

Timeline and Description of Alpine School District's Noncompliance with Utah Code in Voting to Close and Adjust Boundaries of Elementary Schools

Alpine School District should be held accountable. It has failed to follow both the spirit and letter of the law and has not followed the prescribed legal process for closing schools and adjusting school boundaries. We hereby call on our state legislative leaders to demand Alpine School District cease its current course and comply with the law. Alpine School District's plans to close five schools, two at the end of this school year, need to stop, and ASD must hold a transparent and thorough process considering each proposed boundary change and closure individually. Likewise, any potential closure or boundary change should not occur until after the 2023-24 school year.

Background of Utah Code 53G-4-402(21)

On December 13, 2018, Granite School District notified parents at Oquirrh Hills Elementary that it intended to close their school at the end of the school year. The school had been on a watchlist for 3 years (school improvement plan). On January 8, 2019, (just 26 days later) the Granite School Board voted to close the school.

At that time, Senator Karen Maynes of West Valley vowed to amend the school closure law in the coming legislative session: "You don't tell the community with a handful of days (within a vote of whether to close a school). That's not how we do it...I hope [this legislation] helps prevent what happened in my community... It has caused a lot of backlash...The legislation was not clear or transparent of how to close a school, how to be transparent with the community... It was so traumatic... I think the district mishandled it not knowing the blowback that would happen."

SB245 passed in 2019. This was the law in effect when the current ASD situation occurred. This law was meant to prevent school districts from closing schools on short notice by requiring a period of 120 days between notification of a proposed closure and approval of that closure. In our presentation today we will demonstrate the process ASD engaged in rivals the one which triggered the 2019 legislation. Instead of giving even 26 days between notification and approval of closures, Alpine gave us negative-1 days.

What Utah Code Says

[Utah Code 53G-4-402\(21\)](#), which governs this closure, stated at the time¹:

Before closing a school or changing the boundaries of a school, a local school board shall:

- at least 120 days before **approving the school** closure or school boundary change,
- **provide notice** to the following that the local school board is considering the closure or boundary change to:

A) **parents of students enrolled in the school...**

B) **parents of students enrolled in other schools...that may be affected...**

C) the **governing council and the mayor** of the municipality in which the school is located.”

Utah Code 53G-4-402(21) (Bold added)

Timeline of Events

November 29, 2022 ASD Board Meeting:

During the study session before the ASD Board Meeting, Superintendent Farnsworth specifically stated district leaders were not recommending any schools be closed for the 2023-24 school year.

Comments during this meeting indicate that the district decided to pursue a course of action that is outside of the law, that is to give a general notification to the entire district and then at some future time give notice about actual proposals and provide a public hearing 30 days later where final approval would be given. This would have put ASD on the same course as the Oquirrh Hills situation which triggered the 2019 law (about 30 days between proposal & approval). However, ASD failed to actually even give as much notice as Granite did.

Pertinent comments from Board Members and District Officials are provided below. Parenthetical statements are added for emphasis and clarity:

¹ As of May 2023, the law requires 90-days notice. At the time of ASD’s vote to close the schools, the law required 120 days.

Julie King: “I move that we approve a districtwide boundary adjustment study.” (There was no mention of possible school closures.)

Ada Wilson: “May I just clarify that in doing that it does not activate the 120-day clock.”

Shane Farnsworth: “What activates the 120 days according to my understanding is when we send notification to the patrons. So what this is authorizing the staff to do is to send notification and start the 120 day notification window.”

Ada Wilson: “It was my understanding that we only [started the 120 day notification] when there was an actual proposal.”

Shane Farnsworth: “What you’re authorizing is a study. That study will then look at different configurations, different proposals, different possibilities... It allows that study to take place and then if there is a proposal that comes out of that, we will have given at least 120-days notice to be able to act on that... This is the study that will surface proposals that give us a window of opportunity to act on a proposal if the study determined that a boundary should be adjusted ... we would have filled the statutory requirement for the 120 days.”

Amber Bonner: “I think if an actual proposal is brought forth that then there are some additional requirements...like there’s a [30 day] public hearing requirement and there are additional requirements. So it’s not...this doesn’t start whatever we dream up with we can vote on in 4 months.”

December 8 & 12, 2022:

ASD sent emails notifying stakeholders that the district was conducting a districtwide boundary study. The emails stated “Study outcomes may result in **boundary changes** impacting some schools for the 2023 school year, while others may take effect in 2024 or at a later date. While the **boundary changes** may impact a few schools throughout the district, parents must be made aware that we are studying all enrollments and associated **boundaries**.” (Bold added for emphasis)

Note: this email says nothing about any **closures** being considered for 2023, only boundary changes. See a comment here:

After the initial review of the study, parents of schools that could be impacted by a boundary change or closure will receive additional information. Study outcomes may result in boundary changes impacting some schools for the 2023 school year, while others may take effect in 2024 or at a later date.

While the boundary changes may only impact a few schools throughout the district, parents must be made aware that we are studying **all** school enrollments and associated boundaries. Please refer to Utah State Statute [53G-4-402](#) (section 21), which regulates the process of boundary changes. Additional information can be found on the [district boundary change webpage](#) as it becomes available.

