

Minutes
State Board of Education
Thursday, February 13, 2020

The Arkansas State Board of Education (State Board) met Thursday, February 13, 2020, in the Division of Elementary and Secondary Education (Division) Auditorium. Chair Ms. Diane Zook called the meeting to order at 10:00 a.m. Dr. Hill led the Pledge of Allegiance in observance of Black History Month.

Present: Ms. Diane Zook, Chair; Dr. Sarah Moore; Mr. Brett Williamson; Dr. Fitz Hill; Ms. Ouida Newton; Mr. Chad Pekron; Ms. Susan Chambers (on phone); Ms. Stacey McAdoo, 2019 Arkansas Teacher of the Year; and Mr. Johnny Key, Secretary

Absent: Ms. Charisse Dean, Vice-Chair; Ms. Kathy McFetridge

Changes to the Agenda

Staff Attorney Ms. Mary Claire Hyatt requested to add an item to be titled, B-7 Consideration for Release for Public Comment: Rules Governing Nutrition and Physical Activity Standards and Body Mass Index.

Dr. Hill moved, seconded by Ms. Newton, to add the agenda item. The motion passed unanimously.

Staff Attorney Ms. Mary Claire Hyatt requested to add an item to be titled, B-8 Consideration for Final Approval: DESE Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts.

Ms. Newton moved, seconded by Mr. Pekron, to add the agenda item. The motion passed unanimously.

Ms. Zook said consent agenda item 9 was going to be sent back to the PLSB and has been pulled from the agenda.

Consent Agenda

Ms. Zook invited Public School Program Coordinator Ms. Suzanne Knowles to talk about National School Counseling Week and to read the Governor's proclamation.

Ms. Zook said that she does not feel that all students who need assistance regarding dyslexia have been identified in schools with 1240 waivers.

Ms. Newton moved, seconded by Dr. Hill, to approve the consent agenda.

1. Minutes
2. Resolution - National School Counseling Week February 3 - 7, 2020
3. Newly Employed, Promotions and Separations

4. Review of Loan and Bond Applications
5. Consideration of Report on Waivers to School Districts for Teachers Teaching Out of Area for Longer than Thirty (30) Days, Ark. Code Ann § 6-17-309
6. Consideration of the Recommendation of the Professional Licensure Standards Board for Case # 19-020 Jonathan Barber
7. Consideration of the Recommendation of the Professional Licensure Standards Board for Case # 19-151-Chris Milham
8. Consideration of the Recommendation of the Professional Licensure Standards Board for Case # 20-001 Robert Belew
9. *(Pulled from the Agenda) Consideration of the Recommendation of the Professional Licensure Standards Board for Case # 20-002 Katrina Alumbaugh*
10. Consideration of the Recommendation of the Professional Licensure Standards Board for Case # 20-003 Brian Dutton
11. Consideration of the Recommendation of the Professional Licensure Standards Board for Case # 20-007T Kelley DiPippa
12. Consideration of the Recommendation of the Professional Licensure Standards Board for Case # 19-142 Phillip Lane Scoggins
13. Consideration of the Recommendation of the Professional Licensure Standards Board for Case # 19-186 Jessica Nicole Miller
14. Riverside School District Waiver Annual Progress Report
15. Riverview School District Waiver Annual Progress Report
16. Smackover-Norphlet School District Waiver Annual Progress Report
17. South Conway County School District Waiver Annual Progress Report
18. Poyen School District Waiver Annual Progress Report
19. Siloam Springs School District Waiver Annual Progress Report
20. Sheridan School District Waiver Annual Progress Report
21. National Board Professional Teaching Standards Reimbursement Approval

Action Agenda A

A-1 State Board Review of PLSB 18-091 Evidentiary Hearing Recommendation – Tammie Cloyes

Staff Attorney Mr. Taylor Dugan said Ms. Cloyes' case was removed from the December consent agenda and placed on the January action agenda for a full review. However, he said Ms. Cloyes signed a voluntary surrender of her license. Mr. Dugan said the PLSB was asking the State Board to accept the voluntary surrender of the license because it acts as a revocation.

