

**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**

March 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. Kathleen A. Dietz
Ms. Josephine E. Figueras
Mr. John A. Griffith
Rev. Frederick LaGarde, Jr.
Dr. Thelma Napoleon-Smith
Mr. Edward M. Taylor

ABSENT

Dr. Ernest Lepore

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 March 1, 2006.

STUDENT SPEAKERS

John Blakeslee, the 2006 State Board student representative and a sophomore from Holmdel High School (Monmouth County), gave his first presentation to the State Board. In his remarks, John introduced himself and spoke to the State Board about his academic interests and participation in extracurricular activities.

On behalf of the State Board, President Hyndman welcomed John as the new State Board student representative. President Hyndman stated that he looked forward to John's participation in upcoming State Board meetings.

INTRODUCTIONS

Commissioner Davy recognized Mark Stanwood, Gloucester County Superintendent of Schools, who represented the county superintendents. Dr. Stanwood has served in this position since December 2003.

Student Recognition Program

The State Board recognized Nina Camaioni, Williamstown High School (Gloucester 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 Nina for her achievements in academic programs and extracurricular activities.

On behalf of the State Board, President Hyndman congratulated Nina 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 February 1 and February 15, 2006. State Board member Maud Dahme abstained from voting on the minutes of the February 15 meeting.

PRESIDENT'S REPORTS

The Relationship between Advanced Placement and College Graduation

Ms. Amy Schmidt, executive director, Higher Education Research, College Board and Mr. Brian Petraitis, director, Government Relations, College Board, spoke to the State Board about preparation for college success. The presentation focused on the importance of Advanced Placement courses for all students, the SAT as a predictor of success in college, and various College Board Programs designed to assist students to succeed in college.

March Work Session and Public Testimony Session

President Hyndman stated that the March work session will be held on March 15, 2005 at 1:00 p.m. at Morris County Schools of Technology in Morris County. The State Board will discuss issues related to vocational education.

President Hyndman also stated that the March public testimony session is cancelled. However, the State Board and the Department will accept written comment on the Evaluation of the Performance of School Districts code.

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	Hunterdon County
Weymouth	Hunterdon Central Regional High School
Bergen County	Kingwood Township
Cresskill	Milford
Dumont	Monmouth County
Elmwood Park	Fair Haven
Englewood Cliffs	Hazlet
Norwood	Shore Regional
River Vale	Spring Lake
Tenafly	Ocean County
Westwood Regional	Central Regional
Burlington County	Ocean Gate
North Burlington County Regional	Point Pleasant Borough
Florence	Seaside Heights
Rancocas Valley Regional	Southern Regional
Camden County	Tuckerton
Bellmawr	Passaic County
Collinswood	Wanaque
Gloucester Township	Wayne
Runnemede	Salem County
Cape May County	Mannington Township
Cape May Special Services	Somerset County
Sea Isle City	Manville
West Cape May	Sussex County
Wildwood Crest	Bryam Township
Essex County	Frankford
Cedar Grove	Hardyston
Nutley	Ogdensburg
West Essex Regional	
Gloucester County	
Pitman	
Swedesboro-Woolwich	
Washington Township	

C. 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.

***D. Adult Education**

- Adopted the amendments pertaining to the re adoption of Adult Education regulations at *NJAC* 6:30 pursuant to *NJSA* 18A:1-1, 18A:4-15, 18A:7C-1 et seq., 18A:27-2, 18A:48-1, 18A:49-1 through 8, 18A:50-12, 13, and 14, and the Adult Education Act, 20 *U.S.C.* §§ 1201 et seq.

***E. Controversies and Disputes**

- Approved for publication in the *New Jersey Register* the amendments to the Controversies and Disputes regulations at *NJAC* 6A:3-1.1 et seq., pursuant to *NJSA* 18A:4-15, 18A:6-9, 18A:6-10 et seq., 18A:7G-12, 18A:11-3, 18A:12-29, 18A:29-14, 18A:38-1, 18A:38-13 and 18A:60-1.

***F. Professional Licensure and Standards**

- Approved for publication in the *New Jersey Register* the amendments pertaining to the elimination of the six-credit requirement for entrance into the special education alternate route 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.

G. Programs to Support Student Development

- Discussed the re adoption with amendments of the Programs to Support Student Development regulations at *NJAC* 6A:16, pursuant to *NJSA* 18A:4-15, P.L. 2001, c.(246), *NJSA* 18A:36-5.1, *NJSA* 18A:17-46, *NJSA* 18:36-5.1, *NJSA* 2A:4A-60, *NJSA* 18A:37-2.1, *NJSA* 2C:33-19, *NJSA* 18A:37-1 through 5, *NJSA* 18A:38-25 through 31, *NJSA* 18A:25-2, 20 USC Section 1400, Section 504 of the Rehabilitation Act of 1973, P.L. 107-110 (Title IV, Part A, Subpart 4, Section 415, and Title IX, Part E, Subpart 2, Section 9532), *NJSA* 18A:37-13 et seq., *NJSA* 2A:4A-60, *NJSA* 18A:36-19a, 20 USC Section 1232g, 34 CFR Part 99, 20 USC Section 1232h, 34 CFR Part 98, 45 CFR Section 160, 42 CFR Part 2, *NJSA* 18A:40A-7.1, N.J.S.A. 18A:36-19.

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.

