

Minutes
State Department of Education
Monday, September 10, 2007

The State Department of Education met on Monday, September 10, 2007, in the Auditorium of the State Education Building. Diane Tatum, Chairman, called the meeting to order at 9:00 a.m.

The following Board members were present: Diane Tatum, Chair; Randy Lawson, Vice-Chair; Sherry Burrow; Jim Cooper; Brenda Gullett; Dr. Tim Knight; Dr. Ben Mays; MaryJane Rebick; and Dr. Naccaman Williams. Non-voting member Justin Minkel also attended.

No Board members were absent.

Chair's Report

Ms. Tatum welcomed new Board member Brenda Gullett and Justin Minkel, 2007 Arkansas Teacher of the Year, who will serve as a non-voting member of the Board for the coming school year.

Ms. Tatum reported visits to the Pine Bluff School District and the Harmony Grove School District. She noted that the pre-school meeting for Harmony Grove Teachers included a session for community and business partners at which Dr. Charity Smith was the guest speaker.

Ms. Burrow reported a visit to the Arkansas Leadership Academy Partners meeting. She noted that teachers and principals who have been participants in the Academy training program were most complimentary of the training received during the institute and they commented on the impact of the Academy in improving instruction and leadership in local districts.

Mr. Lawson reported on the back to school sessions at the Bentonville District. He stated that Governor Beebe attended the opening session, which included more than 1200 educators from the Bentonville District.

Ms. Rebick reported attendance at a statewide conference addressing science, technology, engineering, and mathematics (STEM), which convened at the Statehouse Convention Center. She noted the conference included an array of national and state speakers, including Governor Beebe.

Commissioner's Report

Dr. James welcomed Ms. Gullett and Mr. Minkel to Board membership. Additionally he reported on the following:

- BMI reports for the 2006-2007 school year will be released this week jointly between the Department of Education and the Department of Health. He

noted the report will show approximately 30% of students are either classified as overweight or at risk of being overweight.

- The state received a national grant to expand Advanced Placement programs specifically in mathematics and science. The grant recipient will be the University of Arkansas at Little Rock. Arkansas was one of seven states to receive this award.
- This year is the Department of Education's turn to host the joint session of the state boards of education. He suggested planning toward the joint session being held in December.
- Attendance at an alternate learning academy meeting held on the University of Central Arkansas campus. He noted approximately 100 participants working to improve learning for these students.

Dr. James presented the Milken Award trophy to Justin Minkel and commented that Mr. Minkel was recognized as a finalist for National Teacher of the Year.

Dr. James introduced Dr. Alice Barnes Rose from Forrest City who is joining the Department on October 1 as Assistant Commissioner for Learning Services.

Reports

Dr. Charity Smith was recognized to present a report describing up-coming activities related to the Little Rock Central High 50-Year Commemoration.

Dr. James summarized the fiscal distress status of Bald Knob School District and highlighted events of the past two weeks. Dr. James stated that a special Board meeting has been called for Monday, September 24, 2007, to convene at 9:00 a.m. at the Department of Education Building. Dr. James noted that conditions within the Bald Knob School District require the Department to assume immediate management of the District with removal of the superintendent and local school board. Dr. James reported that James Staggs has been retained to serve as interim superintendent until further Board action can be taken.

Consent Agenda

Mr. Lawson moved approval of the Consent Agenda as presented. Ms. Burrow seconded the motion. The motion was adopted unanimously.

- Minutes – August 13, 2007
- Commitment to Principles of Desegregation Settlement Agreement: Report on the Execution of the Implementation Plan
- Newly Employed, Promotions and Separations
- Reports on Waivers to School Districts for Teachers Teaching Out-of-Area for Longer than Thirty (30) Consecutive Days, Act 1623 of 2001
- 2006-2007 Arkansas Home School Annual Report
- Request for Approval of Stipulated Agreement of Waiver Request for Certified Employment – Andrew E. Cates

- Request for Approval of Stipulated Agreement – Joe Gray
- Request for Approval of Stipulated Agreement – Dan B. Mourtisen
- Consideration of the State Adoption List and Authorization for Contracts for Social Studies K-8 and 9-12, Arkansas History, and Drivers Education Textbooks

