

**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**

February 1, 2006

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

Secretary: Lucille E. Davy, Acting Commissioner

PRESENT CONSTITUTING A QUORUM

Mr. Arcelio Aponte
Dr. Ronald K. Butcher
Ms. Debra Casha
Ms. Maud Dahme
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. 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 February 1, 2006.

ADJOURN TO EXECUTIVE SESSION

Arnold G. 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), gave his final presentation to the State Board. He thanked the State Board for the opportunity to serve as the 2005 State Board student representative. He stated that his interaction with the State Board has been a valuable experience. He also expressed his appreciation to his school and to his family for supporting him in his role as the State Board student representative.

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

INTRODUCTIONS

Commissioner Davy recognized Robert Gilmartin, Acting Passaic County Superintendent of Schools, who represented the county superintendents. Dr. Gilmartin has served in this position since November 2005.

Student Recognition Program

The State Board recognized Sara Steele, West Milford High School (Passaic 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 Sara for her achievements in academic programs and extracurricular activities.

On behalf of the State Board, President Hyndman congratulated Sara on her achievements.

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 January 4 and January 18, 2006.

PRESIDENT'S REPORTS

Resolution to Recognize State Board Student Representative Raymond Thompson

On behalf of the State Board, President Hyndman thanked Raymond Thompson, for his outstanding job of representing the New Jersey Association of Student Councils as a nonvoting member on the State Board of Education for the past year. President Hyndman expressed his appreciation to Raymond for his dedication and commitment to his position. President Hyndman wished Raymond the best as he finished his senior year and presented him with a gift on behalf of the State Board members.

Vice President Debra Casha read the following resolution for Raymond into the record. On a motion duly seconded and carried, the State Board unanimously approved the adoption of the resolution:

RESOLUTION FOR RAYMOND THOMPSON

WHEREAS, Raymond Thompson, a student at High Point Regional High School in Sussex County, has served with dedication as the student representative to the New Jersey State Board of Education from March 2005 to February 2006; and

WHEREAS, Raymond has performed his duties as the State Board's liaison to the student community with commitment and has been an outstanding representative of both the New Jersey Association of Student Councils and the High Point Regional High School; and

WHEREAS, Raymond participated in State Board meetings by making presentations which were articulate, thought-provoking, well-researched and a benefit to the State Board members; and

WHEREAS, Raymond's school career demonstrates that he is an accomplished student of academics and his leadership activities and community services on the local and state level demonstrate that others have confidence in Raymond and value his contributions; and

WHEREAS, Raymond is a bright, outgoing young man who sets long range goals and pursues them with enthusiasm and commitment; now therefore be it

RESOLVED, that the members of the New Jersey State Board of Education and the Acting Commissioner of Education, Lucille E. Davy, extend their sincere congratulations and appreciation to Raymond Thompson for a job well done and be it further,

RESOLVED, that the New Jersey State Board of Education and the Commissioner of Education wish to acknowledge Raymond Thompson's personal and academic excellence as well as his leadership qualities, and that they wish him continued success in his future endeavors.

February Work Session and Public Testimony Session

President Hyndman stated that the February work session will be held on February 15, 2006 at 1:00 p.m. at the Department of Education. The items for discussion will be the Overview of Statewide Collaborative on Assessment and Student Standards, Evaluation of the Performance of School Districts (Quality Single Accountability Continuum [NJ QSAC]), and the Role of Social and Emotional Skills in Academic Success.

President Hyndman also stated that the February public testimony session will be held on February 15, 2006 at 3:00 p.m. The topic for consideration will be *NJAC 6A:30*, Evaluation of the Performance of School Districts (New Jersey Quality Single Accountability Continuum, NJ QSAC).

Retreat and Strategic Plan Committee

State Board Member Debra Casha, chair of the Retreat and Strategic Plan committee provided an update on the activities of the Retreat and Strategic Plan committee. Ms. Casha stated that the committee met in January to discuss a plan of action to follow up with issues raised at the November 2005 State Board annual policy retreat particularly methods to maintain focus on the six educational priorities identified in fall 2005. She further stated that the State Board agreed to also add the implications of race and culture as a seventh priority. Ms. Casha stated that State Board members have been assigned to serve as chairs for each priority and will work in committees to develop broad goal statements and measurable objectives with specific timelines. Ms. Casha also stated that each committee will submit their goals and objectives for each priority by April 1, 2006. The list of educational priorities and State Board members' chair assignments are as follows: Quality Teachers and School Leaders, *Debra Casha*, Language Arts and Math Literacy, *Arnold Hyndman*, Assessment, *Ernest Lepore*, International Education, *Kathy Dietz*, Vocational Education, *Edward Taylor*, Funding, *Ronald Butcher* and Implications of Segregation on Student Achievement, *Thelma Napoleon-Smith*

