# Minutes of the Special Meeting

# of the Massachusetts Board of Elementary and Secondary Education

# Tuesday, August 24, 2021

**10:02 a.m. – 10:24 a.m.**

**Via Remote Participation**

**<https://livestream.com/accounts/22459134>**

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

**Katherine Craven**,Chair,Brookline

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

**Amanda** **Fernández**,Belmont

**Matthew Hills**, Newton

**Eleni Carris Livingston**, Wellesley, Student Member

**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 special meeting of the Board of Elementary and Secondary Education (Board) to order at 10:02 a.m. Chair Craven welcomed Ms. Eleni Carris Livingston, a senior at Wellesley High School, as the new student member who will serve on the Board through the coming school year. Chair Craven noted Ms. Carris Livingston is not yet sworn in, so she will not be voting at today’s meeting. Chair Craven asked Board members to introduce themselves. She asked Commissioner Riley to present.

Commissioner Riley thanked the members for making themselves available to meet on short notice during the summer. He said Massachusetts has a long tradition of local control over its schools and while respecting that tradition, in times of uncertainty the Department has an obligation, consistent with statutes and regulations, to provide guardrails for the system as a whole. The Commissioner said we do not take this obligation lightly nor invoke it with regularity. He noted that last spring he came to this Board seeking such authorization and the Board empowered him to determine that remote learning would no longer count towards structured learning time, in effect requiring students to return to in-person learning. The Commissioner said the Board’s decision was affirmative but not unanimous, and he believes it has proven to be the correct decision.

Commissioner Riley said today he is asking the Board, after continued consultation with medical experts and public health officials, to determine there are exigent circumstances, as described in our regulations, allowing him to require a short-term mask protocol. He said he is doing this because over the last several weeks the COVID-19 case count has risen. He said he is hopeful this will be a short-term measure as he continues to work with the health and medical community on off-ramps for masking. Commissioner Riley noted we have experience with being able to pivot based on the data: as cases dropped to record lows in June and July, K-12 schools were able to successfully hold summer school for all students, vaccinated or not, using a mask-optional protocol.

Commissioner Riley said while he hopes this will be the final hurdle of the pandemic, we cannot rule out the possibility that masks may be required intermittently through the year based on the trajectory of the virus and any new variants. He said if the Board votes today to declare exigent circumstances and authorizes him to put in place health and safety requirements, he will enact a temporary mask-wearing protocol for grades K-12 with exemptions for medical or behavioral reasons. He explained the protocol would be in place for about the first month of school (until October 1), after which time the Department would begin to look to off-ramp the mask mandate, starting with vaccinated students and staff in schools that have at least an 80 percent overall vaccination rate. He said this does not mean vaccinations will be the sole determinant for unmasking, but it would be great if vaccinations increase among those eligible, especially now that the FDA has fully approved the Pfizer vaccine. The Commissioner said ultimately, vaccinations will be the most important factor in bringing this pandemic to an end.

Commissioner Riley said a return this fall to full-time in-person instruction is crucial and after the challenges of last year, it is important to get the school year off to a strong start. He noted the actions the Department has taken to support schools and districts, including working with the Department of Public Health (DPH) to host site-based vaccination clinics, and strongly encouraging schools to maintain or establish a plan for COVID-19 testing in schools that the state is providing free of charge. He recommended that the Board take this additional step and noted that the Board previously amended the Student Learning Time regulations to include a section relating to health and safety standards during either a state of emergency or other exigent circumstances as determined by the Board. Commissioner Riley concluded by asking the Board to declare such exigent circumstances due to the rise in COVID-19 cases.

Secretary Peyser thanked the Commissioner for his leadership in putting forward this proposal. He said he believes today's vote is about two important things: (1) to ensure a smooth opening of school without confusion or ambiguity about the health protocols that everyone is expected to follow, especially with concern about the Delta variant, and (2) ultimately the more important issue, to reinforce the importance of vaccinations and create incentives for school communities to get all eligible students and staff vaccinated as soon as possible. Secretary Peyser said as the Governor and state and national public health officials have stated, the only way we can put COVID behind us is through vaccinations, and today's vote is another tool to help get there. He added that circumstances may change in the coming weeks, which could allow a different course, but for now the safest and simplest path forward is to mask up in schools as we all work to meet or exceed the 80 percent vaccination benchmark.

Secretary Peyser said when basic protocols are followed, schools are safe places for children and adults. He added that the data from Massachusetts, the U.S., and the world show that COVID-19 transmission in schools is very low, even in communities where overall rates are high. Secretary Peyser said the bottom line is that in-person learning is essential for student success both academically and developmentally, and it is also safe for students and educators. He concluded that the best path is to get everybody vaccinated and today's action will help move closer to that goal.