Action Agenda

Report on the Progress Concerning the Resolution of the Balance Owed to Arkansas Teacher Retirement System (ATRS) by HAAS Hall Academy, Farmington

Dr. Mary Ann Brown was recognized to present this report. Dr. Brown stated that HAAS Hall staff and ATRS staff have worked together and report agreement on all issues except one: that issue simply awaits data that is to be submitted within this week. Ms. Rebick noted that the parties have had one month to complete these issues, why does the Board not have a final resolution? Dr. Brown stated information from ATRS is that the parties have worked diligently and cooperatively to complete the process, which has taken more time to collect data than expected. Ms. Tatum asked for assurance that the final documents will be in place within the week. Parties responded affirmatively. Dr. Mays suggested that a final report should be forthcoming by the time of the special meeting on September 24. Ms. Tatum directed the parties to complete all issues with a report on September 24. Ms. Rebick asked about resolution of payments that may be due as a result of the data. Dr. Brown stated that payment had not been discussed. Ms. Rebick affirmed that payment should be forthcoming by September 24.

Dr. Mays moved to receive the report. Dr. Williams seconded the motion. The motion was adopted unanimously.

Request for Approval of 2007-2008 Arkansas Better Chance Grants – Round #3

Paul Lazenby was recognized to present this item. Mr. Lazenby stated that additional proposals have been received, subjected to the internal review process, and are recommended for approval and funding. Dr. Williams asked about two previously funded proposals that were recommended for decreased awards. Mr. Lazenby noted that those proposals advertised for students, but enrollments were less than anticipated, thus the amount of funds allocated should be decreased.

Dr. Williams moved approval as presented. Mr. Lawson seconded the motion. The motion was adopted unanimously.

Consideration of Recommendations of Performance Levels for the Alternate Portfolio Assessment for Students with Disabilities for Science Portfolio (Grades 5 and 7) and for the Performance Level Descriptors for Special Education Alternate Portfolio Assessment for English Language Arts (Grades 3-8 and Grade 11), Mathematics (Grades 3-9) and for Science (Grades 5, 7, and 10)

Dr. Gayle Potter was recognized to present this item. Dr. Potter reported that special committees of practitioners reviewed these recommendations and they are in keeping with requirements of No Child Left Behind Legislation and the assessment system.

Ms. Gullett asked for a definition of portfolio. Dr. Potter responded that the portfolio assessment was an alternate method of determining student performance based on the content standards, but directed to students that have severe and/or profound handicapping conditions. Ms. Burrow asked if there was still a limited number of students that could participate in this type of assessment. Dr. Potter responded that the number of students participating was not limited, but at the present time, the number of students who can be counted as proficient on the alternate assessment is limited to 1% of the student population.

Mr. Cooper asked if there were public groups that will want to approach the board about lack of participation in setting of these standards. Dr. Potter indicated that the recommendations have been posted on the Web Site with the agenda and that she has received no contact about these recommendations. Ms. Gullett asked for additional information and will contact Dr. Potter or Charlotte Marvel at a later time. Mr. Lawson asked if there were a way to make these reports more brief. He observed that the documentation is contained in 114 pages, which is often very technical. Dr. Potter and Dr. James responded that such documentation is required by federal legislation, especially where handicapped students are involved.

Ms. Burrow moved approval as presented. Ms. Rebick seconded the motion. The motion was adopted unanimously.

Consideration for Public Comment: Proposed Rules Governing the Use of Net Gate Receipts by Public School Districts

Dr. Bobbie Davis was recognized to present this item. Dr. Davis noted this rule is relatively short and is specifically linked to new legislation. Dr. Williams asked if the concept of net gate receipts was clearly defined and understood by schools across the state. Dr. Davis responded that with the wording in the rule, there should be a better understanding of the definitions. Dr. Mays commented that net gate receipts will not be administered consistently as long as schools/districts are allowed to determine what is subtracted before the revenue becomes "net." Dr. Davis responded that the statute provides considerable discretion in letting local districts decide what is removed.

