

**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 3, 2005

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

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

PRESENT CONSTITUTING A QUORUM

Mr. Arcelio Aponte
Ms. Margaret F. Bartlett
Dr. Ronald K. Butcher
Ms. Debra Casha
Ms. Josephine E. Figueras
Mr. John A. Griffith
Rev. Frederick LaGarde, Jr.
Dr. Ernest Lepore
Dr. Thelma Napoleon-Smith
Mr. Edward M. Taylor

ABSENT

Ms. Maud Dahme
Ms. Kathleen A. Dietz

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 3, 2005.

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 *NJSA 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 *NJSA 10:4-12(b)*, the State Board will now adjourn from executive session to resume the open session of this meeting.

STUDENT SPEAKERS

Raymond Thompson, Jr., the 2005 State Board student representative and a senior from High Point Regional High School (Sussex County), introduced the student guest speaker.

Danielle Centi, a student from Parsippany Hills High School (Morris County), spoke to the State Board about making a difference in your own life and the lives of others.

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

INTRODUCTIONS

Commissioner Librera recognized Robert Osak, Hudson County Superintendent of Schools, who represented the county superintendents. Mr. Osak has served in this position since September 1998.

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 6, 2005, as amended and July 20, 2005.

PRESIDENT'S REPORTS

Committee Announcements

President Hyndman announced the following State Board committees and the respective chairs for 2005-2006. The full committee list is as follows:

Legal Committee

Debra Casha, chair
Margaret Bartlett
Kathleen Dietz
Josephine Figueras
John Griffith

Legislative/Administrative Code Committee

Maud Dahme, chair
Ronald Butcher
Frederick LaGarde
Ernest Lepore
Thelma Napoleon-Smith

Urban Education Committee

John Griffith, chair
Ronald Butcher
Debra Casha
Josephine Figueras
Frederick LaGarde
Edward Taylor

International Education Committee

Kathleen Dietz, chair
Debra Casha
Maud Dahme
Josephine Figueras
Ernest Lepore

Retreat/Strategic Plan Committee

Debra Casha, chair
Ronald Butcher
Josephine Figueras
John Griffith
Ernest Lepore
Maud Dahme-Alternate

Nominating Committee

Maud Dahme, chair
Josephine Figueras
Edward Taylor

President's Advisory Committee

Arnold Hyndman, chair
Debra Casha
Maud Dahme
John Griffith

Assessment Committee

Ernest Lepore, chair
Arcelio Aponte
Margaret Bartlett
Josephine Figueras
Thelma Napoleon-Smith

President Hyndman also announced the State Board liaisons:

Student Health and Safety Issues Liaison

Josephine Figueras

Rural/Migrant Liaison

Maud Dahme

Vocational Education Liaison

Edward Taylor and Arcelio Aponte

Governor's Liaison

Arnold Hyndman
Debra Casha

Student Discipline Liaison

Edward Taylor and Arcelio Aponte

State Action for Educational Leadership Project (SAELP) Liaisons

Debra Casha
Arnold Hyndman

August Work Session and Public Testimony Session

President Hyndman stated that the August work session will be held on August 17, 2005 at 1:00 p.m. at the Department of Education. The item for discussion will be the Highly Qualified Teacher Survey.

President Hyndman also stated that the August public testimony session will be held on August 17, 2005 at 3:00 p.m. The topic for consideration will be *NJAC 6:30, Adult Education Programs*.

COMMISSIONER'S REPORT

Abbott Regulations

Commissioner Librera stated that he will report on the Abbott regulations at a future State Board meeting.

Additional Announcement

Commissioner Librera acknowledged the retirement of Mr. Thomas Jannarone. The Commissioner stated that Mr. Jannarone is a former superintendent of the Asbury Park School District and currently a strong supporter of Urban School Boards and the Urban School Districts through the New Jersey Association of School Administrators. On behalf of the department, Commissioner Librera wished Mr. Jannarone well in his retirement.

ITEMS FOR CONSIDERATION:

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

A. Appointments

- There were no appointments this month.

B. Certification of Districts

- Certified for a period of one year with conditions, those school district recommended by the county superintendent of schools pursuant to the Public School Education Act of 1975, *NJAC 6A:30, Evaluation of the Performance of School Districts*, and the *Manual for Evaluation of Local School Districts*.

