

**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**

**September 7, 2005**

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

**Secretary:** William L. Librera, Ed.D., Commissioner

**PRESENT CONSTITUTING A QUORUM**

Mr. Arcelio Aponte  
Ms. Margaret F. Bartlett  
Dr. Ronald K. Butcher  
Ms. Debra Casha  
Ms. Maud Dahme  
Ms. Kathleen A. Dietz  
Ms. Josephine E. Figueras  
Mr. John A. Griffith  
Dr. Ernest Lepore  
Dr. Thelma Napoleon-Smith  
Mr. Edward M. Taylor

**ABSENT**

Dr. 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 September 7, 2005.

**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 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), spoke to the State Board about student apathy about the High School Proficiency Exam (HSPA) and the reasons that apathy exists among students. He stated that the administration of the HSPA in March of their junior year should be reviewed and possibly moved to October so that students have more opportunities to retake the test. He also stated that in some schools a variety of distractions contribute to test anxiety for students taking the HSPA from environmental distractions such as the ringing of school bells to the length of the school day. He further stated that the SRA does serve its purpose but has been abused and should be replaced by a test that is comparable to the HSPA for students that have test anxiety or problems demonstrating proficiency on the HSPA.

Raymond then introduced the student guest speaker.

Tremayne Gibson, a student from Dr. Ronald E. Mc Nair Academic High School (Hudson County), spoke to the State Board about community service provided by students.

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

### **STUDENT RECOGNITION**

The State Board recognized the Science Olympiad Team from the Community Middle School (Mercer 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 the team for winning first place at the National Science Olympiad Tournament.

On behalf of the State Board, President Hyndman congratulated the team for their commitment to educational excellence.

### **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 August 3, 2005, and August 17, 2005. State Board Members Maud Dahme and Kathleen Dietz abstained from voting to approve the minutes of the August 3, 2005 public meeting. State Board Members John Griffith and Edward Taylor abstained from voting to approve the minutes of the August 17, 2005 public work session.

### **PRESIDENT'S REPORTS**

#### **Cancellation of the October 5, 2005 monthly public State Board meeting**

President Hyndman stated that because the October 5, 2005 state board meeting is currently scheduled on the Jewish holiday of Rosh Hashanah the State Board needs to consider alternative dates for the monthly public business meeting. The State Board discussed various options for rescheduling the October monthly public business meeting. The State Board will cancel the October [6] 5, 2005 monthly public business meeting and extend the timeframe of the regularly scheduled October 19, 2005 work session to accommodate the additional agenda items.

#### **International Education**

State Board Member Kathleen Dietz, chair, State Board International Education Committee stated, that the mission of the committee is to create a systemic approach to ensure that all students in New Jersey are provided with the knowledge and skills to able to function culturally, politically and economically in a global society. She stated that one of the goals of the Department is to help students understand, connect and to act on critical global issues by integrating international perspectives into curricula in all subject areas of the Core Curriculum Content Standards. She also stated that this information can be found on the International Education website at [www.nj.gov/njded/aps/cccs/wl/](http://www.nj.gov/njded/aps/cccs/wl/). She further stated that one of the ways in which the mission is being realized is through the publication of a report on the outcome of the International Summit that was held in Princeton, NJ October 2004. Ms. Dietz stated that a K-5 international task force has been established with 30 representatives from the education and business communities. She also stated that the task force is designed to make the goals for international education a reality in New Jersey schools. She further stated that nine regional forums will be held throughout the State to provide frameworks and resources for integrating international education into the Core Curriculum Standards. Ms. Dietz recognized the Longview Foundation, for providing grants to assist State in their work in the area of international education.

#### **Migrant Education**

State Board Member Maud Dahme, migrant education liaison, stated that she and State Board Members Debra Casha and Edward Taylor attended the summer migrant education program at Winslow Township Upper Elementary School on July 11, 2005. She stated that a migrant child is a child or youth who has, or whose parent, spouse or guardian has moved across school district

boundaries within the past three years in order to obtain temporary or seasonal employment in agriculture, fishing or a related industry. She further stated that migrant children are eligible for Title I and other federally-funded programs as well as the offerings of the school districts in which they are enrolled.

