

**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 4, 2007**

**Presiding:** Arnold G. Hyndman, President

**Secretary:** Lucille E. Davy, Commissioner

**PRESENT CONSTITUTING A QUORUM**

Mr. Arcelio Aponte  
Dr. Ronald K. Butcher  
Ms. Debra Casha  
Ms. Kathleen A. Dietz  
Ms. Maud Dahme  
Ms. Edythe Fulton  
Ms. Josephine E. Hernandez

**ABSENT**

Rev. Frederick LaGarde, Jr.  
Dr. Ernest Lepore  
Dr. Thelma Napoleon-Smith  
Mr. Kenneth Parker

**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 4, 2007.

**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 and legal matters.

The State Board immediately adjourned to executive session to discuss personnel including new hires, separations, appointments, employment contracts, the organizational chart and the deputy attorney general provided legal advice on matters covered by the attorney-client privilege.

### **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.

### **SWEARING IN CEREMONY**

President Hyndman introduced the Honorable Paul Koenig, a judge of the New Jersey Superior Court in Mercer County. Judge Koenig administered the oath of office to new State Board member Edythe Fulton of Ocean County. Ms. Fulton is a retired teacher and Past President, Vice President and Secretary/Treasurer of the New Jersey Education Association. Her first term as a member of the State Board ends in 2012.

President Hyndman also stated that Kenneth Parker of Camden County was sworn previously at the Department of Education by Lisa James-Beavers, executive director, School Ethics Commission. Mr. Parker is the President of Atlantic City Electric and his first term as a member of the State Board also ends in 2012.

### **STUDENT SPEAKERS**

Kayla Stoll, the 2007 State Board student representative and a junior from High Point Regional High School (Sussex County), introduced the student guest speaker.

Michael Sampson, a senior from Trenton Central High School (Mercer County), spoke to the State Board about the absence of Advanced Placement (AP) science courses in his high school due to the lack of staff available to teach these classes. He also spoke to the State Board about his participation in challenging academic programs such as College Bound that provide the high-level coursework that academically talented students may seek when AP courses are not offered at a student's high school.

On behalf of the State Board, President Hyndman thanked Michael for his presentation.

### **INTRODUCTIONS**

Commissioner Davy recognized Robert Osak, Hudson County Superintendent of Schools, who represented the county superintendents. Mr. Osak has served in this position since 1996.

## **Student Recognition Program**

The State Board recognized Manny Abreu, Union Hill High School (Hudson 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 Manny for his outstanding athletic achievements and leadership skills.

On behalf of the State Board, President Hyndman congratulated Manny on his 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 March 7, 2007 and March 21, 2007. State Board members Kathleen Dietz and Edithe Fulton abstained from voting on the minutes of the meeting conducted on March 7. State Board members Arcelio Aponte and Edithe Fulton abstained from voting on the minutes of the meeting conducted on March 21.

## **PRESIDENT'S REPORTS**

### **April Work Session and Public Testimony Session**

President Hyndman stated that the April work session will be held on April 18, 2007 at 1:00 p.m. at the Department of Education. The item for discussion will be Vocational Education Issues.

President Hyndman also stated that the April public testimony session will be held on April 18, 2007 at 3:00 p.m. The topics for consideration will be the reoption with amendments of *NJAC* 6A:6, State Board Rulemaking and amendments to *NJAC* 6A:16, Programs to Support Student Development.

### **Committee Appointments**

President Hyndman made the following committee appointments:

- Edithe Fulton, to serve on the Legal committee and the Legislative/Administrative Code committee;
- Thelma Napoleon-Smith, to chair the Urban Education committee; and
- Kenneth Parker, to serve on the Urban Education committee and the Retreat/Strategic Plan committee.

### **National Association of State Boards of Education (NASBE) Update**

State Board member Maud Dahme stated that the National Association of State Boards of Education (NASBE) held its Legislative Conference on March 15-16, 2007 in Washington, D.C. Ms. Dahme also stated that the conference provided state board members with an opportunity to advocate for improvements to the No Child Left Behind Act during the reauthorization process.