With appreciation,

Alpine School District Board of Education & Administration

February 7, 2023 ASD Board Meeting

Board members and administrators discussed proposed Policy 1900, a policy that outlines a process, aligned with state law, for school closures and boundary changes. This policy includes a timeline of at least a year from initiation to implementation of a school closure. Policy 1900 was tabled because it did not provide enough protections for special programs. It was not adopted by ASD and ASD does not currently have a policy addressing school closures. Here is the proposed Policy 1900 (found at https://docs.google.com/document/d/1IPG5tM8J0_5kAYxq9FSuCL3xmm_g9YOEtvG5t7dm7M/edit).



Suggested Timeline for School Boundary Change, Closure & Consolidation

1. October/November (or other months as needed)
 - 1.1. Enrollment, capacity, and projection data is provided to the Board by staff.
 - 1.2. Staff provides the Facilities Committee with information on schools that meet the trigger points and an initial analysis of the trigger point data. Trigger points include but are not limited to:
 - 1.2.1. Estimated costs associated with short-term repairs, building lifespan and needs over the next five (5) years, and/or structural safety issues exceeding 35% of the estimated cost of building a new school.
 - 1.2.2. General teacher FTE supplements to allow for two teacher options per grade level in an elementary school.
 - 1.2.3. Enrollment below 950 for a middle school and 450 for an elementary school.
 - 1.2.4. Five-year enrollment projection data indicating the school will be at or below 50% of capacity and surrounding schools estimated to be at or below 65% of capacity.
 - 1.3. The Facilities Committee notifies all Board members of schools being discussed for meeting the trigger points and involves the Board member representing the affected school(s) in the discussions.
 - 1.4. The Facilities Committee will analyze trigger point data, school information, potential resolutions, and determine if further action is recommended.
2. March - June
 - 2.1. The Facilities Committee presents recommendation(s) to the Board.
 - 2.2. Board reviews the recommendation(s) and identifies next steps.
 - 2.3. If the Board determines further study, action is necessary, the potentially impacted areas will be identified and studied further, for recommendation to consolidate, close or review the boundary.
 - 2.4. If the Board determines no further action is necessary at this time, a timeline for re-evaluation will be established.

3. May/June
 - 3.1. District staff will provide notice to required groups of potential school consolidation or closure 120 days prior to final approval. Utah Code 53G-4-402(21)(a)
4. August/September
 - 4.1. Feedback on the proposed changes options is received from patrons through open houses with stakeholders, surveys, and meetings with other focused stakeholders. (SCC, PTA, faculty, etc.)
5. October/November
 - 5.1. District provides the opportunity for public comment during at least two public school board meetings.
 - 5.2. District holds a public hearing on the issue.
6. November/December
 - 6.1. A final vote is held during a public general meeting by the Board of Education.
 - 6.2. Approved changes take effect the subsequent school year unless otherwise noted by the Board.

If ASD had adopted and followed Policy 1900, this is what the process and timeline would look like:

- Year 1:
 - January through April: District leadership performs a study of potential school closures or boundary changes, involving principals, local Parent-Teacher Associations and School Community Councils, and other key leaders. District leadership develops multiple potential options and proposals.
 - April and May: public input begins.
 - September and October: the best options identified during the study and public input are communicated to parents and communities. After 120 days of general feedback, public comments may happen at regularly scheduled school board meetings.
 - November - the school board has a formal public hearing.
 - December - the school board votes whether to approve school closures or boundary changes.
- Year 2:
 - January through June: the district works with affected schools, parents, and communities to prepare and carry out a smooth transition.

We recommend this process begin even earlier than in Policy 1900, allowing for public hearings and a closure vote prior to Election Day.

- Year 1:
 - September through December: District leadership performs a study of potential school closures or boundary changes, involving principals, local Parent-Teacher Associations and School Community Councils, and other key leaders. District leadership develops multiple potential options and proposals.
- Year 2:
 - January through May: public input begins.

- June through September: the best options identified during the study and public input are communicated to parents and communities. After 120 days of general feedback, public comments may happen at regularly scheduled school board meetings.
- October - the school board has a formal public hearing and votes whether to approve school closures or boundary changes prior to Election Day.

February 14 ASD Board Meeting:

During a Study Session when they were first presented with the results of the boundary study by the district leadership team, ASD board members asked, “Is it the recommendation of the district leadership team to **announce** all of these at the same time...or **waiting the 120 days** on each one?” (This implies the 120-day period hasn’t started for any of the proposed closures or boundary changes).²

During that same study session Superintendent Farnsworth stated “**Beginning of March we will start the specific boundary studies..involve the community and make some recommendations...we need to start that process...so that that the hundre... uh, so that they [the public] would have sufficient time to give feedback and have hearings so that in April we can announce those decisions.**” (This clearly indicates a misunderstanding of the public process and is the root cause of this situation. The superintendent's comments show he is not intending to give the public 120 days after they are notified for public input before the Board votes for approval for implementation at the end of the current school year.)³

February 28 ASD Board Meeting:

During the regular board meeting, the proposed closures and boundary changes were presented by the district team to the public. Superintendent Farnsworth stated that this presentation was “**so the public could become aware** of the considerations and the possibilities.”⁴

Mark Clement stated that “**we would not make a decision to definitely go down any of these roads for a period of time until after we’ve gotten public input, but I would like to start the process of public input**...I am really optimistic that we will get input from the public of things we never thought of and that will help us to make a better decision, but we need **to start that process**...”⁵

