

# **INTERIM JOINT COMMITTEE ON EDUCATION**

## **Minutes of the 2<sup>nd</sup> Meeting of the 2024 Interim**

**July 16, 2024**

### **Call to Order and Roll Call**

The second meeting of the Interim Joint Committee on Education was held on July 16, 2024, at 11:00 AM in Room 154 of the Capitol Annex. Senator Stephen West, Chair, called the meeting to order, and the secretary called the roll.

### **Present were:**

Members: Representative James Tipton Co-Chair; Senator Stephen West Co-Chair; Senators David P. Givens, Jimmy Higdon, Stephen Meredith, Gerald A. Neal, Reginald Thomas, Lindsey Tichenor, Gex Williams, Mike Wilson, and Max Wise; Representatives Shane Baker, Jared Bauman, Tina Bojanowski, George Brown Jr., Emily Callaway, Josh Calloway, Jennifer Decker, Steven Doan, Kevin Jackson, Scott Lewis, Candy Massaroni, Bobby McCool, Marianne Proctor, Steve Rawlings, Josie Raymond, Killian Timoney, Timmy Truett, and Lisa Willner.

Guests: Julian Tackett, Commissioner, Kentucky High School Athletic Association; Brigitte Blom, President & CEO, The Prichard Committee for Academic Excellence; Dr. Julia Roberts, Executive Director, Center for Gifted Studies, Gatton Academy; Anthony Mires, Executive Director, AdvanceKentucky; Travis Powell, Vice President and General Counsel, Council on Postsecondary Education; Dr. Dawn Offutt, Executive Director, Access, Engagement and Belonging, CPE; Dr. Timothy Minella, Senior Constitutionalism Fellow, Van Sittert Center for Constitutional Advocacy at the Goldwater Institute; Dr. Cady Short-Thompson, President, Northern Kentucky University; Dr. Jay Morgan, President, Morehead State University

LRC Staff: Lauren Busch, Joshua Collins, Emily Wiley, Peter Wright, and Maurya Allen.

### **Approval of Minutes - June 4, 2024**

Representative Massaroni made a motion, seconded by Representative Tipton, to approve the minutes of the June 4, 2024 meeting. The motion passed by voice vote.

### **Growing Access to Advanced Coursework**

Bridgitte Blom, President and CEO for the Pritchard Committee for Academic Excellence, gave an introduction to advanced coursework in Kentucky, focused on how increasing

access to advanced coursework is a vital way to improve low math and reading scores. Anthony Mires, Executive Director of AdvanceKentucky, spoke about the barriers to access in public schools and the need to support teachers who are attempting to expand the number of advanced courses. Access to algebra in middle school was seen to have a significant impact on student's receptiveness to higher level science and math coursework in high school. Ms. Blom presented several legislative proposals to grow access to advanced courses, which can be found in meeting materials.

Dr. Julia Roberts, Executive Director, Center for Gifted Studies, Gatton Academy said some students need advanced coursework in some areas, but not all, and access to advanced courses can keep students who may be failing in some subjects engaged with school. Because of efforts to ensure all students reach proficiency, students who are prepared for advanced work are left waiting while efforts are focused on their peers who are struggling.

Responding to a question from Chair West, Mr. Mires said the incentives for students to take AP courses rather than dual credit courses vary, and largely depends on what the student's goals are post-graduation. He advocated for a strong program of both AP and dual credit, to provide more options for students.

In response to a question from Representative Bojanowski, Mr. Mires said AdvanceKentucky uses an application process to select partner schools to expand access to middle school mathematics by providing in depth professional development for teachers.

Responding to a question from Senator Neal, Ms. Blom said that if a student meets the criteria for an advanced class, the student would be automatically enrolled in the next progression of learning. If the parent feels that it would be too much for the student, they can opt-out. Currently, the system is setup to where a parent or student needs to opt-in to advanced coursework. Dr. Roberts added that students who may not immediately meet the criteria for enrollment in advanced courses can still enroll.

In response to a question from Representative Willner, Dr. Roberts said there needs to be scaffolding to support students learning every day and find steps to grow and advance. Ms. Blom said improved access to advanced courses will also require adoption of new district policies.

Senator Givens spoke regarding unintended disincentives for students who are afraid to take rigorous coursework because it could negatively impact their KEES scholarships. He

further stated that schools could be disincentivized from promoting advanced coursework because of the impact on accountability scores.

### **Middle School Athletics**

Senator Higdon joined Commissioner Tackett, Kentucky High School Athletic Association, to discuss middle school athletics, specifically allowing middle school students play on a team sport at a school they do not attend. There are examples of students not being allowed to play on a team sport, which is not offered at their school, at a neighboring school even if that is not specifically prohibited by state law. Commissioner Tackett said there is an administrative regulation which allows the KHSAA to have some authority over middle school athletics, with a significant amount of authority also given to local school districts. KHSAA has encouraged flexibility among schools in terms of their middle school athletics policies, especially in light of the negative impacts of COVID on sports participation.

In response to a question from Chair West, Senator Higdon said there is no proposed solution at this time, but he wanted to bring this issue to light and open conversation. Commissioner Tackett said that putting permission explicitly in statute or the regulation would be a proposal that could provide the necessary flexibility without undue burden.

Responding to a question from Representative Baker, Commissioner Tackett said by leaving it to local control, and explicitly giving permission to districts, it could give necessary flexibility without unintended consequences.

In response to a question from Representative Massaroni, Commissioner Tackett said there is already a permission structure for homeschool students to participate in middle school athletics.

