

Minutes
State Board of Education
Monday, May 9, 2005

The State Board of Education met on Monday, May 9, 2005, in the Auditorium of the State Education Building. JoNell Caldwell, Chairman, called the meeting to order at 9:00 a.m.

The following Board members were present: JoNell Caldwell, Chairman; Dr. Jeanna Westmoreland, Vice-Chairman; Sherry Burrow; Shelby Hillman; Dr. Calvin King; Randy Lawson; Mary Jane Rebick; Diane Tatum; and Dr. Naccaman Williams.

No members were absent.

Chair's Report

Ms. Caldwell invited Board members to share about visits made or Board related activities.

Dr. Williams reported a recent visit to HAAS Hall Academy Charter School in Farmington. He reported being favorably impressed with the quality of students and the quality of work they were doing at the school. He noted visiting with some parents of students at the school and touring the facilities.

Ms. Caldwell reported a recent visit to the LISA Academy Charter School in Little Rock. She stated that LISA has maximum enrollment as approved in the Charter (180 students) and has a waiting list for any available positions. She stated some of the Board's concern for diversity in the student body could be allayed in that she visited in one class, which had students with seven different languages as their native language. She also commented on the quality of offerings in mathematics.

Director's Report

Dr. James reported that the Facilities Commission had just finished its first regular meeting. Dr. James commended the work of Dave Floyd in preparing for the meeting and its organization. He also noted that Rules for Facilities were developed using the Emergency Provision due to the short timeline for getting this work completed and out to districts. Dr. James stated that permanent rules would be developed and submitted for consideration under the regular provisions. Dr. James indicated that he would invite Mr. Floyd to provide an update for the Board at its regular meeting in June.

Work Session

Patricia Martin was recognized to present an update on the status of school districts classified in fiscal distress for the 2004-2005 school year. Ms. Martin stated that these summary reports reflect the Department's understanding of the current status of these districts and the progress they have made in meeting the conditions of the plan submitted in response to classification almost one year ago. She noted that this should be considered a status report; it does not require action at this time. She did say that when year-end budget expenditure reports are complete, districts may petition the Board for removal from classification in fiscal distress. Ms. Martin reported that she visited in each of these districts in the preparation of this report.

Augusta School District: Ms. Martin reported that Augusta received the Cotton Plant School District last year and that much of the work with this district has been linked to merging the districts financially. She reported that cost saving factors have been or will be to close the Cotton Plant High School campus and have those students attend at the Augusta High School, which will result in salary savings. Additionally, she reported that this district has implemented a staff reduction plan and other cost saving measures.

Crossett School District: Ms. Martin reported that the Crossett community voted a millage increase to repair facilities and that plans were in place to close at least one campus in the district. She noted training for administrators and staff in cost saving strategies and that the district had implemented a staff reduction plan.

Greenland: Ms. Martin reported that the primary reason for this district being classified in fiscal distress was due to audit exceptions. She stated that State auditors have affirmed that all audit exceptions have been corrected. She also reported that the superintendent was dismissed and a new person was hired. Ms. Martin provided an update on the district's recent annexation of the Winslow School District. She stated that the Board wishes to close the Winslow High School for the 2005-2006 school year, which will result in considerable cost savings. Ms. Martin reported that there was a question about the isolated district status of the Winslow District. Scott Smith reported that he is not aware of any condition that would identify Winslow as an isolated district and thus the Board does not need to respond to a request about such status.

Ms. Hillman asked about the item in the school budget where the district received isolated funding. Mr. Smith responded that receiving isolated funding is different from automatically being classified as an isolated district.

Ms. Rebick observed that Greenland and Winslow are somewhat "isolated" from each other and that Winslow could have consolidated with a number of other schools. Mr. Smith stated that this was a voluntary act on the part of both districts and that Winslow petitioned the Board last year to enter into the relationship with Greenland. He continued that this issue should not be part of consideration at this time.

Dr. James stated that the issue of isolated districts would not go away since during the special session there were more than 50 districts that received isolated funding, not all of which should be classified as isolated.