C. Intent to Amend the Standards and Assessment for Student Achievement Code

- Adopted the resolution of intent as amended to eliminate the Special Review Assessment provision pursuant to *NJAC 6A:8-2.1(a)*.

WHEREAS, the State Board of Education is responsible under N.J.A.C. 6A:8-2.1(a) for establishing State educational goals and standards; and

WHEREAS, pursuant to N.J.A.C. 6A:8-5.1(a)5, all New Jersey public school students are required to demonstrate proficiency in all sections of the High School Proficiency Assessment (HSPA) or Special Review Assessment (SRA) process applicable to the class graduating in the year they meet all other graduation requirements; and

WHEREAS, pursuant to N.J.A.C. 6A:8-4.1(c), district boards of education are required, according to a schedule prescribed by the Commissioner, to administer the applicable Statewide assessments, including the five major components: the elementary assessment component for grades three through seven, the grade eight assessment component, the High School Proficiency Assessment (HSPA), the Special Review Assessment (SRA), and the Alternate Proficiency Assessment (APA); and

WHEREAS, the Commissioner has reviewed the Special Review Assessment (SRA) requirements at N.J.A.C. 6A:8-4.1 and 5.1 and is recommending amendments to those sections to eliminate the SRA provision; and

WHEREAS, the Commissioner is recommending these amendments as part of a multi-pronged process for ensuring that all students have every opportunity to achieve the Core Curriculum Content Standards in language arts literacy, mathematics, and science and then demonstrate that achievement in order to earn a State-endorsed high school diploma; now therefore be it

RESOLVED, that the New Jersey State Board of Education announces its intent to amend the Statewide Assessment System requirements in N.J.A.C. 6A:8-4.1 to limit the provision of the SRA process in mathematics to those students entering the ninth grade prior to the 2007-2008 academic year; and be it further

RESOLVED, that the New Jersey State Board of Education announces its intent to amend the Statewide Assessment System requirements in N.J.A.C. 6A:8-4.1 to limit the provision of the SRA process in language arts literacy to those students entering the ninth grade prior to the [2005-2006] 2006-2007 academic year.

RESOLVED, that the New Jersey State Board of Education hereby directs the Department of Education to develop alternative opportunities for students to demonstrate the achievement of high school graduation requirements with particular attention to alternative opportunities for students enrolled in adult education and vocational education; and be it further

RESOLVED, that the New Jersey State Board of Education hereby directs the Department of Education to present these alternative opportunities to the State Board of Education for approval prior to the State Board of Education taking any action to amend the Statewide Assessment System requirements in N.J.A.C. 6A:8-4.1.

D. Programs to Support Student Development

- Adopted the amendments pertaining to Student Conduct proposed at NJAC 6A:16 pursuant to NJSA 18A:1.1, 18A:4-15, 18A:37-1 to 5, 18A:38-1 to 36, 18A:40-1 to 40A-21.

E. School Operations

- Adopted the repropoed new chapter of School District Operations pertaining to *NJAC* 6A:32, and repeal of *NJAC* 6:3, 6:8 and 6A:9-7 pursuant to *NJSA* 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 and 47:3-15.

F. State Board of Examiners

- Adopted the resolution approving the appointment to the State Board of Examiners in accordance with *NJSA* 18A:6-34 and 35.

**RESOLUTION
STATE BOARD OF EXAMINERS**

WHEREAS, pursuant to N.J.S.A. 18A:6-38, the State Board of Examiners is responsible for issuing, revoking and suspending educational certificates under rules prescribed by the State Board of Education; and

WHEREAS, pursuant to N.J.S.A. 18A:6-34, members of the State Board of Examiners are appointed by the Commissioner of Education with the approval of the State Board of Education; and

WHEREAS, the Commissioner, after consulting with members of the education community, has recommended the appointment and reappointment of individuals; and

WHEREAS, the individuals recommended have established reputations for distinguished service; now, therefore, be it

RESOLVED, that the State Board of Education hereby approves the reappointment of the following persons to two-year terms on the State Board of Examiners:

Ms. Ida Bilbow
Teacher

Mr. Jerome Bohnert
School Business Administrator

Dr. R. Barbara Gitenstein
President
The College of New Jersey

Mr. Richard Kaplan
Superintendent, Type I District

Mr. William King
County Superintendent

Dr. Mary Jane McNally
Library Media Specialist

Dr. Robert Petix
High School Principal

Mr. Peter Tirri
Teacher

G. Special Education Advisory Council

- Approved the appointments to the State Special Education Advisory Council pursuant *NJSA 18A:46-2* and *P.L. 94-142*.

