy, and Wallace Stegner Academy to open new replication/satellite charter schools and request that they correct deficiencies in the charter school applications by applying the criteria found in R277-552-6(2) and provide evidence the applicants each met the minimum criteria to submit an application for replication/satellite schools.

Motion carried with Members Belnap, Boulter, Cannon, Cummins, Davis, Earl, Hansen, Huntsman, Lear, Marsh, Newell, and Thorpe in favor, and Members Graviat and Haynes opposed.

### **Finance Committee Report**

Committee Chair Laura Belnap reported on items from the March 20, 2020 Finance Committee meeting. [Information on items not reported will be included in the exhibit to the Board meeting minutes.]

### Use of USB E Discretionary Funds

**MOTION** from Committee that the Board approve using \$182,192.80 in federal mineral lease funds from the discretionary account for research and development of the School Report Card.

Deputy Superintendent Jones noted that though the discretionary money was swept, the federal mineral lease funding is still in place and the motion can proceed.

Motion carried unanimously.

## **Law and Licensing Committee Report**

Committee Chair Carol Lear reported on items from the March 20, 2020 Law and Licensing Committee meeting. [Information on items not reported will be included in the exhibit to the Board meeting minutes.]

### **Board Policy 1002 – Rulemaking Procedures**

Amendments to Board Policy 1002 were proposed to include approval for automatic continuation of rules at the same time amendments to a rule are made.

**MOTION** from Committee that the Board approve Board Policy 1002 – Rulemaking Procedures, Draft 1.

Motion carried unanimously.

### **R277-304 Teacher Preparation Programs**

The Committee reviewed amendments proposed in Draft 1 of R277-304 and made additional amendments. The Committee approved R277-304, Draft 1, as amended, on first reading.

**MOTION** from Committee that the Board approve R277-304 *Teacher Preparation Programs*, Draft 2, on second and final reading.

Motion carried, with Member Earl opposed.

### **R277-417 Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation**

The Committee reviewed Draft 1 of R277-417 and referred it back to committee for additional changes. The committee approved continuation of the rule on first reading.

**MOTION** from Committee that the Board continue R277-417 *Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation* on second and final reading.

Motion carried unanimously.



R277-712 Competency-based Grant Programs

The Committee reviewed amendments to R277-712 that encompass the remaining phases of the competency-based education grants and approved Draft 1 of the rule on first reading.

**MOTION** from Committee that the Board approve R277-712 *Competency-based Grant Programs*, Draft 1, on second and final reading.

In response to a question concerning to what the competencies are aligned, Sarah Young, USBE Director of Strategic Initiatives, reported that the competencies are in alignment with the USBE Portrait of a Graduate. Jennifer Thronsen, USBE Director of Teaching and Learning, also clarified that those schools in the pilot will develop their own competencies.

Motion carried unanimously.

**Standards and Assessment Committee Report**

Committee Chair Jennifer Gravier reported on items from the March 20, 2020 Standards and Assessment Committee meeting. [Information on items not reported will be included in the exhibit to the Board meeting minutes.]

R277-473 Utah Computer Science Grant

The Committee reviewed proposed amendments to R277-473 and made an additional amendment. The Committee approved Draft 1, as amended, on first reading.

**MOTION** from Committee that the Board approve R277-473 *Utah Computer Science Grant*, Draft 2, on second and final reading.

Motion carried unanimously.

R277-415 School Nurses Matching Funds

The Committee approved Draft 1 of R277-415 on first reading and directed staff to make changes in lines 64-65 to better clarify the intended meaning.

**MOTION** from Committee that the Board approve R277-415 *School Nurses Matching Funds*, Draft 2, on second and final reading.

Motion carried unanimously.

R277-736 Juvenile Court or Law Enforcement Notice and Information Dissemination

The Committee reviewed proposed amendments to Draft 1 of the rule and made additional changes. The Committee approved Draft 1, as amended, on first reading.

**MOTION** from Committee that the Board approve R277-736 *Juvenile Court or Law Enforcement Notice and Information Dissemination*, Draft 2, on second and final reading.

Motion carried, with Members Cannon, Cummins, Davis, Gravier, Hansen, Haynes, Huntsman, Lear, Marsh, Newell and Thorpe in favor, and Members Belnap, Boulter and Earl opposed.

**Superintendent's Report**

Superintendent Sydnee Dickson discussed the announcement made by Governor Herbert, in consultation with her, Chair Huntsman and the state health department, that remote learning will be continued through the end of the school year. She also had a good discussion with district superintendents and charter directors on Monday and Tuesday of this week and reported that they were anxious for a decision in order to plan graduation ceremonies.

Dr. Dickson discussed the Three Phases of Recovery for education developed by staff: Phase 1—Address the Essential 5; Phase 2—Bridge Learning Gaps; Phase 3—Return and Recover.

Superintendent Dickson also addressed the federal CARES Act funding that will come to the state through the Governor's office, State Board of Education, and State Board of Regents. She reported that a survey has been sent to local education agencies (LEAs) asking for how they intend to spend the money. The survey will inform how best to spend the administrative portion. In addition, a spreadsheet has been prepared breaking down how much each LEA will receive.

In response to questions from Board members the Superintendent clarified the following:

- USBE staff are having online meetings as needed with LEA heads, business administrators, social workers, counselors and other LEA staff to address their needs.
- Any links teachers are using through the Utah Education Network have been vetted. Local LEA technology directors are working with their schools and USBE data privacy and technology staff to ensure the safety of students.
- School closings are governed by local and state health departments.
- The Cares Act is retroactive to March 13. Plans on how LEAs intend to spend the money will be reported to the Board in its May meeting.

