

**Minutes**  
**State Board of Education Meeting**  
**Monday, February 13, 2012**

The State Board of Education met Monday, February 13, 2012, in the auditorium of the Department of Education building. Dr. Ben Mays, Chair, called the meeting to order at 9 a.m.

Present: Dr. Ben Mays, Chair; Jim Cooper, Vice Chair; Joe Black; Brenda Gullett (via telephone); Sam Ledbetter; Alice Mahony; Toyce Newton; Mireya Reith (via telephone); Vicki Saviers; Dr. Tom Kimbrell, Commissioner; and Kathy Powers, Teacher of the Year

Absent: None

**Reports**

**Chair's Report:**

Ms. Gullett said she recently attended the NASBE board meeting and a meeting of the state's Common Core Guiding Coalition. She complimented ADE's efforts on the implementation activities around Common Core.

Ms. Mahony represented the state at a meeting in San Antonio hosted by ACT in January. She, too, was complimentary of Department staff and their work implementing Common Core State Standards.

**Commissioner's Report**

Dr. Kimbrell explained that Dr. Laura Bednar, Assistant Commissioner of Learning Services, was unable to attend the meeting and would update the Board on Common Core and PARCC activities at the March meeting.

**Informational Update on Common Core State Standards and PARCC**

This report was postponed until the March meeting.

**Breakfast in the Classroom Initiative**

Joyce Hardy, No Kid Hungry Arkansas Campaign Manager, provided information on the Breakfast in the Classroom initiative aimed to increase breakfast consumption among school children and spark academic and nutritional gains associated with the morning meal. She said grants were available to help school districts that apply for the program.

Retired superintendent Danny Knight spoke in favor of the initiative and encouraged school leaders to improve access to programs that connect children with the nutritious food they need to lead healthy lives and thus improve student learning.

### **Request for ESEA Flexibility**

Introducing the application for ESEA Flexibility, Commissioner Kimbrell said Arkansas's request aligns with the state's education priorities and goals. He said it provides a comprehensive, interconnected plan for education in critical areas-- implementation of Common Core State Standards and next generation assessments; a fair, yet strong accountability system that supports schools and districts and provides students with interventions they need to improve; and an evaluation and support system for teacher and principal effectiveness.

Dr. Kimbrell said the plan informs parents in a much simpler way the effectiveness of their schools in meeting the needs of all children.

Dr. Debbie Davis and Dr. Denise Airola, with the Arkansas Leadership Academy, assisted the Department of Education in developing the waiver proposal.

Dr. Airola gave an overview of the proposal. She said the plan calls for each school being held accountable for the achievement of not only its overall student group but also for a subgroup of at least 40 students who are either receiving special education services, are English learners or are from low-income families as determined by eligibility for federally subsidized school meals. Of Arkansas's 1,070 schools, 96 percent have special education students but only 16 percent of those schools have 40 or more special education students required for reporting the achievement of that NCLB subgroup.

Ninety percent of the schools would have 40 or more students in the Targeted Achievement Gap Group (TAGG)—the combination of special education, English learners and low socioeconomic students. By combining those groups into one, more schools will be held accountable for the achievement of at-risk students.

Schools will be held accountable for improving the percentages of students achieving and making gains by specific amounts over six years. High schools would be held accountable for improving graduation rates over the same time period.

The proposed waiver reduces the number of labels given schools from 16 to 5. The new system would rank schools as Exemplary, Achieving, Needs Improvement, Needs Improvement Focus and Needs Improvement Priority. The Priority Schools, mainly Title I schools, are the bottom five percent in terms of achievement. Focus Schools would be the 10 percent with the largest gaps in

achievement levels. Priority and Focus Schools would be required to develop intervention plans and work closely with ADE staff.

Ms. Saviers didn't see the plan as rigorous enough and said other states had proposed taking those failing schools out of local district control and placing them in achievement districts. She said it was time to get someone's attention. The final plan is to be submitted to the USDE by February 28.

### **Consent Agenda**

Ms. Mahony asked to pull Agenda item C-7—PLSB Recommendation for Probation of License and Fine—Norman Ray Nassar and move to Action Agenda.

