

**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 5, 2007**

**Presiding:** Ronald K. Butcher, President

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

**PRESENT CONSTITUTING A QUORUM**

Mr. Arcelio Aponte  
Ms. Debra Casha  
Ms. Kathleen A. Dietz  
Ms. Edithe Fulton  
Ms. Josephine E. Hernandez  
Dr. Arnold G. Hyndman  
Dr. Ernest Lepore

**ABSENT**

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

**CONVENING**

Ronald K. Butcher, 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 5, 2007.

**ADJOURN TO EXECUTIVE SESSION**

President Butcher 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, specifically State Board office staffing.

The State Board immediately adjourned to executive session.

### **RECONVENING**

President Butcher 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) stated that there were no student speakers today. Kayla wished everyone a happy and safe holiday season.

### **INTRODUCTIONS**

Commissioner Davy recognized H. Mark Stanwood, Gloucester County Superintendent of Schools, who represented the county superintendents. Mr. Stanwood has served in this position since June 2003.

### **Student Recognition Program**

The State Board recognized Matthew Cramer, Gateway Regional High School, (Gloucester 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 Matthew for his outstanding academic and extra curricular achievements.

On behalf of the State Board, President Butcher congratulated Matthew 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 public meeting conducted on November 7, 2007. State Board member Arnold G. Hyndman, abstained.

### **PRESIDENT'S REPORTS**

#### **December Work Session and Public Testimony Session**

President Butcher stated that the December work session will be held on December 19, 2007 at 1:00 p.m. at the Department of Education. He stated that the items for discussion include a presentation by the Higher Education Task Force and the Managing for Equity in Education discussion paper.

President Butcher also stated that the December public testimony session will be held on December 19, 2007 at 3:00 p.m. The topic for consideration will be the Core Curriculum Content Standards Resolution.

President Butcher stated that today's public testimony session that was rescheduled from November 21, 2007 would not be held because there were no registrants for the session.

### **State Board Agenda Subscribers Renewal**

President Butcher stated that pursuant to NJSA 10:4-19, 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](http://www.state.nj.us/njded/sboe/meetings)). President Butcher also stated that subscriptions will be accepted until December 14.

### **Resolution Honoring Maud Dahme**

On behalf of the State Board of Education, President Butcher presented a resolution honoring Maud Dahme for her service to the State Board of Education and to the children of New Jersey.

On a motion duly seconded and carried, the State Board approved the following resolution:

#### **RESOLUTION TO HONOR MAUD DAHME**

**WHEREAS**, Ms. Maud Dahme has served with distinction as a member of the New Jersey State Board of Education from 1983 to 2007, including five terms as President and two terms as Vice President, and is being honored for her distinguished tenure of service; and

**WHEREAS**, Ms. Dahme's commitment to the State Board included participation on numerous committees that addressed challenging issues related to education policy and procedures such as in-depth policy making, legislative activity, research and development, strategic planning and international education; and

**WHEREAS**, Ms. Dahme also served faithfully as a member of the State Board Legal Committee for nine years, including two years as chair, during which she provided leadership in reviewing appeals and developing recommended decisions for formal consideration by the full State Board; and

**WHEREAS**, Ms. Dahme focused significant attention not only on educating students on the horrors of genocide through awareness programs and activities but also providing equal educational opportunities for rural and migrant children; and

**WHEREAS**, throughout the span of her tenure as a State Board member, Ms. Dahme supported such far-reaching reform initiatives as the development of the Core

Curriculum Content Standards, expansion of the state assessment system and the establishment of comprehensive high school graduation requirements; and

**WHEREAS**, Ms. Dahme's leadership in educational policy was elevated to and recognized on a national level, both through her term as President of the National Association of State Boards of Education, and as a 2001 recipient of the NASBE Distinguished Service Award; and

**WHEREAS**, the New Jersey State Board of Education and the New Jersey Department of Education have significantly benefited from Ms. Dahme's knowledge of education policy; now therefore be it

**RESOLVED**, that it is both fitting and proper that the New Jersey State Board of Education and the Commissioner of Education express their sincere appreciation for Ms. Maud Dahme's commitment to her role as a State Board member and for her service to the education community; and be it further

**RESOLVED**, that the New Jersey State Board of Education and the Commissioner of Education extend best wishes for health and happiness to Ms. Maud Dahme and family.

