

Kentucky Board of Education Regular Meeting
April 7, 2021 9:00 AM
Kentucky Department of Education, 300 Sower Boulevard
Frankfort, KY 40601
Video Teleconference Meeting

Minutes

The Kentucky Board of Education (KBE) held its regular meeting on April 7, 2021. Pursuant to Executive Order 2020-243 and a memorandum issued by the Finance and Administration Cabinet dated March 16, 2020, and in an effort to prevent the spread of the novel coronavirus (COVID-19), the KBE met utilizing a video teleconference. Members of the public were not be permitted to attend the meeting in person, but were encouraged to view the meeting on the Kentucky Department of Education's (KDE) Media Portal. The board conducted the following business:

1. Call to Order

Chair Young welcomed everyone and called the meeting to order at 9:00 a.m. ET. Chair Young reminded members that the meeting still must comply with the requirements of the Open Meeting Act. Chair Young also stated that for any items that required a vote, a roll call vote was necessary to record the vote of each board member.

2. Swearing in of New Board Member

Leah Sharpe from the KDE Office of Legal Services administered the Oath of Office to Jamie Bowling.

3. Roll Call

Chair Young asked for a roll call of members. The following members were present: JoAnn Adams, Claire Batt, Holly Bloodworth, Jamie Bowling, Alvis Johnson, Patrice McCrary, Randy Poe, Sharon Porter Robinson, Lee Todd, Lu Young, Susan Rieber on behalf of Lt. Governor Jacqueline Coleman, CPE President Dr. Aaron Thompson, Solyana Mesfin and Allison Slone.

KBE member Cody Pauley Johnson was absent.

KDE Director of Education Policy Meredith Brewer stated a quorum was present.

4. Internal Board Business

- A. Approval of Summary Minutes for February 3, 2021 Regular Meeting and April 2, 2021 Awards Committee Meeting (Action/Discussion Item)**

Chair Young shared that the minutes for February 3, 2021 Regular Meeting and April 2, 2021 Awards Committee Meeting were distributed to members in advance. The chair asked for any corrections to any of these minutes; there were none.

Chair Young asked for a motion to approve the minutes and Alvis Johnson made the motion. Holly Bloodworth seconded the motion. The motion passed with a unanimous roll call vote.

B. Discussion and Approval of the Recipient of the Karem Award for Excellence in Education Policy (Action/Discussion Item)

Patrice McCrary, on behalf of the Awards Committee, shared that the committee met on April 2, 2021 and determined that candidate 3 best met the criteria of the award. Accordingly, Committee Chair McCrary moved approval of candidate 3 as the recipient of the Kentucky Board of Education Karem Award for Excellence in Education Policy and asked the chair for the board's approval to recognize candidate 3 at the board's upcoming June 2 regular meeting. Coming from committee, this motion did not require a second and the motion passed by unanimous roll call vote.

C. Appointment of State Evaluation Appeals Panel (SEAP) Members (Action/Discussion Item)

The State Evaluation and Appeals Panel (SEAP) is a panel of three voting KBE members who review and decide appeals from local school district staff regarding their performance evaluations. Pursuant to KDR 156.557, the panel does not have jurisdiction relative to complaints involving the professional judgment conclusions of evaluations. Therefore, SEAP's jurisdiction is limited to procedural matters already addressed by the Local Evaluation Appeals Panel (LEAP) related to the district's alleged failure to implement an evaluation plan as approved by the KDE.

Chair Young asked for a motion to approve the appointments of Dr. Sharon Robinson, Dr. Lee Todd and Ms. Holly Bloodworth to the SEAP. Patrice McCrary made the motion. JoAnn Adams seconded the motion. The motion passed with a unanimous roll call vote.

5. Action to Suspend Standing Committee Meetings (Action/Discussion Item)

Chair Young announced that the board needed to take action to suspend standing committees as they are established in the KBE Policy Manual. Committee meetings needed to be suspended during this meeting due to teleconferencing limitations and for efficiency.

Claire Batt made a motion to suspend standing committee meetings. Jamie Bowling seconded the motion. The motion passed by a unanimous roll call vote.

6. Good News Items (Review Item)

Randy Poe shared information about KDE's staff well-being professional learning session. Jamie Bowling shared an update on Garrard County student Alex Miller's participation in American Idol. Holly Bloodworth shared about Ballard County's school nurses assisting with COVID-19 vaccinations. Patrice McCrary shared about the Kentucky virtual ceremony honoring new National Board Certified Teachers (NBCT). Sharon Robinson shared about a JCPS teacher who earned her NBCT while supporting families in her community. Solyana Mesfin shared about students and GoTeachKY Ambassadors assisting with the Commissioner's listening tour.

7. Report from the President of the Council on Postsecondary Education

CPE President Dr. Aaron Thompson presented a brief update on the postsecondary initiatives and updated the board on the work of the Commonwealth Education Continuum.

