

Minutes

State Board of Education

January 26, 2021



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The State Board of Education met at 10:06 a.m. on Tuesday, January 26, 2021, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. Attendance was noted as follows:

**Present:** Keven Ellis, chair; Lawrence A. Allen, Jr.; Rebecca Bell-Metereau; Ruben Cortez, Jr.; Aicha Davis; Patricia Hardy; Will Hickman; Jay Johnson; Pam Little; Tom Maynard; Sue Melton-Malone; Georgina C. Pérez; Marisa B. Perez-Diaz (virtual); Matt Robinson; Audrey Young

**1. Swearing-in Ceremony for Members of the State Board of Education**  
(Board agenda page SBOE-1)

The Honorable Dan Huberty, Texas House of Representatives, administered the Oath of Office to Rebecca Bell-Metereau, Will Hickman, Audrey Young, and Jay Johnson, the newly elected members of State Board of Education (SBOE) Districts 5, 6, 8, and 15, respectively; and the following re-elected SBOE members: Georgina C. Pérez, District 1; Keven Ellis, District 9; Tom Maynard, District 10; and Sue Melton-Malone, District 14.

**2. Review and Adoption of State Board of Education Operating Rules**  
(Board agenda page SBOE-2)

**MOTION AND VOTE:** *It was moved by Mr. Hickman and carried to amend §1.1(a)(1) to read as follows:*

“(a) Selection.

- (1) The vice chair and secretary of the board shall be elected by a majority vote in accordance with Texas Education Code, §7.107, to serve for a term of two years and until their successors are elected.”

**MOTION AND VOTE:** *It was moved by Mr. Hickman and carried to amend §1.1(a)(2) to read as follows:*

- “(2) ~~In case of death or resignation of the vice chair or the secretary of the board, the board shall elect a board member to fill the vacancy for the unexpired term of that officer at the next board meeting.~~ Either of these officers may be removed from office by a vote of not less than two-thirds of the membership of the board.
- (3) In case of death or resignation of the vice chair or the secretary of the board, the board shall elect by a majority vote a board member to fill the vacancy for the unexpired term of that officer at the next board meeting.”

**MOTION AND VOTE:** *It was moved by Mrs. Little, seconded by Mrs. Melton-Malone, and carried to amend §1.2 to read as follows:*

“(a) The standing committees of the board and their areas of oversight are:

**Committee of the Full Board**

1. Public testimony
2. Establishment of essential knowledge and skills (TEKS)
3. Instructional materials proclamations and adoption of instructional materials
4. Consideration of the Commissioner of Education’s open-enrollment charter school proposals

**Committee on Instruction**

1. Establishment of curriculum and graduation requirements
2. Curriculum implementation (including credit by examination, Texas Advanced Placement Incentive Program, and procedures concerning dyslexia and related disorders)
- ~~3. Instructional materials proclamations~~
4. 3. Student assessment program implementation
- ~~5.~~ 4. General education
- ~~6.~~ 5. Education of individuals with disabilities
- ~~7.~~ 6. Gifted and talented education
- ~~8.~~ 7. Adult education
- ~~9.~~ 8. Library standards
- ~~10.~~ 9. Texas School for the Blind and Visually Impaired/Texas School for the Deaf

**Committee on School Finance/Permanent School Fund**

1. State and federal funding issues
2. Financial budgeting, reporting, and regulation
3. Contract and grant approval
4. Instructional materials financing and operations
- ~~5. Review commissioner’s annual FSP budget~~
- ~~6.~~ 5. Community education funding
- ~~7.~~ 6. Oversight of the Bond Guarantee Program
8. 7. Permanent School Fund management oversight, including audit responsibility, investment objectives, and investment decisions

**Committee on School Initiatives**

1. Long-range plans required by statute
2. Educational technology and telecommunications
3. Review and evaluation of charter school applications, revisions, and amendments the commissioner of education proposes to grant
4. State Board for Educator Certification rules review
5. School board member training policy
6. Hearing examiners
7. Military reservation and special purpose school districts
8. Extracurricular activities
9. Home-rule school district probation and revocation

(b) Amendments to the areas of committee oversight reflecting new or changing board responsibilities may be made during the board’s periodic operating rules review or by means of resolution addressing the change in responsibilities should such change occur between the operating rules review.

