

Minutes
State Board of Education
Monday, December 14, 2009

The State Board of Education met on Monday, December 14, 2009, in the Auditorium of the State Education Building. Dr. Naccaman Williams, Chairman, called the meeting to order at 9:00 a.m.

The following Board members were present: Dr. Naccaman Williams, Chairman; Jim Cooper, Vice-Chairman; Sherry Burrow; Brenda Gullett; Sam Ledbetter; Alice Mahony; Dr. Ben Mays and Toyce Newton.

No members were absent. There is one vacant position on the Board.

Chair's Report

Dr. Williams noted the recent death of former Senator and Representative Jodie Mahony, who was a strong advocate for education and for children during his tenure in the Arkansas General Assembly and beyond.

Dr. Williams commented on the following:

- Attended meeting in northwest Arkansas to share the Arkansas proposal for the Race to the Top Grant, which was held at the Northwest Arkansas Regional Service Cooperative. He commended the Department staff on the presentation and noted the large attendance that included local school officials, teachers and community members. Dr. Williams also reported on the breadth of services and technology resources currently available to schools in the Cooperative service region.
- Visited Parkview Magnet High School and conference with the new principal.
- Visited the KIPP Charter School in Helena. Reports continuing to be impressed with the programs provided through KIPP.

Commissioner's Report

Dr. Kimbrell commented on the following:

- Regional meetings to present Race to the Top proposal and commended the work of ADE staff and others on their work that was done in a very short time. He noted this was a great opportunity for Arkansas to advance education reform across the state. He advised that a Memorandum of Understanding would be sent to districts for completion and return by January 4. He stated that the short time to get this accomplished is required to meet the national submission deadline for the proposal.
- Reported on School Improvement Grants in the amount \$40 plus million to be used by schools at the bottom of the school improvement ranking.
- Noted momentum and national discussion regarding the Common National Standards work. Stated that he would be accompanying three Board members to Jacksonville, FL, on January 11, 2010, for a conference hosted by the National Association of State Boards of Education.

Reports

Dr. Kimbrell recognized Mike Mertens, Interim Executive Secretary, Arkansas Association of Educational Administrators, who introduced Dr. Matt McClure as 2009 State School Superintendent of the Year. Dr. McClure, superintendent of the Cross County School District, addressed the Board.

Dr. Gayle Potter was recognized to present 2008 Presidential Awardee for Excellence in Mathematics and Science Teaching (PAEMST) and the state finalists for 2009 for the PAEMST recognition.

2008 – Monica Norwood – Elementary Mathematics, Romine Intermediate School, Little Rock School District

2009 – Ginny Chambliss – Secondary Science – Rison High School

2009 – Karen Ladd – Secondary Science – Nettleton High School

2009 – Linda Shoff – Secondary Science – Pottsville Junior High School

2009 – Loraine Darwin – Secondary Mathematics – Cabot High School

Jim Boardman was recognized to provide a status report and update – Project EAST

Matt Dozier, EAST CEO, and Dr. Al Simon, external evaluator provided documentation supporting that students who participate in the EAST program tend to out-perform other students on the Arkansas Benchmark and standardized exams. Students representing school projects summarized work of EAST students and highlighted the type of local projects in which students participate.

Consent Agenda

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

- Minutes: November 9 and 10, 2009
- Adoption of State Board of Education Meeting Dates for Calendar Year 2010
- Newly Employed, Promotions and Separations
- Commitment to Principles of Desegregation Settlement Agreement: Report on the Execution of the Implementation Plan
- Review of Loan and Bond Applications
- Report on Waivers to School Districts for Teachers Teaching Out of Area for Longer than Thirty (30) Days, Ark. Code Ann. § 6-17-309

Action Agenda

Continuation of Consideration of Open-Enrollment Charter Application Appeal and ADE Review: Little Rock Urban Collegiate Public Charter School for Young Men, Little Rock, AR

Dr. Mary Ann Brown was recognized to present this item. Dr. Brown stated that questions remaining from the previous discussion would be addressed by ADE attorney Jeremy Lassiter and Scott Richardson from the Attorney General's Office.

Ms. Gullett expressed concern that opinions from the various resources tend to vary and she expressed the question as to who is right and who should be the Board's primary resource. Mr. Richardson commented that some of the issues are not firm and there is room for interpretation, which is what he perceives as the Board's responsibility in hearing the discussion and making a final decision.

