

Minutes  
**STATE BOARD OF EDUCATION**  
Monday, June 09, 2003

The State Board of Education met on Monday, June 09, 2003, in the Auditorium of the State Education Building. Shelby Hillman, Chairman, called the meeting to order at 9:00 a.m.

The following members were present: Shelby Hillman; Chairman; Robert Hackler, Luke Gordy; Peggy Jeffries, Dr. Calvin King; Lewis Thompson, Jr.; and Dr. Jeanna Westmoreland.

The following members were absent: JoNell Caldwell, MaryJane Rebick

**Special Presentation**

Ms. Hillman recognized the service on the State Board of Education of Lewis Thompson, Jr. and Peggy Jeffries by reading a resolution and presenting a plaque. On June 30, 2003, the term of each expires.

**Director's Report**

Mr. Simon expressed appreciation to Ms. Jeffries and Mr. Thompson for their service on the Board. He noted that each had been willing to spend time working through issues presented to the Board, were open to dialogue, and expressed opinions that contributed to the overall decisions. He commended these Board members for being willing to work in the public eye and make decisions, even when the options were difficult and unpopular. He noted that these Board members as well as the entire Board had given of their time with minimal, and often no, compensation for their work and time spent.

**Consent Agenda**

Mr. Hackler moved approval of the Consent Agenda as published. Dr. King seconded the motion. The motion was adopted unanimously.

Minutes – Teleconference – May 1, 2003

Minutes – Regular Meeting – May 12, 2003

Newly Employed, Promotions and Separations

Review of Loan and Bond Applications

Commitment to Principles of Desegregation Settlement Agreement: Report on the Execution of the Implementation Plan

Declaration of Critical Areas as Required by Act 1146 of 2001, Section 2(3)(A)

Report of Waivers to School Districts for Teachers Teaching Out-of-Field for Longer than Thirty (30) Consecutive Days, Act 1623 of 2001.

## **Action Agenda**

### **Request for Approval for Public Comment of the Revised Rules and Regulations for Distance Learning**

Jim Boardman was recognized to present this item. Mr. Boardman informed the Board that a major revision of these rules and regulations is necessary in view of actions of the General Assembly. He further noted that a public hearing would be conducted to get comment for these revisions as well as written response to proposed revisions.

Mr. Hackler asked for clarification of Section 10.02.1 under the condition that a qualified teacher might be employed and in place, but resigns after the set date in that section. He wanted to know if that district could avail itself of distance learning programs. Mr. Boardman assured Mr. Hackler and the Board that it was his intent that programs managed under the technology unit would be flexible enough to meet the emergency needs of districts. He vowed to seek strategies and make programs flexible so that districts could use technology delivery to provide courses when necessary.

Ms. Jeffries questioned the ability of the Department to remove funds from the Public School Fund and use those resources to support technology delivery of instruction. Mr. Boardman responded that such actions were made possible by new legislation. He stated that these provisions are almost verbatim from the new legislation.

Mr. Hackler moved that these rules and regulations be approved for public comment. Ms. Jeffries seconded the motion. The motion was adopted unanimously.

### **Request for Approval for Public Comment of the Proposed Rules and Regulations Governing Arkansas Comprehensive Testing, Assessment and Accountability Program and the Academic Distress Program**

Mr. Simon stated that this was one of three rules and regulations structured to meet the requirements of Act 1467 of 2003. Additionally, he noted that when adopted these would replace previously adopted documents for the Arkansas Comprehensive Testing, Assessment and Accountability Program (ACTAAP) and others. He noted to the Board that the final version of Act 1467 provides for assessments beyond the criterion-referenced tests already in place. Mr. Simon also indicated that technical assistance is proposed to make the assessment system stronger and to help ensure that the system is legally defensible.

Mr. Gordy observed that several months ago the Board adopted a policy that would require school administrators to engage in professional development in data disaggregation, curriculum alignment, and instructional management. He did not see this requirement included under the professional development and requested that it be added.

Dr. King inquired as to how schools currently in academic distress would be transitioned into this new system. He wanted assurance that no school was to be excused for failure to meet standards or to make expected progress while a new system of accountability was being implemented. Mr. Simon responded that the system of accountability is more rigorous and has a much shorter time line than the previous policies adopted by the Board. This proposed system outlines a number of options available to the Board for almost immediate action with these schools, not several years hence.

Mr. Hackler inquired about the idea of “starting point” for adequate yearly progress. Janinne Riggs responded with an explanation of computing the starting point and a model for determining progress each year of the new system through 2013-2014.

