

**New Jersey State Board of Education
Minutes of the Regular Monthly Meeting
in the Conference Room on the First Floor,
100 River View Executive Plaza
Trenton, NJ**

April 7, 2004

Presiding: Arnold G. Hyndman, Ph.D., President

Secretary: William L. Librera, Ed.D., Commissioner

PRESENT CONSTITUTING A QUORUM:

Ms. Margaret F. Bartlett
Dr. Ronald K. Butcher
Ms. Debra Casha
Ms. Maud Dahme
Ms. Kathleen A. Dietz
Mrs. Anne S. Dillman
Mr. John A. Griffith
Mr. Samuel J. Podietz
Dr. Thelma Napoleon-Smith
Mr. Edward M. Taylor

ABSENT

Dr. Orlando Edreira
Mrs. Roberta Van Anda

CONVENING

Arnold G. Hyndman, president, State Board of Education, convened the public meeting with the reading of the resolution pertaining to the public session of the State Board meeting as it complies with the Open Public Meetings Act.

WHEREAS, the New Jersey Open Public Meetings Act was enacted to insure the right of the public to have advance notice of and to attend the meeting of public bodies at which any business affecting their interest is discussed or acted upon, and

WHEREAS, in accordance with the provisions of this act, the State Board of Education has caused notice of this meeting to be published by having the date, time and place thereof posted in the Department of Education, Secretary of State's Office and notice also having been given to the State House Press Corps, the Governor's Office and the state board agenda subscribers, now therefore be it

RESOLVED, that by adopting this resolution the State Board of Education states its intention to convene a public meeting to conduct the state's business on April 7, 2004.

ADJOURN TO EXECUTIVE SESSION

President Hyndman then read the resolution pertaining to the executive session of the State Board meeting as it complies with the Open Public Meetings Act.

WHEREAS, in order to protect the personal privacy and to avoid situations wherein the public interest might be disserved, the Open Public Meetings Act permits public bodies to exclude the public from that portion of a meeting at which certain matters are discussed, now therefore be it

RESOLVED, that consistent with the provision of N.J.S.A. 10:4-12(b), the State Board of Education will now adjourn to executive session to discuss personnel matters.

The State Board immediately adjourned to executive session.

RECONVENING

President Hyndman reconvened the public meeting with the reading of the resolution pertaining to the resumption of the public session of the State Board meeting as it complies with the Open Public Meetings Act.

WHEREAS, consistent with the provision of N.J.S.A. 10:4-12(b), the State Board will now adjourn from executive session to resume the open session of this meeting.

STUDENT SPEAKERS

Katie Wright, the 2004 student representative to the State Board of Education and a junior from Shawnee High School (Burlington County), spoke to the State Board about her opportunity to attend the Regional Student Council Conference and participate in a workshop about "Freedom's Answer." This group assists teenagers in becoming involved in voter registration. Teenagers in the group encourage their friends 18 years old and older in actually participating in the voting process.

Katie then introduced the student guest speaker.

Bobbie Downs, a student from Pemberton Township High School (Burlington County), spoke to the State Board about Governor McGreevey's New Jersey Student Tuition Assistance Reward Scholarship (NJSTARS) program. She stated that the NJSTARS program provides for the allotment of tuition for community college to any student who ranks among the top 20 percent of students in his or her graduating class. She stated that although this is a good program, most students will attend a four-year college. Therefore, the program will not benefit the vast majority of high schools students who plan to attend college. She stated that because of this, consideration should be given to extend the program to four-year students as well.

President Hyndman, on behalf of the State Board, thanked the student speaker for her presentation.

INTRODUCTIONS

Commissioner William L. Librera recognized Eugenia Lawson, Monmouth County Superintendent of Schools, who represented the county superintendents. Ms. Lawson has served in this position since November 2003.

STUDENT RECOGNITION

The State Board recognized Danielle Shin-lee Conk, a senior from Allentown High School (Monmouth County), as a part of its monthly recognition program designed to honor a student or a group of students who have made a significant contribution to school, community, family or other groups.