Heber Springs: Ms. Martin reported that the district hired a new superintendent in July 2004 and she worked with the new administration on numerous occasions to access special grant funds and other entitlements that were not utilized under the previous administration. She also reported that the district reassigned staff and focused duties especially in the area of technology utilization. Ms. Martin noted that there were indications that the district was considering facility expansion and that the Department was advising them to move very cautiously in occurring any new debt at this point.

Lakeside (Garland County): Ms. Martin introduced Sean Cook as the new superintendent of this district. She stated that Mr. Cook was experienced in working to remove other districts from fiscal distress classification. Ms. Martin reported that the primary interventions being used include training for bookkeepers and accounting staff members, bidding and acquisition practices, and establishing new district policies related to use of funds.

Jasper: Ms. Martin reported that at this time she cannot see that Jasper District has made sufficient progress to be removed from fiscal distress. She reported that the current superintendent is leaving and a new administrator has been hired to begin on July 1. She noted that much of the fiscal concern for this district is linked to consolidations with two small districts last year – Oark and Kingston. Ms. Martin stated that the district will receive some isolated funds, but it is undetermined how much that will be at this time. She stated that the district currently is committed to operating three K-12 campuses for the immediate future, which will continue to be a severe financial drain on the district – even with isolated funding.

Ms. Caldwell observed how so often in these smaller districts that small things or poor business practices are allowed, which ultimately gets the district into financial difficulty. She observed that too often these districts have to get into financial difficulty before any corrective action is taken.

Ms. Rebick requested additional information about the isolated status and funding that resulted from the General Assembly and how that changes the policy for these “isolated” schools. Dr. James responded that a definition of isolated did not come out of the session, but will have to be considered by the Department in the future. He affirmed that there are not 57 legitimately isolated districts, but there are some!

Dr. James asked Scott Smith to comment on the Jasper District situation. Mr. Smith observed that under Omnibus Legislation, the Jasper district could remain in fiscal distress for one additional year without action by the Board. He affirmed that Act 60 of the Second Extraordinary Session changed the policy somewhat due to the annexations and consolidations; however, the Department and Board will have to take both of these policies into consideration in making a final determination.

Dr. James reminded the Board that all of the information provided by Ms. Martin pursuant to the condition of these districts is predicated on finishing out the year and reporting at the end of the year in similar fashion to what is currently observed. He stated that should these projections change, the outcome may change. He observed that districts in fiscal distress must be very careful about making commitments of major projects and salary increases, otherwise such conditions could easily change.

Ms. Rebick asked if there was a formula or data structure that would detect schools in distress. Dr. James responded that there was no magic formula, but each situation would have to be carefully monitored and if a slide is observed, quick action is required to correct the situation.

Consent Agenda

Ms. Hillman moved that the Consent Agenda be adopted as presented. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

- Minutes – April 11, 2005
- Commitment to Principles of Desegregation Settlement Agreement: Report on the Execution of the Implementation Plan
- Newly Employed, Promotions and Separations
- Report of Waivers to School Districts for Teachers Teaching Out-of-Field for Longer than Thirty (30) Consecutive Days

Action Agenda

Ms. Caldwell announced that Action Item 8, Request for Final Approval of Amendments to Rules Governing the Nutrition and Physical Activity Standards in Arkansas Public Schools as Required by Act 1220, was being withdrawn from consideration.

A complete transcript of Action –1 and Action – 2 was taken by a court recorder and is attached to these Minutes. These Minutes reflect only actions taken.

Continuation of Review of Open Enrollment Charter School Renewal Application for Imboden Area Charter School

Scott Roark and Judy Warren represented the Imboden Area Charter School and responded to questions from the Board.

Ms. Caldwell asked Scott Smith for options that the Board might consider in approving the school's renewal. Mr. Smith responded that the Board could approve for one, two or three years. He also noted that if the Board decided not to renew the Charter there were very detailed procedures in the Rule that would have to be followed.

Dr. Williams moved to renew the Imboden Area Charter for three additional years. Ms. Tatum seconded the motion. Dr. Williams commented that he did not believe there was enough data or conclusive data to suggest otherwise. The motion was adopted on a vote of 7 yes, 1 no. (Rebick voted no.)

