

**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**

August 4, 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
Mrs. Anne S. Dillman
Ms. Josephine E. Figueras
Mr. John A. Griffith
Mr. Samuel J. Podietz
Mr. Edward M. Taylor

ABSENT

Ms. Kathleen A. Dietz
Dr. Thelma Napoleon-Smith
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 August 4, 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 student honor codes. She stated that many students who are overwhelmed resort to cheating in order to remain competitive with other classmates who may also be cheating. She stated that she attended the Summer Scholars Program at Washington and Lee University in Lexington, Virginia and she observed that this college had one of the strongest honor codes in the nation requiring all students at this college submit their pledge of honor with all assignments and exams. Katie concluded by stating that she will present an “honor code” proposal to her high school principal this year.

President Hyndman, on behalf of the State Board, thanked the student speaker for her presentation and asked Katie to also present her proposal to the leadership organization, New Jersey Association for Student Councils. President Hyndman further stated that he would like Katie to provide a follow up to the state board members regarding the progress of this proposal.

Katie then introduced the student guest speaker.

Brian Furgione, a student from Oakcrest High School (Atlantic County), spoke to the State Board about the value of hiring and retaining good teachers. He stated that well prepared teachers help students prepare for college. He also stated that students want teachers who motivate them and help them develop integrity. Brian stated that although he does not have an answer as to how schools can obtain qualified and motivated teachers, he is hopeful that the educational community will explore new ways to find a solution.

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

INTRODUCTIONS

Commissioner Librera recognized William King, Warren County Superintendent of Schools, who represented the county superintendents. Mr. King has served in this position since July 1996.

STUDENT RECOGNITION

President Hyndman stated that the Student Recognition portion of the meeting is suspended for the months of July and August due to student's summer vacation and that the program will resume in September.

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 July 7, 2004 and July 21, 2004. State board members John Griffith and Maud Dahme abstained from the vote of the minutes for the July 21, 2004 work session.

PRESIDENT'S REPORT

August Work Session and Public Testimony Session

President Hyndman stated that the August work session will be held on August 18, 2004 at 1:00 p.m. at the Department of Education. The items for consideration will be the Core Curriculum Content Standards Update-Social Studies and the Highly Qualified Teachers Survey.

President Hyndman also stated that the August public testimony session will be held on August 18, 2004 at 3:00 p.m. He stated that the scheduled topic will be Amendments to N.J.A.C. 6A:3, Controversies and Disputes. He also stated that the August 18 public testimony session will be an open topic session in which members of the public may present testimony to the State Board on any educational topic of their choice. However, the State Board will not consider testimony on any legal cases that are currently before the State Board.

COMMISSIONER'S REPORT

Early Childhood Education Update

Ellen Frede, assistant to the Commissioner for Early Childhood Education presented the 2003-2004 end of the year report for the Office of Early Childhood Education. Dr. Frede outlined the three primary priorities of the Office of Early Childhood Education which include increasing capacity; ensuring high-quality programs and district accountability. Dr. Frede further stated that primary responsibility of the Office of Early Childhood Education is implementing the Abbott preschool program. In her presentation, Dr. Frede also focused on the major early childhood initiatives underway including the Self-Assessment Validation System, which informs revisions on the operational plans in the Abbott districts; the Early Learning Assessment System, which is a performance based assessment system designed to assess the skills of young children in Abbott districts on a statewide basis; and the Early Launch to Learning Initiative, designed to provide access to high quality preschool for all four-year-olds in New Jersey by 2010.

ITEMS FOR CONSIDERATION:

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

A. Appointments

- Approved the appointment of Paul L. Stephenson as County Superintendent of Camden County. State board member Edward Taylor abstained.

B. Certification of Districts

- Certified for a period of seven years, the Hainesport Township School District in Burlington County, 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*.

C. School Operations

- Approved as amended for publication in the *New Jersey Register* the amendments to School Operations regulations pertaining to N.J.A.C. 6A:28, pursuant to N.J.S.A. 9:6-8.40, 10:4-12, 18A:1-1, 18A:4-15, 18A:6-9, 18A:7A-1, 18A:7F-1, 18A:8-24, 18A:9-2, 18A:10-6, 18A:12-21, 18A:13, 18A:16-2, 18A:17-20, 18A:26-2, 18A:27-3, 18A:28-12, 18A:29-9, 18A:36-19.1, 18A:46-14, 47:1A-2, 47:3-15.

D. Controversies and Disputes

- Discussed the readoption with amendments to the Controversies and Disputes regulations at N.J.A.C. 6A:3-1.1 et seq., pursuant to N.J.S.A. 18A:4-15, 18A:6-9, 18A:6-10 et seq., 18A:11-3, 18A:12-29, 18A:29-14, 18A:38-1, 18A:38-13 and 18A:60-1.

