

Bill Walker, Governor

Alaska State Professional Teaching Practices Commission
1016 W. 6th Avenue, Suite 302
Anchorage, Alaska 99501
APPROVED MINUTES

January 26-27, 2017

Call to Order – Chair Melody Mann called the meeting to order at 9:03 AM on Thursday, January 26, 2017. Chair Mann welcomed new member Kent Runion. Martin Laster has submitted his resignation.

Members Present: Chair Melody Mann, Vice Chair Maureen van Wagner, David DeVaughn, Paul Prussing, David Piazza, Kent Runion, Secretary Francie Roberts (telephonically), and James A. Seitz, Executive Director. Since 7 members were in attendance, there was a quorum.

Members Absent: David Legg, Martin Laster

Agenda Approval – Maureen van Wagner moved and David Piazza seconded to approve the agenda as presented. The agenda was unanimously approved.

Executive Session – A motion was made by David DeVaughn and seconded by Maureen van Wagner to move into Executive Session as permitted by AS 44.62.310(b) for purposes of discussing the cases as listed. The motion passed unanimously. The Commission moved into executive session at 9:09 A.M.

AS 44.62.310(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

A motion was made by David Piazza and was seconded by Maureen van Wagner to move out of Executive Session at time 9:45 AM. The motion passed unanimously. The Board took a break until 9:58 AM.

Action Items

a. PTPC Cases

PTPC Case No. 17-09: The commission accepted the Stipulated Agreement issuing a **warning** to an educator, who currently holds an initial teaching certificate.

Moved: David DeVaughn Seconded: Paul Prussing

AYE

- David DeVaughn
- David Piazza
- Paul Prussing
- Maureen van Wagner
- Melody Mann
- Frances Roberts
- Kent Runion

NAY

Motion Passed Unanimously (7-0)

PTPC Case No.17-14: Commission accepted the Stipulated Agreement issuing a **reprimand** to **Leslie A. Wallace**.

Moved: Maureen van Wagner

Seconded: David DeVaughn

AYE

- David DeVaughn
- David Piazza
- Frances Roberts
- Paul Prussing
- Maureen van Wagner
- Melody Mann
- Kent Runion

NAY

Motion Passed Unanimously (7-0)

PTPC Case No.17-18: Commission accepted the Stipulated Agreement ordering **an eighteen-month suspension** of the teaching certificate of **John W. Hutchinson** effective January 1, 2017.

Moved: Paul Prussing Seconded: David DeVaughn

AYE

- David DeVaughn
- David Piazza
- Frances Roberts
- Paul Prussing
- Maureen van Wagner
- Melody Mann
- Kent Runion

NAY

Motion Passed Unanimously (7-0)

Public Comment – No one was present for public comment. There were several written comments submitted after the public comment period for the proposed changes to the Ethics Code had closed. The board determined that these comments were not made in a timely manner and therefore not reviewed by the Commission.

Approval of Minutes – It was moved by David Piazza and seconded by David DeVaughn to approve the October 3, 2016 meeting minutes as presented. The motion passed unanimously.

Executive Director's Reports

- a. Financial Report – There were two charges in late FY 16 for approximately \$12,000 each that were not coded as PTPC expenditures. The net result is that the PTPC budget was ~\$600 overspent instead of having an ~\$24,000 surplus as reported at the October meeting. The recent \$75 increase in teacher certification fees do not all go to PTPC. PTPC does not build up a surplus from year to year if funds are not spent. If, however, PTPC needed additional monies because of a hearing, there would be funds available to cover the cost. PTPC expenses for FY 17 are well within the budget. The Governor's proposed PTPC budget for FY 18 is very similar to the current FY 17 PTPC budget. Paul Prussing explained more about how the state budget and fiscal accounting system works.

The Executive Director's report was postponed, as Sondra Meredith, teacher certification administrator, was now available to give her report.