8. Report from the Secretary of the Education and Workforce Development Cabinet

On behalf of Lt. Governor Coleman, Chief of Staff Susan Rieber provided a brief update on work and initiatives from the Education and Workforce Development Cabinet. Ms. Rieber also gave an update regarding federal GEER (Governor's Emergency Education Relief) funding.

9. Report from the Commissioner of Education

Dr. Glass shared an update on the status of the USED accountability waiver, introduced new KDE staff, provided an update on the Kentucky School for the Blind, Kentucky School for the Deaf and Area Technology Centers, provided remarks on the future of education and Kentucky's assessment system and the development of the strategic dashboard.

10. COVID-19 Project Management Update (Review Item)

KDE Associate Commissioners Kelly Foster and Robin Kinney provided an update on the department's COVID-19 project management including the new updates to the Healthy at Schools guidance.

11. Experiencing a Global Pandemic, A Student's Perspective

Rockcastle superintendent Carrie Ballinger and Ms. Anna Chaliff shared a presentation on experiencing a global pandemic from a student's perspective.

12. Approval of Consent Agenda (Approved as a Group)

This item allowed the board to approve the consent agenda as a group in one action as opposed to hearing each individual agenda item. KDE staff identified these items as those that were non-controversial and routine in nature. The items contained in the consent agenda, were as follows:

A. Action Consent Items

1. Repeal of 701 KAR 5:080, Application for Approval of Alternative-Based School Decision Making Model
2. Approval of SBDM Alternative Model Applications
3. Amendment to 703 KAR 5:225, Continuous Improvement Planning for Schools and Districts
4. Approval of New District Facility Plans
5. Approval of Kentucky Minimum Specifications for School Buses

The Chair reminded the board members the consent agenda was distributed to members in advance of the meeting to allow sufficient time for review. Chair Young asked if any member wished to have any of the consent agenda items moved to regular discussion items.

No items were moved off of the consent agenda. Solyana Mesfin requested to be asked for more information about the transition to non-diesel school buses. KDE staff indicated a follow-up response will be provided. Chair Young asked for a motion to approve all items on the consent agenda. Randy Poe made the motion and Patrice McCrary seconded. The motion passed by a unanimous roll call vote.

13. Presentation of the 2021 Robinson Award for Diversity and Equity in Public Education

Commissioner Jason E. Glass presented the awards to the two recipients. Kyri Demby, K-5 music teacher at Jacob Elementary in Jefferson County Public Schools and Diane Porter, JCPS Board of Education member as well as their nominators, Phyllis Ferrell and Ashley Duncan joined the meeting virtually to accept the award and share remarks.

14. 30-Minute Recess (No Business Was Conducted)

15. Public Comment Segment – Public Expression Will Be Accepted Via Email Only and Limited to 30 Minutes.

Chair Young reminded the public that public expression was solicited via the meeting’s news release and distributed to members and staff prior to the meeting. Chair Young stated the board received four (4) public comments via email from four (4) individuals.

The board has received four public comments via email. The first comment, received on April 1, 2021, is from the Kentucky Special Parent Involvement Network (KY-SPIN). Their comments were in support of the currently proposed amendments to 707 KAR 1:340, Procedural Safeguards. The letter from this association outlining their feedback was sent to KBE members in advance of the meeting and is posted on the KBE portal for public viewing.

The second comment, received on April 5, 2021, is from Ms. Judith Bradley, Managing Partner of Jack Be Nimble, Inc. Ms. Bradley provided comment on several proposed regulatory changes affecting students with disabilities. Ms. Bradley’s comments were sent to KBE members in advance of the meeting and are posted on the KBE portal for public

viewing. The third comment, received on April 5, 2021 is from Mr. Donnie Wilkerson. His comments pertain the Kentucky's Academic Standards for Social Studies and the science of learning and how it should inform instructional practice. Mr. Wilkerson's comments were sent to KBE members in advance of the meeting and are posted on the KBE portal for public viewing.

The fourth comment, received on April 5, 2021, is from the Kentucky Student Voice Team. The letter from this association outlining their feedback on proposed amendments to 701 KAR 5:100, Guidelines for Alternative Models for School-Based Decision Making, was sent to KBE members in advance of the meeting and is posted on the KBE portal for public viewing.

Chair Young thanked the individuals on behalf of all KBE members and thanked them for taking the time to share their feedback and concerns with the board and stated the KBE always appreciates the opportunity to hear from constituents on matters that pertain to education across the Commonwealth.

16. Action/Discussion Items

A. Approval of Request from Jefferson County School District to Waive 704 KAR 5:070, Common Kindergarten Screener

KDE Associate Commissioner Rhonda Sims, JCPS Superintendent Marty Pollio and JCPS Chief Executive Director Dena Dossett provided an overview of the waiver request for an exemption from administering the BRIGANCE kindergarten screener for the remainder of the 2020-2021 school year.