NEW BUSINESS

State Board member Maud Dahme inquired when the evaluation of the P-20 partnerships would be presented to the State Board. The Commissioner stated that the report would be provided to the State Board in September.

State Board member John Griffith stated that he recently attended two conferences, sponsored by the Department of Education, Closing the Achievement Gap and the Literacy Conference. Mr. Griffith offered congratulations to the Department of Education staff responsible for the planning and execution of these conferences for their remarkable contributions.

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, John A. Griffith, and Debra Casha, chairperson.

B.M. AND M.M., on behalf of minor child, M.M. V. BOARD OF EDUCATION OF THE BOROUGH OF WOODCLIFF LAKE, BERGEN COUNTY, STATE BOARD DOCKET #19-04

The State Board of Education voted unanimously to affirm with modification the decision of the Commissioner of Education, concurring that the district board was required to provide the petitioners' daughter, an elementary school student, with transportation to and from school. In so doing, the State Board concluded that N.J.S.A. 18A:39-1 requires a district board to provide an elementary student with transportation if the student would have to walk more than two miles either to or from school as measured pursuant to N.J.A.C. 6A:27-1.2(a)2. Consequently, it overruled the Commissioner's decision in Dreifuss v. Board of Education of the Township of Chatham, 1988 S.L.D. 960, to the extent that it provided for the measurements to be averaged in order to determine eligibility for transportation if the student would be required to walk more than two miles from school but less than two miles to school. The State Board observed that it would defy logic to conclude that the Legislature, in enacting N.J.S.A. 18A:39-1, which had as its purpose the safety and welfare of children, intended to require district boards to provide elementary students with transportation only when a student would have to walk more than two miles to school. Nor was N.J.A.C. 6A:27-1.2(a)2 intended to create such a distinction.

In this case, there was no dispute that the petitioners' daughter would have to walk more than two miles from her home to school. Therefore, despite the fact that the walk from school was less than two miles due to curves in the road and the location of sidewalks and crosswalks, the State Board concurred with the ultimate determination of the Commissioner that the district board was required to provide her with transportation to and from school. The State Board added that the result would be the same if only the walk from school was more than two miles.

THOMAS MATARAZZO V. BOARD OF EDUCATION OF THE BOROUGH OF CLIFFSIDE PARK, BERGEN COUNTY, STATE BOARD DOCKET #17-04

The State Board of Education voted unanimously to affirm the decision of the Commissioner of Education, agreeing that the petitioner, a tenured supervisor whose position as supervisor of instruction had been abolished as the result of a reduction in force, was entitled to reinstatement as a district-wide supervisor as against a non-tenured individual. The Commissioner pointed out that the district board did not require instructional certification in addition to certification as a supervisor for either of those positions. Nor had the district board shown that certification other than as a supervisor was required in order to be qualified to perform the duties of district-wide supervisor. Thus, the petitioner's tenure rights as a supervisor entitled him to reinstatement as a district-wide supervisor as against the non-tenured individual who had been employed in that position.

IN THE MATTER OF THE REVOCATION OF THE TEACHING CERTIFICATES OF DOUGLAS SCOCCO BY THE STATE BOARD OF EXAMINERS, STATE BOARD DOCKET #35-03

Following a conviction in December 2000 for Possession of a Controlled Dangerous Substance, the appellant was notified by the Criminal History Review Unit in the Department of Education that he was permanently disqualified from employment in New Jersey's public schools pursuant to N.J.S.A. 18A:6-7.1 et seq. On the basis of this conviction, the State Board of Examiners initiated proceedings against the appellant's certification. However, in April 2002, the

conviction was vacated, and, in June 2002, the appellant pleaded guilty to Failure to Make Lawful Disposition of a Controlled Dangerous Substance, a disorderly persons offense. The Board of Examiners then resumed its proceedings against the appellant, and, in July 2003, it revoked his certification on the basis of his disqualification from service in the public schools as a result of his conviction for Failure to Make Lawful Disposition of a Controlled Dangerous Substance.

On March 3, 2004, the State Board of Education reversed the decision of the Board of Examiners and referred the matter to the Commissioner of Education for the purpose of updating the appellant's criminal history records and determining whether his conviction for Failure to Make Lawful Disposition of a Controlled Dangerous Substance disqualified him from employment in New Jersey's public schools. The State Board stressed that the conviction that had formed the basis for the appellant's disqualification had been vacated and that there had been no subsequent determination on behalf of the Commissioner by the Criminal History Review Unit that the appellant was disqualified from school employment. The State Board found that, while it would appear that Failure to Make Lawful Disposition of a Controlled Dangerous Substance was a disqualifying offense under N.J.S.A. 18A:6-7.1, the effect of the appellant's conviction for that offense had not been considered by the Commissioner pursuant to the disqualification statute. The State Board retained jurisdiction.

