

**NEBRASKA COMMUNITY COLLEGE ASSOCIATION
BOARD OF DIRECTORS
Special Meeting Minutes
August 28, 2009**

1. PUBLIC MEETING NOTICE

All NCCA Board of Directors, Area Presidents, and the general public having been duly notified a special meeting of the NCCA Board of Directors was held August 28, 2009, at Central Community College – Kearney Center in Kearney. President Merlyn Gramberg stated that a public meeting notice was published in the Kearney Hub. He also stated that the rules for the Nebraska Public Meeting Laws were available for public viewing. The public meeting notice is attached to these minutes.

2. ATTENDANCE

Directors Present:

President Merlyn Gramberg – Western Nebraska
Vice President Diane Keller – Central
Secretary Roger Wilson – Mid-Plains
Treasurer Don Oelsigle – Northeast
Dale Zikmund for Linda Aerni – Central
Robert Feit – Southeast
Louis Stithem for Jane Hornung – Mid-Plains (arrived at 10:10 a.m.)
Tom Perkins – Western Nebraska
Larry Poessnecker – Northeast
Lynn Schluckebier – Southeast

Staff Present:

Dennis Baack – Executive Director
Melanie Williams - Administrative Assistant

Also present: Dr. Greg Smith – Central, Dr. Bill Path – Northeast, Dr. Jack Huck – Southeast, and Dr. Eileen Ely – Western Nebraska.

3. CALL TO ORDER AND QUORUM DETERMINATION

President Gramberg called the meeting to order at 10:04 a.m. and asked for roll call and quorum determination. Present and responding were nine board members representing their respective area governing boards. It was determined that a quorum was present.

4. APPROVAL OF AGENDA

President Gramberg asked for any additions or changes to the agenda. There were none.

MOTION BY ROBERT FEIT AND SECOND BY DON OELSLIGLE that the NCCA Board of Directors approve the agenda as presented.

President Gramberg asked for any objections or discussion. There were none.

A roll call vote was taken.

Voting Aye: Feit, Gramberg, Keller, Oelsligle, Perkins, Poesnecker, Schluckebier, Wilson, Zikmund

Voting Nay: None

Absent: Stithem

RESULT: Motion carried nine (9) ayes, no nays, and one (1) absent.

5. APPROVAL OF MINUTES

President asked for any correction to the August 10, 2009, meeting minutes. There were none.

MOTION BY DIANE KELLER AND SECOND BY LYNN SCHLUCKEBIER that the NCCA Board of Directors approve the August 10, 2009, meeting minutes as presented.

President Gramberg asked for any discussion. There was none.

A roll call vote was taken.

Voting Aye: Feit, Gramberg, Keller, Oelsligle, Perkins, Poesnecker, Schluckebier, Wilson, Zikmund

Voting Nay: None

Absent: Stithem

RESULT: Motion carried nine (9) ayes, no nays, and one (1) absent.

6. DISCUSSION AND APPROVAL OF REVISED 2008-2009 STATE AID ENROLLMENT GUIDELINES TO BE IN COMPLIANCE WITH STATE STATUTE

Baack began by first thanking the Board for attending this meeting on short notice and then explained the rationale for the meeting which is to make sure that the guidelines the areas use for submitting formula data is in compliance with state law.

The previous guidelines have not been in compliance with state law for over a year and need to be. Baack then stated that he does not know what numbers the Coordinating Commission will be using and that they may allow Metro to use a portion of the numbers they previously submitted. He does not think there is any middle ground and if these revisions are approved by this Board, the members of the Association will be in compliance with state law.

Baack stated that he did have one item which would need to be amended to the proposed changes. That item came from the Coordinating Commission and would insert the word 'mandatory' under Section II, item 3, sub-item b(i) between the words adopted and credit in the Computation and Allocation of State Aid section of the Audit Guidelines.

Feit asked what the reasoning was for the Coordinating Commission suggested change. Baack replied that Pfeil thinks that the Legislature is referring to only the mandatory fees which are charged to every student.

Perkins then asked what mandatory fees are. Dr. Huck replied that the definition of mandatory fees lies with the Coordinating Commission and that they have adopted the national definition of mandatory fees. The Association is relying on the Commission to implement that definition. The Commission has stated that it means any fee affiliated or collected on a per credit hour basis. Perkins stated that the Commission is taking the discretion of using the national standard rather than adopting a state standard. Dr. Huck agreed.

Discussion was then had regarding how each area has a different ratio of tuition and fees but that the final outcome of total cost per student is very comparable across the state. Baack also stated that he believes Senator Adams will use some of this language next legislative session in state statute so there is not much flexibility for anyone to interpret it any other way.

Wilson asked if fees are waived in tuition waivers. It was stated by numerous Area Presidents that it depends on what kind of tuition waiver is awarded to the student. Some waivers include fees while others do not. Dr. Huck did state that under the new guidelines, tuition waivers will not be subtracted from the tuition totals as it can be now. A majority of the Association members did subtract tuition waivers from gross tuition while Metro was shifting tuition revenue (approximately \$13 million dollars) over to capital. Baack did state that according to Metro's meeting minutes over the last few months, they had been planning on doing something to this effect and knew in order to get more revenue they would be taking it from the Association members. He went on to state that Metro did do the exact same thing last year on a much smaller scale but was not caught.

Perkins asked if the Association makes this change if it is retroactive. Baack replied that it is this year and going forward. However, the Legislature may make a

decision to change that like the school aid formula which allows them to reduce aid to a school if they are overpaid the previous year. Keller asked if that happened, would the Legislature go back. Baack replied in the negative but did state that if this were to go to court, the court system could go back as well as determine if it is even legal to put tuition revenue into capital. State statute does not say an area can't do that but more importantly it doesn't say it can.

