

Minutes
State Board of Education
Monday, February 14, 2000

The State Board of Education met on Monday, February 14, 2000, in the auditorium of the State Education Building. Luke Gordy, Chairman, called the meeting to order at 9:30 a.m.

The following members were present: Luke Gordy, Chairman; Anita Yates, Vice Chairman; Jo Nell Caldwell; William Fisher; Robert Hackler; Shelby Hillman; James McLarty; Richard Smith; and Lewis Thompson, Jr.

The following members were absent: Claiborne Deming and Betty Pickett.

Mr. Hackler moved that the Action Agenda be amended to include Approval for Public Comment Rules and Regulations for Implementing the Individuals with Disabilities Education Act (IDEA). Mr. Smith seconded the motion. The motion passed unanimously.

Mr. Hackler moved that the Action Agenda be amended to include Approval for Public Comment Rules and Regulations for Distribution of Limited English Proficiency Funding. Ms. Hillman seconded the motion. The motion passed unanimously.

Mr. Gordy announced that Consent Agenda Item C-3, Final Approval of Rules and Regulations Governing Distance Learning, and C-6, Review of Loans and Bonds Applications, be moved to the Action Agenda.

Mr. Gordy announced the implementation of the new policy regarding public comment. One written request was received by the Wednesday deadline. He indicated that those wishing to seek Board recognition for public comment should register with Janinne Riggs.

Chair's Report

Mr. Gordy stated the Board was faced with exciting and challenging tasks and that the review of Charter school applications is a detailed process that is requiring many hours of study and review by Board members as well as Department staff.

The Chair invited Board members to share information about school visits or Board-related activities of the past month.

Mr. Hackler: Spoke to a civic club on the topic of Charter schools.

Ms. Hillman: Discussed with constituents Department initiatives, ACTAAP, CPEP and others.

Mr. Smith: Spoke to Desha County Retired Teachers Association on charter school rules and regulations.

Mr. Thompson: Visited in Texarkana schools.

Mr. McLarty: Attended NASBE Study Group on retention. Reported briefly on a program presented at NASBE by the Chicago Public Schools. Also, visited the school at Parkin and spoke to elementary teachers in the Parkin District.

Ms. Caldwell: Attended a meeting of the Professional Development Task Force for the Teacher Quality Grant. Attended a meeting of the Pulaski County Special School District Board at which Charter schools was a topic of discussion. She has three articles to share with Board members.

Director's Report

Mr. Simon noted that he would highlight only one school visit for this report. Last week he, Dr. Cummins and Mr. Boardman visited in Paragould and observed a fourth grade teacher in the Greene County School District. Mr. Simon commended this teacher for conducting the class in such a way that would serve as a model for Smart Start. He described how students in the classroom celebrated the success of a classmate on an assignment.

Consent Agenda

Mr. Smith moved approval of the Consent Agenda as amended by moving Item C-3, Final Approval of Rules and Regulations Governing Distance Learning, and C-6, Review of Loans and Bonds Applications to the Action Agenda. Ms. Caldwell seconded the motion. The motion passed unanimously.

- Minutes January 10, 2000
- Newly Employed, Promotions and Separations
- Final Approval for Rules and Regulations to Implement the Appropriation for special Education Catastrophic Occurrences
- Approve Building-Level Administrators School Leaders Licensure Assessment (SLLA) Cut-Score Recommendations
- Final Approval Rules and Regulations Governing the College Preparatory Enrichment Program (CPEP)

Action Agenda

Mr. Hackler moved approval for public comment Rules and Regulations Implementing the Individuals with Disabilities Education Act (IDEA). Ms. Hillman seconded the motion. The motion passed unanimously.

Mr. Hackler moved approval for public comment Rules and Regulations Governing the Distribution of Limited English Proficiency Funding. Ms. Hillman seconded the motion. The motion passed unanimously.

Final Approval for Rules and Regulations Governing Distance Learning

Mr. Gordy informed the Board that three individuals had requested the opportunity to make comment to the Board pursuant to this item, the first being Dr. Leon McLean, Director OUR Cooperative in Harrison. Mr. McLarty moved that the Board allow Dr. McLean to speak concerning distance learning. Mr. Smith seconded the motion. The motion passed unanimously.