The State Board recognized Danielle for her achievements in academic programs, her accomplishments in extra-curricular activities and for her commitment to community service. Danielle is on the Future Farmers of America (FFA) Horse Judging Team, has earned the Gold Award for involvement in Girls Scouts and is very involved in activities within her church and community.

On behalf of the State Board members, President Hyndman congratulated Danielle for her accomplishments.

APPROVAL OF MINUTES OF THE MEETINGS

On a motion duly seconded and carried, the State Board members approved the minutes of the meetings conducted on March 3, 2004 and March 17, 2004.

PRESIDENT'S REPORT

April Work Session and Public Testimony Session

President Hyndman stated that the April work session will be held on April 19, 2004 at 1:00 p.m. at the Burlington County Institute of Technology in Mount Holly, NJ. The State Board will discuss issues related to vocational education with the Commissioner, county vocational superintendents and vocational school students.

President Hyndman also stated that the April public testimony session is cancelled. However, the State Board and the Department will accept written comment on the Resolution to Adopt the Qualifying PRAXIS II Scores for Teachers and New Tests for School Administrators and Principals and the Resolution Establishing Annual Fees for State Board Public Meeting Agenda.

International Education Committee

State Board member, Kathleen Dietz provided a report from the International Education Committee. In her report, she stated that the New Jersey Department of Education is the recipient of the Longview Foundation Grant to support international education. The committee is planning to use the grant to host an international education summit in September. The committee has also distributed a world language survey to New Jersey school districts to assist the committee in identifying existing programs. Based on the results of the survey, the

committee will establish a foundation of current international education programs and plan the direction for future international education programs.

No Child Left Behind (NCLB) Leadership Summit

State Board member Thelma Napoleon-Smith presented a report on the U. S. Department of Education Secretary's No Child Left Behind (NCLB) Leadership Summit, "Empowering Accountability and Assessment Using Technology." She stated that the overarching goal of the summit was to assist key educators and state leaders to utilize technology in improving student achievement and to attain the goals of accountability and assessment required by NCLB.

Englewood Report

President Hyndman stated that the Department has asked the State Board to consider a request to postpone the Englewood report from May to July. In its April 2, 2003 decision *Englewood Cliffs V. Englewood*, the State Board required the Commissioner to provide a formal report on Englewood semi-annually every May and September. The Legal committee will consider a request to permanently change the dates established in the reporting requirement from May and September to July and November. President Hyndman further stated that the State Board Legal Committee will provide a recommendation to the full board at a future State Board meeting.

COMMISSIONER'S REPORT

The Commissioner provided a brief overview of the direction the department is taking to respond to the challenges he faces regarding departmental staffing. He stated that he has been directed by the New Jersey Department of Treasury to reduce the number of department staff. The Commissioner expressed his concern regarding annual staff reduction requests. Recently, the department has responded to this necessity by initiating an institutional hiring freeze except in cases where there is an extraordinary need to hire new staff to fulfill the department's mission or to fulfill a responsibility required by statute. In response to the staff reduction demands, the Commissioner stated that the department is analyzing different methods to more accurately define the mission of the organization. He further stated that the department is also seeking alternate methods of sharing department responsibilities with other identified partners outside the department.

ITEMS FOR CONSIDERATION:

On motions duly seconded and carried, the State Board of Education took the following action:

A. Appointments

Pursuant to NJSA 52:14B-3(1):

- Approved the reappointment of Barry Worman as County Superintendent of Sussex County.

- Approved the appointment of Thomas M. Kane as the County Superintendent for Morris County.
- Approved the appointment of Kathryn Forsyth as the Director for Public Education.

B. Certification of Districts

- Certified for a period of seven years, the following districts pursuant to the Public School Education Act of 1975, N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, and the *Manual for Evaluation of Local School Districts*.