Dr. Williams moved approval for public comment. Dr. Knight seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval: Proposed Rules Governing the Arkansas Financial Accounting and Reporting System and Annual Training Requirements

Dr. Bobbie Davis was recognized to present this item. Dr. Davis reported that a public hearing was conducted and minor changes were made. An updated version was distributed. Ms. Rebick moved final approval as revised. Dr. Knight seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval: Proposed Rules Governing the Athletic Expenditures for Public School Districts

Dr. Bobbie Davis was recognized to present this item. Dr. Davis reported that a public hearing was conducted and changes have been made in response to comments from the public hearing and written comments that were received. Dr. Davis reviewed recommended changes as compared to the document approved for public comment. Mr. Lawson asked about interpretation of Section 7.01 and depositing funds in the Activity Fund. He asked about funds raised by booster clubs to help support athletic teams. Dr. Davis responded that if those funds are managed through the school fiscal accounting system, they are to be deposited through activity funds; however, if the booster club manages its own funds and those funds are used to purchase equipment or otherwise enhance the athletics program, then those funds are not accounted for in the activity fund.

Ms. Burrow asked for clarification on funds that would be expected to go into the activity fund. Dr. Davis responded any money raised by school groups administered through the school. Mr. Cooper suggested that some additional clarification might be needed to more precisely define private funds. Dr. Mays noted that the legislation appears vague in defining such funds. Scott Smith suggested that the Rule cannot require private associations (booster clubs) to deposit their funds to a public institution like a school district.

Ms. Gullett asked about the process for removing a school from fiscal distress should it get classified as such as a result of activity funds. Dr. Davis suggested there would be no difference in treating a school classified in fiscal distress regardless of the condition that got them there.

State Representative Betty Pickett was recognized to speak to this rule. Ms. Pickett noted the difficulty of determining and reporting athletics expenditures and observed that some districts do not make such reports. Ms. Pickett asked for consideration of a better way to establish utilities expenditures and maintenance expenditures: hopefully reporting of these expenditures can be clarified for all districts. She commented about the procedure for calculating transportation costs: she stated this should be a simple calculation multiplying cost per mile times the mileage traveled. Additionally, Ms. Pickett asked for a uniform way to determine the number of full time equivalent (FTE) from which to determine coaching salaries.

Dr. Mays responded to comments by Ms. Pickett and noted that athletics expenditures are not included in the school funding formula, which was designed to provide adequacy. He noted that some superintendents take money from the adequacy funding and give it to the sports program. He affirmed that sports programs are not part of a school's adequacy responsibility. Dr. Mays suggested that audits of school funding should review discrepancies across district, consider transportation costs by using a transportation multiplier with miles traveled, determine a "headcount" on coaches, and audit funds spent on maintenance and utilities costs prorated to athletics programs. Dr. Davis noted that state auditors are required to audit athletics programs

and she suggested that it will take some time to get this process “up to speed,” and the Board should give that audit process time to work and give the Legislative Audit Division time to make a study. Dr. Davis suggested that reporting could take care of Ms. Pickett’s concern with transportation and it would be possible to get the FTE from current reporting.

Ms. Gullett asked if other extracurricular activities would be held to the same scrutiny as athletics. Dr. Davis responded that it was the ultimate intent, but not prescribed in the current legislation.

Dr. Mays again asked about transportation costs and making all districts subject to the same formula. He noted that such a requirement for computing and reporting transportation expenditures would be a step toward consistent data across all districts in the state. Dr. Davis noted that some districts have their own formula for determining transportation costs and prefer their structure.

Mr. Cooper suggested that the Board give schools a year to work with the Rule and for Legislative Audit to make recommendations. Mr. Cooper asked for an interpretation of time an athletic coach spends teaching physical education. Dr. Davis responded that physical education is not considered part of the athletics program and physical education teachers are not counted toward FTE for coaching. Mr. Cooper also asked about the legality of requiring local school boards to make or validate reports as contained in Section 6.0. Dr. Davis responded that legally local boards should have such authority.

Dr. Williams stated that he “appreciates” the need for transparency with computing and reporting athletics expenditures. He asked if the rule is amended to include some of the comments being considered if an additional comment period should be considered. Scott Smith opined that most of the comments under consideration were made during the comment period, some were just not written in proposed revisions; thus, further comment is not necessary.

Dr. Davis reviewed the suggested amendments:

- 3.03 clarify definition of private donation expenditure
- 4.06 revert back to original approved in version for public comment
- 6.01 include both local school district and local school board as being responsible
- 7.01 add private donations made directly to district required to be reported in activity fund

Mr. Lawson moved final adoption with the above amendments. Ms. Burrow seconded the motion.

