

**Minutes  
State Board of Education  
Monday, August 14, 2006**

The State Board of Education met on Monday, August 14, 2006, 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, Chairman; Randy Lawson, Vice-Chairman; Sherry Burrow; Dr. Calvin King; Dr. Ben Mays; Dr. Tim Knight; MaryJane Rebick; and Dr. Naccaman Williams.

No Board members were absent.

**Director's Report**

Dr. James responded to an inquiry concerning the Board's responsibilities for operation and management of school facilities. He stated that current legislation provides for all of the management of public school facilities programs at the state level is relegated to the Commission on Public School Academic Facilities and Transportation: as a result, the State Board of Education has no administrative responsibility for that work.

**Work Session**

Janinne Riggs was recognized to present information on school accountability specifically related to No Child Left Behind (NCLB) and determination of adequate yearly progress for schools and districts. Ms. Riggs stated that the data for 2005-2006 has been processed and reported to schools/districts. She noted that schools/districts have 30 days from the date of notice to file an appeal on the status as reported. Ms. Riggs provided a copy of a school report and highlighted the amount of detail on the report and the complexity of assimilating and reporting the data as required by NCLB.

Dr. James noted that Safe Harbor as a provision in the legislation allows schools that have students performing at basic or below basic to make "progress" by moving at least 10% of those lower performing students into proficient. He likened that to a conceptual growth model. Dr. James also indicated that the State is pursuing design of a growth model that will be submitted in mid-September in keeping with recommendations from the U.S. Department of Education.

**Consent Agenda**

Beverly Williams distributed a revised document amending data that was previously provided on the attachment to the Consent Agenda Item "Newly Employed, Promotions and Separations". She indicated that the revision corrects the reason for separation for four of the entrants.

Dr. Williams inquired as to the Board's responsibility for review and approval of Loans and Bonds, many of which are for renovation of school facilities, in view of Dr. James report of the

Board's responsibility for facilities. Dr. James responded that the legislation does not repeal any of the Board's delegated responsibilities, including the Loans and Bonds Program.

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

### **Action Agenda**

Scott Smith reported that the following appeals of Accreditation Status from the following schools/districts had been withdrawn and that the Accreditation Status of those schools/districts would be formally considered in Action Item 11.

- Arkansas School for the Blind (Elementary and High Schools)
- Arkansas School for the Deaf (Elementary and High Schools)
- Earle School District (Earle Elementary, Dunbar Middle School, and Earle High School)
- Elkins Elementary School
- Lincoln School District
- Marvin Elementary School – Bi-County School District
- Morrilton High School – South Conway County School District

Mr. Smith stated that in the case of Elkins Elementary School the Department concurred with their appeal and removed them from probationary status. In each of the other cases, they recommended probationary status remain.

Dr. Knight moved that each of the schools/districts cited above except for Elkins Elementary School be accredited with probationary status. Ms. Burrow seconded the motion. The motion was adopted unanimously.

A complete transcript of the proceedings for each of the following hearings was made by a certified court reporter. That transcript will become part of the official Minutes. These Minutes reflect actions taken subsequent to the hearings.

### **Consideration of Appeal of the Accreditation Status for the Kirby School District**

Jeff Alexander, superintendent of the Kirby School District, stated that failure of a licensed teacher to meet full certification in the discipline was due to a misunderstanding on the part of the teacher and the school administration. He reported that the teacher will meet full licensure status before the 2006-2007 school year begins.

Annette Barnes stated that the 2005-2006 school year was the fourth year under which the teacher in question worked under a deficiency removal plan. The accreditation standards require the State to issue a probationary status in such cases.

Ms. Rebick moved to place Kirby High School on probationary status for the 2005-2006 school year. Dr. Mays seconded the motion. The motion was adopted unanimously.

### **Consideration of Appeal of the Accreditation Status for Mulberry/Pleasant View (Bi-County) School District**

Kerry Schneider, Superintendent of the Bi-County School District, stated that the license of the teacher in question did lapse and procedures to reinstate the license required meeting additional requirements which could not be completed before the deadline. He reported that work is underway to get a probationary license, which will be issued once criminal background checks are completed by the FBI.

