

**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**

**May 2, 2007**

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

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

**PRESENT CONSTITUTING A QUORUM**

Dr. Ronald K. Butcher  
Ms. Debra Casha  
Ms. Kathleen A. Dietz  
Ms. Maud Dahme  
Ms. Edithe Fulton  
Ms. Josephine E. Hernandez  
Dr. Ernest Lepore  
Dr. Thelma Napoleon-Smith  
Mr. Kenneth J. Parker

**ABSENT**

Mr. Arcelio Aponte  
Rev. Frederick LaGarde, Jr.

**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 May 2, 2007.

**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.

Sara Plotkin, a senior from Somerville High School (Mercer County), spoke to the State Board about the importance of providing programs and initiatives to support students in nonacademic areas such as leadership and bullying prevention.

On behalf of the State Board, President Hyndman thanked Sara for her presentation.

## **INTRODUCTIONS**

Commissioner Davy recognized Eugenia Lawson, Monmouth County Superintendent of Schools, who represented the county superintendents. Ms. Lawson has served in this position since November 2003.

### **Student Recognition Program**

The State Board recognized Carlita Shields, Asbury Park High School (Monmouth 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 Carlita for her outstanding academic achievements and leadership skills.

On behalf of the State Board, President Hyndman congratulated Carlita 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 April 4, 2007 and April 18, 2007. State Board members Kenneth Parker and Thelma Napoleon-Smith abstained from voting on the minutes of the meeting conducted on April 4. State Board members Maud Dahme, Kenneth Parker and Arnold Hyndman abstained from voting on the minutes of the meeting conducted on April 18.

## **PRESIDENT'S REPORTS**

### **May Work Session and Public Testimony Session**

President Hyndman stated that the May work session will be held on May 16, 2007 at 1:00 p.m. at the Department of Education. He stated that the items for discussion had yet to be determined.

President Hyndman also stated that the May public testimony session will be held on May 16, 2007 at 3:00 p.m. The topics for consideration will be the readoption with amendments of *NJAC* 6A:6, State Board Rulemaking and amendments to *NJAC* 6A:9, Professional Licensure and Standards. Additionally, he stated that the May 16 public testimony session will be an open topic session.

### **Selection of Nominating Committee**

President Hyndman announced the members of the State Board Nominating Committee that will nominate the 2007-2008 State Board of Education president and vice president. Josephine Hernandez will serve as chairperson, and Kathleen Dietz and Thelma Napoleon-Smith will serve

as members. The nominating committee will give its report at the June State Board monthly meeting and the State Board will vote on officers at the July State Board monthly meeting.

### **National Association of State Boards of Education**

State Board Member Maud Dahme stated that last month she reported on the slate of nominees for national officers of the National Association of State Boards of Education (NASBE). Since that time James Diprete, who serves on the Rhode Island State Board of Education, has withdrawn his name from consideration for the office of president-elect.

### **COMMISSIONER'S REPORTS**

#### **Quality Single Accountability Continuum (QSAC)**

Commissioner of Education Lucille Davy stated that the QSAC review for the first group of school districts to undergo the new monitoring process would be completed in 4-6 weeks. She also stated that a second group of school districts were preparing to begin this process with a self-evaluation followed by a review from the county offices of education during the summer months.

### **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**

There were no districts for certification

#### **C. Charter Schools**

- Adopted the proposed readoption with amendments of the Charter Schools regulations at *NJAC* 6A:11, pursuant to *NJSA* 18A:36A-1 et seq., specifically 18A:36A-18.

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

- Adopted the amendments pertaining to the child abuse amendments proposed at *NJAC* 6A:16, pursuant to *NJSA* 18A:4-15 et seq. and *NJSA* 18A:36-25.

#### **E. State Board of Examiners**

- Adopted the following resolution approving the appointments to the State Board of Examiners for a term of two years, pursuant to *NJSA* N.J.S.A. 18A:6-38 and N.J.S.A. 18A:6-34.

**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 of an individual to the Board; and

**WHEREAS**, the person whom the Commissioner recommended has an established reputation for distinguished service; now, therefore, be it

**RESOLVED**, that the State Board of Education hereby approves the appointment of the following person to the State Board of Examiners, to fill an unexpired term:

Dr. Christopher Nagy  
Principal, Allentown High School

**F. Qualified Zone Academy Bond**

- Approved for publication in the *New Jersey Register* the proposed readoption with amendments of the Qualified Zone Academy Bond regulations at *NJAC* 6A:25, pursuant to *NJSA* 18A:4-15, 18A:7G-26 and 18A:36A-18 and 26 U.S.C. §1397E.

