

WESTON SCHOOL COMMITTEE CONTINUED BUDGET MEETING MINUTES (Zoom Livestream Meeting) Tuesday 1/31/2023 at 4:00 PM

This meeting was streamed in real time via Zoom. Recording may be found here: <https://cloud.castus.tv/vod/weston/video/63d9beebf8e07b0008a1d368?page=PLAYLIST>

Questions or comments? Contact: SchoolCommittee@weston.org - www.westonschools.org

DOCUMENTS USED AT MEETING

- Legal Opinion - Substitution of Interscholastic Sports for Physical Education Requirement

ATTENDING PANELISTS

School Committee: Mr. Kenneth Newberg (Chair), Ms. Alyson Muzila (Vice-chair), Ms. Keitric Johnson (METCO Member), Ms. Maija Cirulis-Gooch, Ms. Attia Linnard, Mr. Jeffrey Lucas, and Ms. Cortney Leung (Student Representative to the School Committee).

Also attending: Dr. Midge Connolly (Superintendent), Ms. Sheri Matthews (Assistant Superintendent), Dr. Kimo Carter (Assistant Superintendent of Teaching and Learning), Dr. Lee McCanne (Director of Technology and Libraries), Ms. Martha Bakkan (Director of Student Services), Mr. Gary Jarobski (Director of Facilities), Mr. Paul Peri (Weston High School Principal), Mr. John Gibbons (Weston Middle School Principal). Weston Finance Committee Members Ms. Lisa Reitano and Mr. Bharath Venkataraman (Superintendent's Budget Advisory Group Members).

OPENING BUSINESS

Chairman's Report

Mr. Newberg calls the meeting to order at approximately 4:00pm and provides a brief overview of the budgeting process and the committee's upcoming schedule regarding the budget. Prior to continuing, Mr. Newberg advises that the committee received comments questioning the legality of the recently discussed sport substitution policy. Mr. Newberg advises that he obtained the written opinion of the school lawyer; the opinion concluded that under Massachusetts' law a local school committee's power to set educational policy extends to deciding how to satisfy the state physical education requirement - meaning that a school committee can craft the educational experience that best fits the need of the local students thus a local school district is within its authority to allow participation in a MIAA sanctioned sport to satisfy the PE requirement at proposed. Mr. Newberg introduces non-committee members and announces the

order in which budgets will be discussed. Dr. Connolly provides a high-level overview of the causes of increases in costs.

MAJOR BUSINESS (6:30)

Departmental Budget Requests

- **Middle School:** Mr. Gibbons advises the reduction in the budget is reflective of the 1.515% reduction due to the loss of a grade section. While it does affect staffing and school supplies, Mr. Gibbons goes into the school's goals of maintaining a high-quality material and supply program and small class sizes. Mr. Gibbons advises the proposed J Term budget should be substantial enough based on previous years. Mr. Gibbons discusses the potential issues caused by the fluctuation in student numbers, including staffing and projecting future enrollment. Ms. Matthews explains the 41% increase to the Nursing Supervisor line item on the middle school budget is due to the current supervisor going up a salary step, as well as the percentage for directors being reversed. She continues to say that it applies to all school budgets.
- **High School:** Mr. Peri opens with updates surrounding high school students: college application process for seniors, scheduling, and monitoring sectioning. Mr. Peri highlights the high school's budget for June Academy when compared to the middle school's for J Term. Dr. Connolly and Mr. Peri clarify for Ms. Reitano how substitutes are used to support students when a teacher is out. Ms. Matthews explains substantial increase in budget for athletic equipment maintenance is due to the camera software used in the gymnasium, while that for high school art supplies is a one-time cost to replace outdated supply storage units. Ms. Matthews confirms the storage units could be purchased using surplus funds from FY23.
- **Operations (Facilities, Utilities, Transportation):** Mr. Jarobski opens by advising facilities budget is fairly level. He explains the lack of increase in chlorine costs is due to comparatively small amount required for indoor pools and the cost increases can be absorbed by other areas of the budget. Ms. Matthews advises total utilities budget had to increase by 40% and highlighted areas of note. Mr. Jarobski explains the fluidity of the three-tiered capital plan requests and notes that, while organized by priority, situations may arise that allow or necessitate lower priority projects to be completed. Mr. Jarobski clarifies that the amount listed does not come from the school operating budget; it is provided by the town. Mr. Jarobski advised the inclusion of new boilers for Country and Woodland as a Priority 3 project is due to the district's goal to change to all electric, as well as the boilers reaching a point where the district may begin to plan for replacements. Ms. Matthews explains the district is unable to compare budgets with neighboring districts as the final reported amounts are based on all sources of income for the district, including grants and donations. She also explains that other communities allocate the town's budget for the district and the district's general budget differently. Ms.

Matthews clarifies that solar credits gained from the panels on top of Field School and at the transfer station are credited to the town, not the district. Mr. Jarobski confirms that his goal is to complete items listed as Priority 1 in FY24, understanding that unforeseen events may prevent him from doing so.

- **Technology:** Dr. McCanne opens by acknowledging the amount of information provided alongside the technology budget and citing some factors at play: data security, delivering curriculum, and decisions regarding the saturation and type of devices used. Dr. McCanne explains the computer maintenance line item increases are due to the increase in costs and the district's prioritization of software that will better protect the network. Mr. Venkataraman voices his support for the change from MacBooks to Chromebooks and notes the financial benefits of making the change. There is a discussion between multiple panelists regarding current and future wi-fi speeds and cost. In response to Mr. Newberg's question regarding the future of Zoom licenses and their associated costs, Dr. Connolly advises the committee that it will depend on further updates with COVID-19 and the related mandates. If the current 5-day mandate were to drop, Dr. Connolly anticipates the district would return to pre-pandemic policies. Dr. McCanne continues to clarify that the district will continue to purchase Zoom licensing but on a smaller scale, especially in light of the recent purchase of Google Suite licensing.

