

**PLANNING, POLICY & GOVERNMENTAL AFFIARS
OCTOBER 20-21, 2004**

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SUBJECT

President's Council Report.

APPLICABLE STATUTE, RULE, OR POLICY

N/A

BACKGROUND

Monthly report given by the President of the President's Council.

DISCUSSION

N//A

IMPACT

N/A

STAFF COMMENTS AND RECOMMENDATIONS

N/A

BOARD ACTION

This item is for informational purposes only. Any action will be at the Board's discretion.

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SUBJECT

Lewis Clark State College Progress Report

BACKGROUND

Annually, the institutions of higher education in the State of Idaho are required to provide a progress report to the members of the State Board of Education. It has been approximately one year since the Lewis Clark State College has supplied an overview of its status and accomplishments.

DISCUSSION

President Dene Thomas will be in attendance at the meeting and present a summary of the accomplishments and future goals of the college.

IMPACT

President Thomas' presentation will provide the State Board members and others with current status information about the Lewis Clark State College.

STAFF COMMENTS AND RECOMMENDATIONS

Staff offers no comments or recommendations.

BOARD ACTION

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SUBJECT

Request for reconsideration of the Board's decision disapproving a proposed split of the Lake Pend Oreille School District No. 84.

APPLICABLE STATUTE, RULE, OR POLICY

Section 33-312, Idaho Code states that "[t]he state board of education may approve or disapprove" proposals for splitting school districts. Section 33-312 references the proposal requirements set out in section 33-310, Idaho Code. Copies of the code sections are included in the materials. If the Board approves a proposed split, then the proposal is placed before the school district voters for approval in a special election.

BACKGROUND

The proposal for this split came before the Board at the April 2004 meeting in Coeur d' Alene. The Board at that meeting disapproved the proposed split. The proponents of the split filed a request for reconsideration of the Board's decision. A copy of executive summary of the request is included in the agenda materials. A hearing officer was appointed to conduct a public hearing which was held August 5, 2004. The Hearing Officer's report will be submitted in a separate document.

DISCUSSION - IMPACT

The Board has been asked to reconsider its earlier rejection of the proposed split. Granting the request for reconsideration is at the discretion of the Board. If the Board elects to reconsider the matter, a new decision will need to be made whether to approve or disapprove the proposed split.

A decision not to reconsider will leave the matter as disapproved, subject to appeal by the split proponents. A decision to reconsider and a motion to approve will result in the proposed split being put before the district voters in a special election.

STAFF COMMENTS AND RECOMMENDATIONS

No Staff recommendation - See Hearing Officer's report.

BOARD ACTION

A Motion would be required for the Board to reconsider its prior decision.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

If a motion to reconsider passes, a motion would be required to either approve or disapprove the proposed split

Moved by _____ Seconded by _____ Carried Yes _____ No _____

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TITLE 33
EDUCATION
CHAPTER 3
SCHOOL DISTRICTS

33-312. DIVISION OF SCHOOL DISTRICT. A school district may be divided so as to form not more than two (2) districts each of which must have continuous boundaries, in the manner hereinafter provided, except that any district which operates and maintains a secondary school or schools shall not be divided unless the two (2) districts created out of the division shall each operate and maintain a secondary school or schools immediately following such division.

A proposal to divide a school district may be initiated by its board of trustees and submitted to the state board of education. Such proposal shall contain all of the information required in a proposal to consolidate school districts as may be relevant to a proposal to divide a school district. It shall also show the manner in which it is proposed to divide or apportion the property and liabilities of the district, the names and numbers of the proposed new districts, and legal description of the proposed trustee zones.

Before submitting any proposal to divide a school district, the board of trustees shall hold a hearing or hearings on the proposal within the district. Notice of such hearing or hearings shall be posted by the clerk of the board of trustees in not less than three (3) public places within the district, one (1) of which places shall be at or near the main door of the administrative offices of the school district, for not less than ten (10) days before the date of such hearing or hearings.

The state board of education may approve or disapprove any such proposal submitted to it, and shall give notice thereof in the manner of a proposal to consolidate school districts; except, that the state board of education shall not approve any proposal which would result in a district to be created by the division having or assuming a bonded debt in an amount exceeding the limitations imposed by law, or which would leave the area of any city or village in more than one school district.

If the state board of education shall approve the proposal to divide the district, notice of the election shall be published, the election shall be held and conducted, and the ballots shall be canvassed, according to the provisions of sections 33-401--33-406[, Idaho Code]. The division shall be approved only if a majority of all votes cast at said special election by the school district electors residing within the entire existing school district and voting in the election are in favor of the division of such district, and a majority of all votes cast at said special election by the qualified voters within that portion of the proposed new district having a minority of the number of qualified voters, such portion to be determined by the number of votes cast in each area which is a contemplated new district, are in favor of the division of the district, and upon such approval two (2) new school districts shall be thereby created. The organization and division of all school districts which have divided since June 30, 1963, are hereby validated.

