

Minutes
State Board of Education Meeting
Monday, December 12, 2011

The State Board of Education met Monday, December 12, 2011, 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; Joe Black; Brenda Gullett (via telephone conference); Sam Ledbetter; Alice Mahony; Toyce Newton; Vicki Saviers; Dr. Tom Kimbrell, Commissioner; and Kathy Powers, Teacher of the Year

Absent: Jim Cooper, Vice Chair; and Mireya Reith

Reports

Chair's Report:

Dr. Mays summarized the first science standards meeting he attended. He expressed appreciation to Dr. Tracy Tucker and her team for the opportunity to participate in a valuable learning experience.

Commissioner's Report

Commissioner Kimbrell stated the five regional meetings conducted throughout the state to gain input for the ESEA flexibility request and teacher evaluation went well. He said a web link for a survey on the topics would be communicated through a Commissioner's Memo and posted on the ADE home page.

Informational Update on Common Core State Standards and PARCC

In an update on Common Core State Standards, Dr. Laura Bednar, Assistant Commissioner of Learning Services, reported the first Common Core Institute was held December 8. The Institute focused on the seven action areas of the CCSS strategic plan. She thanked AETN for their partnership in using technology to deliver the training via CIV, live streaming and recording for later use as an online course.

Dr. Bednar also reported Arkansas had been named a lead state in the development of the Next Generation Science Standards. In addition, she said the Department was just beginning its work with SREB on college readiness transition courses.

Ms. Saviers asked what K-2 teachers were saying about the implementation of Common Core State Standards.

Dr. Bednar said while most of the comments were positive, teachers were expressing a need for more professional development. She indicated it was her desire to capture successful experiences in teaching and learning and share as best practices with teachers.

Consent Agenda

Ms. Mahony asked how the student climate survey (referenced in item C-3) was delivered and what was done with the information collected.

A vote on that item was delayed until further information could be given.

Ms. Mahony moved, seconded by Ms. Saviers, approval of the Consent Agenda with the exception of item C-3. The motion carried unanimously.

Items included in the Consent Agenda:

- Minutes of the November 14 and 15, 2011 Board Meetings
- Adoption of State Board of Education Meeting Dates for Calendar Year 2012
- Newly Employed, Promotions and Separations
- Waivers to Educational Agencies for Teachers Teaching Out of Area for Longer than 30 Days
- Review of Loan and Bond Applications—Revolving Loan for Western Yell County--\$75,000 for purchase of school bus; Revolving Loan for Western Yell County--\$99,000 for construction; and Second Lien Bonds for Beebe--\$1,570,000 for construction
- Sanction for Teachers as Recommended by the Professional Licensure Standards Board
 - Robin Elizabeth Carraway

Willie Morris, with the Office of Academic Accountability, reported that as a part of the Desegregation Court Order, the Pulaski County Special School District conducted the pencil/paper climate survey off-site. The results were used as part of the monitoring for compliance with the court order.

Ms. Mahony moved, seconded by Ms. Newton, acceptance of the report and approval of item C-3. The motion carried unanimously.

Action Agenda

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

Arkansas Better Chance for School Success 2011-12

Paige Cox, ABC Program Administrator, presented a proposal for transferring 38 slots from the Cossatot Community College program to the DeQueen Mena Education Cooperative for the period of December 17, 2011 through June 30, 2012.

Mr. Ledbetter moved, seconded by Ms. Mahony, approval to move the 38 slots to the DeQueen Mena Education Cooperative program. The motion carried unanimously.

Consideration of Classification of District in Fiscal Distress - Cutter-Morning Star

Kathleen Crain, Interim Assistant Commissioner for Fiscal Services, reported the Cutter-Morning Star School District received notice by certified mail as being identified by the Arkansas Department of Education for Fiscal Distress status. The District was informed at that time they could not incur any future debt obligations without prior written approval from ADE.

Ms. Crain presented a recommendation that Cutter-Morning Star School District be classified as being in Fiscal Distress as of December 12, 2011.

Superintendent Lance Robinson made an appeal on behalf of the district and its school board. Mr. Robinson said the district had already started a cost-savings plan for 2011 and had long-range savings measures including adjustments in personnel for the 2012-13 school year.

Mr. Black asked why school districts don't cut expenses when they see enrollment declines. He said the State Board was seeing among financially troubled districts the inability to make the hard decision of reducing personnel costs. He suggested the Department intervene sooner and be more proactive.

Commissioner Kimbrell said the Department worked with as many as 15 districts over the past year on budgeting issues, but found two had not done enough to correct the financial forecast.

