**Minutes of the Regular Meeting**

**of the Massachusetts Board of Elementary and Secondary Education**

**Tuesday, March 31, 2020**

**9:03 a.m.– 10:50 a.m.**

**By Remote Participation Per Governor Baker's Emergency Order of March 12, 2020**

**Members of the Board of Elementary and Secondary Education Present:**

**Katherine Craven**,Chair,Brookline

**James Morton**, Vice-Chair, Boston

**Amanda****Fernandez**,Belmont

**Matthew Hills**, Newton

**Michael Moriarty,** Holyoke

**James Peyser**,Secretary of Education

**Paymon Rouhanifard**, Brookline

**Mary Ann Stewart,** Lexington

**Matthew Tibbitts**, Student Advisory Council, Ludlow

**Martin West**, Newton

**Jeffrey C. Riley**,Commissioner of Elementary and Secondary Education

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Chair Craven convened the meeting of the Board of Elementary and Secondary Education (Board) at 9:03 a.m. Board members introduced themselves. With thanks to Mr. Moriarty for the suggestion, Chair Craven asked for a moment of silence to commemorate all who have lost their lives to Covid-19, including veterans at the Soldiers’ Home in Holyoke. Chair Craven then proceeded to the public comment portion of the meeting. Helene Bettencourt, Associate Commissioner, introduced those presenting comments.

## Public Comment

* Gerry Mroz addressed the Board on Item 1: Update on Covid-19 Action Steps to Support Schools, Students, and Families
* Jen Rose-Wood addressed the Board on Item 1: Update on Covid-19 Action Steps to Support Schools, Students, and Families, and the Boston Public Schools district review and MOU
* Kim Janey, Boston City Council President, addressed the Board on the Boston Public Schools district review and MOU
* Annissa Essaibi-George, Boston City Councilor, Chair of Committee on Education, addressed the Board on the Boston Public Schools district review and MOU
* Lydia Edwards, Boston City Councilor, District 1, addressed the Board on the Boston Public Schools district review and MOU
* Jessica Tang, Boston Teachers Union President, addressed the Board on the Boston Public Schools district review and MOU
* Evelyn Reyes, student representative on the Boston School Committee, addressed the Board on the Boston Public Schools district review and MOU
* Pilar Romero, Boston parent, addressed the Board on the Boston Public Schools district review and MOU
* Soraya Harley, Boston parent, addressed the Board on the Boston Public Schools district review and MOU
* Ana Arroyo, Boston parent and teacher, addressed the Board on the Boston Public Schools district review and MOU

**Comments from Chair Craven**

Chair Craven thanked all who presented public comments, especially those from the City of Boston who took the time to present their views. She said she is one of many parents working from home with young children and appreciates the work teachers are doing to help students stay connected with learning during this time of uncertainty. Chair Craven said as the parent of a 16-year-old with an IEP, she hopes Commissioner Riley will discuss the guidance he has sent on school closures and remote learning in relation to students with special needs. She added she has been hearing from many parents in similar situations. Chair Craven said the Board understands and appreciates how difficult this situation is for families and how challenging it is for educators. She said she hopes some light comes out of this in terms of innovative approaches to education.

**Comments from Secretary Peyser**

Secretary Peyser thanked the Commissioner and his team for all their work over the last month as this health crisis has become more severe and its impact on our education system more direct and profound. He also thanked the educators and staff in schools throughout the Commonwealth for dealing with this rapidly changing environment and the new demands it brings, including the new skills that people have had to develop quickly. Secretary Peyser expressed appreciation to the teachers, principals, support staff, service workers, and everyone involved in public education for the effort they are putting forward in a very difficult time. He thanked parents and families for everything they are doing on behalf of their children, helping them engage in learning and supporting their well-being.

Secretary Peyser said when Governor Baker extended the order suspending in-person instruction in schools until at least May 4, he made clear this is not a vacation and it is not about ad hoc enrichment opportunities. Rather, one reason for extending the period, aside from the important public heath rationale, is to ensure that schools can plan more coherent, consistent, structured lessons and learning opportunities for all of their students, including those with special needs and English language learners, and to make sure April is a month of meaningful learning so students are prepared for success when school resumes. Secretary Peyser said it is critical that we not write off the school year; students need to keep learning and progressing. He concluded by thanking the Department, the education field, and families for all their work.

**Comments from Commissioner Riley/Update on Covid-19 Action Steps to Support Schools, Students, and Families**

Commissioner Riley said our focus as an educational community during this challenging time is first and foremost on the needs of our students, especially those who are most vulnerable. He said his first priority when the state of emergency took effect was students’ safety, both physical and emotional, as well as nutrition services. Commissioner Riley echoed the Chair and Secretary in thanking education stakeholders and families for working together on behalf of children.

