# BOARD OF PUBLIC EDUCATION MEETING MINUTES

#### March 10-11, 2022 Montana State Capitol, Room 152 Helena, MT

#### March 10, 2022 8:30 AM

#### **CALL TO ORDER**

The Chair called the meeting to order at 8:30 AM and led the Board in the Pledge of Allegiance. Ms. Stockton took Roll call. The Chair welcomed newest Board member Renee Rasmussen and Lt. Governor Juras to the meeting. The Chair read the Statement of Public Participation, outlined the Public Comment process, and welcomed guests.

Board members present: Ms. Tammy Lacey, Chair; Ms. Madalyn Quinlan, Vice Chair; Ms. Renee Rasmussen; Ms. Anne Keith; Ms. Susie Hedalen; Ms. Jane Hamman; Ms. Mary Heller. Ex Officio members: Lt. Governor Kristen Juras; Superintendent of Public Instruction Arntzen. Staff members present: Ms. McCall Flynn, Executive Director; Ms. Kris Stockton, Administrative Specialist. Guests: Mr. Paul Furthmyre, Superintendent MSDB; Ms. Amanda Curtis, MFPE; Ms. Barbara Brown, CSPAC Member; Dr. Trent Bayless, OPI; Ms. Caroline Olson, OPI; Mr. Rob Stutz, Chief Legal Counsel, OPI; Ms. Crystal Andrews, OPI; Dr. Julie Murgel, OPI; Ms. Sharyl Allen, Deputy Superintendent, OPI; Ms. Jule Walker, MTSBA.

#### **PUBLIC COMMENT**

No public comment was made.

#### **CONSENT AGENDA**

<u>Ms. Madalyn Quinlan moved to approve the Consent Agenda.</u> Motion seconded by Ms. Susie Hedalen.

No comment. Motion passed unanimously.

#### **ADOPT AGENDA**

The Chair noted that the Board will break for lunch before the Time Certain Item at 1:00, and that several reports normally listed on Thursday morning have been moved to Friday morning

Ms. Susie Hedalen moved to amend the agenda by adding an Action item regarding the Code of Ethics to Item 4. Ms. Jane Hamman seconded the motion.

The Chair asked for more information regarding the request.

Ms. Hedalen explained the reason for her request was due to the memo from the Lieutenant Governor that requested the Board act on the Code of Ethics at this meeting.

Ms. Quinlan noted that the Chair will provide an update on the Code of Ethics under her report.

Ms. Hedalen thanked Ms. Quinlan for her clarification but stated that it is important that the Board be able to act upon the request.

The Chair noted that Board precedence is to have an item as an information item at one meeting with action at the next, to provide members of the public the opportunity to provide public comment. Acting on an item that is listed as "information" would not afford the public the ability to provide comment on the item.

The Chair conducted a Roll Call Vote:

Roll call vote: Hamman – Yes; Hedalen – Yes; Keith – No; Quinlan – No; Rasmussen – Yes; Heller – Yes; Lacey – No.

Motion passed.

Superintendent Arntzen expressed her concerns and disagreement with the Licensure Panel listed for Item 29 on Friday. The Superintendent noted that she believes the panel "weights" the public comment process. Chair Lacey explained the reasons behind having the Licensure Panel is to provide more information to the public and most importantly to Board members.

Ms. Hamman noted that the panel is listed as an Information item and inquired if the panel was already set and if there could be another public hearing as requested by the Superintendent. The Chair noted that the request would be taken under advisement and called for a motion to adopt the agenda.

Ms. Susie Hedalen moved to adopt the agenda as modified with Action added to Item #4. Ms. Renee Rasmussen seconded the motion.

No comment. Motion passed with Chair Lacey dissenting.

#### **INFORMATION ITEMS**

**❖** REPORTS – Tammy Lacey (Items 1-4)

# Item 1 CHAIRPERSON'S REPORT Tammy Lacey

Chair Lacey welcomed the Board and noted there is an outline of her report in the agenda packet. The Chair discussed the sobering world events ongoing in Ukraine and noted the upcoming Spring Break for many Montana students. The Chair noted that March is Women's History Month, thanked Ms. Stockton for her work with the Executive Committee creating the agenda and thanked Executive Director Flynn on her work for the Board. The Chair updated the Board on her activities since the last Board meeting including Executive Committee meetings, Licensure Committee meetings, MSDB Committee Meetings, Chapter 57 Public Hearing, and the CSPAC Meeting on February 9th. The Chair announced that CSPAC member Dr. Watson is leaving the Council and his position as the Superintendent of Missoula Public Schools to take a new position as the Executive Director of the School Administrators of Montana. Dr. Watson will be replacing Dr. Miller who is retiring at the end of this year.

The Chair reported that at the February 9, 2022 CSPAC meeting, the Council voted to adopt the Code of Ethics, and gave a brief history of the CSPAC Code of Ethics. In 1990 the first Code was created by the