Continuation of Review of Request for Amendments to Charter of HAAS Hall Academy Open Enrollment Charter School in Farmington

Dr. Martin Schoppmeyer was present to respond to questions from the Board. Ms. Caldwell asked Dr. Schoppmeyer to restate the amendments under consideration. Dr. Schoppmeyer stated that the Charter is seeking to add Grade 9, to use the AP course outline as a curriculum document rather than the Department of Education developed framework, and to move to a new location in the Fayetteville city limits. Ms. Caldwell stated that this discussion would not consider the move because no facility has been proposed at this point.

Issues raised centered on the schools need to offer a full 38 units of study if there is a full component of high school grades, Grades 9 – 12. Dr. James stated that many schools were facing probationary status or consolidation for not offering and teaching the full component of 38 units each year. He noted that this issue was an item for debate during the recent legislative session with emphasis being given to taught vs. just being offered.

Mr. Lawson moved that this item be tabled until the June Board meeting. Ms. Hillman seconded the motion. The motion was adopted on a vote of 7 yes, 1 no. (Rebick voted no.)

Dr. Williams moved that the Board add an additional item to the Agenda to reconsider the Imboden Decision for the purpose of annual review and reporting. Mr. Lawson seconded the motion. The motion was adopted unanimously.

Request for Approval to Submit for Public Comment the Proposed Arkansas Annual State Application Under Part B of the Individuals with Disabilities Act (IDEA) as Amended in 2004 for Federal Fiscal Year 2005

Tom Hicks was recognized to present this item. Mr. Hicks reported that the U.S. Congress recently passed amendments to the IDEA legislation requiring changes in policy and operating procedure for programs offered and administered by the State. He stressed that this request is for public comment on the revisions to the Rule. Ms. Rebick stated that she needed additional information about the process of providing special education services in general. She asked how students in private schools were served by this program. Mr. Hicks responded that parents request services and those services are provided as part of the public school program. She also questioned how home school students were served. Mr. Hicks responded that home school students are not covered by IDEA requirements. Ms. Rebick asked about testing and assessments for special education students. Mr. Hicks responded that testing of students in the regular assessment program or in the alternate assessment program is coordinated at each district by the local test coordinator.

Dr. Westmoreland moved approval for public comment. Ms. Tatum seconded the motion. The motion was adopted unanimously.

Request for Approval to Submit for Public Comment the Proposed Rules Governing Visual Art and Music Instruction for Students in Grades One through Six as Required by Act 245

Dr. Charity Smith was recognized to present this item. Dr. Smith stated that this rule is required by the legislation and requires each elementary school to provide a minimum of 40 minutes per week in art and music each and that the instruction be provided by a licensed teacher in each of the respective disciplines. Dr. Smith noted that some schools have raised the question of providing this instruction in large group sessions, thus reducing the number of classes taught. Dr. Smith indicated that it is proposed in the Rule that class size would be consistent with other classes offered at that level.

Mr. Lawson expressed the concern for making the amount of time consistent with art and music as is required for physical education (60 minutes per week). Dr. Smith stated that what is proposed in this rule and again in the PE rule is based on very specific language in the statute. Mr. Lawson expressed concern for school schedules to accommodate these classes and the different time requirements.

Ms. Hillman moved approval for public comment. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Request for Approval to Submit for Public Comment Proposed Amendments to Arkansas Department of Education Rules Governing State-Reported Dropout and Graduation Rates

Jim Boardman was recognized to present this item. Mr. Boardman stated these amendments are proposed to reflect changes in legislation resulting from action of the General Assembly.

Ms. Burrow asked for clarification as to how the data information system tracked students that were incarcerated or other students out of the public school system. Dr.

James responded that these students are often not tracked. He also noted that Arkansas will join a group of states studying issues related to high school reform and one component of that work will be to review the process for determining high school graduation rate.