If the division be approved, as herein provided, the board of canvassers shall thereupon notify the state board of education and the trustees of the district which has been divided. The state board shall give notice to the board of county commissioners of any county in which the newly created districts may lie.

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33-310. CONSOLIDATION OF SCHOOL DISTRICTS. The boards of trustees of two (2) or more contiguous school districts may submit to the state board of education a plan for the consolidation of their districts into a single new district.

The plan shall contain as a minimum the following, and in addition any other information required by the state board of education:

1. A map or maps showing the boundaries of the proposed new district, the boundaries of the component consolidating districts, the location of existing schoolhouses or other facilities of the component districts, the proposed trustee zones, and the proposed transportation routes if any;

2. A legal description of the boundaries of the proposed new school district and of the trustee zones proposed, with estimates of the population in each such zone;

3. The assessed value of taxable property of each component consolidating district and of the entire proposed new district;

4. Outstanding general obligation bonds of any component consolidating district, sinking funds accumulated, and estimated proceeds of sinking fund levies in process of collection;

5. Whether any component district has established a plant facilities reserve fund, and if so the amount on hand in such fund, the obligations against the fund, and the levy being made for such fund together with estimate of the proceeds of such levy in process of collection;

6. Whether any outstanding and unpaid bonds of any district included in the proposal are to be and become the obligations of the proposed consolidated district, or shall remain the obligations of the area of the district which first incurred the same. If such bonds are proposed to become the obligations of the proposed consolidated district, the plan shall show each participating district's portion thereof which shall be that portion of the aggregate debt as the assessed value of taxable property in each district bears to the aggregate assessed value of taxable property in the area of the proposed consolidated district;

7. If a joint district, the designation of the home county;

8. The official name and number of the proposed new district; and

9. How the property, real and personal, of former districts shall vest in the new district.

Before submitting any proposal for consolidating school districts to the state board of education, the board of trustees of each proposing district shall first call and cause to be held, within said district, a hearing on the proposal. Notice of the time and place of such hearing shall be given, by each such district, by two (2) publications in a newspaper of general circulation in the district, the first and last publications being not less than six (6) days apart.

At such hearings, any school district elector or taxpayer of the district may appear and be heard, and may request any information from the board of trustees, concerning the proposed consolidation. Records of the hearings shall be entered in the minutes of each board of trustees and shall be included with the plan of proposed consolidation if and when it is submitted to the state board of education.

Following any hearing, it shall be within the discretion of the board of trustees of any proposing district whether it shall further proceed in the plan for consolidating the districts.

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SUBJECT

Appeal filed by Liberty Charter School with the State Board based on Nampa School District's failure to take action on the modifications and renewal of its charter.

APPLICABLE STATUTE, RULE, OR POLICY

Section 33-5209 and 33-5207(5)(b), Idaho Code.

BACKGROUND

Nampa School District approved the charter of Liberty Charter School in 1999. The charter was approved for a term of 5 years, and was scheduled to expire in May 2004. In late 2003 Liberty Charter School requested modifications and renewal of its charter. The Nampa School District failed to take action on the requested modifications and renewal in a special meeting held in January 2004. Liberty Charter School filed an appeal with the Board in February 2004 based on the Nampa School District's failure to action on the requested charter modifications and renewal.

DISCUSSION

The Public Charter School Act, title 33, chapter 52, Idaho Code, was amended by S.B. 1444 (effective April 1, 2004), which removed the requirement that public school charters be subject to time limits. Accordingly, under the amended statute the Liberty charter no longer needs to be renewed. However, the parties have determined to continue the appeal. Section 33-5209(1), Idaho Code, provides that a public charter school may petition to revise its charter at any time, and Section 33-5209(4) provides a decision to not approve a revision of a charter may be appealed directly to the State Board. With respect to such appeal, the State Board shall follow the procedure as provided in Section 33-5207(5)(b), Idaho Code.

With respect to such appeal, the Board is required to hold a public hearing, and after the public hearing, shall take any of the following action: (i) reverse the decision of the Nampa School District if the State Board determines that the Nampa School District failed to appropriately consider the charter revisions, or acted in an arbitrary manner in denying, through failure to act, the charter revisions; (ii) remand the matter back to the Nampa School district for further review as directed by the State Board; or (iii) redirect the matter to another authorized chartering entity, such as the Public Charter School Commission, for further review as directed by the State Board.