Atlantic County	Monmouth County
Egg Harbor Township	Belmar
Estell Manor	Brielle
Margate	Farmingdale
Burlington County	Monmouth Regional
Bass River Township	Neptune City
Edgewater Park	Roosevelt
Camden County	
Waterford Township	

C. Students At Risk of Not Receiving A Public Education

- Adopted the regulations pertaining to Students at Risk of Not Receiving a Public Education proposed at *NJAC 6A:17* pursuant to *NJSA 18A:38-1*, *18A:7B-12*, *18A:7B-1 et seq.*, *18A:7F-1 et seq.*, and No Child Left Behind Act 2001, Public Law 107-110 et seq.

D. Core Curriculum Content Standards

- Adopted the resolution to revise standards for visual and performing arts, world languages, health and physical education, career education and consumer, family and life skills, technological literacy and language arts literacy pursuant to *NJAC 6A:8*.

**RESOLUTION TO ADOPT REVISED
CORE CURRICULUM CONTENT STANDARDS**

WHEREAS, the State Board of Education has adopted rigorous Core Curriculum Content Standards and associated cumulative progress indicators which establish the basis for local curriculum and instruction for all students, the Statewide assessment system, and the evaluation of district boards of education; and

WHEREAS, the State Board of Education is responsible under *N.J.A.C. 6A:8-2.1(a)4* for initiating a review and readoption process for the Core Curriculum Content Standards every five years, based on recommendations by the Commissioner of Education; and

WHEREAS, review panels comprised of K-12 educators, parents, and representatives from business, industry, and higher education have reviewed the Core Curriculum Content Standards in Visual and Performing Arts, Comprehensive Health and Physical Education, World Languages, Technological Literacy, and Career Education and Consumer, Family, and Life Skills; and

WHEREAS, the review panels considered the implementation of the standards in New Jersey over the last five years as well as developments in national standards, recent state and federal mandates, current and emerging issues, and the recommendations of external reviewers; and

WHEREAS, the review panels have elicited extensive public input through regional feedback sessions, written feedback, and electronic feedback submitted through the department's website; and

WHEREAS, the Department of Education and the State Board of Education have further reviewed and refined the standards and expectations based on testimony gathered through public hearings; and

WHEREAS, the language arts literacy standards were adopted by the State Board of Education in July 2002; and

WHEREAS, the Department of Education has further reviewed and refined the 2002 standards in order to comply with the requirements set forth in the No Child Left Behind Act of 2001; and now therefore be it

RESOLVED, that the New Jersey State Board of Education hereby directs that these revised standards in the Visual and Performing Arts, Comprehensive Health and Physical Education, World Languages, Technological Literacy, Career Education, Consumer, Family, and Life Skills, and Language Arts Literacy, along with the accompanying cumulative progress indicators, will become immediately applicable to all students; and be it further

RESOLVED, that the revised Core Curriculum Content Standards, dated April 7, 2004, will serve as the basis for any state or local assessments deemed appropriate by the Department of Education and the State Board of Education; and be it further

RESOLVED, that the State Board of Education will initiate the review and adoption of the Core Curriculum Content Standards in Visual and Performing Arts, Comprehensive Health and Physical Education, Language Arts Literacy, Mathematics, Science, Social Studies, World Languages, Technological Literacy, and Career Education and Consumer, Family, and Life Skills beginning in May 2009; and be it further

RESOLVED, that the State Board of Education commends the many individuals and organizations, both within the State and beyond its borders, who have contributed to the revision of the Core Curriculum Content Standards.

E. Professional Teaching Standards Board

- Adopted the resolution approving the appointment of the Professional Teaching Standards Board for a term of three years, pursuant to *NJAC* 6A:9-15.