² [Study Session videos from February 14 \(Recording 1 @1:38:40\)](#)

³ [Study Session videos from February 14 \(Recording 2 @ 25:53\)](#)

⁴ [February 28 board meeting video @4:39:50](#)

⁵ [February 28 board meeting video @4:46:09](#)

Board Member Ada Wilson stated, “I hope that our community can have these conversations with us- they’re crucial and **we need your input**...I would **invite our public to participate** in a dialogue about how to solve these issues.”⁶

A motion was then made by Board Member Joylin Lincoln “to **begin a formal process** in accordance with state statutory requirements of **closing** Sharon, Windsor, Valley View, Lindon, and Lehi elementary schools **and implement** the associated boundary and program changes to be effective in the 23-24 school year.”⁷

Superintendent Farnsworth concluded by stating, “**We will begin the process of notification**...” (Note: the motion made by board member Lincoln is the first time ASD had publicly expressed its plan to close any schools at the end of the 2022-23 school year).⁸

March 1:

ASD sent an email which **notified the public of the five proposed school closures and many boundary changes** (impacting thousands of students). It also explained that stakeholders could share their input via a feedback button on the district website. The district informed stakeholders that there would be five upcoming public input open houses and two school board meetings for public comment during the month of March, and that a public hearing would be held on April 18. (Note: Prior to March 1, no specific proposals were made. No notification of any potential boundary changes or potential closures was given. No details were published on the boundary website as there was no boundary website. No feedback mechanisms were put in place. No public input meetings were held).⁹

March 3:

School Board President Sara Hacken told parents that the decision was already made about school closures and their input could not influence that decision. All parents could hope to influence was how the boundaries might be adjusted, and they only had until the April 18 Public Hearing to do so.¹⁰

⁶ [February 28 board meeting video @4:47:48](#)

⁷ [February 28 board meeting video @4:48:36](#)

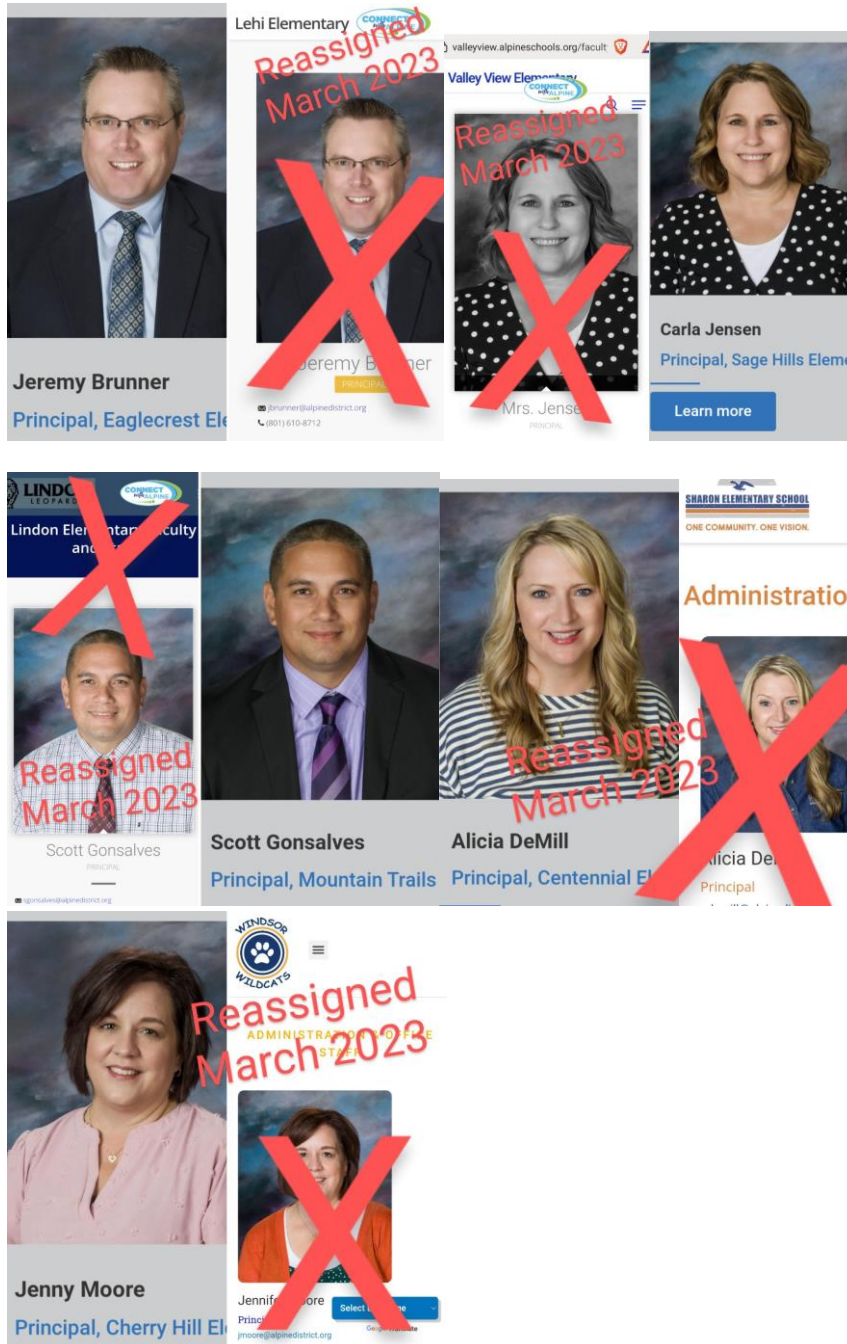
⁸ [February 28 board meeting video @4:55:00](#)

⁹ These communications can be seen on the [Alpine School District boundary website](#).

