

## State Board of Education

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### State Board of Education Rule Series 2000 - Education Quality Standards Committee Meeting Approved Minutes

**Date: November 20, 2023**

Present:

**State Board Members (SBE):** Kimberly Gleason, Tammy Kolbe, Grey Fearon, Mohamed Diop, Richard Werner (joined at 4:28 p.m.)

**Agency of Education (AOE):** Maureen Gaidys

**Others:** Sarah Buxton, SBE Legal Counsel; Allison Choate; Representative Elizabeth Burrows; Amanda Garces, Human Rights Commission.

#### **Call to Order/Roll Call/Amendments to the Agenda**

Gleason called the meeting to order at 4:11 p.m. Gleason, Kolbe and Diop were present. There were no amendments to the agenda.

#### **Approval of [Minutes from May 15, 2023](#)**

This item was tabled as this is effectively a new committee and these minutes will likely need to be approved by the full SBE.

#### **Public to be Heard**

Garces addressed the group and asked for a legal analysis about the change to the definition of discrimination in the Education Quality Standards (EQS) and encouraged the Committee to look at the [memo from she and Hage \(October 15, 2023\)](#). She also encouraged this Committee to use the technical advisory working group to respond and have dialog on these comments and offered that they could speak to this Committee on these proposed changes.

Following Garces' comment, Kolbe clarified that no change has been made to the definition of discrimination at this point and that this was something that the committee would consider in its future deliberations.

## **Working Session: Discussion of Feedback received during the Public Comment Period**

Gleason referenced [a synopsis of the Education Quality Standards Rule Update Committee Process](#) that was included with meeting materials and a [memo to the Board from EQS Committee Co-chairs regarding Process and Proposed Changes](#) and gave some history of the Committee for the benefit of new Committee members. She said there was a lot of testimony in advance of bringing this to the full SBE. The SBE approved the draft for pre-filing, and it then went to the Interagency Committee on Administrative Rules (ICAR), and they approved the work. The public comment period then opened and ran its course, there were three public hearings. This part of the process is to address the comments received and decide what, if any, changes should be made to the document.

Kolbe spoke about the ongoing work of this Committee since May 2022. She explained that the committee's job is to process the recommendations that were received from the Act 1 group, and they have been very systematic about doing that and have taken much testimony, made modifications and consideration of other technical corrections. Last year the draft was unanimously approved by the full SBE.

Kolbe also noted that Rule Series 2200 is also open, with the intent of updating that rule series to comply with Act 1. She added that Chair Samuelson and the SBE has set the expectation that with respect to updates to comply with Act 1 there will be common requirements and expectations for public and independent schools, and to the extent possible, the language will be the same in Rule Series 2200 as EQS. She also noted that since the public comment period for Rule Series 2200 just opened, to keep the rules in parallel it may be the case that comments on Rule Series 2200 may also need to be considered by this committee in its work.

Kolbe then proposed that the starting point for the committee's work should be a revised rule that reflects technical adjustments to the definitions (ethnic group, ethnic studies, and social group). The adjustments were required to comply with statute. Specifically, since these terms were defined by the legislature, the rule cannot redefine the terms. However, the rule can provide additional clarification for the definitions so that the rule is implemented consistent with legislative intent. The changes are to ensure the rule stays within the guardrails of statute and protects against potential challenges with the rule.

Kolbe explained that in the document the language in red text restated the definitions contained in statute, while the language in black text is the unaltered, clarifying text that was already in the rule adopted by the SBE.

Kolbe invited legal counsel, Sarah Buxton, to provide additional context and explanation. Buxton shared the document titled [Technical corrections/revisions for EQS Committee Consideration \(statutory reference included\)](#). She spoke about legislative intent and the difference between when the legislature defines a word and when it does not. She explained that one cannot redefine what has already been defined by the legislature. There is a need to reconcile legislative intent with this body's authority to interpret and apply the law.

The Committee discussed the fact that it took testimony during the pre-filing period about the importance of providing clarification for the field so that the rule could be implemented

consistent with the requirements and intent of Act 1. The Committee noted that it is important for the public to understand that the rule cannot redefine term that is defined in statute, and that if there are concerns about that definition the recourse is to work with the legislature to revise the definition there.

There was consensus that the Committee should work from revised definitions as the Committee processes public comments going forward.

Gleason noted that there was significant comment related to part b (definition of ethnic groups) and asked if the Committee wanted to consider if the concerns have been addressed by the technical adjustment. The committee agreed to defer this question to the next meeting and to process each comment in turn, noting that the technical adjustments may resolve a good number of comments posed for the definition of “ethnic group.” The committee agreed to bundle comments for processing at its next meetings, starting with comments on (1) the definition of “ethnic group, including comments related to inserting the terms “persecution” and “genocide” to the definition; (2) potential revisions to the definition of discrimination, and (3) other definitions.

Buxton offered to re-organize the spreadsheet. Kolbe noted that comments on arts and music education represent another bundle of comments, and the committee agreed to take these comments up at a later meeting. Gleason noted that a lengthier discussion may be needed for the alignment issue of the definition of discrimination and this needs to be considered in relation to the end of the public comment period for Rule Series 2200. Gleason shared a document, [Comparison Language for EQS and Rule Series 2200 for Definition of Discrimination](#), for the committee’s consideration.

### **Public to be Heard**

Garces acknowledged that there was considerable tension earlier in the meeting and as a member of the public, this was undeserved as she is familiar with public comment period and didn’t have her hand raised.

### **Adjourn**

Kolbe moved to adjourn; Werner seconded. Gleason called the vote and the motion passed. The meeting adjourned at 5:29 p.m.

Minutes prepared by Maureen Gaidys.