

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

- 1 **Members Present:** Jaqueline Sly, President
2 Rebecca Guffin, Vice-President
3 Phyllis Heineman via ZOOM
4 Terry Nebelsick (left the meeting at approximately 2:46 p.m. CT)
5 Linda Olsen
6 Julie Westra
7 Steve Willard
8
9 **DOE Staff Present:** Tiffany Sanderson, Laura Scheibe, Amanda LaCroix, Linda Turner, Holly
10 Robling, Rebecca Cain, and Ferne Haddock.
11 DOE via ZOOM Kathy Riedy, Jane Cronin
12
13
14 **Others:** Rebecca Hoey, Board of Regents (BOR), Andrea Powell
15 **In attendance:** Northeast Educational Services Cooperative (NESC), , and Melissa
16 Krogman Teachwell Solutions, Andrea Powell, Northeast Educational
17 Services Cooperative (NESC), Julie Reimer, OAHE Special Education
18 Cooperative, Jessica Lamb, Dr. Kari Oyen *via Zoom*, Joan Frevik,
19 and other members of the public in attendance in person, via ZOOM, and
20 via telephone.
21
22 **Call to Order, Pledge of Allegiance, and Roll Call**
23
24 The South Dakota Board of Education Standards (BOES) was called to order by President Sly at
25 approximately 1:00 p.m. Central Time.
26
27 **Adoption of Agenda**
28
29 Motion by Willard second by Westra to adopt the April 7, 2022, agenda. Voice vote. All present
30 voted in favor. Motion carried. Voting aye: Heineman, Nebelsick, Olsen, Westra, Willard, Guffin,
31 and Sly.
32
33 **Approval of Minutes**
34

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

38

39 **Conflicts Disclosures (SDCL 3-23):**

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

41

42 Take note.

43

44 **Public Comment: SDCL 1-25-1**

45

46 No public comment was offered.

47

48 **Board of Regents Report (BOR):**

49

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

53

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

56

57 President Sly stated that the rules would be separated out for review and discussion; ARSD
58 24:05 (Special Education), ARSD 24:28 (Educator Certification), and ARSD 24:53 (Educator
59 Preparation)

60

61 **ARSD 24:05 (Special Education)**

62

63 Proponents

64

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

67

68 Turner stated that she would like to propose extending and or continuing the public comment
69 period for this rules package. However, there are people present today to offer testimony.

70 Turner presented 12 public comments that were received on this rules packet as of April 6,
71 2022, submitted by seven individuals and two organizations, some individuals submitted
72 separate comments on different parts of the rules packet.

73

74 Turner testified in favor of ARSD 24:05 (Special Education) rules. Turner shared that there had
75 been input through email and public discussion. Turner said she met with the South Dakota
76 Council for Administrators of Special Education, and with the South Dakota Governor's Advisory
77 Panel for Children with Disabilities. Turner stated that in general there has been overall support
78 of the rules changes. Turner stated that certain areas have received most of the public

79 comment, including graduation requirements-the awarding of regular high school diploma , and
80 removal of school psychological examiner (ARSD 24:28 (Educator Certification) and ARSD 24:53
81 (Educator Preparation) , which Turner was proposing to delay any action on those rules today.)
82

83 Turner said on review of the feedback and public comments, they would consider reviewing the
84 school psychological examiner portions of the rules. Turner explained that there is not a
85 national standard or a standard in other states for school psychological examiner, there are
86 educational evaluators and school psychologists. Turner said that there are states that may
87 define different types of evaluators, but along with that they have very clear guidelines and
88 policies, and procedures, South Dakota does not have any of that defined. Turner stated they
89 felt the endorsement is causing confusion and misunderstanding as to what evaluations
90 individuals can administer, and that some individuals are administering evaluations they are not
91 qualified to administer.
92

93 Turner stated that upon review of Federal Individuals with Disabilities Education Act (IDEA)
94 regulations, they don't define evaluators. There are requirements on what an evaluator must
95 be trained and qualified in to meet the requirements of the test proposal. Turner stated that
96 they would agree to delete the evaluator section entirely, but that during the review they found
97 some service areas that were not in administrative rules that are in IDEA, and they propose
98 adding those services to the rules. Turner stated that the draft under review today reflect that
99 change.
100