Commission on the State of Financial Education

State Board Member Arcelio Aponte presented an update on the first meeting of the Commission on the State of Financial Education, a panel convened by the National Association of State Boards of Education, to review the status of Financial Education from K-12 throughout the country. Mr. Aponte stated that the panel's charge is to review the current standards of financial education; review curricula; policy; and publish and disseminate a comprehensive report providing recommendations to state policy makers on standardizing and incorporating financial education into the curriculum. Mr. Aponte also stated that the national strategy is to raise awareness of the importance of financial literacy with a focus on personnel finance such as savings and checking account management; long term planning, home ownership, and credit management; to set standards for an effective financial education program, which includes content, delivery, impact and sustainability; to broker partnerships; and to provide technical assistance in program development and teacher training.

Request for Extension

President Hyndman asked the State Board to consider the request made by Acting Commissioner Davy in the Commissioner's Report that the Board grant her a 90-day extension for reporting to the State Board as directed in its decision of January 4, 2006 in Rosalie Bacon, et al. and Buena Regional, Clayton, Commercial, Egg Harbor City, Hammonton, Fairfield, Lakehurst, Lakewood, Lawrence, Little Egg Harbor, Maurice River, Ocean, Quinton, Salem City, Upper Deerfield, Wallington, and Woodbine School Districts v. New Jersey State Department of Education, State Board Docket #4-03.

On a motion duly seconded and carried, the State Board voted unanimously to grant the Commissioner's request for a 90-day extension for reporting to the State Board and to apply the extension both to the reports due by February 1 and March 1, 2006.

Passing of Coretta Scott King

Dr. Hyndman recognized the passing of Mrs. Coretta Scott King with a moment of silence.

COMMISSIONER'S REPORT

Career and Technical Education Week

The State Board adopted the resolution making February 12 through February 18 "Career and Technical Education Week." This week will highlight the contributions of Career and Technical Education in preparing students for a broad range of career opportunities, and in providing for a strong, well-educated work force to support New Jersey's economy.

On a motion duly seconded and carried, the State Board unanimously adopted as amended the following resolution read by Vice President Debra Casha:

RESOLUTION RECOGNIZING NATIONAL CAREER AND [TECHNOLOGY] TECHNICAL EDUCATION WEEK IN NEW JERSEY

WHEREAS: February 12-18, 2006, has been designated Career and Technical Education Week by the Association for Career and Technical Education; and

WHEREAS: profound economic and technological changes in our society are rapidly reflected in the structure and nature of work, thereby placing new and additional responsibilities on our educational system; and

WHEREAS: career and technical education provides students with school-to-career connections and contributes to a strong, well-educated workforce, which fosters productivity in business and industry and enhances New Jersey's competitiveness in the international marketplace; and

WHEREAS: career and technical education gives students experience in practical, meaningful applications, integrating academic preparation and technical skills, thus

improving the overall quality of their education and giving students leadership opportunities in their future career fields and in their communities; and

WHEREAS: career and technical education offers individuals lifelong opportunities to learn new skills, which provide them with career choices and potential satisfaction; and

WHEREAS: the ever-increasing cooperative efforts of career and technical educators with business and industry, as well as with postsecondary institutions, stimulate the growth and vitality of our state and local economy and that of the entire nation by preparing graduates for career fields forecast to experience the largest and fastest growth in the next decade; now therefore, be it

RESOLVED that the State Board of Education does hereby proclaim February 12-18, 2006, as

Career and Technical Education Week

in New Jersey and encourages awareness of the services and benefits offered by the career and technical education programs throughout New Jersey and support for and participation in these programs.

2006 School Report Card

Acting Commissioner Davy stated that the 2005 New Jersey School Report Card was released at 9:00 a.m. on February 1, 2006 to the public. She stated that the Legislature established the School Report Card process so that parents and interested citizens can review statistics about their local schools and evaluate whether the schools are providing their students with a high-quality education in a cost-effective way. Acting Commissioner Davy also stated that while the report card is primarily a tool for each community to use in its own evaluation of its own schools' performance, the state-level comparisons included in the various report card fields do allow us to identify some statewide trends. The New Jersey Report Card and database can be found on the department's website at <http://education.state.nj.us/rc/>.

ITEMS FOR CONSIDERATION:

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

A. Appointments

- There were no appointments.