¹⁰ Board President Sara Hacken asked that parents turn off their recordings when she began speaking. There are at least 3 witnesses who are willing to testify that Board President Hacken said the trajectory of closing schools was set and public input could only influence the details of how these changes happened, but not whether they happened.

Month of March:

ASD employees immediately started implementing plans to close schools. They reassigned principals to all schools except the five slated to close. Here are screenshots showing that the administrators had been reassigned (the side with the red X shows their current assignment at the school that's closing, the caption under the other photo shows their new assignments):



District leaders encouraged teachers at “closing” schools to request transfers and apply for jobs in other schools.

Here are screenshots from a Lehi Elementary teacher posted on Board Member Stacy Bateman’s public page on April 14. It outlines the communications and expectations teachers received from the district (We recommend this teacher’s name not be publicized because teachers are already dealing with a lot of the fallout of ASD’s hurried and unlawful process.

<https://www.facebook.com/groups/2929772413750132/permalink/6200257896701551/?mibextid=DcJ9fc>



Staci Kashow Cobabe

[Stacy Bateman](#) you are right, we did get 2 visits from ASD. It was not the same person both times. The first time was on March 3rd to assure us that all certified teachers would receive a placement notification by the end of March. No jobs would be posted until we were placed. We would be taken care of, we would have some say in where we go, we would have time to seek out other employment if we didn't like or want our assigned placements. The second visit was on March 22, right before the job listings opened up on March 24. We were told to get on the transfer list and apply for jobs we wanted. We were told that we would not know our placements until after the board voted on April 18. We were told that they had no way of knowing that the boundary studies would bring so much upheaval and require more input from everyone and more options to be

voted on April 18. We were told that they had no way of knowing that the boundary studies would bring so much upheaval and require more input from everyone and more options to be evaluated. We were told they would try to get us our placements as soon as possible after the final vote on the 18th, but we're not made any promises to know if we would find out 2 days before school starts or the day after the vote. So MAYBE you can see why we don't feel heard, informed, or appreciated at this point when the ONLY reason I knew to look at the agenda that was posted was because MY PRINCIPAL ACTUALLY CARES ABOUT HIS STAFF MEMBERS AND WANTS US TO BE QUICKLY AND FULLY INFORMED. Thank God for him! 🙏 There has NEVER been the slightest hint from anyone at the district that the closure wouldn't happen. So you can MAYBE understand my confusion that NOW it's suddenly

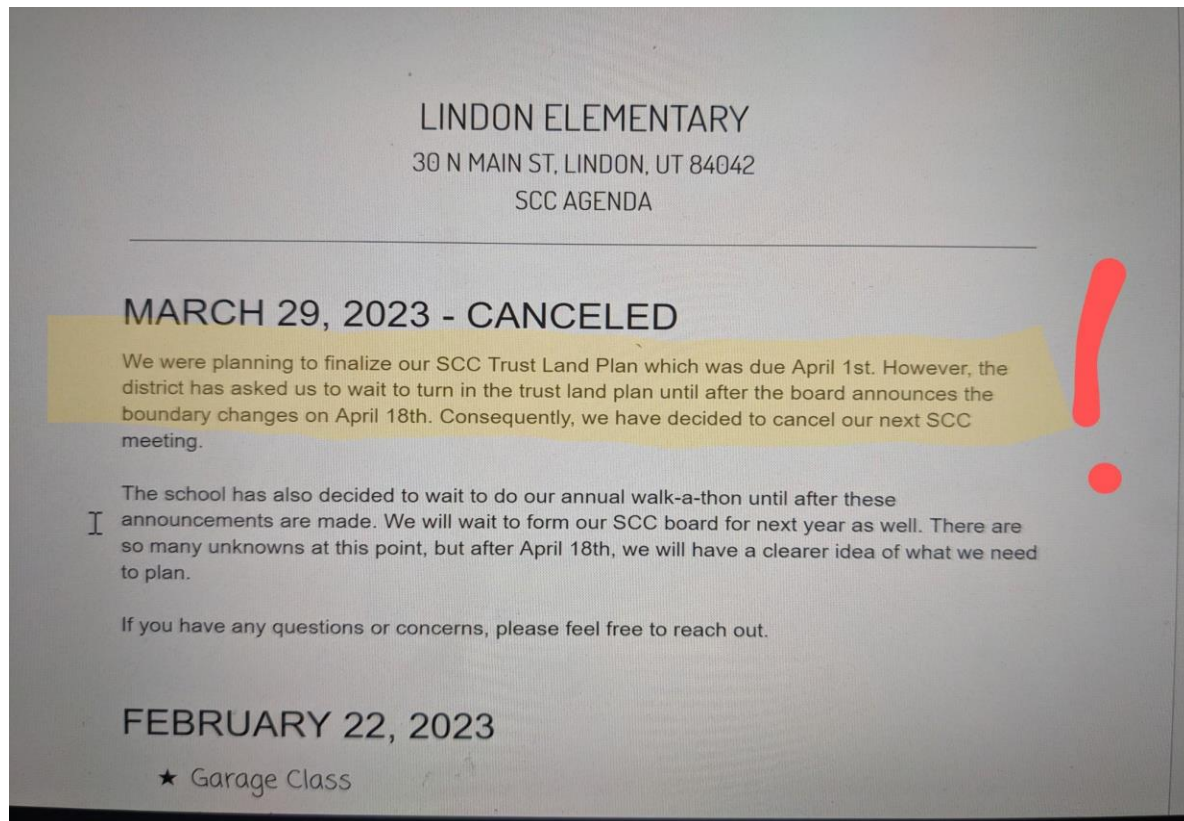
NEVER been the slightest hint from anyone at the district that the closure wouldn't happen. So you can MAYBE understand my confusion that NOW it's suddenly back on the table after a board member specifically stated toward the end of the last board meeting that if he had known how impactful this decision to move forward would have been, he probably would've voted differently, but now it would cause too much upheaval to go back to the originally proposed timeline. So yeah, I feel so LUCKY to be informed earlier than what is legally mandated of all the wonderful things that people are deciding about my future. I have always thought you had our backs and were such a wonderful and supportive board member, but I'm having a hard time seeing that right now. Sorry if that's frustrating to you.