Deputy Superintendent Jones applauded staff, educators, and parents for all they're doing in this unprecedented time.

Superintendent Dickson reviewed a draft document prepared by staff on guidance for LEAs that includes graduation requirements, grading, credits, and promotions. She emphasized that this is guidance only and the focus for LEAs should be on local needs. Dr. Dickson also reviewed the document just developed, *Guidance for Supporting Families during Remote Learning*.

### **Waivers of Board Rule**

Deputy Superintendent Angie Stallings reviewed recommended waivers from Board rule needed due to the COVID-19 pandemic.

**MOTION** was made by Member Cummins and seconded that in light of the national and state declarations of states of emergency due to the COVID-19 pandemic, and in addition to the waivers approved by the Board on March 19 and April 2, 2020, the State Board of Education:

1. For the 2019-20 school year, grants to local education agencies (LEAs) a statewide waiver of the educator evaluation reporting requirements of Sections R277-531-3 and R277-533-9.
2. Notwithstanding the provisions of R277-527 and R277-500, grants the Superintendent the authority to extend for up to one year, international guest teacher licenses that expire on June 30, 2020;

3. For the 2020 calendar year, extends the May 15 deadline in Subsection R277-477-3(10) for school district School LAND Trust plans to be approved by the district's local school board from May 15 to September 15, 2020.
4. Extends the deadline and requirements for an educator expecting to upgrade the educator's license to a license type described in R277-506 or R277-306 from June 30, 2020 to October 31, 2020 to allow educators more time to obtain the new license.

### **Requests for Statutory Changes**

Deputy Superintendent Stallings reviewed areas of statute for which the Board may want to seek changes.

**MOTION** was made by Member Belnap and seconded that due to national and state declarations of states of emergency due to the COVID-19 pandemic, the Board direct staff to work with the Legislature on potential amendments to the Utah Code to be addressed in a special session, including provisions related to the following:

1. For the 2020 spring semester only (approximately January 1 to May 15, 2020), waive the requirement in Subsection 53F-2-501(3) for a recipient of the Centennial Scholarship to be enrolled full time; and
2. Delay the requirement in Subsection 53G-10-406(3)(b) for LEAs to offer an Underage Drinking and Substance Abuse Prevention Program to each student in grade 4 or 5 from the 2020-21 school year to the 2021-22 school year.

Motion carried unanimously.

Deputy Superintendent Stallings provided information about the special session of the legislature that will be going on for the next ten days. In response to questions about H.B. 332 which the Governor vetoed, Superintendent Stallings reported that a veto override session has not been called; however, in the call of the special session there is a bill related to H.B. 332 that the legislature could consider.

### **Executive Session**

**MOTION** was made by Member Belnap and seconded that the Board go into executive session for the purpose of discussing the character, competence, and physical or mental health of individuals, and to discuss strategy on pending or reasonably imminent litigation.

Upon voice vote of Members Belnap, Boulter, Cannon, Cummins, Davis, Earl, Graviet, Hansen, Haynes, Huntsman, Lear, Marsh, Newell and Thorpe, the Board went into closed executive session at 3:27 p.m.

Those present included the members above, Member Scott Neilson, and Sydnee Dickson, Lorraine Austin, Ben Rasmussen, Michelle Beus, and Bryan Quesenberry.

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

Motion carried. The Board reconvened in open meeting at 5:52 p.m.

### **Action on Educator Licenses**

**MOTION** was made by Member Belnap and seconded that the Board accept the recommendation of the Utah Professional Practices Advisory Commission (UPPAC) in Case No. 19-1639 to suspend the individual's Level 1 APT Secondary Education (6-12) license for not less than one year from the date of Board action pursuant to the Consent to Discipline.

Motion carried, with Member Lear opposed; Member Cannon absent.

**MOTION** was made by Member Belnap and seconded that the Board accept the UPPAC recommendation in Case No. 19-1649 to suspend the individual's Level 2 Secondary Education (6-12) license for not less than one year from the date of Board action pursuant to the Consent to Discipline.

Motion carried; Member Cannon absent.

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

Motion carried; Member Cannon absent.

### **Utah Schools for the Deaf and the Blind (USDB) Associate Superintendent Approval**

**MOTION** was made by Member Belnap and seconded that the Board approve the appointment of Susan Patten as the USDB Associate Superintendent for the Blind.

Motion carried; Member Cannon absent.

### **USDB Superintendent Reappointment**

**MOTION** was made by Member Belnap and seconded that the Board reappoint Joel Coleman as the Superintendent of the Utah Schools for the Deaf and the Blind for a two-year term, July 1, 2020 through June 30, 2022.

Motion carried unanimously.

### **Board Chair's Report**

Chair Huntsman recognized Sarah Young and Vice Chair Cummins for their assistance with the virtual meeting. He commended the public education community and staff that have continued to work throughout the shutdown and expressed that the public education community including parents and caregivers are an example of living the principles: "See it, own it, solve it, do it," and "what more can I do."

### **Board Member Comments**

Vice Chair Cummins thanked all the parents and teachers who have reached out with their concerns. She recognized what a difficult time it is for everyone and encouraged them to speak with their teachers and local schools and education agencies. She shared a thought from one of her students—that this is difficult, but they will come out stronger.

### **Adjournment**

The meeting adjourned at 6:15 p.m.

[For additional information on items from the meeting, see General Exhibit No. 20-10.]

Lorraine Austin, Board Secretary  
Minutes approved May 7, 2020