### **Change in January Meeting Date**

President Butcher stated that the State Board would be considering a change in the January state board meeting dates later in the meeting.

### **State Board Office Staffing**

President Butcher introduced Kim Belin as the acting director of the State Board Office. He stated that Mrs. Belin will be replacing Diane Shoener who has accepted a position in the Office of Early Childhood Education.

## **COMMISSIONER'S REPORTS**

### **Arts Survey**

Jay Doolan, assistant commissioner, Division of Educational Standards and Programs, and Sandra Alberti, director, Office of Academic Standards provided an overview of steps the department has undertaken to gain deeper insight into the implementation of arts education as defined by the *New Jersey Core Curriculum Content Standards*. Dr. Doolan stated that the *New Jersey Arts Education Census Project* is one of the most comprehensive efforts ever undertaken by any state to gather, evaluate and disseminate data regarding arts education in every public school. He also stated that the census project has received broad national attention and was highlighted in the report *From Anecdote to Evidence* by the Arts Education partnership in Washington, D.C. He further stated that several other states are now developing plans based on this model with the goal of establishing a base of comparable information between schools, districts, communities and states regarding the status and condition of Arts Education. Dr. Doolan stated that the genesis of this initiative was a request from the State Board to survey all areas of the Core Curriculum not currently included in the State Assessment program.

## **Monitoring of School Districts**

Commissioner Davy presented an update on the status of monitoring school districts via the Quality Single Accountability Continuum. She stated that the 15 school districts that were monitored earlier this year were currently working on plans and remediation in order to comply with the missed indicators on the District Performance Reviews in all five areas. She also stated that the self-assessments for school districts in the second cohort had been submitted to the county offices of education. The staff in the county office are currently reviewing and verifying information and material as submitted by the school districts.

### **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 Alberti as the Director, Office of Mathematics and Science Education.

#### **\*B. Professional Licensure and Standards**

- Adopted the amendments pertaining to regulations for teacher licensure and standards 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. Edith Fulton and Arcelio Aponte opposed.

#### **\*C State Technology Plan**

- Adopted the state technology plan as required by the United States Department of Education.

#### **D. Core Curriculum Content Standards**

- Discussed the resolution to revise the Core Curriculum Content Standards for Language Arts Literacy and Mathematics pursuant to *NJAC* 6A:8.

#### **E. Bilingual Education**

- Discussed amendments to the regulations pertaining to Bilingual Education pursuant to N.J.S.A. 18A:35- 3 and Title III of No Child Left Behind Act of 2001.

## **NEW BUSINESS**

After discussion with the State Board members, President Butcher announced that the State Board would hold its monthly public business meeting, work session and public testimony on Wednesday, January 9, 2008.

State Board member Josephine Hernandez again stated her concerns with ensuring that issues that are presented to the State Board during public testimony are looked into by the department. President Butcher stated that he would be discussing this matter with the State Board office staff.

President Butcher stated that the State Board Legal Committee is still in need of an additional member. He requested that at least one State Board member volunteer for this committee.

## **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, and Josephine E. Hernandez, chairperson.

### **IN THE MATTER OF THE USE OF ABBOTT FUNDS BY THE BOARD OF EDUCATION OF THE CITY OF ELIZABETH, UNION COUNTY, STATE BOARD DOCKET #21-07**

In a decision issued July 6, 2007, the Deputy Commissioner of Education determined that the Board of Education of the City of Elizabeth improperly expended \$88,373.00 on a brochure and television communications to the public during the 2005-2006 school year, and that this amount must be deducted from the school district's budget for the 2006-2007 school year. The communications concerned land in the city that the school district wanted to purchase from the city, rather than the city selling the two parcels to a private developer.