Mr. Ledbetter noted that one of – if not the – major issue is the potential negative impact on desegregation in the three school districts in Pulaski County. He projected that should the application be approved and in two years it is determined that there has been a negative impact on desegregation, is that evidence sufficient to revoke the charter at that time. Mr. Richardson stated that in the next few months there will be a trial to determine the overall desegregation status and following that trial many of the unanswered or problem issues will be settled. He stated that no one can predict the outcome of the trial that will occur. Mr. Lassiter commented that should the application be approved but the enrollment projections and expectations do not materialize it may not be an issue as long as the school districts are declared unitary. He continued that if the districts are declared unitary, then we don't believe there is a problem and we have acted in keeping with the law. Mr. Richards then added that when the court declares the districts unitary, there is no more reason for the state to interfere.

Dr. Mays observed that if this application hearing were to occur a year from now would the decisions be less complex in terms of desegregation. Mr. Richardson responded that a year from now would make the decisions more clear.

Dr. Mays commented that he does not believe he has sufficient information regarding the proposal: he only knows one name – Ms. Jackson. He stated he does not know about her educational background and seemingly no other staff members have been identified. He suggested that cleaning up the application and bringing it back in a year would be preferred.

Ms. Gullett asked Mr. Richardson if the question of the school's desegregation status cannot be answered at this time. Mr. Richardson responded that the response is more complicated today than it may be a year from now.

Mr. Cooper asked for clarification as to the nature of the questioning. Dr. Williams responded that this was an opportunity to hear from the attorneys and to get questions answered. Dr. Williams also pointed out that if the school is approved it will not become operational until the fall 2010.

Ms. Burrow observed that the application is for a total of 696 as the upper limit of enrollment. She asked if this number of students could impact the desegregation of the districts in Pulaski County. Mr. Richardson responded that this is essentially the question that is before the Board: one argument he opined could help the racial balance in Little Rock while another could argue that it negatively impacts the Little Rock District as well.

Mr. Cooper suggested that the Majority to Minority (M to M) transfers are at question and may be the major issue under consideration. He stated it was his belief that allowing this charter school would have a positive impact on the Little Rock District. He asked Mr. Richardson if the judge could say otherwise. Mr. Richardson responded that that is essentially the Board's decision at this point and there are good points on both sides: he has no indication of how the judge may rule.

Ms. Gullett observed that this is proposed as an open enrollment and there is no way to control who applies and is granted admission to the school. Ms. Gullett asked if a weighted lottery would help

resolve the attendance issue. Mr. Lassiter responded that he did not think a lottery would help manage the applicant pool and that the school cannot turn away applicants based on race.

Ms. Jackson interjected that she was trying to do what was right and wanted to make a difference for the students who would be served by the school.

Dr. Williams asked the developer to describe the potential applicant pool. Ms. Jackson noted that she and others working with her did research in two zip code areas where they believe most of the students reside. She stated that they interviewed students and parents and tallied the results of who might attend and asked for the school currently attended. She noted that responses were provided in the background documentation.

Ms. Newton expressed concern for the transportation of at-risk or needy students. She observed that her experience is that transportation is a major issue and the potential for a successful experience with mass public transportation is not likely. She also expressed concern for the documented leadership at the school. She commented that funds are not adequate to accomplish what is proposed in the application. She also asked about staff for training potential teachers and school staff. Ms. Jackson identified Dr. Fitz Hill, Arkansas Baptist College; Steve Stressel, principal Catholic High and Dr. Horton, a consultant from New York. Ms. Gullett asked who would coordinate this effort. Ms. Jackson stated that it would be Dr. Horton.

Mr. Cooper asked about counseling services and alternative learning environment services. Ms. Jackson stated that the school would employ a counselor and that the entire project should be considered an alternative learning environment. Ms. Mahony asked about student counseling and Ms. Jackson responded that all teachers would assume some counseling responsibilities and that all faculty would be trained in intervention strategies.

Dr. Mays asked about individuals proposed to serve on the Board. Ms. Jackson stated that a list was submitted with the December 3 document. Dr. Kimbrell stated that some staffing cannot be fully resolved until the charter is granted and the Board is in place.

Dr. Mays commented on the proposition from the Little Rock District that if the charter were funded, it should be done with enrollment limitations of 80% from free and reduced price meals and with students who perform at the basic or below basic level(s) on the Benchmark exams.

Mr. Ledbetter asked for the opportunity for representatives from the Little Rock District to present or respond to the comments. Mr. Clay Findley represented the Little Rock District.

Mr. Cooper moved for approval of the charter. Ms. Burrow seconded the motion. Ms. Newton stated that the application was too vague and she thinks there should be at least some stipulations as allowed by law.