Ms. Dahme stated that the Gloucester County Special Services School District has been providing regional migrant education services in South Jersey since the 1970's. She also stated that the school district currently operates the program for the southern portion of the State. She further stated that services are provided based on assessed need, and include resource intervention assistance to school districts with enrolled migrant children. Ms. Dahme stated that many additional services such as after school tutoring, summer and evening programs as well as health and social services are also available to migrant families.

### **Orientation Meetings**

President Hyndman stated that the State Board office is planning a series of orientation meetings for new state board members with the chairs of the various State Board committees. State Board members will receive a schedule of these meetings in the near future from the State Board Office.

### **“My Captain”**

Mr. Robert Osak, Hudson County Superintendent of Schools, introduced Ms. Brienne Guirantes, a student from the Jersey City School District. In honor of William Librera's final State Board meeting as Commissioner, Ms. Guirantes performed the following poem that she originally dedicated to her teacher Ms. Simone Shields.

### **Resolution to Honor William L. Librera**

On behalf of the State Board of Education, President Hyndman presented a resolution honoring William Librera for his service to the Department and to the children of New Jersey. Dr. Librera was originally appointed to the position of Commissioner of Education in January 2002.

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

#### **RESOLUTION TO HONOR COMMISSIONER WILLIAM L. LIBRERA**

**WHEREAS**, Dr. William L. Librera has served with distinction as the New Jersey Commissioner of Education from January 2002 to the present and is being honored as he completes his distinguished tenure of service; and

**WHEREAS**, Commissioner Librera exhibited his unwavering belief that all children can learn through his steady development of diverse and multiple paths for student achievement marked by his oversight of the addition of innovative programs such as the intensive learning summer institutes and career academies to enable students of all types to realize success through a variety of instructional approaches; and

**WHEREAS**, Commissioner Librera pursued the expansion of programmatic elements of early childhood education initiatives designed to enhance the development and implementation of quality programs to prepare preschool-aged children to enter school with a foundation of skills and knowledge necessary for success; and

**WHEREAS**, Commissioner Librera provided outstanding leadership by guiding the Department of Education through the implementation of challenging policies such as the No Child Left Behind Act of 2001, new licensing regulations and the significant expansion of professional obligations and responsibilities amid reduced departmental staffing and financial resources; and

**WHEREAS**, Commissioner Librera demonstrated his sincere support as a true educator for the improvement of teaching and learning through his careful consideration of the restructuring of the statewide standardized testing process and its direct impact on classroom instruction and student achievement; and

**WHEREAS**, Commissioner Librera established a regionally-based system of department services to improve the availability and accessibility of the coordinated delivery of necessary instructional and support services to further advance a seamless system of educational and professional cooperation; and

**WHEREAS**, Dr. William L. Librera is resigning as the New Jersey Commissioner of Education effective September 7, 2005; now therefore be it

**RESOLVED**, that it is both fitting and proper that the New Jersey State Board of Education express its sincere appreciation to Dr. William L. Librera for his leadership as Commissioner of Education exhibited by his persistent determination to use all the resources available to create systemic, comprehensive and integrated solutions for the benefit of all New Jersey's children; and be it further

**RESOLVED**, that the New Jersey State Board of Education hereby honors Dr. Librera and extends best wishes to him and his family for success and happiness as he embarks upon new endeavors.

### **September Work Session and Public Testimony Session**

President Hyndman stated that the September work session will be held on September 21, 2005 at 1:00 p.m. at the Department of Education. The items for discussion will be the Vocational Plan, an update on the department's plan for Alternate Procedures for meeting high school graduation requirements and amendments to the Professional Licensure and Standards code.

President Hyndman also stated that the September public testimony session will be held on September 21, 2005 at 3:00 p.m. The topic for consideration will be Phase 4 amendments *NJAC 6A:9*, Professional Licensure and Standards. Additionally, this session is an open topic session.

### **COMMISSIONER'S REPORT**

Commissioner William L. Librera thanked the members of the State Board of Education. He stated that the work that has been accomplished over the past 3 ½ years has been successful due

to the team effort and talent of the entire senior staff of the Department of Education. He also thanked his wife and children by acknowledging their support and their sacrifices during his tenure as Commissioner. He further acknowledged his late parents and stated that they were instrumental to his success. Commissioner Librera also paid tribute to the city of Jersey City and thanked Tremayne Gibson, Brienne Guirantes and the student's of the Science Olympiad Team from the Dr. Ronald E. Mc Nair Academic High School for their participation in today's celebration.