Ms. Hillman moved approval for public comment. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Request for Approval to Submit for Public Comment the Proposed Rules Governing Physical Education as Required by Act 660

Dr. Charity Smith was recognized to present this item. Dr. Smith stated that this proposed rule reflects requirements as defined in Act 660. Ms. Burrow asked for clarification about students enrolled in athletics classes. Dr. Smith stated that if an athletics class is to count for physical education credit under this Rule, a licensed physical education teacher must be assigned to teach the class, the class must continue for the entire semester and must follow the physical education curriculum framework.

Dr. Westmoreland moved approval for public comment. Ms. Hillman seconded the motion. The motion was adopted unanimously.

Request for Final Approval of Amendments to Rules Governing “Highly Qualified” Teachers Pursuant to the No Child Left Behind Act of 2001

Dr. Frank Servedio was recognized to present this issue. Dr. Servedio stated that these revisions to a previously adopted Rule are to provide additional flexibility and accommodate options for teachers previously not included.

Mr. Lawson asked about the Praxis Exam 010, which was previously discussed. He expressed the concern that by omitting options that were previously used by teachers to obtain licensure status that the Rule is leaving those teachers out of the Highly Qualified definition. Dr. Servedio responded that the test in question (Exam 010) is no longer offered by Educational Testing Service (ETS). However, ETS did affirm that exam was part of their previous series known as the National Teacher Exam, which is included under the definition with point designation. Mr. Lawson stated that for clarity, he believes the Rule should be specific about this test and others that may not be explicitly listed in the Rule. Dr. James assured Mr. Lawson that the Department will clarify the Rule on this point.

Ms. Burrow moved that the Rule be adopted with clarification as to identification of Praxis tests. Dr. Williams seconded the motion. The motion was adopted unanimously.

Suspension of a Teacher’s License: Eric Darden

Scott Smith was recognized to present this item. Mr. Smith reported that preliminary research on the background of this issue provided some incorrect data in that Mr. Darden only held a one-year provisional certificate and that certificate expired and was not renewed. Therefore there is no certificate to suspend. Mr. Smith informed the Board that this is not an issue at this time.

Request an Extension of the Additional Licensure Plan (ALP) for Specific University of Arkansas at Monticello Students

Dr. Michael Rosato, Dean of the College of Education at the University of Arkansas at Monticello (UAM) was recognized to present this request. Dr. Rosato stated to the Board that UAM experienced difficulty in designing and implementing a request for full approval of components of its special education licensure plan. He noted that over the past few years, the UAM program has experienced multiple leaders and full program approval has not been awarded. He stated that there are a number of teachers who are currently teaching special education on an additional licensure plan (ALP) that has been in effect for three years and is expiring. Dr. Rosato reported that these teachers would not be able to finish the program unless an additional one year extension of the ALP process were approved by the Department of Education.

Dr. Charity Smith reminded the Board that in 2000 the Board considered ALP approvals and set a sunset date beyond which no further extensions would be approved. UAM, she stated, was one of the schools that previously experienced difficulty in getting programs approved and this deadline was set after working directly with UAM and other universities. She stated that for any ALP the maximum time for completing a program is three years. This program has been under development for much longer than three years, she stated.

Donna Zornes reported that she and the Professional Quality Office worked with UAM staff on multiple occasions in an attempt to get programs approved. She stated that one of the problems is that they are offering a program of study for which they do not have qualified faculty to meet the course requirements. She also stated on a previous occasion, her staff had recommended a plan for program approval that would involve faculty from another university. She stated it appeared that none of those recommendations were ever implemented. Ms. Zornes also reported that the university had missed numerous deadlines imposed and reset for meeting the program approval requirements.

Dr. Westmoreland inquired about the status of program approval and students enrolled in the program. Ms. Zornes stated that the university had applied for program approval in special education, but had never completed the required program approval process. Dr. Westmoreland asked of the university was graduating students from a program that had never been approved and if so what about their licensure. Ron Tolson reported that a few students were graduated from the program and issued a license before it became apparent that the program was not approved. Subsequently, he stated, graduates were not approved for those program areas in which there was no program approval.

