**Minutes of the Regular Meeting**

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

**Department of Elementary and Secondary Education**

**75 Pleasant Street, Malden, MA 02148**

**Tuesday, June 22, 2021**

**9:03 a.m. – 12:12 p.m.**

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

**Katherine Craven**,Chair,Brookline

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

**Jasper Coughlin**, Student Member, Billerica

**Amanda** **Fernández**,Belmont

**Matthew Hills**, Newton

**Darlene Lombos,** Boston

**Michael Moriarty,** Holyoke

**James Peyser**,Secretary of Education

**Paymon Rouhanifard**, Brookline

**Mary Ann Stewart,** Lexington

**Martin West**, Newton

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

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Chair Craven called the meeting to order at 9:03 a.m. and members introduced themselves.

**Public Comment**

* **Senator John J. Cronin** addressed the Board on Item 2, Career and Vocational Technical Education: Amendment to Vocational Technical Education Regulations
* **Kara Sotirakopoulos, parent,** addressed the Board on Item 1, Update on COVID-19 Action Steps to Support Schools, Students, and Families
* **Jennifer Shanahan, parent,** addressed the Board on Item 1, Update on COVID-19 Action Steps to Support Schools, Students, and Families
* **John Heroux, parent,** addressed the Board on Item 1, Update on COVID-19 Action Steps to Support Schools, Students, and Families
* **Jacqueline Pelletier, parent,** addressed the Board on Item 1, Update on COVID-19 Action Steps to Support Schools, Students, and Families
* **Kassie Infante, Lawrence School Committee member,** addressed the Board on Item 2, Career and Vocational Technical Education: Amendment to Vocational Technical Education Regulations
* **Sky Kochenour, Staff Attorney, Center for Law and Education,** addressed the Board on Item 2, Career and Vocational Technical Education: Amendment to Vocational Technical Education Regulations
* **Gerry Mroz, parent,** addressed the Board on Item 8, Proposed Amendment to Competency Determination Regulations, and Item 10, Annual Performance Evaluation of Commissioner

## Comments from the Chair

## Chair Craven expressed her thanks to Board members and all the educators and students in the Commonwealth and staff at DESE for their work over the past year. She noted this is the last meeting for student member Jasper Coughlin. She wished him the best and thanked him for his service to the Board and the students of the Commonwealth. Chair Craven said the Board would hear two committee reports, first from Vice-Chair Morton on the work of the Commissioner’s Performance Evaluation Committee and then from Ms. Fernández on the Educator Diversification Committee.

**Annual Performance Evaluation of Commissioner**

Vice-Chair Morton explained that each year, the Performance Evaluation Committee evaluates the performance of the Commissioner and his team. He thanked the other members of the committee – Chair Craven, Ms. Fernández, and Mr. Hills – for their hard work. Vice-Chair Morton described the committee’s process and thanked DESE staff for their support and coordination. He thanked Board members and other individuals and organizations who offered their observations and insights to the committee, and summarized the committee’s report.

Vice-Chair Morton noted some words were used repeatedly when people described the Commissioner: accessible, approachable, an advocate, admirable, and accountable. He said Commissioner Riley was commended for his strong and effective leadership during a year of extraordinary challenges, his engagement with and support to the field in addressing COVID-19, and for continuing to make progress on priority initiatives even during the pandemic. Vice-Chair Morton said the committee encourages the Commissioner to work with his talented team and with stakeholders to continue the process of reimagining education in the Commonwealth.

Vice-Chair Morton said based upon its review of the goals and accomplishments of the past year, the committee concluded that Commissioner Riley earned an overall rating of 4.75 on a 5-point scale for FY2021. Vice-Chair Morton recommended that the Board acknowledge the Commissioner’s stellar performance. He added that the committee plans to meet to discuss the Commissioner’s compensation and bring its recommendation to the Board at a future meeting.

Chair Craven asked members of the public in the room to refrain from disrupting the meeting.