Francie Roberts left the teleconference for the airport to fly to Anchorage if weather allowed. Maureen van Wagner assumed the secretarial duties in the interim.

DEED Report – Sondra Meredith

Sondra reported there was not much new this time in teacher certification. Dave Piazza asked if there were an unusually high number of certificates that expired on December 31.

Sondra reported that DEED is getting close to putting out the ESSA State Application for public comment. There have been many stakeholder meetings. The draft report is projected to be out in late March or early April. The final report is due to the US Dept. of Education in mid-September.

Executive Director's Report – continued

- b. Case Report – The board was provided a summary of cases the PTPC office investigated since the last meeting.
- c. Activity Report – Executive Director Seitz provided the commissioners with a summary of his activities since the last meeting.
- d. PPI Report – Jim Seitz attended the Annual Professional Practices Institute meeting in October 2016 and provided a report of his activities. Director Seitz attended at his own expense.

Action Items

- c. Membership in PEBSA – Director Seitz provided information about the organization to the commission. Members felt it would be worthwhile to join this organization. Dave Piazza moved and Paul Prussing seconded a motion to spend \$1000 to join PESBA. The motion carried 6-0 (Francie Roberts was absent while she was traveling from Homer to Anchorage).

Discussion Items

- a. Publishing contact information for Commissioners
Executive Director Seitz stated that minimal information is given on the PTPC website compared to other State Boards and Commissions. Commissioners supported including additional information such as affiliation (what school district, etc.) and city of residence (Anchorage, Homer, etc.). Commissioners did not want any personal contact information such as email or mailing address. They directed Director Seitz to update the information on the PTPC website with a statement that Commissioners could be contacted through the PTPC office.
- b. DEED Performance Review
Director Seitz provide the Commission with pages from the recent legislative audit of the Department of Education and Early Development completed by the vendor Public Works. The complete report is available <http://legaudit.akleg.gov/a-performance-review-of-the-department-of-education-and-early-development-2016/> The legislature has just started up and there has been no sign yet that they intend to pursue any of the recommendations in the report. However, since the recommendation specific to the PTPC represented systemic changes that go to the core of the independence of the PTPC, Seitz wanted to both inform the Commission of these recommendations and also be prepared to respond if there was any movement on the recommendation. Commissioners felt it would not be a budget reduction to house PTPC with the Teacher Certification office as someone would still be needed to do investigations and carry out the day-to-day workings of the office. Commissioners also felt it would be a duplicate of services for the State Board of Education to become the decision making body and to oversee the PTPC. (One recommendation was that the PTPC become advisory to the State Board of Education in matters related to educator discipline.) The Commission also felt that the PTPC executive director needs to do more outreach, especially to school districts, and they were not in favor of cutting back on presentations.

Action Items

- a. Code of Ethics Revisions

Erin Egan, PTPC attorney from the Alaska Department of Law, was present for the Code of Ethics revision discussion. Director Seitz explained that after the 2-month public comment period closed on December 15, 2016, Director Seitz and AAG Egan met to develop suggested wording changes to the 12 proposals based on the public comments. That document, which is appended to these minutes, formed the basis of the discussion at this meeting. Seitz further explained that after the Commission approves any or all of the changes, they would then be reviewed again by AAG Egan and also by a regulations attorney from the Dept. of Law. The Commission has the authority to promulgate regulations related to the Code of Ethics. The proposed regulation changes do not need to go to the State Board of Education for approval.

Because of the varied nature of the 12 proposals and because of the intense interest in some of the proposals, Seitz suggested that each proposal be discussed independently before voting on any proposal occurs. [Note: In advance of this meeting Seitz distributed electronically to all Commissioners a 68-page document which contained all 26 public comments received on time. In addition, Seitz provided in advance, and also at the meeting, a numerical summary of the public comments categorizing them (as much as possible) as either supporting or not supporting the 12 proposals.]

Proposal #1 – Director Seitz presented 2 wording suggestions from Sondra Meredith, DEED administrator for teacher certification. The Commission decided to meld the 2 suggestions into one.

