

**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**

June 6, 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. Edithe Fulton
Ms. Josephine E. Hernandez
Dr. Ernest Lepore
Dr. Thelma Napoleon-Smith

ABSENT

Ms. Kathleen A. Dietz
Ms. Maud Dahme
Rev. Frederick LaGarde, Jr.
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 June 6, 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 and appointments.

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

Kayla Stoll, the 2007 State Board student representative and a junior from High Point Regional High School (Sussex County), spoke to the State Board about the following issues currently under consideration by the State Board: the proposed random drug testing amendments; the Special Review Assessment (SRA) and the proposed Biology requirements.

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

INTRODUCTIONS

Commissioner Davy recognized Carmen Centuolo, Union County Superintendent of Schools, who represented the county superintendents. Ms. Centuolo has served in this position since October 2004.

Student Recognition Program

The State Board recognized Shannon Spaziani, Linden High School, (Union County) and Justin Petrillo, Union County Magnet School (Union 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 Shannon for her outstanding leadership skills. The State Board recognized Justin for his outstanding academic achievements.

On behalf of the State Board, President Hyndman congratulated Shannon and Justin on their achievements.

APPROVAL OF MINUTES OF THE MEETINGS

On a motion duly seconded and carried, the State Board members approved the minutes of the meeting conducted on May 2, 2007, as amended below and the meeting conducted on May 16, 2007. State Board member Arcelio Aponte abstained from voting on the minutes of the meeting conducted on May 2, 2007. State Board members Arnold G. Hyndman and Ernest Lepore abstained from voting on the minutes of the meeting conducted on May 16, 2007.

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 [Figueras] 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.

PRESIDENT'S REPORTS

June Work Session and Public Testimony Session

President Hyndman stated that the June work session will be held on June 20, 2007 at 1:00 p.m. at the Department of Education. He stated that the items for discussion include the State Board Strategic Plan, State Operated School Districts and the New Statewide Assessments.

President Hyndman also stated that the June public testimony session will be held on June 20, 2007 at 3:00 p.m. The topics for consideration will be the readoption with amendments of *NJAC 6A:25*, Qualified Zone Academy Bond.

Nominating Committee Report

Josephine Hernandez, chair of the State Board Nominating Committee, announced the nominations for the State Board officers for 2007-2008. The committee nominated Ronald K. Butcher for President and Arcelio Aponte for Vice President. In addition, the State Board approved a motion to delay additional nominations for the State Board officers until the July 18 meeting, when the voting will take place.

New Jersey Association of Student Councils

President Hyndman, vice president Arcelio Aponte, State Board members Maud Dahme, Debra Casha and Edythe Fulton and the following representatives of the New Jersey Association of Student Councils (NJASC): Lou Miller, Richard Dolce, Wendy Booth-Sitzler and Kayla Stoll met to discuss changes to the process for selecting the permanent State Board student representative. President Hyndman announced the following outcomes of the meeting: 1) all students that are interested in serving as the permanent State Board student representative will have an opportunity to apply for this position; 2) the NJASC will prepare a letter inviting students statewide to submit applications for the position; 3) the timeline for the application and selection process will begin in June 2007 and end in January 2008; 4) Miss Stoll's term will be extended until June of 2008 and the new 2008-2009 permanent State Board student

representative will serve from July 2008-June 2009; and 5) the extended timeframe will enable Miss. Stoll to mentor the 2008-2009 permanent student representative.

Dr. Deborah Cannon Partridge Wolfe Award

President Hyndman stated that on Friday, May 18, 2007, State Board members Maud Dahme and Thelma Napoleon-Smith received the Deborah Cannon Partridge Wolfe Award at the *One Step Beyond Conference* sponsored by the Department of Education and held at the Chauncey Center at ETS. President Hyndman also stated that this tribute was given to individuals who broke down barriers to provide outstanding leadership in promoting equity and in supporting the development of our youth in honor of the late Dr. Deborah Cannon Partridge Wolfe.

On behalf of the State Board, President Hyndman congratulated Maud and Thelma on receiving this prestigious award.

COMMISSIONER'S REPORTS

New Jersey School Business Administrator of the Year

Commissioner Davy presented Dr. Joan Saylor, the 2007 School Business Administrator of the Year. Dr. Saylor, the business administrator for the Freehold Regional High School District, received the award from Richard Dorow, executive director, New Jersey Association of School Business Officials (NJASBO).

State Assessments

Commissioner Davy stated that Measurement Incorporated (MI) of Durham, North Carolina has been awarded the contract to create the New Jersey Assessment of Skills and Knowledge Statewide Testing Program for grades 3 through 8, starting in the next school year.

