

**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**

December 6, 2006

Presiding: Arcelio Aponte., Vice President

Secretary: Lucille E. Davy, Commissioner

PRESENT CONSTITUTING A QUORUM

Dr. Ronald K. Butcher
Ms. Debra Casha
Ms. Maud Dahme
Ms. Kathleen A. Dietz
Ms. Josephine E. Hernandez
Dr. Ernest Lepore
Dr. Thelma Napoleon-Smith
Mr. Edward M. Taylor

ABSENT

Dr. Arnold G. Hyndman
Rev. Frederick LaGarde, Jr.

CONVENING

Arcelio Aponte, vice 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 December 6, 2006.

STUDENT SPEAKERS

John Blakeslee, the 2006 State Board student representative and a junior from Holmdel High School (Monmouth County), introduced the student guest speaker.

Tiffany Peng, a student from John P. Stevens High School (Middlesex County), spoke to the State Board about who is ultimately responsible for the education of New Jersey's students.

Vice President Aponte, on behalf of the State Board, thanked Tiffany for her presentation.

INTRODUCTIONS

Commissioner Davy recognized Daniel Loggi, Atlantic County Superintendent of Schools, who represented the county superintendents. Mr. Loggi has served in this position since July 2002.

Student Recognition Program

The State Board recognized Christina DiDonato, Hammonton High School (Atlantic 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 Christina for her outstanding accomplishments in leadership and academic excellence.

On behalf of the State Board, Vice President Aponte congratulated Christina 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 meeting conducted on November 1, 2006 and November 15, 2006. State Board member Josephine Hernandez abstained from voting on the minutes of the November 1, 2006 meeting. State Board members Debra Casha and Maud Dahme abstained from voting on the minutes of the November 15, 2006 meeting.

PRESIDENT'S REPORTS

December Work Session and Public Testimony Session

Vice President Aponte stated that the December work session will be held on December 20, 2006 at 1:00 p.m. at the Department of Education. The items for discussion will be High School Redesign.

Vice President Aponte also stated that the December public testimony session will be held on December 20, 2006 at 3:00 p.m. The topics for consideration will be the Readoption of *NJAC* 6A:28, School Ethics Commission and the Readoption of *NJAC* 6A:17, Education for Homeless Students and Students in State Facilities.

State Board Agenda Subscribers Renewal

Vice President Aponte stated that pursuant to *NJSA* 10:4-19, current subscriptions for paper or electronic copies of the public meeting agenda expire on December 31. Information regarding the subscription renewal can be found on the state board section of the department's website at (www.state.nj.us/njded/sboe/meetings). Vice President Aponte also stated that subscription renewals will be accepted until December 15 and that an additional reminder is posted at the table in the back of the conference room on December 6, 2006.

State Action for Education Leadership Program (SAELP)

State Board member Ronald K. Butcher provided an update on the State Action for Education Leadership (SAELP) project. Dr. Butcher stated the team held its first planning meeting on December 5, 2006 and that State Board members Maud Dahme and Arcelio Aponte were also in attendance along with Commissioner Davy. Dr. Butcher also stated that this is the second SAELP project funded by the Wallace Foundation and is commonly referred to as SAELP II. The goal of the SAELP II is to improve education leadership throughout the state. Dr. Butcher stated that the SAELP II project has four areas of focus: 1) Advanced Preservice Preparation for Education Leadership; 2) Professional Development for Schools and District Leaders; 3) Creation of High Performing District Governance Teams and 4) Increasing Leadership Density and Capacity. Dr. Butcher also stated that the SAELP II committee is working to disseminate information regarding the project across the state.

Dr. Butcher further stated that SAELP I has resulted in many Administrative Code changes to the Professional Licensure and Standards requirements such as reciprocity and the development of the professional development committee structure.

COMMISSIONER'S REPORTS

New Jersey Quality Single Accountability Continuum

Commissioner Davy stated that amendments to the current state monitoring law are pending before the Legislature. The amended bill provides the Commissioner of Education with the authority to adopt rules to implement NJQSAC in an expedited manner for a period of one year. The statutory amendments also authorize the Commissioner to adopt rules and regulations in accordance with the Administrative Procedure Act for the next 24-month period.

Commissioner Davy also stated that the amendments would: allow monitoring of school districts to occur on a three-year cycle rather than annually; give the highly skilled professional the power to oversee district staffing in the area of intervention over which he or she is assigned to provide direct oversight, including the ability to hire, promote and terminate employees; and give the department 120 days rather than 45 days to conduct school district evaluations. The Commissioner further stated that once the legislation is finalized the department would begin working with Montclair State University to conduct the external evaluations of the State Operated School Districts; 6 Level II Districts: Asbury Park, Atlantic City, Camden, Irvington, Trenton and Salem City and 6 Districts In Need of Improvement: Camden County Voc-Tech, Essex County Voc-Tech, Lakewood, New Brunswick, Phillipsburg and Plainfield.