Mr. Gordy moved approval for public comment, as amended, for administrator professional development. Dr. King seconded the motion. The motion was adopted unanimously.

**Request for Approval for Public Comment of the Proposed Rules and Regulations Governing the Arkansas Fiscal Assessment and Accountability Program**

Mr. Simon noted that these proposed revisions seek to provide a more structured approach to moving districts through the fiscal distress condition. He noted that much emphasis in Act 1467 of 2003 seeks to clarify and establish a more valid approach to identification of a district as fiscally distressed.

Mr. Hackler moved approval for public comment. Mr. Gordy seconded the motion.

Ms. Jeffries inquired as to what type of a precedent would be set if the State Board were in a position to oversee the work of an elected local board of education. Scott Smith indicated that there was some precedent for establishing such policy especially when improper conduct or similar condition was observed.

The motion was adopted unanimously.

**Review and Approval for Public Comment of Proposed Rules and Regulations Governing the Guidelines, Procedures, and Enforcement of the Arkansas Public School Choice Act**

Scott Smith was recognized to present this item. Mr. Smith stated that the school choice options were modified by action of the General Assembly. This action provides for more options for students and their families – even options between districts. He noted that one of the major changes would be the option of a receiving district to provide transportation for incoming students.

Ms. Jeffries moved adoption of these proposed rules and regulations for public comment. Mr. Thompson seconded the motion. Mr. Gordy spoke in support of choice options for students and expressed the desire for these and other options to make the educational delivery system in Arkansas more attractive and accountable.

The motion was adopted unanimously.

**Request for Approval for Public Comment of Sanctions Imposed in Public Schools/Public School Districts for Failure to Meet Standards for Accreditation**

Mr. Simon indicated that the standards for public schools, as described in this document, are not an increase in the requirements. This document is intended to clarify issues of accountability and outline clearly sanctions that are to be imposed on schools or school districts that fail to meet standards. Mr. Simon noted that the proposed changes in professional development requirements for administrators, adopted earlier, will also apply in this document as well. Such changes will be included before they are released. He also pointed out that sanctions such as academic distress apply to districts only, but some policies will apply to schools. A major change is that no school shall be out of compliance for more than two (2) consecutive years without one or more of the Board's sanction options being invoked. This document provides the Board some options for acting when schools fail to meet standards. This is a new condition reinstated to the Board with new legislation.

Mr. Simon noted that meeting standards has nothing to do with school district size or directly with numbers of students; but it is the capacity of the school to meet the standards.

Mr. Gordy questioned the wisdom of maintaining the 38 units of credit standard when all the advisory groups were advising that the 38 units are inadequate to make a rich curriculum. Mr. Simon reminded the Board that at a previous meeting, the Board adopted a resolution that would assure schools that the number of units of credit required to be offered would not change for at least the coming year. He believes it is imperative that the Board honor its commitment.

Mr. Hackler questioned if the number of units as outlined in the standards was accurate at 38. After scanning the list, it was determined that language included in the career and workforce content clusters was incorrectly reported. Annette Barnes will see that the original language is restored with the total number of units being 38.

Mr. Gordy moved that the proposed rules and regulations be approved for public comment, as amended, to include provision for administrator professional development, technical language as discussed, and clarification of the number of vocational courses required. Mr. Thompson seconded the motion. The motion was adopted unanimously.

### **Funding Recommendations for the Arkansas Better Chance Programs for July 2003 to June 2004**

Janie Huddleston was recognized to present this item. Ms. Huddleston reminded the Board that her agency submits a request for proposals and the recommendations are based on review of proposals received. Each proposal is to support an initiative for pre- school students. Funds are available from a continuation of the beer tax and a small amount of state funds.

Ms. Jeffries questioned why some funds went to support Head Start programs. It was her understanding that all Head Start programs were funded with federal funds. Ms. Huddleston responded that many Head Start programs are federally funded, but some districts opt for Head Start programs for which there are no federal funds available. Ms. Jeffries asked what was the advantage of having state-funded programs that duplicate federally funded programs. Ms. Huddleston stated that not all students can be served with only state funds and this is a way to serve additional students.

Mr. Gordy moved approval of the funding recommendations. Mr. Hackler seconded the motion. The motion was adopted unanimously.

### **Policy Pursuant to the Review and Approval of Waiver of Student/Teacher Interaction Days**

Dr. Charity Smith was recognized for this item. Dr. Smith stated that the proposed policy was a revision of the submission from the May 12, 2003 Board meeting with the requested changes.