### **Diversity, Equity, and Inclusion in Postsecondary Institutions**

Travis Powell, Vice President and General Counsel, Council on Postsecondary Education (CPE), said Kentucky has spent many years working to address equal educational opportunity goals, which resulted in the state being released from their desegregation plan in 2008. The DEI policy was created and integrated into strategic goals for the CPE in 2016. CPE has a long-term goal of having 60 percent of the population with a postsecondary credential by 2030, which will necessitate additional supports for all the underserved populations in the state, including low-income students. Dr. Dawn Offutt, Executive Director, Access, Engagement and Belonging, CPE, spoke to the initiatives that have been implemented to assist campuses in expanding their diversity, equity, and inclusion efforts. Moving forward, Mr. Powell said CPE will be updating their statewide

policy, adjusting elements of the performance funding model, and shifting their work to better understand student needs.

In response to a question from Representative Rawlings, Mr. Powell said they do have data that shows how students perform after graduation, but they cannot compare students who received DEI instruction as that is not a metric that is tracked.

In response to a question from Representative Bojanowski, Dr. Offutt said individual institutions are investigated to evaluate non-academic barriers, including access to food and shelter on campus.

Responding to a question from Representative Massaroni, Mr. Powell said that universities can use diversity, equity, and inclusion in their hiring practices, and this was highlighted as an effective practice, but was not explicitly required or encouraged by CPE.

In response to a question from Representative Tipton, Mr. Powell said there are waivers available to schools to get courses approved if the school does not meet their equal opportunity education goals. In the last year two institutions, Kentucky State University and Somerset Community and Technical College, failed to meet their goals but were issued waivers to get courses approved.

Responding to a question from Senator Williams, Mr. Powell said CPE processes student complaints, but any general issues that the legislature wants to investigate could trigger the CPE to open a case. However, without student permission, CPE is limited in its ability to investigate specific incidents due to student privacy.

In response to a question from Senator Thomas, Dr. Offutt said the term "underrepresented" is used for student populations who have not historically received the same access to higher education. In some contexts that is students of color, but it can also include those who are from low-income families, first generation students, and adult learners.

Responding to a question from Senator West, Mr. Powell agreed DEI is not a direct response to the desegregation policy. In the early years it was just 'the diversity policy.' The expansion to diversity, equity, and inclusion happened in 2016, as part of expanded efforts to increase access to higher education for all Kentuckians.

Dr. Cady Short-Thompson, President, Northern Kentucky University, spoke to the vision of NKU and empowering diverse learners for lifelong success. She shared the many ways

that NKU is working to help students feel they belong, but also meet the accreditation requirements for their professions.

In response to a question from Senator Williams, Dr. Short-Thompson said she simply was sharing the SACS DEI statement for information, and while it is not a requirement, it is part of their guiding principles. Additionally, there is no policy regarding pronoun usage in effect at NKU, either as a university or in individual departments.

Responding to a question from Senator Thomas, Dr. Short-Thompson said the correlation between the progress of the university and DEI policies depends on the measures for progress. While they are also becoming more diverse, the school has also experienced an acceleration of achievements.

In response to a question from Representative Emily Callaway, Dr. Short-Thompson said that 80 percent of NKU's student body is white, and there is a wide diversity of affinity groups. Because there are so many, it was impossible to include all of the programs in the submitted materials. She indicated the committee materials include functions for underrepresented and minority communities because that is what was requested.

Senator Neal said he greatly appreciated the report that reflected the university's commitment to education.

Dr. Jay Morgan, President, Morehead State University, spoke about the university's DEI policies, specifically those for students from low-income families. He addressed the materials that were requested by the committee and that are available as meeting materials on the committee's webpage.

Responding to a question from Senator Tichenor, Dr. Morgan said over the past seven years, only once did the university not meet the goals of the state diversity plan as measured by CPE. Sometimes it is difficult to meet the needs of the low-income students because they comprise such a high percentage of the population. Morehead State has not let diversity hold them back, but they have disagreed with the way certain metrics are used in the CPE diversity plan.

Dr. Timothy Minella, Senior Constitutionalism Fellow, Van Sittert Center for Constitutional Advocacy at the Goldwater Institute, spoke regarding the CPE charge to ensure equal educational opportunity and how they appear to have misused this power to require quotas for minority groups amongst students, faculty, and staff. He said this is a violation of the 14<sup>th</sup> Amendment of the Constitution because it forces universities to consider students and employees solely based on race. He argued that the focus on

meeting DEI quotas will not help already struggling schools, such as Kentucky State University, move education forward for all students. Dr. Minella suggested that the legislature work to abolish DEI bureaucracies and prohibit DEI courses for graduation.

Responding to a question from Senator Thomas, Dr. Minella said the intent is to prevent racial discrimination in university admissions and hiring.

In response to a question from Senator Tichenor, Dr. Minella said Kentucky State University was the only university that failed to meet the targets set by CPE to get approval for new courses as set forth in the CPE requirements.

Responding to a question from Representative Nemes, Mr. Powell said intellectual diversity is part of the CPE policy moving forward, because it is critical for students to be exposed to diversity of thought.

### **Consideration of Referred Administrative Regulations**

16 KAR 2:120 – Emergency teaching certification and out-of-field teaching.  
(Proposed)

16 KAR 4:030 – Out-of-state educator preparation. (Proposed)

No action was needed on these items.

### **Adjournment**

Senator West announced that there would be a reception for Dr. Fletcher, the new Commissioner of Education, that afternoon at the Foundry in Frankfort, Kentucky. All members were invited to attend.

With no further business to come before the committee, the meeting adjourned at 1:20 p.m.