

New Hampshire
State Board of Education
Minutes of the August Meeting
Meeting held telephonically due to the COVID-19 State of Emergency

AGENDA ITEM I. CALL TO ORDER

The regular meeting of the State Board of Education was convened at 9:03 a.m. The meeting was held telephonically due to the COVID-19 state of emergency. Drew Cline presided as Chair

Members present: Sally Griffin, Ann Lane, Kate Cassady, Cindy Chagnon, Phil Nazzaro, Helen Honorow, and Drew Cline, Chair. Commissioner of Education Frank Edelblut and Deputy Commissioner of Education Christine Brennan were also present.

AGENDA ITEM II. PLEDGE OF ALLEGIANCE

Drew Cline led the pledge of allegiance.

AGENDA ITEM III. PUBLIC COMMENT

No written commentary was submitted for this meeting.

AGENDA ITEM IV. NONPUBLIC SCHOOL APPROVAL

A. Our Lady of Mercy Academy

Chair Cline let the Board know that Our Lady of Mercy Academy asked to withdraw its application from the August agenda and move it to September's. Chair Cline explained that they have been waiting on their local town health inspection. All other aspects of their application appear to be complete, but they cannot be approved without the inspection.

B. Cardinal Lacroix Academy

Shireen Meskoob, NHDOE, Office of Nonpublic Schools Bureau of Educational Opportunities address the Board and explained that Cardinal Lacroix Academy is seeking to continue attendance only approval to operate. Ms. Meskoob noted that as of June's board meeting, the school had all necessary items except for its health inspection. The school has since received its inspection, which was performed by the Manchester Health Department on June 12. The Manchester Health Department recommended some corrective actions, including adjusting temperature levels of hand sinks, which have been corrected as of June 30, 2020. The Academy's report is now complete, and per the Office of Nonpublic

Schools, the school has met all of its requirements to receive their continued status for attendance purposes only.

There being no questions, Ms. Meskoob proposed a motion.

MOTION: Ann Lane made the preceding motion, seconded by Sally Griffin that the State Board accept and approve Cardinal Lacroix Academy for continued attendance for the period of September 1, 2020 through June 30, 2023.

VOTE: The motion was approved by roll-call vote by State Board of Education Members Sally Griffin, Ann Lane, Kate Cassady, Cindy Chagnon, Phil Nazzaro, and Helen Honorow, with the Chair abstaining.

AGENDA ITEM V. PUBLIC HEARINGS

A. Draft Final Proposal - Vocational Rehabilitation Programs (Ed 1000)

Chair Cline gaveled in the public hearing at 10:30 AM. He noted that no one had signed up to speak but that the hearing would remain open until 11:00 AM.

AGENDA ITEM VI. LEGISLATIVE UPDATES

A. Initial Proposal - Home Education Program (Ed 315)

Amanda Phelps, NHDOE Administrative Rules Coordinator, presented the initial proposal to the Board. As stated in the executive summary, the Department has worked closely with the Home Education Advisory Council (HEAC) to appoint a rules committee. HEAC met in June and voted to forward the rules to the State Board for approval to begin the rule-making process.

Helen Honorow asked Ms. Phelps to review the substantive changes to the proposal, along with the rationale behind them. Ms. Phelps explained that nothing substantive was added. Rather, it was a process of streamlining and cleaning up the rules for better flow, especially given that items are frequently added in response to situations that arise in the field. In addition, some items were removed because they were not necessitated by statutory requirement.

Ms. Honorow requested more clarity on rules being issued in the field, since such changes would presumably, in fact, be substantive. Ms. Phelps explained that the only statutory requirement is for parents to notify someone in the school system that they are initiating a home education program. The statute also lays out precisely how this notification should occur. The rules contained a great deal

of confusing extra details, so they were streamlined in order to better convey the simple notification requirement in the statute.

Ms. Phelps noted that her interactions with the home education community had revealed distrust of districts and the Department. In response to this distrust, it was decided to focus on providing guidance to parents as issues arise, rather than relying on a complex set of rules. For instance, if parents submit a notification but forget to include the child's date of birth, the school district has been saying that the parents did not provide proper notification; sending truancy officers to the home. The intent is to modify the system to lessen the involvement of truancy officers: if a parent makes an attempt to notify, even if it's incomplete, it will still count as notification. Going forward, such bureaucratic issues will instead be addressed through guidance from the Department or assistance from the school district.

Ms. Honorow noted that the vast majority of parents who select home education for their child want to do a good job. However, she wanted to confirm that there will still be adequate oversight to ensure that home-schooled children are safe and are, in fact, receiving a suitable education. Regarding the issue of mistrust, Ms. Honorow argued that in recent years, the State Board has had a positive relationship with the Home Education Advisory Council. She does not want the Board to abdicate responsibility for any child in the state and, as such, requested additional detail on the substantive changes, rather than simply "flow."

Ms. Phelps reiterated that the rule changes were not strictly about flow. The main purpose was both to clarify and improve flow as well as to align them with the statute and remove extraneous requirements. For example, the previous version of the rules included details like the parent's phone number, a piece of information that is not required by statute. The modified rules now contain nothing but what is required by statute. Additionally, the previous rules contained significantly more detail regarding termination of a home education program, and so the rules have been modified to align them with the statute. The rules are intended as guidelines for how to meet the statutory requirements.

