

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS
Mitchell Technical College, 1800 E. Spruce Street, Mitchell, South Dakota
April 7, 2022, at 1:00 P.M. CT Room: Amphitheater – Muth Electric Technology.

For live streaming of meeting: <http://www.sd.net>

Call Information:

Call in Number: 346-248-7799

Meeting ID: 940 5620 6314

Passcode: 023512

Members Present: Jaqueline Sly, President
Rebecca Guffin, Vice-President
Phyllis Heineman via ZOOM
Terry Nebelsick (left the meeting at approximately 2:46 p.m. CT)
Linda Olsen
Julie Westra
Steve Willard

DOE Staff Present: Tiffany Sanderson, Laura Scheibe, Amanda LaCroix, Linda Turner, Holly Robling, Rebecca Cain, and Ferne Haddock.
DOE via ZOOM Kathy Riedy, Jane Cronin

Others: Rebecca Hoey, Board of Regents (BOR), Andrea Powell, Northeast
In attendance: Educational Services Cooperative (NESC), Melissa Krogman Teachwell Solutions, Julie Reimer, OAHE Special Education Cooperative, Jessica Lamb, Dr. Kari Oyen *via Zoom*, Joan Frevik, and other members of the public in attendance in person, via ZOOM, and via telephone.

Call to Order, Pledge of Allegiance, and Roll Call

The South Dakota Board of Education Standards (BOES) was called to order by President Sly at approximately 1:00 p.m. Central Time.

Adoption of Agenda

Motion by Willard second by Westra to adopt the April 7, 2022, agenda. Voice vote. All present voted in favor. Motion carried. Voting aye: Heineman, Nebelsick, Olsen, Westra, Willard, Guffin, and Sly.

Approval of Minutes

Motion by Guffin second by Heineman to approve the January 31, 2022, minutes. Voice vote. All present voted in favor. Motion carried. Voting aye: Heineman, Nebelsick, Olsen, Westra, Willard, Guffin, and Sly.

Conflicts Disclosures (SDCL 3-23):

Willard updated his conflict Disclosure as of 04/02/2022

Take note.

Public Comment: SDCL 1-25-1

No public comment was offered.

Board of Regents Report (BOR):

Rebecca Hoey, System Associate VP of Academic Programming, BOR gave a report on items of interest to the board including Teacher Education Pipeline Data, Brain Drain, New Education Programs, and 2021-2022 System initiatives.

Public Hearing ARSD 24:05 (Special Education), 24:28 (Educator Certification) and 24:53 (Educator Preparation) rules.

President Sly stated that the rules would be separated out for review and discussion; ARSD 24:05 (Special Education), ARSD 24:28 (Educator Certification), and ARSD 24:53 (Educator Preparation)

ARSD 24:05 (Special Education)

Proponents

Linda Turner, Director, Division of Special Education and Early Learning, DOE, testified in favor of the ARSD 24:05 (Special Education) proposed rules.

Turner stated that she would like to propose extending and or continuing the public comment period for this rules package. However, there are people present today to offer testimony. Turner presented 12 public comments that were received on this rules packet as of April 6, 2022, submitted by seven individuals and two organizations, some individuals submitted separate comments on different parts of the rules packet.

Turner testified in favor of ARSD 24:05 (Special Education) rules. Turner shared that there had been input through email and public discussion. Turner said she met with the South Dakota Council for Administrators of Special Education, and with the South Dakota Governor's Advisory Panel for Children with Disabilities. Turner stated that in general there has been overall support of the rules changes. Turner stated that certain areas have received most of the public comment, including graduation requirements-the awarding of regular high school diploma , and

removal of school psychological examiner (ARSD 24:28 (Educator Certification) and ARSD 24:53 (Educator Preparation) , which Turner was proposing to delay any action on those rules today.)