Ms. Gullett expressed concern that the Board of Directors was less than representative. She proposed to amend the motion to approve for one year to be followed by review and follow up on the concerns expressed in the application. Dr. Williams expressed that the ability to hire staff for one year might deter hiring quality individuals.

Mr. Lassiter opined that the law requires any approved open enrollment charter must be approved for five years – one year is not an option under the law.

Ms. Gullett withdrew the amendment. Ms. Gullett stated that if approved then the Board should require a complete review after one year that might be followed by any action allowed by law. Mr. Cooper moved to amend the motion to conduct a program review at the end of one year to include submission of any documentation regarding administration and other questions that may not be obvious at this time. Dr. Mays seconded the amendment to the motion.

Voice vote on the amendment passed unanimously.

Dr. Mays proposed a second amendment to the motion that would require that 80% of the enrollment be from students documented as to free or reduced price meals and score at the Basic or Below Basic level on the Arkansas Benchmark Exam(s). The amendment was seconded by Ms. Newton. Mr. Cooper observed that our job next year will be to see that they adhere to the conditions during the review. The amendment to the motion was adopted 5 yes 2 no (Cooper and Burrow voted no.)

The motion to approve with amendments requiring a program review at the end of one year and to require that 80% of the enrollment be from students identified as free or reduced lunch and are achieving as basic or below basic on the state benchmark exams was adopted unanimously.

Consideration for Final Approval: Proposed Amendments to Application Documents for Open Enrollment, District Conversion and Limited Charter Schools

After a short discussion regarding alignment of the proposed forms with the Charter School Rule, the Chair recommended that this deliberation on this item be tabled until discrepancies can be resolved. Ms. Mahony moved to table. Mr. Cooper seconded the motion. The motion was adopted unanimously.

Request for Charter Amendment of District Conversion Public Charter School: Cabot Academic Center of Excellence, Cabot, Arkansas

Dr. Mary Ann Brown was recognized to present this item. Dr. Brown stated that the Cabot School District requested the relocation of the facility to better accommodate the students and programming of the charter school. Michelle Evans represented the Cabot School District and affirmed that the relocation would allow for an increase in the total enrollment of the school up to approximately 500 students.

Mr. Cooper moved adoption of the proposal. Dr. Mays seconded the motion. The motion was adopted unanimously.

Consideration for Adoption: Resolution Arkansas School Board Member Recognition

Mr. Dan Farley, Executive Secretary, Arkansas School Boards' Association was recognized to present this item. Mr. Farley stated that the resolution was offered as a way to recognize citizens from local school districts who are elected to serve as local school board members. He also noted that this recognition would coincide with the designation January 24-30, 2010, as Local School Board Member Recognition Week by Governor Beebe.

Mr. Ledbetter moved adoption. Mr. Cooper seconded the motion. The motion was adopted unanimously.

Consideration for Adoption: Academic Merit Resolution

Dr. Charity Smith was recognized to present this item. Dr. Smith stated that 38 Arkansas High Schools have received recognition from ACT Testing Company regarding the increase in student performance on the ACT test while increasing the percentage of students taking the ACT test. Dr. Smith requested that the Board officially recognize the academic performance of these schools through this resolution.

Ms. Mahony moved approval of the resolution. Ms. Gullett seconded the motion. The motion was adopted unanimously.

Arkansas Better Chance 2009-2010 Funding Recommendations

Jamie Morrison was recognized to present this item. Ms. Morrison stated that the proposed grant awards are recommended based on Agency review and approval.

Ms. Gullett moved approval as presented. Ms. Mahony seconded the motion. The motion was adopted unanimously.

Total grant award for this action: \$368,625.

Request for Termination of Arkansas Better Chance Grant with Sunrise Child Development Center Effective Immediately

Jamie Morrison reported that this item was being removed from consideration.

Consideration for Approval: Proposed Emergency Rules Governing Revisions to the Arkansas Comprehensive Testing, Assessment and Accountability Program

Dr. Gayle Potter was recognized to present this item. Dr. Potter stated that in addition to adopting the update in the scoring tables, she requested that the rule be adopted with an emergency clause due to the nearness of the time when spring testing and grading would occur. Ms. Mahony stated that it has come to her attention that many children reportedly do not perform well on the literacy portion of the test due to the time limitations imposed because students simply cannot finish the test in the amount of allotted time. She also observed that in states adjacent to Arkansas at least near her area of the state do not impose time limitation on their mandated testing. Dr. Kimbrell stated that Arkansas testing policy is implemented as proposed and adopted by the U.S. Department of Education pursuant to *No Child Left Behind*. He asked Dr. Potter if this was something that Arkansas can reconsider for future actions. Dr. Potter responded that one of the complaints of the testing program was the amount of time required. She observed that making the test untimed would definitely add more to the time element for testing.

