

1. Agenda Approval

Changes or additions to the agenda

A motion to approve the agenda as posted.

2. Minutes Approval

BOARD ACTION

A motion to approve the minutes from the August 11-12, 2010 Regular Board meeting and the August 17, 2010 Special Board meeting as submitted.

3. Rolling Calendar

BOARD ACTION

A motion to set October 19-20, 2011 as the date and Lewis-Clark State College as the location for the October 2011 regularly scheduled Board meeting.



STATE BOARD OF EDUCATION
 TRUSTEES OF BOISE STATE UNIVERSITY
 TRUSTEES OF IDAHO STATE UNIVERSITY
 TRUSTEES OF LEWIS-CLARK STATE COLLEGE
 BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO
 STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION
 TRUSTEES FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND

**DRAFT MINUTES
 STATE BOARD OF EDUCATION
 August 11-12, 2010
 Idaho State University
 Rendezvous Complex
 Pocatello, Idaho**

A regularly scheduled meeting of the State Board of Education was held August 11-12, 2010 in Pocatello, Idaho at Idaho State University in the Rendezvous Complex.

Present:

Richard Westerberg, President
 Don Soltman, Secretary
 Milford Terrell
 Tom Luna, State Superintendent of Public Instruction

Ken Edmunds, Vice President
 Emma Atchley
 Rod Lewis

Absent:

Paul Agidius

Wednesday, August 11, 2010

The Board met at 9:00 a.m. on Wednesday, August 11, 2010 at Idaho State University, Rendezvous Complex, Pocatello, Idaho. Board President Westerberg called the meeting to order at 9:34 a.m.

NAMPA CLASSICAL ACADEMY CHARTER SCHOOL – CHARTER REVOCATION APPEAL

The Board took up the business of considering the Charter Revocation Appeal being made by the Nampa Classical Academy (NCA) Charter School. Testimony was taken and recorded for public record. A written transcript of the recorded testimony is available at the expense of the requestor.

NCA was self-represented by Eric Makrush. The following individuals testified, and were questioned, on behalf of NCA:

- Eric Makrush, adhoc NCA Board Member
- Gary Perrin, Managing Member of BAP, LLC, Landowner of NCA Modular Site
- James Lorenzen, Former NCA Board Chairman, Current NCA Board Member
- Michelle Clement-Taylor, School Choice Coordinator, State Department of Education
- Terrance La Masters, Former NCA Board Treasurer, Current Chairman of the Board for NCA

The Public Charter School Commission (PCSC) was represented by Michael Gilmore, Deputy

Attorney General. The following individuals were then cross examined:

- Gary Perrin, Managing Member of BAP, LLC, Landowner of NCA Modular Site
- James Lorenzen, Former NCA Board Chairman, Current NCA Board Member
- Michelle Clement-Taylor, School Choice Coordinator, State Department of Education
- Terrance La Masters, Former NCA Board Treasurer, Current Chairman of the Board for NCA

The following Board members submitted questions to NCA:

- Ken Edmonds
- Tom Luna
- Rod Lewis
- Milford Terrell
- Emma Atchley

The Board accepted a Profit & Loss statement, July 2009 through June 2010, as additional documentation from NCA.

Board President Westerberg recessed the meeting for lunch at 12:00 p.m. Board President Westerberg resumed the meeting at 12:37 p.m.

The PCSC was represented by Michael Gilmore, Deputy Attorney General. The following individuals testified, and were questioned, on behalf of the PCSC:

- Michael Gilmore, Deputy Attorney General
- Marcia Beckman, Title I Director, State Department of Education
- Tamara Baysinger, PCSC Manager

NCA was self-represented by Eric Makrush. The following individuals were then cross examined:

- Marcia Beckman, Title I Director, State Department of Education
- Tamara Baysinger, PCSC Manager

The following board members submitted questions to both parties:

- Ken Edmonds
- Tom Luna
- Rod Lewis
- Milford Terrell

Closing statements were presented by:

- Eric Makrush, adhoc NCA Board Member, on behalf of NCA
- Michael Gilmore, Deputy Attorney General, on behalf of PCSC

Board President Westerberg recessed the meeting for a break at 2:49 p.m. Board President Westerberg resumed the meeting at 3:03 p.m. and thanked everyone for their presentations and moved into the deliberation phase of the NCA hearing.

M/S (Soltman/Atchley): To deny the appeal by upholding the decision of the Idaho Public Charter School Commission on the grounds that the Nampa Classical Academy failed to establish that the Commission did not appropriately consider the revocation, and/or acted in an arbitrary manner in determining to revoke the charter.

Motion failed with a vote of 3 to 4 (Rod Lewis, Tom Luna, Milford Terrell, and Ken Edmonds voted nay).

M/S (Lewis/ Luna): To grant the appeal by reversing the decision for the Idaho Public Charter

School Commission. This should be based on findings and conclusions to the effect that the Commission failed to appropriately consider the revocation. *Motion failed with a vote of 3 to 4 (Don Soltman, Richard Westerberg, Emma Atchley, and Ken Edmunds voted nay).*

Milford Terrell asked to leave the decision on the table and move this to the last item on the agenda tomorrow evening. No objections were presented and it was so ordered by Board President Westerberg. The Board does not expect NCA staff and/or PCSC staff to attend tomorrow evening.

Ken Edmunds asked if Board members can discuss information with the parties. It was determined that was possible only if both parties are present and the board member presents any subsequent findings to the remaining board members.

M/S (Terrell/Lewis): To ask Rod Lewis, Ken Edmunds, Don Soltman, and Tom Luna, as a committee acting on behalf of the Board, to bring back additional information to the Board at the end of tomorrow's meeting. *Motion carried with a vote of 5 to 2 (Don Soltman and Richard Westerberg voting nay).*

Board members discussed possible options:

- 60-90 days to allow counsel to review testimony of today's hearing.
- Assigning another entity, with more experience, to ensure that this school moves forward.
- Giving NCA a one year timeframe to cure the defect.
- Giving NCA a three year timeframe to cure the defect.
- Requiring that a certain person remain on NCA's board possessing an understanding of the financial aspects of the school.
- Overturn the revocation, NCA goes back under authorization of the PCSC.
- A remand decision, which would require the PCSC to perform another hearing.

Board President Westerberg recessed the meeting for a break at 4:00 p.m. Board President Westerberg resumed the meeting at 4:26 p.m.

M/S (Luna/Atchley): To accept the revised agenda as published.
Motion carried unanimously.

DEPARTMENT OF EDUCATION

1. Superintendent's Update

Superintendent Luna said that most of the items on the agenda are for rules that are to be taken forward for public comment, which includes all items (except for items 1, 7, 11, 27 and 28). Board President Westerberg requested that Item # 9 be handled separately.

Mr. Luna covered the following points:

- 62% of Idaho schools made AYP this year. There are 41 target areas for each school, so this is not an easy task. More students in each school, and in each subgroup, had to reach a higher percentage to make AYP.
- The latest efforts by the U.S. Congress are to send more stimulus dollars to Idaho. Idaho qualifies for \$10 million in education dollars. The money will come to the state in 45 days and the school districts have 21 months to use the funds. The funds can only be used to hire teachers, aides, backfill furlough days, or returning pay and benefits to teachers and staff. It cannot be used for facilities and programs.

2. Proposed Rule – IDAPA 08.02.03.004, Rules Governing Thoroughness Incorporated by Reference – Common Core Standards for Math

M/S (Luna/Terrell): To approve the Idaho Content Standards for Math as submitted effective for the 2013-2014 academic year. Motion was approved unanimously.

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.03.004, Rules Governing Thoroughness to incorporate by reference the Idaho Content Standards for Math. Motion was approved unanimously.

3. Proposed Rule – IDAPA 08.02.03.004, Rules Governing Thoroughness, Incorporated by Reference – Common Core Standards for English Language Arts.

M/S (Luna/Terrell): To approve the Idaho Content Standards for English Language Arts as submitted effective for the 2013-2014 academic year. Motion was approved unanimously.

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.03.004, Rules Governing Thoroughness to incorporate by reference the Idaho Content Standards for English Language Arts. Motion was approved unanimously.

4. Proposed Rule – IDAPA 08.02.03.004, Rules Governing Thoroughness, Incorporated by Reference – Information and Communication Technology (ICT) Standards

M/S (Luna/Terrell): To approve the Idaho Content Standards for Information and Communication Technology as submitted. Motion was approved unanimously.

