

SOUTH DAKOTA BOARD OF EDUCATION STANDARDS

Friday July 9, 2021 - 10:00 a.m. CT
Telephonic/Virtual

Location: Mackay Building, First Floor, Library Commons
800 Governors Drive
Pierre, South Dakota

Public Telephone Access: Dial: 1-346-248-7799
Meeting ID: 949 4612 3425 Passcode: 172292

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

Present: Jaqueline Sly, President
Rebecca Guffin, Vice-President
Phyllis Heineman
Linda Olsen
Terry Nebelsick
Julie Westra
Steve Willard

DOE staff in attendance Tiffany Sanderson, Diane B. Roy, Laura Scheibe, Carla Leingang, Holly Robling, Amanda LaCroix, and Ferne Haddock.

Others in attendance: Other members of the public were in attendance via phone/virtual.

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 10:01 a.m. CT.

A quorum of board was present.

Adoption of Agenda:

Motion Heineman second by Olsen to adopt the July 9, 2021, agenda. Roll call vote. All present voted in favor. Motion carried. Voting aye: Heineman, Olsen, Nebelsick, Westra, Willard, Guffin and Sly.

Medical Cannabis Rules – Revisions

Diane Roy, General Counsel, DOE gave an update on a few pertinent events that have occurred since the board met in May and approved the Medical Cannabis and School rules:

- (1) The Department of Health's (DOH) Medical Cannabis rules are still in draft form and they are not set to go into effect until late October this year, that may affect the Medical Cannabis and Schools rules before you today, and depending on any future legislative actions taken, we may need to revise these rules again.
- (2) The Marijuana Opportunity Reinvestment and Expungement Act (MORES Act) was recently reintroduced in Congress, –which if passed, would federally legalize cannabis by removing it from the federal Controlled Substances Act.
- (3) June 23, 2021, the South Dakota Board of Regents considered how the Medical Cannabis Law would affect their policies as they apply to the state's higher education campuses. Their June agenda states that the proposed revisions to their policies solidify the Board's prohibition on the use or possession of marijuana, including medical marijuana, on property owned or controlled by the Board or at events hosted or sponsored by the Board of any of its institutions. It further states the policy revisions ensure compliance with federal authority.
- (4) July 1, 2021, the Medical Cannabis Law 34-20G went into effect, although as Roy stated earlier, the DOH administrative rules are not in effect until October.
- (5) The South Dakota Highway Patrol issued program implementation guidance regarding the enforcement of those in possession of medical cannabis after July 1, 2021. Specific provisions of the guidance can be found on medcannabis.sd.gov.
- (6) July 1, 2021, the Flandreau Santee Sioux Tribe opened the first cannabis dispensary in South Dakota and is issuing their own ID cards.

Roy went on to update the board on the status of these rules in the rule-making process. At the May 17, 2021, board meeting, the Medical Cannabis and Schools Rules were presented and passed unanimously. The rules were then presented at the June 7, 2021, Interim Rules Review Committee (IRRC) hearing. The IRRC reverted the rules and requested amendments from DOE. DOE was not required to bring the amendments back to the BOES but did so to ensure full transparency in the process and to allow education stakeholders to weigh in before going back to IRRC.

Roy added that as per SDCL 1-26-4.10 a new, formal public hearing and public comment period is not required with reverted rules. The board will review the revised draft today and if approved the rules will be resubmitted to the IRRC for hearing on July 19, 2021. Today's board meeting allows the BOES to act on the proposed amendments from DOE within the rules process.

Amanda LaCroix, Assistant General Counsel, DOE presented the specific revisions to the rules. Some of the changes are the chapter titles from "General provisions" to "Mandatory district provisions," and "District discretion" to "Permissive district policy". The addition of a definition of "school district", that only public school districts, not non-public schools, will be affected by the rules. The word marijuana was changed to cannabis, and file was changed to educational record to have consistent language. Other revisions to the rules include that school districts may provide storage or administer medical cannabis to a student and school personnel may

volunteer to store and administer medical cannabis in a non-smokable form to any student cardholder, and that policies may also set parameters for student participation in school-sponsored activities or educational tasks that may put the student or others in an unsafe environment or potentially cause disruption. Nothing in the rules requires school personnel to administer medical cannabis.

LaCroix stated that these revisions are based on IRRC comments and proposed amendments.

Board questions and discussion

Public Comment

There was no public comment.

Motion by Heineman second by Guffin to approve the reverted Medical Cannabis and Schools rules dated July 8, 2021, as revised. Roll call vote. All present voted in favor. Motion carried. Voting aye: Heineman, Olsen, Nebelsick, Westra, Willard, Guffin and Sly.

NEXT MEETING: July 19, 2021, @ 1:00 p.m. CT: MacKay Building, First Floor Library Commons, 800 Governors Drive Pierre South Dakota.

Adjournment:

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

Meeting adjourned at approximately 10:47 a.m. CT.

Ferne G. Haddock
Executive Secretary BOES

Date: 07/20/2021