High School Proficiency Assessment (HSPA) Standard Setting

Commissioner Davy and members of her staff along with Dr. Michael Bunch, Vice President of Measurement Incorporated, the state contractor for the HSPA presented the results of the High School Proficiency Assessment standard setting sessions held May 29-June 1, 2007. Dr. Bunch stated that the main goals of the standard-setting process for the HSPA were to (1) describe and delineate the thresholds of performance, for each subject area, that are indicative of *Partially Proficient*, *Proficient*, and *Advanced Proficient* performance, and (2) establish recommended cut scores for each subject area that differentiate *Partially Proficient* from *Proficient* and *Proficient* from *Advanced Proficient* performance (i.e., two cut scores to yield three performance levels). Standards were set for the Science portion of the HSPA. Dr. Bunch also stated that the standard-setting process relied on a commonly used method called "modified-Angoff".

ITEMS FOR CONSIDERATION:

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

A. Appointments

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

- Approved the appointment of Sandra M. Alberti as the Director, Office of Academic Standards.

B. Certification of Districts

There were no districts for certification.

C. Resolution Annual Calendar of State Board Meeting Dates

- Adopted the resolution as amended below for the annual calendar of the 2007-2008 meeting dates of the State Board of Education pertaining to NJAC 6A:1-2.2, pursuant to NJSA 18A:4-7 and 10:4-6 et seq.

**RESOLUTION
ANNUAL CALENDAR OF STATE BOARD MEETING DATES**

WHEREAS, N.J.S.A. 18A:4-7 states that, the State Board of Education shall hold public meetings at least once each month at such times as its rules may prescribe and at such other times and such places within the state as in its judgment may be necessary, but no meeting may commence later than 8:00 p.m.; and

WHEREAS, N.J.A.C. 6A:1-2.2 requires that such meetings be held at such time, place, and on such dates as established by the State Board, pursuant to **N.J.S.A.** 10:4-6 et seq., Open Public Meetings Act, and notice of such meetings shall be made in a manner consistent with the law; now therefore be it

RESOLVED, that the State Board establishes the following dates for its monthly business meetings and public hearings for the 2007-2008 school year, and directs that a copy of the dates be sent to the Governor, the Secretary of State, the news media, the county superintendents, and the state board agenda subscribers.

PUBLIC BUSINESS MEETINGS 2007-2008:

July [11] <u>18</u>	November 7	March 5
August 1	December 5	April 2
September 5	January [2] <u>9</u>	May 7
October 3	February 6	June 4

PUBLIC WORK SESSIONS 2007-2008:

July 18	November 21	March 19
August 15	December 19	April 16
September 19	January 16	May 21
October 17	February 20	June 18

PUBLIC HEARING SESSIONS 2007-2008:

July 18	November 21	March 19
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August 15
September 19*
October 17

December 19
January 16*
February 20

April 16
May 21*
June 18

*Open Topic Sessions

Members of the public may reserve time to speak at public hearing sessions by calling the State Board of Education Office by noon on the Friday before the public hearing session at (609) 292-0739.

Notice of changes in the above will be made in compliance with the requirements of the Open Public Meetings Act.

D. Programs to Support Student Development

- Approved for publication in the *New Jersey Register*, as amended the amendments pertaining to voluntary random drug testing proposed at *NJAC 6A:16*, pursuant to *NJSA 18A:36-25*.

NEW BUSINESS

State Board member Ronald K. Butcher requested information regarding the department's plan to bring experts from the Educational Testing Service (ETS) to a State Board meeting to discuss Grade Point Average (GPA) requirements. Jay Doolan stated that the department will be reviewing research regarding GPA over the summer months and will be bringing in guest speakers from ETS and/or college deans and faculty to speak on the topic. He also stated that the Phase 5 rulemaking would not include amendments to the GPA requirements. Commissioner Davy stated that after a comprehensive review of this topic, a recommendation will be proposed to the State Board. President Hyndman stated that he is looking forward to the department's responses to the correspondence received by the State Board regarding the Phase 5 amendments at the July meeting.

State Board member Josephine Hernandez stated that Passaic County Community College recently hosted a program called the Theater and Poetry Project, a Language Arts Enrichment Partnership run by Maria Gilan, the Poet in Residence. Ms. Hernandez also stated that through this program students from the Paterson Public School District create poems around a common theme and then recite their poetry at an awards ceremony. Ms. Hernandez further stated that this year's theme was "What We Dream". Ms. Hernandez read *Outside My House* by Justin Davida, a 6th student from the Paterson Public School District. Ms. Hernandez stated that next year she would invite State Board members to the awards ceremony.

LEGAL CASES

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

L.A., on behalf of minor children, T.J.A. AND P.M.A. V. BOARD OF EDUCATION OF THE CITY OF PORT REPUBLIC, ATLANTIC COUNTY, STATE BOARD DOCKET #7-07

L.A. filed a petition with the Commissioner of Education contesting the determination of the Board of Education of the City of Port Republic to limit her presence in its elementary school. In a decision issued on February 22, 2007, the Commissioner of Education agreed with the Administrative Law Judge, dismissed the petition and affirmed the action of the board of education limiting appellants' access to its elementary school. L.A. then appealed to the State Board.