Dr. McLean indicated that he was representing the Arkansas Distance Learning Association. He noted that there was great diversity in the technology in use to deliver distance learning

courses in the state. Instructors may be K-12 teachers, community college or university instructors some in state and other from beyond state boundaries. Also, there is great spread in the size of classes across the state. Dr. McLean's position is that one set of rules and regulations may not address all of the unique possibilities or options available, thus these guidelines may be limiting in providing a wide array of options for schools.

Mr. McLarty inquired if multiple sets of rules and regulations would better serve schools and students. Dr. McLean indicated that there is great need for flexibility and these rules and regulations are too restrictive. Mr. McLarty asked if the Distance Learning Association would be available to assist with development of other options. Dr. McLean responded it would.

Mr. McLarty moved that John Fincher, interim director of the Arkansas School for Mathematics and Science (ASMS) be allowed to address the Board. Mr. Smith seconded the motion. The motion passed unanimously.

Mr. Fincher informed the Board that ASMS is a major provider of distance learning in the state serving 37 districts and approximately 600 students. He reported that the rules and regulations as proposed were sufficient to meet their needs and the needs of schools they serve.

Mr. McLarty moved that Lisa Jones, Distance Learning instructor from ASMS, be allowed to address the Board. Ms. Hillman seconded the motion. The motion passed unanimously.

Ms. Jones stated that she was in her second year in the position of distance learning instructor of Spanish for ASMS. Her comments were based on her experience of working with classes across the state suggesting that a certified teacher was not necessary as a monitor at the receiving site. The qualifications of the class monitor do not seem to impact how well students do in the distance learning class. Ms. Jones believes that distance learning is providing instruction for a large group of student that otherwise would not have a qualified instructor. She noted that her classes originate from 301 A in the Department of Education Building and invited Board members to observe.

Mr. McLarty requested that Ms. Jones summarize her program for the Board. Ms. Jones responded that she has direct link to her students for approximately one hour on Monday, Wednesday and Friday. Students can interact via audio hook up and computer link. On Tuesdays and Thursdays students work on lessons, quizzes, or other activities found on the Web.

James Boardman was recognized to respond to the comments and present the item for further discussion. Mr. Boardman noted that rules and regulations were needed and were designed to provide some structure to the distance learning programs. His premise is that the most critical element is the performance of students and the Department has limited data on the real student performance in distance learning courses. He recognized the need for and willingness of the Department to accept assistance from any group or association that will improve the overall distance learning program. He affirmed that the audio graphics program being utilized by ASMS in their programs is a low-end technology, but it allows a large number of students to participate at a relatively low cost per student.

Mr. Boardman distributed proposed revisions in the following Sections: 2.00, 3.01, 4.04 and 8.02 of the proposed rules and regulations. These changes are the result of public comment and address some of Dr. McLean's concerns. (Attachment 1)

Mr. McLarty asked for information concerning the comment from a teacher concerning adult supervision. Mr. Boardman indicated that it was not acceptable for a group of students to meet without some adult supervision. The proposed change does not prescribe who that adult would be, but gives that flexibility to the local school.

Mr. Fisher stated that distance learning courses should be reviewed by content specialists to assure alignment with Arkansas Frameworks. Mr. Boardman indicated that this was the practice for all courses with the possible exception of concurrent enrollment courses.

Ms. Caldwell moved final adoption of Rules and Regulations for Distance Learning with the amendments as distributed. Mr. Smith seconded the motion. The motion passed 8-1 (McLarty voted no.)

Review of Loans and Bonds Applications

Mr. McLarty indicated that the only way one can comment on a consent item is to move it to the Action Agenda. He noted his review of these schools indicated a seeming large number of teachers were teaching with certification violations. He called attention to information from 1997-98 noting a total of 81 licensure violations described on Pages 4, 9, and 13 of this section. For the same schools, progress was made by reducing the number to 60 total violations. His concern is that a large number of students in the state are being taught by individuals who are not fully licensed for the position(s) in which they are employed. He believes a primary issue is one of teacher salaries and that salaries should be increased to the point where teaching is an attractive position for college graduates and all students have access to a fully certified teacher.