Proposal #2 – Maureen suggested wording that flowed more smoothly.

This proposal deals with romantic/sexual relationships with former students. “Former” means students who have recently graduated from high school. The Executive Director provided the commission with survey results from 16 other states about how they viewed this issue. A commissioner was interested to learn why the specific questions in the survey were included.

Discussion occurred regarding the time before an educator could have a relationship with a recently graduated student (one week? one month? One year? Etc.). Erin Egan explained the legal issues surrounding the issue. Director Seitz discussed attorney John Sedor’s general concern that some sections of the Code of Ethics are “unconstitutionally broad and overbroad” as he expressed in his public comments. This proposal was an attempt to be more specific. David Piazza questioned the effect on students in higher education. Director Seitz says there have been very few cases that have come to the Commission (less than a handful) involving sexual misconduct between university professors and university students.

Members felt placing the proposal in section (b)(4) was more appropriate than in section (b)(7). Social media issues should be incorporated in the wording. A suggestion was made to change the words to “sexual conduct with a former student” to be more specific as to the type of behaviors being addressed in this section.

Francie Roberts arrived in the meeting room at 1:27 PM. She resumed her secretarial duties.

Francie agreed with a public comment on page 61 that we want to make sure we say what we mean and do not word things so broadly so as to include situations that the Commission probably wouldn’t sanction for. The example given was a Dimond HS teacher making sexual jokes to a 19-year-old who recently graduated from a HS school in Alabama. Seitz stated the Executive Director has the discretion to dismiss a case and also the Commission can decide to not sanction an educator. That is, this section of the Code of Ethics is not to be interpreted as a “mandatory” requirement for a sanction.

Proposal #3 – Director Seitz stated this proposal was the most commented on (19 of 26 people commented on this proposal). Public comment was either strongly in support (6) of adding gender identity to the list of protected classes or strongly opposed (13) to adding it. He clarified the focus of this proposal was the protection for a specific class of people related to harassment or discrimination. He stated further, and the Commission concurred, that the PTPC was not making any statement about issues surrounding use of restrooms or locker rooms. Paul felt the state statute AS 14.33.250 already covered gender identity. Director Seitz explained that we needed to make sure PTPC could order sanctions based on a statute or regulation that was outside the Code of Ethics regulations. AS 14.33.250 addresses harassment; some wondered if

this is enough. Would PTPC have jurisdiction if gender identification was not listed as a specific class. Why did we list all the protected classes before? AAG Erin Egan does not think we should take away the “laundry list” without public notice. Seitz looked at various school district websites and some specifically listed gender identification in their non-discrimination policy. ASD had broad wording that didn’t specific state gender identification. Alaska Association of School Boards (AASB) recommended that school district include gender identification in their non-discrimination policy.

Proposal #4 – Director Seitz explained he added the word “written” to clarify where information can be found. This suggestion came from the public comments. The commission stated PTPC’s intent is to mean written rules, written policies, and written procedures.

Proposal #5 – Although this was proposing adding gender identity to the list of protected classes, similar to proposal #3, this section of the Code of Ethics deals with employees and not students. This garnered less than half (7 total – 4 pro, 3 con) the public comments as proposal #3.

Proposal #6 – There was no public comment on this item and it was a clarification that this section of the Code of Ethics (d)(6) does not apply to non-certified employees.

Proposal #7 – This proposal clarifies that educators need to be honest and ethical in completing job applications. There was some discussion about what is purview of PTPC vs. what is purview of district. Paul asked about whether just firing an employee would be adequate or would the superintendent then file a PTPC complaint?

Proposal #8 – This section dealt with the definition of sexual contact with students. Commissioners discussed whether this was drilling in too deep. Most members felt this is helpful. Counselors and teachers could still counsel students, as appropriate. Sexual contact is not limited to everything listed. Wording was modified as per 2 public comments to make it clear that counseling situations would not be restricted or limited.