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

**VOTED: that the Board of Elementary and Secondary Education approves the Commissioner’s FY2021 overall performance rating of 4.75 on a 5-point scale for his accomplishments in FY2021, as recommended by the Board’s committee. The Board commends Commissioner Riley for his leadership, accessibility, engagement with stakeholders, and thoughtful decision-making during this extraordinarily challenging year. The Board thanks the Commissioner for his exemplary service.**

The vote was unanimous.

Chair Craven asked Ms. Fernández to report on the work of the Educator Diversification Committee but first thanked Ventura Rodriguez, Senior Associate Commissioner for Strategic Initiatives, for preparing a brief for the White House on this work. Ms. Fernández also thanked Mr. Rodriguez and his team. She said diversifying the educator workforce continues to be a priority and highlighted several areas of opportunity: the emergency educator license, which DESE is implementing and monitoring in terms of outcomes; the MTEL pilot initiative, through which DESE is identifying multiple pathways for candidates to meet the test requirement for licensure; potential legislation including the proposed Educator Diversity Act; and DESE’s guidance to districts about using ESSER funds to support educator diversity initiatives. Ms. Fernández said she looks forward to further progress reports.

Chair Craven commended DESE and the Department of Higher Education for continuing their joint work on the Early College initiative, which was born out of the two boards coming together to create new opportunity pathways for students in Massachusetts. She noted that the Early College Joint Committee recently approved five new programs.

## Comments from the Secretary

Secretary Peyser said he has had the privilege of working closely with the Commissioner on many issues in this unprecedented year. He said Commissioner Riley never wavered from his commitment and responsibility, and he has been particularly skillful at balancing the interests of education and public health. The Secretary said the Commissioner has been both wise and aggressive in making resources available to the field to meet critical needs; he has also used funding to create incentives for effective practices in education and for programs like COVID-19 testing. Secretary Peyser added that the Commissioner worked with the field to create flexibilities that schools and districts needed so they could operate in these challenging circumstances. The Secretary endorsed the Performance Evaluation Committee’s report and thanked the Commissioner for always keeping students at the center of his decisions.

#### Approval of the Minutes

On a motion duly made and seconded, it was:

**VOTED: that the Board of Elementary and Secondary Education approve the minutes of the May 25, 2021 Regular Meeting.**

The vote was unanimous.

Chair Craven again asked members of the public in the room to refrain from disrupting the meeting and reminded them that they may send written comments to the Board or sign up for the public comment portion of the meeting.

#### Update on COVID-19 Action Steps to Support Schools, Students, and Families

Commissioner Riley explained that masking in schools is required through the end of this school year, but for summer school, masking is encouraged for unvaccinated people but not required. He said at this time there are no restrictions for the fall and DESE is continuing to work with the Department of Public Health in case the trajectory of the virus changes.

Mr. Rouhanifard commended the Commissioner for his performance over the past year, specifically noting the decision to reopen schools earlier this spring. He said while it was not an easy decision and there was pushback, it is a good example of the Commissioner making the right decision on behalf of students. Mr. Rouhanifard asked the Commissioner for his thoughts on the Boston Public Schools (BPS) and the district’s ongoing operational and programmatic challenges and recent governance challenges.

Commissioner Riley said we have a responsibility to oversee BPS and he is concerned about the loss of members on the Boston School Committee, especially with BPS set to receive nearly a half billion dollars in federal ESSER funding. The Commissioner said his team will be exploring the possibility of temporarily freezing ESSER II and III but he wants to be sure the district has the funds it needs to open successfully, particularly around health and safety. Commissioner Riley said he wants to see the school committee stabilized and while this is no reflection on the Acting Mayor, who inherited this issue, it is fair to ask how such a diminished board could make a substantial decision. The Commissioner said he will watch what happens with that board.

Career and Vocational Technical Education: Amendment to Vocational Technical Education Regulations, 603 CMR 4.00 (Admission Standards)

Commissioner Riley said the issue of fairness in vocational school admissions has been important to him since he took this job in 2018. He said the Department has been working on it for several years, including reviewing our regulations to determine how they could be improved. Commissioner Riley added that for the last two years the Department has been collecting and analyzing admissions and enrollment data and meeting with stakeholders including schools and programs, students and families, industry leaders, community organizations, and advocates.