Ms. Dahme stated that through the NASBE listserv, State Board members are able to receive *The Headline Review*, which provides a weekly update of Education news across the nation. She also stated that the listserv provides a list of newly introduced Federal Education Bills and a link to download the bills. She further stated that as a member of the NASBE board of directors, she served as the chair of the nominating committee for officers of NASBE. Nominations for those offices follow:

- President Elect—Kenneth Willard, Kansas and James Diprete, Rhode Island;
- Secretary/Treasurer—Greg Haws, Utah
- Western Area Director—Randy DeHoff, Colorado
- Central Area Director—Clint Waara, South Dakota
- Southern Area Director—Lowell Johnson, West Virginia and Isis Castro, Virginia
- Northeast Area Director—Allan Taylor, Connecticut

Ms. Dahme stated that the NASBE Bylaws will be distributed to State Board members approximately 60 days prior to the annual conference in October.

### **Additional Announcements**

State Board member Maud Dahme stated that she would not be seeking reappointment to the State Board when her term expires in June and would continue to serve until replaced. Ms. Dahme has served on the State Board since 1983. Ms. Dahme also stated that the documentary *The Hidden Child* would be airing on NJN on April 12, 2007.

### **COMMISSIONER'S REPORTS**

There were no Commissioner's reports.

### **ITEMS FOR CONSIDERATION:**

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

#### **A. Organization Chart**

- Adopted the organization chart for the State Department of Education at NJAC 6A:2-1.1 et seq., pursuant to NJSA 52:14B-3(1) and NJSA 52:14B-4(b).

#### **B. Appointments**

Pursuant to NJSA 18A:4-32-35:

- Approved the appointment of Kathryn P. Attwood as the Assistant Commissioner for the Division of Finance.

#### **C. Certification of Districts**

There were no districts for certification

**D. Education for Homeless Children and Students in State Facilities**

- Adopted the proposed re adoption with amendments of the Education for Homeless Children and Students in State Facilities regulations at *NJAC* 6A:17, pursuant to *NJSA* 18A:38-1, 18A:7B-12 and 18A:7B-1 et seq. and 18A:7F-1 et seq.

**E. Special Education Advisory Council**

- Adopted the resolution approving the reappointments to the Special Education Advisory Council for a term of two years, pursuant to *NJSA* 18A:46-2 and P.L. 94-142.

**RESOLUTION REAPPOINTMENTS 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 professional personnel and further provides that the council members shall serve without remuneration; and

**WHEREAS**, the reauthorized Individuals with Disabilities Education Improvement Act (IDEA) of 2004 requires 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, that 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 Mr. Scott Elliott be reappointed to the State Special Education Advisory Council for a two-year term effective April 4, 2007. Mr. Elliott is the Executive Director of the Progressive Center for Independent Living (PCIL) and the current Chairman of the New Jersey Association of Centers for Independent Living. The Centers provide information, peer support, and training in independent living, self-help and self-advocacy skills to adolescents and adults with disabilities; and be it further

**RESOLVED**, the Commissioner recommends that Mr. William Sellar be reappointed to the State Special Education Advisory Council for a two-year term effective April 4, 2007. Mr. Sellar is a founding member of the Special Education Leadership Council. Its members represent Special Education PTAs from all over the state of New Jersey. Mr. Sellar is also the Special Education Chairmen of the New Jersey State PTA and a Past President of the SEPTA of South River.

**F. Career and Technical Education One Year Transition Plan**

- Adopted the draft One-Year Career and Technical Education Transition Plan pursuant to the newly reauthorized Carl D. Perkins Career and Technical Education Improvement Act of 2006.

**G. Career and Technical Education One-Year Transition Plan Resolution**

- Adopted the resolution to adopt the One-Year Career and Technical Education Transition Plan, pursuant to the newly reauthorized Carl D. Perkins Career and Technical Education Improvement Act of 2006.

**RESOLUTION TO ADOPT THE  
NEW JERSEY ONE-YEAR CAREER AND TECHNICAL EDUCATION  
TRANSITION PLAN**

**WHEREAS**, in accordance with the Carl D. Perkins Vocational-Technical Education Act of 1998, the New Jersey State Board of Education adopted a five-year State Plan for Vocational and Technical Education on April 7, 1999, which expired June 30, 2004; and

**WHEREAS**, the U.S. Department of Education granted annual extensions of that plan through state fiscal year 2007, pending the reauthorization of the Carl D. Perkins Vocational-Technical Education Act of 1998; and

**WHEREAS**, the new Carl D. Perkins Career and Technical Education Improvement Act of 2006, which was enacted August 2006, requires the New Jersey Department of Education to submit a State Plan adopted by the New Jersey State Board of Education in order to receive federal funding;