Council and the Board acted on three items: 1) "accept" the Code of Ethics, 2) "encourage" a proactive approach in implementing the Code, and 3) the Board recognized the Council as the appropriate body to "define, interpret, and revise the Code." In 1990 it was decided that the Code would be aspirational and not have any "teeth" by which educators could be punished if the Code was not adhered to. The Chair reviewed the July 2011 Joint meeting of the Board and CSPAC where it was discussed whether the Code should be elevated to a policy or Administrative Rule. At that meeting the decision was made that the Code should remain an aspirational document and not a policy. The Chair then reviewed concerns from the Governor's Office over the word "equity" in the Code adopted by the Council on February 9, 2022. The Chair reviewed the February 15, 2022, meeting between herself, Ms. Flynn, CSPAC Chair Elder, Lt. Governor Juras, and Mr. Klapmeier, to discuss their concerns with the Code, and belief that the Code is a policy, which should require the Board adopt the Code. At this meeting it was clear the concern had shifted from the use of the word "equity", to one of a legal concern regarding CSPAC's legal authority to adopt the Code of Ethics, and that it is important that the Board take time and gather as much information as possible before acting upon the request from the Governor's Office asking the Board to approve the Code of Ethics. The memo also requested that the Code be placed on the Board agenda which has been done, but as an information item. The Chair noted that a full legal analysis be completed before the Board have the discussion regarding the Code, and to determine if action is required by the Board. The Chair answered Board member questions regarding the revision process to the Code of Ethics. Ms. Rasmussen asked clarifying questions of the process that CSPAC has gone through over the years in revising and adopting the Code and presenting to the Board in the Annual Report. Ms. Rasmussen also questioned if the most recent version is the "final" adopted version, and noted her concern that school districts are in the process of reviewing their local policy and adopting it locally, and guestioned if that action makes the Code a policy? Ms. Rasmussen noted that some districts adopt the Code because they believe it is policy. The Chair noted that these are important discussions that the Board needs to have, but that local districts could adopt their own local policy, but that doesn't mean that the Code itself has "teeth" to act upon an educator who may violate part of the Code. Ms. Keith asked if the Code is also on the OPI website and questioned how educators access the Code? Superintendent Arntzen noted that there is an acknowledgement that the educator must note when completing the application for licensure. Ms. Keith asked if the Code is printed on the back of the license and the Superintendent said it is not. The question was asked if local districts distribute the Code to their educators, and the answer from the Chair was that most districts do so. Ms. Heller noted that this is a delicate matter, that using the word "equity" is a dangerous path and opens Pandora's Box. Member Heller also stated that although local control is important, the past thirty-two-year history of the Code is a good guideline and reminder to educators of an ethical approach to teaching, but that this time of year is when districts revise their handbooks. Member Heller questioned that if the 2/9/2022 Code is being used as policy at the local level, should the Board now send out communication to the field to inform them that the Code is not policy, but aspirational. The Chair thanked Ms. Heller for her comments and expressed that her concerns are why she, as Chair, would like more time to consider the 3 requests for action made by Governor Gianforte's Office before voting on them. Ms. Hamman noted that she has attended many of the CSPAC meetings, including the July 2021 meeting where she had significant concerns that the Code was being adopted by a "subcommittee" without the Board's approval and that the Code is being distributed to every teacher in the state. Ms. Hamman noted that she needs more information and asks that a halt be made to the distribution of the Code to all teachers in the state. Member Hedalen requested clarification as to why the MACIE Native American Language Statement required a Board approved resolution, but the Code of Ethics did not. The Chair noted that the Board's action in 1990 has been the rule since then, and that the Code remained with CSPAC. The Chair pointed out the newest version of the BPE Committee List in the Board packet.

## Item 2 EXECUTIVE DIRECTOR REPORT McCall Flynn

Ms. Flynn gave her report to the Board including that CSPAC will have recommendations for Chapter 57. Ms. Flynn reviewed the Public Hearing held on February 24<sup>th</sup> for the revisions to Chapter 57, reminding people that the public comment period remains open through April 8<sup>th</sup>, 2022. Ms. Flynn then discussed the open School Administrator position on CSPAC, replacing Dr. Rob Watson who has been named the new Executive Director for the School Administrators of Montana, replacing Dr. Kirk Miller. Ms. Flynn

thanked Dr. Miller for his work for public education in Montana, and for the guidance he has offered her. The CSPAC position is listed on the Board's website and is currently open until April 22<sup>nd</sup>. Ms. Flynn asked that the Chair appoint a subcommittee to review any applications that may come in before the Board meets in May to appoint the new member. The Chair asked that anyone interested to please email Ms. Flynn.

### Item 3 STATE SUPERINTENDENT'S REPORT State Superintendent Elsie Arntzen

Superintendent Arntzen gave her report to the Board, recognizing Board member Hamman who was inducted as Montanan of the Month in January by Senator Daines. The Superintendent reported on the Executive Leadership Academy ongoing at the OPI funded by COVID-19 relief money, and the new Teacher Residency Program Task Force that has been formed to look at a program to pay teachers for a residency, and to offer stipends to the teacher mentor. The Superintendent discussed the revisions to Chapter 57, noting that a great deal of research was conducted prior to the rules being opened for revision, and that if the Board needs more time to review the proposals, that can be done. The Superintendent noted that as a quasi-judicial Board, the Board understands transparency. In being transparent, the Superintendent requested the Board open a portal for all public comment to be viewed online so anyone can see what others are commenting. A new press release regarding Chapter 57 is going out today from the OPI. The Chair asked for clarification of the request from the Superintendent to post the public comments. The Superintendent answered Board member questions regarding the request, pointing out that she doesn't know the Board's procedure's regarding public comment, but she believes that it is important for all Montanans to be able to see and read the public comment as it comes in, who it is from, and when it was given. The Superintendent wants to ensure that equal weight is being given to written and oral comment, and that certain group's comments are not given more weight than other comments. The Chair noted that she will seek a legal interpretation before deciding, noting that individual privacy may also play into that decision. Deputy Superintendent Sharyl Allen answered questions regarding the Teacher Residency Program and reviewed further details of the program.