IN THE MATTER OF THE SUSPENSION OF THE TEACHING CERTIFICATES OF
CARMELLA CONFESSORE BY THE STATE BOARD OF EXAMINERS, STATE BOARD
DOCKET #47-05

On November 3, 2005, the State Board of Examiners voted to suspend the appellant's certificates for two years effective immediately. The appellant was notified of the Board of Examiners' action by letter dated November 4 from its Acting Secretary. In his letter, the Acting Secretary advised the appellant's attorney that a written decision setting forth the reasons for the Board of Examiners' action would be forwarded to him shortly. The appellant filed a notice of appeal to the State Board of Education and also sought a stay of the Board of Examiners' action on an emergent basis. On November 11, 2005, the President of the State Board and the Chairperson of the State Board's Legal Committee granted a stay of the Board of Examiners' action on an emergent basis pending consideration of the appellant's motion by the full State Board.

On January 4, 2006, upon review, the State Board of Education stayed the action of the Board of Examiners. In so doing, the State Board observed that the Board of Examiners had not issued a written decision setting forth the reasons for its action when it voted to suspend the appellant's certification on November 3. Nor had a written decision adopted by the Board of Examiners been issued. In the absence of a written decision adopted by the Board of Examiners setting forth the reasons for its action of November 3, the State Board found that it could not review the appeal that had been taken from that action. It therefore stayed the action and remanded the matter to the Board of Examiners with the direction that it issue and certify a written decision that had been properly adopted by a formal vote of the Board of Examiners at its next public meeting. The State Board retained jurisdiction.

On February 1, 2006, the Acting Secretary of the Board of Examiners transmitted to the State Board a written decision adopted by the Board of Examiners on January 19, 2006. In light of submissions from the parties with regard to the status of the stay, the State Board voted unanimously to clarify that the stay was not conditional and did not expire upon the adoption of a written decision by the Board of Examiners. Rather, it remained in effect unless vacated by the State Board. Observing that the decisions rendered by the Board of Examiners in recent years were not generally available, which affected not only the ability of the appellant's counsel to effectively represent his client but also limited the State Board's ability to review the action taken by the Board of Examiners, the State Board directed the Board of Examiners to make its decisions available by April 5, 2006. The stay of the Board of Examiners' action remained in effect until such time as the State Board determined otherwise.

THOMAS DERBY V. BOARD OF EDUCATION OF THE CITY OF CAMDEN, CAMDEN
COUNTY AND IN THE MATTER OF THE CAMDEN BOARD OF EDUCATION,
RESPONDENT, AND THOMAS DERBY, CHARGING PARTY, STATE BOARD
DOCKET #41-05

The petitioner, a tenured teaching staff member who held an instructional certification as a teacher of English and an educational services certification as a reading specialist, claimed that the district board had violated his tenure rights when it abolished his position as a reading teacher, reassigned him as a Teacher (Sylvan Reading Lab), and appointed non-tenured individuals to newly created Educational Program Specialist positions which required possession of an educational services certification. The petitioner contended that he had achieved tenure under his educational services certification as a result of his service as a reading teacher and that

he was entitled to reassignment as an Educational Program Specialist as against non-tenured individuals.

The Acting Commissioner of Education dismissed the petitioner's school law claim, concluding that the petitioner had achieved tenure under his instructional certificate and, as a result, did not have any entitlement by virtue of tenure to a position requiring possession of an educational services certification. The Acting Commissioner further concluded that the petitioner had not been subjected to a reduction in force, but, rather, had lawfully been transferred to another teaching assignment within the scope of his instructional certificate. In addition, the Acting Commissioner found that the petitioner's unfair practice claim was properly within the jurisdiction of the Public Employment Relations Commission (PERC), and she forwarded the record to PERC for final decision on such issues. The State Board of Education voted unanimously to affirm the decision of the Acting Commissioner.

GLOUCESTER COUNTY INSTITUTE OF TECHNOLOGY, GLOUCESTER COUNTY V. BOARD OF EDUCATION OF THE LENAPE REGIONAL HIGH SCHOOL DISTRICT, BURLINGTON COUNTY, STATE BOARD DOCKET #48-05

The petitioner, Gloucester County Institute of Technology (GCIT), sought to recover tuition, transportation costs and non-resident fees from the regional district, which is located in Burlington County, for its resident students who attended the school. The Appellate Division affirmed the agency's determination that GCIT's performing arts program was vocational education within the statutory definition and that GCIT was entitled to reimbursement from its students' districts of residence. In the current proceedings, the regional board charges that GCIT had not properly calculated the nonresident fee it charged out-of-county students. The regional board claims that GCIT's failure to include post-secondary students in its calculation inflated per pupil costs, thereby increasing the nonresident fee.

The Acting Commissioner concluded that GCIT had not erred in omitting post-secondary students from its calculation of the nonresident fee, finding it clear that such fee was intended to generate the same level of support for out-of-county students that the school's county of location provided for resident students. N.J.S.A. 18A:54-20.1(c). In addition, the Acting Commissioner concluded that the regional board was responsible for pre-judgment interest on the amount due to GCIT which had not been in dispute. The State Board of Education voted unanimously to affirm the decision of the Acting Commissioner.

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 #1-06

The State Board of Education voted unanimously to deny the motion for leave to appeal an interlocutory decision filed by a parent who sought to participate and/or intervene in this matter.

R.O., on behalf of minor child, R.O., II V. BOARD OF EDUCATION OF THE WEST WINDSOR-PLAINSBORO SCHOOL DISTRICT, STATE BOARD DOCKET #46-05

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

GAIL SARCONE V. BOARD OF EDUCATION OF THE TOWN OF HACKETTSTOWN,
WARREN COUNTY, STATE BOARD DOCKET #28-05

The State Board of Education voted unanimously to approve the parties' proposed settlement of this matter, finding it to be in accord with the principles expressed in In re Cardonick, decided by the State Board of Education, April 6, 1983.

ADJOURNMENT

On a motion duly seconded and carried the State Board of Education adjourned its March 1, 2006 public meeting at 3:30 p.m.

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

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