

Minutes
State Board of Education
Monday, October 11, 2004

The State Board of Education met on Monday, October 11, 2004, in the Auditorium of the State Education Building. JoNell Caldwell, Chairman, called the meeting to order at 9:00 a.m.

The following members were present: JoNell Caldwell, Chairman; Sherry Burrow; Shelby Hillman; Dr. Calvin King; Randy Lawson; MaryJane Rebick; Dianne Tatum; and Dr. Naccaman Williams.

The following member was absent: Dr. Jeanna Westmoreland.

Update on Status of Implementation of Act 1220

Dr. Bobbie Davis was recognized to present this report. Dr. Davis distributed a packet of material, "Status Update of the Policy Recommendations of Child Health Advisory Committee." (Attached) She stated that this Committee will continue to gather data and work toward framing recommendations for improving the health and physical condition of students in public schools. Dr. Davis noted that the Board would continue to receive updates in the coming months.

Ms. Tatum asked about the relationship of physical education instruction and athletics. Dr. James responded that the Department has an adopted Curriculum Framework for physical education and that some schools have petitioned athletics programs so that during the year, student instruction meets the requirements of the framework. In those cases, athletics can meet the physical education requirement; otherwise, all students are required to earn credit in physical education.

Mr. Lawson stated that he supports extracurricular activities in the public school program. He noted that students who participate in extracurricular programs are generally more successful in life. He also noted that often athletes have difficulty in scheduling physical education classes in addition to playing sports and getting the required academic courses. He stated that he did not want students to be required to give up an academic course to take physical education when the student has participated in athletics every year.

Dr. Williams asked for examples of schedules that detail all the state requirements. Dr. Davis responded that the Department was working on preparing these and noted that there would be examples from elementary schools as well.

Dr. James stated that scheduling has become a major issue for public schools: the state has added course or graduation requirements, teacher planning time and various other things, but the length of time in the school day has not changed. He observed that in the future changing the school day may have to be considered. He continued that any extension would come with additional costs.

Ms. Rebick asked about scheduling teacher planning time at the beginning or end of the school day during times when students are not present. Dr. James responded that that's an option, but it would require a change in legislation, now teacher planning time is required to be within the school day.

Report from and Discussion with Members from the Assessment and Accountability
Technical Advisory Committees

Dr. James introduced the following members of the advisory committees: Dr. Tom Fisher, Dr. Bill Brown, and Dr. Eugene Kennedy. Dr. James stated that the following presentation was intended as a very preliminary discussion of work being done in framing the remaining requirements of Act 35 of the Second Extraordinary Session of the 2003 General Assembly. He noted that this work focuses on establishing a continuous vertical scale linking current and new assessed grades on the state's criterion-referenced tests. Additionally, he continued, the committee will advise the Department of development of "value added" options as required in the law.

Dr. Fisher was recognized to lead the discussion with the Board. Dr. Fisher stated that this work is not complete, but the ideas presented in the report provide direction for the Department as it moves toward meeting requirements of Act 35.

Ms. Rebick noted that the Department has identified schools that fail to make "Adequate Yearly Progress" as defined in the No Child Left Behind (NCLB) legislation. She asked how the recommendations outlined in this presentation would build on the information already in place and would that work continue. Dr. James responded that Act 35 as well as NCLB requires states to develop an assessment system that tests all grades beginning at Grade 3 and continuing through Grade 8; and, test specific grades at the high school level. He also noted that Arkansas must add grades to our presently adopted testing system, add additional analyses as specified in the law, and construct a structure that will link all of the levels of the tests into one continuous system. Dr. James stated that is imperative that the Department be able to rollout our system with clear communications across the districts and the general public.

Ms. Hillman stated that it is good to know how the system will work and it is important for schools to know how each grade is performing.

Mr. Lawson noted that for the first time the assessment system will have sufficient data to contribute to informed decision-making. He stated it was important to be able to track the growth of each child and that he was glad to see the progress being made to develop such a system.

Mr. Lawson asked how schools were using norm-referenced tests for "off-grade" testing. Dr. James responded that there are no requirements for off-grade testing; however, some districts opt to use norm-referenced tests at all grades. He did note that such districts are fewer due to increased costs and the amount of testing required. Dr. James suggested that districts will have to balance assessment options with time to teach.

Mr. Lawson asked about the switch in norm-referenced tests from Stanford (SAT - 9) to the Iowa Test of Basic Skills (ITBS) and will the state be able to link those tests so that we don't lose the ability to use those SAT scores. Dr. Gayle Potter responded that any time a major change is made; additional work must be done to assure linking of the tests. She reported that there is an equating study in progress and the state will have that information available in the very near future.