RESOLUTION
PROFESSIONAL TEACHING STANDARDS BOARD

WHEREAS, the State Board of Education has adopted regulations that require continuing professional development for all active teachers and education services personnel; and

WHEREAS, the regulations establish the creation of a Professional Teaching Standards Board to ensure that required continuing education experiences are challenging and meaningful to teachers and relevant to the tasks of enabling students to achieve the Core Curriculum Content Standards; and

WHEREAS, members of the Professional Teaching Standards Board are appointed by the Commissioner of Education with the approval of the State Board of Education pursuant to N.J.A.C. 6A:9-15; and

WHEREAS, a teacher representative on the Professional Teaching Standards Board has resigned; and

WHEREAS, the Commissioner, in accordance with N.J.A.C. 6A:9-15 has recommended the appointment of Herb Levitt, nominated by the New Jersey Education Association, to fill the vacancy; therefore be it

RESOLVED that the State Board of Education hereby approves the appointment of Herb Levitt to the Professional Teaching Standards Board to complete a term ending January 31, 2005 with the opportunity for reappointment.

F. Student Residency

- Approved for publication in the *New Jersey Register* the sunset readoption with amendments and recodification of *NJAC* 6A:28-2, Entitlement to Attend School based on Domicile or Residency in Districts, to a new chapter proposed at *NJAC* 6A:22, Student Residency, pursuant to *NJSA* 18A:38-1.

G. School Ethics Commission

- Approved for publication in the *New Jersey Register* the sunset readoption with amendments and recodification of *NJAC* 6A:28-2, Entitlement to Attend School based on Domicile or Residency in Districts, to a new chapter proposed at *NJAC* 6A:22, Student Residency, pursuant to *NJSA* 18A:38-1.

H. Establishing Annual Fees for State Board Public Meeting Agenda

- Discussed the resolution establishing annual fees for the State Board public meeting agenda pursuant to *NJSA* 10:4-19.

**RESOLUTION TO ESTABLISH A FEE TO
INDIVIDUALS REQUESTING ADVANCED COPIES OF
THE NEW JERSEY STATE BOARD OF EDUCATION
PUBLIC MEETING AGENDAS**

WHEREAS, pursuant to N.J.S.A. 10:4-19, the New Jersey State Board of Education is required to distribute the monthly public meeting agendas to all who request advanced copies; and

WHEREAS, the New Jersey State Board of Education is implementing a more effective and efficient method of dissemination by distributing an electronic copy of the agenda to all requesting individuals; and

WHEREAS, pursuant to N.J.S.A. 10:4-19, the New Jersey State Board of Education is permitted to establish a reasonable annual fee to each individual requesting a paper copy in lieu of an electronic copy; now therefore be it

RESOLVED, that the New Jersey State Board of Education hereby establishes an annual fee of \$25.00 for each agenda subscription to any individual requesting a paper copy of the agenda, prepaid to the New Jersey Department of Treasury and submitted to the State Board of Education Office, New Jersey Department of Education, 100 Riverview Plaza, Trenton, NJ 08625; and be it further

RESOLVED, that all requests for advanced copies of the public meeting agendas made pursuant to N.J.S.A. 10:4-19, shall terminate at midnight on December 31 of each year, but shall be renewed upon request.

I. Qualifying PRAXIS II Scores for Teachers and Adoption of New Tests for School Administrators and Principals

- Discussed raising the qualifying scores for the Praxis tests required for initial New Jersey teacher and educational services licensure pursuant to N.J.A.C. 6A:9-8.1(a)4 and 6A:9-13.6(b)2, and discussed the adoption of new tests and establishing qualifying scores to be used to license new school administrators and principals pursuant to N.J.A.C. 6A:9-12.4(a)3 and 12.5(a)3.

RESOLUTION
ESTABLISHING QUALIFYING SCORES FOR
PRAXIS II; AND ADOPTION OF NEW TESTS FOR
SCHOOL ADMINISTRATORS AND PRINCIPALS

WHEREAS, the State Board of Education has required that virtually all teacher certification candidates pass tests in specified disciplines in accordance with N.J.A.C. 6A:9-8.1, effective January 20, 2004; and

WHEREAS, the State Board of Education has required that school administrators pass a test of content knowledge directly related to the functions of school administrators in accordance with N.J.A.C. 6A:9-12.4, effective January 20, 2004; and

WHEREAS, the State Board of Education has required that principals pass a test of content knowledge directly related to the functions of principals in accordance with N.J.A.C. 6A:9-12.5, effective January 20, 2004; and