#### Item 4 GOVERNOR'S OFFICE REPORT Lt. Governor Kristen Juras

Lt. Governor Kristen Juras updated the Board on education related items the Governor is working on. including visits made to schools across Montana, and ongoing projects with trades, Work-Based Learning Initiatives, and Jobs for Montana Graduates. The Governor will also be reaching out to each Board member to schedule a conversation to discuss topics important to Board members and any areas of concern members might have. The Lt. Governor discussed two areas of concern with the Code of Ethics: 1) The view that the Code is policy. It was clarified that a policy does not need to be in Administrative Rule to be a policy. The Lt Governor explained that if the Code has obtained this much attention from the public then it must be important, that many districts statewide have adopted the code locally, and that there is a great deal of confusion surrounding the Code. The Board should be the responsible party that determines approval of the Code, therefore, it is the responsibility of the Board to clarify whether the Code is policy, to approve a Code of Ethics, and determine what it means. 2) that the Board take action to say that CSPAC is acting outside their statutory authority, and that the Board needs to adopt the Code and determine its merits. It was noted that the Governor's main concern is that CSPAC is acting outside its Legislative authority, and that the Board be the body that adopts the Code, not a subsidiary body. The Lt. Governor read the statute that defines CSPAC, stating that CSPAC does not have the authority to adopt policy, only to study and make recommendations to the Board. It is the Board that has the authority to approve, disapprove, or modify, any recommendations from CSPAC. The Lt. Governor asked that the Board act on the three action requests contained in the Governor's memo. The Chair noted that the agenda was amended for an action item, and asked Board legal counsel for clarification on whether the Board can act on the Code of Ethics if the item was not listed as an Action item on the agenda. Board Counsel Katherine Orr noted that MCA 2-3-103 would prohibit the Board from acting on this item today since it has not been noticed to the public. The Chair clarified that answer, and asked Ms. Orr to read the statute. The Lt. Governor noted that she is familiar with that statue, and that she disagrees with that analysis because the item is listed on the agenda in two separate places, and that the Governor's memo asks for action. The Chair noted that the agenda lists the items as "information" and that she believes

that had the item been listed as Action on the agenda there would be public comment provided. The Chair noted that she is not comfortable acting on an item that was listed on the agenda as information because it does not provide for public participation. Ms. Quinlan asked the Lt. Governor what her thoughts were if the Board took action to decide that additional consideration needs to be made, but not act on the Code itself until a later meeting. The Lt. Governor noted that the action today would be to bring the Code of Ethics before the board, not on the merits of the code, and to determine if CSPAC is the proper place for the code to be approved because she believes that they do not have the authority to approve it. The Lt. Governor stated her concern that a delay on the decision would only be more confusing for the field. Ms. Quinlan stated that in her opinion the Code is a model "policy" like the model policies that the Montana School Board's Association puts out for school districts to use. The Lt. Governor agreed that the Code is a model policy and noted that the Board needs to decide today to determine whether CSPAC has the authority to approve and adopt model policy, and that she believes the Board has the information they need to make that decision. Ms. Heller noted that she feels there has been ample time to address the issue and that the Board has enough information to move forward and asked for clarification as to why the Board should not move forward today. The Chair noted that she does not feel that she has enough information to move forward. Ms. Orr stated that it has been established in the law that a decision on these action items today would be invalidated because there has not been public notice. Ms. Orr noted that it is important that CSPAC be available to address the topic and provide input to the Board and expressed again her concern that any action taken would be invalidated. Also noted was a statute addressing public comment on items not on the agenda, but the item was not noted as action on the agenda. Ms. Hamman explained her concerns about the Code, the process taken to adopt it, and that the Board is not dealing today with the contents of the Code, but to determine if the Code of Ethics adopted by CSPAC has no effect until CSPAC reconsiders it and brings it to the Board as a formal recommendation for approval. Her concerns lie with the confusion in the field surrounding the Code and that the Board needs to act today. Ms. Hedalen noted that it is important to establish today that the Code needs to come before the Board in a formal fashion like the MACIE resolution. Ms. Hedalen agreed that there is confusion in the field as to which version of the Code should be used, the 2016 version or the 2022 version. Ms. Heller noted she agrees with members Hedalen and Hamman, and with the Lt. Governor, and that it is important to stifle the confusion in the field right now.

Ms. Renee Rasmussen moved the Board take the following actions as requested by the Governor to be voted on as a single action item: 1) determine that CSPAC did not have authority to adopt and publish a Code of Ethics at its February 9<sup>th</sup>, 2022 meeting but is limited to recommending changes to the Educator Code of Ethics for submission to the Board for its approval/action/review 2) issue a statement that the revised language to the Code of Ethics purportedly adopted by CSPAC at its February 9, 2022 meeting has no effect unless and until the revisions are presented to and approved by the Board where there is open discussion with public input and the final version is determined, 3) request CSPAC present the proposed revisions to the Educator Code of Ethics to the Board at a future Board meeting at our determination. Jane Hamman seconded the motion.

Deputy Superintendent Sharyl Allen asked that if historical practice is that CSPAC is the body that writes, edits, revises, and adopts the code is there even a Code any longer since the Board hasn't approved one.

Ms. Amanda Curtis, President of MFPE, noted that she can see the writing on the wall with the vote and though she hates to be at odds, wanted to go on record that CSPAC is an advisory body to the Board, appointed by the Board, to bring forward matters related to public education. This is their Code of Ethics, and there is not confusion among teachers regarding the Code. Any alleged confusion in the public has been manufactured and not caused by any actions of CSPAC and the Board. Ms. Curtis noted that local boards of trustees can make the Code their own policy if they so

choose. Ms. Curtis urged the Board to leave the Code to the professionals in the field, and the decision to be left to local school boards as to how to use the code, and to exercise local control in their own districts.

Ms. Quinlan made a subsidiary motion to postpone the motion for a decision to the July 2022 Board meeting. Ms. Anne Keith seconded the motion.

Ms. Quinlan explained the reason for her motion, that she believes the comments are important and all discussion is valid, and that it is important to clarify what the Code means and how it is applied, but is concerned with violation of open meeting laws, and believes the public should be able to come and make comment.