### **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 one year with conditions, the Deerfield Township School District in Cumberland County 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*.

#### **C. Professional Licensure and Standards**

- Discussed the amendments pertaining to the re-establishment of the industrial arts endorsement pursuant to statute; delineation of the individual authorizations for business education/business-related technologies and family and consumer sciences endorsements; grandfathering provisions; and clarification of degree, credit-hour, grade point average, experience and/or mentoring requirements for various endorsements proposed at N.J.A.C. 6A:9 pursuant to N.J.S.A. 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 stated that she would like an update regarding the regulations for the Abbott School Districts. Commissioner Librera stated that the Department needs additional time to promulgate and file the regulations with the Office of Administrative Law. The Commissioner stated that he would provide a status report to the State Board in the near future. The State Board members present questioned the authority the Department of Education had to regulate Abbott districts without rules. The State Board members also requested information regarding the mechanism to use when code is absent in a particular area. To address State Board members' concerns, Commissioner Librera stated that the Department of Education will provide information on the status of the Abbott regulations.

President Hyndman stated that the Department has requested that the State Board extend the expiration date of emergency certificates for Special Education teachers from January 2006 to

August 2006. He directed the Department to present draft regulations for emergency certificates for special education teachers to the State Board at proposal level at the September 21, 2005 work session.

## **LEGAL CASES**

On motions duly seconded and carried, decisions in the following cases were adopted by the board as presented by legal committee members Margaret F. Bartlett, Kathleen Dietz, Josephine E. Figueras, and Debra Casha, chairperson.

### **DIANNE GIARDINA V. BOARD OF EDUCATION OF THE TOWNSHIP OF PEQUANNOCK, MORRIS COUNTY, STATE BOARD DOCKET #23-05**

The State Board of Education affirmed the decision of the Commissioner of Education, agreeing that the appellant, who had been employed by the district board for two years as an office aide and then for three years as a secretary, had not satisfied the precise statutory conditions for achievement of tenure as either a clerk or a secretary under N.J.S.A. 18A:17-2. The State Board concurred with the Commissioner that the statute did not permit the appellant to combine the time she was employed as an office aide with the time she was employed as a secretary for the purpose of accruing tenure as a secretary or to tack the time she was employed as a secretary to the time she was employed as an office aide for the purpose of accruing tenure as a clerk. John A. Griffith abstained.

### **IN THE MATTER OF THE TENURE HEARING OF DR. JOHN HOWARD, JR., BOARD OF EDUCATION OF THE CITY OF EAST ORANGE, ESSEX COUNTY, STATE BOARD DOCKET #22-05**

The district board certified tenure charges of unbecoming conduct against the respondent, the district's superintendent of schools, alleging that he had lied under oath during a deposition about a relationship with a subordinate employee of the district. The State Board of Education voted unanimously to affirm the decision of the Commissioner of Education, agreeing that the district board had demonstrated the truthfulness of those charges and that the appropriate penalty under the circumstances was forfeiture of the 120 days' salary withheld following certification of the charges. In imposing such penalty, the Commissioner had observed that since the respondent had been dismissed from his tenured employment as the result of a previous set of tenure charges, the only available penalty was forfeiture of the 120 days' pay.

### **BOARD OF EDUCATION OF THE BOROUGH OF LINCOLN PARK, MORRIS COUNTY V. BOARD OF EDUCATION OF THE TOWN OF BOONTON, MORRIS COUNTY, STATE BOARD DOCKET #18-05**

The Lincoln Park board filed a petition with the Commissioner of Education claiming that work performed on the parking lot of Boonton High School was a "capital expenditure" rather than a "repair" and, as a result, that the Boonton board had improperly included a portion of that expense in the tuition costs charged to Lincoln Park under the parties' sending-receiving agreement. The Commissioner agreed with Lincoln Park, finding that the scope of the work undertaken by Boonton was more of an extensive improvement as opposed to an area repair/replacement. Thus, the Commissioner concluded that Boonton had improperly included

such expenditure in the tuition rate charged to Lincoln Park. The State Board of Education affirmed the decision of the Commissioner. Debra Casha recused herself.