Mr. Pekron moved, seconded by Dr. Hill, to accept the surrender of license. The motion passed unanimously.

A-2 Consideration of the Recommendation of the Professional Licensure Standards Board for Case # 20-016-Bobby Pennington

Staff Attorney Mr. Taylor Dugan said recommendation from the PLSB for violation of Standard 2, is a 2-year probation, \$250 fine, completion of Arkansas IDEAS trainings (Code of Ethics; Culturally Responsive Teaching: Theory, Research, and Practice; The 85% Solution: How

Personal Accountability Guarantees Success -- No Nonsense, No Excuses; The Power Paradox: How We Gain and Lose Influence; and How to Be an Antiracist). Mr. Pennington would also provide a written reflection on each training's impact on his interactions both inside the classroom and on the field. Mr. Dugan said these actions would have to be completed within ninety (90) days of the State Boards Final Order and all costs would be paid by Mr. Pennington. Mr. Dugan said Mr. Pennington provided his acceptance of the sanctions on December 30, 2019.

Public comment was heard.

Dr. Hill moved, seconded by Mr. Pekron, to table the item until March. The motion passed unanimously.

A-3 State Board Review of PLSB 19-090 Evidentiary Hearing Recommendation – Davissa Brimer

General Counsel Ms. Lori Freno said the PLSB Evidentiary Hearing Subcommittee found that Ms. Brimer violated Standards 2, 3, 4, and 5 of the Code of Ethics and recommends that Ms. Brimer's license be suspended for three years, \$500 fine, among other items. Ms. Brimer was represented by her attorney Mr. Matthew Benson and they are seeking a reduction in her sanction.

Mr. Benson noted that there were supporters from the Bald Knob School District in the room. He said Ms. Brimer was a co-coordinator for the programs mentioned in the case and the responsibilities for the programs were divided between them. Mr. Benson said Ms. Brimer has not been involved in the programs since 2017, and has been an outstanding educator. He said a suspension of her teaching license would end her teaching career.

Ms. Davissa Brimer reviewed her educational background and said that she loves her kids and teaching. She expressed her anger at what was found in the audit. She also noted that she was not in charge of the budget, she was in charge of students.

Dr. Moore asked how much training Ms. Brimer had. Ms. Brimer said it was just what the state provided. Dr. Moore asked if she had previous experience running afterschool programs. Ms. Brimer said she has handled similar programs; however, the budget was run by the school. She said, for the programs in question used to be school-based, but were moved to community-based. She said her co-coordinator would ask the school if something could be purchased and would proceed as instructed.

Ms. Newton asked if Ms. Brimer if she was present during the unauthorized purchases. Ms. Brimer said she was present during some of the purchases. Ms. Newton asked if she knew the purchases were unauthorized. Ms. Brimer said she thought they were getting sturdy bags which she used until the program was pulled. She also said the games which were purchased were never played in her presence, saying she cannot allow students to play games like that in an afterschool program. She said she didn't know the games were purchased until the audit was completed. Ms. Newton said that this was thousands of dollars of unauthorized purchases and

as co-coordinator she has responsibilities. Ms. Brimer said she should have asked questions and not just trusted others.

Ms. Zook asked if the co-coordinator was a part of the district. Ms. Brimer said she was a retired teacher.

Dr. Moore asked if Ms. Brimer currently had any budgetary responsibilities in her school or since the program was pulled. Ms. Brimer said she does not; however, she is on a leadership team and when the members make purchases she writes them down.

Staff Attorney Mr. Taylor Dugan reviewed the background of the case and said that in the audit, both co-coordinators used the pronoun, "we" in their responses to the audit.

Mr. Pekron asked Mr. Dugan to review how the PLSB makes their determinations. Ms. Newton asked Mr. Dugan to review the mitigating and aggravating factors of the case.

Dr. Moore asked what happened with the purchased items. Mr. Benson said the items were seized and the majority of the items were doled out to the school district. Dr. Moore asked if the program was federally funded. Mr. Dugan noted the program was funded by a 21st Century grant. Dr. Moore asked if charges were filed. Mr. Dugan said the White County prosecutor did not file criminal charges in this case.