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.03.004, Rules Governing Thoroughness to incorporate by reference the Idaho Content Standards for Information and Communication Technology. Motion was approved unanimously.

5. Temporary and Proposed Rule – IDAPA 08.02.03.111, Timeline for Dissemination of Assessment Results and Communication to Parents

M/S (Luna/Terrell): To approve the Temporary and Proposed rules for IDAPA 08.02.03.111 to require a maximum of 3 weeks for dissemination of assessment results and communication to parents. Motion was approved unanimously.

6. Temporary and Proposed Rules – IDAPA 08.02.03.004.03 – Incorporation by Reference, the Limited English Proficiency Program Annual Measureable Achievement Objectives (AMAO) and Accountability Procedures; IDAPA 08.02.03.004.04 – Incorporation by Reference, The Idaho English Language Assessment (IELA) Achievement Standards; IDAPA 08.02.03.112 – Accountability, Adequate yearly Progress AYP) Definitions.

M/S (Luna/Terrell): To approve the Temporary and Proposed rules for:

- IDAPA 08.02.03.004.03-Incorporation by Reference, The Limited English Proficiency Program Annual Measurable Achievement Objectives (AMAOs) and Accountability Procedures.
- IDAPA 08.02.03.004.04-Incorporation by Reference, The Idaho English Language Assessment (IELA) Achievement Standards; and
- IDAPA 08.02.03.112-Accountability, Adequate Yearly Progress (AYP) Definitions.

Motion was approved unanimously.

7. Temporary and Proposed Rule – IDAPA 08.02.03.105, Removal of the Science ISAT from the Graduation Requirement

M/S (Luna/Lewis): To approve the temporary and proposed rules for IDAPA 08.02.03.105 to remove the science ISAT requirement and instruct the Department of Education to develop End of Course assessments in science to serve as a graduation requirement by the graduating class of 2017. Motion carried with a vote of 5 to 2 (Rod Lewis and Don Soltman voted nay).

Superintendent Luna feels there is a better way to assess a student's proficiency in Science. Students are not taught sequentially in science similar to other subjects. The preferred approach is an end of course assessment for science. The requirement, as of 2013, would be eliminated and an end of course program would be implemented, as of 2017. Once the end of course assessments are implemented and reliable, we would move away from ISAT testing. Current ISAT testing in science is not an accurate reflection of science proficiency.

Rod Lewis expressed concerns that this approach will drop momentum in science learning, just as we want to keep the momentum.

Superintendent Luna would not object to a timeline prior to 2017, depending on resources to implement that timeline.

Don Soltman asked if this is a cost saving measure.

Superintendent Luna indicated that the amount is only for reporting purposes and is a small amount based on the total amount spent on testing.

Rod Lewis is concerned with postponing a science requirement for seven years.

Superintendent Luna does not feel that this lowers the bar, but it does postpone raising the bar. There are two things driving the postponement to 2017, which are resources and development processes.

8. Temporary/Proposed Rule Change – IDAPA 08.02.03.108 – Special Education

M/S (Luna/Terrell): To approve the temporary and proposed rule change to IDAPA 08.02.03.109 – Special Education. Motion carried unanimously.

9. Proposed Rule – IDAPA 08.02.03.160-161 – Safe and Supportive Schools

M/S (Luna/Terrell): To approve the proposed amendment to IDAPA 08.02.03.160 and IDAPA 08.02.03.161 Rules Governing Uniformity – Safe and Supportive Schools. Motion carried unanimously.

Don Soltman asked if there has been any analysis of the cost involved.

Marybeth Flachbart indicated that a position has been created at BSU and 48 consultants have been hired to provide training to schools, 7 regional consultants, and Positive Behavior Intervention Support (PBIS). There is a grant written and \$500,000 has been approved for the training.

Don Soltman asked if this is adopted by the Board, how much time the Board has to provide input.

Luci Willits reported on the process and indicated that it would return to the Board in November for review before it is presented to the Legislature.

Milford Terrell felt that some of the items allowed as restraint opens schools up for lawsuits.

Marybeth Flachbart indicated that the school would determine what is and what is not an acceptable restraining method. A therapeutic hold is often used and avoiding inappropriate methods would be covered in the training.

Milford Terrell asked if this issue is coming up in our schools.

Marybeth Flachbart said that ways in which restraint are currently handled in some schools are currently inappropriate. Each school has a student handbook, but there also needs to be a policy in place to train adults and how to address these issues.

10. Changes to the Idaho Special Education Manual

M/S (Luna/Terrell): To adopt the changes to the Idaho Special Education Manual. Motion carried unanimously.

11. Approval for “New School” Status for Schools in Restructuring

M/S (Luna/Atchley): To approve the recommendation by the Subcommittee on Restructuring to grant “New School” status to the submitted schools in Restructuring. Motion carried unanimously.

Superintendent Luna indicated that this item puts a plan in place for restructuring when the plans put in place are not successful.

Marybeth Flachbart stated that one particular school had changed 66% of their staff and they became essentially a new school with a new governance structure.

Rod Lewis asked what happens when they become a new school, they get to start at “zero”.

Marybeth Flachbart indicated that is correct.

Rod Lewis asked if it makes sense that if you send them back to “zero”, they would get additional time as a new school would.

Steve Underwood said that if a school makes AYP two years in a row, no matter where you are in the process, it puts them back to “zero”. If the school does not provide sufficient evidence that they have met guidelines, they would not be restarted. This is only for schools that have demonstrated evidence of significant restructuring.

12. Adoption of Curricular Materials and Related Instructional Materials as Recommended by the Curricular Materials Selection Committee

M/S (Luna/Terrell): To adopt the curricular materials and their related instructional materials as recommended by the Curricular Materials Selection Committee as submitted for Social Studies, Economics, Psychology, Sociology, Character Education, Health, Physical Education, Humanities, Drivers Education, Limited English Proficiency and Computer

Applications. *Motion carried unanimously.*

13. Proposed Revision to the Idaho Standards for Initial Certification of Professional School Personnel – School Social Work Standards – IDAPA 08.02.02.004 – Rules Governing University, Incorporation by Reference

M/S (Luna/Terrell): To approve the request by the Professional Standards Commission to approve the proposed revisions to the Idaho Standards for School Social Workers for inclusion in the Idaho Standards for the Initial Certification of Professional School Personnel. *Motion carried unanimously.*

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.02.004, Rules Governing Uniformity, Incorporation By Reference. *Motion passed unanimously.*

14. Proposed Revision to the Idaho Standards for Initial Certification of Professional School Personnel – Health Teacher Standards – IDAPA 08.02.02.004 – Rules Governing Uniformity, Incorporation by Reference and Proposed Revision to IDAPA 08.02.022, Endorsements E-L – Health (6-12) Endorsement

M/S (Luna/Terrell): To approve the request by the Professional Standards Commission to approve the proposed revisions to the Health (6-12) Endorsement, and the Idaho Health Teacher Standards for inclusion in the Idaho Standards for the Initial Certification of Professional School Personnel. *Motion carried unanimously.*

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.02.004, Rules Governing Uniformity, Incorporation By Reference. *Motion carried unanimously.*

15. Proposed Revision to the Idaho Standards for Initial Certification of Professional School Personnel – Social Studies Foundation and Enhancement Standards – IDAPA 08.02.02.004 – Rules Governing Uniformity, Incorporation by Reference

M/S (Luna/Terrell): To approve the request by the Professional Standards Commission to approve the proposed revisions to the Idaho Foundation Standards for Social Studies Teachers and the Enhancement Standards (Economics, Geography, Government and Civics, and History) for inclusion in the Idaho Standards for the Initial Certification of Professional School Personnel. *Motion carried unanimously.*

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.02.004, Rules Governing Uniformity, Incorporation By Reference. *Motion carried unanimously.*

16. Proposed Revision to the Idaho Standards for Initial Certification of Professional School Personnel – Science Foundation and Enhancement Standards – IDAPA 08.02.02.004 – Rules Governing Uniformity, Incorporation by Reference

M/S (Luna/Terrell): To approve the request by the Professional Standards Commission to approve the proposed revisions to the Foundation Standards for Science Teachers and the Enhancement Standards (Biology, Chemistry, Earth and Space Science, Natural Science, Physical Science, and Physics) for inclusion in the Idaho Standards for the Initial Certification of Professional School Personnel. *Motion carried unanimously.*