B. Certification of Districts

- Certified for a period of seven years the following school districts as 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*.

| | |
|--------------------------|------------------------|
| Atlantic County | Ocean County |
| Absecon | Long Beach Island |
| Linwood | Somerset County |
| Northfield | Bernards Township |
| Burlington County | Warren County |
| Mansfield Township | North Warren Regional |
| Gloucester County | |
| Deptford Township | |
| Logan Township | |

C. Professional Licensure and Standards

- Adopted the amendments pertaining to emergency certification for special education, English as a second language and bilingual education proposed at *NJAC 6A:9* pursuant to *NJSA 18A:1-1, 18A:4-15, 18A:6-34, 18A:6-38, 18A:26-10 and 18A:26-2.7.*

D. 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
REAPPOINTMENT 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. Carolyn Hayer be reappointed to the State Special Education Advisory Council for a two-year term effective February 1, 2006. Ms. Hayer is the parent of two children with disabilities. This has led to her involvement in a number of organizations supporting families with disabilities. She is currently the Family Partners Educational Advocacy Program Coordinator for the ARC of Bergen and Passaic counties. She is also a Technical Assistance Specialist in the Northern Region for the Statewide Parent Advocacy Network (SPAN).

E. Evaluation of the Performance of School Districts

- Discussed the amendments pertaining to the implementation of the Quality Single Accountability Continuum (NJ QSAC) proposed at *NJAC* 6A:30 pursuant to *NJSA* 18A:7A-3 et. seq.

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 Josephine E. Figueras, John A. Griffith, and Debra Casha, chairperson.

BOARD OF EDUCATION OF THE TOWNSHIP OF EAST BRUNSWICK, MIDDLESEX COUNTY V. NEW JERSEY STATE DEPARTMENT OF EDUCATION, COMMISSIONER OF EDUCATION, STATE BOARD DOCKET #30-04

The State Board of Education voted unanimously to direct the district board to supplement the record with any documents detailing the amount of extraordinary special education aid received by the district pursuant to N.J.S.A. 18A:7F-19(b) for the 2002-03, 2003-04 and 2004-05 school years and any other documentation bearing upon the effect in subsequent years of the amount of extraordinary special education aid received by the district in 2001-02.

JOY FERRONTO V. BOARD OF EDUCATION OF THE TOWNSHIP OF WEYMOUTH, ATLANTIC COUNTY, LINDA N. GAVULA AND MARGUERITE BETZ, STATE BOARD DOCKET #36-05

The petitioner, who had achieved tenure as a school clerk, challenged the district board's action to abolish her position and establish in its place the positions of "aide" and "secretary." An administrative law judge (ALJ) concluded that the elimination of the petitioner's position was taken in bad faith and could not be sustained. The ALJ rejected the district board's contention that it had acted for economic reasons, finding that the chief school administrator had been motivated by a desire to rid herself of an employee she considered to be inadequate. Since the district board had not followed the requirements of N.J.S.A. 18A:6-10 before terminating the petitioner's employment, the ALJ concluded that the board's action was improper. The Acting Commissioner of Education adopted the ALJ's conclusion and directed that the petitioner be reinstated to her tenured employment.

The State Board of Education voted unanimously to affirm the decision of the Acting Commissioner, but it modified his analysis. In so doing, the State Board found that it was not necessary to rely upon N.J.S.A. 18A:28-9, which by its terms applied only to a reduction in the number of "teaching staff members," in order to resolve this matter. N.J.S.A. 18A:17-2 specifically governs the tenure of individuals employed in clerical positions. In addition to specifying the requirements for achieving tenure in such positions, N.J.S.A. 18A:17-2 provides that individuals who acquire tenure under the statute "...shall not be dismissed...except for neglect, misbehavior or other offense and only in the manner prescribed by [N.J.S.A. 18A:6-10]." N.J.S.A. 18A:6-10 in turn provides that no person under tenure may be dismissed or reduced in compensation except for inefficiency, incapacity, unbecoming conduct or other just cause and then only after a hearing. In addition, N.J.S.A. 18A:17-2 provides that "[n]othing in this section shall prevent the reduction of the number of any such persons...under the conditions and with the effect provided by law."

The State Board agreed with the ALJ and the Acting Commissioner that the reconfiguration resulting in the elimination of the petitioner's clerical position was not undertaken for economic reasons as the district board claimed, but was the result of the chief school administrator's dissatisfaction with the petitioner's performance of her clerical responsibilities. As both the ALJ and the Acting Commissioner stressed, the proper way to proceed under such circumstances is to initiate tenure proceedings as provided for by N.J.S.A. 18A:6-10.

