

## APPROVED AMENDED MINUTES

### Home Education Advisory Council (HEAC) Approved Amended Minutes for May 19, 2023 Meeting Granite State College, 25 Hall St., Concord, NH

**In physical attendance:** April Villani (Vice Chair) Catholics United for Home Education CUHENH; Michelle Levell, Granite State Home Educators GSHE; Jen Pereira, Catholics United for Home Education CUHENH; Rebekah Woodman, Home Education Community; Heather Barker, NH School Administrators Association; Tim Carney, Administrator of Educational Pathways NHED; Megan, Member of the public

**In remote attendance by Zoom:** Katelyn Kuttub, NH House Representative HEAC member; Katy Peternel, NH House Representative HEAC member; NH House Representative Glenn Cordelli; Diane Lachance, member of the public; Angela, member of the public; Karen Towle, member of the public

**Call to order: 3:04 pm** by April

**Appointments/resignations review:** Terms expiring in August for Michael Koski, Christian Home Educators of NH/Southern Maine CHENH/SME; Michelle Levell, and Jennifer Pereira. Recruitment needed for open seats: Home Educator Association, NH School Board Association, NH Association of School Principals, Nonpublic School Advisory Council. April stressed the need for attendance in person to assist with reaching a quorum for meetings. Heather Barker informed the council of her retirement. Tim shared the process of soliciting membership from associations – will continue to reach out.

**Agenda review:** No changes or additions

**Minutes:** Motion to approve April 21, 2023 minutes with correction to spelling of the word “counselors” by Michelle, second Jen, all in favor by roll call vote. Motion passed. Public comments: Diane Lachance via zoom commented that she is a homeschool parent and there to support the work of the council. Rep. Cordelli said he had a disturbing day in the House with defeat of the Parents Rights Bill and is expecting greater interest in school choice and homeschool. He asked the council to watch for increased enrollment in home education and school choice.

**Immediate Business:** April read the annual report for school year 2022-23 aloud. Due to technical difficulty, started Zoom again. April restarted at point Zoom stopped and read the remainder of the report including a review of the duties of the council as prescribed by Ed 315.19. Michelle recommended to strike paragraph three words following House Bill 1663: “relative to equal access to public school programs by nonpublic, public charter, and home educated pupils” because the bill had a wider scope than this. Motion made by Jen to approve annual report with this change, seconded by Michelle. All in favor by roll call vote, and motion passed. Tim stated annual report can be added to Board of Education agenda for June 8, 2023 if he can submit final copy by May 25<sup>th</sup>.

**NHED Updates, Tim Carney:** Home ed rule making in progress. Provided link for Administrative Rules <https://www.gencourt.state.nh.us/rules/> FAQs for website for summer work.

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Draft technical advisory addressing Equal Access to public school by nonpublic, public charter, and home educated pupils being reviewed by Attorney Brown. Asked that HEAC have a chance to review it. Michelle asked if other aspects of HB1663 will be included. Tim clarified this is only about equal access. Once revised home ed rules are in place, trainings through zoom or YouTube videos will address changes to the rules and broader coverage of the home education law. Tim was asked if Equal Access 193:1c applies to EFA students. Tim referred this question to Brian Voelk. Tim believed it did not, although public school districts may allow EFA students to participate in programs for a fee. Sarah Wheeler informed Tim many issues with the HiSet highlighted in the Concord Monitor have been resolved. Working to get GED up as additional option.

### Member Reports

- Legislators – Rep Peternel reported the Parent Bill of Rights failed yesterday. HB 367 to increase EFA income cap to 350% above poverty level passed in senate. HB 464 which would have expanded EFA to more groups failed
- CUHENH -- Jen said that she has served on the council for eight years. She read a statement, included here, which she wrote in response to dozens of emails regarding the Best Practices document HEAC has been developing.

Jen's statement: Thank you to everyone who has taken the time to write to the HEAC council members to voice their concern about access to council meetings and transparency of council records. It is good to know that homeschoolers are paying attention to government bodies that deal with home education law. We have come to realize by reading emails sent to us that there are some public misconceptions about HEAC practice and HEAC's record. The following are some points I'd like to clarify.

1. The Right to Know Law means more than submitting right to know requests. It guarantees open access to public meetings and minutes.
2. Many council members have stated they are in favor of a recording also being made available
3. It is legitimate for those council members who have voiced concerns about the recordings being made public by the Dept to have stated their concerns because the attorney didn't advise in favor of it. The council does not suppress its own members from voicing their concerns. Allowing healthy debate does not mean the council as a whole will take a certain action or even that one or two member concerns will force an action. Council members research and discuss issues before them.
4. People are emailing the council asking to have public comment allowed at meetings. This indicates that there is a misperception that there is no public comment at council meetings. Public comment has always, ALWAYS, been allowed. Sometimes, when there is no member of the public present via Zoom or in person, the chair has not stated that it was public comment time since no one was present to speak. Any member of the public attending a HEAC meeting has always been given time to address the council.

