

## State Board of Education Business Meeting

Friday, August 7, 2020

Courtyard Lincoln Downtown/Haymarket, Scarlet Meeting Room, 808 R St, Lincoln, NE 68508

[Link to Agenda and Attachments](#)

[Link to Video of Meeting](#)

Publicized notice of the business meeting was given by posting notice on the Department's website; emailed to news media requesting notification, and posting a copy of the agenda in the Office of the Commissioner of Education, which gave the date, time, and location of the meetings.

### STATE BOARD OF EDUCATION MEETING, Friday, August 7, 2020, 9:00 AM.

#### 1. CALL TO ORDER – President Maureen Nickels called the meeting to order at 9:02 a.m.

##### 1.1 Roll Call

Roll Call showed the following attendance:

John Witzel	Maureen Nickels	Patricia Timm
Rachel Wise	Deborah Neary	Robin Stevens
Patsy Koch Johns	Lisa Fricke	

Commissioner Blomstedt was absent due to the death of his brother. Deputy Commissioner Deborah Frison was designated by the Commissioner to serve as his representative.

##### 1.2 President Nickels led the Pledge of Allegiance.

##### 1.3 President Nickels announced the placement of the Open Meetings Act.

##### 1.4 COVID-19 Meeting Protocol

Ryan Foor, Department of Education representative, shared information on the COVID-19 Meeting Protocol and self-screen questionnaire.

#### 2. PUBLIC COMMENT PERIOD

##### 2.1 Request for 10-Minute Special Appearance

There were no requests for 10-Minute Special Appearance.

##### 2.2 Public Comment (5 Minutes)

- John Recknor – Recknor and Associates, comment letter to Board regarding Enrollment Option Case on the agenda.
- Reggon Simons – Appeared via Zoom, representing a group of Nebraska parents who started a petition that gained 3,000 signatures, directed towards Governor Ricketts and the Nebraska Department of Education against remote learning and for optional masks.
- Concerned Citizen (did not state name) – Appeared via Zoom, very concerned with what is happening with the Teacher's Union.

### **3. COMMISSIONER'S REPORT**

#### 3.1. Agenda Overview and Consent Agenda Process

Deputy Commissioner Frison reviewed the process for consent agenda items.

##### 3.1.A. Commissioner's Recommendations and items to be removed from the consent agenda.

No consent agenda items were removed.

#### 3.2. Report on Rules

Deputy Commissioner Frison provided a report on the status of Rules 21 and 24. Rule 21 and Rule 24 are waiting on approval from the Attorney General's Office.

#### 3.3. Board Operations Information

Ryan Foor, Department of Education representative, provided that NASBE is moving forward holding the annual conference virtually in October.

Ryan brought attention to two items on the agenda. Item 10.5, Notification of vacancy on the Nebraska Private Postsecondary Career Schools Advisory Council, looking for the Board to submit nominations to appoint to the Council. Item 10.6, NCECBVI Annual Report shared with the State Board.

### **9. SPECIAL PRESENTATIONS AND DISCUSSIONS**

#### 9.1 Quarterly report from the 2020 Nebraska Teacher of the Year, Megan Helberg, Burwell Junior – Senior High School, Burwell, Nebraska

Megan Helberg, 8<sup>th</sup>, 11<sup>th</sup>, and 12<sup>th</sup> grade English at Burwell Junior/Senior High School, provided an update on the activities she has been involved with as Teacher of the Year.

### **4. PRESIDENT'S REPORT**

President Maureen Nickels stated that the NDE Day and Administrators' Day theme of Disruption and Innovation is a theme that will be carried throughout the year.

NASBE Annual Conference will be held virtually in October. President Maureen Nickels has appointed Vice President Patsy Koch Johns to represent the Nebraska State Board of Education as Nebraska's delegate to the business meeting.

NASBE has several prestigious awards that they give out at the annual conference. The following nominations have been submitted:

Friend of Education Award: Buffett Early Childhood Education Institute at the University of Nebraska.

Policy Leader of the Year: Senator Patsy Pansing Brooks, District 28

Distinguished Service Award: Dr. Rachel Wise

## 5. CONSENT AGENDA

Approval of the Consent Agenda passed with a motion by Rachel Wise, second by Patricia Timm.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

## 6. HEARINGS

### 6.1 Hearing in NDE Case No. 20-09, *Commissioner v. Gregory Sedlacek*

A hearing was held beginning at 10:00 a.m. in the above case. Kelly Muthersbaugh appeared on behalf of the Professional Practices Commission, recommending the Respondent's certificate be permanently revoked. Sara Hulac, attorney for the Petitioner, appeared in support of the recommendation.