Mr. West acknowledged the thousands of people, most of them parents, who wrote to the Board to express their views on this issue. He said while the Board’s vote, whatever it may be, will not please everyone, the Board has heard many voices on this topic and values the public’s engagement in the process.

Mr. West said he does not view this decision as a simple matter of following the science because in his judgment, evidence on the efficacy of masking in school settings to prevent the spread of COVID-19 is less clear-cut than is often suggested; nor does science tell us how to value whatever benefits it produces against the cost to students of not being able to see their teachers’ faces for most of the school day. He added that he respects the views of any colleagues on the Board who look at the same evidence and reach different conclusions.

Mr. West expressed frustration that schools are facing these measures while seemingly similar settings populated by adults are not. He said in his view, schools should be the last places for these measures, not the first, but that is not something the Board can control. Mr. West said as he sees it, the decision is whether exigent circumstances exist that adversely affect the ability of students to safely attend school. He said he appreciates that Commissioner Riley described the steps he plans to take. Mr. West said based on the information presented, he is reluctantly convinced that such exigent circumstances exist.

Mr. West said he hopes the temporary measures that the Commissioner has proposed will be beneficial to students, in particular by preventing the need to quarantine large numbers of students in the event of positive cases in schools. He said he also hopes this will send a clear signal to educators, as Secretary Peyser suggested, about the importance of vaccination. Mr. West said he plans to vote in favor of the motion and would like Commissioner Riley to engage in continued conversation with the Board and with stakeholders around the Commonwealth about how best to exercise this authority, especially concerning the lack of a clear end date and the lack of exit criteria for elementary schools whose students are not currently eligible for vaccination. He added if there is very low in-school transmission once 80 percent of students and staff are vaccinated, perhaps masks should not be required for anyone in that school, whether they are vaccinated or not.

Mr. Rouhanifard stated he will vote no on the motion and said he believes mandating masks is not as critical an issue as the one the Board addressed in the spring, requiring schools to reopen for in-person learning. Mr. Rouhanifard said tying the mask proposal to vaccination rates is bad public policy because there is no clear off-ramp, given that the vaccine for children under age 12 will not be approved anytime soon. He suggested a more reasonable off-ramp would tie it to community spread.

Mr. Rouhanifard said he appreciated the presentation and the data around case count, but he recalls that mitigation measures initially were about flattening the curve in relation to hospitalization rates; focusing now on case counts seems like shifting the goal posts. He said while he realizes the Delta variant is more transmittable, hospitalization and death rates are remarkably low in our country and particularly so in the Commonwealth. He added the Board has an opportunity and perhaps even a responsibility to signal optimism.

Mr. Rouhanifard noted that vaccination rates in Massachusetts are high, hospitalization rates remain relatively low, and what the media are calling a surge in cases is off a very low base. He said children are at very low risk of being hospitalized, which is a blessing in the midst of a very difficult situation, and for all these reasons he believes erring on the side of caution loses sight of the bigger picture. In closing, Mr. Rouhanifard said that without a clear off-ramp, he is opposed to this proposal.

Mr. Hills said everyone should vote as they see fit and be respected for it. He added that he will vote yes on the proposal. Mr. Hills said the Commissioner and Governor have dealt with the pandemic in a non-ideological way, pivoting as needed to meet changed circumstances, and that is leadership. He noted that doctors and public health leaders advise the Commissioner; they supported the decision in the spring to reopen schools for in-person learning and they support the mask mandate now.

Mr. Hills said the Commissioner has been deft in using his authority and he is confident in the Commissioner’s ability to make the best decisions he can based on the circumstances. He added that as the public health situation continues to evolve, the Commissioner should have the flexibility to deal with it appropriately. In concluding, Mr. Hills said he appreciates that the Commissioner has put this forward to support a smooth opening to the school year across the state, and he hopes it will be possible to relax the mandate after one month.

Chair Craven thanked Board members for their comments and perspectives and thanked all the parents and other concerned citizens who wrote to the Board over the past 72 hours.

**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 consistent with 603 CMR 27.08(1), determines that exigent circumstances exist that adversely affect the ability of students to attend classes in a safe environment unless additional health and safety measures are put in place, and authorizes the Commissioner to require masks for public school students (age 5 and above) and staff in all grades through at least October 1, 2021.**

The vote, by roll call, was 9-1. Mr. Rouhanifard voted in opposition. Ms. Carris Livingston did not vote.

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

**VOTED: that the Board of Elementary and Secondary Education adjourn the meeting at**

 **10:24 a.m., subject to the call of the Chair.**

The vote, by roll call, was unanimous.

Respectfully submitted,

Jeffrey C. Riley

Commissioner of Elementary and Secondary Education

and Secretary to the Board