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5. This Home Education Advisory Council has worked hard to serve the homeschool community, and NH is better for it. Homeschoolers have open access through the HEAC council to the NH Department of Education to voice our concerns about their practices, rulemaking, their advice to the public about home education law, and to explain to them our concerns pertaining to homeschooling. We are NOT handed the meeting materials as the emails from folks have been saying. As the home education law requires, the homeschool organization representatives are the chairpersons creating the agendas and bringing supporting materials at the same time as we are busy homeschooling our own children. The one document not prepared by homeschool reps, the department report, has been graciously written in response to council members working hard to bring up issues that may benefit homeschooling.

Thank you for communicating to the council your concerns. Public access to government meetings is very important

- GSHE, Michelle – Growth continues with 100 new members, 30 this week alone. Finds it surprising that people are withdrawing from local schools this late in year. Continues to receive the same questions about things like annual assessments.
- Home Education Community, Rebekah -- none
- NH School Administrators Assoc., Heather – School districts updating home education policies related to equal access and changes in the law. Districts are asking for technical assistance.

### **New Business:**

*What is a certified teacher as it pertains to home education portfolio evaluations?*

Rebekah replied that the definition is in the home education rules regarding holding a teaching credential. Jen said that teachers want to know if they need to acquire certification specific to portfolio reviews. Heather said parents and administrators ask this too. The council clarified, “No, teachers do not need to have a certification specific to home education portfolio reviews.”

Jen reviewed rules and laws and offered a draft, below, for FAQs.

In order to be eligible to perform portfolio reviews, a teacher must hold a teaching credential issued by the NH State Board of Education, be licensed in a state which is a party to the interstate contract, or be currently teaching in a nonpublic school. See Home Ed Rules Ed 315.02 The law does not require any specialized certifications beyond this. The teacher selected by the parent shall evaluate the child’s educational progress upon review of the portfolio and discussion with the parent or child. RSA 193-A:6

The subjects to be covered in the home education program include: science, mathematics, language, government, history, health, reading, writing, spelling, the history of the constitutions of New Hampshire and the United States, and an exposure to and appreciation of art and music. RSA 193-A:4 The law does not require that all subjects have to be covered every year. The

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portfolio shall consist of a log which designates by title the reading materials used, and also samples of writings, worksheets, workbooks, or creative materials used or developed by the child. Such portfolio, which at all times remains the property of the parent, shall be preserved for 2 years from the date of the ending of the instruction. RSA 193-A:6 The law does not specify a format (i.e., paper, digital, or otherwise) for the portfolio.

The Home Education Rules Ed 315.08 require the following to be included in the documentation of the completed portfolio review:

1. The name and address of the teacher, including state recognized documentation of certification or the name and address of the nonpublic school in which the teacher is currently teaching
2. The date(s) on which the evaluation(s) took place
3. A description of the work reviewed
4. A summary of the child's educational progress in the home education program concluding with a statement that the child has or has not made educational progress. Educational progress is defined as growth in learning commensurate with age, ability and/or disability within the child's individual home education program chosen by the parent. Home Ed Rule 315.02
5. The signatures of the teacher and the parent.

Tim said his office could create fact sheets offering information related to home education topics like this. April and Heather asked for clarification whether an evaluator must be a certified teacher for the specific grade level they are reviewing. The home education law does not restrict the evaluator based on specific grade level or subject certification.

### **Continuing Business:**

State Board of Education approved amended Ed 315 rules. Heather motioned to accept proposed home education rules; Rebekah seconded. All in favor by roll call vote.

NHED updates given earlier addressed rule making status, technical advisory, and FAQs.

Best Practices review. Red lines are newly added from last month.

Michelle said that good governance is open and accountable. The purpose of HEAC is to be a communication bridge, and good governance is vital. Michelle sent questions for Attorney Brown asking who she represents and asking for updates on recordings. Michelle saw inconsistencies.

Heather said she received dozens of emails regarding the best practices saying that she and the council are not being transparent. She said this has not been her experience of how the council operates and asked where this perception is coming from.

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April responded that a council member in her personal capacity has asked people to contact the council with a proposed viewpoint and alleged April changed the best practices document discussed at the last meeting. April said she was not at the last meeting. It was her understanding based on the meeting minutes that no votes were taken on best practices, and this was still a working draft. Red lines were only suggestions on a working draft since the council works collaboratively. She does not appreciate a negative perception of her intentions which were to continue working on the draft, not to go ahead and change it. She stated she did not receive an updated working draft.