**RESOLUTION
APPOINTMENTS TO
THE STATE SPECIAL EDUCATION ADVISORY COUNCIL**

WHEREAS, N.J.S.A. 18A:46-2 requires that the Commissioner shall appoint biannually an advisory council for special education with the approval of the State Board which will consist of not fewer than seven nor more than 15 members representative of professionals in the field of special education and parents of children with disabilities; and

WHEREAS, N.J.S.A. 18A:46-2 defines the role of the advisory council as advising in the promulgation of rules, regulations and implementation of N.J.A.C. 6A:14 and the establishment of standards and qualifications for the professional personnel and further provides that the council members shall serve without remuneration; and

WHEREAS, the reauthorized Individuals with Disabilities Education Act (IDEA) of 1997 amendments require each state education agency to have an advisory panel for special education; and

WHEREAS, the New Jersey Department of Education has established and maintains an advisory panel, known as the State Special Education Advisory Council, for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State; and

WHEREAS, the advisory panel consists of members, who are representative of the state population and are composed of individuals involved in, or concerned with, the education of children with disabilities, including: (i) parents of children with disabilities; (ii) individuals with disabilities; (iii) teachers; (iv) representatives of institutions of higher education that prepare special education and related services personnel; (v) state and local education officials; (vi) administrators

of programs for children with disabilities; (vii) representatives of other state agencies involved in the financing or delivery of related services to children with disabilities; (viii) representatives of private schools and public charter schools; (ix) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and (x) representatives from the state juvenile and adult corrections agencies; and

WHEREAS, a majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities; and

WHEREAS, the advisory panel shall: (i) advise the department of unmet needs within the state in the education of children with disabilities; (ii) comment publicly on any rules or regulations proposed by the department regarding the education of children with disabilities; (iii) advise the department in developing evaluations and reporting on data to the Secretary of the United States Department of Education under Part B Sec. 618 of the Individuals with Disabilities Education Act; (iv) advise the department in developing corrective action plans to address findings identified in federal monitoring reports under this part; and (v) advise the department in developing and implementing policies relating to the coordination of services for children with disabilities; now therefore be it

RESOLVED, that the State Special Education Advisory Council meets the state mandate for an advisory council and the federal requirements for an advisory panel; and be it further

RESOLVED, that the Commissioner recommends that Ms. Kathleen Mullery be appointed to the State Special Education Advisory Council for a two-year term effective August 3, 2005. Ms. Mullery is the Associate Executive Director of the ARC of Monmouth County and the parent of a student with a disability. She has been a member of the Millstone Township Self-Assessment Steering Committee and of POSS (Parents of Special Students), one of the township's parent support groups. In her role of Associate Executive Director, Ms. Mullery has been involved in many special education advocacy activities; and be it further

RESOLVED, that the Commissioner recommends that Ms. Melinda Jennis be appointed to the State Special Education Advisory Council for a two-year term effective August 3, 2005. Ms. Jennis is also the parent of a student with a disability. She has served for three years as the president of the Montville Parents of Exceptional Children. Under her leadership, Montville PEC has not only provided parent support, but has also initiated recreation and mentoring programs that include both special and general education students. Ms. Jennis is also the founder and chairperson of the United Leadership Council for Exceptional Children, a group which provides training and support to parents and community leaders in 32 communities to assist them in developing programs and resources for all students.

RESOLVED, that the Commissioner recommends that Mr. Patrick J. Fay be appointed to the State Special Education Advisory Council for a two-year term effective August 3, 2005. Mr. Fay is the parent of two students with disabilities. He is a detective with the Cranford Police Department, a member of the Union County

Terrorism Task Force and involved in many advocacy activities. He is the co-director of the New Jersey Coalition for Autism Awareness, a member of the Center for Outreach and Services for the Autism Community Government Affairs Committee, and a member of the New Jersey Developmental Disability Council.