Ms. Rasmussen asked a clarifying question of Ms. Quinlan, inquiring if Ms. Quinlan could amend her motion to add that the current code is suspended until the Board is able to decide.

Ms. Quinlan amended her motion to include that the Code of Ethics adopted by CSPAC at their February 9, 2022 meeting has no effect until the Board can have a conversation at the July 2022 meeting. Ms. Anne Keith seconded the motion.

Clarifying questions on the motion.

Ms. Quinlan restated her motion with the amendment included is intended to postpone the motion on the floor with the statement that the current Code of Ethics has no effect.

Ms. Heller asked clarifying questions of the motion on the floor, and Ms. Quinlan restated her motion for clarification which is to postpone the original motion on the floor to the July Board meeting, and to add that the current Code of Ethics has no effect until a decision can be made at the July 2022 meeting.

Ms. Heller then asked if the Board had authority to tell districts not to use current code. Ms. Hedalen noted that local districts can adopt and use whatever they want, so the Board cannot direct them what to use. Ms. Hedalen stated that it may be helpful to have a note on the Board website that the current code is not in effect and that the 2016 version is the current version in effect.

Ms. Hamman stated that she believes there is considerable confusion and expressed her concern that she does not think the motion is appropriate because a decision still needs to be made regarding the process and to what the Code is and how it can be used.

Chair Lacey clarified the original motion on the floor.

Ms. Hamman asked for a full reading of what the motion is.

Ms. Heller asked for the three points to be stated again.

Ms. Quinlan stated that the motion is to postpone action on the original motion on the floor until the July 2022 Board meeting and to issue a

statement that the Educator Code of Ethics adopted by CSPAC at its
February 9<sup>th</sup> 2022 meeting has no effect until the revisions are brought
before the Board in July for consideration. Motion seconded by Ms. Anne
Keith.

Lt. Governor Juras asked for clarification on the motion and asked if public comment was going to be allowed. The Lt. Governor noted there is still confusion regarding the motion.

Ms. Quinlan noted her intention was to make clear that what CSPAC adopted on February 9<sup>th</sup> has no effect until the Board resolves the question as to CSPAC's authority to adopt the Code of Ethics and whether it needs to come before the Board for action. The question as to whether the code is appropriate wasn't necessarily the discussion for the July meeting. But the code adopted February 9<sup>th</sup> is not in effect.

Ms. Rasmussen asked Ms. Quinlan to clarify that if she said that she wanted to postpone the motion made by Ms. Rasmussen, then she would expect all three points in that motion to be considered at the July meeting, including CSPAC presenting its recommendations, and the Board determining if that was the appropriate course of action, and at that time there would be discussion and public comment. Ms. Quinlan agreed that is her intent.

The Lt. Governor again noted that the motion is unclear as to when the Board would consider the revised Code of Ethics.

The Chair asked Ms. Quinlan if she would like to withdraw her motion to begin again. Ms. Quinlan agreed.

The motion on the floor was withdrawn.

Ms. Renee Rasmussen amended her motion that the Board take the following actions as requested by the governor: 1)At the July meeting determine whether or not CSPAC had the authority to adopt the Code of Ethics at its' February 9, 2022 meeting or is limited to recommending changes to the Educator Code of Ethics for submission to this board for approval 2) request CSPAC to present its proposed revisions to the Educator Code of Ethics to the Board as a recommendation at the July meeting for action 3) immediately issue a statement that the revised language to the Code of Ethics purportedly adopted by CSPAC at their February 9<sup>th</sup>, 2022 meeting has no effect until presented to the Board and action is taken. Ms. Madalyn Quinlan seconded the motion.

Ms. Hedalen stated her appreciation of everyone's efforts, but her concern is that she believes that advisory councils can only make recommendations to the Board. The Governor and others requested additional action to take place at this meeting, and it is important to discuss the specific code revisions that she believes have added additional controversy in the current educational climate.

Ms. Heller echoed Ms. Hedalen's concerns and asked that the motion be read again for clarification.

The motion was read again.

No further comment. Roll call vote: Opposed – members Lacey, Hedalen, Heller, Hamman, Rasmussen. For: Quinlan, Keith

Motion failed.

Original motion on the floor was re-read

Ms. Renee Rasmussen moved the Board take the following actions as requested by the Governor to be voted on as a single action item: 1) determine that CSPAC did not have authority to adopt and publish a Code of Ethics at its February 9<sup>th</sup>, 2022 meeting but is limited to recommending changes to the Educator Code of Ethics for submission to the Board for its approval/action/review 2) issue a statement that the revised language to the code of ethics purportedly adopted by CSPAC at its February 9, 2022 meeting has no affect unless and until the revisions are presented to and approved by the Board where there is open discussion with public input and the final version is determined, 3) request CSPAC present the revisions to the Educator Code of Ethics to the Board at a future Board meeting at our determination. Jane Hamman seconded the motion.

Ms. Keith noted her concern that by making this motion the Board is violating the law, and that she does not have enough information to determine that CSPAC did not have the authority to adopt a Code of Ethics.

Chair Lacey echoed Ms. Keith's concerns.

Motion passed with members Keith, Quinlan, Lacey dissenting.

**❖** MSDB LIAISON - Mary Heller (Items 5-6)

## Item 5 MSDB REPORT – (INFORMATION) Paul Furthmyre

Mr. Furthmyre welcomed Ms. Rasmussen to the Board, and congratulated Ms. Hamman on her award from Senator Daines. Mr. Furthmyre updated the Board on his participation in the Executive Leadership Academy and gave an update on the grant written to update the classrooms at the MSDB with more television screens and equipment. The grant was approved by the Governor and is now awaiting approval by the Treasury Department. The electricity project to make MSDB the first state agency with new lighting that can change color to help the low-vision students is ongoing. Mr. Furthmyre reported there are 47 students on campus right now with two students currently doing ten-day observations. Mr. Furthmyre reviewed the action items before the Board before requesting action.