The Commissioner noted that the Board reviewed and discussed the data on admissions at the February 22 special meeting, and at the April 20 regular meeting the Board voted to send the proposed regulatory amendments out for public comment. He said today he is presenting an updated version of the regulations, including changes in response to the public comments received. Commissioner Riley explained a yes vote today means the new admissions regulations will affect students applying to CVTE programs for the 2022-2023 school year. He summarized the proposed regulations and introduced Cliff Chuang, Senior Associate Commissioner for Educational Options, Elizabeth Bennett, Associate Commissioner for College, Career, and Technical Education, and Caitlin Looby, DESE legal counsel.

Noting continued disruption from some in the audience, Chair Craven called for a brief recess at 10:03 a.m. Board members unanimously agreed. The Chair reconvened the meeting at 10:15 a.m.

Secretary Peyser said he supports the regulations as presented. He noted significant changes were made in response to public comment. The Secretary said there are now strict limits on allowable criteria regarding behavior and attendance, as well as heightened awareness and new tools to promote fair access. Secretary Peyser said while the data show progress over the past several years in terms of CVTE enrollment for students of color, that progress needs to be accelerated. He noted that the regulations track federal civil rights guidelines and said the key will be implementation, coupled with DESE’s rigorous and consistent oversight. He thanked the Commissioner and DESE team for their work.

Ms. Lombos said as the labor representative on the Board, she sees the regulations as an important step. She said the process has involved a lot of listening and she appreciates the Department’s outreach and collaboration with organizations and individuals who are concerned with these issues. She encouraged the Department to continue the collaborative work. Mr. Moriarty commented that the regulations underscore that CVTE programs need to reach out to eighth-graders and their families about their options, and the importance of solid preparation, including early literacy, for all students. Mr. Hills thanked the DESE team for coming up with a good policy after listening to many views and considering them carefully.

Ms. Fernández thanked the staff for the information they provided and agreed that implementation is the key. She asked the Commissioner to report to the Board periodically, adding that the admissions lottery should be considered if the regulations do not bring about positive changes. Mr. Rouhanifard thanked the team and said he supports the Commissioner’s proposal. He encouraged DESE to analyze whether high-demand CVTE schools are in fact connecting their graduates with career pathways. Mr. Coughlin commended the Department for expanding access for students. Ms. Stewart said she is pleased with the collaborative effort on the regulations but is not inclined to vote in favor because she believes they should be stronger, as some commenters have urged. Attorney Looby responded that the regulations are an important step that the Department will supplement with guidance, technical assistance, and other activities and resources. Vice-Chair Morton said he is impressed with the regulations and the broader strategies the Department has outlined, all of which should lead to greater fairness and equity.

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

**VOTED: that the Board of Elementary and Secondary Education, in accordance with G.L. chapter 69, §§ 1B and 1F and chapter 74, § 2, and having solicited public comment in accordance with the Administrative Procedure Act, G.L. chapter 30A, § 3, hereby adopts the amendments to the Vocational Technical Education Regulations, 603 CMR 4.03(6)(a), as presented by the Commissioner.**

The vote was 10-0-1. Ms. Stewart voted present.

**Advancing Deeper Learning: Update on Kaleidoscope Collective for Learning and Innovative Science Assessment**

Commissioner Riley said he is updating the Board today on the Department’s progress in advancing deeper learning and promoting innovative assessment. He introduced Senior Associate Commissioner Komal Bhasin and Michelle Ryan, Implementation Director, to present on the Kaleidoscope Collective for Learning, and Sam Ribnick, Special Advisor for Innovative Assessments, to speak about the innovative science assessment. The panel presented information and examples to illustrate deeper learning and Kaleidoscope, and described the development of the innovative science assessment as a way to assess and inspire deeper learning. They discussed the support that the Department is providing to participating schools, and next steps in the process. Panel members and the Commissioner responded to questions from Board members. Chair Craven thanked the Commissioner and panel members for the presentation.

