

**UTAH STATE BOARD OF EDUCATION/UTAH SCHOOLS
FOR THE DEAF AND THE BLIND (USDB) GOVERNING BOARD
MEETING MINUTES**

October 1, 2020

A regular meeting of the Utah State Board of Education/USDB Governing Board was held October 1, 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 Scott B. Neilson
Member Shawn E. Newell
Member Laurieann Thorpe

Executive Staff Present:

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

Minutes taken by:

Lorraine Austin, Board Secretary

Others Present:

Carl Empey, Susan Thomas, Susan Patten, Michelle Tanner—USDB; Mike Carr—Washington School District; Rob Cuff, Brenan Jackson—Utah High School Activities Association; John Arthur; Rae Boren; Emma Moss; Melissa Ballard—Utah House of Representatives; Bryan Quesenberry, Michelle Beus—Assistant Attorneys General; Jeff Van Hulten, Jerry Record, Alex Farah, Darin Nielsen, Jeff Ojeda, Rebecca Donaldson, Sarah Young, Aaron Brough, Zac Christensen, Whitney Phillips, Deborah Jacobson, Jordan DeHaan, Leah Voorhies, Debbie Davis, Amy Zaharis, Patrick Lee, Jennifer Thronsen, Audra Urie, Dale Frost, Malia Hite, Malia McIlvenna, Christy Walker, Ben Rasmussen—USBE staff

Opening Business

Chair Mark Huntsman called the meeting to order at 9:08 a.m. He read the following statement: “As authorized by Utah Code 52-4 [Utah Open and Public Meetings Act], this meeting is being held electronically without an anchor location to reduce the risk to health and safety from COVID-19 by limiting the frequency of in-person meetings.”

Board Member Message

Member Scott Hansen provided a welcome message to the Board focusing on change and noted that despite the difficulties of constant change in how school is being taught, education is happening. He paid tribute to everyone in school communities for their extraordinary efforts during this time.

Education Highlight

Educational Specialist Jeff Ojeda gave background on the federal McKinney-Vento program for homeless youth. Mike Carr, Washington School District, provided information about the program in his district. Lily, a student in the district, spoke about her situation and how the program has been a benefit, particularly helping with transportation to school and living essentials.

Public Comment

Sara Jones, Utah Education Association Executive Director – referenced a letter sent to the Board from UEA regarding the need to increase state oversight and compliance measures to protect the health and safety of public schools. She stated there is confusion over who has the authority to make decisions over school responses to COVID-19 outbreaks, what the safety requirements are, and whether local school boards may override state health guidelines. UEA is concerned that local education agency (LEA) leaders are not health professionals and should not be put in the position of determining the requirements. UEA continues to call on the Board, the Governor, and health department officials to establish clear and enforceable requirements for local boards of education.

Utah Schools for the Deaf and the Blind

USDB Monthly Budget Update

Budget information was provided to the Board. Finance Director Carl Empey reported that USDB is financially solvent for the first two months of the fiscal year.

USDB 2019-2020 Annual Report

Superintendent Joel Coleman introduced the annual report and noted that it will be presented to the Education Interim Committee of the legislature in its next meeting.

Associate Superintendent Michelle Tanner reported on the School for the Deaf and the services provided to deaf and hard-of-hearing students.

Associate Superintendent Susan Patten reported on the School for the Blind and the services provided to blind and visually impaired students.

LEA-Specific License Policy and Requests for Licenses

Superintendent Coleman reviewed that in R277-301 *Educator Licensing* the Board requires local school boards to adopt a policy to allow the use of LEA-specific licenses. He presented a proposed LEA-Specific License Policy for USDB.

MOTION was made by Member Belnap and seconded that the Board approve the LEA-Specific License Policy for USDB.

Motion carried unanimously.

Superintendent Coleman informed that there are sixteen educators for which USDB is needing an LEA-specific license. He reported that most have already been employed by USDB and have career qualifications, but they do not match up with the Board's licensing rules. He also informed that USDB will be bringing requests for changes to the Board's licensing rules to better accommodate licenses for USDB.

MOTION was made by Member Cannon and seconded that the Board approve the LEA-specific licenses for USDB as requested.

Motion carried unanimously.

USDB Advisory Council Sunset

Superintendent Coleman reported that during the last legislative session a list of advisory councils was approved by the legislature to sunset over the next few years; one of those councils is the USDB Advisory Council—scheduled to sunset in June 2021. He reported that both the Advisory Council and USDB administration recommend the Board support the sunset of the Council with the understanding the Board will put in place its own policy establishing the Council.