Pursuant to that decision, the Criminal History Review Unit issued a notice to the appellant on March 11, 2004 advising him that his conviction for Failure to Make Lawful Disposition of a Controlled Dangerous Substance was a disqualifying offense under N.J.S.A. 18A:6-7.1 et seq. and, as a result, that he was permanently disqualified from school employment. Pursuant to its retention of jurisdiction, the State Board of Education reviewed the updated record and found that, as set forth in the March 11, 2004 letter from the Criminal History Review Unit, the appellant's conviction for Failure to Make Lawful Disposition of a Controlled Dangerous Substance was a disqualifying offense and that he was permanently disqualified from employment in the public schools of New Jersey. The State Board further concluded that revocation of the appellant's teaching certification was warranted. Regardless of the underlying circumstances, the appellant pleaded guilty to and was convicted of an offense that involved the possession of a controlled dangerous substance. The State Board found that a conviction for such an offense bore upon the appellant's fitness to teach and warranted revocation of his certification. Ronald K. Butcher abstained.

IN THE MATTER OF THE DISTRIBUTION OF LIQUID ASSETS UPON DISSOLUTION OF THE UNION COUNTY REGIONAL HIGH SCHOOL DISTRICT NO. 1, UNION COUNTY, STATE BOARD DOCKET #14-04

This matter arose from the dissolution of the Union County Regional High School District No. 1, a limited purpose regional district comprised of Berkeley Heights, Clark, Garwood, Kenilworth, Mountainside and Springfield. On March 6, 2002, the State Board of Education, acting pursuant to a remand by the New Jersey Supreme Court, concluded that the amount of the liquid assets to be distributed to Mountainside and Garwood, which did not have any of the regional district's school buildings within their boundaries, included the entire amount of those assets, and not just the amount identified by the county superintendent in June 1997 as available for distribution at that time. Although it appeared that this amount included \$8.6 million in liquid assets that had been distributed among the six municipalities which comprised the regional district – \$6.9 million of which needed to be redistributed – and another \$2 million that was available for

distribution subject to certain contingencies, the State Board was not able to ascertain the exact amount to be distributed on the basis of the record before it. It therefore remanded this matter to the Commissioner of Education to establish that amount and effectuate its distribution.

On February 5, 2004, in accordance with the State Board's remand, the Commissioner determined the amounts to be distributed to Mountainside and Garwood. He directed that the fiscal agent immediately release \$438,680 to Mountainside and \$138,530 to Garwood, and that the four other constituent districts, Berkeley Heights, Clark, Kenilworth and Springfield, initiate the redistribution of assets to Mountainside and Garwood in ten equal semi-annual payments commencing on April 15, 2004. Rejecting the argument of Berkeley Heights, Clark, Kenilworth and Springfield that the payment schedule was unreasonable and would affect their ability to provide a thorough and efficient education, the Commissioner found that those districts had had ample opportunity to plan for such payments. The State Board voted unanimously to affirm the decision of the Commissioner.

IN THE MATTER OF THE TENURE HEARING OF SABINO VALDES, BOARD OF EDUCATION OF THE CITY OF UNION CITY, HUDSON COUNTY, STATE BOARD DOCKET #30-03

The State Board of Education voted unanimously to affirm the decision of the Commissioner of Education to dismiss the respondent, a tenured custodial employee, from his tenured position for insubordination and unbecoming conduct. The State Board agreed that the district board had demonstrated the truthfulness of the charges by a preponderance of the credible evidence and that dismissal of the respondent was the appropriate penalty under the circumstances.

CHARLES WEISBERG V. BOARD OF EDUCATION OF THE TOWNSHIP OF RIVERSIDE, BURLINGTON COUNTY, STATE BOARD DOCKET #16-04

The State Board of Education voted unanimously to affirm the decision of the Commissioner of Education to dismiss the petition filed by a tenured teaching staff member who claimed that the district board had improperly reduced his compensation in violation of his tenure rights when it withheld one day's salary as a result of his failure to provide a doctor's note, as requested, after calling in sick. The State Board agreed with the Commissioner that the district board's action in docking the petitioner for one day's pay was authorized by N.J.S.A. 18A:30-1 et seq. and that a district board was not required to comply with the requirements of N.J.S.A. 18A:6-10, governing the dismissal and reduction in compensation of tenured staff members, in withholding a tenured employee's salary for an unexcused absence.

ADJOURNMENT

On a motion duly seconded and carried the State Board of Education adjourned its August 4, 2004 public meeting at 11:35 a.m.

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