Mr. Rouhanifard left the meeting at 11:25 a.m.

**Regulatory Modifications Due to the COVID-19 Emergency**

Commissioner Riley noted items 5 through 8 are modifications to Board regulations prompted by the COVID-19 emergency; the first three are votes on final regulations that have been through a public comment period and the fourth is a vote to solicit public comment on a proposed regulation. He introduced Associate Commissioner Rob Curtin to answer any questions.

**Amendment to Accountability Regulations, 603 CMR 2.00 (Modification to 603 CMR 2.03)**

Commissioner Riley said the first item on this list is an amendment to the accountability regulations which the Board voted on April 20, 2021 to send out for public comment. The amendment would allow the Department to refrain from issuing new accountability determinations for districts and schools for school year 2020-2021. The Commissioner recommended that the Board adopt the amendment.

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

**VOTED: that the Board of Elementary and Secondary Education, in accordance with M.G.L. c. 69, §§ 1B and 1I and having solicited comment in accordance with the Administrative Procedure Act, G.L. c. 30A, § 3, hereby adopts the amendment to the Regulations on Accountability and Assistance for Schools and Districts, 603 CMR 2.00, as presented by the Commissioner.**

**The proposed amendment updates the regulations in response to the COVID-19 pandemic by adding a new section 603 CMR 2.03(11), allowing the Department of Elementary and Secondary Education to refrain from issuing new accountability determinations for districts and schools for school year 2020-2021.**

The vote was unanimous.

**Amendment to Charter School Regulations, 603 CMR 1.00 (Modification to 603 CMR 1.04(9))**

Commissioner Riley said also in April 2021, the Board voted to solicit public comment on a proposed amendment to the charter school regulations relating to the list of districts in the lowest 10 percent, which is required by state statute. He explained that the amendment is needed

because we lack MCAS results from last spring due to the COVID-19 pandemic; it would effectively freeze for this year the list that was released in spring 2020. The Commissioner recommended that the Board vote to adopt the amendment.

**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, and c. 71, § 89, and having solicited comment in**

 **accordance with the Administrative Procedure Act, G.L. c. 30A, § 3,**

 **hereby adopts the amendment to the Regulations on Charter Schools,**

 **603 CMR 1.04(9), as presented by the Commissioner.**

The vote was unanimous.

**Amendments to Educator Licensure Regulations, 603 CMR 7.00 (Staffing Flexibilities for 2021-2022)**

Commissioner Riley said that on April 20, 2021, the Board voted to solicit public comment on proposed amendments to the educator licensure regulations that would extend certain staffing flexibilities through the 2021-2022 school year. He said the Department did not receive any public comments regarding the change, and recommended that the Board adopt the amendments.

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

**VOTED: that the Board of Elementary and Secondary Education, in accordance with M.G.L. c. 69, § 1B, and c. 71, § 38G, and having solicited public comment in accordance with the Administrative Procedure Act, M.G.L. c.30A, § 3, hereby adopts the amendments to the Regulations on Educator Licensure and Preparation Program Approval, 603 CMR 7.00, as presented by the Commissioner. The proposed amendments would extend certain staffing flexibilities through the 2021-2022 school year.**

The vote was unanimous.

**Proposed Amendment to Competency Determination Regulations, 603 CMR 30.00 (Extending Interim Standard Through Class of 2025)**

Commissioner Riley said the last item on this list is his recommendation that the Board solicit public comment on proposed amendments to the Competency Determination (CD) regulations. He explained these proposed amendments would extend the interim passing standard for the CD through the Class of 2025 for English language arts, mathematics, and science. In response to questions from Mr. West and Secretary Peyser, the Commissioner said he will report to the Board in September about restarting the CD advisory group that was formed to advise on setting new CD standards, adding that the group has been on hiatus due to the pandemic.