Abbott Fiscal Regulations

Commissioner Davy stated that on November 1, 2006, she filed proposed regulations pertaining to fiscal management of the Abbott school districts. Based on the Supreme Court's order in *Abbott vs. Burke* 187 NJ 191 (2006) (Abbott XV), the Commissioner of Education was required to promulgate regulations in accordance with the Administrative Procedures Act (APA). The proposed fiscal regulations will be published in the December 18, 2006 *New Jersey Register* and will be in effect for two years after adoption.

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 the Deal and Holmdel School Districts in Monmouth County for a period of seven years 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. Request for Name Change

- Adopted the following resolution approving a name change from Essex County Educational Services Commission to the Essex Regional Educational Services Commission pursuant to *NJSA 18A:6-51*.

**RESOLUTION
REQUESTING A NAME CHANGE FOR THE ESSEX COUNTY
EDUCATIONAL SERVICES COMMISSION**

WHEREAS, the State Board of Education approved the establishment of the Essex County Educational Services Commission in 1977, pursuant to N.J.S.A. 18A:6-52, to provide educational and administrative services and programs to member school district boards of education; and;

WHEREAS, the Essex County Educational Services Commission has provided multiple and diverse educational services to 60 school districts located in 10 counties in northern and central New Jersey;

WHEREAS, and the Essex County Educational Services Commission is requesting that the State Board of Education approve a name change to the Essex Regional Educational Services Commission, to more accurately reflect the clientele served by the Commission; now therefore be it

RESOLVED that, pursuant to N.J.S.A. 18A:6-61, the State Board of Education grants approval to the Essex County Educational Services Commission to change its name to the Essex Regional Educational Services Commission.

D. Special Education Advisory Council

- Adopted the following resolution approving the appointments to the State Special Education Advisory Council pursuant *NJSA* 18A:46-2 and *P.L.* 94-142.

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

WHEREAS, the reauthorized Individuals with Disabilities Education Act (IDEA) of 1997 amendments require 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 Ms. Angela Durso be appointed to the State Special Education Advisory Council for a two-year term effective December 6, 2006. Ms. Durso is the Director of Special Services for the Perth Amboy Public School District. Prior to her appointment as director, Angela served as the supervisor of Special Education between 1988 and 2004. Angela began her career as a special education teacher. Her membership on the Council would provide representation of the Abbott school districts in the Council's discussions of special education needs and services.

E. Career and Technical Education Programs and Standards

- Adopted the regulations pertaining to Career and Technical Education Programs and Standards proposed at *NJAC* 6A:19 pursuant to *NJSA* 18A:1-1, 18A:4-15, 18A:4-16, 18A:4-24, 18A:4-25 through 4-27, 18A:4-32, 18A:4-34, 18A:6-9, 18A:7A-1 et seq., 18A:33-1 et seq., 18A:40-12.1 and 12.2, 18A:54-1 et seq., 18A:59-5, 34:15C-3, 29 C.F.R. Subpart C of Part 570; 20 U.S.C. §§ 2301 et seq.; P.L. 105-220.

F. School Ethics Commission

- Discussed the amendments of the School Ethics Commission regulations proposed at *NJAC* 6A:28 pursuant to *NJSA* 18A:12-34.

G. State Board Rulemaking

- Discussed the regulations pertaining to the proposed readoption with amendments of the State Board Rulemaking proposed at *NJAC* 6A:6, pursuant to *NJSA* 18A:4-15 and 52:14B-1.

NEW BUSINESS

Vice President Aponte introduced Victoria Kuhns, the new deputy attorney general assigned to the State Board to replace William Malloy, who retired. State Board member Maud Dahme requested an update on pending bills currently under consideration by the Legislature. State Board member Kathleen Dietz requested a progress report from each committee of the State Board of Education.

LEGAL CASES

On motions duly seconded and carried, decisions in the following cases were adopted by the State Board as presented by its legal committee members Ernest P. Lepore, Thelma Napoleon-Smith, and Josephine E. Hernandez, chairperson.

I.B., on behalf of minor child, M.A., III V. BOARD OF EDUCATION OF THE TOWNSHIP OF BELLEVILLE, ESSEX COUNTY, STATE BOARD DOCKET #51-05

The petitioner, who lives in Belleville, filed a petition with the Commissioner of Education challenging the determination by the Belleville board of education that her nephew, M.A., was not entitled to a free public education in the Belleville school district. The petitioner based her challenge on an order issued by the Chancery Division of Superior Court which awarded custody of M.A. jointly to his mother and father while granting “residential custody” of M.A. to the petitioner. The Commissioner, analyzing the petitioner’s claim under N.J.S.A. 18A:38-2, concluded that M.A. was entitled to a free public education in Belleville by virtue of the court order which gave the petitioner “residential custody” of M.A. The Commissioner reasoned that it was not within her purview to disturb an order of the Superior Court and that any challenge to that order must be directed to the Court. She ordered the Belleville board to continue to admit M.A. to its schools as long as there was no change in the Superior Court’s order that would alter his entitlement.