MOTION was made by Member Hansen and seconded that the Board recommend the Utah State Legislature sunset Subsection 53E-8-204(4) and that staff prepare a draft Board policy codifying the USDB Advisory Council for discussion in an upcoming meeting.

Motion carried unanimously.

USDB Superintendent's Report

Superintendent Coleman reported that USDB held a press conference recently to create awareness of the services USDB provides to families beginning with infants through the Parent Infant Program (PIP). Because of COVID many of the resources that had sent referrals to them are no longer providing that information and the numbers served are 40 to 60 percent down in some instances. He expressed the importance of connecting with people that could use USDB's services, as delays can cause years of challenges for children.

Superintendent Coleman reported that USDB has provided a link on its website showing deaf outreach by county through an interactive map that pulls up the USDB contact for each area. An option for the blind and Parent Infant Program will be added as well.

State Superintendent's Report

Superintendent Sydnee Dickson reviewed the finalists for the 2021 Utah Teacher of the Year and announced the runners-up: Rae Boren from Jordan School District and Emma Moss from Canyons School District. She showed a video of surprising the 2021 Utah Teacher of the Year, John Arthur, at Meadowlark Elementary in Salt Lake City School District.

Mr. Arthur thanked the Board for the opportunity, expressing that children are the best people and teaching is the best profession. He spoke about his excitement for the future of education in Utah, but also his fear at this moment. He shared his experience of teaching entirely online right now and noted that though he is physically distant from his students, in a lot of ways he feels more connected as he has reached out more through texts, emails and calls with parents. He observed that this is the perfect moment to think about what education should look like and put in place the steps needed to create a more equitable system. He praised other teachers, expressing that they will sacrifice everything, except people, for their students.

Emma Moss and Rae Boren also addressed the Board and thanked them for the honor.

Utah High School Activities Association (UHSAA) Annual Report

UHSAA Executive Director Rob Cuff addressed the Board and referenced the documents provided: 2019-2020 Audit; Budget for 2020-2021 School Year; Changes to the Bylaws and Realignment; and the UHSAA 2020-21 Event Calendar. Brenan Jackson, UHSAA Assistant Director, also joined the discussion.

They addressed Board member questions about alignment of schools, coach certification, budget estimates, and dealing with COVID.

Board members thanked the organization for its work.

General Consent Calendar

Member Earl requested that item 4.3, 2021 NASBE Dues, be pulled.

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

Motion carried unanimously; Member Neilson absent.

GENERAL CONSENT CALENDAR

4.1 Meeting Minutes

The Board approved the minutes of its September 2-3 and September 22, 2020 meetings.

4.2 Contracts/Agreements for Approval

The Board approved contracts and agreements over \$100,000 with the following entities: Weber State University; Utah State University TAESE; Waterford Research Institute; University of Utah School of Biological Science; Pingora Consulting, LLC; Alaska Special Education Consulting Services; Edwin L. Litteneker; Special Education Consulting Services; Qualtrics; University of Utah First Star Academy for Foster Youth; and Utah Valley University.

4.3 National Association of State Boards of Education (NASBE) Dues

This item was pulled.

4.4 Contracts/Agreements for Review

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

2021 National Association of State Boards of Education (NASBE) Dues

Member Earl indicated she asked for this item to be pulled to vote on it separately.

MOTION was made by Member Marsh and seconded that the Board approve the NASBE dues for 2021.

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

Monthly Budget Report

Budget Report

Deputy Superintendent Scott Jones provided budget information and reported that the Board is fiscally sound and able to meet its commitments at this time.

CARES Act Funding

Sarah Young, Director of Strategic Initiatives, reviewed staff recommendations for use of federal Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding.

MOTION was made by Member Belnap and seconded that the Board approve USBE staff setting aside up to \$2,852,907 from the Utah K-12 Coronavirus Relief Fund (CRF) to award local education agency grants with a \$5,000 base award for K-12 Personal Protective Equipment (PPE) solutions.

Motion carried unanimously; Member Neilson absent.

MOTION was made by Member Belnap and seconded that the Board approve staff setting aside up to \$14,100,000 from the Utah K-12 Coronavirus Relief Fund (CRF) to award local education agency grants with a \$5,000 base award for K-12 Coronavirus Relief solutions for reimbursement for classroom supplies, enhancements, and equipment.

Motion carried unanimously; Member Neilson absent.