Dr. Williams asked for information that would describe just how the norm-referenced test fits within the state's assessment system. Dr. Potter agreed to provide an overview.

Dr. Charity Smith asked to respond to Dr. Williams' question. She stated that the criterion-referenced test (CRT) is designed to match completely with the Arkansas

Frameworks and Content Standards and the norm-referenced test does not match completely with the Content Standards, although there is some degree of correlation.

Dr. Williams asked for assurance that under Act 35 and the work that is discussed today, that it would be possible to track progress of individual students through the assessment system. Dr. Smith assured him that would be possible.

Ms. Burrow asked about sanctions when expected gains are not realized. Dr. James noted that a number of sanctions are specified in Act 35 and those would be applied as appropriate. He stated that any student not proficient would have an academic improvement plan and would be required to participate in remediation programs the following school year. Retention is an option for students who fail to participate in the remediation plan.

Dr. Williams stated that the state's accountability system is headed in the right direction because he likes to compare groups of students over time, not compare cohort groups of students. This system can give the community a sense of how well a school is performing.

Chair's Report

Ms. Caldwell stated that she had no additional comments at this time.

Director's Report

Dr. James reported the following:

- He met with administrators/directors from charter schools. He stated it was a positive opportunity for them to identify concerns and engage in a dialogue with the Department.
- He convened a representative group of school superintendents and organized the Superintendent's Advisory Committee. He will invite the group to meet three (3) times annually. He reported that feedback from the first meeting was very positive.

Dr. James asked to Board to add an item to the Action Agenda to consider a personnel recommendation.

Consent Agenda

Ms. Hillman moved adoption of the Consent Agenda. Ms. Rebick seconded the motion. The motion was adopted unanimously.

- Approval of Minutes from September 12, 2004
- Commitment to Principles of Desegregation Settlement Agreement: Report on the Execution of the Implementation Plan
- Newly Employed, Promotions and Separations

Action Agenda

Mr. Lawson moved that the Action Agenda be amended to add an item to consider a personnel recommendation. Dr. King seconded the motion. The motion was adopted unanimously.

Review of Loan and Bond Applications

Patricia Martin was recognized to present this item. Ms. Martin introduced Kendra Sharp, a new staff member, who is now assigned to coordinate this activity.

Ms. Sharp stated that requests from two school districts to exceed the current loan limit of 27% are up for consideration. She informed that Board that representatives of these districts are present and may address the Board concerning these requests.

Mr. Jack Crumbly, Superintendent of the Earle School District was recognized. Mr. Crumbly reported that the Earle School District patrons approved millage this past March for the purpose of capitol improvements. He outlined the proposed facilities construction that was primarily non-instructional space. Ms. Rebick asked about the rationale for so much expenditure for non-instructional space. He responded that the school, for the most part, was also the community and there was a great need for recreational facilities both for the school and the community. He stated that this was an attempt to help stabilize the economic decline of jobs in the community and to keep patrons and students in the area. He cited recent economic development in adjacent communities and indicated that he, the School Board, and patrons felt these new facilities would help attract residents and industry to the community. Mr. Crumbly outlined several recent accomplishments; a new high school constructed in 1999, additional vocational courses for students, establishment of a career academy work program, as evidence of progress in the community.

Dr. Williams questioned how schools usually fund athletic facilities. Dr. James responded by community vote of millage.

Ms. Rebick asked how the district would fund increased cost for utilities and maintenance on new construction. Mr. Crumbly stated that the district had budgeted for that in planning for the expansion of the campus.

Dr. James asked about liability of the district for summer activities at the proposed swimming pool. Mr. Crumbly responded that insurance costs have been considered and he has been assured that for liability the district has similar immunity as does a community pool or other facility.

Albert Murphy, Superintendent of Genoa Central School District, was recognized. Mr. Murphy reported that voters in the Genoa Central District approved a millage increase based on proposed plans for construction. He stressed that his community was behind the proposal as evidenced by the recent vote. He noted that the current high school facility is 74 years old. He stated that for two years under this proposal the percent of indebtedness would exceed 30%, but it would decrease after that time.

Ms. Rebick asked about the number of students in the district and the proposed high school. Mr. Murphy stated that the district has approximately 965 students with 287 currently enrolled in the high school, Grades 9-12. Ms. Rebick also asked about proposed construction costs. Mr. Murphy stated that no plans are complete at this time, but the current rate is approximately \$100.00 per square foot.

Dr. Williams directed a question about construction costs to Dave Floyd, ADE, facilities specialist. Mr. Floyd stated that construction costs are increasing almost weekly and he confirmed \$100 is a good estimate at this time. Mr. Floyd noted that much of the construction cost increase is due to the increase in the cost of structural steel which has increased by 25% in the past 8 months.