Proposal #9 – This section clarified the definition of a student. One public comment raised a question whether or not a 22-year-old special needs student would be covered by this proposed change. The commission decided a 22-year-old SPED student would be included. The commissioners also discussed how an early graduate (ex. a 17 year old) would fall under this definition.

Proposal #10 – Director Seitz explained the word colleague was used multiple times in the code and so a definition was needed. There were no public comments received concerning this proposal.

Proposal #11 – This section defined educator more clearly. Wording was changed to be consistent with the suggestions for Proposal #1.

Proposal #12 – There were no public comments on this proposal but wording was changed to be consistent with the suggestions for Proposal #1.

Adjournment – Maureen van Wagner moved and David DeVaughn seconded the motion to adjourn for the day and continue Friday January 27th at 9:00 AM. Melody Mann adjourned the meeting at 2:44 PM, January 27, 2016.

January 27th, 2017

Call to Order – Chair Melody Mann called the continuation of the Professional Teaching Practices Commission meeting to order at 9:07 AM on Friday, January 27, 2017. David Legg had notified Jim Seitz he is unable to attend today.

Members Present: Chair Melody Mann, Vice Chair Maureen van Wagner, David DeVaughn, Paul Prussing, David Piazza, Kent Runion, Francie Roberts, and James A. Seitz, Executive Director. Since 7 members were in attendance, there was a quorum.

Members Absent: David Legg, Martin Laster

Action Items

a. Code of Ethics Items (continued)

Proposals #1, 4, 6, 7, 9, 10, 11, and 12 - David Piazza moved and David DeVaughn seconded to accept Proposals 1, 4, 6, 7, 9, 10, 11 and 12 as presented in the document titled “Revisions after discussion at January 26, 2017 PTPC meeting” document, which is appended in a reformatted form to these minutes.

AYE

- David DeVaughn
- David Piazza
- Paul Prussing
- Maureen van Wagner
- Melody Mann
- Frances Roberts
- Kent Runion

NAY

Motion Passed Unanimously

Proposal #2 – Maureen van Wagner moved and David DeVaughn seconded to pass Proposal #2 as submitted on the attached (appended) document.

The commission had more discussion about the proper time limit after graduation. Grooming students for future relationships can happen and one commissioner felt section (b)(7) already covered grooming. Director Seitz said an administrative law judge did not think so in a past case. Dave Piazza suggested adding “within the educator’s sphere of influence”. The commission discussed whether this is a substantial change but the word “former” was in the advertised wording, so members felt the other language was similar.

Francie Roberts moved and Maureen van Wagner seconded to amend Proposal #2 to add the wording after the word student “**within the educator’s sphere of influence**”. Some public comment referred to “vagueness” of some sections of the Code of Ethics. This proposal is to make this expectation clearer.

AYE

- David DeVaughn

- David Piazza
- Maureen van Wagner
- Melody Mann
- Frances Roberts
- Kent Runion

NAY

- Paul Prussing

Motion to Amend Passed 6-1

Chair Mann called for a vote on the main motion for Proposal #2 as amended. The entire Proposal #2 now reads: “(b) In fulfilling obligations to students, an educator (4) may not engage in physical abuse of a student or sexual conduct with a student **within the educator’s sphere of influence**, including up to 1 year after the student has graduated from high school; and shall report to the commission knowledge of such an act by an educator;” [emphasis added to amendment]

AYE

- David Piazza
- Maureen van Wagner
- Frances Roberts
- Kent Runion

NAY

- Paul Prussing
- David DeVaughn
- Melody Mann

Motion Passed 4-3

Proposal #3 - Maureen van Wagner moved and David DeVaughn seconded to accept Proposal #3 as submitted in the attached document.

