



MAINE STATE BOARD OF EDUCATION

23 State House Station
AUGUSTA, MAINE 04333

STATE OF MAINE

The State Board of Education held a special meeting on August 21, 2020 virtually via Zoom. The following members were present: Chair Wilson Hess; Vice Chair Jane Sexton; Wendy Ault; John Bird; Fern Desjardins; Peter Geiger; Martha Harris; Jana Lapoint; and Casey Maddock.

Excused: Jaylee Rice

Vacant: One Member

Others Present: Deputy Commissioner Daniel Chuhta; Jaci Holmes, Federal State Legislative Liaison; Pamela Ford-Taylor, School Enrollment Specialist; and Mary Becker, State Board Secretary Specialist.

CALLED TO ORDER:

Chair, Wilson Hess called the meeting to order at 1:00 PM.

The meeting was conducted in accordance with Sec. G-1. 1 MRSA §403-A, Public proceedings through remote access during declaration of state of emergency due to COVID-19. Whereas the meeting is open to the public, all votes will be taken by roll call.

Roll call was taken by Mary Becker, Secretary Specialist. The chair declared a quorum present.

VISION STATEMENT:

Read by Chair Wilson Hess: The Vision of the State Board is to ensure Maine public school students graduate with the skills, knowledge, and principles to be responsible American citizens; self-directed and dedicated to making contributions to society by pursuing further education and employment.

PUBLIC COMMENT:

No Public Comment was offered.

NEW BUSINESS:

EMERGENCY RULE CHAPTER 125: BASIC APPROVAL STANDARDS: PUBLIC SCHOOLS AND SCHOOL ADMINISTRATIVE UNITS

BACKGROUND: Based on the uncertainties and the multiple modes of instruction that will be used across the State for the 2020-2021 school year as a result of the COVID-19 pandemic, and in response to feedback from educators, superintendents, families, student advocates and community members an amendment to the joint rule of the State Board of Education and the Maine Department of Education is being submitted as an emergency rule to address attendance expectations. In the emergency rule the Department and the State Board will redefine what constitutes an instructional day to remove the requirements of a 5-hour average over a two-week minimum, while maintaining the 3-hour daily minimum in Section 5.01(E). A recent survey of Educators, School District Leadership, School Service providers and parents reflected a strong need for modification of attendance requirements to provide the flexibility needed to conduct classes in-person and remotely, synchronously and asynchronously.

This is an emergency because the schools are preparing to reopen, some in mid-August, and need to know what the requirements will be in order to address attendance in a consistent fashion. Due to the planned reopening in mid-August for many school administrative units, there is not sufficient time to follow the APA requirements of a hearing and a public comment period.

The emergency rule will be enforceable for up to one year from the date of filing.

RECOMMENDATION: The Ad Hoc Committee reviewing the proposed Chapter 125 Emergency Rule voted unanimously on August 14, 2020 to redefine what constitutes an instructional day to remove the requirements of a 5-hour average over a two-week minimum, while maintaining the 3- hour daily minimum. This change would be 5.01 - E in Chapter 125.

MOTION by Fern Desjardins, seconded by Wendy Ault, and voted five in favor with three members opposed (Peter Geiger, Martha Harris and Jane Sexton) to redefine what constitutes an instructional day to remove the requirements of a 5-hour average over a two-week minimum, while maintaining the 3- hour daily minimum. This change would be 5.01 - E in Chapter 125.

PROCEDURE FOR HANDLING REQUESTS FOR REVIEW OF COMMISSIONER DECISIONS ON STUDENT TRANSFER REQUESTS

Wilson Hess, Chair of the Board, read a procedure for the Board when going into executive session to review requests for review of the Commissioner's decisions on student transfer requests.

The Board will be considering requests for Board review of the Commissioner's decision regarding requested transfers of students to another school district,

pursuant to Title 20-A, section 5205(6)(F). The Board will be going into executive session to consider the request because each one involves reviewing and discussing information contained in student records made confidential by the federal law known as FERPA, the Family Educational Rights and Privacy Act. The parents and any attorney representing a parent are welcome to attend the executive session for the discussion of their particular student's transfer, as are the Superintendents of the school districts involved in that requested transfer. The Board will review each of the transfer requests in separate executive sessions. Today the Board has one.

After the Board comes out of executive session, the Board will entertain a motion and take a vote on the disposition of the requests in public session.

The Board's role in these proceedings is to review the Commissioner's decision based on the record that was before her at the time she made the decision. Although the statute directs the Board to "communicate with" the parties involved, which the Board has done, the Board cannot accept any new evidence pertaining to a transfer request that was not considered or not available in the record at the time of the Commissioner's decision.

The Board provides for public comment which was explained earlier in the meeting. In the executive session the same rules apply for public comment and there will be a three-minute time limit for comment. This is not a time for debate or a time to introduce new evidence. It is a time for families to highlight the things they want the Board to consider in the record.

EXECUTIVE SESSION:

MOTION by Peter Geiger, seconded by Jane Sexton, and unanimously voted by those present for the Board to go into Executive Session, pursuant to Title 1 of the Maine Revised Statutes, section 405, subsection 6, paragraph F, to discuss information contained in records that are confidential under the Family Educational Rights and Privacy Act, Title 20 of the United States Code, section 1232g relating to a request from ST to review the Commissioner's decision to approve or disapprove a request for a student transfer, pursuant to Title 20-A, section 5205, subsection 6, paragraph F at 2:05 PM.

The Board returned to the regular business meeting at 2:23 PM.

MOTION by Jane Sexton, seconded by Jana Lapoint, and voted seven in favor with one member opposed (Fern Desjardins) to uphold the Deputy Commissioner's decision in the denial of a transfer for ST. Motion Carries and the transfer is denied.

ANNOUNCEMENTS:

- Submit travel and expense account vouchers to Mary Becker at the end of this meeting.
- The next Board meeting will be held at the Cross State Office Building or virtually via Zoom on Wednesday, September 9, 2020, at 1:00 PM.

ADJOURNMENT:

The August 21, 2020 State Board of Education meeting adjourned at 2:34 PM.