Ms. Honorow asked what happens if a home-educated student wants to participate in a district program. Can the parent still refuse to provide their phone number because it's not required by statute? If so, how would parents be notified if something happens to the child while attending the program? Commissioner of Education Frank Edelblut interjected that the intent is to ensure the rules have statutory authority. He stated that Ms. Honorow is conflating two separate parts of the law in the hypothetical situation she presented. The rules on the table are designed to address only the process of initiating a home education program. If a home education student wishes to attend a public school program, there is a separate part of the statute that addresses the surrounding issues. Per statute, the sort of situation Ms. Honorow described is controlled by local school policy: home-schooled students access public school programs on the same basis as

public school students, and contact information requirements are spelled out in school policy.

Ms. Honorow pointed to the very beginning of the proposed draft, noting her confusion as to why some of the definitions are crossed out. For example, in 315.02, the words "parent" and "child" are crossed out. Commissioner Edelblut explained that the purpose of a rule is to clarify the application of the statute. In the prior version of the rules, statutory definitions were repeated throughout the document. In the revised draft, definitions are incorporated by reference to the statute: for example, 193-A:1, Roman numeral I, defines the term "child," and Roman numeral III defines the term "parent." The modifications to the rules eliminate unnecessary repetition, as well as ensuring that the rules will always be consistent with what is in the current version of the statute.

In order to clarify further, Chair Cline pointed to page 1, Ed. 315.02, Definitions. In this section, the rules reference the statutory definitions of "child," "nonpublic school," "parent," and "resident district." In addition, this section also provides definitions for terms that are not defined in statute. Commissioner Edelblut provided an example: the term "commissioner" is not referenced in the statute, but because the term is needed for the rules, this additional definition is provided in the rules.

Ms. Honorow asked why "standards applicable to a home education program" was removed at 315.01, sentence 1. Commissioner Edelblut noted that the purpose of the rule is to provide a process for uniform application of the requirement and read 193-A:3 from the statute: "The State Board of Education shall adopt rules pursuant to RSA 541-A relative to the administration of the home education program. The State Board of Education shall, in addition, to the provisions of RSA 541-A, submit any notice of proposed rule-making through 541-A:6." The first sentence spells out that this relates to the administering of a home education program, and so the rule is focused on capturing only this specific component. In other words, the law here is focusing not on "standards applicable to a home education program," but rather on the administration of a home education program.

Ms. Honorow replied that she understands but does not necessarily agree with Commissioner Edelblut's interpretation of the statute. Ms. Phelps noted that home education is not a program; rather, it is a parental choice. As such, the Department has not devised standards for home education programs. In other words, the standards are up to the parent, and the parent's only statutory requirements involve notification and assessment.

Ms. Honorow pointed to 315.04 on page 2 of the document, asking whether the commissioner is one of the participating agencies or whether it could have been a participating agency previously. Commissioner Edelblut replied that it could, and it was. Ms. Honorow pointed out that, per the document, participating

agencies have "duties and authority," which sound to her like standards and requirements. Duties and authority suggest more than just a process. Further, this paragraph lays out a series of requirements and dates by which they must be completed which, again, seems like more than a choice that parents make. Commissioner Edelblut indicated that the duties and authority spelled out in this paragraph belong to participating agencies.

Cindy Chagnon asked why the commissioner was added in the participating agencies section, since the commissioner is not himself a participating agency; he is the authority to whom the participating agencies report. Ms. Phelps replied that the commissioner was not added; it is actually listed that way in the statute. Chair Cline stepped in to clarify, referencing 193-A:4 and 193-A:5. The primary focus here is notification/truancy requirements, with only a small portion covering testing/evaluation. The Department and local district do not have any supervisory role in statute; their job is to account for every child. Commissioner Edelblut added that 193-A:5 specifies which agencies are authorized to receive notifications, and the commissioner is included in this list. The rule is simply reiterating this information about who can receive notifications; no information has been added.

Ann Lane asked why items are being repeated in this section if they have already been listed previously. Ms. Phelps responded that her first iteration did, in fact, remove everything. However, HEAC requested that some items be put back in to ensure the requirements are completely clear to parents. Most of the reiterations that occur in the draft were requested by HEAC. Ms. Honorow asked about the frequency with which items are included in both the rules and the statute. Ms. Phelps replied that the rules are focused on clarifying the statute, and so the rules contain very few instances of repeating information that is already spelled out in the statute. Primarily, the rules point to the statute rather than reiterating the statute. Chair Cline added that 315.04 of the rules spell out the process by which a parent establishes a home education program. He believes that the HEAC wanted this spelled out in the rule because the how-to part is not clear in the statute, and the goal is to set forth a clear, comprehensible process for parents to refer to.

Kate Cassady requested clarification on one of the points Ms. Phelps made, asking whether Ms. Phelps had stated there were no guidelines at all for home schooling. Ms. Phelps noted that the Department's website has a Home Education Liaison who works with HEAC and the home education parents. What she meant in her earlier discussion of guidelines was that the Department wants to rely more on guidance to fix situations as they arise, rather than overcomplicating the rules.

Ms. Honorow asked why the Department wants to rely on guidance. Ms. Phelps responded that there are only two statutory requirements for parents and that the rules should be in line with the statute. When questions arise in very specific scenarios as individual parents go through the process, the participating agency should provide guidance on a case-by-case basis, rather than adding extra

detail to the rules. Ms. Phelps also stated that the issue of trust came up frequently during her conversations with HEAC and that it is important for the Department to start building trust again, which needs to be done through communication, not rules. Ms. Honorow asked why the parents have lost trust. Ms. Phelps reiterated that truancy officers have appeared even when parents have provided notification. She provided an additional example, citing situations in which parental requests to use school tests have been denied or in which schools demanded remuneration in exchange for the test. Chair Cline added that, in his time on the Board, complaints have been received from homeschool parents that districts were imposing requirements that are not justified or allowed under the law.