TOWNSHIP OF MAPLEWOOD, ESSEX COUNTY V. TOWNSHIP OF SOUTH ORANGE VILLAGE, ESSEX COUNTY AND BOARD OF EDUCATION OF THE SOUTH ORANGE-MAPLEWOOD SCHOOL DISTRICT, ESSEX COUNTY, STATE BOARD DOCKET #25-05

The Township of Maplewood filed a petition for declaratory judgment with the Commissioner of Education, requesting that the provisions of N.J.S.A. 18A:22-5 be construed and clarified so as to determine whether a majority of the municipality representatives of South Orange Village and a majority of the municipality representatives of Maplewood were required to pass any resolution of the Board of School Estimate. The Board of School Estimate, which considers and approves the budget of the South Orange-Maplewood school board, is composed of eight members, consisting of three representatives from each of the two municipalities and two representatives from the South Orange-Maplewood board.

After reviewing the language of the statute and the legislative history, the Deputy Commissioner concluded that N.J.S.A. 18A:22-5 mandates that when any action is required to be taken by a majority of the full membership of the Board of School Estimate, both a majority of the full membership including the South Orange-Maplewood school board's representatives and a majority of all of the representative members of the municipalities is required. The Deputy Commissioner rejected Maplewood's contention that a majority of the representatives of each municipality is required by the statute. The State Board of Education voted unanimously to affirm the decision of the Deputy Commissioner.

IN THE MATTER OF THE RECOVERY OF FUNDS FROM THE PASSAIC COUNTY TECHNICAL INSTITUTE'S 2004-2005 TITLE 1 ALLOCATION, PASSAIC COUNTY, STATE BOARD DOCKET #7-05

As the result of an error in the formula programming, the Department of Education provided the appellant, the Passaic County Technical Institute, with funding in the amount of \$2,400,517 under Title I of the federal No Child Left Behind Act for the 2003-04 school year, rather than \$1,432,482 to which it was entitled. The Department subsequently notified the appellant that it would be recovering the difference by debiting the overfunding from the appellant's Title I allocations over a three-year period commencing in the 2004-05 school year. The Commissioner of Education rejected the appellant's contention that the amount of Title I funding it had received for 2004-05 as a result of such recoupment was inequitable and in violation of the hold-harmless provisions of No Child Left Behind. The Commissioner explained that the Department was obligated to recover the overfunding and that it was spreading the debiting over a three-year period in order to mitigate the effect on the appellant.

On appeal to the State Board of Education, the appellant did not dispute that an overpayment had occurred and that the Department was obligated to recoup those funds. Rather, it reiterated its contention that the funding provided to it under Title I for the 2004-05 school year was inequitable and violated the hold-harmless provisions of No Child Left Behind, and it sought a recoupment schedule that extended over a longer period of time.

The State Board rejected the appellant's arguments and dismissed the appeal. The State Board explained that the appellant had not shown that the Department did not have the discretion to

establish a schedule for recouping the overfunding at issue or that it had abused that discretion in establishing a three-year recoupment schedule. Nor had the appellant demonstrated that the Department had acted in a manner that was arbitrary, capricious or unreasonable in establishing such a schedule. Nor had the appellant shown that the recoupment schedule established by the Department was inequitable. In the absence of such a showing, the State Board indicated that it would not disturb the Commissioner's determination. It noted that, to the extent the appellant was seeking to challenge the Department's action as being in violation of federal law, this agency was not the proper forum for determining such a claim. Josephine E. Figueras abstained.

**ALBERT ZIEGLER V. BOARD OF EDUCATION OF THE CITY OF BAYONNE, HUDSON COUNTY, STATE BOARD DOCKET #5-04**

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The petitioner, who holds an instructional certificate with an endorsement in skilled trades, which was issued to him by the Department of Education in 1982, filed a petition with the Commissioner of Education claiming that the district board had violated his tenure rights when it terminated his employment during the 1998-99 school year on the grounds that he did not have the appropriate certification for the courses he was then teaching: Technology 1 (9-12), Shop (9-10), and Maintenance and Repair (9-12). Following a remand to the Office of Administrative Law to determine the duties of the assignment, the Commissioner dismissed the petition, concluding that the petitioner did not hold the appropriate certification for those courses.