- (c) Committees may receive information, investigate, study and report to the board. The board may from time to time define by resolution the areas of oversight of each committee as may be necessary. Each committee shall review and make recommendations on the board agenda items falling under its areas of oversight; except that the chair of the board, in consultation with the respective committee chair, may designate any board agenda item for review and recommendation by the Committee of the Full Board.
- (d) The Committee of the Full Board shall be composed of all members of the board, and the chair of the board shall be the chair of the Committee of the Full Board.
- (e) The Committees on Instruction, School Finance/Permanent School Fund, and School Initiatives shall be composed of five members selected by the officers of the board. Each member will serve on one committee in addition to the Committee of the Full Board. The officers of the board shall request in writing the committee choices of the members ranked in order of preference and shall make committee assignments in the public view for terms of two years at the organizational meeting after the qualification of new members as the next order of business following election of board officers and adoption of rules. Vacancies shall be filled in a similar fashion. In addition to preference, the officers of the board shall also consider seniority (total years of service), ethnicity balance, gender balance, and relevant qualifications specific to a committee assignment in making committee assignments. Each committee shall elect a chair from among its members and the chair may appoint a vice chair. An officer of the board is not eligible to serve as the chair of a standing committee.
- (f) ~~Ad hoc committees.~~ Ad hoc committees (i.e., task forces) may be constituted from time to time as directed by a vote of the board or by the chair to perform such duties as the board or chair may assign. The personnel and length of service of ad hoc committees shall be designated by the chair unless otherwise directed by a vote of the board. No action taken by any ad hoc committee shall be final or binding upon the board unless otherwise directed by a vote of the board.
- (g) From time to time committees may find it necessary to request legal opinions, comprehensive studies, or reports to be prepared by the staff to aid the committees in their deliberations. To ensure clarity and coordination, all such requests shall be directed to ~~the Division of State Board of Education Support staff~~ and shall be reflected in the minutes of the committee meeting. The Chair or the Commissioner may request that the Attorney General ~~to~~ issue an opinion under Texas Government Code §402.042.”

**MOTION AND VOTE:** *It was moved by Dr. Bell-Metereau, seconded by Ms. Hardy, and carried to amend §1.2(g) to replace “From time to time” with “Occasionally.”*

**MOTION AND VOTE:** *It was moved by Ms. Pérez and seconded by Ms. Davis to move “review and evaluation of charter school applications, revisions, and amendments to commissioner of education proposes to grant” to the oversight of the Committee of the Full Board. The motion failed.*

**MOTION AND VOTE:** *It was moved by Mr. Hickman and seconded by Ms. Hardy to strike “seniority (total years of service), ethnicity balance, gender balance, and” from §1.2(e) and add “experience.” The motion failed.*

**MOTION AND VOTE:** *It was moved by Mr. Hickman, seconded by Mr. Cortez, and carried to add “racial diversity” and “geographic balance” to §1.2(e).*

**VOTE:** *A vote was taken on the original motion to amend §1.2, as amended. The motion carried.*

**MOTION AND VOTE:** *It was moved by Mrs. Melton-Malone, seconded by Ms. Hardy, and carried to add the following language to §2.3:*

“The chair may limit in-person attendance at a meeting to ensure health and safety of board members and members of the public. In such instances, governor’s orders shall be followed and members of the public shall be given access to view all portions of the meetings virtually.”