Ms. Newton asked if the fund was repaid. Assistant Commissioner Ms. Deborah Coffman said it was not.

Mr. Pekron moved, seconded by Mr. Williamson, to revise the penalty for Ms. Brimer to a 3-year probation and that during that time she is to have no responsibility for any financial affairs, a \$250 fine, and professional development. There was a roll call vote. Ms. Newton voted no. The final vote was 5-1. The motion passed.

A-4 State Board Review of PLSB 19-009 Evidentiary Hearing Recommendation – Kira Geer

Ms. Geer is a preservice teacher and subject to the Code of Ethics for Arkansas Educators. Educator Geer motioned the Board to continue the case from the January meeting to the February meeting for the case to be reviewed. Ms. Geer is represented by attorney Ms. Jennifer Flinn.

General Counsel Ms. Lori Freno said Ms. Geer is a pre-service teacher and the PLSB Ethics Hearing Subcommittee recommended that the educator not be issued a license for five years, be fined \$500, in addition to other items. Ms. Geer is represented by her attorney Ms. Jennifer Flinn.

Ms. Flinn said Ms. Geer was a student teacher at the time and the incident happened in the final six weeks of her second internship. She said Ms. Geer denies that inappropriate comments or conversations happened in the context presented. Ms. Flinn said they believe a probation would be more appropriate since she was still learning how to navigate a classroom. She said other

educators have expressed their support for Ms. Geer and said they had a great experience with her during her internship.

Ms. Geer said that during her second internship she had to switch classrooms and mentors half-way through. She moved from U.S. History for grades 11-12, to Economics for grade 9.

Ms. Zook asked if Ms. Geer had finished her education and passed the Praxis. Ms. Geer said she passed Praxis 1 and 3; however, she has not taken Praxis 2 because she was placed on hold in May 2018.

Dr. Moore asked about Ms. Geer's experience with high school students. Ms. Geer said she has never worked with any grade lower than grade 7. Dr. Moore asked if she was denying both the student and teacher allegations against her. Ms. Geer stated that she was denying the allegations and noted that her boundaries were not as strong then as they are now.

Mr. Dugan said Ms. Geer discussed subjects which were inappropriate to the curriculum. He said there were four witnesses and the evidence against Ms. Geer was solid.

Ms. Newton moved, seconded by Mr. Pekron, to uphold the Findings of Fact. The motion passed unanimously.

Ms. Newton moved, seconded by Dr. Hill, that Ms. Geer violated Standards 1 and 2. The motion passed unanimously.

Ms. Newton moved to alter the penalty to three years non-issuance of license, a \$250 fine, and professional development (Learning Classroom: Expectations for Success; and Culturally Responsive Teaching, Theory, Research, and Practice). There was no second. The motion failed. There was a discussion period.

Ms. Newton moved, seconded by Dr. Moore, to alter the penalty to three years non-issuance of license, if Ms. Geer is accepted to a university and starts teaching that that be a two-year probation with her supervisor sending reports of her progress a couple times a year. In addition, there would a \$250 fine and professional development (Learning Classroom: Expectations for Success; and Culturally Responsive Teaching, Theory, Research, and Practice). Ms. McAdoo asked for clarification about Ms. Geer being able to substitute. Ms. Zook said she cannot substitute as long as she is finishing the sanctions. There was a roll call vote. The motion passed unanimously.

A-5 District Request for Waivers Granted to Open-Enrollment Charters

a. District Request for Waivers Granted to Open-Enrollment Charters: Hope School District

Public School Program Advisory Ms. Kelly McLaughlin said Hope School District is seeking waivers of Teacher Licensure. She said the district's 90 days expires on March 10, 2020, and they are requesting a waiver for five years to end on June 30, 2025.

Hope School District Superintendent Mr. Bobby Hart provided the State Board with background for their waiver request. He said two years ago the school district started to try to increase the college graduation rate in their county. Mr. Hart said the rate is currently at 14% and noted that many are first generation college students. He said their proposal would allow students to graduate from high school and with an associate's degree at the same time. However, since not all higher education teachers are certified for K-12 teaching, the waiver is being requested.

