

**MINUTES OF THE
UTAH STATE CHARTER SCHOOL BOARD MEETING**

Thursday, April 13, 2017 USBE
– Board Rooms

Approved

Members Present:

Chair Elinkowski
Vice Chair Tonks
Member Smith
Member Haws
Member Davis
Member Brockbank

Staff Present:

Jennifer Lambert
Armando Venegas
Rabecca Cisneros James
Madsen

Others Present:

Alisa Ellis, Lisa Cummins, Scott Jones, Carol Lear, Stephanie Eccles, Royce Van Tassell, Kim Frank, Craig Frank, Julie Chacon, Jennifer Price, Kris Hatch, Sam Urie, Braley Dodson, Debby Llewelyn, Jennifer Moulder.

Call to order

Chair Elinkowski called the meeting to order at 1:32 p.m.

Board Chair Report

Chair Elinkowski commented that Assistant Attorney General David Jones has been assigned to the SCSB to help with the American Preparatory Academy eminent domain issue.

Vice Chair Tonks commented that the SCSB and USBE received a Request for Information, and in the near future, members of the Office of the State Auditor will be meeting with the USBE staff to discuss LEA administration costs, charter management organization, state charter school application processes, procurement code, and conflict of interest.

A sign-up sheet for SCSB members to attend charter school graduations was passed around.

Chair Elinkowski commented that the SCSB received a GRAMMA request regarding all emails concerning American Preparatory Academy and eminent domain, then instructed board members to comply with the request and send their emails to Ben Rasmussen at the USBE. Chair Elinkowski noted that emails that included SCSB leadership, SCSB staff, and USBE staff, have already been delivered to Mr. Rasmussen.

Consent Calendar

Motion: Member Davis moved, and Member Smith seconded, to approve the general consent calendar; which contains the minutes from the March 24, 2017 SCSB and March 24, 2017 Amendment Authorizing Committee meetings; as well as the Charter Agreement Amendments to move the enrollment caps to the LEA level.

Amendment to the Motion: Vice Chair Tonks proposed a friendly amendment, asking that the minutes of the March 24, 2017 Amendment Authorizing Committee be amended “to differentiate who the SCSB members are and who the USBE members are,” in order to avoid the appearance of an SCSB quorum. The amendment to the motion was accepted by Member Davis and Member Smith. The motion carried unanimously.

Franklin Discovery Academy Report

Member Smith asked SCSB Education Specialist Rabecca Cisneros to give a synopsis of the report and its annotations. Ms. Cisneros commented that Franklin Discovery Academy (FDA) staff is now able to account for where its students are throughout the day. Ms. Cisneros noted that there has been significant Improvements to the school’s STEM recreation centers structure, application of learning objectives for students as they use the facility, and to the process of how students check in and out of the area. Ms. Cisneros noted that there is improvement in instruction with both engagement and foundation classes, and with the school’s attendance. Ms. Cisneros said there are still some concerns with special education, but that those concerns are being deferred to USBE Special Education Services (SES) to address with the school.

The SCSB, staff, and FDA, discussed not receiving a few documents concerning FDA governance, specifically: the legal review regarding open and public meetings, the legal review on the foundation, and the FDA board minutes where the vote was held establishing Ms. Julie Chacon as an employee. FDA Chair Jennifer Price claimed to have sent these items, but the claim was refuted by SCSB staff on the grounds that what was sent was not complete.

Member Haws asked FDA if any employee or board members are related. Ms. Julie Chacon said she is a board member and contract employee with the foundation, as well as the sister of FDA Chair Price. Ms. Chacon noted that she has begun the process of resigning from the school’s board and will inform the SCSB when that has happened.

Ms. Chacon commented that she has never seen anything stating being a board member and a contract employee was illegal, but because it looks bad, and because she wants the school to succeed, she will be stepping down. Member Brockbank commented that he also does not know what statute or rule prohibits a board member from also being a paid employee. Vice Chair Tonks commented that she would send the statute to Member Brockbank.

Member Haws commented on the importance of disclosing any known or perceived conflicts of interest. FDA Chair Price commented that at the school’s capacity interview she brought up the conflict of interest between her and Ms. Chacon, noting that FDA was counseled that the situation was permissible as long as it was disclosed on the school’s website. FDA Chair Price also clarified that Ms. Chacon’s contract employment is with the school’s foundation, and not with the school; however, the plan is to have Ms. Chacon resign as a board member of the school, stop working for the foundation, and then become a regular employee of the school.