H. Professional Licensure and Standards

- Discussed the amendments pertaining to the re-establishment of the industrial arts endorsement pursuant to statute; delineate the individual authorizations for business education/business-related technologies and family and consumer sciences endorsements; provide grandfathering provisions; and clarify degree, credit-hour, grade point average, experience and/or mentoring requirements for various endorsements proposed at N.J.A.C. 6A:9 pursuant to N.J.S.A. 18A:1-1, 18A:4-15, 18A:6-34, 18A:6-38, 18A:26-10 and 18A:26-2.7.

NEW BUSINESS

State Board Member Josephine Figueras stated that she would like to see that the State Board and the Department consider translating the High School Proficiency Assessment and the Grade Eight Proficiency Assessment into various languages for children with language barriers. State Board Member Ernest Lepore asked if the Department brings a proposal for alternative opportunities for students to demonstrate the achievement of high school graduation requirements to the State Board in the fall, can the proposal be implemented as an option before the dates established in the adopted resolution. State Board Member Debra Casha asked if letters that are sent to parents informing them of their child's test scores are written in their native language. State Board Member Edward Taylor stated that the Department may have some difficulties with some languages because the Federal Government requires the State to test all but 1 or 2 percent of all children in the schools. He also stated that the test may not be measuring what the Department wants tested. He further stated that an item analysis may need to be completed to ensure that the test is measuring what the Department wants students to know. State Board Member Ernest Lepore asked if the Federal Government provides flexibility for non-native speakers regarding testing. State Board Member Edward Taylor inquired about other states that produce assessment tests in languages other than English. State Board Member Arcelio Aponte asked if the alternate plans for the SRA should first be reviewed by the Assessment Committee prior to consideration by the State Board. State Board President Arnold G. Hyndman stated that the State Board accomplished a great deal today in the areas of discipline and testing and reminded State Board members that there is still more work to be completed in both areas.

LEGAL CASES

CONTROL BUILDING SERVICES, INC. V. STATE-OPERATED SCHOOL DISTRICT OF THE CITY OF PATERSON, PASSAIC COUNTY, BOARD OF EDUCATION OF THE CITY OF PATERSON, EDWIN DUROY, MICHAEL AZZARA AND PRITCHARD INDUSTRIES, STATE BOARD DOCKET #42-04

Chairperson Debra Casha reported that she and President Hyndman had previously granted the Commissioner's request to extend the date for submission of his report in this matter until April 20, 2005. She reported that when no communication about the matter was received from

the Commissioner by May 31, they sent him a memorandum indicating that, while the legal committee desired his input, the committee, in fairness to the parties involved, could not continue to delay its review and that the matter was being placed on the agenda for the legal committee meeting scheduled for June 15, 2005.

She reported that by a memorandum dated June 17, 2005, Deputy Commissioner Dwight Pfennig had advised that the attorneys for Control Building Services, Inc. had filed a new petition of appeal with the Commissioner. The Deputy Commissioner related that the new petition contended that Pritchard Industries, Inc., which was awarded the custodial contract as a result of the re-bidding process, should not have been awarded the contract because it could not be regarded as the lowest “responsible” bidder. The Deputy Commissioner indicated that this contention was based on the alleged improprieties in the original bidding process. He also indicated that since the events surrounding the original bidding process would be the subject of fact-finding in the new litigation, it would be necessary to await the administrative law judge’s initial decision and to make a final decision based solely on the evidence in the record developed in the proceedings before the ALJ.

Chairperson Casha reported that upon receipt of the memorandum, the legal committee had reviewed the information provided by the Deputy Commissioner. The committee had concurred with the Deputy Commissioner that under the circumstances, it was appropriate to await the resolution of the current litigation before taking any additional action relating to the circumstances surrounding the original bidding process. Chairperson Casha further reported that the legal committee had concluded that there was no need at this point for the State Board to take any further action in relation to the matter.