6d Love Reply

7

District leaders told PTAs and School Community Councils (SCC) to not hold their annual leadership elections for the upcoming year, and they directed SCCs to not spend trustland funds.

Here is a screenshot indicating that an SCC of a school slated to close had been asked to not proceed:



Parents flocked to the public input open houses trying to find any and every district leader who would listen to their concerns. They received conflicting information from district leaders about the timeline and pertinent data (such as class sizes, demographics, and facility capabilities). Parents sent hundreds of emails to district employees and received inconsistent replies. Parents started appealing to the Utah State Board of Education, to legislators, to the Utah Attorney General, pleading with anyone who would listen to their concerns with ASD's timing and process.

March 22:

A concerned parent emailed and received a response from Kraig Brinkerhoff, the head of ASD's legal team, where **he confirmed that March 1 was the date that started the 120 day period.** Here is a screenshot of this communication.

Questions about Windsor Elementary closing notice and dates

Kraig Brinkerhoff <kbrinkerhoff@alpinedistrict.org>
To: Jordan Muhlestein <jordan.muhlestein@gmail.com>

Wed, Mar 22, 2023 at 8:46 AM

Jordan,

Thank you for your interest in Alpine School District.

The notification as you have mentioned was sent March 1, 2023, which went out to parents and city officials as required. We are aware of and in compliance with Utah Code 43G-4-402. Public notices are or will be posted, including at those public school locations of concern within necessary time limits.

For additional information, please visit our web page dedicated to these matters found here: <https://alpineschools.org/boundarychanges/>

Thank you,

Kraig Brinkerhoff JD

Executive Director of Legal Services

Alpine School District | 575 N. 100 E., American Fork, UT 84003

O: 801-610-8545 | kbrinkerhoff@alpinedistrict.org

March 28 ASD Board Meeting:

After parents firmly requested that ASD hold to the legally defined timeline during the public comment portion of their regular board meeting, Superintendent Farnsworth doubled down and said **“There were several questions in public comments raised about the timeline that the board of education is following and whether or not that aligns with state statute. We did reach out and...the Attorney General...found that our efforts have exceeded the expectations outlined in state statute, that we have given due notice and that that December notification actually qualifies for the 120 day start of that communication.”**¹¹

Board Member Mark Clement then stated that **“We’ve had lots of input from our public in the last few weeks...During the Board meeting on February 28...the Board...voted**

¹¹ [March 28 board meeting video \(19:39\)](#)

to move ahead during the 23-24 school year.... I think I made a mistake. I think I should have voted to follow the staff recommendation and wait for the next year...I didn't realize how hard it would be to finalize a plan for those schools...And I didn't realize how strong the advantages were for waiting for another year...I've realized that we should have involved [principals] early in the whole planning process because they have some unique insights....I've also heard from parents a lot that they needed time...to plan their life. I've heard that loud and clear. I've also heard that cities need time to plan...I also appreciate that the accelerated timeline caused stress on district leadership...it's not easy to understand how [Dual Language Immersion configurations] integrate with schools, and it would maybe have been easier to study that for another year. And I think I've heard from many parents that they just feel like this decision was rushed that they're...not feeling that their input is being used to actually make the decision of whether or not to close schools...And so even though I wish I could go back and remake that decision, it's not possible to do that...The only option is do we try to pause this, wait for another year, or do we move forward? ...I think we need to realize it would be difficult to find a way of unwinding all of the changes that have been made...now that we've moved forward I really think we need to stay the course to implement those changes in the 23-24 school year.”¹²

This statement by Board Member Clement is doubly damning-not only does he admit error on the timeline they adopted but he also admits that ASD has already put their closure plans into motion before approving them or allowing for a proper public input period.¹⁰

March 29:

A notice appeared on the District's boundary study page outlining ASD's assertion that it had fulfilled the checklist of requirements defined by law. It initially indicated that the attorney general's office had approved of its process. However, later that day, **the attorney general's office sent an email stating “We've asked Alpine School District to...remove the language in question. The Attorney General's office has not provided any such approval,”** and the endorsement quietly disappeared from the district website.