**G. 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 Debra Casha stated that she received a letter from urban school districts regarding audits conducted by KPMG. She requested information on the department's response to issues raised in the letter. Commissioner Davy stated that she would provide State Board members with a copy of the department's response to the letter. She also stated that the auditing reports for four school districts were completed and available to the public via the department's website.

State Board Member Maud Dahme requested information on the new Algebra II exam. Commissioner Davy stated that New Jersey has agreed to join a partnership of nine states in the

American Diploma Project Secondary Math Partnership to administer a common exam with common standards for Algebra II students beginning in May 2008. Commissioner Davy also stated that while participation in the Algebra II test is voluntary, the department is strongly encouraging school leaders to participate in the administration of the exam. The department will be contacting schools in the near future with more information.

President Hyndman requested additional information on the department's implementation of the American Diploma Project in New Jersey. Commissioner Davy stated that a presentation on this topic will be scheduled within the next few months. State Board Member Josephine Hernandez requested that the presentation include information on the role that elementary schools will play in the implementation of the American Diploma Project.

Ms. Dahme requested information on the newly-created position of executive county superintendent. Commissioner Davy stated that the information would be forwarded to the State Board members.

Ms. Dahme invited all State Board members and the Commissioner to visit the migrant education programs held during the summer months. She stated that more detailed information would be forthcoming.

## **LEGAL CASES**

On motions duly seconded and carried, decisions in the following cases were adopted by the board as presented by legal committee members Edythe Fulton, Ernest P. Lepore and Josephine E. Hernandez, chairperson.

### **LYDIA ANDERSON V. BOARD OF EDUCATION OF THE TOWNSHIP OF IRVINGTON, ESSEX COUNTY, STATE BOARD DOCKET #14-06**

The State Board of Education denied the appellant's motion to compel production of documents. State Board member Kenneth J. Parker abstained.

### **IN THE MATTER OF THE DENIAL OF THE CHARTER SCHOOL APPLICATION OF THE CAMDEN CAREER EDUCATION CHARTER SCHOOL, STATE BOARD DOCKET #50-06**

The State Board of Education granted the motion filed by the Commissioner of Education to participate in this matter. State Board member Kenneth J. Parker abstained.

### **IN THE MATTER OF THE DENIAL OF THE CHARTER SCHOOL APPLICATION OF THE CAMDEN ENVIRONMENTAL CHARTER SCHOOL, STATE BOARD DOCKET #51-06**

The State Board of Education granted the motion filed by the Commissioner of Education to participate in this matter. State Board member Kenneth J. Parker abstained.

### **E.A.E., on behalf of, S.N.W. V. BOARD OF EDUCATION OF THE CITY OF BLOOMFIELD, ESSEX COUNTY, STATE BOARD DOCKET #2-07**

The appellant filed a petition with the Commissioner of Education challenging the Bloomfield board's determination that her son was not domiciled in the district during the 2005-06 school year and was not entitled to a free public education in the district. The Administrative Law Judge (ALJ) determined that, because appellant sent her son to live with his grandmother in East Orange as the result of an unsafe situation in her home, he was domiciled in East Orange and was not entitled to a free public education in Bloomfield.

The Commissioner rejected the ALJ's initial decision and concluded that, because the appellant was domiciled in Bloomfield, that was also her child's domicile and where he was entitled to a free public school education. The Commissioner disagreed with the ALJ's conclusion that, because the appellant's son stayed with his grandmother in East Orange for a majority of the time, he was domiciled in East Orange. The Commissioner emphasized that a child cannot establish a domicile separate from his parent. The State Board of Education affirmed the decision of the Commissioner. State Board member Kenneth J. Parker abstained.

R.H., on behalf of minor child, M.H. V. BOARD OF EDUCATION OF THE PASCACK VALLEY REGIONAL HIGH SCHOOL DISTRICT, BERGEN COUNTY, STATE BOARD DOCKET #54-06

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The appellant filed a petition with the Commissioner of Education challenging a policy of the district board with respect to issuance of laptop computers to students for use in the district's e-learning initiative. The policy required a \$50 payment for insurance on the computer and an agreement to pay a \$100 deductible by the parents of each student should the computer be damaged. Initially, M.H.'s parents signed the agreement and made the \$50 payment. In the second year the policy was in effect, her parents would not sign the agreement and make the required payment, and M.H. did not receive a laptop computer in the 2005-06 school year. The policy is no longer in effect, and M.H. has a computer for the 2006-07 school year.