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

IN THE MATTER OF THE INCLUSION OF CERTAIN QUESTIONS ON THE BALLOT FOR THE APRIL 2005 CAMDEN SCHOOL ELECTION, CAMDEN COUNTY, STATE BOARD DOCKET #15-05

The appellant, who sought to place a referendum regarding school prayer and a Bible-based curriculum on the ballot for the Camden board’s April 2005 school election, appealed to the State Board of Education from the Camden board’s denial of his request. Given the statutory framework, the State Board dismissed the appeal and remanded the matter to the Commissioner of Education pursuant to the original jurisdiction conferred on him by *NJSA 18A:6-9* to determine in the first instance any claims arising under the school laws. The State Board stressed that a party seeking to pursue a claim that a district board’s action violated the education laws was required to first invoke the original jurisdiction conferred on the Commissioner by *NJSA 18A:6-9* to hear and determine all controversies and disputes arising under the school laws. A party aggrieved by a decision of the Commissioner may then appeal from his determination to the State Board of Education. *NJSA 18A:6-27*. Arcelio Aponte and Frederick J. LaGarde, Jr. abstained.

IN THE MATTER OF THE DENIAL OF CERTIFICATION AFTER REVOCATION OF OTTO KRUPP, STATE BOARD DOCKET #20-05

The appellant filed an appeal with the State Board of Education from a decision by the State Board of Examiners to deny his application for a teaching certificate. The Board of Examiners determined that since the appellant had been permanently disqualified from service in the public schools of New Jersey as a result of his conviction for murder in 1981, *NJSA 18A:6-7.1*, such disqualification provided just cause to deny his application.

The State Board of Education remanded this matter to the Commissioner of Education so that he could determine under the applicable law whether the Board of Examiners' decision to deny the appellant's application was proper. The State Board stressed that any appeal from a determination made by the Board of Examiners to deny the issuance of certification must be made to and decided by the Commissioner of Education pursuant to the original jurisdiction conferred on him by *NJSA 18A:6-9*. Arcelio Aponte and Frederick J. LaGarde, Jr. abstained.

A.M., on behalf of minor children, A.M.C. AND J.M.C. V. BOARD OF EDUCATION OF THE TOWNSHIP OF UNION, UNION COUNTY, STATE BOARD DOCKET #52-04

The State Board of Education approved the parties' proposed settlement to the extent that it represented a settlement of the pending appeal, finding it to be in accord with the principles expressed in *In re Cardonick*, decided by the State Board of Education, April 6, 1983. Arcelio Aponte and Frederick J. LaGarde, Jr. abstained.

IN THE MATTER OF THE REVOCATION OF THE CERTIFICATES OF ANTHONY NARDINI BY THE STATE BOARD OF EXAMINERS, STATE BOARD DOCKET #21-05

The State Board of Education affirmed the decision of the State Board of Examiners to revoke the teaching certificates of the appellant as a result of his conviction in New York in 1991 for public lewdness. The State Board reiterated that the appellant had been disqualified from service in the public schools of New Jersey as a result of his conviction, *NJSA 18A:6-7.1*, and it concluded that the Board of Examiners could properly rely upon that conviction for purposes of finding unbecoming conduct warranting the revocation of his certificates. Arcelio Aponte, Josephine E. Figueras, Arnold G. Hyndman and Frederick J. LaGarde, Jr. abstained.

IN THE MATTER OF THE SUSPENSION OF THE CERTIFICATES OF COREY YOUNGER BY THE STATE BOARD OF EXAMINERS, STATE BOARD DOCKET #13-05

The State Board of Education denied the appellant's motion for a stay of the State Board of Examiners' decision suspending his teaching certificates for two years, concluding that he had failed to satisfy the standards for such relief set forth in *Crowe v. De Gioia*, 90 *N.J.* 126 (1982). The State Board also denied the appellant's motion for reconsideration of its decision of May 4, 2005, in which it had denied the appellant's motion seeking additional discovery and supplementation of the record on appeal. The State Board found that the appellant had not presented anything that would merit disturbing its determination that additional discovery was not warranted. Arcelio Aponte and Frederick J. LaGarde, Jr. abstained.

ADJOURNMENT

On a motion duly seconded and carried the State Board of Education adjourned its August 3, 2005 public meeting at 1:50 p.m.

Richard Rosenberg, Acting Commissioner
Acting Secretary, NJ State Board of Education

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