Turner said on review of the feedback and public comments, they would consider reviewing the school psychological examiner portions of the rules. Turner explained that there is not a national standard or a standard in other states for school psychological examiner, there are educational evaluators and school psychologists. Turner said that there are states that may define different types of evaluators, but along with that they have very clear guidelines and policies, and procedures, South Dakota does not have any of that defined. Turner stated they felt the endorsement is causing confusion and misunderstanding as to what evaluations individuals can administer, and that some individuals are administering evaluations they are not qualified to administer.

Turner stated that upon review of Federal Individuals with Disabilities Education Act (IDEA) regulations, they don't define evaluators. There are requirements on what an evaluator must be trained and qualified in to meet the requirements of the test proposal. Turner stated that they would agree to delete the evaluator section entirely, but that during the review they found some service areas that were not in administrative rules that are in IDEA, and they propose adding those services to the rules. Turner stated that the draft under review today reflect that change.

Turners stated that the rules draft under review today contain changes and or consideration of the public comments.

Andrea Powell, Director, Northeast Educational Services Cooperative (NESC), testified in favor of ARSD 24:05 proposed changes. Powell stated that schools are in crisis finding people to fill positions. After discussion and feedback and seeing the attempt at the balancing of need with requirements and guidelines, she is supporting the rules today.

Dr. Kari Oyen, Program Director, School Psychology Program at the University of South Dakota (USD), testified on her own capacity and as a representative of the South Dakota Association of School Psychologists. Oyen stated that she has not been authorized to speak on behalf of the SD BOR. Oyen stated that her remarks reflect only her professional judgement. Oyen testified in favor of ARSD 24:05 proposed rules changes. Oyen stated that it has been beneficial to have collaborations and conversations on the proposed rules changes, making sure that those providing services to students have adequate training to do so.

Opponents

Julie Reimer, OAHE Special Education Cooperative, testified in opposition to the 24:05 proposed rules changes. Reimer stated she is in opposition to the removal of the school psychological examiner endorsement. Reimer stated that is difficult to find school psychologists, especially for small and rural schools. Reimer is concerned about how the removal of the endorsement might affect people in her similar situation. Reimer stated that she works with a mentor on evaluations. Reimer understands the concerns but when you have a professional representative

overseeing the work, it should be taken into consideration. Reimer would like an opportunity to be able to continue working towards degrees and some transition time to progress to completion of programs.

Jessica Lamb, testified personally, and as a parent of a daughter with an intellectual disability. Lamb expressed concern that her daughter may be impacted negatively over the graduation requirements proposed changes. Lamb would like the board to consider the possibility of unintended consequences due to changing the graduation requirements.

Nebelsick thanked Ms. Lamb for her testimony and putting a name and a face to what has been his passion about concerns relating non-harm of people who have been diagnosed correctly to doing the best they can and receiving a diploma.

President Sly closed testimony relating to ARSD 24:05 and continued the hearing to the next board meeting on May 6, 2022.

ARSD 24:28 (Educator Certification) and ARSD 24:53 (Educator Preparation)

Proponents

Turner, DOE, testified in favor of the ARSD 24:28 (Educator Certification) and ARSD 24:53 (Educator Preparation) proposed rule changes.

Turner stated that ARSD 24:28 (Educator Certification) outlines the psychological examiner endorsement as a specialist category, and ARSD 24:53 (Educator Preparation) includes the school psychological examiner in the definition of what a specialist is.

Turner stated that she felt that the previous testimony carries forward in relation to confusion related to these rules.

Turner stated that this rule is trying to clear up confusion where the practice may not be clear. Turner said they want to address this so that working together and perhaps come up with a different program or credential appropriate and ensure things are being done in the manner needed to meet national credentialing as well as needs in our state.

Turner stated that the department is open to work with groups to make sure that they are addressing shortages. Turner stated that before there is more confusion, repeal this rule and start a program if that is more appropriate.