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.02.004, Rules

Governing Uniformity, Incorporation By Reference. *Motion carried unanimously.*

17. Proposed Rule Clarification to IDAPA 08.02.02.024 – Endorsement M-Z – Natural Science (6-12) Endorsement

M/S (Luna/Terrell): To approve the proposed rule IDAPA 08.02.02.024, Endorsements M-Z – clarification to the Natural Science (6-12) Endorsement. *Motion carried unanimously.*

18. Proposed Online Teacher Endorsement (Pre-K-12) Language for IDAPA 08.02.02.033

M/S (Luna/Terrell): To approve the proposed changes to IDAPA 08.02.02.033 as submitted. *Motion carried unanimously.*

19. Proposed Addition to the Idaho Standards for Initial Certification of Professional School Personnel – Pre-Service Technology Standards – IDAPA 08.02.02.004 – Rules Governing Uniformity, Incorporation by Reference

M/S (Luna/Terrell): To approve the request by the Professional Standards Commission to adopt the proposed Pre-Service Technology Standards for inclusion in the Idaho Standards for the Initial Certification of Professional School Personnel. *Motion carried unanimously.*

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.02.004, Rules Governing Uniformity, Incorporation By Reference. *Motion carried unanimously.*

20. Proposed Revision to the Idaho Standards for Initial certification of Professional School Personnel – Idaho Standards for Mathematics Teachers – IDAPA 08.02.02.004 – Rules Governing Uniformity, Incorporation by Reference

M/S (Luna/Terrell): To approve the request by the Professional Standards Commission to adopt the proposed revisions to the Idaho Standards for Mathematics Teachers for inclusion in the Idaho Standards for the Initial Certification of Professional School Personnel. *Motion carried unanimously.*

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.02.004, Rules Governing Uniformity, Incorporation By Reference. *Motion carried unanimously.*

21. Proposed Revision to the Idaho Standards for Initial Certification of Professional School Personnel – Idaho Standards for Elementary Education Teachers – IDAPA 08.02.02.004 – Rules Governing Uniformity, Incorporation by Reference

M/S (Luna/Terrell): To approve the request by the Professional Standards Commission to adopt the proposed revisions to the Idaho Standards for Elementary Education Teachers for inclusion in the Idaho Standards for the Initial Certification of Professional School Personnel. *Motion carried unanimously.*

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.02.004, Rules Governing Uniformity, Incorporation By Reference. *Motion carried unanimously.*

22. Proposed Changes to IDAPA 08.02.02.022 and 08.02.02.024 – Rules Governing Uniformity – Endorsements A-D and M-Z; Art (K-12 or 6 – 12, Communications/Drama (6-12, Drama (6-12), Music (6-12 or K -12)

M/S (Luna/Terrell): To approve the proposed rule changes to IDAPA 08.02.02.022 and 08.02.02.024, Rules Governing Uniformity, Endorsements A-D and M-Z as submitted. Motion carried unanimously.

23. Proposed Revision to the Idaho Standards for Initial Certification of Professional School Personnel – Idaho Foundation and Enhancement Standard for Visual and Performing Arts Teachers – IDAPA 08.02.02.004 – Rules Governing Uniformity, Incorporation by Reference

M/S (Luna/Terrell): To approve the request by the Professional Standards Commission to approve the proposed revisions to the Idaho Foundation Standards for Visual and Performing Arts Teachers and the Enhancement Standards (Visual Art, Drama, and Music) for inclusion in the Idaho Standards for the Initial Certification of Professional School Personnel. Motion carried unanimously.

M/S (Luna/Terrell): To approve the proposed rule change to IDAPA 08.02.02.004, Rules Governing Uniformity, Incorporation By Reference. Motion carried unanimously.

24. Proposed Early Childhood Special Education Endorsement (Pre-K-3) Language for IDAPA 08.02.02.028 – Exceptional Child Certificate

M/S (Luna/Terrell): To approve the proposed rule changes to IDAPA 08.02.02.028 as submitted. Motion carried unanimously.

25. Revision of the Idaho Standards for Public School Driver Education and Training

M/S (Luna/Terrell): To approve the proposed rule changes to IDAPA 08.02.02.004 and 08.02.02.230, as submitted. Motion carried unanimously.

M/S (Luna/Terrell): To approve the changes to the Idaho Public Driver's Education Programs Manual, as submitted. Motion carried unanimously.

26. Temporary and Proposed Rule – Mastery Advancement Pilot Program (MAPP)

M/S (Luna/Terrell): To approve the proposed rule of IDAPA code 08.02.03.117 to detail the Mastery Advancement Pilot Program as submitted. Motion carried unanimously.

27. Boise School District – Request for Rule Waiver

M/S (Luna/Soltman): To approve the request by the Boise School District to receive a waiver for Idaho Administrative code, IDAPA 08.02.04 – Section 112, Accountability for non-Title 1 for school choice between secondary schools for one year. Motion carried unanimously.

Dr. Farris and Marybeth Flachbart reported on this item.

Milford Terrell does not understand what the benefit is from this item.

Superintendent Luna reported that small districts do not have the option of Choice. In the first year, when you offer choice, few parents take advantage of the option of Choice, but they do take advantage of supplemental services.

Don Soltman asked if this sets a precedent.

Superintendent Luna said it does, but less than 10% of the students will take advantage of Choice. If other school districts request to take advantage of supplemental services, I wouldn't have a problem with it.

Rod Lewis indicated that this sets a precedent that Choice is not a policy option in Idaho.

Marybeth Flachbart indicated that Boise School District already offers Choice, even before they are required.

28. 2009-2010 Accreditation Summary Report of Idaho Schools

M/S: (Luna/Lewis): To approve the 2009-2010 Accreditation Summary Report of Idaho Schools, as submitted. *Motion carried unanimously.*

Thursday, August 12, 2010

The Board met at 8:00 a.m. on Wednesday, August 12, 2010. Board President Westerberg called the meeting to order at 8:08 a.m.

President Dr. Duane Nellis was sad to announce that Mike Haslett was struck by lightning two days ago in Salmon, Idaho while on horseback rounding up cattle. CPR was administered to him, but he was not able to be resuscitated.

M/S (Lewis/Soltman): A motion to move into Executive Session. *Motion carried unanimously.*

Boardwork

1. Agenda Approval

M/S (Luna/Atchley): To accept the revised agenda as published.
Motion carried unanimously.

2. Minutes Approval

M/S (Edmunds/Soltman): To approve the minutes from the June 16-17 Regular Board meeting as submitted. *Motion carried unanimously.*

3. Rolling Calendar

M/S (Edmunds/Soltman): To set August 10-11, 2011 as the date and Idaho State University as the location for the August 2011 regularly scheduled Board meeting. *Motion carried unanimously.*

Philip Cole, Associate Professor of Physics and Chairman of the Executive Committee of the ISU Faculty Senate gave a presentation regarding the selection, development, and retention of competent faculty at ISU. Mr. Cole expressed concerns regarding the review of ISU governance by an SBOE committee.

Board President Westerberg gave an update on ISU, LCSC, and BSU awards.

By unanimous consent, the Board agreed to move Item #7 from PPGA to the Consent Agenda at Board Member Soltman's request.

CONSENT AGENDA

M/S (Luna/Soltman): To approve the consent agenda as modified. *Motion carried unanimously.*

1. BSU New Positions

By unanimous consent the Board approved the request by Boise State University for ten (10) new positions (9.5 FTE) supported by local, grant and appropriated funds.

2. ISU New Positions

By unanimous consent the Board approved the request by Idaho State University for two (2) new non-classified staff positions (2.0 FTE) and six (6) new classified staff positions (4.0 FTE) support by state, local and grant funds.

3. U of I Reactivation of Position

By unanimous consent the Board approved the request by the University of Idaho to reactivate one (1) position (1.0 FTE) supported by appropriated and non-appropriated funds.

4. EITC New Positions

By unanimous consent the Board approved the request by Eastern Idaho Technical College to create three (3) new positions (3.0 FTE) supported by grant funds.

5. Alcohol Permits Approved by University Presidents

By unanimous consent the Board accepted the report as submitted.

7. Eastern Idaho Technical College (EITC) Advisory Council Appointment

By unanimous consent the Board approved the appointment of Robert Smith to the Eastern Idaho Technical College Advisory Council for a term effective immediately and ending December 31, 2013.