Ms. Rebick moved to accept the Department recommendation for probationary status of Marvin Elementary School. Dr. Knight seconded the motion. The motion was adopted on a vote of 6 yes and 1 no (Williams voted no).

### **Consideration of Appeal of Accreditation Status of Oak Grove High School in Pulaski County Special School District**

Betty Ruth Welch represented the Pulaski County School District and stated that Oak Grove High School did in fact offer more than 38 units of credit including six (6) units of mathematics noting that one of the mathematics units was Advanced Placement Calculus A/B.

Annette Barnes informed the Board that there is a precedent for not allowing advanced placement courses to count as one of the required courses because those courses may not be available to all students and that student in advanced placement courses are required to take the Advanced Placement test, which is not required for all other students. She stated that Oak Grove High School did not offer six units of mathematics equally available to all students.

Mr. Lawson moved to accept the Department recommendation and place Oak Grove High School on probationary status. Dr. Williams seconded the motion. The motion was adopted unanimously.

### **Consideration of Appeal of Accreditation Status for Two Rivers School District**

Mr. Earl Jamison, Superintendent of Two Rivers School District, stated that the district did submit its report after the deadline; however, there were extenuating circumstances that precluded completing the report before APSCN ceased accepting reports.

Annette Barnes reported that this was the second year in succession that this district's reports were submitted after the deadline.

Dr. Mays moved to deny the appeal of Two Rivers School District. Ms. Rebick seconded the motion. The motion was adopted with a vote of 5 yes and 2 no (Williams and Burrow voted no).

### **Request Approval of the Accreditation Status for Arkansas Public Schools and School Districts 2005-2006**

Annette Barnes reviewed the list of schools recommended for accreditation for the 2005-2006 school year.

Schools fully accredited

808

Schools accredited cite status	219
School accredited probationary status	63
Districts accredited cite status	19
Districts accredited probationary status	4

Ms. Burrow moved approval of the accreditation status as proposed as amended after appeals were considered. Dr. King seconded the motion. The motion was adopted unanimously.

**Consideration for public Comment of Proposed Revisions to the Rules Governing the Arkansas Comprehensive Testing, Assessment and Accountability Program and the Academic Distress Program**

Dr. Charity Smith was recognized to present the first section of proposed revisions. Dr. Smith reminded Board members a school rating system was adopted at a previous meeting. That policy is proposed for consideration as part of the Rule under consideration.

Dr. Gayle Potter summarized proposed changes in sections dealing with testing of students for which English is the second language. She emphasized that these changes are necessary for the State’s assessment system to meet full approval of the U.S. Department of Education under No Child Left Behind.

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

**Consideration for Public Comment of the Proposed Rules Governing the Regulatory Basis of Accounting**

Dr. Bobbie Davis was recognized to present this item. Dr. Davis explained that this rule is required by statute and was prepared in keeping with conditions set out in the legislation.

Dr. Williams asked if this law might increase the number of districts that seek audits by private firms rather than by Legislative Audit. Dr. Davis responded that she did not think that would be the case because the criteria for audit would be the same regardless of who conducted the audit. She did state that there might be a concern for timing, in that schools have more control over when an audit is completed with private firms. Dr. Mays asked if there was reason for concern when a district was paying for a private audit. Dr. James responded that the professional credential of a firm is on the line when it is employed to conduct the audit and he emphasized that the criteria for conducting the audit are the same regardless of who does the work.

Dr. Knight moved to approve the Rule for public comment. Mr. Lawson seconded the motion. The motion was adopted unanimously.

**Consideration for Public Comment of the Proposed Rules Governing the Program to Inform Students about ARKids First Program**

Dr. Bobbie Davis was recognized to present this issue. Dr. Davis stated that this rule is required by statute and that it is primarily to help parents understand the options of health coverage for their children.

Ms. Rebick asked about qualifications for coverage under this provision. Dr. Davis responded that eligibility is based solely on family income.