The parties have entered into a stipulation requesting that the State Board place the charter under the Public Charter School Commission.

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BOARD ACTION

The State Board will need to prepare an appropriate motion based on action it intends to take after deliberations.

TITLE 33
EDUCATION
CHAPTER 52
PUBLIC CHARTER SCHOOLS

33-5207. CHARTER APPEAL PROCEDURE

(5) If, upon reconsideration of a decision to deny establishment of a new public charter school, the authorized chartering entity:

(a) Reverses its initial decision and approves the new public charter school, the charter shall be granted and there shall be no further appeal.

(b) Affirms its initial decision denying the new public charter school, the petitioners for the establishment of the new public charter school may appeal to the state board of education. The state board of education shall hold a public hearing within a reasonable time after receiving notice of such appeal but no later than sixty (60) calendar days after receiving such notice, and after the public hearing, shall take any of the following actions: (i) approve the charter for the establishment of a new public charter school if it determines that the authorized chartering entity failed to appropriately consider the charter petition, or if it acted in an arbitrary manner in denying the request; (ii) remand the matter back to the authorized chartering entity for further review as directed by the state board of education; or (iii) redirect the matter to another authorized chartering entity for further review as directed by the state board of education. Such public hearing shall be conducted pursuant to procedures as set by the state board of education.

33-5209. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized chartering entity shall ensure that all public charter schools for which it authorized charters, or for which it has responsibility, operate in accordance with the charter granted. A public charter school or the authorized chartering entity may enter into negotiations to revise its charter at any time. A public charter school may petition to revise its charter at any time. The authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions.

(2) If the authorized chartering entity has reason to believe that the public charter school has done any of the following, it shall provide the public charter school written notice of the defect and provide a reasonable opportunity to cure the defect:

(a) Committed a material violation of any condition, standard or procedure set forth in the approved charter;

(b) Failed to substantially meet any of the student educational standards identified in the approved charter;

(c) Failed to meet generally accepted accounting standards of fiscal management;

(d) Failed to submit required reports to the authorized chartering entity governing the charter; or

(e) Violated any provision of law.

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(3) A charter may be revoked by the authorized chartering entity if the public charter school has failed to cure a defect after receiving reasonable notice and having had a reasonable opportunity to cure the defect. Revocation may not occur until the public charter school has been afforded a public hearing and a reasonable opportunity to cure the defect, unless the authorized chartering entity reasonably determines that the continued operation of the public charter school presents an imminent public safety issue, in which case the charter may be revoked immediately. Public hearings shall be conducted by the governing authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with section 67-5242, Idaho Code. Reasonable notice and opportunity to reply shall include, at a minimum, written notice setting out the basis for consideration of revocation, a period of not less than thirty (30) days within which the public charter school can reply in writing, and a public hearing within thirty (30) days of the receipt of the written reply.

(4) A decision to revoke or not to approve a revision of a charter may be appealed directly to the state board of education. With respect to such appeal, the state board of education shall follow the procedure as provided in section 33-5207(5)(b), Idaho Code. In the event the state board of education reverses a decision of revocation, the public charter school subject to such action shall then be placed under the chartering authority of the commission.

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SUBJECT

Update on the Public Charter School Commission

BACKGROUND

Senate Bill 1444 established a new Public Charter School Commission (Commission). The Governor appointed seven members in May and the Commission held their first meeting in July. Those members are Jim Hammond, Chair, from Post Falls; Bill Goesling, Vice Chair, from Moscow; Paul Powell from Boise, Kirk Miller from Boise, Ann Souza from Sandpoint, Esther Van Wart from Pocatello, and Marianne Donnelly from Pocatello.

To date, the Commission has authorized one traditional public charter school (brick and mortar school), Rolling Hills Public Charter School in Boise, and one public virtual school, Richard McKenna Public Charter School in Mountain. They have also heard petitions from Idaho Leadership Academy in Idaho Falls, Idaho Leadership Academy in Pingree, Idaho Virtual Academy in Arco, Compass Public Charter School in Meridian, and Falcon Ridge Public Charter School in Kuna. The Commission has scheduled their next meeting for October 28. At that time, the Commission will consider the remaining petitions.

DISCUSSION

Mr. Jim Hammond, Chairman of the Public Charter School Commission, will be in attendance at the meeting and present a summary of the accomplishments and future goals of the Commission.

IMPACT

Chairman Hammond's presentation will provide the State Board members and others with current status information about the Public Charter School Commission.

STAFF COMMENTS AND RECOMMENDATIONS

Staff offers no comments or recommendations.

BOARD ACTION

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