Ms. Mary Heller moved to approve the MSDB Out -of -State Travel Requests as presented in the packet. Motion seconded by Ms. Madalyn Quinlan.

No discussion. Motion passed unanimously.

Ms. Mary Heller moved to approve the MSDB Personnel Actions as presented in the packet. Motion seconded by Ms. Anne Keith.

No discussion. Motion passed unanimously.

<u>Ms. Mary Heller moved to approve the MSDB Policy 1910: COVID-19</u> <u>Emergency Measures: Personnel Use of Leave.</u> Motion seconded by Ms. Madalyn Quinlan. No discussion. Motion passed unanimously.

### Item 6 ACTION ON MSDB SUPERINTENDENT 2022-2023 CONTRACT - (ACTION) - Tammy Lacey

Chair Lacey opened the item and asked Ms. Flynn to review the process to date and pointed out changes in the contract. Ms. Flynn noted that once the contract is approved today, Mr. Furthmyre will receive retroactive pay to begin at the date of his hire in January. Ms. Flynn also noted minor changes to the pay, and a stipend to assist in his completion of his doctoral degree. Ms. Flynn noted that State Human Resources has reviewed the contract.

Ms. Mary Heller moved to approve the MSDB Superintendent Contract to Mr. Paul Furthmyre for 2022-2023. Motion seconded by Ms. Jane Hamman.

Chair Lacey congratulated Mr. Furthmyre and thanked the Board for their work on the process.

No further discussion. Motion passed unanimously.

Ms. Heller asked for Mr. Furthmyre to let everyone know when the MSDB graduation date is. The date is May 27<sup>th</sup>, 2022 at 2:00 pm.

**❖** MACIE LIAISON – Susie Hedalen (Item 7)

### Item 7 MACIE REPORT – (INFORMATION) Jennifer Smith, MACIE Chair

Ms. Smith updated the Board on new hires at OPI in the Indian Education for All division and noted that Montana continues to struggle with the achievement gap for Native American students, especially due to challenges brought on by COVID-19. MACIE is looking at different ways to offer Native American students options for high school graduation and completion. MACIE will be meeting in person in April for the first time in two years and Ms. Smith reviewed items that will be on the agenda. Ms. Smith reviewed work on the Native American Language Statement, upcoming conferences surrounding Indian Education for All, and that MACIE will be bringing the Regalia Statement to the Board in May. Additionally, MACIE will also be bringing new members to the Board for approval. Ms. Smith answered Board member questions. Ms. Hamman asked if Board members could participate in the Indian Education for All Conference in May and Ms. Smith noted that it is open to anyone to participate and they welcome Board member's participation. Ms. Hedalen thanked Chair Smith for being diligent in making the April meeting an in-person meeting, and thanked Ms. Allen at OPI to offer funding to hold the meeting in person.

#### **EXECUTIVE COMMITTEE – Tammy Lacey – (Items 8-11)**

# Item 8 SCHOOL NUTRITION PROGRAMS ANNUAL REPORT – (INFORMATION) Caroline Olson

Ms. Caroline Olson, Assistant Director of School Nutrition Programs at OPI, presented the School Nutrition Program Annual Report to the Board. Ms. Olson discussed the USDA Flexibility Waiver and reported that it provided schools a great deal of creativity in how they provided meals to their students. Ms. Olson highlighted other grants awarded which allowed schools to upgrade kitchen equipment and other areas of their school nutrition program. The OPI provided weekly training sessions throughout the year for schools as an aid to school districts. The Summer Foods program, After School Program, Milk Program, and Fresh Fruit and Vegetable Program were also highlighted. Chair Lacey thanked Ms. Olson for the thorough report.

Item 9 ACTION ON NOTICE OF ADOPTION, ARM TITLE 10, CHAPTER 64, BUS STANDARDS – (ACTION)

Rob Stutz, OPI Chief Legal Counsel

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Mr. Rob Stutz, Chief Legal Counsel for the Office of Public Instruction, presented the Notice of Adoption for the School Bus Standards. Mr. Stutz clarified that the notice says 2022 and the document says 2021 because 2021 is when the drafting of the revisions began, but that date will be updated after adoption. Mr. Stutz noted that the extended stop arm requirement says "should", and that it is recommended but not required. Ms. Hedalen asked clarifying questions and noted that rural school districts have concerns with this requirement due to extended usage of buses on gravel roads.

Ms. Susie Hedalen moved to approve the Notice of Adoption of ARM Title 10, Chapter 64, Bus standards, and authorized filing of the notice with the Secretary of State's Office for publication in the Montana Administrative Register. Motion seconded by Ms. Anne Keith.

No discussion. Motion passed unanimously.

#### Item 10

ACTION ON NOTICE OF ADOPTION, ARM TITLE 10, CHAPTER 66, PERTAINING TO MONTANA YOUTH CHALLENGE ACADEMY – (ACTION) – McCall Flynn

Ms. Flynn reviewed that this item was before the Board in January for the Notice of Proposed Amendment and noted there was no public comment.

Ms. Susie Hedalen moved to approve the Notice of Adoption to ARM Title 10, Chapter 66, pertaining to Montana Youth Challenge. Motion seconded by Ms. Jane Hamman.

No discussion. Motion passed unanimously.