Dr. King inquired about relocation costs and land purchases. Mr. Murphy responded that those costs were included in the total projection.

Dr. King asked Dr. James to respond to any preliminary information from the Facilities Committee currently at work in the legislature. Dr. James noted that everything related to school construction is on the table at this time and it is too early to project an outcome. He stated the facilities study will have recommendations, but ultimately the first consideration will be devoted to need. Dr. James observed that some split between local effort and state input may emerge.

Ms. Rebick asked about distribution of Additional Base Funding. Patricia Martin responded that the provision for Additional Base Funding no longer is part of the legislation.

Ms. Rebick asked about the construction of administration facilities as proposed by the Marion District. Mr. Floyd responded that the Marion District has increased students every year and they simply are out of space on the current site. He supported the documented need from this district for additional space that was exacerbated by the recent consolidation of that district with Crawfordsville.

Ms. Rebick moved approval of the Loans and Bonds issues as presented. Mr. Lawson seconded the motion. The motion was adopted unanimously.

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

Dr. James stated that in response to recent questions about the Board's responsibility under Act 1623, he requested that Scott Smith prepare a summary of requirements under this Act. Ms. Caldwell asked for clarification concerning the requirements of the district and what was expected as documentation for each position for which a waiver was requested.

Scott Smith provided background information, reviewed the Act and the Department's Rule that is in place for implementation.

Ms. Burrow asked if a waiver could be extended to cover a full year. Mr. Smith stated yes. She asked if the district was required to continue seeking a fully qualified teacher and if one was available if the district was required to make a change in midyear. Mr. Smith responded that the district was required to continue to seek fully certified teachers for all positions. He confirmed that the district was only required to send a notice to parents once a school year.

Dr. King inquired if a contracted teacher with a waiver could be re-hired in a subsequent year. If so, what were the requirements on the district. Mr. Smith noted that a district could re-hire the teacher if no qualified person were available, but they would be required to continue working toward full licensure and that the district would have to seek a new waiver each year and notify parents annually.

Ms. Rebick asked why the number of waivers continued to increase. Dr. Charity Smith responded that during the monitoring process the team was finding unlicensed teachers in classrooms and they were reminding schools of the requirement to seek a waiver. She also stated that in some cases teachers leave the classroom for many reasons – most for medical reasons and it is not as easy to find a qualified teacher in the middle of a school year.

Ms. Rebick inquired about the involvement of higher education institutions in assisting districts in placing qualified graduates. Dr. Smith responded that deans of the colleges of teacher education are very involved in placement of graduates and their impact is great.

Ms. Hillman stated she was having difficulty in evaluating the qualifications of persons on the requested waiver list. She noted that the information currently provided does not include the area of licensure, the status of the teacher's preparation, or the explanation given by the district as to their efforts to attract a qualified teacher. She requested that the amount of information be increased so that Board members can make informed decisions. Dr. Smith agreed to provide additional information. Ms. Hillman also asked if all of these teachers have a plan for meeting licensure requirements. Dr. Smith indicated that all of these in question for today's request do.

Dr. Williams noted the difficulty some districts have in attracting fully certified teachers in mathematics and science, especially when the district is in a remote area of the state or in the Delta.

Mr. Lawson observed that the system does not support qualified teachers moving to those remote locations and that usually salary and benefits are less in those districts than in other sections of the state. He suggested that schools may have to seriously consider incentives for hard-to-fill positions.

Dr. King observed that not all positions are for hard-to-fill positions; this request has a request for 6 in the area of physical education.

Ms. Caldwell expressed concern that the current procedure is being implemented consistent with the current Rule. She observed that perhaps it is too easy to get a waiver. She cited the example of Deer/Mt. Judea that requests waivers for up to 50% of their total staff. Ms. Caldwell quoted from a letter of request from the school simply stating a teacher's name and the subject. They have already received a letter from the Department granting the waiver. Dr. Smith stated that she had talked with the superintendent prior to approving the letter granting the waivers. She affirmed that all the steps in the Rule had been followed.

Ms. Caldwell questioned how districts were using the waiver process. She asked if perhaps they were hiring a less qualified person rather than a fully certified person to avoid paying a higher salary. Ms. Caldwell asked Dr. Smith if the schools have been informed that the waivers have been approved before action by the Board. Dr. Smith affirmed that letters had been sent with the understanding that, if they were not approved by the Board, further notification could occur. Ms. Caldwell requested that the Rule should be followed and the letter should be amended to say approval is granted pending Board action. She emphasized the need to follow the adopted Rule.