¹² [March 28 board meeting video \(22:16\)](#)

Here is a screenshot of the Boundary Study timeline published by the district:

Boundary Study Timeline

The Alpine School District Board of Education initiated a districtwide boundary study during their board meeting in November 2022. The following timeline has been reviewed by the Utah Attorney General's Office.

- **November 29, 2022** – In their [regularly scheduled meeting](#), Alpine School Board voted to start a districtwide boundary study that could include boundary adjustments, school consolidations, and school closures.
- ***December 8, 2022** – ASD patrons were notified via [email](#) that boundary changes, consolidation, and school closures within the district could impact the school their children attend.
- ***December 12, 2022** – City mayors, councils and administrators were notified via [email](#) regarding boundaries, consolidation, and closures of schools within the district.
- **February 28, 2022** – Board Meeting [presentation of specific proposals](#)
- ***March 1, 2023** – ASD patrons were updated via [email](#) that boundary changes, consolidation, and school closures within the district could impact the school their children attend.
- ***March 1, 2023** – City mayors, councils and administrators were updated via [email](#) regarding boundaries, consolidation, and closures of schools within the district.
- ***March 14, 2023** – School Board Meeting Public Comment, Alpine School District Office
- ***March 17, 2023** – ASD patrons of potentially impacted schools were notified via [email](#) about a public hearing to be held on April 18, 2023.
- ***March 17, 2023** – City mayors, councils and administrators of potentially impacted cities and municipalities were notified via [email](#) about a public hearing to be held on April 18, 2023.
- **Open Houses**
 - **March 15, 2023** – Traverse Mountain Elementary (Traverse/Belmont areas)
 - **March 16, 2023** – Forbes Elementary (Forbes/Barratt/Greenwood areas)
 - **March 22, 2023** – Pleasant Grove High (PG/Lindon areas)
 - **March 29, 2023** – Timpanogos High (Orem area)
 - **March 30, 2023** – Lehi High (Lehi area)
- ***March 28, 2023** – School Board Meeting Public Comment, Alpine School District Office

Here is a screenshot of the March 30 email from Daniel Burton with the Attorney General's office:

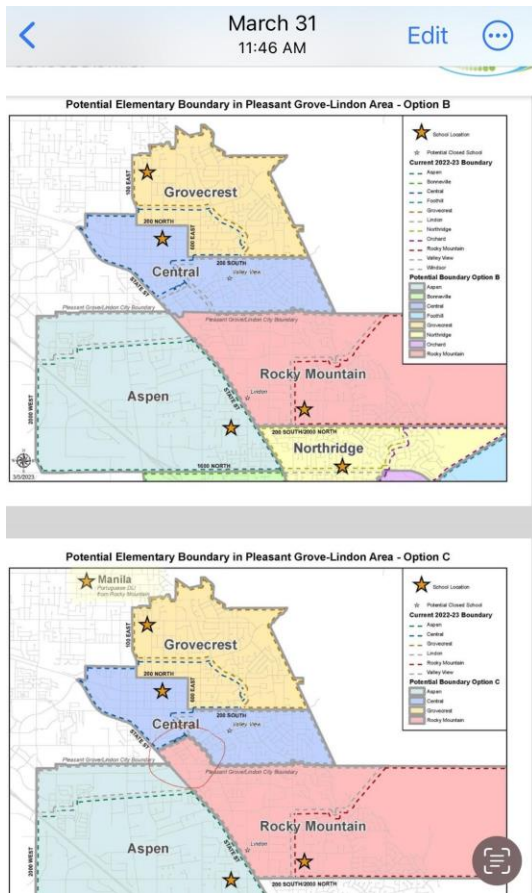
Subject: Re: We need support with Alpine School district announcing closures

This is an error. We've asked Alpine School District to correct this on their website and remove the language in question. The Attorney General's Office has not provided any such approval.

Daniel Burton
General Counsel
Office of the Utah Attorney General

The District published several new boundary options (called Plan C's) for several areas on the District boundary webpage on March 29. At least one of these plans involved a school, Manila Elementary, that had never before been mentioned in any plans. No notification was sent to parents at this school. The only way they would know would be via word of mouth or if they randomly checked the district website.

Screenshot showing Manila had been added to the plans for the first time (compare it to the list of schools on the Public Hearing notice sent by ASD on March 17):



NOTICE OF PUBLIC HEARING

TUESDAY, APRIL 18, 2023
 6:00 PM
 DISTRICT OFFICE
 575 NORTH 100 EAST
 AMERICAN FORK, UT 84003
 (alpineschools.org/schoolboard/)

The Alpine School District Board of Education will hold a public hearing regarding the proposed school boundary changes, consolidations, or closures.

Following a districtwide boundary study approved by the Board of Education on November 29, 2022, a formal study has been conducted and the following school proposals may affect the school enrollment for your child(ren) for the 2023-2024 school year.