Mr. Hackler moved approval of the Loans and Bonds as recommended by the Department. Mr. McLarty seconded the motion. The motion passed unanimously.

Charter Schools Discussion – In District Conversions

Mr. Gordy outlined the procedure for reviewing the charter school proposals. Each petition is to have a separate hearing with the purpose being for board members to ask questions about the petition, not for developers to make a formal presentation to the Board. He requested that respondents to questions be precise in answering the questions and limit information to the specific question posed. The Chair requested that Mr. Greenway, Department staff supervisor for charter schools, begin each discussion with a short statement about the nature of the proposed charter.

Mr. Greenway reviewed for the Board and read for the record ACA §6-23-202 that gives the charge to the Board for review and approval of conversion charter schools.

West Woods School – El Dorado School District – This school was represented by Dr. Bob Watson, Superintendent, Dr. James Fouse and Lynda Sammons.

The Board reviewed responses to each of the items in the petition. The following issues were discussed.

Public hearing – Dr. Fouse reported that a public hearing was conducted and an audio tape of the meeting is available. He indicated that there was no narrative or summary of that meeting.

Request for waiver of salary schedule – Mr. Fisher inquired as to why no request for waiver of the salary schedule was requested given the extended number of contract days. Dr. Watson reported that the El Dorado District contracts for 190 days for all faculty and that there are 178 student contact days. Faculty for this school will have a 20 day extended contract and will be paid at the established rate based on the salary schedule.

Mr. McLarty stated that one of the purposes of charter schools is to serve all children, not just a limited group. He asked how this school would serve ALL children when its focus is clearly that of an alternative learning nature. Dr. Watson responded that El Dorado operates a well designed alternative learning program district wide and that this program is a different approach to meeting the needs of students who learn in different ways. Also, he noted that by providing instruction for this group of students in a remote setting regular class size will be reduced by two or three students, thus allowing teachers more time to work with students and enhance student learning for all children.

Mr. Fisher moved approval of West Woods Charter School. Mr. Smith seconded the motion. The motion passed unanimously.

Brenda Matthews reminded the Board and the District that a formal charter school contract will be developed based on the proposal and must be signed by District officials and the Board. That document will be forthcoming for signatures in the near future.

Grace Hill Elementary School - Rogers School District – Represented by Dr. Janie Darr, Superintendent

Mr. Greenway provided a summary of this petition.

Mr. Fisher moved approval of this petition with the revisions as submitted. Ms. Yates seconded the motion. The motion passed unanimously.

Little Rock School District – Represented by Dr. Leslie Carnine, Superintendent, Judy Magness, Board Member, Brady Gadberry, Dr. Ed. Williams, Jo Evelyn Elston, Dr. Linda Watson, Sanford Tollette and Binky Martin.

Mr. Greenway provided a summary of the petition and addenda as provided by the District.

Mr. Hackler questioned the purpose of a request for waiver of the Teacher Fair Dismissal Act in the addendum. Mr. Gadberry indicated that since this school is designed as a residential facility and staffing patterns will be different, this waiver was included. He did indicate that the District would be willing to reconsider this requested waiver. Mr. Fisher suggested that the District consider maintaining the waiver of required licensure and withdraw the request for waiver from the Teacher Fair Dismissal Act. District representatives agreed.

Ms. Caldwell expressed concern for the “blanket waiver” request stated as “all provisions of state standards, rules and regulations covered by the Charter Proposal with which the Proposal may be inconsistent.” She suggested that a more appealing approach would be to keep open communications with Department staff to consider conflicting issues as they may arise. Mr. Simon indicated that as Staff begins to work on the actual “Contract” consideration will be given to needed waivers that may not be included in the petition. Those waivers will be brought back to the Board for review and approval as an amendment or revision of the Charter.

The Board requested that the Petition be reviewed by the Attorney General’s Office to determine if it is consistent with the desegregation plan.

Mr. Fisher moved approval of the Petition with the deletion of the waiver request for the Teacher Fair Dismissal Act and waiver request for all state standards and rules and regulations covered by the Charter proposal with which the proposal may be inconsistent. Mr. Smith seconded the motion. The motion passed 7-0 (McLarty abstained).