Mr. Cooper moved, seconded by Ms. Saviers, approval of the Consent Agenda with the exception of C-7. The motion carried unanimously.

Items included in the Consent Agenda:

- Minutes of the January 9, 2012 Board Meeting
- Commitment to Principles of Desegregation Settlement Agreement: Report on the Execution of the Implementation Plan
- Newly Employed, Promotions and Separations
- Waivers to Educational Agencies for Teachers Teaching Out of Area for Longer than 30 Days
- Loan and Bond Applications—1 Revolving Loan—Deer Mt. Judea-\$49,091.00 Construction; 1 Second Lien Bond—Nettleton-\$1,300,000.00 Construction; 4 Voted Bond Applications—Augusta, Gravette, South Mississippi County and Two Rivers—\$28,490,000.00
- Community Service Site Application
- Sanction for Teachers as Recommended by the Professional Licensure Standards Board
  - Horace Ray Charles
  - Erik David Brown

### **Action Agenda**

*(Complete records of the hearings are available in the State Board office.)*

### **Arkansas Better Chance Transfer of Slots**

The Arkansas Better Chance program requested the temporary transfer of 10 slots for the remainder of the school year from Salem Wee Care Day Care in Salem to Early Horizons Child Development Center in Salem. The Salem Wee Care Day Care is scheduled to close on January 31, 2012.

Mr. Cooper moved, seconded by Ms. Newton, approval. The motion carried unanimously.

## **Consideration of Jasper School District's Request for a Waiver from Rule 9.03.4.10 (Career and Technical Education) of the Rules Governing Standards for Accreditation**

The Jasper School District requested a waiver of rule 9.03.4.10 (Career and Technical Education) of the rules governing Standards for Accreditation for the first semester of the 2011-12 school year. Department staff confirmed the district currently met all requirements.

Mr. Cooper moved, seconded by Mr. Black, approval of the waiver. The motion carried unanimously.

## **Classification of Pulaski County Special School District in Fiscal Distress**

Kathleen Crain, Interim Assistant Commissioner of Fiscal Services, reported that on March 30, 2011, the Arkansas Department of Education identified the Pulaski County Special School District (PCSSD) as a school district in fiscal distress on the basis of material state or federal audit exceptions or violations. The State Board of Education classified the PCSSD as a district in fiscal distress May 16, 2011.

On January 19, 2012, the Department identified the PCSSD as being a school district in fiscal distress on the basis of a declining balance determined to jeopardize the fiscal integrity of a school district. The Department provided notice to the PCSSD by certified mail of the identification and the district's appeal rights. The district did not appeal the identification.

The Department recommended that the PCSSD be classified as being in Fiscal Distress on the basis of a declining balance determined to jeopardize the fiscal integrity of a school district.

Dr. Jerry Guess, PCSSD superintendent, said the district had identified more than \$6 million in cuts but needed to reduce \$7 million in employee benefits in excess of those required by the state. Dr. Guess said he would notify the unions of the District's intent to reopen negotiations. He said he would not approach negotiations with an attitude of not succeeding or in a threatening posture. He said he was committed to reaching and to having a productive 2012-13 school year for students.

Chief Financial Officer Bill Goff said without the cuts, the district would exceed revenue by \$13,633, 277. The identified cuts included the elimination of 77 positions (teaching, administrative and support staff) through retirements and resignations or if necessary a reduction in force for a savings of \$3.85 million; not filling positions already vacated for a savings of \$775, 328; maximize class size by state standards; a change in opening and dismissal times for schools; a \$1.5 million change in the employee's insurance package; and a new copier machine contract.

Other cuts identified by Mr. Goff were \$14.85 million in benefits not required by the state but included in the PACT contract. Another \$1.4 million in benefits could also be cut from the PASS contract. Some of the contract provisions being considered for reduction are reducing the teacher work year from 192 days to 190 days; payment for duties such as bus and recess duty; salary credits for professional growth; severance pay upon retirement; longevity pay; stipends to teachers who earned National Board certification; reducing the per month health insurance to employees to the state required \$131; and leave time in excess of one sick day per month.