**WHEREAS**, the reauthorized Perkins Act requires states to submit by April 16, 2007 either a full six-year state plan or a one-year transition plan to secure funding that will become available as of July 1, 2007, estimated at \$25 million for New Jersey for state fiscal year 2008;

**WHEREAS**, the New Jersey Department of Education has determined that a one-year transition plan would offer the best opportunity to comply with established procedural deadlines and to implement a comprehensive and collaborative process for the subsequent development of a high quality five-year plan; now therefore be it

**RESOLVED**, that the New Jersey State Board of Education hereby adopts the New Jersey One-Year Career and Technical Education Transition Plan, which will serve as the basis for implementing career and technical education in New Jersey during state fiscal year 2008; and be it further

**RESOLVED**, that the New Jersey State Board of Education directs the Commissioner of Education to begin development of the full five-year State Plan for Career and Technical Education in New Jersey, which will involve broad stakeholder input to direct the future of career and technical education in the state.

**H State Board Bylaws**

- Adopted the regulations pertaining to the Bylaws of the State Board of Education, pursuant to *NJSA 18A:4-15 et seq.*

**I. State Board Rulemaking**

- Approved for publication in the *New Jersey Register*, the regulations pertaining to the proposed readoption with amendments of the State Board Rulemaking process proposed at *NJAC 6A:6*, pursuant to *NJSA 18A:4-15 et seq.* and *52:14B-1*.

## **J. Programs to Support Student Development**

- Discussed amendments to the regulations pertaining to voluntary drug abuse testing proposed at *NJAC 6A:16*, Programs to Support Student Development pursuant to *NJSA 18A:36-25*.

## **K. Professional Licensure and Standards**

- Discussed amendments to the regulations pertaining to teacher licensure and standards proposed at *NJAC 6A:9*, Professional Licensure and Standards pursuant to *NJSA 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 Maud Dahme asked if the State Board Annual Retreat would be held this year and if so, would the State Board be requesting the services of NASBE.

State Board member Josephine Hernandez asked what could be done to address the situation faced by Michael Sampson regarding the inaccessibility of Advanced Placement Courses in the Trenton school district. State Board member Debra Casha stated that the Department is taking a step by including a new office within the Department of Education called the Office of Leadership Development.

State Board member Ronald Butcher stated that a substantial number of students from rural communities are also affected by some of the same issues stated by Michael Sampson. He also stated that this issue is more of a capacity problem than a leadership problem.

Commissioner Davy stated all of the work that the Department is focused on ensuring that every student has equal access to the kinds of educational opportunities intended to make certain that they are prepared for their future.

State Board member Josephine Hernandez also requested that this issue be revisited in various schools over the next year to see if progress has been made in addressing these concerns.

Commissioner Davy stated that the new state monitoring process and the Secondary Education Initiative in the Abbott school districts will also address more planning for small learning communities, more personalized learning and more rigor for all students.

## **LEGAL CASES**

On motions duly seconded and carried, decisions in the following cases were adopted by the board as presented by Arnold G. Hyndman, president, State Board of Education, and Josephine E. Hernandez, legal committee chairperson.

### **IN THE MATTER OF THE REVOCATION OF THE TEACHING CERTIFICATE OF ERNIE CHAVEZ BY THE STATE BOARD OF EXAMINERS, STATE BOARD DOCKET #26-06**

The State Board of Examiners issued an order to the appellant to show cause why his certification as a teacher of industrial arts should not be suspended or revoked. The Show Cause

Order related that the appellant had been accused of engaging in inappropriate horseplay with a female student, inappropriately touching female students, and making inappropriate comments to his students. After a hearing in the Office of Administrative Law, the Board of Examiners directed that the appellant's certificate be revoked effective May 4, 2006.

The State Board of Education modified the penalty imposed by the Board of Examiners, concluding that revocation of the appellant's certification was too harsh a penalty under the facts of the case. While agreeing that unbecoming conduct had been demonstrated with regard to two comments made by the appellant to a female student and an incident in which the appellant had put a piece of ice on a female student's shoulder after she had put it down his shirt, the State Board concluded that the circumstances as proven did not warrant revocation of the appellant's certification so as to preclude him from ever serving as a teacher in any district in the State. After considering the specific conduct demonstrated on the record and taking into account the fact that the appellant had served as a teacher in the district for 14 years with no record of any previous disciplinary problems, the State Board concluded that a two-year suspension of the appellant's teaching certification was the appropriate penalty. State Board member Kathleen Dietz opposed. State Board member Edythe Fulton abstained.