Ms. Zook asked if the waiver was for their Collegiate Academy and about eligibility requirements. Mr. Hart said she was correct and the school is open-enrollment, the only requirements are set forth by the University of Arkansas/Hope-Texarkana for the entrance exams. Ms. Zook asked if the courses are virtual. Mr. Hart said the courses are taught by college instructors.

Mr. Pekron said he would like to see more schools having programs like this one to guide students into the appropriate paths.

Ms. Newton asked what percent of the students are entering the Collegiate Academy. Mr. Hart said it is about 1/3 or 20 percent of the grade 10 class. He said the campus is less than two miles away and the students come back for their extracurricular activities. He noted that transportation is provided by the school.

Ms. Zook asked if a student had to be in their grade 5-9 program to apply. Mr. Hart said that was not required. She also said she would be interested to see a report comparing the growth scores of the students.

Ms. Newton moved, seconded by Dr. Hill, to grant the waiver for five years. The motion passed unanimously.

b. District Request for Waivers Granted to Open-Enrollment Charters: Marion School District

Public School Program Advisory Ms. Kelly McLaughlin said representatives of the Marion School District are seeking a waiver for Teacher Licensure and Teacher Fair Dismissal for teacher hired through the Act 1240 waiver. She said their 90 days expires April 7, 2020. She the waiver request is for five years, ending June 30, 2025.

APSRC Attorney Mr. Tripp Walter provided an introduction to the item, saying that it is going to continue to be the policy of the district to hire licensed educators first. Assistant

Superintendent Mr. Hugh Inman reviewed the history of the district from August 2017 to present day and reviewed various data points. He also noted the Teacher Fair Dismissal waiver is only for those who are employed under a teacher licensure waiver. Mr. Inman discussed everything the district had trying to recruit teachers thus far. He said the waiver would help the district hire local people with a heart for their students and allows the district to quickly remove and replace poor performing teachers working under a waiver.

Dr. Moore asked if it is the intention of the district to ensure that teachers hired under the waiver will be on a pathway to licensure. Mr. Inman confirmed that they would.

Ms. Newton and Ms. Zook asked Mr. Inman to discuss how the dismissal of teachers would be handled for teachers under the waiver. He said that they would be at-will employees.

Staff Attorney Ms. Mary Claire Hyatt clarified that the district is actually requesting a waiver of the Public School Employee Fair Hearing Act and not the Teacher Fair Dismissal Act. There was a brief discussion about the difference of the requests.

Dr. Moore moved, seconded by Dr. Hill, grant the waivers requests. The motion passed unanimously.

Action Agenda B

B-1 Consideration for Approval: DESE Guidelines for Ark. Code Ann. §12-12-901 et seq., "Megan's Law"

Staff Attorney Ms. Jennifer Dedman said these changes to the guidelines were necessary to incorporate the changes of Act 187 of 2019.

Dr. Moore asked for clarification on the difference between guideline and a rule.

Mr. Williamson moved, seconded by Dr. Hill, to approve the guidelines. The motion passed unanimously.

B-2 Consideration for Final Approval: DESE Rules Governing Distance and Digital Learning

Staff Attorney Ms. Jennifer Dedman said these rules have been amended to incorporate the changes of Act 709 of 2019. A public comment hearing was held on November 18, 2019. Public comments were received, but resulted in no substantive changes to the Rules.

Ms. Newton moved, seconded by Dr. Hill, to hear public comment. The motion passed unanimously. Public comment was heard.

Dr. Moore moved, seconded by Mr. Williamson, to approve the rules governing distance and digital learning. The motion passed unanimously.

B-3 Consideration for Final Approval: DESE Rules Governing Creation of School Districts by Detachment

Staff Attorney Ms. Jennifer Dedman said these rules have been amended to incorporate the changes of Act 528 of 2019. A public comment hearing was held on November 18, 2019. Public comments were received, but resulted in no substantive changes to the Rules.

Mr. Pekron moved, seconded by Dr. Hill, to approve the rules governing creation of school districts by detachment. The motion passed unanimously.