**MOTION AND VOTE:** *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried to amend §2.5 to read as follows:*

~~“(a) The commissioner of education shall prepare and submit to each member of the board, prior to each meeting, a draft agenda schedule, listing item titles with short summaries of each item. Other than as is provided in subsection (b) and (c) of this section, all agenda items are subject to the approval of the chair of the board. Materials supplementing the agenda may be included. Official agendas will be available the day of the board meeting.”~~

- (a) The chair has the primary responsibility for creating the SBOE meeting agendas. This includes the SBOE agenda, the Committee of the Full Board agenda, and all committee agendas. Other than as provided in this subsection and subsections (b) and (c) of this section, all agenda items are subject to the approval of the chair. If a member wishes an item to be placed on the agenda of the Committee of the Full Board, the member should request in writing that the chair place the item on the agenda. The chair will respond in writing whether or not the item will be placed on the agenda. If the chair declines in writing to place the item on the agenda, the member may make a motion during a board meeting to include the item on the agenda. If the board approves the request, it is placed on the agenda of the Committee of the Full Board for the next meeting.
- (b) The chairs of the Committee on Instruction, Committee on School Finance/Permanent School Fund, Committee on School Initiatives, and ad hoc committees shall collaborate with the board chair regarding items to be placed on their respective committee agendas. Committee agendas shall include statutorily mandated motions, items assigned to the committee by the board chair, items posted at the discretion of the committee chair and items voted on as set out in subsection (c) below. Committee chairs may post discussion items per their discretion, but action items must be approved by the board chair, subject to the process set out in (c) below.
- (c) Any member of the board may request that a committee chair, ~~other than the Committee of the Full Board,~~ place an item on the agenda of that chair’s committee, other than the Committee of the Full Board, as either a discussion item or an action item. If the committee chair agrees, the item is placed on the agenda of that chair’s committee in accordance with the member’s request, subject to the approval of the board chair. If the committee chair denies the member’s request, the member may appeal the denial to the board chair. If the board chair denies the request, the member may appeal the denial to the board. If the board approves the request, it is placed on the agenda of the committee to which the request was made at the next meeting of that committee.
- (d) A subject on the agenda that is outside the scope of the board’s authority may only be considered by the board or the Committee of the Full Board by a vote of a majority of the membership of the board. The chair, in consultation with Agency legal counsel, shall make a determination of whether an item is outside the scope of the board’s authority when preparing the agenda. Any member may move to place an item determined by the chair to be outside the scope of the board’s authority on the agenda for a subsequent meeting.
- (e) The commissioner of education shall prepare and submit to each member of the board, prior to each meeting, a draft agenda schedule listing item titles with short summaries of each item.

Materials supplementing the agenda may be included. Official agendas will be available the day of the board meeting.”

**MOTION AND VOTE:** *It was moved by Mrs. Little, seconded by Mrs. Melton-Malone, and carried to amend §2.6 to read as follows:*

**“§2.6. Official Transaction of Business.**

- (a) The board shall transact official business only when in session with a quorum present. Unless otherwise provided by law, in order for a board action to be final, it must be approved by a majority of the board members present and voting.
- (b) The chair may authorize the board to meet via remote video or web conference ~~each~~. As required by Government Code §551.127(c), if videoconference calling technology is used, the meeting location where the presiding officer of the meeting is present must be open to the public, except during executive sessions. The chair may limit the number of remote ~~video~~ conference locations in the interest of decorum and ~~teleconference~~ capacity.
- (c) The chair may modify procedures for conducting meetings of the board if emergency protocols are enacted by the governor related to a pandemic or similar event. In such instances, governor’s orders and emergency rules shall be followed.
- (d) If a board member participates in a meeting virtually, the board member must be visible by video and must have capabilities to be heard by other board members and members of the public. A member who is not present on camera during a vote of the board will be noted as absent for the vote.
- (e) No posters, props, or other visual displays are allowed by board members within the meeting rooms or at remote locations without permission from the presiding chair.”