#### Item 11

### FEDERAL PROGRAMS UPDATE – (INFORMATION) Dr. Julie Murgel

Dr. Julie Murgel, Chief Operating Officer at the OPI, provided an update on the Federal Every Student Succeeds Act (ESSA) Accountability System, and the American Rescue Plan/Elementary and Secondary School Emergency Relief (ARP/ESSER) Funding. Dr. Murgel reviewed federal waivers the OPI applied for to assist schools in Comprehensive status and announced that a director for the Emergency Assistance to Non-Public Schools (EANS) program has been hired. Dr. Murgel answered Board member questions.

**❖ LICENSURE COMMITTEE – Madalyn Quinlan (Items 12-22)** 

### Item 12 INITIAL REVIEW OF BPE CASE #2020-10, SANTALA – (ACTION) Tara Harris, Counsel

Ms. Tara Harris, Counsel representing OPI in this case, presented this case to the Board, and reviewed her involvement in the case. Ms. Harris stated that neither Mr. Santala's union representative, Ms. Maggie Copeland, nor Mr. Santala, received a copy of the Superintendent's January 2022 letter, and with agreement from OPI, is asking for a continuance.

<u>Ms. Madalyn Quinlan moved to continue the Initial Review of BPE Case</u> <u>2020-10, Santala, to the May 2022 Board meeting.</u> Motion seconded by Ms. Renee Rasmussen.

Questions from Board members regarding the request.

No further discussion. Motion passed with members Heller and Lacey dissenting.

Question from member Hedalen as to whether there are any requirements that parents are notified of teachers facing charges. Mr. Stutz noted that the school districts may choose to do so, but the licensure process does not allow for parental notification.

## Item 13 UNUSUAL CASE REQUEST, BPE CASE #2022-02, MORAND – (ACTION) Crystal Andrews, Rob Stutz, OPI Chief Legal Counsel

Ms. Crystal Andrews presented the Unusual Case Request to the Board and reviewed the reasons for the request to extend a Class 5 Provisional License for one year.

Ms. Madalyn Quinlan moved to approve the Unusual Case Request for a one-year extension of a Class 5 Provisional License in BPE Case 2022-02, Morand. Motion seconded by Ms. Jane Hamman.

No discussion. Motion passed unanimously.

## Item 14 UNUSUAL CASE REQUEST, BPE CASE #2022-03, MAVRINAC – (ACTION) Crystal Andrews, Rob Stutz, OPI Chief Legal Counsel

Ms. Crystal Andrews presented the Unusual Case Request to the Board and reviewed the reasons for the request to extend a Class 5 Provisional License for one semester. Ms. Mavrinac attempted to find another university that offered the class in spring 2022 semester but was not successful.

Ms. Madalyn Quinlan moved to approve the unusual case request for a oneyear extension of a Class 5 Provisional License in BPE Case 2022-03, Mavrinac. Motion seconded by Ms. Susie Hedalen.

No discussion. Motion passed unanimously.

### Item 15 UNUSUAL CASE REQUEST, BPE CASE #2022-04, ESTRADA – (ACTION) Crystal Andrews, Rob Stutz, OPI Chief Legal Counsel

Ms. Andrews presented the Unusual Case Request for the Board's review. Mr. Estrada was available via Zoom and discussed the class that he will be teaching should this license be granted.

Ms. Madalyn Quinlan moved to approve the Unusual Case Request for a Class 4A License in BPE Case #2022-04, Estrada. Motion seconded by Ms. Anne Keith.

No discussion. Motion passed unanimously.

### Item 16 UNUSUAL CASE REQUEST, BPE CASE #2022-05, SHRIDER – (ACTION) Crystal Andrews, Rob Stutz, OPI Chief Legal Counsel

Ms. Andrews reviewed the Unusual Case Request for the Board. Ms. Shrider was available via Zoom and explained her background in School Counseling for the Board. Ms. Andrews answered Board member questions.

Ms. Madalyn Quinlan moved to approve the Unusual Case Request to add a School Counseling endorsement to an existing Class 1 Professional License in BPE Case #2022-05, Shrider. Motion seconded by Ms. Renee Rasmussen.

No discussion. Motion passed unanimously.

Item 17 UNUSUAL CASE REQUEST, BPE CASE #2022-06, GIFFIN – (ACTION)
Crystal Andrews, Rob Stutz, OPI Chief Legal Counsel

Ms. Andrews reviewed the Unusual Case Request for the Board.

Ms. Madalyn Quinlan moved to approve the Unusual Case Request for a Class 1 Professional License endorsed in Music in BPE Case #2022-06, Giffin. Motion seconded by Ms. Jane Hamman.

No discussion. Motion passed unanimously.

Item 18 UNUSUAL CASE REQUEST, BPE CASE #2022-07, NEUFELD LILLY –

(ACTION)

Crystal Andrews, Rob Stutz, OPI Chief Legal Counsel

Ms. Andrews reviewed the Unusual Case Request for the Board. Ms. Andrews answered clarifying questions for Board members.

Ms. Madalyn Quinlan moved to approve the Class 2 Standard License in BPE Case #2022-07, Neufeld Lilly. Motion seconded by Ms. Jane Hamman.

No discussion. Motion passed unanimously.

### Item 20 PRAXIS FOR MATH PRESENTATION – (INFORMATION) Crystal Andrews

Ms. Andrews reviewed the process for the review of a new cut score for the Math component of the PRAXIS exam. In alignment with other states, Montana is proposing adopting a passing score of 159, and has received approval from the Montana Council of Deans of Education for a score of 159. Ms. Andrews, Ms. Kristi Steinberg, University of Montana, and Nick Bellack, ETS, were part of the review committee. Ms. Andrews answered Board member questions.