Mr. Cooper questioned the need for emergency status. Dr. Potter responded that getting the scale scores in the rule is critical especially for the Algebra I because of the requirement for passing the test before students get credit for the course, which goes into effect this school year.

Dr. Williams requested that Dr. Potter research the options for removing the time limits on the Benchmark Exams, especially in literacy, and report back to the Board in January.

Mr. Ledbetter moved approval of the proposed rule with the emergency clause. Ms. Gullett seconded the motion. Mr. Cooper asked if the Department had received any comment regarding the emergency clause for the rule. Dr. Potter responded that her office had not received any comment regarding the rule. The motion to approve was adopted unanimously.

Consideration for Final Approval: Proposed Rules Governing Access to Public School Information on Comprehensive School Improvement Plans

Tripp Walter presented this item for Dr. Alice Rose. Mr. Walter stated that the revisions to rules was required by changes in legislation from the last session. He noted that a public hearing was conducted and comments received were considered in the final draft.

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

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

Bill Goff was recognized to present this item. Mr. Goff stated that a public hearing was conducted on October 22, 2009, with comments from those attending being considered in the final draft.

Mr. Cooper moved for final approval. Ms. Newton seconded the motion. The motion was adopted unanimously.

Request for Approval for Public Comment: Proposed Rules Governing Appeals Involving Student Residency Disputes Between School Districts

Jeremy Lassiter was recognized to present this item. Mr. Lassiter stated that the rules under consideration were drafted in response to legislation and are intended to provide guidance when matters of school choice and transfers are disputed. Also, Mr. Lassiter requested that the rules be approved with emergency status because of the January legislative session. Mr. Ledbetter asked if comments from local districts were incorporated in the proposed draft. Mr. Lassiter responded yes. Mr. Cooper asked if comment from the Arkansas Activities Association (AAA) had been received. Mr. Lassiter responded, not at this time. Mr. Cooper asked for clarification on the appeal procedures in the rule. Dr. Kimbrell responded that the intent of the rule is to help resolve issues between two districts. He commented that when parents disagree with a ruling, they have the option of a hearing before the State Board of Education.

Mr. Cooper moved approval with emergency provisions included. Ms. Mahony seconded the motion. The motion was adopted unanimously.

Classification of Districts in Fiscal Distress

Bill Goff was recognized to present this item. Mr. Goff stated that conditions in three districts: Forrest City, Wicks and Yellville-Summit warrant classification of districts in fiscal distress. He affirmed that each

of these districts had been contacted by the Department and that no appeal of the recommendation was received. Mr. Goff stated that the primary reason for the classification was the amount of declining balance over the past three years.

Forrest City: Mr. Cooper moved classification of the Forrest City School District in fiscal distress. Ms. Newton seconded the motion. The motion was adopted unanimously.

Wicks: Ms. Gullett moved classification of the Wicks School District in fiscal distress. Ms. Mahony seconded the motion. The motion was adopted unanimously.

Yellville-Summit: Ms. Burrow moved classification of the Yellville-Summit School District in fiscal distress. Ms. Mahony seconded the motion. The motion was adopted unanimously.

Review of Probationary Status of Fordyce High School for Failing to Meet all Standards for Accreditation for Two (2) Consecutive Years

Frank Wimer was recognized to present this item. Mr. Wimer reported that the following nine items relate to schools that have failed to meet accreditation standards for the past two consecutive years and as a result Department Rules require that the Board adopt a plan whereby the deficiencies will be removed prior to the next accreditation report. He stated that the Department staff have been in contact with the schools and corrective actions are in place or have been agreed to by each school. Mr. Wimer also stated that ADE staff would visit each school site prior to February and a follow-up report would be provided to the Board.

Ms. Gullett moved that the Department plan for removing the stated deficiencies be adopted. Mr. Cooper seconded the motion. The motion was adopted unanimously.

Review of Probationary Status of Hamburg High School for Failing to Meet all Standards for Accreditation for Two (2) Consecutive Years

Mr. Cooper moved that the Department plan for removing the stated deficiencies be adopted. Ms. Mahony seconded the motion. The motion was adopted unanimously.