Discretionary Funds

Deputy Jones reviewed the status of the Board's Discretionary Fund and a recommendation for use of those funds.

MOTION was made by Member Belnap and seconded that the Board approve allotting \$150,000 from state unrestricted funds for the Superintendent to use at her discretion.

Motion carried unanimously; Member Neilson absent.

Audit Committee Report/Recommendations

Committee Chair Brittney Cummins reported on the September Audit Committee meeting.

Internal Audit Prioritization Request

MOTION from Committee that the Board prioritize an internal audit to address questions associated with LEA use of educational service providers, including gathering information for additional action, and that the audit be added to the end of the Approved Projects List on the Audit Plan.

A member concern was expressed about the possible delay of 12-18 months before this audit would be started. Debbie Davis, Chief Audit Executive, responded that staff will be checking with the State Auditor's office to see if they might be able to assist with the audit. It was also noted that the Board may change the order of the audits on the list.

Motion carried unanimously.

Discussion with Representative Melissa Ballard

Representative Melissa Ballard, Utah House of Representatives, was welcomed to the meeting. She gave a presentation on H.B. 67 Local Education Agency Financial Information Systems which passed in the 2020 General Session. She indicated that due to the pandemic the appropriation for the bill has been set aside and requested that the Board prioritize requesting the appropriation for the 2021 legislative session. She indicated she will check on whether amendments to the bill are needed.

Representative Ballard reviewed driver's license legislation she may sponsor in the upcoming legislative session and answered questions about the bill.

Education Funding—Constitutional Amendment G

Deputy Superintendent Angie Stallings gave an overview of Constitutional Amendment G which is on the November ballot and related bills, S.J.R. 9 Proposal to Amend Utah Constitution – Use of Tax Revenue and H.B. 357 Public Education Funding Stabilization passed in the 2020 General Session, and H.B. 5011 WPU Value Increase Guarantee passed in the 2020 Fifth Special Session. She informed that Amendment G expands the uses of income tax to support children and individuals with disabilities, and if passed, H.B. 357 and H.B. 5011 will take effect.

Dale Frost, Financial Analyst, spoke to the financial implications if Amendment G passes, and reported it will take time for the education fund to grow.

Superintendent Angie Stallings reviewed the principles the Board adopted last year in response to the legislation on education funding. She also reminded that the Board took positions supporting S.J.R. 9 and H.B. 357.

Some members expressed that they are not comfortable with the Amendment as adequate time was not provided to study the issue.

Finance Committee Report/Recommendations

Committee Chair Laura Belnap reported on the following items from the September 4, 2020 meeting. [Information on items not reported will be included in the exhibits to the meeting minutes.]

R277-706 Public Education Regional Service Centers

The Committee reviewed proposed amendments to R277-706 made due to S.B. 79 passed in the 2020 legislative session. The name of the rule was changed to reflect the new name in statute. The Committee passed Draft 2 on first reading.

MOTION from Committee that the Board approve R277-706 *Regional Education Service Agencies*, Draft 2, on second and final reading.

Motion carried unanimously; Member Neilson absent.

Law and Licensing Committee Report/Recommendations

Committee Chair Carol Lear reported on the following items from the September 4, 2020 meeting. Details on items not reported will be included in the exhibit to the meeting summary.

Licensing Assessment Selection and Passing Standards Process

Board rule R277-301-9 directs the superintendent to “use a process approved by the Board to review, adopt, and establish passing standards for all assessments required for educator licensing.” The Committee reviewed the proposed process.

MOTION from Committee that the Board approve the Licensing Assessment Selection and Passing Standards Process.

Motion carried unanimously; Member Neilson absent.

R277-508 *Employment of Substitute Teachers*

The Committee passed a motion to approve repeal of R277-508 on first reading.

MOTION from Committee that the Board repeal R277-508 *Employment of Substitute Teachers* on second and final reading.

Motion carried unanimously; Member Neilson absent.

R277-462 *School Counseling Program*

The Committee reviewed Draft 1 of the rule which incorporates by reference the Utah College and Career School Counseling Program Model (Third Edition), 2020 and approved rule on first reading.

MOTION from Committee that the Board approve R277-462 *School Counseling Program*, Draft 1, on second and final reading.

Motion carried unanimously; Member Neilson absent.

R277-616 *Education for Homeless and Emancipated Students*

The Committee continued and approved Draft 1 of the rule on first reading.