**MOTION AND VOTE:** *It was moved by Mr. Maynard and carried to amend §2.9 to change a reference from “Division of State Board of Education Support” to “State Board of Education Support staff” in subsection (a) and to correct a reference to 19 TAC §66.66(b) in subsection (c).*

**MOTION:** *It was moved by Ms. Davis and seconded by Mr. Allen to amend §2.9(c)(4)(B) to strike “patriotism” and add “democracy.”*

**MOTION AND VOTE:** *It was moved by Mr. Hickman and carried to retain “patriotism.”*

**VOTE:** *A vote was taken on the motion to amend §2.9(c)(4)(B) to add “democracy.” The motion carried.*

**MOTION AND VOTE:** *It was moved by Dr. Bell-Metereau and seconded by Ms. Davis to strike §2.9(c)(4)(D)(i). The motion failed.*

**MOTION:** *It was moved by Ms. Hardy to amend §2.10(a)(1) and (b)(1) and (c) to read as follows:*

“(a) General Provisions.

- (1) In accordance with Texas Education Code, §7.110, the board shall provide opportunity for oral public testimony at regular committee meetings, special meetings, and at regularly scheduled meetings of the State Board of Education.”

“(b) Registration Procedures.

- (1) Individuals may register between the hours of 8 a.m. (Central Time) on the ~~Friday~~ Thursday preceding the board meeting and 5 p.m. (~~Central Time~~) on the ~~Monday~~ Friday preceding the board meeting on the agency website at <https://tea.texas.gov/PublicTestimonySBOE/>, ~~or by facsimile at (512) 936-4319~~, or, during normal operating hours, by telephone at (512) 463-9007 or in person at the William B. Travis (WBT) State Office Building, 1701 N. Congress, room 1-109, Austin, Texas 78701.”

“(c) Oral Public Testimony to Committees.

- (1) Oral public testimony to committees is limited to the topics posted for action or discussion on committee agendas at that specific committee meeting.
- (2) In order to maximize the total number of testifiers who are able to provide oral testimony, ~~two- Three-~~ minute time limits on individual oral testimony will be imposed unless modified by the presiding chair.
- (3) The presiding chair shall designate whether oral public testimony shall be taken at the beginning of the meeting or at the time the related item is taken up by the committee ~~after staff has presented the item.~~
- (4) The presiding chair shall take steps to ensure that individuals will be given priority over registered lobbyists. The committee, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.”

**MOTION AND VOTE:** *It was moved by Mr. Hickman and seconded by Mrs. Little to strike “Thursday” and insert “Wednesday” in §2.10(b)(1). The motion failed.*

**VOTE:** *A vote was taken on the original motion to amend §2.10(a)(1) and (b)(1) and (c). The motion carried.*

**MOTION AND VOTE:** *It was moved by Mrs. Melton-Malone and carried to strike “Three” and add “Two” in §2.10(d)(2).*

**MOTION AND VOTE:** *It was moved by Dr. Young, seconded by Mr. Hickman, and carried to split the language in §2.10(a)(5) and renumber §2.10(a)(6) as follows:*

- “(5) The presiding chair shall determine which speakers will be heard and the order in which they will be heard if the number exceeds that number which may reasonably be expected to testify in the allotted time for presentations.
- (6) The presiding chair shall ~~also~~ determine whether speakers who did not register or who registered late will be heard and whether persons asking to testify as a substitute for a registered speaker may do so.
- (7) ~~(6)~~ The board, without debate, may allow a person to testify for clarification and informational purposes, whether or not he/she has registered or previously testified. The person is not required to honor the request.”



**MOTION AND VOTE:** *It was moved by Mrs. Melton-Malone, seconded by Mr. Maynard, and carried to amend §2.12(a)(2) and (c) to read as follows:*

“(a) Types of Public Hearings.