Dr. James stated that for future requests, the Department would add the requested information to the summary provided to the Board and that the letter to the district would be revised to read "pending approval of the State Board of Education." Dr. James also noted that future communications with the districts regarding this issue would stress the requirements for waiver approval.

Ms. Rebick inquired as to what would be the requirements for a district should a waiver be awarded and a fully licensed teacher submitted an application. Dr. Smith responded that there would be contractual issues to consider, especially since many of these waivers apply only to one or two periods per day.

Ms. Burrow moved approval of the waivers as presented. Dr. Williams seconded the motion. The motion was adopted unanimously.

Identification of Schools in Academic Distress

Dr. Reginald Wilson was recognized to present this item. Dr. Wilson reported that Act 1467 of 2001 restructured the academic distress program and transitioned the criteria for selection to the criterion-referenced test. He summarized the performance of the districts that were identified in 2003-2004: Crawfordsville and Saratoga school districts were consolidated on July 1, 2004 and are no longer independent districts; Altheimer and Elaine school districts increased student performance so that fewer than 75% of the students are in the below basic category; and Parkin School District continues to have more than 75% of its students performing below basic.

Ms. Rebick asked for clarification of the differences between Adequate Yearly Progress (AYP) and Academic Distress. Dr. Smith noted that AYP related to performance under No Child Left Behind and is based at the school level while Academic Distress is an Arkansas standard that observed performance of districts.

Dr. James observed to the Board that the criterion for placing a district in Academic Distress is one that has low expectations for students and districts. Mr. Lawson suggested that the policy should be reviewed sooner than later.

Ms. Hillman moved adoption of the report as presented. Mr. Lawson seconded the motion. The motion was adopted unanimously.

(The Board recessed for lunch. Ms. Tatum was not present for the afternoon session.)

Consideration for Final Approval of Amended Rule Governing Academic Placement Courses in the Four Core Areas in High School, Act 102

Ann Biggers was recognized to present this item. Ms. Biggers summarized the Act and the process undertaken by the Agency in developing the Rule.

Mr. Lawson asked who pays for Advanced Placement tests that students are required to take. Ms Biggers responded that the State has an appropriation to cover these costs. Dr. James stated that the Agency intends to fund this cost with funds already allocated to the Department. Mr. Lawson requested that the Department communicate clearly to districts that student costs will be covered.

Hillman asked if schools were experiencing difficulty in getting teachers qualified to teach Advanced Placement courses. Ms. Biggers stated that she was confident that by the implementation date, the 2008-2009 school year, an adequate number of teachers should have completed the training.

Ms. Burrow asked about the intensity of the training program being provided. Ms. Biggers noted that the training was under the supervision of The College Board and lasts approximately one week per course. Ms. Rebick ask who pays for the required training. Ms Biggers responded that the Department provides some funds for training and the schools have access to new funds under National School Lunch Act funds and Professional Development funds appropriated under Act 59.

Ms. Hillman moved approval of the Rule for final adoption. Mr. Lawson seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval of Proposed Rule Governing “Highly Qualified” Teachers Pursuant to the No Child Left Behind Act of 2001

Dr. Frank Servideo was recognized to present this item. Dr. Servideo summarized actions taken by the Agency to meet the requirement for public comment. He highlighted sections of the rule that were revised as a result of comment. Scott Smith observed to the Board that NCLB does not specifically outline sanctions on districts or schools when teachers fail to meet the “Highly Qualified” criteria.

Ms. Rebick referred to one letter that included comments regarding the qualification of special education teachers and comments regarding the National Teacher Exam (NTE), which was previously used as a criterion for licensure. She asked how the Department responded to that letter. Dr. Servideo responded that the letter was from a program officer in the U.S. Department of Education and stated that content licensure was dependent on nationally recognized tests. The NTE was an older content exam, which is considered by some as not as challenging as current tests and thus should be given less recognition. Dr. Servideo reported that the program officer has indicated his satisfaction with the Arkansas proposal. Dr. Servideo noted that the issues linked to secondary special education teachers are difficult and are not fully resolved.

Dr. Servideo responded to a reference concerning the letter from the Arkansas Education Association, which inquired about the list of options included as part of the Arkansas definition of “Highly Qualified.” He stated that additional items were added to that list and suggested that the Department would be open to additional comments that could be included in future revisions.

Ms. Rebick moved approval of the Rule as presented. Dr. King seconded the motion. The motion was adopted unanimously.