101 Turners stated that the rules draft under review today contain changes and or consideration of
102 the public comments.
103

104 Andrea Powell, Director, Northeast Educational Services Cooperative (NESC), testified in favor of ARSD
105 24:05 proposed changes. Powell stated that schools are in crisis finding people to fill positions. After
106 discussion and feedback and seeing the attempt at the balancing of need with requirements and
107 guidelines, she is supporting the rules today.
108

109 Dr. Kari Oyen, Program Director, School Psychology Program at the University of South Dakota (USD),
110 testified on her own capacity and as a representative of the South Dakota Association of School
111 Psychologists. Oyen stated that she has not been authorized to speak on behalf of the SD BOR. Oyen
112 stated that her remarks reflect only her professional judgement. Oyen testified in favor of ARSD 24:05
113 proposed rules changes. Oyen stated that it has been beneficial to have collaborations and
114 conversations on the proposed rules changes, making sure that those providing services to students
115 have adequate training to do so.
116

117 Opponents
118

119 Julie Reimer, OAHE Special Education Cooperative, testified in opposition to the 24:05 proposed
120 rules changes. Reimer stated she is in opposition to the removal of the school psychological
121 examiner endorsement. Reimer stated that is difficult to find school psychologists, especially
122 for small and rural schools. Reimer is concerned about how the removal of the endorsement
123 might affect people in her similar situation. Reimer stated that she works with a mentor on

124 evaluations. Reimer understands the concerns but when you have a professional representative
125 overseeing the work, it should be taken into consideration. Reimer would like an opportunity to
126 be able to continue working towards degrees and some transition time to progress to
127 completion of programs.

128

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

133

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

137

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

140

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

142

143 Proponents

144

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

147

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

151

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

154

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

159

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

163

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

168
169 Turner stated that they can understand the concern for a transition, but the department does
170 not feel that removing this endorsement takes away anyone’s ability to administer evaluations
171 that they are currently administering if they are qualified based on test evaluation protocols.
172

173 Turner again proposed repealing the school psychological examiner endorsement and then
174 working with preparation programs and with districts in the state, and the co-ops to determine
175 the needs with the possibility of an interim credentialing or ways to recertify, and then define
176 guidelines for individuals having clear guidelines as to what they can administer.
177

178 Dr. Kari Oyen, testified in favor of ARSD 24:28 (Educator Certification) and ARSD 24:53
179 (Educator Preparation) proposed rules siting the need for continuing education credits.
180

181 Opponents
182

183 Julie Reimer testified in opposition to ARSD 24:28 (Educator Certification) and ARSD 24:53
184 (Educator Preparation) proposed rule changes. Reimer asked that the board consider those that
185 do want to improve and move forward. Reimer said that she does have to have continuing
186 education with her teacher certification and her school counseling certification.
187

188 Andrea Powell testified in opposition to ARSD 24:28 (Educator Certification) and ARSD 24:53
189 (Educator Preparation) proposed rule changes. Powell stated that some of her employees with
190 the school psychological examiner endorsements expire in 2022, and they would be done if
191 these rules go forward. They did have to meet requirements to get the endorsement.
192

193 Reimer testified again that she wants to be part of the profession she has chosen and is worried
194 that she may not have a job next year or be able to continue to help students.
195

196 Board Questions and Discussion
197

198 Are we putting a cost onto school districts by this change?
199

200 Turner responded that by in large school districts in the state that employ someone to do
201 testing for special education have someone employed as an evaluator and have someone
202 employed as a school psychologist. The evaluators, for the most part, do not have the school
203 psychological examiner endorsement. Evaluators do not have to be under the supervision of
204 someone because they are qualified in the evaluations they administer. The biggest group of
205 people that are currently employed with this endorsement are in co-operatives. Turner stated
206 that taking the endorsement away should not impact them from continuing to give the
207 evaluations they are currently administering if they are qualified and meet the publisher’s
208 criteria.
209

210 What would for example, Ms. Riemer, not be able to do if the endorsement was removed?
211

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

217
218 Turner responded that an individual who administers the tests may write up the results of that
219 evaluation, where the strengths and needs were demonstrated on that evaluation. It is
220 expected that school psychologist would come in as part of the special education team to help
221 understand all the results of all the evaluations that were administered and help determine if
222 there should be a diagnosis of a disability and any impact of that on their educational
223 performance. In general, there would not be an expectation that because someone
224 administered the evaluation that they would be able to put it all together and have a big picture
225 understanding of the student, if they weren't qualified to do all the assessments.