The respondent was not present nor represented by counsel. President Nickels closed the hearing at 10:02 a.m.

### 6.2 Hearing in NDE Case No. 20-10, *Commissioner v. Alan Koebel*

A hearing was held beginning at 10:03 a.m. in the above case. Kelly Muthersbaugh appeared on behalf of the Professional Practices Commission, recommending the Respondent's certificate be permanently revoked. Sara Hulac, attorney for the Petitioner, appeared in support of the recommendation.

The respondent was not present nor represented by counsel. President Nickels closed the hearing at 10:05 a.m.

### 6.3 Hearing in NDE Case No. 20-11, *Commissioner v. Jeff White*

A hearing was held beginning at 10:05 a.m. in the above case. Kelly Muthersbaugh appeared on behalf of the Professional Practices Commission, recommending the Respondent's certificate be revoked for a period of three years. Sara Hulac, attorney for the Petitioner, appeared in support of the recommendation.

The respondent was not present nor represented by counsel. President Nickels closed the hearing at 10:07 a.m.

6.4 Hearing in NDE Case No. 20-12, *Commissioner v. Miranda Coulter*

A hearing was held beginning at 10:07 a.m. in the above case. Kelly Muthersbaugh appeared on behalf of the Professional Practices Commission, recommending the Respondent's certificate be revoked for a period of two years. Sara Hulac, attorney for the Petitioner, appeared in support of the recommendation.

The respondent was not present nor represented by counsel. President Nickels closed the hearing at 10:09 a.m.

Executive Session

Motion to move into Executive Session at 10:13 a.m. for the purposes of deliberation and to receive legal advice from counsel on contested cases passed with a motion by Patsy Koch Johns, second by Patricia Timm.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

At 10:16 a.m., the Board moved into Executive Session to receive legal advice from Legal Counsel on the proposed contested cases.

Motion to adjourn Executive Session at 11:49 a.m. passed with a motion by Patsy Koch Johns, second by Patricia Timm.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

At 11:50 a.m., President Nickels called for a break. The meeting resumed at 12:05 a.m.

## 8. ADDITIONAL BUSINESS

8.1 Consider the PPC's recommended decision in NDE Case No. 20-09, *Commissioner v. Gregory Sedlacek*

Motion in *Commissioner v. Gregory Sedlacek*, NDE Case No. 20-09, that this Board adopt the Findings of Fact, Conclusions of Law and the Recommendation of the Nebraska Professional Practices Commission, permanently revoking Respondent's teaching certificate, and to adopt the Final Order proposed by Legal Counsel passed with a motion by Deborah Neary, second by Rachel Wise.



Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

- 8.2 Consider the PPC's recommended decision in NDE Case No. 20-10, *Commissioner v. Alan Koebel*

Motion in *Commissioner v. Alan Koebel*, NDE Case No. 20-10, that this Board adopt the Findings of Fact, Conclusions of Law and the Recommendation of the Nebraska Professional Practices Commission, permanently revoking Respondent's teaching certificate, and to adopt the Final Order proposed by Legal Counsel passed with a motion by John Witzel, second by Patricia Timm.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

- 8.3 Consider the PPC's recommended decision in NDE Case No. 20-11, *Commissioner v. Jeff Witte*

Motion in *Commissioner v. Jeff Witte*, NDE Case No. 20-11, that this Board adopt the Findings of Fact, Conclusions of Law and the Recommendation of the Nebraska Professional Practices Commission, revoking Respondent's teaching certificate for a period of three years, and to adopt the Final Order proposed by Legal Counsel passed with a motion by Patsy Koch Johns, second by John Witzel.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

- 8.4 Consider the PPC's recommended decision in NDE Case No. 20-12, *Commissioner v. Miranda Coulter*

Motion in *Commissioner v. Miranda Coulter*, NDE Case No. 20-12, that this Board adopt the Findings of Fact and Conclusions of Law of the Nebraska Professional Practices Commission, revoking Respondent's teaching certificate for a period of two years, and to adopt the Final Order proposed by Legal Counsel passed with a motion by Rachel Wise, second by Robin Stevens.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

8.5 Consider the Settlement Agreement in NDE Case No. 20-14, *Commissioner v. Charlie Hutzler*

Motion in *Commissioner v. Charlie Hutzler*, NDE Case No. 20-14, that this Board approve a proposed settlement agreement, in which the parties have stipulated to a two-year revocation of Respondent's administrative certificate, and to adopt the Final Order proposed by Legal Counsel passed with a motion by Robin Stevens, second by Patsy Koch Johns.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