Commissioner Riley discussed the Governor’s orders and noted almost all staff of the Department are working remotely, while those few who are in the office are following public health rules for social distancing. Commissioner Riley said the closure of schools raised many challenges, and the first order of business was to make sure students would still get the food they need. He said the Department’s Nutrition Services team has done an amazing job working with school districts. Commissioner Riley said the U.S. Department of Agriculture has approved our request to waive the requirement that school meal sites be located only in areas that have 50 percent or above eligible for free and reduced-price meals, which means all school districts are eligible for reimbursement. He commended districts for keeping their programs going even before the USDA confirmed they would qualify for reimbursement. He said at this point over 1200 sites are operating in Massachusetts to provide meals to children. Commissioner Riley thanked Department staff and the federal government for their help in this area.

Commissioner Riley briefed the Board on the guidance he has sent to districts. He has strongly recommended that districts continue to pay their hourly employees and consider alternative work plans for them, encouraging districts to coordinate these efforts with their human resources offices and municipal officials. Commissioner Riley said the Department is working closely with the Governor’s office on contracted services and has provided guidance to districts about continuing tuition payments for collaboratives, non-residential vocational enrollment, Recovery High Schools, Horace Mann charter schools, and inter-district tuition agreements, as well as tuition payments for day and residential special education programs, which are eligible for circuit breaker reimbursement. The Commissioner said the Department expects districts will continue to pay tuitions to maintain essential system capacity and promote continuity of services to students to the greatest extent possible.

Commissioner Riley noted he has sent out guidance on the 180-day requirement and the Student Opportunity Act district plan deadline. He discussed MCAS testing and the Competency Determination process and added that federal and state law have to be addressed before the Department can proceed. He said the U.S. Department of Education has given initial approval to exempt the state from the annual testing requirement, and we are awaiting action by the Legislature on the bill the Governor filed to give the Commissioner discretion to postpone, modify, or cancel spring 2020 MCAS testing and to recommend to the Board changes to the CD due to the state of emergency. Commissioner Riley said if and when the bill is enacted, he will make decisions in short order, in the best interest of students. The Commissioner also noted the Department has revised the calculation of chronic absenteeism under the accountability system, to count student attendance only in the first 120 days of the 2019-2020 school year.

Commissioner Riley reviewed the guidance on remote learning that the Department issued on March 26. This guidance was built on recommendations and support from the Massachusetts Association of School Superintendents, Massachusetts Charter Public School Association, Massachusetts Association of School Committees, Massachusetts Teachers Association, American Federation of Teachers Massachusetts, and Massachusetts Parent Teacher Association. Commissioner Riley went over the guiding principles and said the Department has posted supplemental resources for educators and is partnering with WGBH to bring educational resources to students and families through television and digital media. He noted Governor Baker has issued an executive order extending licenses for certain licensed professionals, including licensed educators. The order states that a license that is in good standing as of March 18, 2020, and that has expired or will expire during the state of emergency, is now extended and will remain valid until 90 days after the end of the state of emergency. The Commissioner added the Department is addressing MTEL testing for educator license applicants.

Commissioner Riley said the Department has extended deadlines for SIMS (student information management system) reporting and has suspended on-site monitoring in schools; if districts need help, the Department will support them virtually. He noted the Department is continuing to manage the Problem Resolution System to support families with issues affecting students. The Commissioner said the Department is reviewing educator evaluation and other issues. He highlighted a letter to parents that the Department has sent out in various languages and posted on the DESE website. The Commissioner said he expects to send further guidance to school districts on using April vacation, high school graduation, and federal stimulus funding, among other things.

Commissioner Riley said there may have been some misunderstanding about the Boston Public Schools MOU. He said he and the Superintendent agreed to push off the 60-day provision in the MOU to later in the spring. He added that the MOU is a supportive model, not receivership or creation of a zone; it sets targets for the next three years, focusing on work that includes, but is not limited to, improving the lowest-performing schools, school transportation, school bathroom facilities, and educator diversity. The Commissioner said he and the Superintendent have postponed next steps, recognizing that the MOU was not scheduled to go into effect until fall.

In closing, Commissioner Riley thanked Deputy Commissioner Jeff Wulfson upon his retirement after 38 years of state service; today is Mr. Wulfson’s last Board meeting in his official capacity. The Commissioner said Mr. Wulfson’s service has been invaluable in countless ways and he is truly someone who cannot be replaced.

Russell Johnston, Senior Associate Commissioner, provided an overview of the Department’s work to strengthen remote learning opportunities for students with disabilities. He noted the U.S. Department of Education recently shifted its approach, and the supplemental fact sheet that the federal agency issued on March 21 unequivocally states that districts should be doing everything they can during this national emergency to provide a free appropriate public education to students with disabilities consistent with the need to protect health and safety.

Mr. Johnston discussed the Department’s outreach to stakeholders and guidance the Department has issued, building on the federal guidance and offering models for remote delivery of special education and related services. He added that our state guidance stresses the importance of district and school staff maintaining close communication with families to overcome barriers and help students benefit from learning and support services. The Department is encouraging a team approach by teachers. Mr. Johnston said he is conducting weekly conference calls with district special education directors to convey information, address questions, and share good ideas.