Ms. Gullett asked why the district had to negotiate with anyone since it was under state takeover.

Commissioner Kimbrell said it was in the best interest of the students to reach an agreement and work together.

Ms. Newton moved, seconded by Ms. Saviers, to classify PCSSD in fiscal distress on the basis of a declining balance determined to jeopardize the fiscal integrity of a school district. The motion carried unanimously.

### **Hearing on Waiver Request for Certified Teacher's License – Kelvin Parker**

Katherine Donovan, PLSB legal counsel, presented a request for waiver from Kelvin Parker. Mr. Parker, a nontraditional MAT educator, applied for the second renewal of his one-year provisional license when it was discovered he had a disqualifying conviction for felony theft of property committed in 1998. His record was sealed and the conviction was expunged.

Mr. Ledbetter moved, seconded by Ms. Newton, approval of the waiver with the stipulation of probation for a period of two years and no other qualifying conviction or violation of code of ethics. The motion carried unanimously.

### **Hearing on Waiver Request for Certified Teacher's License – Leisa Wheeler**

At the request of the teacher, this item was postponed until the March meeting.

### **Request to Extend Science Textbook/Instructional Material Contracts**

The Division of Learning Services, Curriculum and Instruction Unit, requested approval to extend the current Science Textbook and Instructional Material Contracts for a period of two (2) years effective July 1, 2013 and ending June 30, 2015. It was noted the state would have an opportunity to consider next generation science standards prior to the end of the extended contract.

Ms. Mahony moved, seconded by Ms. Newton, to approve the extension. The motion carried unanimously.

**Consideration for Final Approval: Proposed Rules Governing Incentives for Teacher Recruitment and Retention in High Priority Districts with an Average Daily Membership of 1,000 or Fewer**

These rule revisions implement definitional changes required by Act 1135 of 2011. In addition, two deadlines are being moved back. The deadline for the Arkansas Department of Education to identify high-priority districts is being moved from September 1 to February 15, and the deadline for districts to submit their list of eligible employees is being moved from July 1 to June 1 to allow payment of the incentive bonuses during the same fiscal year they are earned. A public hearing was held December 15, 2011, and only one written comment was received resulting in no changes to the proposed revisions. The State Board was requested to give final approval to the proposed rules.

Ms. Gullett moved, seconded by Ms. Saviers, final approval. The motion carried unanimously.

**Consider Recommendation for New Praxis II Cut Scores in Special Education: Teaching Students with Visual Impairments, Special Education: Education of Deaf and Hard of Hearing Students, and Music: Content and Instruction to be Effective September 1, 2012**

A recommendation was presented for new Praxis II Assessments and appropriate cut scores are as follows:

- Special Education: Teaching Students with Visual Impairments exam (#0282) with a recommended cut score of 163. This exam replaces exam #0281.
- Special Education: Education of Deaf and Hard of Hearing Students exam (#0272) with a recommended cut score of 160. This exam replaces exam # 0271.
- Music: Content and Instruction exam (#0114) with a recommended cut score of 162. This exam replaces exams #0111, #0112 and #0113.

The recommended effective date for all three exams is September 1, 2012.

Ms. Gullett moved, seconded by Ms. Mahony, approval. The motion carried

**Consideration of Approval for Public Comment: Proposed Arkansas Department of Education Rules Governing Parental Involvement Plans**

Act 1002 of 2011 directed the Department to develop rules governing parental involvement plans. Arkansas Department of Education staff requested the State Board approve the proposed rules for public comment.

Mr. Ledbetter moved, seconded by Ms. Saviers, approval to release the rules for public comment. The motion carried unanimously.

**Consideration of Approval for Public Comment: Revisions to Arkansas Department of Education Rules Governing the Arkansas Better Chance Program**

These proposed rule revisions were developed in consultation with the Arkansas Department of Human Services. The primary purpose of the proposed revisions is to assure public funds are spent in compliance with the First Amendment to the United States Constitution. Department staff requested the State Board approve the proposed revisions for public comment.