PPGA

1. Idaho State University (ISU) Progress Report

Dr. Art Vailas provided an overview of ISU's progress in carrying out the institution's Board approved role, mission and strategic plan on behalf of the university, faculty, and staff. ISU is following the governance of the State Board of Education. The challenge is to sustain a public mission with declining financial resources. The Rendezvous Complex is the largest in the State of Idaho. Dr. Vailas introduced new Deans and members of the Administration. Strategic planning and budget

performance are well underway so that ISU can look ahead to the future as a university.

2. Presidents' Council Report

Dr. Burton Waite, President of Eastern Idaho Technical College and current Chair of the Presidents' Council, gave the bi-monthly report for the Presidents' Council. There has no meeting of the Presidents' Council since the last Board meeting. The next meeting is scheduled for September 7th in Boise to discuss the future meeting schedule and the possibility of meeting via videoconferencing.

3. Idaho Public Television (IPTV)

Peter Morrill, General Manager of the Division of Idaho Public Television, gave an overview of IPTV's progress in carrying out the strategic plan. Mr. Morrill introduced Tim Tower, interim Director of Fiscal Affairs, filling in for Tony Ward who retired after almost 20 years of public service. Questions at recent State meetings throughout the state have primarily been:

- Zero funding for Idaho Public Television? The public is concerned that IPTV will be zeroed out over the next four years. Through the leadership of the Governor's Office, legislative leadership, and viewers across Idaho, funding has continued and was reduced at the same level as other state agencies.
- No filming in the Wilderness? U.S. Forest Service regulations have banned filming in the wilderness. For now, the ban has been lifted.
- Did you make your fundraising goal? Yes, IPTV did meet their fundraising goals and exceeded that goal by about \$194,000.

IPTV received grants of \$844,000 from the US Department of Agriculture and the US Department of Commerce and some State funds for translator construction. IPTV received another \$750,000 from the MJ Murdock Charitable Grant to install refresh equipment in our technical area and to purchase of a backup generator. Two upcoming FCC mandates are the Emergency Alert Service Mandate and FCC Loudness Initiative. IPTV has deferred the removal of analog equipment. The KISU studio upgrade has been completed. The IPTV website has been upgraded to include national and local programming, and video streaming. Mr. Morrill reviewed the awards that IPTV recently received.

4. Idaho Digital Learning Academy (IDLA) Annual Report

Dr. Donna Hutchinson, CEO, provided a report on behalf of IDLA. Funding for this year was cut by 22% and a plan is being developed to cover these cuts. Graphs of enrollment by district and enrollment demographics were presented. Dr. Hutchinson reviewed the grants and awards received by IDLA for the past year, a video of an IDLA student, and the primary reasons that online classes are selected. Blackfoot School District reviewed the benefits of IDLA within the district and throughout Idaho. A video was played featuring a student from Riggins, Idaho and how IDLA helped him prepare for college.

Ken Edmonds has concerned about achieving the economy of scale with caps instituted on enrollment.

Board President Richard Westerberg asked Dr. Hutchinson to look at IDLA's cost model to determine if it is the best model going into the future.

Dr. Hutchinson said that she would and the finance committee is looking into that as well.

5. Performing Arts in Education Presentation

Laird Stone introduced Danny Marona, founder of the Marona Performing Arts Scholarship Fund and chairman of the foundation board for the Southern Idaho Learning Center. The foundation relies strictly on donations and provides scholarships to high school juniors and seniors, and college freshmen and sophomores. Statistics prove that communities that have vibrant, strong performing arts programs have less crime, violence, and drug abuse. In addition, individuals who take performing arts have a better sense of poise. The annual fundraiser is scheduled for September 12th with this year's theme to dress as a comic book character. It is sad to see the interest in the performing arts diminish from year to year. Laird Stone reported that the foundation would like to expand throughout the entire state, with the goal of providing scholarships at all of Idaho's universities.

6. Doug Sayer – Transforming Education

Doug Sayer, President and founder of Premier Technology, presented to the Board regarding integrating business and education working together in relationship.

Milford Terrell is a business owner. However, there are two sides to every story. The business community needs to provide input by writing down specifically stating needs, goals, and what the Board can do to improve.

Ken Edmonds thanked Mr. Sayer for loaning Mike Scott to be a member of the Research Council. The Board cannot do much more than what your organization helps us to do.

Superintendent Luna feels that ultimately Mr. Sayer and other business owners do not have the authority to make changes in the educational system. It will have to come from educational policy makers.

Milford Terrell stressed that Mr. Sayer is going to have to swim upstream and push to get the results you are after.

7. Eastern Idaho Technical College (EITC) Advisory Council Appointment

Moved to Consent Agenda.

8. Chief Executive Officers Employment Agreements

M/S (Soltman/Terrell): To approve the employment agreements for Boise State University President, Dr. Robert Kustra, University of Idaho President, Dr. Duane Nellis, Idaho State University President, Dr. Art Vailas, Eastern Idaho Technical College President, Mr. Burton Waite, and the State Board of Education Executive Director, Dr. Mike Rush in the forms provided to the Board and to authorize the Board President to sign on behalf of the Board.
Motion carried unanimously.

Superintendent Luna asked if there are any changes in salary or benefits.

Board President Westerberg said there are not and that all salaries and benefits remain flat.

9. Idaho Collegiate Plate Program

M/S (Soltman/Lewis): To approve the request by the College of Western Idaho to participate

in the Idaho Collegiate Plate program and to approve the design as submitted. *Motion carried unanimously.*

10. State Completion Goal

M/S (Soltman/Atchley): To approve the State of Idaho's College Completion Goal be for 60% of young Idahoans (ages 25-34) to have a college degree or certificate by 2020, and to have the board staff and institutions develop a final recommendation set of College Completion metrics for the October 2010 Board meeting. *Motion carried unanimously.*

Selena Grace, State Board of Education, provided a presentation of research to develop a statewide completion goal for Idaho. Our country is becoming the least education country in the world. At one time the United States was first, but now we have fallen to thirteenth. The current Idaho rate is 34%, the national rate is 40%, and the goal of 60% would be attainable in the ten year timeframe. The institutions presidents and business community were included in discussions. We are involving all the stakeholders from the Governor's office, business community, and agencies to work through critical elements.

Discussion included the goal, whether the goal was attainable, having interim goals to ensure progress, an implementation plan, reconciliation goals to community needs as to the type of degrees and quality of education, whether private institutions are included, what are the next steps, and who would take on ownership and responsibilities of the processes.

Don Soltman reminded the Board of the conversation at the last planning session where a goal of 65% was discussed.

Mike Rush said we will need to bring other institutions into the mix, such as NNU, BYU Idaho, and CYU. There are other post-secondary education certificates that can be included.

Superintendent Luna indicated that this is where the input from the business community is needed to determine which degrees, certificates, and post-secondary education is needed for feeding the needs of our future economy. Whenever we talk about gaps, we need to quit talking about closing gaps, but eliminating gaps.

Emma Atchley concurred with Superintendent Luna and this program is exactly the type of thing the public is looking for from the State Board.

Ken Edmunds warned against using private institutions only in order to meet a goal.

Board President Richard Westerberg and Rod Lewis asked the presidents of the institutions to come forward to weigh in on the goal being discussed. All institutions felt that the goal was attainable. However, the following concerns were expressed:

- The continued erosion of funding to support special programs
- The elimination of appropriations and looking into different funding models
- What is the total cost of reaching the goal
- Where are the biggest needs to improve economic development in Idaho
- How goals are met
- How the degree completions are counted
- Long-term demographics
- Looking ahead into 2012-2013

Ken Edmonds feels we need to look at access and portability. We have to change our structures and education from every direction to get down this path.

Superintendent Luna said that if the business community is telling us that the degree doesn't mean anything, we need to look at what we require to obtain that degree. Mr. Luna is concerned whether Idaho has the institution and funding capacity to meet the goal.

Rod Lewis said the Board will need to have very focused effort, ownership, implementation, plan coordination, and responsibilities to provide clarity to this item.

11. Proposed Institutional Peers

M/S (Soltman/Terrell): To approve the list of thirteen peers and three aspirational peers proposed by BSU, ISU, UI, LCSC, and EITC for use in instructional and institutional performance. Motion carried unanimously.