Ann Lane asked if there are any references in the rules to "home schooling" where the term needs to be changed to "home education" for consistency. Ms. Phelps replied that she has not done a thorough check of every rule but will ensure that future rule proposals will change references to "home school" to "home education."

Cindy Chagnon pointed to Ed. 315.8, asking whether annual evaluations and record-keeping are at the discretion of the parent. Chair Cline responded that the statute requires parents to provide an annual educational evaluation. Ms. Chagnon asked what happens in the case of a poor evaluation. Are parents held accountable for improvement? Commissioner Edelblut pointed to 193-A:6, Records and Evaluation, which mandates that students must take a formally administered National Student Achievement Test. Students scoring at or above the 40th percentile are deemed to have achieved reasonable academic proficiency. If a child does not meet the requirements, the opportunity for intervention is provided.

MOTION: Phil Nazzaro made the following motion, seconded by Ann Lane, that the State Board of Education approve the initial proposal for Ed. 315, home education.

VOTE: The motion was approved by roll-call vote by State Board of Education Members Sally Griffin, Ann Lane, Kate Cassady, Cindy Chagnon, Phil Nazzaro, and Helen Honorow, with the Chair abstaining.

Chair Cline noted that he had neglected at the beginning of the meeting to read the Right-to-Know law statement regarding COVID-19/electronic meetings, and so read it at this point. Ms. Honorow noted that she did not get a response to her email about how the public hearing was noticed. Chair Cline replied that public hearings are noticed in the same manner that the meetings are noticed (people were provided a call-in number). Ms. Phelps indicated that she notified the Office of Legislative Services three weeks prior to the meeting and that the notification was posted in the Rule-Making Register, which is how all public hearings are

posted. It was also posted on the department website. Chair Cline noted that it was also contained in the agenda packet.

B. Initial Proposal ~ Chartered Public Schools (Ed 318)

Amanda Phelps stated that the rules under discussion were amended to align with RSA 194-B and to remove redundant language between the statute and the rule.

Chair Cline indicated that he has been involved in discussions on this topic with Ms. Phelps, Nate Greene, and Caitlin Davis for many months. Opinions were solicited from the charter school community and from other Board members. This batch of changes, like the home education changes, are designed primarily to ensure that the rules align more precisely and clearly with the statute and to clean up unnecessary items such as definitions.

Helen Honorow noted that in the July meeting, Ms. Phelps had stated that the Board was not provided a draft for review because there would probably be some upcoming substantive changes. Ms. Honorow requested that Ms. Phelps point out those changes in the current draft. Ms. Phelps stated that the changes she was referring to are on page 9, the Department Legal and Peer Review. These changes were made in response to RSA 541-A:29 (agency response to applications). Because the rules regarding timeliness of review of applications did not consistently align with the statute, Ms. Phelps added that process to the rules. The Department is required to respond to an application for missing materials within 30 days and to make a decision on an application within 60 days of receiving a complete application. The peer review and legal review were added, such that an application is not complete until both of those reviews are completed. The completion of these sections starts the 60-day timeline for the Board to make its decision. Ms. Honorow asked which specific substantive changes Ms. Phelps was referring to in last month's minutes. Ms. Phelps replied that she was referring solely to the timeline for response to applications.

Ms. Honorow noted that she appreciates the desire for streamlining, but is extremely concerned that we have not taken meaningful steps to address problems that have been recognized relating to charter schools, whether they arise at the annual review or from complaints. Ms. Honorow is concerned about potential harm to students who attend schools in which specific problems have been raised and has concerns over the attention being paid to cleaning up existing rules. Chair Cline noted two prior conversations with Ms. Honorow in which he explained that the charter school rule revisions will be completed in multiple steps. The document under review represents step one, and problems with charter schools will be addressed in step two. Ms. Honorow replied that she doesn't understand why they are not moving more quickly to remediate problems and wanted to place this concern on record.

Ms. Honorow also asked Nate Greene to address the changes to the makeup of the three peer review members. Per Mr. Greene, the peer review group was changed for two reasons:

- 1) To remove the Department employee requirement. Since the only charter school Department employee, Jane Waterhouse, already does a full application review, a second reviewer was needed for the peer review process.
- 2) It has been difficult finding potential committee members who have any significant experience or knowledge of charter schools.

Ms. Honorow asked whether Jane Waterhouse's report will still be part of the review, to which Mr. Greene replied yes.

Ann Lane noted that, for the initial application, there is no requirement that the receiver notify the applicant of receipt. Timeframes for notification are provided at other places in the rule, but this requirement seems to be missing for the initial application. It seems like an important omission, given how time-sensitive the applications are. Ms. Phelps pointed to page 9 of the proposal, number 10b, which states, "Within ten days of initial filing, the Office of Charter Schools shall notify the applicant of receipt of the application materials, as well as any missing materials required by RSA 193-B:3." This timeline is required by statute. Ms. Lane indicated that she was actually confused by a passage referencing July 30. Ms. Phelps replied that this date refers to the local board process, over which the Department has no jurisdiction. The local school boards are not required to provide notification of receipt, so procedures will differ from board to board.

Ms. Lane also pointed to a grammatical concern in the following passage on page 6a, under Ed. 318.09: "An applicant seeking State Board authorization for a charter school shall submit a letter of intent to submit a charter school application to the Department Office of Charter Schools, which...." The word "which" does not apply to what is listed below. Chair Cline explained that there are two crossed out lines following "which," so the complete phrase is actually "which shall include."

Chair Cline noted some additional wording issues:

- Page 2, 318.06, paragraph A - In the passage, "The school board, by July 1 of the year preceding intended operations," should "operation" be changed to "opening"? Ms. Phelps agreed to the change.
- Page 4, 318.07, paragraph A2, should the word "proposed" be removed from the phrase "for the proposed application," since it is

referring to the application, not a proposed application? Ms. Phelps agreed to the change.