Board members voiced concern that low-income parents in rural communities might not have a choice of preschools funded by the grants leaving religious providers their only choice.

Ms. Newton moved, seconded by Ms. Saviers, approval to release the revised rules for public comment. The motion carried unanimously.

**Consideration of Final Approval: Revisions to Arkansas Department of Education Rules Governing Nutrition and Physical Activity Standards and Body Mass Index for Age Assessment Protocols in Arkansas Public Schools**

The Rules Governing Nutrition and Physical Activity Standards and Body Mass Index for Age Assessment Protocols in Arkansas Public Schools, last approved by the State Board in 2007, need to be updated to be in accordance with applicable federal and state law. In its meeting of June 13, 2011, the State Board approved and released for public comment proposed revisions to the Rules. As a result of comments received during that public comment period, the Department substantially modified the proposed revisions.

In its meeting of November 14, 2011, the State Board approved and released the rule for a second public comment period. A second public hearing was held December 15, 2011, and no comments were received. The State Board was requested to give final approval to the proposed rules as modified.

Ms. Newton moved, seconded by Mr. Ledbetter, to give final approval to the rules as modified. The motion carried unanimously.

**Consideration of Final Approval: Proposed Revisions to Arkansas Department of Education Rules Governing Highly Qualified Teachers Pursuant to the No Child Left Behind Act of 2001**

Act 1178 of 2011 made significant changes in the area of non-traditional

licensure and reciprocity, and it created a new type of license, the Provisional Professional Teaching License. These rules are revised to implement changes required by Act 1178, to correct outdated test references and to clarify definitions. A public hearing was held December 15, 2011, and only one comment was received. Minor changes were made in response to the public comment. The State Board was requested to grant final approval to the rule revisions.

Mr. Black moved, seconded by Ms. Newton, final approval of the revised rules. The motion carried unanimously.

### **Consideration of Final Approval: Revisions to Arkansas Department of Education Rules Governing Professional Development**

These rules are revised to incorporate new requirements imposed by Acts 770, 989, 1002, 1146, 1150, 1214, and 1236 of 2011. A public hearing was held January 12, 2012, and multiple written comments were received. Several minor changes were made to the revisions in response to the public comments. The State Board was requested to grant final approval to revisions.

Ms. Saviers moved, seconded by Ms. Mahony, final approval. The motion carried unanimously.

### **Consideration of Final Approval: Repeal of Arkansas Department of Education Rules and Regulations Governing Attendance at Instructional Professional Development Sessions Toward Fulfillment of the Five (5) Days of Required Staff Development**

The rules were approved by the State Board December 8, 1995, and had not been amended since that time. The rules were based on old law and have been superseded by the Department's Rules Governing Professional Development. A public hearing was held January 12, 2012, and no oral or written comments were received. The State Board was requested to give final approval to repeal the rules.

Mr. Ledbetter moved, seconded by Ms. Saviers, final approval of the rules. The motion carried unanimously.

### **Consideration of Recommendation of the Professional Licensure Standards Board for Probation of License for Two (2) Years and Fine of \$75 for Case #11-073 Norman Ray Nassar**

The Professional Licensure Standards Board's Subcommittee on Ethics recommended probation of the teaching license of Norman Ray Nassar for two (2) years and a fine of \$75 for violation of Standard 3: An educator honestly fulfills reporting obligations associated with professional practices and Standard



4: An educator entrusted with public funds and property honors that trust with honest, responsible stewardship. The educator accepted the recommendation of the Ethics subcommittee after the evidentiary hearing in writing.

Ms. Mahony moved to not accept the recommendation and to conduct a hearing. The motion failed for lack of a second.

Mr. Ledbetter moved, seconded by Ms. Newton, to accept the committee's recommendation. The motion carried. Ms. Mahony voted no.

### **Designation of Nominations Committee for 2012-2013**

Dr. Mays announced the appointment of Ms. Gullett, Mr. Ledbetter and Ms. Newton to the nominations committee. The committee's report will be presented at the May meeting.

### **Adjournment**

The meeting adjourned at 3:10 p.m.

*These minutes were recorded by Phyllis Stewart.*