PROPOSED School Facility Closures:

- Lehi Elementary
- Valley View Elementary
- Lindon Elementary
- Windsor Elementary
- Sharon Elementary

PROPOSED NEW Elementary Boundaries:

- New North Point boundary
- New River Rock boundary
- New Meadow boundary
- New Snow Springs boundary
- New Central boundary
- New Grovecrest boundary
- New Rocky Mountain boundary
- New Cascade boundary
- New Orchard boundary
- New Foothill boundary
- New Northridge boundary
- New Bonneville boundary
- New Centennial boundary
- New Traverse Mountain Belmont boundaries
- New Forbes/Greenwood Barratt boundaries

Detailed information, maps, timeline, and feedback opportunities are available at: alpineschools.org/boundarychanges

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Jason Theiler, 801-610-8449, at least 24 hours prior to the meeting. For a complete copy of this agenda, with attachments, please go online to: board.alpineschools.org.

March 31:

A Demand Letter was sent to ASD from a law firm representing a coalition of parents outlining how ASD failed to uphold both the letter and the spirit of the law and demanding the district stop pursuing its current course for the 2022-23 school year and commit instead to fully engage in the process as defined by law.

Shortly after that, Kraig Brinkerhoff emailed the parent he had contacted earlier stating “After my email to you and **upon further review and consultation with our communications team**, Alpine School Districts' notices sent to parents and city officials on Dec. 8th 2022 and Dec, 12th 2022 respectively, are the District's proper **intended** notices for the start of the 120 day requirement.”

Here is a screenshot of that communication.

Questions about Windsor Elementary closing notice and dates

Kraig Brinkerhoff <kbrinkerhoff@alpinedistrict.org>
To: Jordan Muhlestein <jordan.muhlestein@gmail.com>

Fri, Mar 31, 2023 at 4:25 PM

Jordan,

I am writing by way of update from my prior email regarding 53G-4-402 and to make sure I provided you with the most accurate information consistent with the District's communications. After my email to you and upon further review and consultation with our communications team, Alpine School Districts' notices sent to parents and city officials on Dec. 8th 2022 and Dec, 12th 2022 respectively, are the District's proper intended notices for the start of the 120 day requirement found in 53G-4-402(21). The timeline and linked copies of those communications are available on the District's website to provide transparency and can be found here: <https://alpineschools.org/boundarychanges/>

I apologize for any confusion this may have caused.

Thank you,

Kraig Brinkerhoff JD

Executive Director, Legal Services

Alpine School District | 575 N. 100 E., American Fork, UT 84003

O: 801-610-8545 | kbrinkerhoff@alpinedistrict.org

It is concerning that the head of ASD's legal team is being counseled by the communication team regarding interpretation of statute.

April 8:

ASD failed to prominently post the legally required 10-day notification about the April 18 public hearing at the front entrances of at least two of the schools which could be impacted by the changes (Rocky Mountain Elementary and Manila Elementary).

Photographic evidence of the lack of notice is available upon request.

April 18: ASD public hearing and board meeting.

After more than three hours of public comment urging the district to reverse course and take more time to come up with thoughtful plans for the five schools already voted on for closure, the ASD board moved to a vote, pushing back closure for Lehi, Lindon and Windsor Elementary Schools to the '24-25 school year and maintaining the closures for Sharon and Valley View using the following language:

“Continue study of the Formal Boundary and Closure Study Recommendations associated with Valley View(or Sharon) Elementary School for intended implementation in the 2023-2024 School Year”,

and,

“Continue study of the Formal Boundary and Closure Study Recommendations associated with Windsor (or Lindon or Lehi) Elementary School for possible implementation in 2024-2025.”

After the board voted, there was confusion as to what had been voted on. Superintendent Farnsworth said he would have to go back and listen to and review the vote to determine what had happened. Kraig Brinkerhoff, the ASD attorney was left to answer questions from parents, but without any real understanding of what had transpired. A recording of Mr. Brinkerhoff's comments is available upon request.

How can the ASD “continue study... of the closure study recommendations” if the board never started a study for closure recommendations in the first place?

Questions About the Process

-If public input began on December 8, 2022 how could the public give input on anything if nothing was presented? And how could the 120-day public input period begin if no closures were proposed (specifically or hypothetically) in the December email?

-If the public input period began on December 8, 2022 then why didn't ASD receive any documented feedback from stakeholders before March 1, 2023? Why didn't ASD provide a boundary website with a feedback button in December 2022? Why didn't it hold open houses or a designated public hearing until after March 1, 2023?

-If the public input period started on December 8, 2022, then why were ASD leaders discussing on February 14, 2023 whether to start 120-day periods for each proposal separately or all of them at once? Why did leaders say they would start the public input period on March 1, 2023? And why did board members say during the Feb 28, 2023 vote that they wanted "to start the process of public input"?

-If these plans couldn't be approved until after the 120-day period was complete, then how could it be too late to change plans on March 28, 2023 (as Board Member Mark Clement stated) unless ASD had already put plans into motion before the public input period was complete or approval was given?

In summary, these are the ways Alpine School District failed in this process:

1. The notification sent on December 8 and December 12, 2022 was insufficient as it: failed to notify specific schools, and did not provide any notice of possible closures in 2023.
2. Even if the December 2022 notification had been sufficient notice, ASD didn't provide feedback options (website, feedback button, open houses, public comment, etc.) until after March 1, 2023 indicating that the public input process didn't start until after the schools had been named in actual proposals.
3. ASD voted to "close" the 5 schools before the 120-day public input period had occurred (during the 2/28/23 board meeting leaders shared proposals and then less than 120 *minutes* later voted to close).
4. ASD started closure actions before its 120-day notice period was up (SCCs and PTAs were directed not to hold elections or spend trustland funds, administrators and teachers were directed to other schools in March).