Jamie Bowling made the motion to approve the request to waive 704 KAR 5:070, Common Kindergarten Screener. Sharon Robinson seconded the motion and the motion carried by unanimous roll call vote.

B. Amendment to 707 KAR 1:340, Procedural Safeguards

KDE Associate Commissioner Gretta Hylton provided an overview of the proposed amendments and discussed feedback from a variety of stakeholder groups. KDE General Counsel Todd Allen provided an overview of the feedback from other state-level education attorneys he received on the proposed amendment which was recommended by the Local Superintendent Advisory Council.

Chair Young asked for a motion to approve the amendments to 707 KAR 1:340, Procedural Safeguards. The motion was made by Sharon Robinson and Claire Batt seconded the motion. The motion passed by a unanimous roll call vote.

C. Amendment to 701 KAR 5:100, Guidelines for Alternative Models for School-Based Decision Making

KDE Associate Commissioner provided an overview of the proposed amendments which reduce the number of regulations related to SBDM councils by incorporating content from 701 KAR 5:080, clarifies procedures and creates a timeline for the

submission of alternative SBDM model applications, sets a standardized effect date for newly approved alternative SBDM models, and codifies additional requirements to align with the SBDM statute.

Chair Young asked for a motion to approve the amendments to 707 KAR 5:100, Guidelines for Alternative Models for School-Based Decision Making. The motion was made by JoAnn Adams and Lee Todd seconded the motion. The motion passed by a unanimous roll call vote.

D. Approval of Amended Federal Perkins Performance Goals

KDE Associate Commissioner David Horseman and KDE Assistant Director Kiley Whitaker provided an overview of the proposed amendments. Kentucky's current state plan has been approved by the OCTAE for fiscal years 2020-2023; however, the OCTAE is currently affording states the opportunity to submit revised performance goals for their approval, considering the continued impact of the COVID-19 pandemic. Because of this, Kentucky is seeking to revise its goals, as many of the indicators supporting such goals have been drastically impacted. As required by federal law, these proposed new performance goals have been posted for public comment for 60 days (February 2, 2021 through April 2, 2021) on the Kentucky Department of Education's website. The public was notified of this public comment window on February 2, 2021 via a KDE press release.

Chair Young asked for a motion to approve the amendments to the Federal Perkins Performance Goals. The motion was made by Jamie Bowling and Alvis Johnson seconded the motion. The motion passed by a unanimous roll call vote.

E. Amendment to 703 KAR 5:240, Administrative Procedures and Guidelines

KDE Associate Commissioner Rhonda Sims and KDE Division Director Jennifer Stafford provided an overview of the proposed amendments and discussed feedback from a variety of stakeholder groups. Currently, the regulation states that a student with an approved medical exemption or extraordinary circumstance shall be excluded from state-required assessments and state and federal accountability calculations. After receiving feedback from an audit conducted by the U.S. Department of Education (USED), it is a federal requirement to remove extraordinary circumstance as an exemption option from state testing and only allow medical exemptions.

Chair Young asked for a motion to approve the amendments to 703 KAR 5:240, Administrative Procedures and Guidelines. The motion was made by Patrice McCrary and JoAnn Adams seconded the motion. The motion passed by a unanimous roll call vote.

F. Amendment to 703 KAR 5:070, Inclusion of Special Populations in the State-Required Assessment and Accountability Programs

KDE Associate Commissioners Rhonda Sims, Kelly Foster, and Gretta Hylton and KDE Division Director Jennifer Stafford provided an overview of the proposed

amendments and discussed feedback from a variety of stakeholder groups. With the federal findings and other internal audits on specific programs, it is necessary to amend language in the regulation to meet federal and state requirements. Specifically, kindergarten students taking the English Language Proficiency Exam, ACCESS, must be allowed to exit English Learner (EL) status if they meet or exceed exit criteria. Kentucky has not allowed kindergarten students to exit EL status in the past. In addition, in order to reduce common misunderstandings, the Kentucky Department of Education (KDE) would like to clean-up language in the regulation so that it is more accurate and concise.

Chair Young asked for a motion to approve the amendments to 703 KAR 5:070, Inclusion of Special Populations in the State-Required Assessment and Accountability Programs. The motion was made by Alvis Johnson and JoAnn Adams seconded the motion. The motion passed by a unanimous roll call vote.

G. Approval of Request from Hardin County School District to Waive 702 KAR 4:160 Capital Construction Process Section 6 (1)(c)4.c.(ii) and Section 305.5 of the Kentucky School Facilities Planning Manual, incorporated into reference into 702 KAR 4:180, Related to Allowable Floor Area of the Additions and Renovation of Central High School

KDE Division Director Chay Ritter and KDE Branch Manager Greg Dunbar provided an overview of the requested waiver. The Model Program of Spaces interpolated for the projected enrollment of 1,800 students is 219,022 GSF. Therefore, the proposed increase is approximately 57,107 GSF or twenty-six percent (26%) exceeding the twenty percent (20%) threshold established in 702 KAR 4:160.