226
227 As a point of clarification, for someone that is qualified to do an evaluation they would have to
228 meet the publishers requirements. What is entailed in the publishers requirements?

229
230 Turner stated that the evaluator could write a report on how the student scored and the
231 strengths and needs from an assessment. In general, they do not make a diagnosis on a
232 recommendation. If it is an evaluation that would have a diagnosis or recommendations that
233 should generally be done by a school psychologist.

234
235 The board asked Dr. Oyen for some information on qualification for administering test.

236
237 Oyen, stated that the publishers have different levels of qualifications. Meaning that there are
238 levels of training for administering tests and the levels are limited as to access for certain
239 testing.

240
241 Is there a difference between evaluator and examiner, either in education or experience in the
242 field?

243
244 Turner stated the IDEA does not define an evaluator. They define what must be included in an
245 evaluation, and evaluations must be administered by someone who is trained and certified and
246 meets the publisher's criteria. South Dakota has this endorsement, and if you remember some
247 of the endorsements have an expiration date of July 1, 7777. We are at a critical point, that to
248 fill shortages and figure out how to do things, people are trying to explore all options, which
249 Turner said she is sympathetic too. But there is concern that people are misinterpreting what
250 this endorsement enables them to do, and it should be addressed before people add the
251 endorsement and then find out that they can't do something, or districts hire them thinking
252 they can do something they cannot. may cause concern or misdiagnosis of children with
253 disabilities.

254

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

258

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

260

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

271

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

274

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

279

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

282

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

287

288 If I were to pursue a school psychological examiner certificate today, could I do that?

289 Is there a program in the state that allows me to do that?

290

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

296

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

298

299 Turner stated that they would have to piecemeal the courses.
300
301 Would an intern, who is not a school psychologist, be able to do the assessments and
302 determinations because they are supervised by a School Psychologist?
303
304 Turner stated that intern could administer the evaluations under the supervision of their
305 overseeing School Psychologist. They cannot make the interpretations or develop the
306 treatment program. Turner asked if Dr. Oyen would be able to respond further.
307
308 Oyen stated that there is a written plan of internship agreement. The plan covers the
309 responsibilities of the intern and the supervisor.
310
311 There has been some discussion on moving from School Examiner to School Psychologist, and
312 the crisis need. Is there a definitive plan moving forward, or are we still in the talking phase?
313
314 Turner responded that there is not a definitive plan at this point. Turned said that they would
315 like to be able offer any of the current endorsed practicing individuals a pathway to get their
316 School Psychology licensure, and then explore federal grant opportunities or other avenues but
317 those are not in place yet.
318
319 Do we often repeal endorsements that have been granted?
320
321 Sanderson answered that this is the first conversation around a full endorsement revocation
322 that she has experienced. Sanderson continued by saying that there are several facets to the
323 conversation, and that there is a true need for School Psychologists. The point of concern
324 seems to be that the qualifications that department grants through certification provides
325 individuals an advantage or ability to conduct something within the education system. The
326 pinch point here regarding conducting evaluations, as we are discussing today, seems to be
327 there is no endorsement available that the department of education awards, is superseded by
328 vendors or providers in the field that have evaluation tools available. It comes down to is
329 somebody qualified under the evaluation instrument they are using. It appears that the
330 endorsement doesn't seem have the value in the marketplace.
331
332 Has this been true in the past for these same individuals?
333
334 Turned stated that this is an issue that has been surfacing recently. There has been
335 misunderstanding of what those individuals are qualified to do, but the same requirements
336 would have been required since we have had the endorsement.
337
338 Have there been any conversations held with these people that are in these roles, just to be
339 clear about expectations? Not just assuming or saying we believe...?
340 Turner stated that her office has not directly contacted the each of the individuals. The special
341 education office is tasked to ensure that implementation is appropriate. If there is a concern

342 when they are monitoring a district, they check who has administered evaluations and is
343 making the decisions. If a special education teacher gave an IQ test that would raise a flag.
344 At that point they may check their credentials more closely and determine that they have
345 someone administering an assessment they are not qualified for, then they would write up a
346 corrective action plan.