MOTION from Committee that the Board continue and approve R277-616 *Education for Homeless and Emancipated Students*, Draft 1, on second and final reading.

Motion carried; Member Neilson absent.

R277-494 *Charter, Online, Home, and Private School Student Participation in Extracurricular or Co-curricular School Activities*

In accordance with the five-year rule review requirement, the Committee reviewed R277-494 and continued and approved the rule on first reading.

MOTION from Committee that the Board continue and approve R277-494 *Charter, Online, Home and Private School Student Participation in Extracurricular or Co-curricular School Activities*, Draft 1, on second and final reading.

It was noted that the rule will be brought back in the future for further discussion.

Motion carried unanimously; Member Neilson absent.

Standards and Assessment Committee

Committee Chair Jennifer Gravier reported on the following items from the September 4, 2020 meeting. [Information on items not reported will be included in the exhibits to the meeting minutes.]

R277-622 School-based Mental Health Qualified Grant Program

The Committee reviewed proposed amendments in Draft 1 of the rule to reflect changes made to the regional service center code in S.B. 79 from the 2020 legislative session.

The Committee passed the rule on first reading.

MOTION from Committee that the Board approve R277-622 *School-based Mental Health Qualified Grant Program*, Draft 1, on second and final reading.

MOTION was made by Member Earl and seconded to amend line 67 to replace “LEA” with “school district” after “per member.”

Amendment carried unanimously.

Motion, as amended, carried unanimously; Member Neilson absent.

R277-611 Certified Volunteer Instructors and Materials Approval Requirements and Process for Firearm Safety in the Public Schools

The Committee approved repeal of R277-611 on first reading as the authorizing statute for the rule has been repealed by the legislature.

MOTION from Committee that the Board repeal R277-611 *Certified Volunteer Instructors and Materials Approval Requirements and Process for Firearm Safety in the Public Schools* on second and final reading.

Motion carried unanimously; Member Neilson absent.

Utah Special Education Advisory Panel (USEAP) Reopening Schools Memo

The Board's USEAP advisory group provided eight recommendations related to ensuring that students with disabilities are able to access and make progress in the general education curriculum and their IEPs as schools reopen in the midst of the COVID-19 pandemic.

MOTION from Committee that the Board accept the recommendations in the USEAP memo: *School Reopening Amid the Worldwide Pandemic*.

Motion carried unanimously; Member Neilson absent.

September 9 Enrollment Counts

Deputy Superintendent Jones provided information about the enrollment count estimates process and reviewed the timeline for collecting the data. He reviewed updates from the September 9 early counts.

Aaron Brough, Data and Statistics Coordinator, explained how private and home school information is collected and acknowledged that the data is limited to what is reported to LEAs.

2021 Legislative Session Preparation

Average Daily Membership (ADM) Proration Methodology Review for School Year 2019-20

Deputy Superintendent Jones reported that with the school attendance situation that occurred last school year because of the pandemic, there is great concern over the average daily membership (ADM) calculations. Therefore, staff is proposing a methodology to use for calculating ADM as part of the Common Data Committee's process.

Patrick Lee, School Finance Director, gave a presentation on the ADM Proration Methodology Review for School Year 19-20. He recapped what happened in March and the waiver of R277-419 the Board provided and reminded that the intent was to hold the LEAs harmless. Jack Houtrouw, MSP Coordinator, gave an example of the Minimum School Program (MSP) proration during the pandemic. The proration captures membership days that would have been missed since the soft closure of schools in March. Mr. Lee reported that USBE staff have been working closely with LEA business administrators, Office of the Legislative Fiscal Analyst, and Governor's office to make sure the year is accurately reflected. The Board's

approval is needed for staff to apply the proposed methodology to incorporate COVID-19 proration when calculating the FY 2020 ADM.

MOTION was made by Member Davis and seconded that the Board approve the methodology for Average Daily Membership, as presented.

Motion carried unanimously; Member Neilson absent.

2021 General Session Funding Requests

Dale Frost, Fiscal Policy Analyst, presented proposed priorities in enrollment growth and WPU increases for the Board's FY2022 budget request. He also reviewed the Utah School Boards Association priorities for FY2022.

Requests for Statutory Changes

Deputy Superintendent Stallings presented a request related to educational services for students from military families.

MOTION was made by Member Hansen and seconded that the Board direct staff to work with legislators on potential amendments to Utah Code to alleviate midterm disruptions for military children.

Motion carried unanimously; Member Neilson absent.