The commission discussed the purpose of the list of items (protected classes) in this section. Why are they spelled out? Melody said it is our duty to protect specific groups of students. Schools should be free of harassment and discrimination. One commissioner thinks we are a year too soon, because the term gender identity has not made it through the national stage. Paul Prussing felt the issue of discrimination was already generally covered in this section. A person in audience had his hand up. Chair Mann told the person the public comments time for the proposals had closed and this was a time for PTPC discussion. One commissioner pointed out our personal beliefs may be different than the standards educators are held to.

AYE

- David DeVaughn
- Maureen van Wagner
- Melody Mann

- Frances Roberts
- Kent Runion
- David Piazza

NAY

- Paul Prussing

Motion Passed 6-1

Proposal #5 – Maureen van Wagner moved and David DeVaughn seconded to accept Proposal #5 as presented in the attached document. There was no further discussion.

David Piazza called the question.

AYE

- David DeVaughn
- David Piazza
- Maureen van Wagner
- Melody Mann
- Frances Roberts
- Kent Runion

NAY

- Paul Prussing

Motion Passed 6-1

Proposal #8 - Francie Roberts moved and Dave Piazza seconded to accept Proposal #8 as presented in the attached document.

The commission discussed reasons for adding the additional language. In the past, social media has not been addressed. Director Seitz said the first three items were taken from other states ethics codes.

AYE

- David DeVaughn
- David Piazza
- Paul Prussing
- Maureen van Wagner
- Melody Mann
- Frances Roberts
- Kent Runion

NAY

Motion Passed Unanimously (7-0)

Discussion Items

- b. **Breach of Contract** – Currently the PTPC has a June 30th date for sanctioning Breach of Contract violations. Director Seitz briefed the PTPC on the history of how this date came to be. In January of 2007, when Patricia Truman was the director, a survey was sent out to interested parties asking what date would be preferred for a Breach of Contract violation. The choices were: June 1, June 15, July 1 or July 15 or leave as it was. The public comment was to keep the current language. The PTPC felt the current language was confusing, as it said if you resigned less than 30 days before you were required to report to work, you should be sanctioned for a breach of contract. In 2010 the commission decided this was too confusing as each of the 54 school districts had different starting dates. Instead the PTPC determined June 30th would be the sanctioning date. The commission discussed the situation when an employee signs a contract with two districts, as there is nothing in the sanction code to prevent this. Should the PTPC develop guidelines for teachers who want to move from district to district? Each school district has different policies and penalties for Breach of Contract. The PTPC felt this issue should be highlighted in a future newsletter or a position paper should be written. Breach of contract in rural schools can cause great difficulties replacing the educator at such a late date.
- c. **Conduct unbecoming of an educator** – Jim Seitz requested this item be postponed until next meeting.

Information Items

- a. Upcoming meeting – Monday and Tuesday April 24th and April 25th is the next scheduled meeting of the commission. If there is only a one-day meeting needed, the commission prefers Monday April 24th. Officer selection will occur at the next meeting.
- b. Marty Laster resigned his seat on the PTPC. Fellow commissioners expressed a thank you to him for his past service.
- c. Travel Reimbursements – Director Seitz explained procedures for travel reimbursement. Paul Prussing explained reimbursements are coming slowly due to limited staff and the new accounting system.
- d. Once the meeting is adjourned, Jim Seitz will do an orientation for the new members (Kent Runion and Paul Prussing) of the commission. Veteran members are welcome to attend.

Adjournment

Maureen van Wagner moved and David DeVaughn seconded to adjourn the Professional Teaching Practices Commission meeting at 11:00 AM. There was no objection to the motion.

Submitted by Francie Roberts, secretary
Maureen van Wagner, temporary secretary
Alaska Professional Teaching Practices Commission

Attachment to minutes:

Proposals referenced in the above minutes and also voted on at the January 27, 2017
PTPC meeting.

Proposals 1-7. 20 AAC 10.020 is amended to read:

PROPOSAL 1

20 AAC 10.020. Code of ethics and teaching standards. (a) The following code of ethical standards governs all members of the teaching profession, as well as any individual holding a teaching, administrative, or special services certificate as issued under 4 AAC 12 and 4 AAC 30. This includes Student Teacher Authorizations. A violation of this section is grounds for discipline as provided in AS 14.20.030.