In a decision issued on July 6, 2005, the State Board of Education reversed the determination of the Commissioner, finding that the certification the petitioner possessed was an instructional certificate with a skilled trades endorsement issued on the basis of more than six years of experience in carpentry. In so doing, the State Board stressed that the regulations in effect when the petitioner received his certification in 1982 provided that applicants were required to demonstrate that they had six years of approved full-time experience in a particular skilled trade in order to be eligible for certification in "Skills trades (Experience Background)" without the requirement of a bachelor's degree. As the State Board had determined in Polo v. Board of Education of the Vocational Schools of the County of Bergen, decided by the State Board of Education, 94 N.J.A.R.2d (EDU) 36, aff'd, 95 N.J.A.R.2d (EDU) 105 (App. Div. 1995), those regulations did not specify the scope of the authorization to teach under the skilled trades endorsement or list any trades under that endorsement, and they were intended to authorize the holder of a skilled trades endorsement to teach trades in which he had demonstrated the requisite experience. The State Board stressed that documents submitted to the Department in support of the petitioner's application for certification verified that he had more than six years of full-time experience as a carpenter and that the Department had issued him a standard instructional certificate with a skilled trades endorsement in 1982 on the basis of that documented experience.

Since the courses at issue in this matter were basic skilled trades courses with an emphasis on carpentry, the State Board concluded that the petitioner's skilled trades endorsement authorized him to teach them. Hence, the State Board concluded that the petitioner was improperly terminated from his tenured employment, and it directed the district board to reinstate him with back pay, less mitigation, to a teaching assignment within the scope of his skilled trades certification. Since the record did not permit a finding with regard to damages, the State Board remanded this matter to the Commissioner for the limited purpose of determining the specific amount of damages to which the petitioner was entitled.

On July 20, 2005, the district board filed motions seeking reconsideration of the State Board's decision of July 6 and supplementation of the record with a copy of an employment application submitted by the petitioner to the district board in 1983. The board contended that the proposed exhibit raised factual questions about the petitioner's work experience as a carpenter and that, on the basis of that exhibit, the State Board should reconsider its decision.

The State Board denied the district board's motions and reaffirmed its decision of July 6, 2005. The State Board found that the district board's proposed exhibit was not material to the issue before the agency, *i.e.*, whether the petitioner's skilled trades endorsement qualified him to teach the courses at issue. It was undisputed that the Department of Education had issued the petitioner a standard instructional certificate with an endorsement in skilled trades in 1982. A document submitted in support of the petitioner's certification application, which was completed by the Department of the Army, 469th Engineer Battalion, verified that the petitioner had served as a carpenter for the period from May 1963 until September 1969. That document, which was in the record and stipulated to by the parties, had been accepted by the Department of Education as demonstrating that the petitioner had the requisite experience for the issuance of a skilled trades endorsement, and such certification was in fact issued to him in 1982. The petitioner was employed by the district board under that certificate until the 1998-99 school year, and the validity of the certificate was not contested during these proceedings. The State Board noted in that regard that a challenge to a certificate must be made to the State Board of Examiners, which has the authority to suspend or revoke certificates for inefficiency, incapacity, conduct unbecoming a teacher or other just cause.

In addition, the State Board rejected the district board's contention that its decision of July 6 had the effect of providing the petitioner with retroactive certification in carpentry. The State Board reiterated that the regulations in effect in 1982 were intended to authorize the holder of a skilled trades endorsement to teach trades in which he or she had demonstrated the mandated six years of experience. Thus, by virtue of his possession of a skilled trades endorsement which the Department of Education had issued to him on the basis of his documented experience as a carpenter, the petitioner was authorized to teach carpentry. Arcelio Aponte, Ronald K. Butcher and Ernest P. Lepore abstained.

### **ADJOURNMENT**

On a motion duly seconded and carried the State Board of Education adjourned its September 7, 2005 public meeting at 12:40 p.m.

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