The case originated with the filing of an Order to Show Cause issued September 19, 2006, in which the Commissioner of Education informed the Elizabeth School District that its expenditures for certain print and television communications to the public were inappropriate and would be deducted from the district's 2006-2007 budget. The Commissioner asserted that the communications were inappropriate political advertising, in that they presented incomplete information and advocated only one side of a controversial question regarding the purchase of two parcels of land owned by the City of Elizabeth.

The ALJ, after hearing the testimony and reviewing the evidence, determined that the brochure and television spots presented incomplete information and were exhortative and one-sided in violation of Citizens to Protect Public Funds, 13 N.J. 172 (1953). The ALJ determined that the Commissioner correctly determined that the expenditures by the Elizabeth Board of Education were an ineffective and inefficient use of State money, and that a budget deduction was warranted in light of the heightened scrutiny of Abbott district expenditures required by the legislature and State Board. The Deputy Commissioner adopted the initial decision as the final decision and directed that the Elizabeth school district deduct the \$88,373.00 from its 2006-2007 budget. The school district appealed to the State Board of Education.

After a thorough review of the record and arguments of the parties, the State Board affirmed the decision of the Deputy Commissioner for the reasons expressed therein. State Board member Ernest P. Lepore abstained.

MAURICE S. KAPROW V. BOARD OF EDUCATION OF THE TOWNSHIP OF BERKELEY, OCEAN COUNTY, STATE BOARD DOCKET #22-07

In a decision issued on August 2, 2006, the Commissioner of Education concluded that the district board had violated the tenure and seniority rights of the appellant – whose tenured employment in the district as an Assistant Superintendent had been abolished in a reduction in force in 1981 – when it failed to appoint him as District Director of Elementary Education in July 2002. Accordingly, the Commissioner directed that the district board immediately appoint the appellant to the position of District Director of Elementary Education with back pay and emoluments.

In November 2006, the appellant filed a petition with the Commissioner seeking enforcement of her decision of August 2, 2006 and post-judgment interest. The appellant related, *inter alia*, that there was a dispute with regard to his claim for payment for accrued vacation and personal days and payment of a health insurance waiver. The Administrative Law Judge (ALJ) recommended dismissing the appellant's claims regarding accrued vacation and personal days and health insurance waiver issues, concluding that these issues arose pursuant to the terms and conditions of the district's collective bargaining agreement and, therefore, did not arise under the school laws and were not within the Commissioner's jurisdiction. On interlocutory review, the Commissioner adopted the ALJ's order and directed that the matter proceed solely on the appellant's claim for post-judgment interest. The Commissioner agreed that resolution of the appellant's claims would involve determination of rights under contractual terms and conditions of employment, which did not fall within her jurisdiction.

On June 7, 2007, the Commissioner, observing that the district board had made full payment of the appellant's claim for post-judgment interest, dismissed the petition as moot since the sole remaining issue in dispute had been resolved. The appellant filed an appeal to the State Board, arguing that his claims for payment of accrued vacation and personal days and payment of a health insurance waiver fell within the Commissioner's jurisdiction and should not have been dismissed. The State Board voted unanimously to affirm the decision of the Commissioner.

IN THE MATTER OF THE TENURE HEARING OF IESHA MC CAIN, BOARD OF EDUCATION OF THE TOWNSHIP OF IRVINGTON, ESSEX COUNTY, STATE BOARD DOCKET #20-07

The district board certified tenure charges of unbecoming conduct against the appellant, a tenured secretary, for habitual and repeated absence from work and failure to maintain regular working hours; use of disrespectful, unprofessional and profane language towards her supervisor in the presence of other employees; and failure to follow the direction of her supervisors that she stop selling commercial items on school premises during working hours. The ALJ found that the district board had demonstrated the truthfulness of the charges, except for the charge alleging habitual absences and failure to maintain regular working hours. Taking into consideration all of the circumstances, the ALJ concluded that the appropriate penalty was a six-month suspension and loss of a salary increment for one year. The Commissioner adopted the ALJ's recommendations with modification, finding, in addition to the charges sustained by the ALJ,

that there was evidence showing that the appellant had left work early without permission on several occasions. The Commissioner agreed with the penalty recommended by the ALJ and directed that the appellant be suspended for six months and lose any salary increments she might have received for the 2006-07 school year. The State Board of Education voted unanimously to affirm the decision of the Commissioner.