- Page 5, in the next-to-last paragraph: "Provide a written notification of any suggested additions or amendments." The word "suggested" might be correct, but Chair Cline wonders if "required" might be a more precise term. Nate Greene agreed with Chair Cline's point, but said that the word "suggested" comes directly from the statute.
- Page 9, paragraph D, next-to-last sentence: "Conditional upon the availability of funds, the Department shall provide a small stipend and travel cost." Since the provision of funds is contingent upon the availability of funds, is "shall" the correct word legally, or should it be changed to "may"? Chair Cline found it confusing as to who determines whether funds are available. Ms. Phelps agreed with Chair Cline's reasoning, stating that it could probably be changed to "may." Alternately, it could be changed to Chair Cline's suggested wording: "the Department shall, if funds are available." Cindy Chagnon asked whether the phrase should be included at all, given that the Department always has a limited budget and may be unlikely to ever pay. Chair Cline thought it should be included to accommodate cases where, e.g., the charter school gets a federal grant, and the school is flush with cash. Ms. Chagnon replied that she does not want the wording to set up false expectations that people are going to get paid; Chair Cline noted that this is partly why he has issues with using the word "shall." Nate Greene stated that he had a conversation with the business office around this issue in an attempt to set up a procedure for the stipend. It was proposed to create a line item under the Office of Charter Schools' budget for this specific purpose. Caitlin Davis noted that they are comfortable changing the wording to "may." Further, this passage was included in the rules in an attempt to lure higher quality reviewers, which has been challenging in the past.
- Page 11, 318.01, paragraph D: "If the Board determines that more information is necessary to make a decision regarding the approval or denial of the application, upon written agreement by the applicant...the Board shall extend the decision." This requirement of written permission could prevent the Board from extending decision deadlines on the spot during a Board meeting, for instance. He proposed changing the wording to "written or in-person agreement." Ms. Phelps argued that it is probably fine if the applicant is testifying in a recorded public meeting, but Chair Cline felt that the rule should actually spell it out. Ms. Phelps proposed massaging this language before the public hearing.

Kate Cassady raised a concern with consistency on page 6, 318.08-A, where "approval" is crossed out and replaced with "authorization," because other areas in the rules use the word "approve" (e.g., page 11 at the top and 318-11). Mr. Greene replied that there are two different processes in the statute. Either a local school board or the State Board can authorize a charter school, but in both cases, the application still ultimately goes to the State Board for approval. Thus, the language is meant to convey the distinction between a local board authorizing a charter school and the State Board giving its final approval.

Chair Cline continued with his list of wording issues:

- Page 13, 318.13, paragraph A, says that applications shall come to the State Board no later than one year before the original charter is set to expire. Is the one-year time period in statute or can this time period be shortened in order to help charter schools out a bit? He also raised a concern with the following passage from paragraph B, "The first renewal of the application shall consist of the school's fourth-year annual report with the cover letter." The term "consist of" suggests that the annual report will be the only item in the application. Chair Cline proposed replacing "consist of" with "include." Mr. Greene replied that the term "consist of" may in fact be in the statute, which would require a legislative change.
- Additional document requirements are included later on the same page. Chair Cline flagged number 3, "including pertinent yearly accountability materials submitted to the charter school office," noting that these materials might need to be more clearly defined.
- Page 14, paragraph D references a proposed budget for the following school year. Chair Cline suggested adding "a summary of the last five years' budget, the current year's budget, and a proposed budget for the following school year," because it would be helpful for the Board to see how the school has spent their money and done their fundraising.
- Re: 318.14, B3, "whether the school is meeting goals for student attainment of expected knowledge and skills," Chair Cline thought it would be useful to include something along the lines of "a comparison of the school's academic performance over the last five years, with resident district, the state, and peer students, and then a summary of the student's academic growth." He would place particular emphasis on seeing growth in charter school students. Ann Lane noted that we do not ask this information of public schools, to which Chair Cline replied that we should. Ms. Lane agreed that such information is very helpful, but wanted to make sure the Board

was not placing an extra burden on charter schools that is not placed on all public schools. Chair Cline felt that if the Department compiled the data, then the information would be available for review at renewal time without burdening the schools. Cindy Chagnon disagreed somewhat with Ms. Lane, arguing that it would be an asset, not a burden, for charter schools. It would allow the many charter schools for at-risk children to focus on growth, given that their state adequacy scores often fall below even their own district. Mr. Greene indicated that the entire section on renewal is going to be tackled in step two, so not much has been changed in the section as of yet. Mr. Greene checked the statute, which states that charter schools may be renewed using the same process as an initial school. The use of the word "may" and the absence of additional statutory language governing the renewal process seems to give the Department a good deal of leeway in crafting the rules around the process.

Sally Griffin asked Mr. Greene if he could furnish a schedule of the planned phases and what each phase will include. Mr. Greene responded that the current phase is focused on aligning everything with statute and cleaning up the approval processes (which is why most of the revisions on this first pass occurred in the first half of the rules). The next phase will focus on two sections in the rules--the charter school renewal process and the process for charter revocation--that need substantial content revision. The statute on approving charter schools is four pages long, but the statutes on renewals and revocations comprise about a sentence or two each, which will give the Board more discretion and wider latitude in writing these rules. Ms. Griffin requested a formalized timeline for the process, which Mr. Greene agreed to put together.

Ann Lane asked if sections in the rules covering oversight and authority will be addressed. Mr. Greene agreed to look into the issue.

Kate Cassady proposed that the Board organize a retreat to work on the more detailed aspects involved in the next phase. Chair Cline agreed to schedule a retreat, hopefully in person, relatively soon that would involve representatives from charter schools.