Selena Grace, State Board of Education, provided a presentation, history, and background for this item. The National Center for Higher Education Management Systems (NCHEMS) was contracted to provide a proposed list of peers using a MGT study. Peer recommendations were reviewed by the institutions and it was felt the institutions are in a better position to approve their own peers.

12. Proposed Rule changes to IDAPA 08.02.02 – Idaho Comprehensive Literacy Assessment

M/S (Soltman/Luna): A motion to approve the Proposed Rule changes to IDAPA 08.02.02 as submitted. Motion carried unanimously.

13. Proposed Rule Changes to IDAPA 08.02.03.105.03 – Alternative Graduation Mechanisms

M/S (Soltman/Luna): To approve the Proposed Rule changes to IDAPA 08.02.03.105.03 – Alternate Graduation Mechanisms as submitted.

Substitute Motion/S (Lewis/Terrell): To approve the Proposed Rule changes to IDAPA 08.02.03.105.03 – Alternate Graduation Mechanisms with no change to 06.a.iii keeping the requirement at the senior year, rather than the junior year, with notification still given in the junior year and the alternate graduation mechanism not available until the senior year. Motion carried unanimously.

Rod Lewis is concerned about immediately offering an alternative mechanism after failing to meet proficiency in grade 10.

Tracie Bent indicated the intent of this item is to allow enough time for the school districts to notify and communicate to students, make students aware of this option, and allow time for the student to complete the alternate plan.

Rod Lewis said the concern is that a school could arguable use this to lower the bar and lessen the requirements.

Richard Westerberg indicated that would be true unless the plans are made more rigorous.

Superintendent Luna said that less than half of school districts have an alternate plan in place. Before the ISAT was instituted, the only requirement was a certain number of credits. If the plan is more robust, then giving the student more than one year would be reasonable. In the largest school

district, only eight (8) students took advantage of the alternate graduation route.

Rod Lewis said it feels like the Board has worked for assessment and accountability with the goal to ensure that the student knew the material. The concern is that if you move back, the accountability will change to alternative plans.

14. Proposed Rule changed to IDAPA 08.01.11 – Registration of Post-Secondary education Institutions and Proprietary Schools

M/S (Soltman/Atchley): To approve the Proposed Rule changes to IDAPA 08.01.11 as submitted. Motion carried unanimously.

Board President Richard Westerberg recessed the meeting for lunch at 12:06 p.m. Board President Richard Westerberg resumed the meeting at 1:02 p.m.

Audit

1. Update on Codes of Conduct and Compliance Officer

Rod Lewis provided an update for the Audit Committee and its activities at the most recent meeting. Attending were the internal auditors from the institutions. There was discussion regarding the available resources. They are using a risk assessment formula. Year-end audit reports will be reviewed. Each institution will assign a Compliance Officer, most appropriately the General Counsel.

Business Affairs & Human Resources

1. Revised Multi-Year Employment for the Head Women's Soccer Coach

M/S (Terrell/Soltman): To approve Idaho State University's revised multi-year employment agreement for the Head Women's Soccer Coach as submitted. Motion carried unanimously

2. Multi-Year Contract for the Director of Tennis

M/S (Terrell/Soltman): To approve the University of Idaho's multi-year employment contract Jeff Beaman, Director of Tennis, for a term commencing on July 2, 2010 and terminating on June 30, 2013 in substantial conformance to the contract submitted to the Board in Attachment 1. Motion carried unanimously

Rod Lewis indicated that the model contract included a clause that changes in salary were able to be made without further Board approval. Have those changes been made?

Mr. Freeman indicated there is no such clause in the contract under consideration.

3. Multi-Year Contract for women's Swim Team Head Coach

M/S (Terrell/Soltman): To approve the University of Idaho's multi-year employment contract for the Women's Swim Team Head Coach for a term commencing on August 15, 2010, and terminating on August 14, 2014, in substantial conformance to the contract submitted to the Board in Attachment 1. Motion carried unanimously

4. Multi-Year Men's Basketball Team Head Coach

M/S (Terrell/Atchley): To approve the University of Idaho's multi-year employment contract for the Men's Basketball Team Head Coach for a term commencing on March 24, 2010, and terminating on March 23, 2015, in substantial conformance to the form submitted to the Board in Attachment 1, correcting Head "Football" Coach to Head "Basketball" Coach on Page 1003. Motion carried unanimously

5. Multi-Year Contract for Women's Basketball Team Head Coach

M/S (Terrell/Lewis): To approve the University of Idaho's multi-year employment contract for the Women's Basketball Team Head Coach for a term commencing on March 27, 2010, and terminating on March 26, 2015, in substantial conformance to the contract submitted to the Board in Attachment 1. Motion carried unanimously

Section II - Finance

1. FY 2012 Line Items Requests

M/S (Terrell/Lewis): To approve the FY2011 Supplemental Appropriation Request for College Access Challenge Grant in the amount of \$673,000 in federal funds as shown on page Tab 1a page 1. Motion carried unanimously

M/S (Terrell/Atchley): To approve the FY 2011 Supplemental Appropriation Request for Proprietary Schools in the amount of \$21,300 in dedicated fund spending authority on page Tab 1a page 3. Motion carried unanimously

M/S (Terrell/Soltman): To approve the Line Items for the agencies and institutions as listed in Attachment 1b page 1, and to authorize the Executive Director to approve the MCO and Line Item budget requests for agencies and institutions due to DFM and LSO on September 1, 2010. Motion carried unanimously

Rod Lewis confirmed that Tab 1-G has been approved through IRSA and the Board prior to this request.

2. FY 2012 Capital Budget Requests

M/S (Terrell/Soltman): Recommend no major capital funding for FY 2011 and have the Permanent Building Fund Advisory Council concentrate upon Alterations and Repairs and other non-major projects.

Substitute Motion/S (Lewis/Atchley): To recommend to the Permanent Building Fund Advisory Council funding of Alterations and Repairs and other non-major projects, as well as funding for the major capital project on Tab 2, Page 3, for consideration in the FY 2012 budget process. Motion carried unanimously.

Matt Freeman, State Board of Education indicated that are three motion options for the Board:

- To approve the major capital projects on page 3
- To approve selected major capital projects as listed on page 3
- To approve no major capital projects and used the funds for deferred maintenance, alternations and repairs

Rod Lewis asked what the institution's comments were on this item.

The institutions provided their input as requested.

Mike Rush said the Board can recommend that the Permanent Building Fund prioritize maintenance, but still allow the institutions the ability to present requests to the Permanent Building Fund.

Board President Westerberg asked if the projects have been prioritized for the institutions as a whole list.

Matt Freeman indicated prioritization has not been done in the past for all institutions. The chart lists items in priority for each institution, but not as an entire list combining all items for all institutions. There is no prescribed format for recommendations.

Rod Lewis indicated that there are disparities in funding based on the projects, how much money is available, and what the institutions truly want submitted.

3. University NCAA Academic Progress Rate (APR) Scores

This item is for information purposes only.

4. Draft Fee Policy to Allow for Differential Fees

This item is for information purposes only.

Milford Terrell said the final drafts would have to come before the Board two additional times before any final approval. Mr. Terrell recommends waiting for a first draft before any decisions are made.

Rod Lewis is not in favor of differential fees, feels it is a back door way to increase tuition. It is very difficult to define a process and a definition of what is required to create a differential fee that is meaningful. Mr. Lewis feels it leads to unanticipated inflation of tuitions.

Ken Edmunds is not ruling out the possibility of the differential fees, though not comfortable with several of the descriptors.

Rod Lewis' reaction is that he understands the process we are going through, but what we see in front of the Board is not adequate. Mr. Lewis suggests the establishment of a mechanism of draft review for Board comments.

Richard Westerberg recommended that this matter be referred back to BAHR for more work on the policy to tighten the screen, with a mechanism to be devised by the Executive Director to allow Board members to provide input, as we perfect the screening mechanism within the policy and when that work is done, it will come back to the Board as a first reading.

5. In-Service Teacher Education Fees Policy – Second Hearing

M/S (Terrell/Atchley): To approve the second reading of proposed amendments to Board Policy Section V.R.3.a.x., In-Service Teacher Education Fees as presented. Motion carried unanimously

6. Approval to Hire a Broker for the Sale of a Radio Frequency License

M/S (Terrell/Lewis): To approve the request by Boise State University to sell the FCC broadcast license to the 730 AM frequency, to utilize a broker to accomplish such sale, the exemption from Board policy V.I., and to executive such documents as are necessary to finalize the sale and transfer the frequency license. Motion carried unanimously.