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

**VOTED: that the Board of Elementary and Secondary Education, in accordance with M.G.L. c. 69, §§ 1B and 1D, hereby authorizes the Commissioner to proceed in accordance with the Administrative Procedure Act, M.G.L. c.30A, § 3, to solicit public comment on the proposed amendment to the Competency Determination Regulations, 603 CMR 30.00, as presented by the Commissioner.**

**The proposed amendments would extend the interim passing standard in English language arts and mathematics for two additional years, to include students in the classes of 2024 and 2025, and would extend the interim passing standard in science and technology/engineering to the class of 2025.**

The vote was unanimous.

## Education Budget Update

Senior Associate Commissioner/CFO Bill Bell briefed the Board on the state education budget for the upcoming fiscal year, highlighting the Student Opportunity Act, Chapter 70, Special Education Circuit Breaker, and additional appropriations. Mr. Bell discussed the various COVID-19 relief federal funding streams including additional Elementary and Secondary School Emergency Relief Fund (ESSER) funding that will become available shortly. Mr. Bell said the Department will be working over the summer and into the fall to support districts in their grant applications. He noted that Congress has given districts discretion in the use of the funds and the Commissioner has advised districts about the need for thoughtful planning and investment.

Delegation of Authority to Commissioner to take Necessary Action between Board Meetings

Commissioner Riley explained that with a three-month hiatus until the next regular meeting, he recommends that the Board authorize him to act on its behalf on any matters that are not otherwise covered by the Board's previous delegations of authority and that require action before the next regular meeting in September. He said by the terms of the suggested motion, he would consult with the Board Chair in advance on any such action and report to the Board on any matters that have been so approved. The Commissioner noted he is also recommending that the Board authorize him to approve the contract for UP Academy Charter School of Boston and UP Academy Charter School of Dorchester upon satisfactory completion of his review. He noted that in similar situations involving other charter schools, the Board has delegated the contract approval to him.

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

VOTED: that the Board of Elementary and Secondary Education authorizes the Commissioner, in accordance with General Laws c. 15, § 1F, paragraph 3, to act on behalf of the Board in approving any matters that are not otherwise covered by the Board's previous delegations of authority and that require Board action between June 22, 2021, and the next regular meeting of the Board in September 2021, provided that the Commissioner shall consult with the Chair in advance of any such action and shall report to the Board on any matters that have been so approved.

Further, that the Board of Elementary and Secondary Education authorizes the Commissioner, in accordance with General Laws c. 15, § 1F, paragraph 3, to act on behalf of the Board in approving the management contract for UP Academy Charter School of Boston and UP Academy Charter School of Dorchester as required by General Laws c. 71, § 89 (k)(5), and 603 CMR 1.00. Such approval will follow a legal and technical review of the proposed contract and a vote by the board of trustees of the charter schools to approve such contract and to submit a request to amend their charter accordingly. Any such approval by the Commissioner shall also operate to amend the charter granted to UP Academy Charter School of Boston and UP Academy Charter School of Dorchester to include the management contract.

The vote was unanimous.

## Schedule for Regular Board Meetings through June 2022

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

**VOTED:  that the Board of Elementary and Secondary Education approves the schedule of regular meetings through June 2022, as presented by the Commissioner.**

The vote was unanimous.

Ms. Stewart left the meeting at 12:05 p.m.

Chair Craven said the Board will now go into executive session to discuss strategy with respect to litigation. She noted that the Board will not return to open session and will adjourn the meeting from the executive session. She asked for a roll-call vote.

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

**VOTED: that the Board go into executive session, in accordance with Mass. General Laws chapter 30A, section 21 (3). The purpose of the executive session is to discuss strategy with respect to pending litigation involving the Board and Department of Elementary and Secondary Education. Discussion of the pending case in open session would have a detrimental effect on the litigating position of the Board.**

The vote, by roll call, was unanimous.

Chair Craven said the Board is now in executive session and asked all who do not have

business directly affecting the executive session to leave the meeting. The Board went into executive session at 12:12 p.m. and voted to adjourn the meeting at 12:30 p.m.

Respectfully submitted,

Jeffrey C. Riley

Commissioner of Elementary and Secondary Education

and Secretary to the Board