(2) Other types of hearings. The board may also hold public hearings on proposed actions, such as those relating to adoption of Texas Essential Knowledge and Skills (TEKS) and instructional materials issues. The public hearing shall be conducted before the appropriate board committee as determined by the board chair in accordance with the areas of oversight defined in board operating rules. Public hearings regarding the instructional materials adoption process are governed by 19 TAC §66.60. Public hearings regarding revision of the TEKS are governed by the SBOE-approved TEKS review and revision process.”

“(c) The presiding chair shall establish the procedures for conducting the public hearing. These procedures shall include, but are not limited to, the following:

(3) Establishing time limits for speakers, generally ~~three~~ two minutes each;”

**MOTION:** *It was moved by Dr. Bell-Metereau and seconded by Mr. Cortez to amend §2.12(d) and (e) to read as follows:*

“(d) Persons who testify at a public hearing shall bring twenty (20) ~~thirty five (35)~~ collated or stapled copies of their testimony for distribution to board members and agency executive staff.

(e) Persons who were unable to testify at a public hearing due to time constraints may provide twenty (20) ~~thirty five (35)~~ collated or stapled copies of their testimony to agency staff for distribution to board members and agency executive staff.”

**MOTION AND VOTE:** *It was moved by Mr. Hickman, seconded by Mr. Cortez, and carried to strike “shall” and add “may” in §2.12(d).*

**VOTE:** *A vote was taken on the original motion to amend §2.12(d) and (e), as amended. The motion carried.*

**MOTION AND VOTE:** *It was moved by Mrs. Melton-Malone, seconded by Dr. Robinson, and carried to add “ride share services” to §3.1(d)(1).*

**MOTION AND VOTE:** *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried to amend §3.2 to change a reference from “Division of State Board of Education Support” to “State Board of Education Support staff” in subsection (b).*

**MOTION AND VOTE:** *It was moved by Mr. Hickman and carried to amend §5.4 to read as follows:*

“The commissioner may approve and file with the Secretary of State non-substantive corrections to State Board of Education rules. Non-substantive rule corrections may only include typographical, grammatical, referencing, or spelling errors and technical edits to comply with Texas Register style and format requirements. The commissioner will provide a mark-up of any such corrections to the board.”

**MOTION AND VOTE:** *It was moved by Dr. Bell-Metereau and seconded by Dr. Young to amend §6.1 to strike “Committee of Investment Advisors (CIA)” and add “Investment Advisors Committee.” The motion failed.*

**MOTION AND VOTE:** *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried to add a new Chapter 7 to read as follows:*

**“Chapter 7 Nominations for Gubernatorial Appointments**

**7.1 Pursuant to statute, the State Board of Education shall submit to the Governor lists of citizens from which appointments are to be made for the boards described in this section: Teacher Retirement System Board of Trustees and School Land Board.**

**7.2 The Chair and/or his or her designee shall work collaboratively with staff and the Governor’s Appointments Office to establish appropriate timelines for the placement on the agenda to meet appointment timelines and that proper criteria is applied by the State Board of Education.**

**7.3 The board shall select nominees in such a manner as to facilitate adherence to diversity of appointments: “In each case in which the governing body of a state board, commission, or other state agency that has statewide jurisdiction is appointed by the governor or another appointing authority, the governor or appointing authority shall ensure that, to the extent possible, the membership of the governing body reflects the racial, ethnic, and geographic diversity of this state.” (§651.009(a), Government Code)**

**7.4 Teacher Retirement System: The Governor shall appoint two members of the TRS board of trustees, subject to confirmation by two-thirds of the senate, from lists of nominees submitted by the State Board of Education. These persons must be persons who have demonstrated financial expertise, have worked in private business or industry, and have broad investment experience preferably in investment of pension funds (Government Code §825.003). The board selection process shall be as follows:**

- (a) Each member shall be entitled to nominate one person who meets the criteria described in this section.**
- (b) The Committee on School Finance/Permanent School Fund shall adopt an evaluation process using the criteria described in this rule, subject to approval of the board, and engage an impartial third party to evaluate candidates submitted by members.**
- (c) The Committee shall recommend to the full board a slate of candidates for adoption. The list of nominees is subject to amendment by the board, but the final list must comply with statutory requirements.**