PROPOSAL 2

(b) In fulfilling obligations to students, an educator

(4) may not engage in physical abuse of a student or sexual conduct with a student within the educator's sphere of influence, including up to 1 year after the student has graduated from high school; and shall report to the commission knowledge of such an act by an educator;

PROPOSAL 3

(6) may not harass, discriminate against, or grant a discriminatory advantage to a student on the grounds of race, color, creed, sex, national origin, marital status, political or religious beliefs, physical or mental conditions, family, social, or cultural background, gender identification, or sexual orientation; shall make reasonable effort to assure that a student is protected from harassment or discrimination on these grounds; and may not engage in a course of conduct that would encourage a reasonable student to develop a prejudice on these grounds;

PROPOSAL 4

(c) In fulfilling obligations to the public, an educator

(3) shall cooperate in the statewide student assessment system established under 4 AAC 06.710 - 4 AAC 06.790 by safeguarding and maintaining the confidentiality of test materials and information and by adhering to all written rules, policies, procedures, and other requirements established by DEED regarding the administration and operation of the statewide student assessment system as delineated in 4 AAC 06.761 (Test administration) and 4 AAC 06.765 (Test security; consequences of breach).

PROPOSAL 5

(d) In fulfilling obligations to the profession, an educator

(1) may not, on the basis of age, race, color, creed, sex, national origin, marital status, political or religious beliefs, physical condition, family, social or cultural background, gender identification, or sexual orientation, deny to a colleague a professional benefit, advantage, or participation in any professional organization, and may not discriminate in employment practice, assignment, or personnel evaluation;

PROPOSAL 6

(6) shall provide, upon the request of the affected party, who must be a member of the teaching profession as defined by AS 14.20.370, a written statement of specific reasons for recommendations that led to the denial of increments, significant changes in employment, or termination of employment;

PROPOSAL 7

(9) may not falsify a document, or make an intentional or material misrepresentation on a matter of fact related to licensure, employment (including employment application), employment evaluation, test results, or professional duties;

Proposal 8. 20 AAC 10.900 is amended to read:

PROPOSAL 8

20 AAC 10.900. Definitions. In this chapter, (1) “sexual conduct” includes, but is not limited to, explicit sexual jokes and stories; flirtatious or sexually related comments; sexual kidding or teasing; sexual innuendos or comments with double entendre; inappropriate physical touching; soliciting, encouraging, participating, or initiating inappropriate written communication, verbal communication, electronic communication, physical or romantic relationship with students, whether consensual or nonconsensual; discussion of the educator’s sexual feelings or activities; discussion, outside of a professional teaching or counseling context, of a student’s sexual feelings or activities, or material of a sexual nature; and “sexual penetration” and “sexual contact” as those terms are defined in AS 11.81.900(j);

Proposals 9-12. 20 AAC 10.900 is amended by adding new sections to read:

PROPOSAL 9

(4) “student” is any individual enrolled in public or private school, or any individual who is under the age of 20 and has neither graduated from high school nor completed a GED. A “student” in higher education is any individual enrolled in at least one course at an institution of higher education.

PROPOSAL 10

(5) “colleague” includes any certificated educator as well as individuals who are employed by the school district on a permanent or temporary basis.

PROPOSAL 11

(6) “educator” includes any individual holding a teaching certificate, administrative certificate, special services certificate, or student teacher authorization, as issued under 4 AAC 12 and 4 AAC 30; as well as instructors in higher education.

PROPOSAL 12

(7) “members of the profession” includes all members of the teaching profession, as defined in AS 14.20.370, as well as any individual holding a teaching certificate, administrative certificate, special services certificate, or student teacher authorization as issued under 4 AAC 12 and 4 AAC 30.