Waiver from Board Rule

Deputy Superintendent Stallings reviewed a proposed waiver to R277-625 to change the deadline for applications to be submitted.

MOTION was made by Member Marsh and seconded that the Board waive the August 15, 2020 deadline in Board rule R277-625 *Mental Health Screening Program* and allow an LEA until December 20, 2020 to submit an application to participate in the Program.

Motion carried unanimously; Member Neilson absent.

Payment of State Special Education Money Owed

Deputy Superintendent Scott Jones reviewed the efforts of staff to recoup special education money owed to the federal and state government upon the closing of American International School of Utah. He reported that the money owed to the federal government has been paid and all the options for paying back the state have been exhausted. The balance owing is \$53,102.12.

Assistant Attorney General Bryan Quesenberry detailed an agreement from the State Charter School Board (SCSB) to finalize payment of the money still owing. He informed that the SCSB will agree with no further objections or dispute to pay the remaining money from its account; in exchange the SCSB has asked that they no longer be held accountable as an authorizer for any future shortfalls. AAG Quesenberry also referenced 53G-5-303(3)(g) which states that neither the authorizer nor the state is liable for the debts or financial obligations of the charter school or the person who operates the charter school. He indicated it is unclear as to whether the statute applies to reimbursement of funds.

Board members discussed whether signing the agreement would set a precedence for handling similar situations and how accountability for the use of public funds would be affected. They also questioned whether the statute referenced applies to this situation. It was suggested that the Board seek an Attorney General opinion to clearly define the terms, "reimbursement," "obligation," and "debt," and determine who is responsible for reimbursements in these situations. It was also noted that the agreement includes working collaboratively to find solutions and there is an expectation from the SCSB that such work will occur.

The Board was reminded that money for payment of the reimbursement was encumbered in the SCSB's budget some months ago and cannot be spent.

MOTION was made by Member Hansen and seconded that the Board reduce the amount encumbered in the SCSB budget to \$53,102.12 and postpone this item to a future meeting in order for staff to bring back information requested in the Board discussion.

Motion carried unanimously.

Executive Session

MOTION was made by Member Belnap and seconded that the Board go into executive session for the purpose of discussing the character, professional competence, and physical or mental health of individuals.

Upon voice vote of Members Belnap, Boulter, Cannon, Cummins, Davis, Earl, Gravier, Hansen, Haynes, Huntsman, Lear, Marsh, Newell, and Thorpe, the Board went into closed executive session at 5:22 p.m.

Those present included the Members above and Member Neilson, Sydnee Dickson, Angie Stallings, Patty Norman, Scott Jones, Bryan Quesenberry, Michelle Beus, Lorraine Austin, Ben Rasmussen, and Jeff Van Hulten.

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

Motion carried. The Board reconvened in open session at 6:38 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. 20-1765 for a reprimand on the educator's Professional Elementary Education license to be in place not less than two years from the date of Board action, consistent with the terms of the Consent to Discipline.

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

MOTION was made by Member Belnap and seconded that the Board accept the UPPAC recommendation in Case No. 19-1667 for a reprimand on the educator's Professional Secondary Education license to be in place not less than two years from June 10, 2019, consistent with the terms of the Consent to Discipline.

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

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

Motion carried unanimously; Members Boulter, Neilson, and Thorpe absent.

Appointments

MOTION was made by Member Belnap and seconded that the Board appoint the following students to its Student Advisory Council for two-year terms: Jacob Peterson, District 2; Reed Withers, District 4; Cecilee Synnove Price-Huish, District 5; Arundhati Oommen, District 7; Amber Burnham, District 10; Kelsie Call, District 12; Paige Ballard, District 13; and Dallin Braun, District 14.

Motion carried unanimously; Members Boulter, Neilson, and Thorpe absent.

All students who applied were thanked for their willingness to serve.

MOTION was made by Member Belnap and seconded that the Board appoint Mike Haynes as its voting delegate to the 2020 NASBE Annual Conference.

Motion carried unanimously; Members Boulter, Neilson, and Thorpe absent.

Board Chair's Report

Chair Huntsman commended Board committee leadership and Board members for their work over the past few months. He showed a document outlining all the meetings of the Board since March and summarizing highlights of the Board's work over that time. He also recognized the efforts of staff.

Adjournment

The meeting adjourned at 6:56 p.m.

[For additional information on items from the meeting, see General Exhibit No. 20-25.]

Lorraine Austin, Board Secretary
Minutes approved November 5, 2020