Mr. Hackler asked for clarification of the intent of the policy. He inquired if the policy would require every school district to build a school calendar that included snow days. Dr. Smith responded that the policy would only affect those districts that may request a waiver of student/teacher interaction days should adverse

weather cause the school district to close and the district were to ask for waiver of the total number of days to be in session.

Mr. Thompson moved adoption of the proposed policy. Dr. King seconded the motion. The motion was adopted unanimously.

### **Request by Huntsville School District and Rogers School District to Adjust Boundary Lines**

This item was removed from the Action Agenda.

### **Discussion of the State Operating Budget and Public School Fund Budget for FY-2004**

John Kunkel was recognized to present this item. Mr. Kunkel stated that the normal budget process is to present a proposed State Operating Budget and Public School Fund Budget for approval at the June Meeting. He indicated completing the budget process this year has been very difficult, given the number of budget cuts that have resulted from revenue shortfalls during the past year. He noted that salaries are a major item in the Operating Budget. Projected raises of 2.7% were adopted by the General Assembly, but funds to pay those raises cause severe cuts in other line items. He also noted that Operating Fund projected revenue for 2003-2004 is \$600,000 less than it was in 1999. Mr. Kunkel indicated that one cost-saving measure would be to eliminate out-of-state travel paid from the Operating Fund until a revenue pattern is established.

Mr. Gordy moved approval of the Operating Fund Budget as proposed. Dr. King seconded the motion. The motion was adopted unanimously.

Mr. Kunkel reported that the Public School Fund Budget was the single largest item in state government. Starting in 2003-2004, it is projected to be \$500,000 less than it was for the previous year. A number of external factors impact this Budget as did actions of the Legislature during their regular session earlier this spring.

Mr. Gordy inquired as to the impact of the injunction from Sebastian County on the use of Equalization Funds to the overall budget and to the actions taken by the Board on May 12. Mr. Kunkel indicated it was too early to know, but a hearing was proposed for later in the week. Mr. Gordy also asked about the impact of these decisions on the obligations due to the Pulaski County desegregation costs. Mr. Kunkel responded that it was too early to tell.

Dr. King noted that libraries received no funding in this budget. Mr. Kunkel responded that beginning with this biennium, libraries would have their own line-item budget in the State Budget. They will no longer be under the Department of Education for funding purposes.

Mr. Kunkel suggested that this budget may be a “stop-gap” measure until later in September after the proposed special session.

Dr. King inquired about possible increases in funding in response to the Lake View decision and the pending special session in September. Mr. Simon noted that to achieve the goals of these situations, the entire funding formula may have to be rewritten with additional revenue as well.

Dr. King moved adoption of the proposed Public School Fund Budget as presented. Mr. Hackler seconded the motion. The motion was adopted unanimously.

### **Amendment to Charter for FOCUS Learning Academy**

Dr. Mike Scoles was recognized for this presentation. Dr. Scoles reported that the developer of FOCUS Learning Academy had presented a new proposal for facilities since earlier projections were not realized. Dr. Scoles indicated that this new facility was part of a church in Conway. He reported that it was inspected by Dave Floyd, ADE School Plant Specialist, who declared it met minimum code when it was originally constructed. Dr. Scoles reported that FOCUS has a long-term lease agreement, which is less costly than the original proposal.

Mr. Floyd reported that the building was originally built to serve as an educational facility and thus met education code at the time of construction. Rooms are spacious, the building itself is handicapped accessible, but some rest rooms will not meet current standards for accessibility. He did recommend that one area of the campus not be used for playground space due to safety considerations. Dr. Scoles has affirmation that there is sufficient playground space without using that area of the campus.

Mr. Hackler moved approval of the revision to the contract. Mr. Gordy seconded the motion. The motion was adopted unanimously.

### **License Denial: Scott Dunn**

Scott Smith reported that Scott Dunn requested a teaching license in December of 2001. The routine background check revealed a felony conviction. Mr. Smith indicated that the candidate reported that he had requested that the record be expunged. There is no indication that such action ever occurred. Mr. Dunn was informed that under the conditions, no license could be issued. He was contacted and informed that a recommendation would be made to the State Board of Education denying his application for an Arkansas teaching license. Mr. Smith reported that there had been no response from Mr. Dunn. Mr. Dunn was not present nor was he represented.

Dr. King moved that the request for license be permanently denied. Ms. Jeffries seconded the motion. The motion was adopted unanimously.

### **Request from Jacksonville Area Residents to Detach from the Pulaski County Special School District**

Scott Smith requested that the Board adopt a revised procedure for hearing this issue. There would be an initial presentation by each of the parties not to exceed 20 minutes, followed by rebuttal of 5 minutes each. This would be followed by questions from the Board and statements from members of the public who registered to speak on this issue with statements limited to 5 minutes. Ms. Jeffries moved adoption of this process. Mr. Hackler seconded the motion. The motion was adopted unanimously.