Chair Young asked for a motion to approve the waiver request from Hardin County School District. The motion was made by Lee Todd and Randy Poe seconded the motion. The motion passed by a unanimous roll call vote.

H. Approval of Request from the Clay County School District to Waive the Site Improvement Cost Limitation of Ten Percent of the Total Project Budget as Set Forth in 702 KAR 4:050

KDE Division Director Chay Ritter and KDE Branch Manager Greg Dunbar provided an overview of the requested waiver. The hilly topography surrounding the high school is common in eastern Kentucky. Projects in the regions often require extensive mass earth work in the form of cut and/or fill to create level building sites. The building pad originally created for the high school did not anticipate this future construction. To expand the building pad requires a significant amount of fill; deeper, more costly foundations; and possible retaining features. Fill material will be available from the athletic fields for which construction is concurrently proposed.

Chair Young asked for a motion to approve the waiver request from Clay County School District. The motion was made by Sharon Robinson and Alvis Johnson seconded the motion. The motion passed by a unanimous roll call vote.

I. Amendment to 702 KAR 3:060, Procedure for Payment of Employees

KDE Associate Commissioner Robin Kinney, KDE Division Director Chay Ritter and KDE Policy Advisor Matt Ross provided an overview of the proposed amendments and discussed feedback from stakeholder groups. KRS 157.395 was amended during the 2020 legislative session to create two cohorts of national board certified teachers. The cohorts are teachers certified before and after July 1, 2020. It is necessary to amend 702 KAR 3:060, which establishes the procedures for a local board of education to pay and to request reimbursement for the salary supplement from the fund to Support Education Excellence in Kentucky (SEEK) to conform with the statute. The funds allocated by the General Assembly are insufficient to pay the full \$2,000 salary supplement.

Chair Young asked for a motion to approve the amendments to 702 KAR 3:060, Procedure for Payment of Employees. The motion was made by Claire Batt and Jamie Bowling seconded the motion. The motion passed by a unanimous roll call vote.

17. Review Items

A. Update on State Assisted Districts

KDE Associate Commissioner Kelly Foster, Menifee County Superintendent Tim Spencer and Breathitt County Superintendent Phillip Watts provided an update on the two state assisted districts.

B. Update on the 2021 Legislative Session of the Kentucky General Assembly and the 2021-22 KDE Budget

KDE Associate Commissioner Robin Kinney and KDE Division Director Karen Wirth provided an update on the 2021-22 budget. KDE Director of Government Relations Chuck Truesdell provided an overview of the education legislation passed during the 2021 session and answered board member questions.

C. Kentucky Department of Education 2022-2024 Biennial Budget and Capital Plan Update

KDE Associate Commissioner Robin Kinney and KDE Division Director Karen Wirth provided an update on the 2022-2024 biennial budget and the capital plan.

D. Audit Update and Expense Reports for the Kentucky Board of Education (KBE) and Commissioner of Education

KDE Associate Commissioner Robin Kinney and KDE Division Director Karen Wirth provided an update on the recent financial audit and the expense reports for both the KBE and the Commissioner of Education.

E. Financial Report from the Ashland Independent School District

KDE Associate Commissioner Robin Kinney and Ashland Independent Superintendent Sean Howard provided a financial report on the Ashland Independent School District.

18. Hearing Officers' Report (Review Item)

KDE General Counsel Todd Allen presented a review of regulations currently being promulgated through the Kentucky General Assembly.

A. Statement of Consideration for 703 KAR 5:280, School Improvement Procedures

General Counsel Todd Allen, along with Associate Commissioner Kelly Foster, presented information on the recommended amendments to 703 KAR 5:280, School Improvement Procedures.

Chair Young asked for a motion to accept the recommended amendments. Sharon Robinson made the motion and JoAnn Adams seconded the motion. The motion passed by a majority roll call vote.

19. Litigation Report

KDE General Counsel Todd G. Allen shared that the litigation report, which provided updates to the KBE on pending litigation involving the KBE and/or KDE, could be found on the internal board portal. There was no requirement for the KBE to go into closed session.

20. Board Member Sharing (Review Item)

Patrice McCrary and Allison Slone shared an overview of their participation in the National Association of State Boards of Education Legislative Conference.

21. Adjournment

Chair Young thanked the KBE members for another meeting. She then asked for a motion to adjourn the meeting. Patrice McCrary made the motion to adjourn and Lee Todd seconded the motion. The motion passed with a unanimous roll call vote.

The meeting adjourned at 3:17 p.m.