8.6 Consider the Settlement Agreement in NDE Case No. 20-15, *Commissioner v. Conley Straight*

Motion in *Commissioner v. Conley Straight*, NDE Case No. 20-15, that this Board disapprove the proposed settlement agreement, for the reason that the agreement lacks sufficient facts to support the proposed sanction passed with a motion by Lisa Fricke, second by Patsy Koch Johns.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

8.7 Consider the Hearing Officer's Recommended Decision in Enrollment Option Case No. 20-13, *Harms v. Wilber-Clatonia Public Schools*

Motion in *Harms v. Wilber-Clatonia Public Schools*, NDE Case No. 20-13, that the Board adopt the Hearing Officer's Recommended Findings of Fact and adopt the Conclusions of Law in paragraphs 10-17, but reject the Hearing Officer's recommended conclusion of law in paragraph 18 and reject the recommended Decision affirming the Respondent district's denial of the Petitioner's enrollment option application. Instead, it is moved that the Board find as a conclusion of law that the Respondent school district did not comply with the procedures of state statutes 79-234 to 79-241 and that the district is ordered to approve the Petitioner's application, and direct Department Legal

Counsel to supply and Order consistent with this as discussed in our deliberations passed with a motion by Patricia Timm, second by Rachel Wise.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Abstain
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

3.4 Launch Nebraska

Lane Carr, Department of Education representative, provided an update on Launch Nebraska.

## 7. STANDING COMMITTEE REPORTS

7.1. **Policy Committee** – Patricia Timm, Chair reported on the meeting of the Committee.

7.1.A. The Committee discussed State Board Policy P4, *Personnel Policies/ State School Policies/ Administrative Memos* and recommends these be reaffirmed at the September Board business meeting.

7.1.B. The Committee reviewed and discussed State Board Bylaw B5, *Board Meeting Notification for Regular Meetings*. After discussion, the Committee will propose revisions to be adopted at the September Board business meeting.

The Committee reaffirmed their commitment to pursue the formation of a position/belief statement that supports human dignity, equity and equality. The Committee will invite Zainab Rida, NDE Equity Officer, to join their September Committee meeting for a conversation regarding same.

7.1.C. The Committee recommends that revisions to State Board Bylaw B14, combining both Bylaws B14 and B11, into B14, *Staff Research and Assistance/ Legal Assistance* be approved at the August business meeting.

Approval to adopt the proposed revisions to State Board Bylaw B14 passed with a motion by Patricia Timm, second by Rachel Wise.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Yea
Rachel Wise:	Yea
John Witzel:	Yea

The Committee will start a four year review at the September meeting on State Board Bylaw B2, Board Committees; State Board Internal Policy Directive P10, Audits of the Nebraska Department of Education; and, State Board Internal Policy Directive P8, Trust Funds.

Patricia Timm left the meeting at 12:33 p.m.

- 7.2 **Legislative Committee** – Robin Stevens, Chair reported on the meeting of the Committee. The Committee reviewed and discussed the status of bills for which the NDE appeared as a proponent or opponent at hearings held by the Legislature which list is attached in SPARQ for review. The Legislative Committee had a lengthy discussion on an amendment to LB 147 (Sen. Groene -Change Student Discipline Act to provide for teacher and administrator necessary physical contact) and reached no consensus on a recommendation to the Commissioner or State Board at that time. LB 147 later failed to advance from General File.

The Legislature has only three legislative days left in this session, which are next, Tuesday, Wednesday, and Thursday. Any bills not advanced from Select File and reported as being filed on Final Reading at the close of Tuesday’s Legislative Day will end up being indefinitely postponed for this Legislature.

- 7.3 **Commissioner’s Appraisal Committee** – No report; the Committee did not meet in July.

- 7.4. **AQuESTT Teaching, Learning and Serving Domain Committee** – Lisa Fricke, Chair, reported on the meeting of the Committee. The Committee reviewed three consent agenda items, items including the Instruction Partners contract, the NCTE appointments, and the ESU 13 contract. The NCTE item was pulled from the consent agenda prior to the meeting at the request of a board member. The other two items were approved earlier in this meeting under the consent agenda.

The Committee discussed an update on the status of the Health Education standards. The Committee has asked staff members Cory Epler and Lacey Peters to present information to the Board following the committee report.

