

**MINUTES OF WESTON SCHOOL COMMITTEE MEETING
WEDNESDAY, FEBRUARY 1, 2023
ONLINE VIA ZOOM**

Recording:

<https://cloud.castus.tv/vod/weston/video/63db095ac430440008761d60?page=HOME>

1. OPENING BUSINESS

Call to Order

Meeting was called to order at 4:01pm via Zoom by Mr Ken Newberg, the School Committee Chair. In attendance were Ms. Alyson Muzila, Vice-chair, Ms. Keitric Johnson, METCO Member, Ms. Attia Linnard, Ms. Maija Cirulis-Gooch, Dr. Midge Connolly, Superintendent, Dr. Kimo Carter, Assistant Superintendent of Teaching and Learning, Ms. Sheri Matthews, Assistant Superintendent of Finance and Operations, Dr. Lee McCanne, Director of Technology and Libraries, Ms. Martha Bakken, Director of Student Services, Ms. Emily Tucker, Assistant Director of Student Services, Ms. Erin Maguire, Country School Principal, Mr. Jason Dimen, Woodland School Principal, Dr. Dan Green, Field School Principal; Weston Finance Committee Members Lisa Reitano, and Matthew Seltzer of the joint Budget Advisory Committee to the Superintendent.

Mr. Newberg explained that the meeting was a continuation of the prior meeting of the Superintendent's FY24 Recommended Budget Request. He noted that Mr. Lucas could not be present but there was still a quorum present. He gave an overview of the budget process and timeline for approval.

2. MAJOR BUSINESS

Continued Discussion: FY24 Budget Process: Superintendent's Recommended Budget Request Based on the [School Committee 23-24 Budget Guidelines](#)

Elementary Schools

The elementary principals gave a brief overview of the changes to their budgets for next year.

Dr. Green anticipated adding a seventh section to fourth grade for next year bringing them back up to 14 sections, which they had for several years, prior to the six section dip that is now being passed on to the Middle School.

Ms. Maguire anticipated dropping from five sections of Kindergarten to three but would get a better picture of numbers after the February 15th Kindergarten information night (when the rolling Kindergarten registration begins) and during the in-person Kindergarten screening event on April 26th. She flagged the current second grade cohort rising to third grade

because it is growing and would also monitor second grade enrollment closely to be sure classes don't become oversized.

Mr. Dimen stated that the biggest change for Woodland School is the third grade section moving up to Field School. He anticipated four sections of each grade level for Woodland School next year.

Mr. Newberg noted that it was the strong preference of the School Committee to continue the practice of erring on the smaller class size range of the School Committee policy by increasing the number of sections to keep class sizes in the minimum and historic range of 20 to 21 students.

There was discussion about the timeframe for knowing when new sections would need to be added; the difference between teaching supplies and general supplies; class sizes per grades; how Title I funding is calculated and allocated to the budget; and the reason for the increase to the Social Studies teaching supplies budget at Country School.

Student Services

Ms. Bakken stated that additions to their budget included a small increase in reimbursement to parents for transporting their own students and a significant increase in tuition for out of district placements. She explained that the State controls the costs of out-of-district placements and is implementing a 14% increase beginning July 1, 2023. Historically the out-of-district costs rose by about 2% per year. This is the largest increase known. There was discussion about transportation costs for outplaced students and the number of languages spoken by English Language Learners. Mr. Newberg mentioned that many other districts have had financial difficulties, with some swinging to a deficit because of this increase alone. Mr. Newberg plans to attend a legislative breakfast with the Superintendent with area school leadership and law makers with this item being a major point of discussion.

Grants and Revolving Accounts

Ms. Matthews described the various grant funding. She explained that leftover funding from ESSER 2 needs to be spent by September 2023 and ESSER 3 needs to be spent by September 2024; and the only grants to cover employees are Title I and the METCO grant. There was discussion about METCO transportation costs; the differences between the Title I, Title II, Title III and Title IV grants and how secure that funding is for future years; how permanent building substitutes are funded; and free and reduced lunch reimbursement from the federal government.

Central Office/District-Wide Miscellaneous

Ms. Matthews reported that the overall district-wide budget was down. Money was added to cover translation services and early retirement incentives. There was some discussion about the number of teachers who took advantage of the early retirement incentive and how translation services are delivered.

3. Adjournment to Executive Session

Upon motion made by Mr. Newberg and seconded by Ms. Muzila, the Weston School Committee voted by roll call vote at 6:12pm with Ms. Muzila voting aye, Ms. Linnard voting aye, Ms. Cirulis-Gooch voting aye, and Mr. Newberg voting aye, to adjourn to executive session and not return to open session for the purpose of discussing non-aligned contract strategy and WEA Collective Bargaining strategy as doing so in open session would have a detrimental effect on bargaining position.

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.