Perkins then stated that he does believe this will end up in a lawsuit and was wondering if paragraph two of state statute 85-2212 should be inserted into the suggested changes so that it clear the Association is following the law. He went on to state some concerns and anxieties he has regarding this if it were to end up in court. Baack stated that Attorney Stenberg and Attorney Douglas have discussed the possibility of this going to court and have different opinions as to if it would be winnable. Baack then stated that statute 85-2212 is already stated in the guidelines.

Wilson asked if there was any downside to calling this special meeting. Baack replied that he cannot think of any. Data does not need to be submitted to the Coordinating Commission until August 31 and every area is aware of the change and will be submitting data accordingly. Baack continued to state that these changes have been approved by the audit guideline committee as well as the CEO's so we did follow our policy.

Keller asked if these changes would be faxed to Metro today. Baack replied that he had electronically sent them to Metro the day before.

Keller asked if there is some concern regarding the lack of a definition of mandatory fees, should the Board insert a statement stating that with a lack of a definition in state statute, mandatory fees will be defined as all fees being collected on a credit hour basis. Dr. Huck stated that the Coordinating Commission has made it clear that although they appreciate the position of the Association to make these guidelines as clear as possible, these are not their guidelines and they do not carry the rule of law. Baack stated that according to Attorney Stenberg, the law is clear by stating that all tuition and fees is counted without any deductions. He then reiterated that these are only guidelines and their purpose is so each area is reporting data the same way.

President Gramberg asked for any further comments. Baack stated that if this matter were to go to court, it would show that the Association was aware of the guidelines not being in line with state statute and made changes so that we would be in compliance.

MOTION BY ROBERT FEIT AND SECOND BY DON OELSLIGLE that the NCCA Board of Directors approve the resolution as presented.

RESOLUTION

WHEREAS, on August 10, 2009, the board of directors of the Nebraska Community College Association approved and ratified State Aid Enrollment Audit Guidelines for Fiscal Year 2008-2009 (the "Guidelines"); and

WHEREAS, said Guidelines include a section entitled "Computation and Allocation of State Aid Under the Community College Foundation and Equalization Aid Act" and

WHEREAS, the board has determined that said section of the Guidelines provides in some respects for the calculation of state aid in a manner which is contrary to and inconsistent with the provisions of the Community College Foundation and Equalization Aid Act found at sections 85-2201 to 85-2229 of the Nebraska Revised Statutes (the "Act"); and

WHEREAS, it is the intention of the board that the Guidelines provide for the calculation of state aid to all Nebraska community college areas in a manner which is consistent with the provisions of the Act; and

WHEREAS, the board finds that it is necessary to modify the section of the Guidelines dealing with the computation of state aid in the manner set forth on the attachment to this Resolution entitled "Computation and Allocation of State Aid Under the Community College Foundation and Equalization Aid Act (Revised)" in order to make the Guidelines consistent with the provisions of the Act;

NOW BE THEREFORE RESOLVED AS FOLLOWS:

1. The section of the Guidelines entitled "Computation and Allocation of State Aid Under the Community College Foundation and Equalization Aid Act" is hereby amended in the manner set forth on the document attached hereto entitled "Computation and Allocation of State Aid Under the Community College Foundation and Equalization Aid Act (Revised)";
2. Said amendment shall become effective immediately upon adoption of this resolution by the board;
3. Except as expressly modified through adoption of this resolution, the Guidelines shall remain in full force and effect;
4. Any deadline relating to the adoption of, or amendment of, the State Aid Enrollment Audit Guidelines which pertains to the board, the council of chief executive officers, the audit committee, or any other person or group of persons subordinate to the board, which is set forth in the Guidelines, board policy, or in any prior resolution or action of the board, is hereby expressly waived.
5. In the event that the council of chief executive officers, the audit committee, or any other person or group of persons subordinate to the board has, in developing or recommending the amendment referred to above, acted in a manner which is in any way inconsistent with the procedures set forth in the Guidelines, board policy, or in any prior resolution or action of the board, such inconsistency and/or nonconformity is hereby expressly waived.

MOTION BY ROBERT FEIT AND SECOND BY LYNN SCHLUCKEBIER to amend the previous motion so that the word 'mandatory' be added to Section II, item 3, sub-item b(i) between the words 'adopted' and 'credit' in the proposed changes.

A roll call vote was taken on the amendment to the motion.

Voting Aye: Feit, Gramberg, Keller, Oelsligle, Perkins, Poessnecker, Schluckebier, Stithem, Wilson, Zikmund

Voting Nay: None

RESULT: Motion carried ten (10) ayes and no nays.

A roll call vote was taken on the motion as amended.

Voting Aye: Feit, Gramberg, Keller, Oelsligle, Perkins, Poessnecker, Schluckebier, Stithem, Wilson, Zikmund

Voting Nay: None

RESULT: Motion carried ten (10) ayes and no nays.

President Gramberg asked for any closing comments from Board members. Feit stated that if he is elected to the ACCT Board, he will be unable to serve as state coordinator so the Board will need to decide on a new coordinator. Baack stated that it will be on the November meeting agenda. Perkins did state that a member of the NCCA Board does not have to be the state coordinator.

There being no further business, the meeting adjourned at 10:45 a.m.

Dr. Merlyn Gramberg, President

Roger Wilson, Secretary