Chair Craven thanked Commissioner Riley and Senior Associate Commissioner Johnston for their presentations. She asked if Board members had questions for the Commissioner. Hearing none, Mr. Hills observed that Commissioner Riley has been keeping up regular communication with Board members and with the field about the actions the Department is taking, and this clear ongoing communication reduces the need for questions.

**Approval of Minutes**

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education approves the minutes of the February 25, 2020 Regular Meeting.**

The vote, by roll call, was 9-0-1. Mr. Moriarty abstained.

**Proposed Regulation Addressing Regulatory Timelines Due to Covid-19 State of Emergency, 603 CMR 56.00, for Emergency Adoption**

Rhoda Schneider, General Counsel, summarized the memo on the proposed emergency regulation, 603 CMR 56.00. It would authorize the Commissioner, for good cause arising from the current state of emergency and the closure of schools, to suspend, extend, or waive any timeline or due date in the Board’s regulations to the extent permitted by state and federal law. She offered examples of regulatory timelines and due dates that students, educators, and school districts cannot reasonably meet in the current state of emergency. Ms. Schneider added that any timeline or due date that arises from state or federal law would remain unchanged.

Ms. Schneider explained that the Commissioner is recommending that the Board adopt the regulation on an emergency basis, as provided by the Massachusetts Administrative Procedure Act. The emergency regulation would be in effect for no more than three months, during which time the Department will solicit and review public comment. She said the Commissioner expects to bring the regulation back to the Board for final adoption at the June meeting.

**On a motion duly made and seconded, it was:**

**VOTED:** **that the Board of Elementary and Secondary Education, in accordance with G.L. c. 69, § 1B, hereby adopts the Regulation Addressing Regulatory Timelines Due to COVID-19 State of Emergency, 603 CMR 56.00, as presented by the Commissioner.**

**Further, in accordance with the Administrative Procedure Act, G.L. c. 30A, § 3, the Board finds that the immediate adoption of this regulation is necessary for the preservation of public welfare, and that observation of the requirements of prior notice and public comment would be contrary to the public interest. The Board directs the Commissioner to provide notice and an opportunity for public comment on the emergency regulation, in accordance with the requirements of G.L. c. 30A, § 3, within the next three months.**

The vote, by roll call, was 10-0.

**Education Collaboratives: Delegation of Certain Matters to Commissioner per Statute**

Ms. Schneider said the Commissioner is asking the Board to vote on one small housekeeping matter. She explained that in January 2019, Governor Baker signed into law amendments to the statute on education collaboratives. Next month the Commissioner will bring to the Board limited amendments to the Education Collaborative Regulations, 603 CMR 50.00, to align with the new requirements of the law. Meanwhile, two provisions of the amended statute, relating to the organization and leadership of collaborative regions around the state, take effect in early April, and the Commissioner recommends that the Board delegate to him the decision-making around these two provisions.

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education authorize the Commissioner, in accordance with General Laws c. 15, § 1F, paragraph 3, to act on behalf of the Board in carrying out the provisions of General Laws c. 40, § 4E (n) and (o). These provisions relate to establishing no more than 6 regions for education collaboratives, in consultation with Massachusetts Organization of Educational Collaboratives, and the authority to designate a lead collaborative in each region to provide support for the implementation of initiatives, as appropriate.**

The vote, by roll call, was 10-0.

Mr. Moriarty voiced his appreciation to the Department for disseminating information to schools on the U.S. census. He said he hopes the Commissioner will continue reaching out to superintendents and principals to encourage families to respond to the census so we can avoid an undercount in Massachusetts.

Ms. Stewart, Chair Craven, and Vice-Chair Morton offered best wishes to Deputy Commissioner Jeff Wulfson on his upcoming retirement and expressed deep appreciation for his expertise, institutional knowledge, exemplary service, and sense of humor. Vice-Chair Morton offered thanks to the Commissioner, his leadership team, and those who provided public comment today. He commended Commissioner Riley on his leadership in developing the MOU with the Boston Public Schools and setting the foundation for all parties to move forward with the important work. Chair Craven added her thanks to the Commissioner and DESE team and reiterated her appreciation for the educators and families of Massachusetts.

Commissioner Riley thanked Mr. Moriarty for his comments on the importance of the census and said he will be reminding school and district leaders about it. The Commissioner said he may have misspoken on the revised date for targets to be set on the Boston Public Schools MOU; it may be July. In closing, the Commissioner said he encourages families to find time for children to exercise because it is critical for their physical and mental health.

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education adjourn the meeting at 10:50 a.m. subject to the call of the Chair.**

The vote, by roll call, was 10-0.

Respectfully submitted,

Jeffrey C. Riley

Commissioner of Elementary and Secondary Education

and Secretary to the Board