IN THE MATTER OF THE REVOCATION OF THE CERTIFICATES OF V.R. BY THE STATE BOARD OF EXAMINERS, STATE BOARD DOCKET #17-07

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On April 27, 2005, the Commissioner of Education dismissed the appellant from her tenured employment as a teacher with the State-operated district of Newark for unbecoming conduct. The Commissioner concluded that the State-operated district had demonstrated that the appellant had slammed her classroom door on the fingers of a seven-year-old student, causing him serious injury, and had failed to seek assistance from a neighboring classroom or call the office for help. The Commissioner forwarded his decision to the State Board of Examiners for any appropriate action against the appellant's certification. On November 2, 2005, the State Board of Education affirmed the decision of the Commissioner.

In January 2007, the State Board of Examiners issued an order to the appellant to show cause why her certification should not be suspended or revoked. In her answer to the show cause order, the appellant argued that the charges did not warrant the suspension or revocation of her certification. In addition, she related that she had had a 28-year unblemished career and had been in chronic pain and taking several medications at the time of the incident at issue as the result of a broken neck suffered in a fall at the school in May 2001. Finding that there were no material facts in dispute, the Board of Examiners provided the appellant with the opportunity to submit written argument on the issue of whether her behavior constituted conduct unbecoming a certificate holder. On June 7, 2007, upon review of the papers filed, the State Board of Examiners revoked the appellant's certification, and the appellant filed an appeal to the State Board of Education.

On August 29, 2007, while this appeal was pending, the Appellate Division issued a decision in In the Matter of the Revocation of the Teaching Certificate of Stephen Fox. In Fox, the Court reversed the State Board of Education's decision affirming the Board of Examiners' determination to revoke the teaching certificates of a teaching staff member who acknowledged that he had kissed on the lips a male student who had come to him for guidance. The Court concluded that, pursuant to the Administrative Procedure Act, Fox was entitled to more than simply a hearing "on the papers" in order to present evidence in mitigation of the revocation sanction. Consequently, the Court held that Fox was entitled to a hearing at the Office of Administrative Law, even if the only issue being contested was the sanction, and it remanded for a hearing limited to the issue of the appropriate sanction.

In light of the Court's holding in Fox, the State Board voted unanimously to reverse the Board of Examiners' decision to revoke the appellant's certification and to remand this matter to the Board of Examiners for referral to the Office of Administrative Law for a hearing limited to the issue of the appropriate sanction. The State Board retained jurisdiction.

IN THE MATTER OF THE DENIAL OF THE CHARTER SCHOOL APPLICATION OF THE WINSLOW PUBLIC CHARTER SCHOOL, CAPE MAY COUNTY, STATE BOARD DOCKET #25-07

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Appellant, the proposed Winslow Public Charter School, filed an application with the Commissioner of Education seeking approval to operate a public charter school. In a decision issued on August 27, 2007, the Commissioner of Education disqualified appellant's application from consideration because it was submitted beyond the deadline of 4:00 p.m. on July 16, 2007. Appellant filed an appeal of the Commissioner's determination with the State Board of Education.

Appellant's brief in support of its appeal was due 20 days after the filing of the record on appeal by the Commissioner of Education. The record on appeal was filed with the State Board on October 10, 2007, and appellant's brief was due October 30, 2007. By letter dated November 2, 2007, the Acting Director of the State Board Appeals Office notified the appellant of its failure to file a brief and informed it that this matter was being referred to the Legal Committee of the State Board for consideration of appellant's failure to perfect the appeal. Appellant did not file a brief or an explanation for its failure to timely file a brief in support of its appeal after the November 2, 2007 letter was sent to it. In that appellant's brief was not filed by October 30, 2007, and appellant failed to provide an explanation for its failure to file a brief in support of its appeal, the State Board voted unanimously to dismiss the appeal for failure to perfect.

#### **ADJOURNMENT**

On a motion duly seconded and carried the State Board of Education adjourned its December 5, 2007 public meeting at 1:20 p.m.

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