Chair Cline completed his list of proposed revisions:

- Page 15, 318.145, about halfway down the page, third line in the paragraph: "if the commissioner makes a recommendation to revoke a charter, it shall give the trustees at least 90 days." He proposed changing the word from "it" to "the Department" or "the commissioner" or, if "it" refers to the recommendation, the passage needs to be reworded to make that clear. Mr. Greene agreed to clean up the passage.

- In 318.16, should "pursuant to RSA 189" be changed to "in accordance with RSA 189"?

MOTION: Cindy Chagnon made the following motion, seconded by Mr. Nazzaro, that the State Board of Education approve Ed. 318, Chartered Public Schools, as amended.

VOTE: The motion was approved by roll-call vote by State Board of Education Members Sally Griffin, Ann Lane, Kate Cassady, Cindy Chagnon, Phil Nazzaro, and Helen Honorow, with the Chair abstaining.

C. Conditional Approval Response - How to Obtain a New Hampshire Educator License (Ed 505)

D. Conditional Approval Response - Requirements for Specific Educator Endorsements (Ed 506 & Ed 508)

E. Conditional Approval Response - Renewal and Denial of Credentials (Ed 509 & Ed 512 - Ed 513)

F. Conditional Approval Response - Special Education Teachers (Ed 507.40 & Ed 507.41)

I. Credential Standards for Educational Personnel (Ed. 501-04)

Chair Cline proposed bundling some of the conditional approval items together. Ms. Phelps felt that this approach made sense. Chair Cline noted that one item, Credential Standards for Educational Personnel, came in late and was not provided in the initial meeting packet, and that it is a conditional approval response just like the other items under consideration.

All five of the rules (Ed. 501 through Ed. 513, plus Ed. 507.40 & Ed. 507.41 for special education teachers) were approved as a final proposal by the State Board and submitted to the Office of Legislative Services (OLS). OLS responded with comments, the most substantive of which was the use of the term "license," as opposed to "certificate." Each proposal has a few strikeouts and bold italic language that Ms. Phelps had to include in order to avoid objections from the Joint Legislative Committee on Administrative Rules (JLCAR); none of these are substantive.

All five rules went to JLCAR and were postponed several times because the statutes say "certificate" and "certification," whereas the Department wished to use the term "license." At the July 16 JLCAR meeting, JLCAR voted unanimously to allow the Department to use the term "license" in the rules, as long as the

Department works with the legislature to fix the language in the statute. Approximately seven statutes use the term "certificate" instead of "license," so the Department will work on that in preparation for the next legislative session.

Chair Cline clarified that most regulatory boards use the term "license" for the highest level, where "certificate" legally tends to mean something less than a license.

MOTION: Phil Nazzaro made the following motion, seconded by Sally Griffin, that the State Board of Education approve as a bundle all of the following conditional approval responses:

Ed 505 ~ How to Obtain a New Hampshire Educator License
 Ed 506 & Ed 508 ~ Requirements for Specific Educator Endorsement
 Ed. 509 & Ed 512-513 ~ Renewal and Denial of Credentials
 Ed 507.40 & Ed 507.41 ~ Special Education Teachers
 Ed. 501- Ed 504 ~ Credential Standards for Educational Personnel

VOTE: The motion was approved by roll-call vote by State Board of Education Members Sally Griffin, Ann Lane, Kate Cassady, Cindy Chagnon, Phil Nazzaro, and Helen Honorow, with the Chair abstaining.

G. Adopt - Learn Everywhere Program (Ed 1400)

Amanda Phelps provided an overview of the rules. The Learn Everywhere rules are being proposed for adoption by the State Board. The rules received a final objection from JLCAR on October 17, 2019. JLCAR also voted to sponsor a joint resolution that was introduced in the 2019 legislative session, within the timeframe allowed by law. However, final legislative action was not taken on the resolution within the statutory 90 calendar days, allowing the Board to adopt the rule over the objection of the committee.

Commissioner Edelblut supplied further detail, noting that a request was granted by JLCAR to extend the 90-day calendar through the end of the legislative session so that the legislature would have an opportunity to act on it. It was not acted on, leaving the Department open to adopt the Ed 1400 rules for the Learn Everywhere program. Commissioner Edelblut also discussed RSA 193-E:2-a 5b, a law that was passed which tasks the State Board of Education to adopt rules pursuant to 541-A, relating to approval of alternative programs for granting credit leading to graduation. Commissioner Edelblut noted that he is excited to implement the Learn Everywhere program in light of the pandemic-related restrictions.

Cindy Chagnon asked if the failure to act within 90 days occurred as a result of the pandemic and whether the legislature would have voted on the issue had

COVID not interfered. Commissioner Edelblut does not believe that COVID was a factor in the legislature's failure to vote, because the legislature was back in session before the extended deadline ran out.

Helen Honorow noted her understanding that the Senate Education Committee did meet and voted to approve the legislation; however, COVID prevented the committees in the House from meeting. Chris Bond, NHDOE Attorney, did not know whether this information was correct or not.

Ms. Honorow pointed out that the vast majority of comments received, particularly from districts and educators, opposed these rules. JLCAR's final objection found that the Department was acting outside of its legislative authority. She noted the contradiction between the day's recurrent theme of ensuring that rules adhere to statute, while at the same time proposing to exceed their authority in this case. She does not believe these rules will be helpful or will increase flexibility for districts, a majority of whom do not want to move in this direction. She argued that the districts need the Department to be focused on providing them the resources to be able to provide remote education. Ms. Honorow strongly urges against adopting these rules.