NEXT REGULAR MEETING's AGENDA TOPICS — February 13, 2023, at 6:30 p.m.

- FY24 Budget Public Hearing
- School Committee Yearly Town Report

ADJOURNMENT (1:01:19)

Mr. Newberg motions to suspend the remainder of the budget meeting until February 1, 2023, at 4:00pm; Ms. Muzila, Ms. Cirulis-Gooch, and Ms. Linnard second the motion. The Weston School Committee voted by roll call vote in favor of this at 5:02pm with Ms. Muzila voting aye, Ms. Linnard voting aye, Ms. Cirulis-Gooch voting aye, Mr. Lucas voting aye, and Mr. Newberg voting aye.

TO: Kenneth Newberg, Chair Weston School Committee

FROM: Angela Buchanan Smagula, Esq.

DATE: January 30, 2023

RE: Legal Opinion - Substitution of Interscholastic Sports for Physical Education Requirement

The Weston School Committee is seeking an opinion as to whether the existing policy, permitting seniors to voluntarily opt-out of taking physical education if they participate in a school-sponsored sports program, satisfies the District's obligation under M.G.L. c. 71, § 3 to teach physical education as a "required" subject in all grades.

The short answer is Yes. School districts in Massachusetts are permitted to allow for substitutions in required classes, including physical education.

School committees establish educational goals and policies for the schools in their district, consistent with the requirements of law and the statewide goals and standards established by the Board of Education. (M.G.L. c. 71, § 37). Further, Chapter 71, Section 3 states in pertinent part:

Physical education *shall be taught* as a required subject in all grades for all students in the public schools for the purpose of promoting the physical well-being of such students. (emphasis added)

Although the Board of Education repealed regulations that had mandated minimum annual hours of instruction for physical education in 1996, Chapter 71, Section 3 remains the law of the Commonwealth, and it requires physical education to be taught in the public schools as a required subject for all students in all grades. However, “the change that resulted from the repeal of the regulations is that school officials have the authority to determine the hours of instruction for physical education, as they do for all other subjects of instruction.” Memo to Superintendents

from David P. Driscoll Commissioner of Education (April 20, 2000): Clarification of the Massachusetts Physical Education Requirements. Therefore, State law does not specify the number of physical education credits required for graduation, so local school districts determine their own hours of instruction and the required credits. Consequently, they are likewise able to determine what constitutes satisfaction of the physical education requirements so long as physical education continues to be taught in the district.

It is well-settled that school districts at the local level determine graduation requirements (consistent with state law) and they have broad leeway in determining the same. School districts may allow for certain classes, including physical education classes, to be waived or substituted as outlined in their policies or as an option in the relevant handbook. (see, e.g., pass/fail options; on-line substitutions; credit for classes taken elsewhere; etc.). Local school officials have discretion to determine whether and how a student, particularly at the high school level, may meet the physical education requirement through an organized program of instructed physical activity (examples include JROTC, marching band, interscholastic sports, community or club sports, proof of participation in a certain number of hours of physical activity). See, The National Association of State Education Boards (NASEB) State Policy Database. Accordingly, school districts may allow students to substitute other activities for their required physical education credit. As noted above this discretion is similar to the authority of school officials to permit students to fulfill the requirements of an academic course by taking a course elsewhere that the officials deem to be equivalent or be permitted to take a class for credit pass/fail.

One such common substitution in Massachusetts is to allow students who play interscholastic sports for their high school to request that participation in that sport satisfies the physical education requirement for that year. See The National Association of State Education

Boards (NASEB) State Policy Database (listing Massachusetts as one of 25 states that allows for substitution of another activity for Physical Education requirements); National Association for Sport and Physical Education and the American Heart Association, Massachusetts State Profile (2010). There is no legislative restriction on substitution or what is permitted regarding said substitution. Therefore, school districts have wide latitude in determining what can count as a substitution for physical education class and during which high school years. Cf., Senate Bill 856 (2017-18 failed) (proposing that substitutions for physical education classes or credit be prohibited).

Indeed, some school districts, like Weston, have limited permission for substitutions to upper classmen (see, e.g., Westwood Public Schools); some allow substitutions for 10th -12th graders only (requiring Freshman to take Health and Wellness class regardless of participation)(see, e.g., Brookline Public Schools)); some school districts even allow for club sports or documented athletic classes out of school to substitute for the physical education requirement.

Weston certainly did not set any “precedent” in the Commonwealth when it decided to implement a policy allowing for physical education substitutions for seniors last year. Moreover, it is not unusual or improper to decide to expand the policy to juniors as is currently proposed. The practice of substitution does not violate the law regarding teaching physical education, DESE curriculum frameworks, or DESE guidance. In fact, compliance with physical education law is monitored by DESE during the coordinated program review that is conducted with all school districts on a rotating basis every six years. A school that is found to not require physical education in every grade is mandated to develop corrective action plans. School districts with

substitution practices or policies allowed. In sum, Weston School Committee has the jurisdiction and the discretion to allow for substitution, and the policies regarding the same are compliant.