WHEREAS, Educational Testing Service (ETS) has developed The Praxis Series, Professional Assessments for Beginning Teachers, which includes Praxis II: Subject Assessment tests to assess content knowledge; and

WHEREAS, ETS has developed The School Leadership Series of tests, which include the School Leadership Licensure Assessment for entry-level principals and the School Superintendent Assessment for entry level superintendents to assess knowledge respective to the job responsibilities; and

WHEREAS, the State Board of Education approved the department's selection of Praxis II: Subject Assessment tests and the establishment of initial cutoff scores. The initial cutoff scores were set lower than those theoretically appropriate levels with the specific intention of increasing qualifying scores over time based on consideration of a variety of factors; and

WHEREAS, the department has identified the School Leaders Licensure Assessment and the School Superintendent Assessment as the most appropriate and rigorous tests to assess a candidate's content knowledge respective to competent professional practice for New Jersey principals and school administrators; and

WHEREAS, the Department of Education has determined through panel reviews of professional New Jersey educators that the Praxis II Subject Assessment tests are valid and that the recommended increases in qualifying scores are fair and appropriate for beginning New Jersey teachers; and

WHEREAS, the Department of Education has determined, through standard setting studies completed in conjunction with ETS and New Jersey principals and school administrators, that the School Leaders Licensure Assessment and the School Superintendent Assessment are valid and that the

recommended initial qualifying scores are fair and appropriate for entry level New Jersey principals and superintendents; now therefore be it

RESOLVED, that the State Board of Education hereby supports the department's selection of the School Leaders Licensure Assessment and the School Superintendent Assessment for entry level principals and school administrators; and be it further

RESOLVED, that the State Board of Education hereby acknowledges and accepts the department's establishment of the following qualifying scores:

Elementary Education: Content Knowledge (CK)	139
English Lang, Lit and Comp: CK	159
Mathematics: CK	133
Social Studies: CK	157
Physical Education: CK	151
Music: CK	150
Art: CK	146
French: CK	154
German: CK	154
Spanish: CK	157
Biology: CK Part 2	146
Chemistry: CK	139
Physics: CK	127
General Science: CK Part 1	152
General Science: CK Part 2	140
Marketing Education	600
Earth Science: CK	144
Health and Physical Education: CK	152
School Leaders Licensure Assessment	148
School Superintendent Assessment	151

J. COMMISSIONER'S RECOGNITION OF AWARD WINNERS

• National Board for Professional Teaching Standards Recognition

Commissioner Librera recognized 16 teachers who successfully completed requirements for national teaching certification from the National Board for Professional Teaching Standards. The mission of the National Board for Professional Teaching Standards is to establish high standards for what teachers should know and be able to do, develop and operate a national voluntary system to assess and certify teachers who meet these standards, and advance related education reforms for the purpose of improving student learning in American schools. The national teaching certification process includes additional hours of study, development of a comprehensive portfolio and documentation of community involvement and professional growth.

Richard Ten Eyck, assistant commissioner, Division of Educational Programs and Assessment, introduced the national certification recipients, their area of national certification and their school districts:

Recipient	School District	Area of National Certification
Shirley Allen Blackwood, NJ	Gloucester Township	Early Adolescence/English Language Arts
David Argeese Princeton Junction, NJ	West Windsor Plainsboro Regional	Early Adolescence/Mathematics
Lynn Audet Perth Amboy, NJ	Perth Amboy City	Early Childhood/Generalist
Janet Begley-Mccoid Somerset, NJ	Franklin Township	Early Childhood/Generalist
Keith Hodgson Linwood, NJ	Mainland Regional	Early Adolescence Through Young Adulthood/Music
Julie Joyce Rumson, NJ	Rumson Borough	Early Adolescence Through Young Adulthood/Exceptional Needs Specialist
Linda Koos North Brunswick, NJ	North Brunswick Township	Early Adolescence/ English Language Arts
Rebecca Mclelland Perth Amboy, NJ	Perth Amboy City	Adolescence and Young Adulthood/Science
Jodie Miller Randolph, NJ	Randolph	Adolescence and Young Adulthood/ Mathematics
Robert O'Boyle Pennington, NJ	Hopewell Valley Regional	Early Adolescence Through Adulthood/Art
Trista Pollard Westfield, NJ	Westfield Township	Middle Childhood/Generalist
Michael Randall Newark, NJ	Newark City	Early Adolescence/ English Language Arts
Christina Rodek Somerset, NJ	Franklin Township	Early Childhood/Generalist
Sally Ann Ruggiero Medford, NJ	Medford Township	Early Childhood/Generalist