Review of Probationary Status of Hope High School for Failing to Meet all Standards for Accreditation for Two (2) Consecutive Years

Dr. Mays moved that the Department plan for removing the stated deficiencies be adopted. Ms. Newton seconded the motion. The motion was adopted unanimously.

Review of Probationary Status of Hughes High School for Failing to Meet all Standards for Accreditation for Two (2) Consecutive Years

Ms. Burrow moved that the Department plan for removing the stated deficiencies be adopted. Ms. Mahony seconded the motion. The motion was adopted unanimously.

Review of Probationary Status of Osceola – Academic Center of Excellence Charter School for Failing to Meet all Standards for Accreditation for Two (2) Consecutive Years

Ms. Newton moved that the Department plan for removing the stated deficiencies be adopted. Ms. Gullett seconded the motion. The motion was adopted unanimously.

Review of Probationary Status of Northwood Middle School (Pulaski County Special School District) for Failing to Meet all Standards for Accreditation for Two (2) Consecutive Years

Mr. Cooper moved that the Department plan for removing the stated deficiencies be adopted. Ms. Gullett seconded the motion. The motion was adopted unanimously.

Review of Probationary Status of Rector High School for Failing to Meet all Standards for Accreditation for Two (2) Consecutive Years

Ms. Mahony moved that the Department plan for removing the stated deficiencies be adopted. Mr. Cooper seconded the motion. The motion was adopted unanimously.

Review of Probationary Status of Williford Elementary School and Williford High School for Failing to Meet all Standards for Accreditation for Two (2) Consecutive Years

Mr. Wimer stated that this district had a recent change of leadership and that communications with the district are improved and progress toward removing the deficiencies is underway. David Gilliland was introduced as the new superintendent of the Twin Rivers District, which includes the Williford schools. Mr. Gilliland. Mr. Cooper noted that it was highly unusual that the type of staff deficiencies would go unresolved for this amount of time. Mr. Cooper asked the superintendent if he would welcome technical assistance from the Department as a means of focusing on the issues noted with accreditation of both of these schools. Mr. Gilliland responded yes, assistance would be welcome.

Dr. Mays moved to table consideration on this recommendation until the January Board meeting and in the mean time Department technical assistance visit will be scheduled. Ms. Newton seconded the motion. The motion was adopted unanimously.

Review of Probationary Status of Yellville-Summit High School for Failing to Meet all Standards for Accreditation for Two (2) Consecutive Years

Dr. Williams inquired if technical assistance should be provided to this district. Dr. Kimbrell responded that a new administration was in place and appears to be making the type of changes in the district that will rectify the recent problems noted. Dr. Mays observed that a recent report on athletics expenditures records that this school spent \$548 per student. He stated that this expenditure amount would equate to \$5480 per participant in athletics assuming about 10% of the student body participates in the athletics program.

Ms. Mahony moved that the Department plan for removing the stated deficiencies be adopted. Ms. Gullett seconded the motion. The motion was adopted unanimously.

Hearing on Waiver Request for Teaching License – Leroy Edwards, Jr.

Jennifer Flinn was recognized to present this item. Ms. Flinn stated that Mr. Edwards was seeking licensure through the non-traditional program and that the background check found a previous conviction, which disqualifies him from being issued a license. She indicated that Mr. Edwards was

petitioning the Board for a waiver. Mr. Edwards was present and wished to address the Board. Mr. Edwards described situations in his past, which included a physical injury that led him to the use of alcohol and drugs to alleviate physical pain. He described incidents and resulted in arrest and subsequent conviction. Since being released from probation he entered school and is pursuing licensure to work in middle schools. Arthur Tucker, superintendent of the Dollarway School District spoke for Mr. Edwards. He stated that he cannot condone the past, but he affirmed that for the past year he has worked on a part time basis as a substitute teacher and has done a good job especially relating to a sub-population of students. Mr. Tucker stated that if licensed he would consider him for employment in the Dollarway District. Ms. Burrow asked if Mr. Tucker were aware of the past background of Mr. Edwards when he began working in the district. Mr. Tucker responded yes.

Ms. Newton moved to approve the waiver. Mr. Cooper asked to amend the motion by attaching some stipulations: three (3) probationary licensure status with the understanding that any violation of the Code of Ethics or a felony charge would automatically revoke the license. Dr. Mays seconded the amended motion. The amended motion was adopted unanimously.

Ms. Mahony moved adjournment. Ms. Gullett seconded the motion. The motion was adopted unanimously.

The meeting adjourned at 3:00 PM.

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



Dr. Tom. Kimbrell, Commissioner, Department of Education



Dr. Naccaman Williams, Chair, Board of Education