Consideration for approval for Public Comment of Proposed Revisions to Rules Governing the Standards for Accreditation of Arkansas Public Schools and School Districts

Scott Smith stated that the revision to the Standards are required to bring this policy up-to-date with recent actions of the legislature and other policy actions by the Board. Mr. Smith identified three sections being submitted for public comment: professional development hours, updating graduation requirements, and reflecting policy changes that increase graduation rate to 22 units. He noted that these revisions would be out for public comment for 35 days and a public hearing would be scheduled within that time.

Ms. Hillman moved adoption for public comment. Ms. Burrow seconded the motion. The motion was adopted unanimously.

Consideration for Approval for Public Comment of Proposed Rules Governing Comprehensive Plan for Consistency and Rigor in Course Work (Act 1761)

Scott Smith informed the Board that legislation that requires this Rule was enacted in 2003. He stated that this Rule should have been considered earlier. Ms. Rebick asked if the Statute had a timeline for developing the Rule. Mr. Smith responded that it did, but the Department erred and did not meet that timeline. He observed that the Agency was involved in change of leadership, working through a special session with emphasis on education and implementing annexation or consolidation actions on 57 districts. He continued that this oversight was not intentional.

Ms. Hillman moved approval for public comment. Mr. Lawson seconded the motion. The motion was adopted unanimously.

Consideration of Request by Westside School District to Reduce the Number of School Board Directors to Six

Scott Smith was recognized to present this item. Mr. Smith reported that this district, through its superintendent and local board, submitted a request for this action. Roy Hester, superintendent, was present and invited to explain the condition that exists. Mr. Hester stated that the board was increased a number of years ago as the result of consolidation of two local districts. Since that time, it has become increasingly difficult to get enough members from the community to run for vacant positions on the local board. Mr. Hester confirmed the community's intent to take this action.

Ms. Hillman inquired if this action would continue to assure the communities adequate representation on the local board. Mr. Hester responded yes.

Ms. Rebick asked what happens if a similar situation occurs in the future. Mr. Smith responded that the local Quorum Court is required to appoint someone from the community to serve in that capacity.

Mr. Lawson moved approval of this petition. Dr. King seconded the motion. The motion was adopted unanimously.

Waiver of National Board for Professional Teaching Standards Repayment of State Funds

Barbara Patty was recognized to present this item. Ms. Patty reported that the issues under consideration were funded with state funds to pursue National Board Certification based on the Rule currently adopted. She noted that the Rule requires a recipient to repay funds should that recipient fail to achieve certification and the reason for that failure was due to adverse conditions such as illness. She stated that each of these were funded and each for different reasons have failed to achieve certification. Each, she continued, is seeking a waiver of repayment for the reason(s) stated in the documentation.

Ms. Hillman stated that each of these seems to have a viable reason to request the waiver of repayment. She asked how many find that they cannot achieve the standard that has been set for National Board Licensure. Ms. Patty responded that approximately 100 Arkansas teachers have repaid the money since the program began. She stated that some try many times and still fail to reach a passing score.

Ms. Hillman moved that each case presented be approved for non-repayment waivers. Mr. Lawson seconded the motion.

Ms. Rebick inquired about the application for Ms. Eastridge. Ms. Patty responded that she has failed at least three times and paid the retesting cost each time from her own funds. She wants to continue, but knows it will be at her own expense. Ms. Rebick questioned why the Board should waive refunding when they tried and failed to meet the expected performance. Ms. Patty responded that Ms. Eastridge was an early applicant and there was not as much support and technical assistance as there is now. Ms. Patty stated that those early teachers had little technical assistance to complete the application and the standard is very high and demanding.

Ms. Rebick further questioned if this instance constituted extenuating circumstance. Ms. Patty suggested that the teacher's insistence in continuing with her application at her

own expense could be considered as this teacher's commitment to ultimately meet National Board Licensure standards.

The motion was adopted unanimously.

Other Business

Ms. Burrow moved that the Board convene in Executive Session to discuss personnel matters. Dr. King seconded the motion. The motion was adopted unanimously.

Ms. Caldwell called the meeting to order after the Executive Session. She stated that no action was taken while in Executive Session.

Dr. James was recognized to make a personnel announcement. Dr. James stated that Estelle Mathis, a current ADE employee, is being recommended for a position to head the Department's work pursuant to the establishment of Renewal Zones as created by action of the State General Assembly.

Ms. Hillman moved to accept Dr. James' recommendation of Estelle Mathis for the position described. Dr. Williams seconded the motion. The motion was adopted unanimously.

Ms. Hillman moved adjournment. Ms. Burrow seconded the motion. The motion was adopted unanimously.

The meeting adjourned at 2:25 p.m.

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

Dr. Kenneth James, Director

JoNell Caldwell, Chair