Ms. Tatum asked if this were a new program. Dr. Davis responded that the program is not new; the condition that requires the Department to make sure parents are informed of the options for insurance coverage for their children is a new responsibility for the Department.

Ms. Burrow asked about the ARKids cut-off age for children. Dr. Davis responded that children can be covered until they reach age 18.

Mr. Lawson moved adoption for public comment. Dr. Williams seconded the motion. The motion was adopted unanimously.

**Consideration of Technical Amendments to Arkansas Department of Education Rules Governing the Assessment Scores for Students Attending the Arkansas School for Mathematics, Sciences and the Arts of the University of Arkansas.**

Dr. Charity Smith was recognized to present this item. Dr. Smith reported that when this Rule, which was adopted on June 12, 2006, was presented to the Legislative Rule Committee, minor revisions were suggested and subsequently made by the Department. She noted that those changes are presented for consideration by the Board so that the Board can consider these suggested revisions.

Mr. Lawson moved to accept the revisions. Dr. Knight seconded the motion. The motion was adopted unanimously.

**Consideration of Exit Criteria of Limited English Proficient (LEP) Students in English as a Second Language Learner (ESL) Program**

Dr. Gayle Potter was recognized to present this item. Dr. Potter stated that under the No Child Left Behind legislation states are required to establish criteria under which students participating in English as a Second Language Learner (ESL) program are determined to be proficient in English and thus exit special instruction and become full participants in the State's assessment system. She reported that a committee of teachers and ESL program administrators in schools met to determine the criteria.

Ms. Rebick inquired about the nature of instructional programs. Dr. Potter responded that the programs vary from providing instruction in the student's native language to regular teachers providing other accommodations.

Ms. Rebick moved approval of the standards as presented. Dr. King seconded the motion. The motion was adopted with 6 yes and 1 no votes (Dr. Mays voted no).

### **Petition from Buffalo Island Central School District to the State Board of Education to Move from Eight (8) to Seven (7) Members**

Scott Smith was recognized to present this item. Mr. Smith stated that the district had met all statutory requirements for bringing its district into alignment with current legislation. He affirmed that the local board has worked out the required reduction in members.

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

### **Request from Mayflower and Vilonia School Districts to the State Board of Education for an Adjustment to School District Boundary Lines**

Scott Smith was recognized to present this item. Mr. Smith recognized Dr. Frank Mitchell, superintendent of Vilonia School District to provide background information. Dr. Mitchell stated that for many years these two districts have provided for transfers and or transportation agreements for the few students that have resided in what has generally been undeveloped land located on the boundary between the districts. Dr. Mitchell noted that there is interest in development of the property for residential sites, which will eventually involve more transportation issues. He stated that board members from the districts have mutually agreed on the boundary changes, which should alleviate some of the issues that have been experienced in the past. Dr. Mitchell stated that the districts have agreed on the process and followed the legal procedure to make the requested changes and that the districts believe the proposal is fair to both and that students will be on buses less than before.

Dr. Williams moved approval of the proposal as presented. Dr. Mays seconded the motion. The motion was adopted unanimously.

### **Report on the Status of HAAS Hall Academy Open-Enrollment Charter School**

(The full text of this presentation and pursuant discussion is contained in the court reporter's document.)

Patricia Martin was recognized to present the report. Ms. Martin stated that the new bookkeeper at Haas Hall has experience in working with the APSCN system and that progress is being made toward getting the budget and data loaded in the system, which should be completed well before the September 15<sup>th</sup> deadline. She stated that the issue of bank reconciliation will be considered after the completion of budget entry into the APSCN system. She also noted that agreements are being pursued for repayment of outstanding debts.

Ms. Tatum asked about the requirement of student fees that were reported as a source of revenue. Dr. Shoppmeyer responded that part of the fees related to a "flow-throw" process by which students paid local bus fares and the school made the payment to the bus company. He also stated that students were charged a lab fee of \$175 and an additional fee of \$51 per laboratory course. Ms. Tatum questioned if the practice of charging student fees was legal in a charter school. Scott Smith responded that charter schools are public schools and the fee structure that is in place is unconstitutional. Ms. Tatum inquired how the school might find additional revenue to make up for the loss of revenue from the fees.