7. Information Item Regarding Finalization of ACC Relationship

Milford Terrell requested that items 7, 8, and 9 be combined by unanimous consent. *Rod Lewis voted nay.*

Milford Terrell excused himself from discussions of items 7, 8, and 9 due to a conflict of interest.

Stacey Pearson provided a presentation and overview of items 7, 8 and 9. At the end of the presentation, the items will be handled separately. The Memorandum of Understanding (MOU) would allow up to \$3.55M paid to American Campus Communities (ACC), but we have negotiated a lesser amount. Tax assessed value of the property BSU wishes to purchase is less than ACC purchase price. Terms of the MOU state BSU can purchase the property at ACC's purchase price. The land is in the university's expansion zone and would be purchased if the buildings were condemned. The tax assessed value of five parcels is \$1.13M. However, we look at tax assessed value, which is \$825,000, with an additional \$50,000 in the agreement. There are five years to settle on the land. The amount of the ACS Settlement is in the budget and within Board approved limits.

8. Approval to Construct Student Housing Facilities on Lincoln Avenue

M/S (Soltman/Edmunds): To approve the request by Boise State University to proceed with construction of the new student housing facilities on Lincoln Avenue for a total project cost not to exceed \$22.2 million and to find that this housing project constitutes a project that is necessary for the proper operations of the University and is economically feasible pursuant to Title 33, Chapter 38, Idaho code. After the project has bid, the University will return to the Board with the final terms for a line of credit used to bridge finance required construction costs on an interim basis until bonds are issued at a future date. The terms for the bridge financing will be brought for Board approval prior to drawing on any line of credit for this project.

Substitute Motion/S (Edmunds/Atchley): To approve the request by Boise State University to proceed with bidding of the new student housing facilities on Lincoln Avenue and to find that this housing project constitutes a project that is necessary for the proper operations of the University and is economically feasible pursuant to Title 33, Chapter 38, Idaho code. After the project has been bid, the University will return to the Board with proposed financing terms based on the bids. Motion carried unanimously.

Stacey Pearson provided a presentation and overview. Current buildings are high density and students now prefer lower density, larger units and private bathrooms. Ms. Pearson reviewed the building site map. At the June meeting, the Board requested information on how this project would impact BSU's debt capacity. Debt financing is estimated at \$18M at a range of 6.2 - 6.7%. The assumptions on the ten year budget projections were very conservative.

Stacey Pearson said numbers reported assume 95% occupancy, which is our current occupancy rate. The entire housing system was not included in these numbers. A net loss in the initial years of a housing project is not unusual. Our housing project as a whole has a \$200,000-\$500,000 profit per year. The numbers shown in documentation are for this project separate of the entire housing

project. Reserves are pulled from the housing system. There is a housing operating fee and strategic facilities fee for all new enrolling students, but do not anticipate an \$82 fee for this project. From the \$7M housing system, they can cover the operating loss until this project becomes profitable. Upon project completion, some of the older housing will be retired. Currently 70-75 students are housed in hotels, motels and there is a waiting list for traditional style housing.

Ms. Pearson will report back to the Board regarding the total revenue currently received for housing operating fees.

Rod Lewis asked in these economic times and in trying to keep tuitions from increasing, whether student fees should be used for housing projects.

Board President Richard Westerberg clarified that if the housing project is approved, BSU would need to come back with a funding plan.

Emma Atchley questioned whether housing is necessary for the proper operation of the University based on Idaho code.

Matt Freeman indicated the finding that the project constitutes a project that is necessary for the operation of the university as economically feasible in reference to the code section is a finding that is required by the Higher Education Bond Act.

Richard Westerberg requested unanimous consent to defer action on this item until the end of the BAHF agenda to determine if DPW will bid this project without a commitment to build. *There were no objections from the Board.*

9. Informational item regarding a proposed \$25 million revolving line of credit (LOC) for use as interim/bridge funding for construction projects to be subsequently bonded.

Rod Lewis had concerns that by using a LOC, long-term finance costs of the project would be uncertain and you would not have the assurance that you would get the bonds at the rate and terms in order to make the project viable.

Board President Richard Westerberg had concerns that if the project came under budget, that projects would be added and the excess monies spent.

Ms. Pearson said the LOC would only be used for approved projects and the Board would be informed prior to expenditure. The intent of the bid process is to issue bonds prior to the end of the calendar year.

10. Additional Authorization Request, Energy Services Performance Contract

M/S (Terrell/Soltman): To approve the request by the University of Idaho for authorization to expend up to an additional \$2.2M in bond interest earnings on energy improvement projects consistent with the original bond. Total authorization for ESPC work will increase to \$37.2M.
Motion carried unanimously.

Milford Terrell clarified that the funds cannot be used for any other purpose than those approved, which is to pay down the interest on the bond. The expected payback is within ten years.

11. Police Service Contract Approval Between the University of Idaho and the City of Moscow

M/S (Terrell/Atchley): To approve the agreement for police services between the University of Idaho and the City of Moscow, in substantial conformance to the contract submitted to the Board. Motion carried unanimously.

12. Security Services Contract – AlliedBarton Security Services, LLC.

M/S (Terrell/Soltman): To approve the agreement for private security services between the University of Idaho and AlliedBarton Security Services, LLC, in substantial conformance to the contract submitted to the Board. Motion carried unanimously.

13. Changes in Policies on Promotion and Rank.

M/S (Terrell/Westerberg): A motion to approve changes to University of Idaho policies on faculty promotion and tenure as set forth in the materials submitted to the Board. *Motion carried unanimously.*

Matt Freeman outlined two changes to the U of I faculty staff handbook that the University is seeking approval for. The primary one is the creation of a new faculty rank of “University Distinguished Professor”. The rank carry with it an annual stipend of \$5,000 per year for five years, which would be funded with fundraising. The other was minor changes to the faculty promotion process.

Milford Terrell has concerns if the funding cannot be raised, would this go to appropriations.

U of I indicated that if the funds are not raised, stipends would not be conferred. There is a maximum amount of 15 appointments for a total of \$75,000, but there is no minimum amount. If no funds are raised, the stipend would be zero. The stipend would be on a five year rolling award, with no more than 15 appointments at any given time.

Emma Atchley asked for clarification that the stipend would be awarded until retirement.

U of I indicated that is correct. If a professor was three years from retirement, the stipend would be paid until retirement and not for the full five years.

Richard Westerberg asked who confers the title.

U of I said the title is conferred through the Provost to the President and by approval from the University President.

Mike Rush indicated that any changes to the Faculty Staff Handbook are required by Board policy to receive approval by the Board and is the reason this item has been presented.

14. Approval of Loan Authorizing Resolution – Dan O'Brien Outdoor Track and Field complex Renovation Project.

M/S (Terrell/Atchley): To approve the request by the University of Idaho for a resolution of the Board of Regents of the University of Idaho as per Attachment 1 to the Board materials, and hereby adopting said resolution and authorizing the President of the Board and the bursar of the University of Idaho to execute the same. *Motion carried unanimously.*

15. Loan Authorizing Resolution – ASUE Kibbie Activity Center (Kibbie Dome) Enhancement Project

M/S (Terrell/Lewis): To approve the request by the University of Idaho for the resolution of

the Board of Regents of the University of Idaho as per Attachment 1 to the Board materials, and hereby adopting said resolution and authorizing the president of the Board and the bursar of the University of Idaho to execute the same. *Motion carried unanimously.*

16. 2010/2011 Student Health Insurance Premiums, and Permanent Delegation of Rate Approval to the Chief Executive Officer

M/S (Terrell/Lewis): To approve Eastern Idaho Technical College's 2010/2011 student health insurance premiums, and to permanently delegate to the chief executive officer the approval of these rates. *Motion carried unanimously.*

Ken Edmunds asked why this says "permanently".

Mr. Freeman indicated the wording was used from a previous Board meeting last June.

Mike Rush said that the Board can, at any time, modify this language.

Instruction, Research & Student Affairs – Ken Edmunds

1. Approval of Notice of Intent: Change the Minimum Number of Credits for Baccalaureate Degree to 120

M/S (Edmunds/Westerberg): To authorize the institutions, under the governance of the Board, to reduce the number of credits for baccalaureate degrees for any program from 128 to 120 credits based on each institution's determination of appropriateness. *Motion carried unanimously.*

Sona Andrews, Provost of Boise State University, presented this item to the Board. This change will reduce fees to students, improve graduation rates, and free faculty time.