Turner stated that of the 130 with the school psychological examiner endorsement, 93 of those have an expiration date of July 1, 7777. They would not have to renew their credentials in their lifetime. Only one of those with that expiration date is currently employed. 37 have an expiration date of July 1, 2022, thru July 1, 2026, twelve of which are currently employed.

Turner stated that they can understand the concern for a transition, but the department does not feel that removing this endorsement takes away anyone's ability to administer evaluations that they are currently administering if they are qualified based on test evaluation protocols.

Turner again proposed repealing the school psychological examiner endorsement and then working with preparation programs and with districts in the state, and the co-ops to determine the needs with the possibility of an interim credentialing or ways to recertify, and then define guidelines for individuals having clear guidelines as to what they can administer.

Dr. Kari Oyen, testified in favor of ARSD 24:28 (Educator Certification) and ARSD 24:53 (Educator Preparation) proposed rules siting the need for continuing education credits.

Opponents

Julie Reimer testified in opposition to ARSD 24:28 (Educator Certification) and ARSD 24:53 (Educator Preparation) proposed rule changes. Reimer asked that the board consider those that do want to improve and move forward. Reimer said that she does have to have continuing education with her teacher certification and her school counseling certification.

Andrea Powell testified in opposition to ARSD 24:28 (Educator Certification) and ARSD 24:53 (Educator Preparation) proposed rule changes. Powell stated that some of her employees with the school psychological examiner endorsements expire in 2022, and they would be done if these rules go forward. They did have to meet requirements to get the endorsement.

Reimer testified again that she wants to be part of the profession she has chosen and is worried that she may not have a job next year or be able to continue to help students.

Board Questions and Discussion

Are we putting a cost onto school districts by this change?

Turner responded that by in large school districts in the state that employ someone to do testing for special education have someone employed as an evaluator and have someone employed as a school psychologist. The evaluators, for the most part, do not have the school psychological examiner endorsement. Evaluators do not have to be under the supervision of someone because they are qualified in the evaluations they administer. The biggest group of people that are currently employed with this endorsement are in co-operatives. Turner stated that taking the endorsement away should not impact them from continuing to give the evaluations they are currently administering if they are qualified and meet the publisher's criteria.

What would for example, Ms. Riemer, not be able to do if the endorsement was removed?

Julie Riemer responded that she facilitates tests, she puts together the psychological report for the disability's determination. She works with a mentor, and they go over the reports and discuss outcomes, and determine the eligibility of the special education student. Ms. Riemer said that what her understanding was that if the endorsement goes away, she would only be able to administer the tests, not be able to write the reports.

Turner responded that an individual who administers the tests may write up the results of that evaluation, where the strengths and needs were demonstrated on that evaluation. It is expected that school psychologist would come in as part of the special education team to help understand all the results of all the evaluations that were administered and help determine if there should be a diagnosis of a disability and any impact of that on their educational performance. In general, there would not be an expectation that because someone administered the evaluation that they would be able to put it all together and have a big picture understanding of the student, if they weren't qualified to do all the assessments.

As a point of clarification, for someone that is qualified to do an evaluation they would have to meet the publishers requirements. What is entailed in the publishers requirements?

Turner stated that the evaluator could write a report on how the student scored and the strengths and needs from an assessment. In general, they do not make a diagnosis on a recommendation. If it is an evaluation that would have a diagnosis or recommendations that should generally be done by a school psychologist.

The board asked Dr. Oyen for some information on qualification for administering test.

Oyen, stated that the publishers have different levels of qualifications. Meaning that there are levels of training for administering tests and the levels are limited as to access for certain testing.

Is there a difference between evaluator and examiner, either in education or experience in the field?