Dr. Williams asked how many students would be impacted. Dr. Rosato replied that eight students currently hold a P-4 license from UAM and were working on a rider program that would lead to certification in special education. He stated that those eight students could not continue their teaching positions in the schools because they have exhausted the three year limit for an ALP and will not have licensure and cannot get licensure unless the time is extended for the additional year.

Dr. Williams asked about the current status of program approval. Ms. Zornes stated that the P-4 program, which is considered to be the parent program, is operating on provisional approval. She stated that the university submitted materials twice and the program was not given final approval. She noted that the last return had a specific time limit for completing the requirements – which has past with nothing submitted as of this

date. Ms. Zornes stated that the special education program cannot be considered until the P-4 program is fully approved.

Dr. Williams asked about students enrolled in courses. Dr. Rosato replied that no students are enrolled in special education courses because the university does not have a faculty member qualified to provide those courses. He did say that a new faculty member has been employed and will begin work in the summer.

Ms. Hillman asked Dr. Rosato what the university intended to do. He stated that they were working intently to get the documentation prepared to submit again for review and hopefully meet full program approval. He noted the new faculty hire.

Dr. King asked if the university were totally out of compliance. Ms. Zornes responded that until they submit additional materials, yes. Dr. King asked what happens to the teachers that had a plan and now the time has expired, what can they do. Ms. Zornes stated that they would have to start a new program because the time limit has expired to meet that program approval plan. Also, she stated that the current hours earned on campus were from a program that was not approved.

Dr. Williams asked for further clarification about the current students. Ms. Zornes stated that they were offered the option to work with Henderson State University, but that did not happen, she stated that they cannot be recommended for a license in special education.

Dr. James stated that from a previous session with UAM, at least one student had worked with the University of Arkansas to take one or more required courses and did meet requirements. He observed that the issues are with the university and the Board and Department staff cannot keep visiting this situation every few months. He reminded the Board that the issue before the Board is continuation of a program that does not have approval.

Dr. King asked what would happen to the teachers if an extension were granted. Dr. Smith responded that those teachers have completed three years on their ALP which is the limit. She stated that the Department cannot grant them a fourth year to complete the requirements, especially from a non-accredited program.

Dr. Williams observed that the problem is with the university, not with the students. He suggested that the Board should try to help the students if possible.

Dr. King asked if the teachers could continue to teach, just not in special education. Dr. Smith responded yes.

Ms. Burrow asked if Henderson or another university would accept their hours of credit. Dr. Smith responded that that would be at the discretion of the university, but that those teachers would have to meet the Henderson program, not the one in which they are currently enrolled.

Ms. Rebick stated that the Board cannot be expected to fix everything and it is unfortunate for these students, but it does not seem that there is a solution.

Ms. Rebick moved that the request for extension of the ALP be denied. Ms. Tatum seconded the motion. The motion was adopted unanimously.

Report from the Nominating Committee

Ms. Hillman, Chairman of the Nominating Committee, made the following report: The committee composed of Dr. King, Mr. Lawson and Ms. Hillman, nominates Dr. Jeanna Westmoreland for Chairman and Diane Tatum as Vice-Chairman. Ms. Hillman reminded the Board that the election will be held at the June meeting.

Reconsideration of Imboden Area Charter School Action

Dr. Williams expressed concern that the Board just approved a three year extension of this Charter even with its limited evaluation data and shaky enrollment pattern. He moved that the Board reconsider this action and amend the continuation by requiring the Charter director to make annual reports to the Board on student performance on the Benchmark exams, enrollment at the school and a financial update. Mr. Lawson seconded the motion. Ms. Rebick asked who would notify the staff since they are no longer in attendance. Dr. James stated that staff would inform them in writing. The motion was adopted unanimously. (This letter was prepared by Dr. Watson, reviewed by Scott Smith and mailed certified mail on May 16, 2005.)

Dr. Westmoreland moved that the Board go into executive session to discuss personnel matters. Ms. Hillman seconded the motion.

After 40 minutes the Board reconvened.

Ms. Caldwell reported that the Board discussed the evaluation of Ken James and his performance as Commissioner of Education. She reported that that the Board was very happy with the direction of the Department.

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

The meeting adjourned at 1:40 p.m.

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