Dr. Mays moved to amend the motion to include the following:

- Compute transportation costs by computing actual mileage traveled times common multiplier unless a district establishes a formula that will support greater expenses

- Add the computation of Full-Time-Equivalent (FTE) for coaches to reporting requirement.

Dr. Williams seconded the amendment. The amendment was adopted on a roll-call vote 7 yes, 1 no (Gullett voted no).

The amended motion was adopted unanimously.

Consideration for Final Approval: Proposed Rules Governing the Funding of Public Schools

Dr. Bobbie Davis was recognized to present this item. Dr. Davis stated that comments were received and considered in presenting the rule for final approval. Ms. Rebick moved final approval as submitted. Dr. Mays seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval: Proposed Rules Governing the Calculation of Miscellaneous Funds

Dr. Bobbie Davis was recognized to present this item. Dr. Davis stated that no comments were received during the public comment period.

Dr. Williams moved final approval. Ms. Rebick seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval: Rules Governing Waivers of the Earnings Limitations under the Teacher Retirement System

Beverly Williams was recognized to present this item. Ms. Williams stated that a letter was sent to school districts from the Arkansas Teacher Retirement System (ATRS) describing the condition that must be met – less than 30 years of unfunded teacher liability – before the rule as written could be implemented. Ms. Rebick noted that the Board will pass a rule which cannot be implemented. Dr. James commented that the Department and the Board must continue to work to get this option available to the Department in order for the Department to take advantage of the talent and valuable resource pool in recently retired individuals. Mr. Lawson asked how the Board could be of help in implementation of the Rule. Dr. James suggested that additional legislation will be required.

Ms. Rebick moved final adoption. Mr. Cooper seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval: Rules Governing the Distribution of Student Special Needs Funding and the Determination of Allowable Expenditures of those Funds

Dr. Bobbie Davis was recognized to present this item. Dr. Davis reviewed proposed revisions being suggested as a result of comments made during public review. Ms. Burrow asked about the consideration required under Provision 2. Dr. Davis noted that

Provision 2 is a special category in the free and reduced lunch program. A district establishes a base one year then for the next four years that district does not take additional applications for free and reduced lunch program. She stated that under the NSLA rule the free and reduced lunch number is the basis for funding.

Ms. Rebick stated reservations about flexibility of local districts for use of funds, especially when the district is classified in fiscal distress. Dr. Davis stated that the rule provides some flexibility, even when a district is classified in fiscal distress. Ms. Rebick stated her disagreement with that flexibility in the rule.

Former state representative Jody Mahoney stated that the Bureau of Legislative Research formed a section within that office to review rules and provide comment and as a result the legislative process should be more cognizant of these rules before they are presented for legislative review. Mr. Mahoney stated that there is a disagreement within the Bureau regarding transitional funding as defined in the rule. He noted that the legislative staff and Department will need to work together before the next session to determine if further revisions are needed with the NSLA funding.

Dr. Mays asked for clarification within the rule for hiring additional teachers to reduce ratios, but would not allow for increase in the overall salary schedule for teachers.

Ms. Gullett stated that there is a danger that programs funded under the rule may pay salaries of teachers over improving instruction in high-needs schools.

Mr. Cooper moved approval as proposed. Dr. Williams seconded the motion. The motion was adopted on a voice vote 7 yes and 1 no (Rebick voted no).

Consideration for Final Approval: Proposed Rules Governing the Final Close of Public School Financial Records

Dr. Bobbie Davis was recognized to present this item. Dr. Davis stated that no comments were received regarding this rule; thus, no changes are proposed.

Mr. Cooper moved final approval. Dr. Mays seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval: Rules Governing Eligibility and Financial Incentives for Arkansas Leadership Academy Master Principal Designation

Beverly Williams was recognized to present this item. Ms. Tatum asked what happened to additional funding for principals who were recognized with master principal designation after the initial five years of additional salary. Ms. Williams responded that no additional funding is available – five years is the end of the bonus.

Ms. Gullett moved final approval. Ms. Burrow seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval: Rules Governing Waivers for Substitute Teachers

Beverly Williams was recognized to present this item. Ms. Williams reported that comments were received, but no revisions are recommended. Ms. Rebick asked about substitute teachers who fill in for a period greater than 32 consecutive days. Ms. Williams responded that legislation was needed to clarify the conditions where some districts were moving individuals in and out periodically to avoid the number of days. This legislation and the rule close the loop hole some districts were using.