Michelle said that she had sent an updated best practices draft to Mike and Tim.

Rep Kuttub said that for the sake of transparency, documents should be posted on the NHED website. She said that there is currently a bill regarding Zoom access to government meetings and requiring recordings to be posted. She also suggested following the NHED data retention policies for the length of time records will be posted.

### HEAC Best Practices:

1. HEAC meets September through June on the third Friday of every other month, with alternating months as the “placeholder” as needed. Motion to accept by Heather; seconded Jen. All in favor by roll call vote. Motion passed.
2. HEAC meetings will occur at a location provided by the Department of Education. Motion to accept by Michelle; seconded by Rebekah. All in favor by roll call vote. Motion passed.
3. The chairman ensures the preparation of a draft annual report for approval by a majority vote of the council prior to presenting it to the State Board of Education. A minority report may be prepared. Motion to accept by Heather; seconded Jen. All in favor by roll call vote. Motion passed.
4. The chairman may delegate responsibilities to the vice chairman and other council members as needed. Heather motioned to accept; Jen seconded. All in favor by roll call vote. Motion passed.
5. Meetings will be posted on the DOE website and at the meeting location at least 24 hours in advance in accordance with RSA 91A requirements. The agenda will be published on the DOE website.

In discussion prior to vote, Rebekah voiced reserve about posting additional materials beyond the agenda prior to the meeting. She asked if this was always possible to have all additional meeting materials available in time to post. Motion to accept wording above by Heather; seconded by Jen. All in favor by roll call vote. Motion passed.

6. HEAC allows council members and the public to attend remotely in keeping with RSA 91-A. Motion to accept by Heather; seconded by Jen. All in favor by roll call vote. Motion passed.

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7. The public will have an opportunity to address the council during the public comment section of the meetings and at the discretion of the chairman. The individual will identify themselves by name, city/town, and affiliation, if appropriate. Heather made a motion to accept; Jen seconded. Rebekah voted no. Heather yes, Michelle yes, Jen yes, April yes. Motion passed.
8. HEAC meeting notices, agendas, minutes, and annual reports shall be published on the NHDOE website.

Jen stated she is in favor of transparency but believed audio recordings, not video recordings, should be posted on the Dept website. She said that homeschool parents, herself included, have brought their children to council meetings, and she has privacy concerns about having videos of children posted. She also believes it is better to have these recordings posted on the Dept website, not other sites like YouTube, for better data integrity. Rebekah has concerns about meeting materials.

Motion to accept as worded above by April; seconded by Jen. Roll call vote: Rebekah yes, Heather yes, Michelle yes, Jen yes, April yes. Motion passed.

Michelle clarified that posting additional materials beyond the agenda and posting recordings after the meeting will be re-addressed at the next HEAC meeting. The council agreed.

At 5:14 pm, Heather Barker left the meeting.

Tim read the email response from Attorney Liz Brown for informational purposes. Attorney Brown is employed by the NHED and represents NHED. She can provide technical guidance to the advisory agencies that are administratively supported by NHED. She has a duty to NHED. She believes NHED and HEAC have different interests, in practice this is not a common occurrence. RSA 91-A defines "governmental records" to include "*any written communication or other information, whether in paper, electronic, or other physical form, received by a quorum or majority of a public body in furtherance of its official function, whether at a meeting or outside a meeting of the body. The term "governmental records" shall also include the term "public records."* The word "information" is defined as "*knowledge, opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic, or other physical form*". As to the obligation to preserve recordings of meetings, an agency is not obligated to retain notes, tapes, or other draft materials used to prepare minutes after final minutes have been approved, prepared or filed. If drafts, notes, and memoranda or other documents not in their final form and disclosed, circulated, or made available to a quorum or a majority of the members of a public body, and retained after the public body or agency has approved final minutes, they will be subject to inspection. Drafts, notes, and memoranda and other documents not in their final form which are not disclosed, circulated, or available to a quorum or a majority of the members of a public body are exempt from disclosure, Ref. RSA 91-A:5, IX. Courts have not yet addressed whether audio or video recordings made by the individual responsible for drafting minutes solely as an aide to creation of the minutes constitutes governmental records that must be retained as long as its paper

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counterpart. Assuming recording the meetings is to prepare minutes and those are not shared with the majority of the members of the advisory board, the recordings do not have to be retained.

**Announcements:** None

**Final Public comment:** None

**Motion to adjourn 5:19 pm** Jen, 2<sup>nd</sup> Michelle. All in favor; motion passed.

Minutes by Jen including notes by Heather