Turner stated the IDEA does not define an evaluator. They define what must be included in an evaluation, and evaluations must be administered by someone who is trained and certified and meets the publisher's criteria. South Dakota has this endorsement, and if you remember some of the endorsements have an expiration date of July 1, 7777. We are at a critical point, that to fill shortages and figure out how to do things, people are trying to explore all options, which Turner said she is sympathetic too. But there is concern that people are misinterpreting what this endorsement enables them to do, and it should be addressed before people add the endorsement and then find out that they can't do something, or districts hire them thinking they can do something they cannot. may cause concern or misdiagnosis of children with disabilities.

Turner stated that they would like to work on a solution and feels that starts with eliminating a component that is causing misinformation and perhaps not being administered the way it should

Nebelsick left the meeting at approximately 2:46 p.m. CT

Turner stated that it is believed that currently in the field there are people that have the School Psychological Examiner Endorsement that are administering the level C tests that require a doctorate, under the premise that because they are a School Psychological Examiner whose report is signed off by a School Psychologist, that they are qualified to administer that evaluation. That would be inappropriate. Turner stated that districts are not directly monitored to ensure that is not happening. It is the district's responsibility to make sure those administering the evaluations are qualified. Questions have arisen concerning individuals administering evaluations that they are not qualified to administer because of the perception that because they are being supervised or signed off by a School Psychologist that they meet the requirements.

Should evaluators only administer the A and B level tests, and the C tests should be administered by School Psychologists?

Turner responded that evaluators would primarily conduct educational type evaluations, academic performance, in class observations, and skill-based assessments. Not making any diagnosis. They should not administer IQ tests at a level C that they are not qualified to administer.

Is there a rule that says the Level C tests should be administered by just the School Psychologists?

Turner responded that the requirements are that we follow the federal IDEA requirements that state that a person who administers an evaluation must be trained, qualified and meet the publisher's certification requirements. It is the responsibility of those administering the tests to insure and read the protocols.

If I were to pursue a school psychological examiner certificate today, could I do that?
Is there a program in the state that allows me to do that?

Turner responded that no, you would send any course work you have taken, (and university should signoff that you have taken course work), to the certification office and they would have to ensure that each of the courses were outlined have been taken. Often times the certification office pulls in someone from the special education staff to review syllabus to see if it meets requirements.

Could there possibly be a practicing special ed teacher that might be able to add that today?

Turner stated that they would have to piecemeal the courses.

Would an intern, who is not a school psychologist, be able to do the assessments and determinations because they are supervised by a School Psychologist?

Turner stated that intern could administer the evaluations under the supervision of their overseeing School Psychologist. They cannot make the interpretations or develop the treatment program. Turner asked if Dr. Oyen would be able to respond further.

Oyen stated that there is a written plan of internship agreement. The plan covers the responsibilities of the intern and the supervisor.

There has been some discussion on moving from School Examiner to School Psychologist, and the crisis need. Is there a definitive plan moving forward, or are we still in the talking phase?

Turner responded that there is not a definitive plan at this point. Turned said that they would like to be able offer any of the current endorsed practicing individuals a pathway to get their School Psychology licensure, and then explore federal grant opportunities or other avenues but those are not in place yet.

Do we often repeal endorsements that have been granted?

Sanderson answered that this is the first conversation around a full endorsement revocation that she has experienced. Sanderson continued by saying that there are several facets to the conversation, and that there is a true need for School Psychologists. The point of concern seems to be that the qualifications that department grants through certification provides individuals an advantage or ability to conduct something within the education system. The pinch point here regarding conducting evaluations, as we are discussing today, seems to be there is no endorsement available that the department of education awards, is superseded by vendors or providers in the field that have evaluation tools available. It comes down to is somebody qualified under the evaluation instrument they are using. It appears that the endorsement doesn't seem have the value in the marketplace.

Has this been true in the past for these same individuals?

Turned stated that this is an issue that has been surfacing recently. There has been misunderstanding of what those individuals are qualified to do, but the same requirements would have been required since we have had the endorsement.

Have there been any conversations held with these people that are in these roles, just to be clear about expectations? Not just assuming or saying we believe...?