The State Board of Education reversed the decision of the Commissioner. In so doing, the State Board determined that N.J.S.A. 18A:38-2 was not applicable to the factual situation presented by this matter, concluding that the case was properly analyzed under N.J.S.A. 18A:38-1. After reviewing the record, the State Board concluded that the petitioner had not met her burden of demonstrating that M.A. was entitled to a free public education in the Belleville school district under N.J.S.A. 18A:38-1. The State Board found that the evidence overwhelmingly supported the Belleville board’s position that M.A. was living with his mother in Newark during the period at issue. Thus, notwithstanding the order granting “residential custody” to the petitioner, the petitioner had not demonstrated that M.A. was actually living with her in Belleville. The State Board, therefore, dismissed the petition and granted the Belleville board’s counterclaim for tuition. It denied the Belleville board’s request for oral argument as not necessary for a fair determination of this matter. State Board member Kathleen Dietz opposed.

TATIANA CHARAPOVA V. BOARD OF EDUCATION OF THE TOWNSHIP OF EDISON, MIDDLESEX COUNTY, STATE BOARD DOCKET #30-06

The State Board of Education voted unanimously to table this matter and refer it back to the Legal Committee.

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

The appellant, a teacher and co-owner of a preschool, had agreed to the request of a part-time employee of the school to have her salary payments made to her son, who performed custodial and computer duties for the school, since she was concerned that income she received could

disqualify her from receiving the social security benefits of her husband, who had died recently. On November 3, 2005, the State Board of Examiners suspended the appellant's certification for two years. On November 18, 2005, the President of the State Board of Education and the Chairperson of the Legal Committee, acting on behalf of the State Board, granted a stay of the Board of Examiners' action of November 3. In a decision rendered on October 4, 2006, the State Board modified the Board of Examiners' decision, concluding that the two-year suspension imposed by the Board of Examiners was unduly harsh and that a one-year suspension was appropriate under the circumstances.

The appellant filed a motion with the State Board seeking clarification and/or reconsideration of its decision of October 4, contending that she should be given credit for the period of her suspension that she already had served. The State Board voted unanimously to clarify that the appellant was entitled to credit toward the one-year suspension for all periods during which she has already suffered suspension of her certification, including the 15-day period between the Board of Examiners' action of November 3, 2005 suspending her certification and the stay of that decision granted on November 18, 2005.

IN THE MATTER OF THE SUSPENSION OF THE TEACHING CERTIFICATES OF ANTHONY MANGAN BY THE STATE BOARD OF EXAMINERS, STATE BOARD DOCKET #20-06

The State Board of Education voted unanimously to affirm the decision of the State Board of Examiners to suspend the appellant's teaching certificates for two years as a result of inappropriate conduct and remarks to students. The Board of Examiners had accepted the findings of the Administrative Law Judge (ALJ) that the appellant had cursed in class, made ethnic jokes and flirted with and touched female students. A mitigating consideration, as found by the ALJ, was that the appellant was in other respects a well-regarded teacher of long experience. The State Board agreed with the Board of Examiners that the appellant's behavior warranted a two-year suspension of his certificates.

IN THE MATTER OF THE TENURE HEARING OF RALPH McCULLOUGH, SCHOOL DISTRICT OF THE CITY OF TRENTON, MERCER COUNTY, STATE BOARD DOCKET #12-06

The State Board of Education denied the appellant's request to take official notice of an audio cassette tape containing testimony purportedly given at the appellant's previous tenure hearing. The State Board reiterated that the sound recording of a hearing held in the Office of Administrative Law is unofficial and may not be substituted for the required transcript. In addition, the tape at issue contained a conversation between the appellant and an unidentified party, along with narrative and argument by the appellant. State Board member Thelma Napoleon-Smith abstained.

IN THE MATTER OF THE REVOCATION OF THE TEACHING CERTIFICATES OF MICHAEL NIEVES BY THE STATE BOARD OF EXAMINERS, STATE BOARD DOCKET #19-06

The State Board of Education voted unanimously to affirm the decision of the State Board of Examiners to revoke the appellant's teaching certificates as a result of his conduct in sending

personal suggestive notes to an eighth-grade student in his class. The State Board agreed with the Board of Examiners that the appellant's conduct warranted revocation of his certificates.

YOUTH CONSULTATION SERVICE, INC. V. NEW JERSEY STATE DEPARTMENT OF
EDUCATION, OFFICE OF COMPLIANCE INVESTIGATION, STATE BOARD
DOCKET #34-06

This matter was withdrawn from the agenda.

ADJOURNMENT

On a motion duly seconded and carried the State Board of Education adjourned its December 6, 2006 public meeting at 12:50 p.m.

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