Dr. Williams observed that the report today concerning the budget and other responses is not acceptable. He affirmed that the school must prepare and present a realistic budget – one that is reasonable and one that is legal.

Dr. Williams asked about the schedule of renewal of the charter for HAAS Hall. Mary Ann Brown responded that the current charter expires June 30, 2007, which means that a new charter application must be developed and presented during the spring of 2007.

Board members expressed concern that budget requirements and fiscal obligations were not being given proper consideration.

Dr. James stated that the Department and the Board have asked for budget information on more than one occasion in the past and that the Department has taken over schools with fiscal problems. He stressed that the Department and the Board must treat all schools alike, including charter schools, especially in the area of finances.

Ms. Tatum directed Dr. Shoppmeyer to provide reliable budget information that shows that HAAS Hall is financially solvent and that information be provided by the September 11<sup>th</sup> meeting of the State Board.

*(A transcript of each of the following items is included with the court reporter's documents.)*

Scott Smith reported to the Board the background that necessitated the Board's consideration of waivers for non-certified employees for whom the criminal background check revealed a previous felony conviction. Each of the hearings was presented by Tripp Walter, ADE staff attorney.

#### **Hearing on Waiver Request for Non\_Certified Employment within Little Rock School District – Coy Lee Adams**

Mr. Adams was present and was represented by Mr. Granger Ledbetter.

Dr. Williams moved to accept the Department recommendation to not grant the waiver of criminal background. Ms. Rebick seconded the motion. The motion was adopted on a vote of 6 yes with 1 recusal (Dr. King).

#### **Hearing on Waiver Request for Non\_Certified Employment within Little Rock School District – Daffney Crawford**

Ms. Crawford was not present.

Ms. Rebick moved to accept the Department recommendation not to approve the waiver request. Ms. Burrow seconded the motion. The motion was adopted unanimously.

#### **Hearing on Waiver Request for Non\_Certified Employment within Little Rock School District – Heather Brackins**

Ms. Brackins has been working as a long-term substitute, but she stated that she intends to seek alternative licensure status at a later time. Scott Smith affirmed that any decision related to the outcome of this hearing would not apply to future requests to be eligible for alternate licensure application.

Dr. Mays moved approval of the waiver based on the letter of recommendation of the supervisor. Mr. Lawson seconded the motion. The motion was adopted with a vote of 6 yes and 1 no (Rebick voted no).

**Hearing on Waiver Request for Non\_Certified Employment within the Pulaski County Special School District – Michael Earl Brown**

Mr. Brown reported that he was no longer employed due to the criminal background report, but that he might be re-employed if the waiver were granted.

Ms. Rebick moved to deny the waiver. The motion died for lack of a second.

Dr. King moved to approve the waiver. Ms. Burrow seconded the motion. The motion was adopted with a vote of 6 yes and 1 no (Rebick voted no).

**Hearing on Waiver Request for Non\_Certified Employment within Little Rock School District – Sandra Denise McCoy Robinson**

Ms. Robinson is a cafeteria worker in the Little Rock Public Schools.

Dr. Williams moved approval of the waiver. Ms. Burrow seconded the motion. The motion was adopted with a vote of 6 yes and 1 no (Rebick voted no).

**Hearing on Waiver Request for Non\_Certified Employment within the Green Forest School District – Sherman F. Ross**

Mr. Ross was not present nor represented.

Ms. Rebick moved to accept the recommendation to deny the waiver. Dr. Mays seconded the motion. The motion was adopted unanimously.

**Hearing on Waiver Request for Non\_Certified Employment within the Helena-West Helena school District – Stephone R. Smith**

Mr. Smith affirmed his convictions were more than 10 years ago with no further record.

Dr. Williams moved approval of the waiver based on letters of recommendation and documented work record. Mr. Lawson seconded the motion. The motion was adopted unanimously.

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

The meeting adjourned at 3:05 p.m.

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