The Commissioner adopted the recommended decision of the ALJ, agreeing that the imposition of a \$50 accidental damage, theft or loss insurance premium and agreement to pay a \$100 deductible for insurance loss claims as a condition of participation in the district's laptop program did not violate the district board's obligation to provide M.H. a free public education. The State Board of Education affirmed the decision of the Commissioner. State Board member Maud Dahme opposed. State Board members Debra Casha and Kenneth J. Parker abstained.

IN THE MATTER OF THE REVOCATION OF THE COUNTY SUBSTITUTE CREDENTIAL OF KEITH KAUFMAN BY THE STATE BOARD OF EXAMINERS, STATE BOARD DOCKET #4-07

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The State Board of Examiners revoked the appellant's county substitute credential as a result of information received from the Office of Criminal History Review indicating that he had been convicted of aggravated assault. After the appellant appealed to the State Board of Education, the Deputy Attorney General representing the State Board of Examiners requested that the matter be remanded to the Board of Examiners since it had not been aware that the appellant had been admitted into a pre-trial intervention program. The State Board of Education granted the Deputy Attorney General's request and remanded this matter to the Board of Examiners for such further proceedings as are necessary on an expedited basis to reconsider whether any action is warranted against the appellant's county substitute credential. State Board member Kenneth J. Parker abstained.

EILEEN KELLY V. BOARD OF EDUCATION OF THE MIDDLESEX COUNTY VOCATIONAL TECHNICAL SCHOOL DISTRICT, MIDDLESEX COUNTY, STATE BOARD DOCKET #45-06

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The appellant filed a petition with the Commissioner of Education contending that she had more seniority as a teacher of practical nursing than another teacher and that she should not have been subject to loss of her position when the district board initiated a reduction in force. The ALJ concluded that the appellant's seniority was superior to that of another teacher who did not lose her position in the reduction in force. The ALJ's determination was based on his conclusion that the time appellant served as a substitute teaching practical nursing should count toward her seniority, which resulted in appellant having more seniority than the teacher who did not lose her position. The ALJ recommended that the appellant be compensated with back pay and emoluments, less mitigation, as a result of her termination from employment.

The Commissioner rejected the initial decision of the ALJ, concluding that, when the appellant was teaching practical nursing classes without an appointment and under a substitute credential, rather than a standard certification, she was not eligible for tenure credit and therefore, could assert no seniority claim for that time period. The Commissioner further determined that the appellant had failed to meet her burden to demonstrate that her seniority was superior to that of another teacher, nor did she prove that the equities compelled a determination to decide the case outside the established rules regarding seniority. The State Board of Education affirmed the decision of the Commissioner. State Board members Debra Casha and Kenneth J. Parker abstained.

LYNDHURST EDUCATION ASSOCIATION, ET AL. V. BOARD OF EDUCATION OF THE TOWNSHIP OF LYNDHURST, BERGEN COUNTY, AND TMC SERVICES, INC., STATE BOARD DOCKET #43-05

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The Lyndhurst Education Association and 21 former employees of the Lyndhurst Board of Education (hereinafter "petitioners") filed a petition with the Commissioner alleging that the process used by the Lyndhurst Board in subcontracting custodial, maintenance and bus transportation services to intervenor TMC Services Inc. for the 2002-03, 2003-04 and 2004-05 school years violated the public education bidding laws. The petitioners sought an order directing the Board to cease and desist from continuing with the contract with TMC, declaring the contract null and void, and ordering that the individual petitioners be reinstated with back pay and emoluments. Upon review of the submissions of the parties in support of their cross-motions for summary decision, the ALJ recommended that the petition be dismissed for lack of standing, because there is no relief available to petitioners, and because the matter became moot after the contract at issue expired. The Acting Commissioner accepted the recommended determination of the ALJ and dismissed the petition.

The State Board affirmed the decision of the Acting Commissioner to dismiss the petition because there is no relief available to petitioners and the matter is moot based on the fact that the contract being challenged has terminated and was not renewed. The State Board specifically declined to address the issue of standing, as it determined that the matter was properly dismissed as moot because there is no relief available to petitioners. State Board member Kenneth J. Parker abstained.

**ADJOURNMENT**

On a motion duly seconded and carried the State Board of Education adjourned its May 2, 2007 public meeting at 11:30 p.m.

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