Chair Elinkowski asked how many people work for the school's foundation. FDA Chair Price said ten people work for the foundation to operate its preschool. Member Smith asked how the school's board members are selected. FDA Chair Price said the members were initially appointed with staggered terms to avoid complete board turnover, but said all future members will be elected, commenting that two current board members were voted in, and as terms expire more elected members will follow. FDA Chair Price commented that by operational year two the board's bylaws require at least two members to be parents, noting that the board will vote on people from its applicant pool of interested individuals who have had six months of volunteer experience with the school's foundation.

Enrolling Over Caps Set in Charter Agreement

Revisit Plan on How to Handle Over Enrollment for Future SY

Executive Director Lambert reminded the SCSB that in its December 2016 meeting they had decided to hold schools to their caps with no buffer. Director Lambert commented that moving enrollment caps to a school's LEA had just been approved with the passing of the consent calendar, but noted that there are still high performing schools who are capable of handling more students, and those schools would be in conflict with SCSB board ruling come October 1st. Director Lambert commented that the deadline for requesting an increase to a school's caps has already passed, then posited that a buffer of 2-3% would be reasonable and supported by data. Director Lambert commented that if the buffer was approved, staff is seeking guidance as to what action would be taken against schools who exceed that buffer.

USBE Deputy Superintendent Scott Jones commented that the USBE still needs charter LEAs with multiple campuses to report by school, campus, and grade because of local replacement calculations, noting that submitting aggregate student data would be flawed, and that the intent of the system is to have the money follow the student.

Director Lambert commented that it severely disrupts budget projections when requests for enrollment come in after the October 1st deadline, noting that SCSB staff asks that following year requests and projections are given to them every August.

Discussion ensued over the nuances and potential ramifications associated with each option, what language would need to be included in a motion to best instruct and inform schools of their responsibilities, and the possibility of extending a single year safe harbor for schools currently enrolled over the proposed 2-3% buffer.

Public Comment

Ms. Kim Frank of the Utah Charter Network (UCN) concerned that any school who has been around for five years knows their attrition rate in order to do their budget, then commented that a 3% buffer would be fair. Ms. Frank stated that schools that are above that buffer should be able to come to the SCSB and have that discussion without having to change their whole charter.

Mr. Royce Van Tassell of Utah Association of Public Charter Schools (UAPCS) stated that the idea of a one year safe harbor has some merit. Mr. Van Tassell commented that schools who add an extra campus experience steep growth, so some schools will try to grow in their current campus in prior years to make their growth curve shallower, commenting that the SCSB should be cognizant of this.

Ms. Stephanie Eccles, director of Excelsior Academy, said that her school feels caught in the middle of this situation, believing that it may have to do with staff changes at the USBE. Ms. Eccles commented that she spoke with then SCSB Executive Director Marlies Burns in the spring of 2016, stating that Excelsior Academy sent its official expansion request in on September 13th, before the October 1st deadline. Ms. Eccles stated the initial application contained requests for fall 2017, and a much larger request for 2018. Ms. Eccles said she then talked to someone at USBE who told her not to apply for 2017 because that deadline had already passed, so that part of the application was removed. Ms. Eccles commented that Sen. Lincoln Fillmore, of Charter Solutions, owns the business portion of her school, and so a new application was submitted resulting in the same issue. Ms. Eccles said she then appeared before the SCSB who approved her 2018 request, but rejected her 2017 request because of the missed deadline and their relationship with the USBE. Ms. Eccles said Excelsior Academy overenrolled with data using attrition rates to make sure the school would be fiscally sound, stating that she believes there would be a discrimination lawsuit if acceptance is not honored. Ms. Eccles said the school has enrolled 751 students, but their cap is 675. Ms. Eccles stated that Excelsior Academy will not refill those seats if those students leave before the start of the school year, but noted that she does not want to have to disinvite anyone; so she is asking for safe harbor until 2018 when the school's enrollment cap increases.

Discussion ensued over the ramifications surrounding a safe harbor, and what the language of any motion should include in order to limit unwanted outcomes.

Public Comment

Ms. Carol Lear, member of USBE and representative of several charter schools, commented that the community a charter school exists in would be affected when a charter school increased its enrollment by 2% perennally. Chair Elinkowski commented that the grace period is a one-time deal based on the school's current contract; which would still require schools apply and seek approval for additional students in subsequent years.

Motion:

Member Davis moved, and Member Haws seconded, to officially adopt a practice of only taking action (issue notice of concern, warning, etc. as warranted) when a school enrolls on October 1 more than 3% over their caps. We would grant a one year safe harbor for the 2017-18 academic year to schools who formally apply. We would direct schools who are already over enrolled to stop further enrollments and direct them to address issues related to facilities, fire, and safety related to those additional students. The motion carried unanimously by those present.

Adjourn

Motion carried unanimously.