Chair Cline countered that JLCAR's stance--that the Department lacks the authority because it violates RSA 193-E:2 5b--is, legally speaking, demonstrably incorrect. JLCAR, he argued, has the process backwards for how one receives a graduation credit. JLCAR's position is that you engage with the curriculum at the local level, then get your competency, then get your credit. However, this is not the way it works under the law and the rules, as clearly demonstrated in 306. He noted that New Hampshire operates under a competency-based system, meaning that students get graduation credit for demonstrating competency, regardless of the curricula taken by the student. He then read from the rule:

- 306.27-E: "Graduation [is] based on mastery of required graduation competencies, as demonstrated through the accumulation of credits."
- 306.27-F: "Credits shall be based on the demonstration of district and/or graduation competencies, not on time spent achieving these competencies."
- 306.27-G: "Students may receive acknowledgement of achievement for graduation competencies through student demonstration of a collection of work or other assessment evidence gained through prior learning activities."
- 306.27-K:6: "Students shall be provided courses in a classroom setting that will enable them to demonstrate achievement of graduation competencies." Chair Cline added that courses are created to demonstrate competencies. "Students shall not be required to take these courses in order to demonstrate achievement of graduation competencies but may engage in distance education

programs to demonstrate achievement. Duplicate, equivalent, or additional courses in these program areas may be offered through distance education and extended learning opportunities or other alternative methods."

Chair Cline asserted that these provisions have been part of the rules for a long time and that the Learn Everywhere program is another alternative method for students to be able to demonstrate competencies and receive credit based on the Department's existing process. Learn Everywhere is not intended to replace curriculum, nor is it reaching into the district and taking away their curriculum authority. JLCAR has ignored the Department's numerous attempts to explain this position.

Ms. Honorow reiterated that JLCAR is, under statute, required to make an analysis of the rules, and their analysis determined that the Board had exceeded its authority. She rejected Chair Cline's assertion that JLCAR ignored the Board's arguments. JLCAR responded to every presentation that was made and repeatedly found that the Board had exceeded its authority. Ms. Honorow also reiterated her concerns that the majority of feedback from districts, educators, and parents opposed the rules. Districts in particular bristled at the prospect of rules requiring them to accept credits from other entities. She did not believe the Board should sidestep the process by ignoring the feedback of the majority.

Chair Cline responded that the Board has a legal process for passing rules over JLCAR's objection, a mechanism put in place by the legislature.

Ms. Honorow also wanted everyone to understand that if any lawsuits were to arise over the issue, the State Board would need to be parties to such an action. Attorney Bond responded that she is correct regarding the Board being a party to lawsuits challenging the rules. However, this is not a function of adopting over JLCAR's objection; it would be the case in any event. The impact of adopting over JLCAR's objection is the loss of the presumption that the rules were consistent with the statute. Further, the Board would be defended in such a suit by the Attorney General's office.

Ms. Chagnon worried that the Board may be presumed to have used COVID-19 to sneak the rules through. She also wondered whether the legislature's 90-day extension applied not solely to Learn Everywhere, but to all bills on the table at the time. Chair Cline believed that the extension was in fact specific to Learn Everywhere.

Ms. Chagnon also noted that she liked aspects of the rules, including guarantees that the programs will be reachable and as well as oversight of the programs. Her only objection was the requirement that one-third of the credits be accepted, which she deemed far too high. Chair Cline replied that it is actually 30%, so slightly short of one-third. He also noted that because of the JLCAR

objection, the rules could not legally be amended until after being passed; they must go through as-is. Once the rules are in effect, however, anyone could propose amendments.

Sally Griffin noted that the Board had already voted to endorse Learn Everywhere after many hours of public testimony. In her view, nothing has changed regarding the merits of the program. She considers it "an innovative opportunity to make education fit the student in a dynamic and engaging way" and appreciates the degree to which it is student-centered and focused on experiential learning. She also argued that it would provide another means of preventing loss of students, which is a particular danger in the pandemic.

Ann Lane concurred with Ms. Griffin and notes that nothing has changed since the Board's original discussion on the topic except for the pandemic. Ms. Lane argued that the COVID environment is an excellent reason to support Learn Everywhere, especially considering that parents are nimbler than large districts to address the needs of their children.

Kate Cassady had initially voted no. However, a conversation with the previous commissioner reminded her that Board members' main priority is the children, not politics or other factors, which in turn led her to support Learn Everywhere. She noted that it is just another educational tool and pointed out that teachers do not have to use it if they do not wish to do so.

Ms. Chagnon noted that this fall would presumably be far too soon for programs to be implemented. Chair Cline concurred that none of these programs would be up and running in the immediate future because the rules require programs to be thoroughly developed and vetted by the Department, a process which would likely take several months.

Ms. Chagnon noted that she, like Kate Cassady, supports the students, schools, and parents. However, she disagreed with Ms. Cassady's point that the schools can choose. In fact, they must accept the program, which gives her concern over how this will affect the credit situation at a school. Chair Cline reiterated that, going forward, there will be a process to address this concern.

Phil Nazzaro stated that his support for the program is already on the record. Given the amount of debate that has occurred, he felt that it was time for a motion.

MOTION: Phil Nazzaro made the following motion, seconded by Sally Griffin, that the State Board of Education adopt Ed. 1400, Learn Everywhere Program.

VOTE: The motion was approved 4:2 by roll-call vote, with State Board of Education Members Sally Griffin, Ann Lane, Kate

Cassady, and Phil Nazzaro voting in favor. State Board of Education Members Cindy Chagnon and Helen Honorow voted against. The Chair abstained.

Chair Cline thanked the Board for the thought put into this issue and for the productive, content-focused discussion.