### Item 19 UPDATE ON NEW LICENSING SYSTEM – (INFORMATION) Crystal Andrews, Zam Alidina

Ms. Andrews and Mr. Alidina presented an update on the new licensing system migration at OPI. Mr. Alidina reviewed the progress and what is upcoming in the next two months. Ms. Andrews reviewed communication that is going out to the field and to Education Preparation Programs, as well as how the license renewals are going with a paper process. The Licensure unit will be gaining an Administrative Specialist to assist with the migration of the system.

# Item 21 UPDATE ON REVISIONS TO ARM TITLE 10, CHAPTER 58, EDUCATOR PREPARATION – (INFORMATION)

Zach Hawkins, Rob Stutz, OPI Chief Legal Counsel

Mr. Stutz reviewed for the Board the proposal to revise the timeline for the revisions to Chapter 58 due to feedback from the field on the process. Mr. Hawkins reviewed for the Board that the original plan was to bring the full revisions to Chapter 58, but due to recommendations from the Task Force, and other feedback, the Superintendent is recommending slowing down the process. Mr. Hawkins answered Board member questions regarding the proposed timeline. Mr. Stutz reviewed the two proposed timelines in the packet and pointed the differences in the two and reasoning behind each one. Mr. Stutz answered Board member questions.

Item 22 ACTION ON REVISED TIMELIME FOR REVISIONS TO ARM TITLE 10, CHAPTER 58, EDUCATOR PREPARATION PROGRAMS – (ACTION)

Rob Stutz, OPI Chief Legal Counsel

Ms. Madalyn Quinlan moved to accept the proposed Chapter 58 recommended timeline from the Superintendent. Ms. Jane Hamman seconded the motion.

Ms. Lacey thanked the Superintendent and OPI for the proposal to amend the timeline.

#### No discussion. Motion passed unanimously.

#### **❖** ASSESSMENT COMMITTEE - Anne Keith - (Item 23)

## Item 23 ASSESSMENT REPORT – (INFORMATION) Ashley McGrath

Ms. Ashley McGrath, Assessment Director at OPI, presented the Assessment report to the Board, discussing 2021-2022 testing windows, test window and completions for English Language Learners (ELLs), and an FAQ page for Testing, Accountability, and Reporting. An overview of the Statewide Assessment for 2021-2022 was also reviewed. Ms. McGrath reviewed the new process for a pilot program for a summative assessment system, which was made allowable in Every Student Succeeds Act. Ms. McGrath also discussed the Montana Alternative Student Testing (MAST) Pilot Program before answering Board member questions.

Meeting adjourned at 2:46 PM.

#### Friday March 11, 2022 8:30 AM

#### **CALL TO ORDER**

The Chair called the meeting to order at 8:31 AM. The Chair led the Board in the Pledge of Allegiance and Ms. Stockton took Roll Call. The Chair asked guests to introduce themselves to the Board and read the Statement of Public Participation.

Board members present: Ms. Tammy Lacey, Chair; Ms. Madalyn Quinlan, Vice Chair; Ms. Renee Rasmussen; Ms. Anne Keith; Ms. Mary Heller; Ms. Jane Hamman; Ms. Susie Hedalen; Ms. Paige Lepard, Student Representative. Ex Officio members: Mr. Dylan Klapmeier, Governor Gianforte's Office; Dr. Angela McLean, Commissioner of Higher Education Office. Staff: Ms. McCall Flynn, Executive Director; Ms. Kris Stockton, Administrative Specialist. Guests present: Mr. Nathan Miller, OPI; Ms. Kristi Steinberg, University of Montana; Dr. Kirk Miller, School Administrators of Montana; Mr. Dennis Parman, Montana Rural Education Association; Dr. Tricia Seifert, MSU; Ms. Amanda Curtis, MFPE; Mr. John Melick, MSU; Dr. Julie Murgel, OPI; Ms. Jule Walker, MTSBA.

#### **❖** REPORTS – Tammy Lacey – (Item 24-25)

### Item 24 COMMISSIONER'S OFFICE REPORT – (INFORMATION) Dr. Angela McLean

Dr. McLean thanked the Board for being flexible by moving her report to Friday morning as she was attending the Board of Regents Meeting the previous day. Updates were given in the following areas: American Indian Minority Achievement; College Application Process (CAP) – a second process will be held this spring with no application fee for Montana students applying to Montana schools, a FAFSA completion process to assist students in applying for financial aid, Decision Day on May 3<sup>rd</sup> where students can announce the school they will be attending post high school, MUS College Access Portal update, upcoming Statewide ACT for all high school juniors, OCHE participation in OPI's new Teacher Residency Program, and the Grow Your Own Educator Program. New classes for this program have begun at Stone Child College, MSU Northern, and Blackfeet Community College. Dr. McLean answered Board member questions about the Grow Your Own program.

### Item 25 STUDENT REPRESENTATIVE REPORT – (INFORMATION) Paige LePard

Ms. Lepard updated the Board on the State Swimming results for the Great Falls High Schools and her personal results. Ms. Lepard also noted other athletic results in the community, the upcoming ACT for all Juniors, CMR Prom planning and fundraising, spring break, Senior Class events, events planned by the Junior, Sophomore, and Freshman classes, State Student Rep interviews planned in March, and the

State Student Conference which will be in April. Ms. Lepard announced the newly designed State Student Council website and encouraged Board members to review it. Business Professionals or America (BPA) and DECA have state and national competitions this spring as well as the HOSA competitions. Ms. Lepard answered Board member questions. Ms. Heller also announced upcoming state conferences for FFA, and Skills USA. Dr. McLean thanked Ms. Lepard for all her work as an ambassador and a student voice across the state.