Milford Terrell expressed concern regarding the change to the motion to include all institutions.

Provost Olson, Idaho State University, indicated that most states have a minimum and 120 is a standard across the country, as well as within the Pacific Northwest. The motion does not mandate changes, but give the institutions the opportunity to do so.

Ms. Andrews indicated that BSU raised this issue with CAAP some time ago and the other institutions were interested as well. This is not for a specific academic program, but gives the institutions the ability to look at each individual program.

Provost Baker, University of Idaho, stressed that this is only approval to reduce the credits to 120 if the university chooses to approve the reduction in credits required.

2. State Longitudinal Data System (SLDS)

M/S (Terrell/Edmunds): To direct staff to do a needs assessment that includes the technical, fiscal, and governance requirements for a P-20 and Workforce SLDS. *Motion carried unanimously.*

Ken Edmunds led this presentation to the Board. There are issues with tracking data:

- K-12 does not communicate with postsecondary data systems.

- Postsecondary data systems do not communicate with each other.
 - K-12 and postsecondary do not communicate with the Department of Labor data systems.
- This project needs Board direction on how to proceed, how serious are we about this project, the Board's expectation, and how this project will be funded.

Don Soltman indicated that anytime grant requests are presented, one of the negatives is that Idaho does not have a SLDS.

Superintendent Luna said that Idaho has received a three year grant for a SLDS. Currently, it is limited to K-12. In sixteen months of a three year project, we have met eight out of ten criteria. Because Idaho does not have a P-20 system, funds of \$180M + \$150M from the jobs bill are at risk. There is value in having a P-20 system for K-12 in order to develop trends, identify when a teacher graduates and has high performing students, and determine where those teachers were educated.

Board President Westerberg indicated that we must have a system that meets the requirements for federal funding. Beyond that, we need to be able to withdraw data from the system that helps manage the educational system in Idaho.

Troy Wheeler, State Department Education, came to SDE with the understanding that the system currently used for K-12 was the same system to be used for P-20. The technical platform is in place.

Ken Edmunds said there is resistance from higher education to buy into SDE's system based on information being included and where the data would be stored.

Selena Grace gave examples of how data is handled in other states for P-20. Data elements in SDE's system are specific to K-12, would require considerable work to support higher education, and currently will not support higher education.

Troy Wheeler did not feel that it would take considerable work to modify the K-12 system.

Don Soltman asked if there was a way to take SDE's K-12 system and expand it to a P-20 system.

Ken Edmonds said yes.

Board President Westerberg suggested getting all the Information Technology staff together to determine what is required to make the current K-12 system into a P-20 system.

Mike Rush said SDE took a conservative approach to software development. When it was put together, there was concern about scope creep due to a razor thin budget. When stimulus funds came around the timeline was accelerated. Only within the last four weeks has postsecondary been involved in reviewing the system. There is a full-time employee, beginning on Monday, to work on this.

3. Higher Education Research Council Appointments

M/S (Edmunds/Atchley): To appoint Michael J. Scott, Harold Blackman, and Haven Baker to the Higher Education Research Council respectively for three-year terms, effective August 2010 through August 2013. Motion carried unanimously.

4. Second Reading, Board Policy III.Y., Advanced Opportunities

M/S (Edmunds/Soltman): To approve the request by the Division of Professional-Technical Education to amend the Idaho State Board of Education Governing Policies & Procedures, Section III.Y., Advanced Opportunities as shown in Attachment 1. Motion carried unanimously.

Richard Westerberg asked for unanimous consent to return to the BAHR agenda, Item #7. *There were no objections from the Board.*

7. Information Item Regarding Finalization of ACC Relationship

M/S (Soltman/Lewis): To approve the proposed resolution to the MOU with ACC as outlined in BAHR, Section 2, Tab 7. Motion carried unanimously.

Milford Terrell excused himself from this item due to a conflict of interest.

NAMPA CLASSICAL ACADEMY CHARTER SCHOOL – CHARTER REVOCATION APPEAL

The Board is ready to hear the results of the Committee. NCA provided several items. The staff for the Commission and the counsel for the Commission have also received the materials. The Board believes the materials are such to allow the materials to be submitted and to allow time for review.

M/S (Edmund/Terrell): That the Board recess the NCA Hearing until Tuesday, August 17, 2010, at 2:00 p.m. Motion carried unanimously.

M/S (Terrell/Luna): To adjourn at 5:15 p.m. Motion carried unanimously.



STATE BOARD OF EDUCATION
 TRUSTEES OF BOISE STATE UNIVERSITY
 TRUSTEES OF IDAHO STATE UNIVERSITY
 TRUSTEES OF LEWIS-CLARK STATE COLLEGE
 BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO
 STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION
 TRUSTEES FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND

**DRAFT MINUTES
 STATE BOARD OF EDUCATION
 August 17, 2010, 2:00 PM
 650 West State Street
 Clearwaters Conference Room
 Boise, Idaho**

A special meeting of the State Board of Education was held August 17, 2010 in Boise, Idaho at 650 West State Street in the Clearwaters Conference Room.

Present:

Richard Westerberg, President
 Don Soltman, Secretary
 Milford Terrell
 Tom Luna, State Superintendent of Public Instruction

Ken Edmunds, Vice President
 Emma Atchley
 Rod Lewis

Absent:

Paul Agidius

Tuesday, August 17, 2010

Call the meeting to order

We will now reconvene the August 11-12, 2010 meeting of the State Board of Education to continue deliberations on the matter of the Nampa Classical Academy's (NCA) appeal of their Charter Revocation. Board President Westerberg called the meeting to order at 2:04 p.m.

Approve the agenda as posted

An additional agenda item was presented by Milford Terrell.

Mr. Terrell indicated that yesterday Board staff received a request for Board approval of a negotiated agreement between BSU and ACHD. This request was received after the agenda was posted.

Mr. Terrell asked for unanimous consent to amend the agenda to add an item to approve an agreement between BSU and the Ada County Highway District (ACHD). The item was not included in the original posted agenda because Board staff learned of the necessity for Board approval yesterday afternoon, and the agreement must be approved before August 24, 2010. The board provided unanimous consent.

M/S (Terrell/Atchley): A motion to approve the request by BSU to execute the agreement with ACHD for the vacation of the right of way as revised to meet certain conditions. Based on the form, Exhibit A, to the contract, it is the intent of the parties, and that of the Board, that in the event there is a conflict between the Board and the agreement, the agreement supersedes that of the Board. Motion passed unanimously.

NCA Hearing Continuation

Each side has had an opportunity to give testimony at the August 11th hearing. The Board has had an opportunity to review the testimony and the submitted documents. The Board has also received additional documentation submitted by NCA and the response to that documentation submitted by the Public Charter School Commission.

The floor is open for additional Board member discussion or a motion.

Rod Lewis asked representatives of both parties to come forward. Representatives of the parties are:

- Michael Gilmore, Deputy Attorney General
- Terrance La Masters, Chairman of the Board for NCA
- Mike Moffett, Vice Chairman of the Board for NCA

The hearing officer based his opinion on the following two tests:

- Fiscal stability on a short-term basis to serve current debt.
- Fiscal stability as a going concern and the ability to meet obligations for the next fiscal year.

The hearing officer found that NCA was not sound based on the first test, as based on school year 2010. The hearing officer was unable to conclude that the charter school had not met the long-term test. The new evidence presented to the Board indicated that NCA was worse off than the hearing officer had been aware. Based on the current fiscal year, there is a deficit carryover of between \$600,000 and \$700,000. Does this fiscal deficit carryover affect the long-term fiscal stability of NCA and how does NCA intent to service this debt in the 2011 fiscal year?

Mr. La Masters reviewed the documents previously provided to the Board of Education on Monday, August 16, 2010. Salary runoff refers to salary to teachers, payable in July and August, for fiscal year 2009-2010. The \$150,000 loan in 2009-2010, with original terms of 5 points, 15% interest to be paid in 2010-2011. This loan was renegotiated to zero points, 12% interest. Interest payments begin September 1, 2010 and continue monthly. Principal payments begin September 2, 2011 and the loan will be paid off in 2012.