Turner stated that her office has not directly contacted the each of the individuals. The special education office is tasked to ensure that implementation is appropriate. If there is a concern when they are monitoring a district, they check who has administered evaluations and is making the decisions. If a special education teacher gave an IQ test that would raise a flag. At that point they may check their credentials more closely and determine that they have someone administering an assessment they are not qualified for, then they would write up a corrective action plan.

Is it the district's responsibility to verify examiner is certified?

Turner responded that the districts should be hiring and supervising staff that is qualified in the positions that they are hiring them for and conducting the work that they are qualified to conduct.

The board expressed concern on moving forward with these rules without a plan in place.

Sanderson stated that today's conversation and other conversations that have taken place in the field in this complex issue that people care deeply about are very productive. Sanderson suggested that constituent conversations continue with ARSD 24:05 rules and at the May meeting come back to the board with an update on the discussion on these rules.

No action was taken on ARSD 24:28 (Educator Certification) and ARSD 24:53 (Educator Preparation) proposed rule changes.

Suicide Awareness & Prevention Programs

Rebecca Cain, Program Specialist, Office of Student Wellness and Supports, DOE presented three programs for Suicide Awareness Prevention Programs for the Board's consideration and/or approval.

1. More Than Sad – Suicide Prevention for Teachers and Other School Personnel
2. Talk Saves Lives: An Introduction to Suicide Prevention
3. Child & Adult Advocacy Studies (CAAST) Training Series

Motion by Guffin second by Heineman to approve the three presented programs. Voice vote. All present voted in favor. Motion carried. Voting aye: Heineman, Olsen, Westra, Willard, Guffin, and Sly.

Secretary's Report

Tiffany Sanderson, Secretary of Education, DOE, began with a brief legislative update, including the approval of a 6% raise for state employees, the K-12 education system and others. Special Education was up for a rebase and passed as proposed. Federal authority was secured to pair

with COVID Relief dollars that the state was awarded for education. The renovation to the Cultural Heritage Center in Pierre was approved.

Sanderson reported on the the Milken Educators Award recipients, including Nichole Bowman-Pierre and Camrin Vaux-Brookings, the South Dakota Milken Award winners.

Sanderson also reported on the existing Dakota State University (DSU) partnership with industry to expand cyber security infrastructure in South Dakota. DSU secured funding to help expand the faculty and education programing options to pair up with industry expansion, adding opportunity for more jobs to South Dakota. Also forming peer partnerships with high school and post-secondary students. Plus is this the time to start considering having computer science standard at the K-12 level?

Sanderson gave a report on the Governor's Executive Order 2022-02 giving direction to the Department of Education to ensure that policies, materials, training, including content standards are void of divisive concepts. DOE staff had begun a review. If any divisive concepts are found, then make modifications or fully remove the issue considering the Civil Rights Act of 1964. The order asks the department to report to the Governors office by July 1st, and by October 1st of this year to either take administrative action within the department or propose legislation if changes are identified or needed.

Sanderson touched on the Middle School Career Camps that will be offered this summer Sanderson appreciates the BOR being a partner in that work, underscoring the importance of the continuing partnerships with industry, the BOTE, and the BOR.

Sanderson reported on Covid relief dollars and an expansion on the attendance campaign in South Dakota. Last year long term absenteeism increased. Data will be available in the early summer on this year's attendance. Attendance is a critical component to student success. The focus on prominent discussion on attendance will continue through media, radio, social media, and resources for schools and community organizations including after school programs and summer school programs.

NEXT MEETING: May 6, 2022, Rapid City South Dakota.

Adjournment:

Motion by Guffin second by Heineman to adjourn. Voice vote. All present voted in favor. Motion carried. Voting aye: Heineman, Olsen, Westra, Willard, Guffin, and Sly.

Meeting adjourned at approximately 3:49 p.m. CT.

Ferne G. Haddock
Executive Secretary BOES

Date:
05/09/2022