Pursuant to N.J.A.C. 6A:4-1.11(a), L.A.'s brief in support of her appeal was due on April 16, 2007, 20 days after she filed her notice of appeal. Appellant requested and was granted an extension of time in which to file her brief. However, no brief in support of the appeal was ever filed. In that the brief was not filed, and counsel for L.A. failed to provide any explanation for the failure to file, the State Board voted unanimously to dismiss the appeal for failure to perfect.

DREW BRADFORD V. BOARD OF EDUCATION OF THE TOWNSHIP OF UNION,
UNION COUNTY, STATE BOARD DOCKET #5-07

The appellant, a non-tenured teaching staff member, did not have his contract renewed by the board of education for the 2001 – 2002 school year and filed an action against the school district in Superior Court alleging a variety of legal claims, none of which involved allegations arising under Title 18A of the New Jersey statutes. Two years after the legal action was filed, appellant sought to amend his complaint in the Superior Court action and add claims pursuant to Title 18A with respect to the procedures to be followed by a school district when a teaching staff member is not renewed. His request was denied and summary judgment was entered for the defendants in that case.

After exhausting several avenues of appeal with respect to the decision in the Superior Court action, appellant filed an action with the Commissioner of Education on August 17, 2006 challenging his non-renewal by the school district in 2001. The ALJ determined that appellant's case was filed out-of-time and recommended dismissing the petition. The Commissioner concurred and dismissed the petition because it was filed outside the 90 day time period for filing a petition with the Commissioner, and no valid basis for extending the time period was offered by appellant. The State Board voted unanimously to affirm the decision of the Commissioner for the reasons expressed therein.

IN THE MATTER OF THE CENSURE OF JAMES CHIEGO PURSUANT TO N.J.S.A.
18A:12-29(c), UNION TOWNSHIP BOARD OF EDUCATION, HUNTERDON COUNTY,
STATE BOARD DOCKET #29-06

The State Board of Education voted unanimously to grant the appellant's motion to supplement the record on appeal. N.J.A.C. 6A:4-1.9(b).

Y.E., on behalf of minor child, E.E. V. STATE-OPERATED SCHOOL DISTRICT OF THE
CITY OF NEWARK, ESSEX COUNTY, STATE BOARD DOCKET #3-07

This is a residency dispute that was filed by the mother of E.E. against the State-Operated school district of Newark. In April 2006, the school district determined that appellant's son was not entitled to a free education in the district as of December 25, 2005, when appellant's son left the residence of a relative who lived in Newark and who was sending him to Newark's schools as an

affidavit student entitled to a free education in that school system and began to reside with appellant. At that time, the school district notified appellant that her son could no longer attend its schools and that he must attend school in East Orange where it had determined appellant was domiciled.

Appellant filed an appeal with the Commissioner. After a hearing was conducted and an initial decision issued by an ALJ, the Commissioner adopted the determination of the ALJ denying appellant emergent relief and agreed that appellant did not prove an entitlement for her son to receive a free public education in Newark from January through June of 2006. She directed that the appellant pay the State-operated district \$4,478 in tuition for E.E.'s ineligible attendance during that period. However, the Commissioner rejected the ALJ's conclusion that E.E. was not entitled to a free public education in Newark after June 2006 and remanded the case for a hearing on E.E.'s current domicile, including whether Y.E. has custody of E.E., which was not established with sufficient proofs at the hearing, in order to determine whether E.E. was entitled to a free public education in Newark in the 2006 - 2007 school year. The Commissioner also ordered that the Newark school district educate E.E. while the case on remand is pending. Appellant filed appeal to the State Board challenging that portion of the Commissioner's decision that directed that she pay tuition for January through June 2006. The State Board affirmed the decision of the Commissioner for the reasons expressed therein. State Board members Arcelio Aponte and Ronald K. Butcher abstained.

IN THE MATTER OF THE APPLICATION PURSUANT TO N.J.A.C. 6A:23-8.10 FOR RESTORATION OF BUDGET REDUCTIONS FOR THE 2006-07 SCHOOL YEAR, BOARD OF EDUCATION OF THE TOWNSHIP OF WILLINGBORO, BURLINGTON COUNTY, STATE BOARD DOCKET #33-06

The State Board of Education voted unanimously to deny the motion filed by the participant Commissioner of Education to supplement the record on appeal. N.J.A.C. 6A:4-1.9(b).

ADJOURNMENT

On a motion duly seconded and carried the State Board of Education adjourned its June 6, 2007 public meeting at 12:30 a.m.

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