347
348 Is it the district's responsibility to verify examiner is certified?

349
350 Turner responded that the districts should be hiring and supervising staff that is qualified in the
351 positions that they are hiring them for and conducting the work that they are qualified to
352 conduct.

353
354 The board expressed concern on moving forward with these rules without a plan in place.
355

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

360
361 No action was taken on ARSD 24:28 (Educator Certification) and ARSD 24:53 (Educator
362 Preparation) proposed rule changes.

363 364 **Suicide Awareness & Prevention Programs**

365
366 Rebecca Cain, Program Specialist, Office of Student Wellness and Supports, DOE presented
367 three programs for Suicide Awareness Prevention Programs for the Board's consideration
368 and/or approval.

- 369
370 1. More Than Sad – Suicide Prevention for Teachers and Other School Personnel
371 2. Talk Saves Lives: An Introduction to Suicide Prevention
372 3. Child & Adult Advocacy Studies (CAAST) Training Series

373
374 Motion by Guffin second by Heineman to approve the three presented programs. Voice vote.
375 All present voted in favor. Motion carried. Voting aye: Heineman, Olsen, Westra, Willard,
376 Guffin, and Sly.

377 378 **Secretary's Report**

379
380 Tiffany Sanderson, Secretary of Education, DOE, began with a brief legislative update, including
381 the approval of a 6% raise for state employees, the K-12 education system and others. Special
382 Education was up for a rebase and passed as proposed. Federal authority was secured to pair
383 with COVID Relief dollars that the state was awarded for education. The renovation to the
384 Cultural Heritage Center in Pierre was approved.

385

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

388
389 Sanderson also reported on the existing Dakota State University (DSU) partnership with
390 industry to expand cyber security infrastructure in South Dakota. DSU secured funding to help
391 expand the faculty and education programing options to pair up with industry expansion,
392 adding opportunity for more jobs to South Dakota. Also forming peer partnerships with high
393 school and post-secondary students. Plus is this the time to start considering having computer
394 science standard at the K-12 level?

395
396 Sanderson gave a report on the Governor’s Executive Order 2022-02 giving direction to the
397 Department of Education to ensure that policies, materials, training, including content
398 standards are void of divisive concepts. DOE staff had begun a review. If any divisive concepts
399 are found, then make modifications or fully remove the issue considering the Civil Rights Act of
400 1964. The order asks the department to report to the Governors office by July 1st, and by
401 October 1st of this year to either take administrative action within the department or propose
402 legislation if changes are identified or needed.

403
404 Sanderson touched on the Middle School Career Camps that will be offered this summer
405 Sanderson appreciates the BOR being a partner in that work, underscoring the importance of
406 the continuing partnerships with industry, the BOTE, and the BOR.

407
408 Sanderson reported on Covid relief dollars and an expansion on the attendance campaign in
409 South Dakota. Last year long term absenteeism increased. Data will be available in the early
410 summer on this year’s attendance. Attendance is a critical component to student success. The
411 focus on prominent discussion on attendance will continue through media, radio, social media,
412 and resources for schools and community organizations including after school programs and
413 summer school programs.

414
415 NEXT MEETING: May 6, 2022, Rapid City South Dakota.

416
417 **Adjournment:**

418
419 Motion by Guffin second by Heineman to adjourn. Voice vote. All present voted in favor.
420 Motion carried. Voting aye: Heineman, Olsen, Westra, Willard, Guffin, and Sly.

421
422
423 Meeting adjourned at approximately 3:49 p.m. CT.

424
425

426
427 Ferne G. Haddock Date:
428 Executive Secretary BOES