*The proceedings of this hearing are reported under separate cover. This report includes a full-text transcription by a court recorder.*

### **Review of Appeals of Fiscal Distress 2004 - Oark School District**

Patricia Martin presented a recap of actions taken in the May meeting pursuant to designation of the Oark School District in Phase I of Fiscal Distress. She stated that the primary factor was a continuing declining balance, which places the district in a fiscally unstable condition.

Estel Grigg, Superintendent of Oark School District, was recognized to present any new information. Mr. Grigg reminded the Board that the Oark District is located in an isolated area of the state and serves a sparsely populated area, both of which contribute to high per pupil transportation costs. He noted that over the past two years revenues have declined, isolated funds have been reduced, and various federal funds are reduced due to population declines and other funding factors. Mr. Grigg also reported the difficulty of budgeting given the flux of budget cuts and the timing of those cuts. He pointed out that it is his practice to over-project expenses and hopefully under-project revenue so that there will be balances at the end of a budget cycle. That has been increasingly difficult and has led to what he referred to as fiscal aggravation.

Mr. Grigg reported that he has \$327,000 reserve in the bank that is earmarked for a new building. He is reluctant to commit those funds due to funding instability. He stated that the State would have few, if any, options should it seek to close the district. Mr. Grigg admitted that this winter and spring he devoted more time to state-level issues and concerns than he did to managing his district. He serves as a representative of small-rural districts to several state-level committees and functions. These obligations have detracted from his attention to responding to Department requests in a more timely manner.

Ms. Jeffries noted it appears that the Department has managed the fiscal distress requirements equitably across the state. The staff is following the rules and regulations and is fulfilling the Board's requirements. She continued that districts with small budgets have less flexibility and experience more difficulty in managing cuts than the larger districts.

Mr. Gordy expressed sympathy for the district; however, he believes there is a legislative mandate for the Board to act under certain conditions. Fiscal distress and the issue of continual declining balances of a district fall under of those conditions. He asked if the reason for a declining balance over the three-year period made a difference in the recommendation. Ms. Martin indicated that the bottom line was the ultimate concern for the decision.

Mr. Grigg stated that he believes he is being singled out and it is personal because he did not respond to requests for information in a more timely manner. He stated he simply decided to wait for the appeal to provide some of the information requested.

Ms. Hillman responded to Mr. Grigg that the action of the Board should not be considered personal, but a response to a documented condition that exists.

Mr. Gordy moved that the appeal be denied and the Fiscal Distress Phase 1 stand. Dr. King seconded the motion. The motion was adopted on a 5 to 1 vote. (Jeffries voted no.)

### **Review of Appeals of Fiscal Distress 2004 – Lakeside School District Garland County**

Ms. Martin indicated that this district reported that it would appeal the Phase 1 Fiscal Distress designation; but district officials were not present to provide additional information.

Mr. Hackler moved that the appeal be denied. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

### **Election of officers for the 2003 – 2004 year**

Luke Gordy, chair of the Nominating Committee, reminded the Board that the slate of officers for 2003-2004 recommended the election of JoNell Caldwell as Chairman and Shelby Hillman as Vice-Chairman. He asked for other nominations. Mr. Gordy moved election of this slate. Dr. King seconded the motion. The motion was adopted unanimously.

These officers will assume the duties of the office at the close of this meeting.

## **Other Business**

Scott Smith reported that work was almost complete on a proposal that would annex the Witts Springs School District to the Marshall School District. Such action should be complete prior to July 1 for it to be effective for the 2003-2004 school year. Mr. Smith requested that the Board consider moving the date of the regularly scheduled meeting for July 14, 2003 to June 24, 2003. It would be possible for this meeting to be conducted via telephone conference call.

Mr. Gordy moved that the Agenda be amended to consider rescheduling of the July meeting. Dr. King seconded the motion. The motion was adopted unanimously.

Mr. Gordy moved that the July meeting be rescheduled to June 24, 2003 and that the meeting be conducted via telephone conference call. Dr. King seconded the motion. The motion was adopted unanimously.

Dr. Watson was instructed to make arrangements for rescheduling this meeting and setting up the conference call.

Mr. Gordy moved adjournment. Mr. Hackler seconded the motion. The motion was adopted unanimously.

The meeting adjourned at 1:45 p.m.

The Minutes were recorded and reported by Dr. Charles D. Watson.