LAURIE COLES, KAREN JIMENEZ, LINDA LYNCH, DAVID MILLER AND TRACIE MILLER, PATRICIA MURPHY, TRACIE LUCARELLO, FRANK DALY, JANET CONWAY, MARIE LIPSITZ, TARA SMALLZE AND DARREN SMALLZE, ELIZABETH BEVAN, KELLY BOUSHAY, LENNY HARRIS, CYNTHIA CRESCENZO, LISA DOWNEY AND MARK DOWNEY, CHERYL BUTLER, RUSSELL KING AND PATRICIA KING, MICHAEL LAROCCO AND ROBIN LAROCCO AND LAURA DEPINTO V. BOARD OF EDUCATION OF THE CITY OF BAYONNE, HUDSON COUNTY, STATE BOARD DOCKET #01-07

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Appellants challenged the district board's adoption of a policy with respect to school uniforms. The Commissioner of Education dismissed the petition, agreeing with the Administrative Law Judge (ALJ) that the 90-day limitations period for filing a petition with the Commissioner began to run when the district board adopted the school uniform policy and that subsequent action by the board with respect to implementation of the policy did not extend the deadline for filing a challenge to the policy. The State Board of Education affirmed the decision of the Commissioner. State Board member Edythe Fulton abstained.

D.D., on behalf of minor child, N.D. V. BOARD OF EDUCATION OF THE TOWNSHIP OF BELLEVILLE, ESSEX COUNTY, STATE BOARD DOCKET #55-06

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The petitioner filed a petition with the Commissioner of Education challenging the determination of the Belleville board that she and her daughter were not domiciled in Belleville during the 2003-04 and 2004-05 school years. The Commissioner agreed with the ALJ that, although the petitioner and her daughter spent significant amounts of time at her boyfriend's residence in Kearny, the petitioner did not intend to establish a new domicile in Kearny. Consequently, the Commissioner concluded that the petitioner continued to be domiciled in Belleville and that her daughter was entitled to a free public education in the Belleville school district. The State Board of Education affirmed the decision of the Commissioner. State Board member Edythe Fulton abstained.

SHEILA M. FOUSHEE V. BOARD OF EDUCATION OF THE STATE-OPERATED SCHOOL DISTRICT OF THE CITY OF NEWARK, ESSEX COUNTY, STATE BOARD DOCKET #53-06

The appellant filed a petition with the Commissioner of Education raising allegations concerning the conduct of school district personnel over 25 years ago. The Commissioner dismissed the petition for failure to file it in a timely manner and because most of the claims did not arise under the education laws. The State Board of Education affirmed the decision of the Commissioner. State Board member Edithe Fulton abstained.

C.G., on behalf of minor child, T.G. V. BOARD OF EDUCATION OF THE CITY OF EAST ORANGE, ESSEX COUNTY, STATE BOARD DOCKET #50-04

The appellant filed a petition with the Commissioner of Education, contending that the district board had denied her 16-year-old daughter T.G. admission to the district's public school system in the 2002-03 school year. The Commissioner dismissed the petition, concluding that the appellant had failed to demonstrate that T.G. was denied admission to the district's schools or that the district board had violated T.G.'s due process rights.

The State Board of Education reversed the Commissioner's determination that the appellant had failed to demonstrate that the district board had denied her daughter admission to the district's school system in September 2002. The State Board concluded that the appellant had demonstrated that the district board had effectively denied her daughter the educational opportunities mandated by the New Jersey constitution and the education laws for the period from September 2002 through late January 2003. Given the explicit mandates of N.J.S.A. 18A:38-1 and the State constitution, T.G.'s failure to attend class on a regular basis during the 2001-02 school year and her resultant failure to receive any credits for that year did not relieve the district board of its obligation to continue to provide her with the educational opportunities guaranteed by the State constitution. Although the record did not support a conclusion that the district board had acted in bad faith, it amply supported the appellant's contention that she was led to believe by district administrators that she had no choice but to enroll her daughter in an adult school, which, the State Board stressed, does not fulfill a district's obligation to provide students with the educational opportunities guaranteed by statute and the State constitution.

In so doing, the State Board stressed that the education clause of the State constitution is not a guarantee of educational success. Rather, it guarantees that every student will be provided with the mandated educational opportunities. Since the factual record did not permit a determination of whether the district board had afforded the mandated opportunities to T.G. subsequent to her return to the district's public school system in January 2003, the State Board remanded this matter to the Commissioner for such proceedings as are necessary on an expedited basis for the purpose of fashioning an appropriate remedy. State Board members Ronald K. Butcher and Edithe Fulton abstained.