5. As late as March 29, ASD added proposals involving new schools and didn't give them any notification (Manila Elementary).
6. ASD didn't put the required 10-day public hearing notice at all schools (Rocky Mountain and Manila didn't have anything on their front entrances) and prominence of notices that were posted at other schools is debatable.
7. ASD voted to continue a study that had never been started.

There is clearly a preponderance of evidence that March 1 is when the District's 120-day public input period should have legally begun. With the hasty and unorganized manner in which Alpine School District has handled this process, it should apologize to all stakeholders, stop and reverse course immediately back to where it was before it made the February 28 motion, commit to not close any schools or make any boundary adjustments at the end of this school year, and commit to engage in a transparent, robust process in accordance with Utah State law before attempting any such proposals in the future.

It remains to be seen whether Alpine School District leaders will continue to double down on their faulty decisions or be willing to actually work to rectify this situation.

The District has put itself in an untenable situation. During the April 18 public hearing, ASD indicated that the public input period actually did start on March 1, 2023 after all. It indicated the Board could now possibly vote on all closures on June 29, 2023. Some closures would go into effect when the fiscal school year would begin less than 48 hours later on July 1, 2023 (leaving teachers and families in limbo until the last minute). Others could go into effect July 1, 2024, but after those votes are made, the district would no longer be obliged to consider public input or take any further action to consider these proposed closures or boundary changes.

Proposed Changes to Utah Code

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(a) LEA's shall publish annually all know repairs required to maintain current infrastructure and safety at every school withing its boundaries.

(i) LEA shall notify all stakeholders, about the specific concerns and include a course of action of describe the budget and timeline of conducting any maintenance.

(A) Notification will be given and discussed at a regularly scheduled board meeting.

(B) Follow-up written communication will be made to all stakeholders; including, LEA employees, municipal elected officials, and parents of affected students.

(b) LEA's will publish annually a 5-year plan on the promotion of education in the boundary area. It will specifically include:

(i) Schools targeted for closures

(ii) Schools targeted for boundary adjustments

(iii) Comparisons of core competencies of the schools and a plan, including costs and timelines of any core competencies that are below the LEA and/or State average.

(21)

(a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least ~~120 days~~ 180 days before approving the school closure or school boundary change, ~~provide notice to the following that the local school board is considering the closure or boundary change:~~

(A) provide notice to the following that the local school board is considering the closure or boundary change:

~~(A)~~ (I) parents of students enrolled in the school and any other schools affected, using the same form of communication the local school board regularly uses to communicate with parents;

~~(B)~~ (II) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

~~(C)~~ (III) the governing council and the mayor of the municipality in which the school is located;

(IV) Notice will include:

~~(1) Specific language identifying the school being considered for closure or boundary change, specifically stating:~~

(1) The name(s) of the school being closed

(2) The name(s) of the adjacent schools which will be affected by boundary adjustments due to the proposed closures or boundary adjustments.

(3) Justification for the proposed changes, including links to any available resources with clarifying information or data.

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) ~~at least 10 days~~ before the public hearing, Notice:

(B) Shall be given twice;

(I) the first notice shall be at least 30 days before the public hearing;
and

(II) the second notice shall be between 20 and 10 days before the public hearing.

(A) and will be published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63A-16-601;
and

(III) to all stakeholders described in subsection (21)(a)(i)(A) (I), (II), (III).

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; ~~and~~.

(I) Posting prominently at the school is defined as posting on a sign in at least 3 locations that can be visible from the street notice using high visibility materials.

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections ~~(21)(a)(i)(A), (B), and (C)~~. (21)(a)(i)(A) (I), (II), (III).

(c) The Board will:

(i) vote to approve the creation of a boundary study committee for the specific schools subject to potential closures or boundary adjustments.

(A) The boundary study committee will consist of and LEA administration deemed necessary, and;

(I) The principals of all schools potentially affected by a specific school closure or boundary study.

(II) At least 2 parents selected by the SCC.

(B) As the boundary study is conducted, if the area of study is increased, principals and parents will be added to represent those boundary areas.

(C) As the boundary study is conducted, if the area of the study is decreased, those principals and parents representing areas no longer affected may choose to continue to participate in the study.

(ii) announce the creation of the boundary study committee to all stakeholders as described in Subsections ~~(21)(a)(i)(A) (I), (II), (III).~~

(A) The LEA will share monthly updates of any findings from the boundary study committee in normal board meeting business.

(B) The LEA will seek feedback from affected stakeholders during the boundary study process.

(C) The LEA will respond to feedback on its website to stakeholders.

(iii) will publish the findings of the boundary study prior to any vote actioning boundary adjustments or school closures.

(iv) will vote to give 180 notice of a public comment period to affected stakeholders of a potential school closure vote

(A) The Board and LEA administration will hold in person forums to collect information from stakeholders regarding the proposed adjustments and closures.

(B) The LEA will invite written public comments.

(C) The LEA will respond to the public comments.

(vi) will vote on school closures or boundary changes no later than the October prior to the scheduled school closure.