Mr. Lewis indicated that other obligations total approximately \$200,000. How does NCA plan on paying these creditors on a timely basis?

Mr. La Masters indicated that NCA has not yet renegotiated with all creditors. A cash flow summary was provided and Mr. La Masters reviewed this document. This document was based on NCA being open in July.

Ken Edmonds expressed concern that NCA is using 2011 monies until a time when the budget catches up. In essence, 2011 funds are being used to pay 2010 expenses.

Mr. La Masters said this applies only for 2011, with the exception of salary carryover which goes into 2012.

Superintendent Tom Luna stated that schools have received funds to open this fall. If the revocation is reversed, and money for 2011 is used for past debt, how does NCA open for school?

Mr. La Masters said that a cash flow projection was done through the end of next year that would have enough money based on this cash flow projection, and does include the 2011 budget.

Mr. Luna said that the Legislature started "forward funding" schools where a majority of the money is being paid upfront, with smaller payments later. NCA will receive 70% of their 2011 funding upfront. Mr. Luna's concern is that too much of that upfront money will be used to pay off 2010 debts, resulting in a cash flow crunch in four months. What is the anticipated distribution from the state?

Mr. La Masters said that the first payment is \$774,962.

Mr. Luna asked, out of that payment, how much will be spent on previous debt?

Mr. La Masters stated approximately \$370,000, which includes July, August and September budgets.

Mr. Luna said previous discussions included \$100,000 to retire old debt, now that figure is up to \$370,000. Mr. Luna asked how NCA is going to operate until they get the next check on approximately one-half of the monies allocated for 2011.

Mr. La Masters stated the cash flow on his cash flow projections are based on budgeted numbers through September.

Mr. Luna asked if NCA is using October monies for September expenses.

Mr. La Masters said that with the first distribution, October is the only negative month at (\$54,504). At year end, there is a deficit of (\$100,000), which may be taken care of with an anticipated jobs bill. A board member will be added to NCA's Board that has financial experience.

Mr. Lewis asked about the revenue side of the equation and a budget based on over 500 students. The charter limits students at 500.

Mr. La Masters does not have a copy of an amended charter, but indicated that NCA's charter was amended to 560 students, second year 630, and the third year 690. This year NCA will have an anticipated student return of 480. The lottery contains 280 students and a waiting list of 108 students. There were 572 students enrolled this past year. NCA has supporting documents, but no approved final amended charter.

Mr. Luna said the question remains that there is an issue of trust. There have been documents and plans put before the commission only to see those plans and commitments not carried out. Please address this issue of trust and how the Board can have confidence that the plan you put forth will be carried out.

Mr. La Masters indicated that in the past NCA has not put forth documents timely and has not performed. These faults have been recognized over the past year and NCA is trying to change. NCA, as a board, is listening. At the close of the year, NCA took the PCSC's advice and started to see them as a resource versus an adversary. NCA has a potential board member present today who can provide sound financial advice to the NCA board. NCA will move to the policy governance model and allow the administration of the NCA Academy to do their job.

Mr. Lewis asked in that regard, how were the financials handled previously and in what structure. How has that changed to present day?

Mr. La Masters said that the financials were handled by a management company. It was determined that no one was onsite to provide oversight. There were no financial documents maintained to give to the Commission in a timely manner. A financial review committee was formed. It was determined that those accountable to the budget did not know what was budgeted and were not held accountable to that budget. Mr. Greenwood, certified CPA, was hired for financial accounting. NCA has changed in that those who create the budget are those that report on the budget and are held accountable to it.

Mr. Lewis asked the extent to which teachers are available to begin school this fall.

Mr. La Masters said that 14 remaining teachers are available immediately to begin. NCA lost 10 teachers from last year. In June, NCA interviewed 9 teachers that are still available and 7 more applied for positions.

Mr. Terrell would like to hear from the potential board member and his credentials.

William Perrin has a background as CEO and President of National Purchasing Organization (NPO) in California and prior to that with Baxter Healthcare. NPO worked with healthcare on cost containment and worked with nursing homes on Medicaid funding. As a member of the board he will not be passive. This is a difficult situation and is not unsolvable. The first responsibility is to the taxpayers of Idaho, students, and teachers. The demand exists in Nampa if the Board allows this school to continue.

Mr. Terrell asked if Mr. Perrin has credentials as a CPA.

Mr. Perrin has a degree in economics and reviewed all financials as a business owner.

Board President Westerberg asked Michael Gilmore to provide comments.

Mr. Gilmore addressed the enrollment capacity of NCA. Ms. Baysinger checked the Commission's records for amendments to the charter and checked with State Department of Education, and found there are no amendments to the NCA charter. Mr. Gilmore reviewed Idaho statute covering enrollment changes of 10%. All changes of over 10% must be approved by the Commission. Commission meetings for 2009 and 2010 do not include a charter amendment for NCA. NCA has violated this statute by adding more than 10% of their enrollment without oversight by the Commission.

Mr. Terrell asked, when there is a new charter school set up, they do have a period of time they go through adjustments and do not live up to the letter of the law. The fact being that, even though the law is there as stated, the Commission allows some give and take while these charters have time so they do know the statutes.

Mr. Gilmore indicated that there are different infractions and this is a statutory procedure that was not followed.

Mr. Terrell indicated that the law is the law. The Commission has let people outside of the document before and the Commission has allowed technical violations.

Jennifer Swartz was not present at the hearing last week. However, in her experience as counsel to the Commission and staff, there are very few violations that are let go. Notices of defect are written and the defects are cured. Ms. Swartz is not aware of any instances where the Commission was informed of a violation of statute or charter and that violation was let go. A corrective action plan is initiated and infractions are expected to be resolved. It is not the Commission's practice to let things go.

Mr. Terrell asked if a school is found to have an infraction, are they given ample time to resolve it. The increase of students has not been written up as a deficiency at this time. When a deficiency is written up, is the charter school given time to cure the defect and whether or not NCA was given an ample amount of time in this case.

Mr. Luna said the number of students attending NCA is a matter of record and he was surprised that the number attending NCA is news to the Commission. Mr. Luna asked Mr. Gilmore to respond to Mr. Lewis' reading of their original charter that indicates additional grades were expected to be added to NCA.

Mr. Gilmore indicated the following is listed in NCA's charter; 500 students in year two and 550 students in year three. What NCA is proposing is 580 in year two.

M/S (Lewis/Terrell): A motion to invoke the Board's authority under Idaho Code §33-5207(5)(b)(ii) and under the Idaho Administrative Procedure Act (Idaho Code title 67, chapter 52), as follows: (i) to stay the revocation decision issued by the Idaho Public Charter School Commission (Commission), thereby permitting the Nampa Classical Academy (NCA) to continue operating as a public charter school and to continue receiving funding to which it would be entitled, and (ii) to remand this matter back to the Commission, which shall have authority to further review and act as follows. The Commission is directed to continue monitoring and reviewing the operations of NCA on the issue of whether NCA is fiscally sound, as provided in Idaho Code §33-5209(2)(d)(i) and (ii). Specifically, in light of new evidence presented to and considered by the Board on the financial condition of NCA, the Board concludes that NCA should be permitted reasonable opportunity to demonstrate to the Commission its ability to service all its upcoming financial obligations and to service its debts during the next fiscal year. Accordingly, the stay of the Commission's revocation decision shall remain in effect for the remainder of this state fiscal year, at which time the Commission shall determine if the charter shall be reinstated. **Motion failed with a vote of 3-4 (Soltman, Westerberg, Atchley, and Edmunds voted nay).**

Emma Atchley is unable to support this motion. How can a school which has a 17% increase in enrollment,

and a 48% increase in debt, succeed?

Richard Westerberg agreed with Ms. Atchley and felt that NCA's documentation of revenue is overstated and that expenses are understated. NCA has not been able to meet short-term or long-term debt.

M/S (Soltman/Atchley): A motion to deny the appeal and to uphold the decision of the Idaho Public Charter School Commission (Commission) on the grounds that the Nampa Classical Academy (NCA) failed to establish that the Commission did not appropriately consider the revocation, and/or acted in an arbitrary manner in determining to revoke the charter. Motion passed with a vote of 4-3 (Lewis, Luna, and Terrell voted nay).

M/S (Terrell/Atchley): A motion to adjourn. Motion passed unanimously.

Meeting was adjourned at 4:02 p.m. Mr. Luna added comments regarding the gravity of closing a school.