Charter School Discussion - Open Enrollment Charter Applications

Mr. Greenway reviewed for the Board and read for the record ASA §6-23-303 which gives the charge to the Board for review and approval of open-enrollment charter schools.

Gateway Charter Schools – OUR Cooperative – Represented by Dr. Leon McLean and Mr. Tommy Flud.

The Board reviewed each of the criteria as presented in the initial petition and amendments. Mr. Fisher asked for clarification of the proposed assignment of teachers during the last three weeks of each session. Mr. Flud responded that during those weeks, Gateway teachers would be working with regular classroom teachers and other staff at the home-based school to assure an orderly transition back into the regular instructional program. It is proposed that site visits will be made to each campus of resident students upon transition back to the school.

Mr. McLarty requested information as to why the indicated waivers were necessary – especially those for licensure/certification. Dr. McLean responded that it was the intent of the school to seek individuals who meet full licensure status; however, he projected the possible need for some degree of flexibility given that the proposed student/teacher ratio would be 10/1. He also noted that this would be a residential setting, teachers might have some responsibility other than just classroom instruction.

Mr. Gordy questioned the need for a waiver of the six-hour instructional day. Mr. Flud noted that a student's normal day will probably be ten hours rather than the required six. In this case the exception will be for more contact hours, not less. Dr. McLean agreed to remove this request for waiver.

Dr. McLean noted to the Board that the lack of comment on Items 8-15 was an oversight in that the comments and questions from Department staff for those items were not in the packet of information he received. Thus, some questions remain unresolved.

Mr. Fisher asked about the nature of projected funding. He observed that many categories seemed to have entries that are unsupported while others can be assigned to resources in hand or committed. He asked when would the funding become more certain. Mr. McLarty observed that the amount budgeted for teachers' salaries was under the minimum required for beginning teachers. Mr. Flud indicated that staff salaries are averages and that a number of the positions will be minimum wage positions, not certified staff. He stated it was hoped that some of the positions would be volunteers. Mr. McLarty asked if all staff would be subject to background checks. Mr. Flud indicated yes. Ms. Hillman noted that non-certified staff are subjected to stringent background checks, maybe more so than certified staff.

Mr. Fisher suggested that further action on this application be deferred until the next meeting and that Dr. McLean submit responses to the remaining staff questions within ten days. No vote was taken.

The meeting recessed at 11:45 for lunch and reconvened at 12:45 p.m.

Alma School District – Represented by Malinda McSpadden

Ms. Yates asked if the Board were going to approve charter schools that requested funds for enrolled pre kindergarten students. Mr. Gordy responded that no decision had been made on that issue to date.

Mr. Simon indicated that there was adequate precedent for spending money on pre kindergarten children. However, he indicated there was a larger issue that has not been resolved. That is, can pre kindergarten students generate funding and add to the ADM counts. He indicated that to date, there is no precedent for pre kindergarten children to generate revenue. He noted that if a charter school is allowed to generate funds for pre kindergarten children, that action would have major impact on equalization funding. The staff has voiced concern about this and the future impact on equalization funding. Mr. Simon stated that the Board could probably approve such a waiver under the charter schools guidelines, which are pretty broad; however, there could be a constitutional question for consideration related to Amendment 53. Representatives from the Attorney General's Office offered to seek an opinion on this issue.

Mr. Hackler stated he has concern for this point. His opinion is that if this charter petition is approved, next year there will be a large number of requests for pre school classes which will reduce the already limited funding for students in kindergarten through grade 12. He stated that allowing pre kindergarten funding would reduce by 7% for each grade level in kindergarten through grade 12.

Mr. Simon asked that Tristan Greene be recognized for his opinion on the funding issue. Mr. Greene cited ACA §6-23-501, funding for Open-Enrollment Charter Schools, from the Charter School Law and indicated it was his opinion that this statute precluded funding for pre kindergarten children by charter schools.