On behalf of the State Board of Education, President Hyndman congratulated the teachers.

NEW BUSINESS

There was no new business.

LEGAL CASES

On motions duly seconded and carried, decisions in the following cases were adopted by the board as presented by legal committee members Margaret F. Bartlett, Kathleen Dietz, John A. Griffith, and Debra Casha, chairperson.

KATHLEEN DONVITO V. BOARD OF EDUCATION OF THE NORTHERN VALLEY REGIONAL HIGH SCHOOL DISTRICT, BERGEN COUNTY, AND LOUISE RYAN, STATE BOARD DOCKET #1-04

The State Board of Education denied the regional board's motion for a stay of the decision of the Commissioner of Education in this matter. Arnold G. Hyndman abstained.

IN THE MATTER OF THE TENURE HEARING OF FRANCES R. METALLO, SCHOOL DISTRICT OF THE CITY OF UNION CITY, HUDSON COUNTY, STATE BOARD DOCKET #24-03

The State Board of Education granted the appellant's motion for reconsideration of its decision of January 7, 2004 to dismiss her appeal in this matter for failure to perfect. However, after reconsideration of the record and review of the appellant's motion papers, the State Board reaffirmed its decision of January 7 to dismiss the appeal. John A. Griffith abstained.

GEORGE S. OSBORNE V. BOARD OF EDUCATION OF THE TOWNSHIP OF LAKEWOOD, OCEAN COUNTY; MEIR GRUNHUT, BOARD PRESIDENT, NORMAN BELLINGER, BOARD VICE PRESIDENT, CHET GALDO, HARVEY KRANZ, SARA LICHTENSTEIN, IRENE MICCIO, ABRAHAM OSTREICHER, NEAL PRICE AND LEONARD THOMAS, MEMBERS OF THE BOARD, AND DR. ERNEST J. CANNAVA, SUPERINTENDENT OF THE LAKEWOOD SCHOOL DISTRICT, STATE BOARD DOCKET #37-03

The petitioner, a taxpayer residing in Lakewood, filed a petition with the Commissioner of Education seeking a ruling that the district board's courtesy busing policy was unlawfully discriminatory and designed to segregate students on the basis of race, religion and gender. The State Board of Education voted unanimously to affirm the decision of the Commissioner to dismiss the petition, agreeing that the petitioner had not met his burden to present specific facts to show that the busing policy was being applied in a discriminatory manner. Thus, the petitioner had failed to demonstrate that the policy and its implementation were contrary to law. The State Board also denied the petitioner's motions to compel production of documents and to close the record.

SILVER FOX LEARNING CENTER, INC., ET AL. V. STATE-OPERATED SCHOOL DISTRICT OF THE CITY OF PATERSON, PASSAIC COUNTY; DR. ANNA DE MOLLI, ASSISTANT SUPERINTENDENT OF THE PATERSON PUBLIC SCHOOL DISTRICT; NEW JERSEY STATE DEPARTMENT OF HUMAN SERVICES; WILLIAM LIBRERA, NEW JERSEY COMMISSIONER OF EDUCATION; THE CITY OF PATERSON; AND FELIX ESPOSITO, IN HIS CAPACITY AS PATERSON CODE ENFORCEMENT OFFICIAL, STATE BOARD DOCKET #48-03

The petitioner, which operates a preschool in the State-operated school district of Paterson, an Abbott district, filed a petition with the Commissioner of Education challenging the State-operated district's denial of payment for preschool services provided during the period from September 1, 2001 through January 31, 2002, prior to its execution of a contract with the district on February 1, 2002. The State Board of Education voted unanimously to affirm the decision of the Commissioner to dismiss the petition, agreeing that the petitioner had not demonstrated that

it was providing authorized and verifiable Abbott preschool services during the period at issue so as to entitle it to Abbott preschool funding for that period.