The Committee discussed an item on diversity in the teacher workforce. Chair Lisa Fricke brought this to the Committee and will have further discussion with the Board.

- 7.4.C. The Committee reviewed one action item, on the ACT contract for the 2020-2021 school year. The Committee recommends approval of this contract. Staff member Jeremy Heneger is available to answer questions.

Authorize the Commissioner to contract with ACT to provide statewide general assessments for grade 11 for 2020-2021 passed with a motion by Lisa Fricke, second by Rachel Wise.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Absent
Rachel Wise:	Yea
John Witzel:	Yea

7.4.D. Approve the 2020-2021 Nebraska Council on Teacher Education membership roster passed with a motion by Lisa Fricke, second by Rachel Wise.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Absent
Rachel Wise:	Yea
John Witzel:	Yea

7.5 **AQuESTT Student Success, Access and Support Domain Committee** – Patsy Koch Johns, Chair reported on the meeting of the Committee. The Committee reviewed one contract for Step Up to Quality for the Approval of public engagement campaign, which was approved under the consent agenda.

7.5.A. Leading for Equity and Excellence Program (LEEP)

The Committee had one discussion item on Leading for Equity and Excellence Program (LEEP) State Policy Network. The committee shared the progress of the work plan that NE submitted to LEEP last fall. NE LEEP group will continue working on creating a tool to guide leaders to consider, collaborate, and commit to advancing educational equity in Nebraska

7.5.C. Information was presented in regards to Rule 11 Waiver Requests, and annual operation of Early Childhood programs of Ainsworth, Dundy County, and Morrill Public schools. The Committee recommends approval.

Approve Rule 11 Waiver Requests, and annual operation of early childhood programs of Ainsworth, Dundy County and Morrill Public Schools passed with a motion by Patsy Koch Johns, second by John Witzel.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Absent
Rachel Wise:	Yea
John Witzel:	Yea

7.5.B. Information was presented to the committee in regards to public school districts and ESUs that have established Early Childhood Education programs in accordance with the provision of Rule 11(92 NAC11), Regulations for the Approval of Prekindergarten Programs established by School Boards or Educational Service Unites and for the Issuance of Early Childhood Education Grants. The Committee recommends approval.

Approve public school districts and Education Service Units that have established Early Childhood Education Programs in accordance with provision of Rule 11 (92 NAC11) passed with a motion by Patsy Koch Johns, second by Lisa Fricke.

Lisa Fricke:	Yea
Patsy Koch Johns:	Yea
Deborah Neary:	Yea
Maureen Nickels:	Yea
Robin Stevens:	Yea
Patricia Timm:	Absent
Rachel Wise:	Yea
John Witzel:	Yea

7.4.A. Cory Epler, Department of Education representative, provided the progress update of the Health Education Standards and items generally related to content area standards.

7.4.B. Lisa Fricke, Chair, provided information on diversity in the classroom.

7.6 **Budget and Finance Committee** – John Witzel, Chair reported on the meeting of the Committee.

Consent Item 1.2.B, Biennium Budget Information. NDE covered the budget process and the timing of the bi-ennial budget request that must be submitted in October 2020 for fiscal year 2022 and 2023. NDE staff shared that salaries make up about 80% of the operation funding and that there are four different sources of funds; general, cash, federal, revolving. NDE's current total budget is made up of 70% of General fund, 22% Federal, 1% Cash funds with 94% of that budget being flow through aid. NDE's operating budget is 64% funded by Federal funds.

7.6.A. Monthly Board Travel Expense Report

The Committee reviewed the Monthly Board Travel Expense report and had no concerns.

7.6.B. In-State Travel Authorization Reports

The Committee had no concerns.

7.7 **Strategic Planning, Performance and Improvement Committee** – Rachel Wise, Chair reported on the meeting of the Committee.

7.7.A. Rule 10 Timeline

The Committee recommends postponing the timeline around revising rules related to Rule 10 and Rule 14, for at least one year, considering the circumstances around the COVID-19 pandemic. The Committee invites discussion among the full board on this topic following the committee report.

## 10. INFORMATION ITEMS AND REPORTS

10.1. President Nickels referred Board Members to review information items and reports.

## 11. ADJOURNMENT

President Nickels adjourned the meeting at 1:24 p.m.

The next regularly scheduled business meeting of the State Board of Education will be held on Friday, September 4, 2020, at 9:00 a.m. at the Courtyard by Marriott Lincoln Downtown/Haymarket, Scarlet Meeting Room, 808 R Street, Lincoln, NE 68508.