Mr. Lawson moved final approval. Dr. Knight seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval: Rules Governing the Lifetime Teaching License

Beverly Williams was recognized to present this item. Ms. Williams reported that no comments were received and no one attended the public hearing. Dr. Mays asked if there was no experience requirement. Ms. Williams responded that an eligible teacher must meet current licensure requirements. Ms. Gullett noted that most teachers would like to be eligible for lifetime license upon retirement, not at age 65. Ms. Williams noted that age 65 is a requirement of the law.

Dr. Knight moved final approval. Ms. Burrow seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval: Rules Governing Parental Notification of an Assignment of a Non-Licensed Teacher to Teach a Class for More than Thirty (30) Consecutive Days and for Granting Waivers.

Beverly Williams was recognized to present this item. Ms. Williams reported that no comments were received and no one attended the public hearing. Mr. Lawson asked about consistency of wording in designating the responsible party – district, board, superintendent. Dr. James stated that the local superintendent must sign a statement of assurances and there is a penalty – removal of license – for not reporting accurate and timely information. Mr. Lawson suggested: “Amend Section 5.02 (F) to read, “The superintendent of any school district that obtains a waiver shall send written notice of the assignment of a non-certified licensed teacher to the parent or guardian of each student in that classroom no later than thirty (30) school days after the date of the assignment.” This revision places emphasis on the responsibility of the superintendent to carry out the requirement of this section.”

Mr. Cooper moved final approval with recommended change as stated. Mr. Lawson seconded the motion. The motion was adopted on voice vote of 7 yes, 1 no (Rebick voted no).

Consideration for Final Approval: Rules Governing Eligibility of Participating School Districts in the Traveling Teacher Program

Beverly Williams was recognized to present this item. Ms. Williams stated that comments were received, but no revisions to the previously proposed rule are suggested.

Mr. Lawson moved final approval. Mr. Cooper seconded the motion. The motion was adopted unanimously.

Consideration for Final Approval: Arkansas Department of Education Rules and Regulations Governing Home Schools

Dee Cox was recognized to present this item. Ms. Cox reported those attending the public hearing were supportive of the rule and suggested no comments.

Dr. Knight moved final approval. Mr. Cooper seconded the motion. The motion was adopted unanimously.

Consideration of State Board of Education Travel Guideline

Dr. Williams was recognized to present this item. Dr. Williams stated that a committee was formed to review guidelines pertaining to travel associated with the Board's membership in the National Association of State Boards of Education (NASBE). Mr. Lawson asked if similar guidelines might apply to Board travel pertaining to other panels or organizations. Dr. Williams noted that most of the organizations such as SREB that invite Board member participation generally pay for travel. Ms. Rebick stated that travel to attend meetings for conferences that does not require reimbursement should not need review and approval. Mr. Cooper stated it was his understanding that the proposed guidelines address travel to NASBE and they should be adopted as presented.

Mr. Cooper moved approval as presented. Dr. Mays seconded the motion. The motion was adopted unanimously.

Consideration of Representation at the NASBE Annual Meeting

Ms. Tatum reported that MaryJane Rebick indicated interest in attending the NASBE annual conference in Philadelphia on October 11-13. No other Board members expressed the intent to attend.

Report

Richard Schoe was recognized to address the Board. Mr. Schoe commented on: 1) Request "Bully" policy be amended and made all-inclusive, covering adult-adult, adult-child; child-adult and child-child relationships. 2) Request that when Child and Family Services lists a teacher on the Central Registry that there be a process to recognize this action and guidelines to evaluate the potential impact on the students in the classroom. Suggest Day Care Licensing Guidelines as a model.

Mr. Mays suggested that the Board have a future discussion regarding athletic spending rules once additional information is received from the legislative audit

procedure regarding maintenance and utility expenditures. He suggested such a discussion be scheduled at least annually as an agenda item to match school records with what audits show. Dr. Williams concurred at least for next year.

Mr. Lawson moved adjournment. Mr. Cooper seconded the motion. The motion was adopted unanimously.

The meeting adjourned at 12:30 p.m.

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