B-4 Consideration for Final Approval: DESE Rules Governing Instructional Materials

Staff Attorney Ms. Jennifer Dedman said these rules were amended to incorporate the changes of Act 757 of 2019. A public comment hearing was held on December 9, 2019. Public comments were received, but did not result in substantive changes to the Rules.

Dr. Moore moved, seconded by Mr. Pekron, to approve the rules governing instructional materials. The motion passed unanimously.

B-5 Consideration for Final Approval: DESE Rules Governing Required Training for School Board Members

Staff Attorney Ms. Jennifer Dedman said these rules were amended to incorporate the changes of Acts 168 and 1029 of 2019. A public comment hearing was held on December 9, 2019. Public comments were received, but did not result in substantive changes to the Rules.

Mr. Pekron moved, seconded by Dr. Moore, to approve the rules governing required training for school board members. The motion passed unanimously.

B-6 Consideration for Final Approval: DESE Rules Governing Grading and Course Credit

Staff Attorney Ms. Jennifer Dedman said these rules combine the former Rules Governing Uniform Grading Scales, Rules Governing Concurrent Credit, and Rules Governing Advanced Placement and the International Baccalaureate Incentive Program into a single Rule. These former rules are being simultaneously repealed. Language has been added to incorporate the changes of Acts 745 and 1118 of 2017 and Acts 429, 456, and 632 of 2019. The rules also contain new sections concerning flexibility in awarding high school course credit and courses for weighted credit. A public comment hearing was held on November 18, 2019. Public comments were received, but did not result in a substantive change to the Rules.

Ms. Newton said she was not sure she agreed that substantive changes to the rules were not made. She said she thought there may need to be another public comment period for this item. There was a discussion on what another comment period would do to the timeline, with a note that another comment period would also be required to get the Governor's re-approval.

Ms. Zook briefly tabled this item per Mr. Key's request while Ms. Dedman discussed the public comment period questions with her co-workers. Mr. Williams moved, seconded by Dr. Hill, to pull the item off the table. The motion passed unanimously. There was another brief discussion period.

Mr. Williamson moved, seconded by Mr. Pekron, to approve the rules governing grading and course credit. The motion passed unanimously.

B-7 Consideration for Release for Public Comment: Rules Governing Nutrition and Physical Activity Standards and Body Mass Index

Staff Attorney Ms. Mary Claire Hyatt said these rules govern nutrition and physical activity standards. She said these rules have been reviewed by the Community Health Advisory Committee and the State Board of Health. The request is for the rules to be release for public comment, pending Governor's review. She said changes made to the rules were primarily to incorporate the provisions of Act 641 of 2019 and Act 428 of 2019.

Dr. Moore moved, seconded by Mr. Pekron, to approve the release for public comment pending the Governor's review. The motion passed unanimously.

B-8 Consideration for Final Approval: DESE Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts.

Staff Attorney Ms. Mary Claire Hyatt said changes to these rules were made to incorporate provisions of Acts 83, 190, 641, 676, and 1083. She reviewed the proposed changes submitted to the State Board via a hand-out.

Dr. Moore moved, seconded by Mr. Williamson, to approve the release for public comment. The motion passed unanimously.

New Business

Mr. Key said the Little Rock School District Community Advisory Board has two board vacancies. He said that there was only one applicant for Zone 5, Dr. Jerrilyn Jones, who works for UAMS. Mr. Key said Mr. Poore is comfortable with this applicant being accepted.

Dr. Hill moved, seconded by Mr. Williamson, to add the action item under new business. The motion passed unanimously.

The State Board members reviewed Dr. Jones' application.

Mr. Pekron moved, seconded by Dr. Hill, to approve Dr. Jones representing Zone 5. The motion passed unanimously.

Mr. Pekron announced that he would be resigning from the State Board effective at the end of the meeting. He said he accepted new employment requiring a lot of travel and would hinder his ability to serve on the State Board.

Public Comments

There were no additional public comments.

Adjournment

Mr. Pekron moved to adjourn the meeting. The meeting adjourned at 2:30 p.m.

X *Diane Zook*

Mrs. Diane Zook
State Board Chair

X *Johnny Key*

Mr. Johnny Key
Secretary of Education