The State Board concurred with the Commissioner that he had jurisdiction to decide the questions presented since resolution of whether the petitioner was operating as either an approved Abbott preschool or a de facto Abbott preschool during the period in question was controlled by the regulations governing the establishment of Abbott preschools. The State Board also agreed that the petitioner had failed to demonstrate that it was operating in compliance with the Abbott implementing regulations during the period at issue. Nor had the petitioner demonstrated that it should be considered to have been an Abbott preschool during the period from September 1, 2001 through January 31, 2002 notwithstanding the fact that it did not have a contract with the State-operated district until February 1, 2002.

IN THE MATTER OF THE REMOVAL OF RONALD UDY AND THE CENSURE OF DAVID A. EWART AND FRANK B. FRAZIER PURSUANT TO N.J.S.A. 18A:12-21 ET SEQ., WOODSTOWN-PILESGROVE BOARD OF EDUCATION, SALEM COUNTY, STATE BOARD DOCKET #50-03

The appeal in this matter arose from two complaints filed with the School Ethics Commission by a member of the Woodstown-Pilesgrove board alleging that the respondents, three other members of the board, had violated the School Ethics Act. The Commission notified the respondents that a hearing would be held to determine whether probable cause existed to credit the allegations against them. Following that hearing, the Commission determined that the respondents had violated the Code of Ethics for School Board Members, and it recommended that the Commissioner of Education impose the penalty of removal on respondent Udy and censure for respondents Ewart and Frazier.

Stressing that he was limited by statute to determining the appropriate sanction and thus precluded from reviewing the respondents' procedural and substantive claims with respect to the violations that had been found by the School Ethics Commission, the Deputy Commissioner of Education determined, on the basis of the Commission's findings, that the penalties recommended by the Commission were appropriate. However, the Deputy Commissioner concluded that, in light of troubling allegations of procedural errors, implementation of those penalties should be stayed pending appeal to the State Board of Education.

On appeal, the State Board concluded that the School Ethics Commission had violated the respondents' right to due process when it decided the merits of the matter after notifying them that the proceedings were for the purpose of determining whether probable cause existed to credit the allegations made by the complainant. Not only did the Ethics Commission fail to comply with N.J.A.C. 6A:28-1.12, the applicable regulatory provision, but its failure to do so deprived the respondents of their right to properly defend themselves against the merits of the allegations. The significance of this failure was highlighted by the fact that the respondents were disputing material facts relating to whether the alleged violations occurred. Given these circumstances, the State Board concluded that the decision of the School Ethics Commission was fatally flawed and could not be sustained. Therefore, the State Board voted unanimously to set aside that determination and to remand the matter to the School Ethics Commission for a determination as to whether probable cause existed to credit the allegations against the respondents. In the event that the Commission finds that probable cause exists, the State Board directed that the matter be transmitted to the Office of Administrative Law for hearing.

IN THE MATTER OF THE REMOVAL OF RICHARD ZAPPY PURSUANT TO N.J.S.A.
18A:12-25 AND 18A:12-26, GREATER EGG HARBOR REGIONAL HIGH SCHOOL
DISTRICT BOARD OF EDUCATION, ATLANTIC COUNTY, STATE BOARD
DOCKET #6-04

The State Board of Education voted unanimously to dismiss the appeal in this matter for failure to perfect. N.J.A.C. 6A:4-1.12(a).

ADJOURNMENT

On a motion duly seconded and carried the State Board of Education adjourned its April 7, 2004 public meeting at 2:30 p.m.

William L. Librera, Ed.D., Commissioner
Secretary, NJ State Board of Education

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