Mr. Hackler moved that this charter application be disapproved for the reason of concern for funding of pre kindergarten students. Mr. McLarty seconded the motion. Mr. McLarty stated that research supports the importance of pre kindergarten programs, but the current budget structure for education funding all but precludes state funding for pre kindergarten students.

The motion passed unanimously.

Mr. Gordy stated that it was unfortunate that this application had to be turned down because of the importance of pre kindergarten programs. This was a well-developed application and if it would not have such adverse impact on funding of public schools, it should be approved. Mr. Gordy expressed his hope that the next session of the legislature could fund pre kindergarten programs as part of the Arkansas public schools or that a source of funds could be found.

Ms. Hillman also indicated that she was sorry that this program could not be funded under the charter schools program. She commended the Alma district for its work on this application.

Commitment to Principles of Desegregation Settlement Agreement: Report on the Execution of the Implementation Plan

Edwin Strickland was recognized for this report. Mr. Strickland indicated that the required report of the Project Management Tool Executive Summary was filed with the court on January 31, 2000. Mr. McLarty expressed his concern for clarification on the issue as to which entity speaks as the "state" in determining the loan forgiveness measure to be selected. Mr. Simon indicated this was an issue for Mr. Gauger from the Attorney General's Office. Mr. Smith moved approval of the report. Mr. McLarty seconded the motion. The motion passed unanimously.

Mr. McLarty inferred from the presentation by Mr. Gauger during the Work Session that no progress has been made by the parties in the Pulaski County Case to establish and make payments into the escrow account. Mr. McLarty moved that Mr. Gauger be instructed to file legal motion by March 1 if he determines that Little Rock is not in compliance with the desegregation agreement with regards to the escrow account and its full funding. Mr. Smith seconded the motion. The motion passed unanimously.

Other Business

Mr. Gordy expressed appreciation for the outstanding work by staff in preparing for the review of the charter school applications. Also, he thanked the Board for having studied the proposals and for their timely questions and discussions.

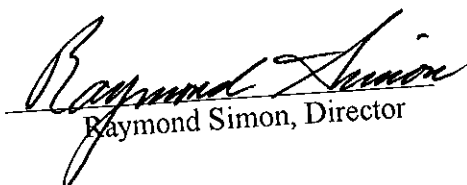
March meeting date -- Mr. Gordy announced the annual required meeting with the Higher Education Coordinating Board, and the State Board for Workforce Education and Career Opportunities would be on March 9, 2000 at 9:30 a.m. at the Statehouse Conference Center. The regular agenda meeting will follow later in the day.

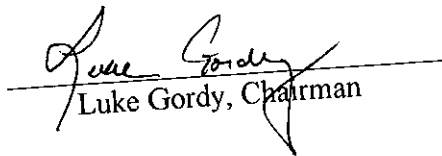
March 13, 2000, the regular meeting date will be devoted to appeal hearings for those open-enrollment charter petitions which had been disapproved by the local school boards where the charter schools were to be located.

Mr. Smith moved adjournment. Mr. Hackler seconded the motion. The motion passed unanimously.

The meeting adjourned at 1:30 p.m.

Recorded by Dr. Charles D. Watson.


Raymond Simon, Director


Luke Gordy, Chairman

**ARKANSAS DEPARTMENT OF EDUCATION
PROPOSED RULES AND REGULATIONS
GOVERNING DISTANCE LEARNING
February 14, 2000 Addendum**

2.00 PURPOSE

It is the purpose of these regulations to set reasonable guidelines for adult supervision and the operation of distance learning in the public schools of Arkansas. These regulations shall replace any existing regulations or guidelines regarding distance learning. These regulations do not apply to professional development activities or courses meeting Arkansas Department of Education Rules and Regulations for Concurrent College and High School Credit for Students Who Have Completed the Eighth Grade.

3.01 "Adult Facilitator" is the person responsible for supervising and assisting the students at the receiving site. The adult facilitator must be ~~a certified or classified employee of an adult approved by the school district.~~

4.04 All distance learning courses except concurrent credit courses that are used as a required course shall use a curriculum designed to comply with the Arkansas Curriculum Frameworks and Arkansas Course Content Standards.

~~8.02 Adult supervision for a required course must be by a certified or classified school employee.~~