H. Initial Proposal - Amend Demonstrated Knowledge and Skills (Ed 306.27(d))

Amanda Phelps provided background on the proposal. Ed 306.27(d) states that students can demonstrate knowledge and skills on a placement pretest developed by the local school district for a particular course. This rule adds that if a placement pretest does not exist, students are allowed to take a test that is approved by the Department. Further, if students prove they have the knowledge and skills, they shall be awarded credit. (Previously, students in this situation were allowed only to move on to a higher course, with no credit awarded for competencies.)

Commissioner Edelblut provided context to illustrate the importance of the rule. Pre-COVID, the Department investigated the extent to which students were permitted to take a placement pretest and receive credit for their mastery of the competencies. It was found that the rule had not, in fact, been implemented, despite having been in place for over a decade. Languages were the only area in which students were being allowed to take a placement pretest, and even then, students were not receiving credit for competencies. (For example, students who tested out of Spanish I would be allowed to enter Spanish II, but they were not given credit for Spanish I.) Commissioner Edelblut then reached out to superintendents to develop pretests. The superintendents estimated it would take three to five years to develop the pretests. The Department wishes to develop state-level tests in order to accelerate the process. The local districts could then choose either to adopt a Department pretest or to develop their own test.

Ms. Chagnon wondered how a state test could deal with the variations of how competencies are achieved between districts. Commissioner Edelblut replied that the competencies developed at the local level are required to be based on the state academic standards. Thus, while there may be some nuanced variation from district to district, there is a broad understanding of the expected standards.

Chair Cline added that the longstanding rule is in line with New Hampshire's competency-based system, which allows students to skip seat time in courses for which they have already achieved competency. Despite the rule having been in place for so long, many districts did not develop the tests. The proposed amendment would allow the existing rule to finally be put into practice.

Ms. Chagnon asked whether the ability to receive credit was already in legislation, or whether that component is a new addition. Chair Cline noted that for students wishing to attend college, their transcript needs to show credit for courses that they have placed out of. Ms. Chagnon replied that if a student skips Spanish I, Spanish II, III, et cetera would show up on their transcript for college admission purposes. She feels that giving credit for a course that the student did not actually take seems almost dishonest to the colleges.

Commissioner Edelblut addressed Ms. Chagnon's initial question, stating that, according to the original drafter of the rule, the rule's intention was that students should receive credit for demonstrating mastery of competencies. The amendment under discussion is intended to make clear the original intention of the existing rule. Further, giving students credit for competencies affords them more flexibility in their future educational opportunities because they have more capacity to advance.

Chair Cline quoted Rule 306.27(f), which states that "credits shall be based on the demonstration of district and/or graduation competencies, not on time spent achieving the competencies" to emphasize that this is already in the existing rule. The amendment is just compliance with that rule.

Ms. Honorow countered that there is a distinction between a placement test and being awarded competency. Schools regularly conduct placement tests to determine which class to place a student in, but they do not award credits for these tests. Ms. Honorow thus felt that the concept of giving credit is clearly an addition, not a mere clarification. She also expressed concern that this addition is increasing reach into the districts by forcing them to accept these test results as credit. Commissioner Edelblut expressed his hope that the Board would support the initial proposal, noting that there will be plenty of opportunity for further conversation on the subject. He also indicated he would be happy to connect Board members with Fred Bramante, who would be able to provide detail on New Hampshire's competency-based system.

MOTION: Phil Nazzaro made the following motion, seconded by Sally Griffin, that the State Board of Education approve amendment 306.27(d), Demonstrated Knowledge and Skills.

VOTE: The motion was approved 4:2 by roll-call vote, with State Board of Education Members Sally Griffin, Ann Lane, Kate Cassady, and Phil Nazzaro voting in favor. State Board of Education Members Cindy Chagnon and Helen Honorow voted against. The Chair abstained.

AGENDA ITEM VII. COMMISSIONER'S UPDATE

Commissioner Frank Edelblut discussed the work going on to prepare for school reopening. The Department is working closely with all schools to support them through the process. The governor received 100,000 cloth masks from FEMA, and the Department has been working closely with the New Hampshire National Guard to distribute these masks to the school districts. The Department is also working closely with Health and Human Services, along with the governor's office, to provide clear guidance on handling a COVID-19 event in a building.

The Department conducted a survey related to reopening guidance, the results of which were published on the Department webpage several weeks ago. The Department has also used the survey results to create individualized district reports, which are also available on the website. In addition, the Department has made available on its website PDFs of all district reopening plans in order to create a shared resource for district leaders. These plans are in different stages: some are still in development, some are pending approval, and some are approved.

The Department is also working closely with the Virtual Learning Academy Charter School (VLACS), which has seen a significant surge in the number of students applying to the program, either directly or through school districts. The Department is supporting families seeking a fully remote option and is working closely with Steve Kossakoski to accommodate as many students as possible.

iLearnNH is the name of the statewide learning management system. It is Canvas-based, and it is being implemented in the K through 20 space (K-12, community colleges, and the New Hampshire university system). The first cohort of schools in the implementation process will go live on Monday. This will cover about 60,000 students in 50 schools. Implementation will be done in batches. Individuals from Canvas and the University of New Hampshire are working directly with the schools on instructional design and integration.

Elementary and Secondary School Emergency Relief Fund (ESSER) grants are continuing to move forward. These grants comprise about \$34 million that has been made available to the districts to aid in coronavirus response. At this point, approximately 50 grants have been approved. Only 37 grant applications have not yet been submitted, in many cases because those district leaders are still finalizing back-to-school plans and are awaiting more information on how they intend to allocate the funds.