**7.5 School Land Board: The Governor shall appoint two members of the School Land Board, subject to confirmation by the senate, from lists of candidates submitted by the State Board of Education. One of the members appointed by the governor must be a resident of a county with a population of less than 200,000.**

- (a) The School Land Board duties as described in the Texas Natural Resources Code (§§32.061, 51.011, 51.413) are:**
  - (1) manage and control any land, mineral or royalty interest, real estate investment, or other interest, including revenue received from those sources, that is set apart to the permanent school fund together with the mineral estate in riverbeds, channels, and the tidelands, including islands;**

- (2) acquire, sell, lease, trade, improve, maintain, protect, or otherwise manage, control, or use land, mineral and royalty interests, real estate investments, or other interests, including revenue received from those sources, that are set apart to the permanent school fund in any manner, at such prices, and under such terms and conditions as the board finds to be in the best interest of the fund;
  - (3) consult with the president, chairman, or other head of the department, board, or agency, as applicable, or with the representative of the head, on each matter before the board that affects land owned or held in trust for the use and benefit of a department, board, or agency of the state; and,
  - (4) make determinations as to the release of any funds to the available school fund or to the State Board of Education for investment in the permanent school fund.
- (a) Each member shall be entitled to nominate one person who meets the criteria described in this section.
  - (b) The Committee on School Finance/Permanent School Fund shall adopt an evaluation process using the criteria described in this rule, subject to approval of the board, and engage an impartial third party to evaluate candidates submitted by members.
  - (c) The Committee shall recommend to the full board a slate of candidates for adoption. The list of nominees is subject to amendment by the board, but the final list must comply with statutory requirements.

7.6 The board may adopt additional rules and procedures related to these selection processes.”

**MOTION AND VOTE:** *It was moved by Mr. Maynard, seconded by Ms. Hardy, and carried to amend §1.2 to add “8. Review of nominations for gubernatorial appointments: Teacher Retirement System, School Land Board” to the areas of oversight for the Committee on School Finance/Permanent School Fund.*

### **3. Election of State Board of Education Officers** (Board agenda page SBOE-6)

Pursuant to the provisions of the Texas Education Code (TEC), §7.107, at the first regular meeting after the election and qualification of new SBOE members, the board shall elect by separate votes a vice chair and a secretary. The vice chair and secretary of the board will be elected to serve for terms of two years and until their successors are elected.

**NOMINATIONS:** Dr. Robinson nominated Mrs. Little for vice chair of the State Board of Education for a two-year term.

Mr. Allen nominated Ms. Pérez for vice chair of the State Board of Education for a two-year term.

Mrs. Little was elected vice chair of the State Board of Education.

**NOMINATION:** Mr. Maynard nominated Ms. Pérez for secretary of the State Board of Education for a two-year term.

Ms. Pérez was elected secretary of the State Board of Education.

**4. Announcement of Membership of Committees**  
(Board agenda page SBOE-7)

Pursuant to the provisions of the Texas Education Code (TEC), §7.107, at the board's first regular meeting after the election and qualification of new members, the board shall organize.

Dr. Ellis announced the membership of the committees of the board, as follows:

Committee on Instruction

Rebecca Bell-Metereau  
Pam Little  
Sue Melton-Malone  
Georgina C. Pérez  
Audrey Young

Committee on School Finance/Permanent School Fund

Lawrence Allen, Jr.  
Keven Ellis  
Pat Hardy  
Tom Maynard  
Marisa Perez-Diaz

Committee on School Initiatives

Ruben Cortez, Jr.  
Aicha Davis  
Will Hickman  
Jay Johnson  
Matt Robinson

Dr. Ellis adjourned the meeting at 1:16 p.m.