BOARD OF EDUCATION OF THE LENAPE REGIONAL HIGH SCHOOL DISTRICT,
BURLINGTON COUNTY V. NEW JERSEY STATE DEPARTMENT OF EDUCATION,
OFFICE OF SPECIAL EDUCATION, STATE BOARD DOCKET #54-05

The State Board of Education voted unanimously to deny the motion for leave to appeal an interlocutory decision filed in this matter.

JUDY A. MAZZEO V. BOARD OF EDUCATION OF THE TOWNSHIP OF BARNEGAT,
OCEAN COUNTY, STATE BOARD DOCKET #45-05

The State Board of Education voted unanimously to affirm the decision of the Acting Commissioner of Education to dismiss the petition in this matter as a result of the petitioner's failure to file within the 90-day limitations period set forth in N.J.A.C. 6A:3-1.3.

IN THE MATTER OF THE PETITION FOR AUTHORIZATION TO CONDUCT A
REFERENDUM ON THE WITHDRAWAL OF THE NORTH HALEDON SCHOOL
DISTRICT FROM THE PASSAIC COUNTY MANCHESTER REGIONAL HIGH SCHOOL
DISTRICT, PASSAIC COUNTY, STATE BOARD DOCKET #9-05

This matter involved an appeal from a determination by the Commissioner of Education made pursuant to a remand by the New Jersey Supreme Court in a case arising from North Haledon's petition to withdraw from the regional district. In its decision, the Supreme Court affirmed the Appellate Division's determination reversing the Board of Review's approval of submission to the voters of the question of North Haledon's withdrawal from the regional district. Like the Appellate Division, the Supreme Court found that the loss of 9% of the regional district's white population that would result from North Haledon's withdrawal, coupled with demographic data showing a substantial increase in the non-white population of the remaining towns, would have a substantial negative impact on the education provided by the regional district. The Supreme Court concluded that the Board of Review's decision was not sustainable as a matter of law, and it remanded the matter to the Commissioner to develop, in consultation with the constituent municipalities an equitable cost apportionment scheme for the regional district.

On January 18, 2005, the Commissioner rendered his decision setting forth his cost allocation plan. The Commissioner determined that, ultimately, 67% of the tax apportionment of the regional district should be derived through the equalized valuation method and 33% based on the proportion of student enrollment. Since the new apportionment of costs would result in increased costs for Haledon and Prospect Park, the Commissioner concluded that it should be phased in over a four-year period. The Commissioner further determined that during the transitional period, the per pupil share for each community should be calculated in accordance with dates specified in his decision on the basis of the community's enrollment in grades 8 through 11 and should remain in place for a two-year cycle for purposes of budget preparation. North Haledon, Haledon and Prospect Park appealed to the State Board of Education.

In reviewing the matter, the State Board realized that it was not able to properly review the Commissioner's determination since the record did not provide a sufficient explanation of the methodology used to develop the revised allocation that would enable it to judge whether the allocation fulfilled the terms of the Supreme Court's remand. Therefore, the State Board voted unanimously to remand this matter to the Acting Commissioner with the request that she amplify the decision by providing the basis and rationale for the specific determinations set forth in the Commissioner's decision of January 18, 2005. The State Board retained jurisdiction.

IN THE MATTER OF THE SUSPENSION OF THE TEACHING CERTIFICATE OF MARY SAVINO, RAHWAY BOARD OF EDUCATION, UNION COUNTY, STATE BOARD DOCKET #40-05

The State Board of Education voted unanimously to affirm the decision of the Acting Commissioner of Education, agreeing that a one-year suspension of the appellant's teaching certificate effective on the date of the Acting Commissioner's decision was appropriate as a result of the appellant's failure to provide the district board with 60 days notice of her resignation as required by her employment contract. N.J.S.A. 18A:26-10.

IN THE MATTER OF THE TENURE HEARING OF THOMAS WACHENDORF, NEW JERSEY STATE DEPARTMENT OF CORRECTIONS, MOUNTAINVIEW YOUTH CORRECTIONAL FACILITY, STATE BOARD DOCKET #33-05

The State Board of Education voted unanimously to affirm the decision of the Commissioner of Education to dismiss the respondent from his tenured teaching position with the Department of Corrections for unbecoming conduct. The State Board agreed that the Department of Corrections had demonstrated the truthfulness of the tenure charges – which alleged that the respondent had eluded police and resisted arrest – by a preponderance of the credible evidence and that dismissal of the respondent from his tenured employment was the appropriate penalty under the circumstances.

ADJOURNMENT

On a motion duly seconded and carried the State Board of Education adjourned its February 6, 2006 public meeting at 3:50 p.m.

Lucille E. Davy, Acting Commissioner
Acting Secretary, NJ State Board of Education