Some schools are opting for remote-only plans. The Department is strongly encouraging and trying to help facilitate for these districts in-person support services, particularly for students with Individual Education Plans (IEPs). The Department is also working with districts to ensure that Career and Technical Education (CTE) students can gain access to their programming. Nashua will be

opening their CTE centers to allow students lab time. Efforts are also being focused on English Language Learners to ensure they do not fall behind.

Finally, the Department has been working with Health and Human Services around issues of attendance, reporting, and mandatory reporting. Data was gathered on what the reporting looked like. There was a falloff in reporting, but it was uneven, with some districts maintaining their normal levels and other districts falling off significantly. Falloff tended to happen in remote and hybrid districts. Teachers fell off somewhat, but not nearly as much as other support staff did. As a result, the Department will be doing specific trainings about creating pathways to help support staff maintain closer contact with students.

Ms. Griffin asked for more detail on iLearnNewHampshire.com. Will districts be adopting the platform, or is it up to individual teachers to participate? Commissioner Edelblut replied that it can happen on both levels. The Department is encouraging all districts to adopt it, with the goal of making schools nimbler in responding to the pandemic environment. The platform would also allow for more consistency across the state. The Department has set up a three-year licensing agreement through the University of New Hampshire, so it will be offered for at least three years at no cost to the districts. Educators are not being required to adopt it.

Ms. Chagnon wondered if districts are aware of the shortage of hand sanitizer and the low-quality sanitizers that have been emerging recently. She also asked whether the state could help school districts acquire the large amount of hand sanitizer that will be needed. Commissioner Edelblut stated that the Department has connected schools to the Department of Administrative Services, in coordination with the Homeland Security office, to allow school districts to place their orders under bulk contracts. The governor has also committed to work with schools that are having shortages to enable them to access state stockpiles of personal protective equipment. The Commissioner had not heard of any such shortages so far.

Commissioner Edelblut also provided examples of the kinds of issues that the Department is helping districts to solve. Fire code prohibits mounting alcohol-based hand sanitizer devices at building entries and exits, which is exactly where sanitizers need to be placed. The Department is thus working with the state fire marshal to solve this problem. Also, many districts have been procuring Chromebook devices, but one of the districts reported difficulty moving their order through the customs process. The Department has been working with their federal delegation to ensure that these orders do not get stalled.

Ms. Griffin is friends with a teacher in Nashua who currently uses a Chromebook and who reported that the device is not an adequate tool for remote teaching. This teacher is on iDonate, which allows her to raise funds to acquire more suitable technology. Ms. Griffin asked whether Chromebooks are, in fact,

inadequate for a teacher to teach from. Commissioner Edelblut explained that the Chromebook is an Internet device and thus relies on apps that reside in the cloud. He noted that Chromebooks are not the most powerful computing platform available and that their adequacy would really depend on what the teacher is teaching and what tools they are accessing. The Commissioner said he would be happy to check in with Nashua to see whether this is a pervasive problem.

AGENDA ITEM VIII. OPEN BOARD DISCUSSIONS

Ms. Honorow asked whether Chair Cline intends to set up a task force to proceed to the next stage of reviewing needs for charters, or whether he plans to discuss this in a retreat. Chair Cline had initially envisioned setting up a task force, but Kate Cassady's suggestion of a retreat seems particularly intriguing. He indicated that he has not made a final decision on the best approach and would like to hear from Board members regarding their preferences.

AGENDA ITEM IX. OLD BUSINESS

There was no old business.

AGENDA ITEM X. TABLED ITEMS

There were no tabled items discussed.

AGENDA ITEM XI. CONSENT AGENDA

A. Meeting Minutes of July 9, 2020

There being no discussion of the meeting minutes, Chair Cline called for a motion to approve the minutes.

MOTION: Ann Lane made the motion, seconded by Sally Griffin, to approve the Minutes of July 9, 2020 as presented.

VOTE: The motion was approved by roll-call vote by State Board of Education Members Sally Griffin, Ann Lane, Kate Cassady, Helen Honorow, and Drew Cline, with Cindy Chagnon abstaining because she was not present at the meeting. Phil Nazzaro did not vote because he needed to leave the meeting early.

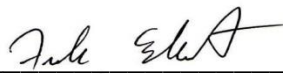
AGENDA ITEM XII. NONPUBLIC SESSION

MOTION: Cindy Chagnon made the following motion, seconded by Sally Griffin, that the State Board of Education move to nonpublic session under RSA 91-A:3, II(c).

- VOTE: The motion was approved at 12:24 PM by roll-call vote by State Board of Education Members Sally Griffin, Ann Lane, Kate Cassady, Cindy Chagnon and Helen Honorow with the Chair abstaining.
- MOTION: Cindy Chagnon made the following motion, seconded by Sally Griffin, that the State Board of Education to leave nonpublic session and return to public session at 1:00 PM.
- VOTE: The motion was approved by roll-call vote by State Board of Education Members Sally Griffin, Ann Lane, Kate Cassady, Cindy Chagnon and Helen Honorow with the Chair abstaining.
- MOTION: Ann Lane made the following motion, seconded by Sally Griffin, to seal the minutes of the nonpublic session.
- VOTE: The motion was approved by roll-call vote by State Board of Education Members Sally Griffin, Ann Lane, Kate Cassady, Cindy Chagnon, and Helen Honorow with the Chair abstaining.

AGENDA ITEM XI. ADJOURNMENT

- MOTION: Cindy Chagnon made the motion, seconded by Sally Griffin, to adjourn the meeting at 1:00 p.m.
- VOTE: The motion was approved by roll-call vote by State Board of Education Members Sally Griffin, Ann Lane, Kate Cassady, Cindy Chagnon, and Helen Honorow with the Chair abstaining.



Secretary