BOARD OF EDUCATION OF THE LENAPE REGIONAL HIGH SCHOOL DISTRICT, BURLINGTON COUNTY V. NEW JERSEY STATE DEPARTMENT OF EDUCATION, OFFICE OF SPECIAL EDUCATION PROGRAMS, AND A.M., on behalf of minor child, P.M., INTERVENOR, STATE BOARD DOCKET #41-06, 42-06 and 43-06

The issue presented on appeal in these cases was whether the Commissioner of Education had jurisdiction to consider appeals from determinations made by the Office of Special Education Programs (OSEP) under the complaint investigation provisions set forth in N.J.A.C. 6A:14-9.2. The Commissioner determined that she did not have jurisdiction to consider appeals from such decisions, concluding that the complaint investigation process established in N.J.A.C. 6A:14-9.2, when read in conjunction with the provisions of the Individuals with Disabilities Education Improvement Act it implemented, contemplated that the OSEP Director's decision on any complaint was the final decision of the agency. The Commissioner dismissed the petitions without prejudice to the petitioners' ability to request reconsideration by the Director of OSEP within 15 days of the filing date of her decision, consistent with recently adopted regulations. The State Board of Education affirmed the decision of the Commissioner. State Board member Edithe Fulton abstained.

IN THE MATTER OF THE TENURE HEARING OF ADELPHIA POSTON, SCHOOL DISTRICT OF THE CITY OF ORANGE, ESSEX COUNTY, STATE BOARD DOCKET #44-06

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The State Board of Education dismissed the appeal in this matter for failure to perfect. N.J.A.C. 6A:4-1.12(a). State Board member Edithe Fulton abstained.

T.F.S. AND C.S., on behalf of minor child, J.R.S. V. BOARD OF EDUCATION OF THE TOWNSHIP OF SOUTH BRUNSWICK, MIDDLESEX COUNTY, AND DR. SAMUEL STEWART, SUPERINTENDENT, STATE BOARD DOCKET #36-06

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The State Board of Education denied a motion filed by the appellants for "alternative handling" of the record of the testimony from the hearing held in the Office of Administrative Law (OAL). The preparation of a transcript of a hearing conducted in OAL is regulated by the New Jersey Uniform Administrative Procedure Rules, which govern the procedural aspects of contested cases in administrative agencies. In order to be included in the record on appeal to the State Board, transcripts must comply with the requirements of those regulations and must be prepared in accordance with State standards established by the Administrative Director of the Courts. The State Board observed that it did not have the authority to waive or modify the standards established by the Administrative Director of the Courts for the preparation of transcripts or to reduce the deposit required by OAL for the preparation of transcripts or to require the district board to share the cost of transcripts ordered by the appellants. Furthermore, it rejected the appellants' request to allow compact discs containing audio of the testimony from the hearing to be included in the record, stressing that a sound recording of a hearing obtained from OAL is "unofficial" and may not be substituted for the required transcript. State Board member Edithe Fulton abstained.

C.V., on behalf of minor child, T.W. V. BOARD OF EDUCATION OF THE CITY OF PLAINFIELD, UNION COUNTY, STATE BOARD DOCKET #37-06

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The petitioner filed a petition with the Commissioner of Education alleging that the district board had failed to protect her daughter from sexual harassment at school. The petitioner contended that her daughter had been harassed by two students with respect to a sexual assault committed against her by another student off of school premises. The petitioner sought an increase in home

instruction for her daughter in the 2005-06 school year, placement of her daughter in a different school district for the 2006-07 school year and removal of her attacker from school.

The Commissioner adopted the ALJ's recommendation to dismiss the claims raised by the petitioner as moot since her daughter had been provided with additional home instruction and would be attending school out-of-state in the 2006-07 school year. In addition, the Commissioner rejected the petitioner's claim for money damages since she had not requested such damages in her petition and, in any event, the Commissioner did not have the authority to award money damages for sexual harassment. The State Board of Education affirmed the decision of the Commissioner to dismiss the petition, noting, however, that the petitioner may have a claim for harassment which is recognizable in another forum. State Board members Debra Casha and Edythe Fulton abstained.

### **ADJOURNMENT**

On a motion duly seconded and carried the State Board of Education adjourned its April 4, 2007 public meeting at 3:30 p.m.

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