#### **❖** ACCREDITATION COMMITTEE – Mary Heller – (Items 26-28)

### Item 26 CHAPTER 55 TASK FORCE UPDATE – (INFORMATION) Dr. Julie Murgel

Dr. Julie Murgel updated the Board on the progress of the Chapter 55 Revisions, including the Quality School Taskforce, Negotiated Rulemaking Committee, the proposed timeline for the revisions, and communications from the OPI regarding the revisions process. The Task Force has held two initial meetings and a survey has gone out to the stakeholders to assist the Task Force in creating the revisions. The Negotiated Rulemaking Committee will begin meetings March 17<sup>th</sup>. Dr. Murgel noted that all information on the process for revising Chapter 55 can be found on the OPI website.

# Item 27 RECOMMEND MAINTAINING CURRENT STATUS FOR SCHOOLS IN STEP 1, STEP 2, AND ONGOING ASSISTANCE – (ACTION) Nathan Miller

Mr. Nathan Miller, Accreditation Program Director, and Ellery Bresler, Accreditation Data Specialist, explained the Step 1, Step 2, and Ongoing Assistance program within the Accreditation Unit at OPI. They also highlighted the assistance and support the OPI offers schools to assist them in obtaining full accreditation status. Mr. Miller answered Board member questions.

Ms. Mary Heller moved to approve Superintendent Arntzen's recommendation to maintain the current status for schools in Step 1, Step 2, and Ongoing Assistance of Intensive Assistance per ARM 10.55.605 for an additional year. Motion seconded by Ms. Jane Hamman.

Ms. Heller commended OPI for working with these schools.

No further discussion. Motion passed unanimously.

Item 28 RECOMMEND APPROVAL OF THE 2021-2022 ACCREDITATION STATUS OF ALL SCHOOLS – (ACTION)
Nathan Miller

Mr. Miller and Ms. Bresler presented the 2021-2022 Accreditation Status of All Schools. They explained areas in the report and how data is gathered and used for the accountability purposes.

Ms. Mary Heller moved to approve the 2021-2022 Accreditation Status for All Schools as recommended by the State Superintendent per ARM 10.55.601, 10.55.605, and 10.55.606. Motion seconded by Ms. Susie Hedalen.

No discussion. Motion passed unanimously.

**❖ LICENSURE COMMITTEE – Madalyn Quinlan (Items 29-30)** 

Item 29 LICENSURE PANEL DISCUSSION – (INFORMATION)

Mr. Dennis Parman, MREA; Dr. Kirk Miller, SAM; Amanda Curtis, MFPE; John Melick, Montana State University; Dr. Tricia Seifert, Montana Council of Deans of Education; Kristi Steinberg, University of Montana (Note: Mr. Dennis Parman, MREA

Chair Lacey thanked the members of the panel for their work and for offering their expertise to the proposed revisions. Ms. Flynn reviewed that the Chapter 57 revisions are open and public comment can be made through April 8, 2022. The Board will hold a special meeting on April 28th, 2022, and adoption of the proposed revisions is scheduled for May 12-13, 2022 at the next regular scheduled meeting in Great Falls. Licensure Chair Quinlan explained how the panel will work and that members of the BPE Licensure committee have prepared questions they will ask the panel. Ms. Quinlan noted that the Board is currently in the process of revising the Licensure rules and requested that anyone with comments please send comments to the Board. Ms. Quinlan asked each member of the panel to introduce themselves.

Board members asked questions of the panelists regarding specific areas of the Superintendent's recommendations.

Item 30

ADDITIONAL BOARD MEMBER QUESTIONS ON SUPERINTENDENT ARNTZEN'S RECOMMENDATIONS TO REVISIONS TO ARM TITLE 10, **CHAPTER 57, EDUCATOR LICENSURE (INFORMATION)** 

Dr. Julie Murgel and Crystal Andrews

Ms. Quinlan opened the item. Ms. Andrews and Dr. Murgel introduced themselves to the Board. Dr. Murgel addressed some of the concerns discussed by the panel including the grade levels, "approved" vs. "accredited" programs, successful teaching experience, adding endorsements, and Class 3 licenses. Dr. Murgel and Ms. Andrews answered Board member questions.

#### FUTURE AGENDA ITEMS May 12-13, 2022, Great Falls

**CSPAC Appointments** Student Representative Last Meeting & Recognition Approve K-12 Schools Payment Schedule Assessment Update CAEP – MOU Discussion Accreditation Report Variance to Standards Requests & Renewals Federal Update

**MACIE** Update Approve MSDB School Calendar MCDE Update

Educator Licensure System Update Chapter 57 Notice of Adoption Superintendent Recommendations to Chapter 58 Presentation

Praxis for Math Action

**Executive Director Performance Evaluation** 

#### **PUBLIC COMMENT**

Tricia Siefert gave public comment regarding the difference between approved and accredited educator preparation programs.

Ms. Moffie Funk gave public comment regarding the action on the Code of Ethics on Thursday and the lack of decorum that was exhibited in the room. Ms. Funk was most concerned about lack of protocol and the bullying that went on during the meeting.

Deputy Director Sharyl Allen complemented the Board on their thoughtfulness on their decisions and addressed some of the challenges facing the state in licensing teachers, the increasing use of Emergency Authorizations, and need for the Board to approve Unusual Case Requests for licensure.

Dr. Stevie Schmitz, Rocky Mountain College, gave public comment thanking the Board for the time, attention, and care in making decisions regarding teacher licensure. Being flexible, collaborative, and looking at the research are the right things to do.

Board member Heller made comment that she found the Licensure Panel and the OPI Staff answering questions to be extremely helpful, but would like to see the public comments that are coming in. Chair Lacey explained that the Board will see the comments and will make decisions at the April 28<sup>th</sup> meeting.

#### **ADJOURN**

The meeting adjourned at 12:26PM.

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