Ms. Gullett moved, seconded by Mr. Black, to classify the Cutter Morning Star School District as being in Fiscal Distress as of December 12, 2011. The motion carried unanimously.

Consideration of Classification of District in Fiscal Distress - Hermitage School District

Ms. Crain said the Hermitage School District received notice by certified mail as being identified by the Arkansas Department of Education for Fiscal Distress status. The District was informed at that time they could not incur any future debt obligations without prior written approval from ADE.

The District did not appeal the Fiscal Distress status.

Mr. Ledbetter moved, seconded by Ms. Newton, to classify the Hermitage School District as being in Fiscal Distress as of December 12, 2011. The motion carried unanimously.

Hearing for PLSB Case # 11-034 – Gary Thompson

After an evidentiary hearing, the Professional Licensure Standards Board Ethics Subcommittee found that Gary Thompson, Athletic Director for the Clarksville School District, violated Standard 4 of the Code of Ethics in his failure to follow proper bidding procedures. The Ethics Subcommittee recommended one year's probation of his license and a \$75 fine for violation of Standard 4. Mr. Thompson requested a de novo hearing before the State Board and was represented by legal counsel Mark Burnette.

Mr. Thompson argued he followed instructions given him by Steve Wyatt, his principal and supervisor.

Mr. Wyatt, now assistant superintendent of the district, said he directed Mr. Thompson to get competitive bids but did not tell him where to get them.

Board members expressed concern regarding the school district's guidance and rules.

Ms. Newton moved, seconded by Ms. Gullett, based on the PLSB's failure to provide preponderance of evidence, no negative action be taken against Mr. Thompson. The motion carried unanimously.

Ms. Gullett ended her participation in the meeting after the vote.

Consideration of Recommendation of Suspension of Educators' Licenses for Unpaid PLSB Fines

The following educators have not paid fines ordered by the State Board for violation of the Code of Ethics. In October, the PLSB voted to recommend the State Board suspend the educators' licenses until their fines are paid.

Julie Woods--\$100; Kristen Skaggs--\$75; Joe Bob Wise--\$100; James Kendig, Jr.--\$100; Albert Camp--\$75; Nathan Page--\$100; Robert Almond--\$75; Brenda Taylor--\$50; Cyndi Najjar--\$100

Ms. Newton moved, seconded by Ms. Saviers, to suspend the educators' licenses until their fines are paid. The motion carried unanimously.

Consideration of Approval of Revised PE/Health Frameworks

Revisions to the Physical Education and Health Frameworks were submitted for review. The revision includes physical education and health courses and grade-by-grade student learning expectations for K-8 physical education and health as required by the Standards for Accreditation.

Ms. Mahony moved, seconded by Ms. Newton, to approve the revised P.E./Health Frameworks with the exception of the prerequisite P.E. and health course. The motion carried four to two in a roll call vote.

Black-yes
Mays-yes
Mahony-yes
Newton-yes
Ledbetter-no
Saviers-no

After further explanation that the content was contained in the P.E. and health course, Dr. Mays changed his vote and asked for a new motion.

Mr. Ledbetter moved, seconded by Ms. Saviers, approval. The motion carried. Ms. Mahony voted no.

Consideration of Approval for Public Comment: 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

These rules were approved by the State Board December 8, 1995, and have not been amended since that time. The rules are based on old law and have been superseded by the Department's Rules Governing Professional Development. Arkansas Department of Education staff requested that the State Board approve and release for public comment the proposed repeal of these rules.

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

Consideration of Approval for Public Comment: 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. Arkansas Department of Education staff requested the State Board approve and release the proposed revisions for public comment.

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

Consideration of Approval for Public Comment: Revisions to Arkansas Department of Education Rules Governing the Distribution of Student Special Needs Funding and the Determination of Allowable Expenditures of Those Funds

These rules govern the distribution of categorical funds to local school districts, including Alternative Learning Environment (ALE), National School Lunch Act (NSLA), English Language Learner (ELL), and Professional Development (PD) funding. The rules are being revised to implement changes made by Acts 879, 993, 1118, and 1220 of 2011.

Department staff requested the State Board to approve and release the proposed rules for public comment.

Ms. Mahony moved, seconded Ms. Newton, to release the rules for public comment. The motion carried unanimously.

Consideration of Approval for Second Public Comment Period: Revisions to Arkansas Department of Education Rules Governing Teacher Licensure by Reciprocity

On September 12, 2011, the State Board approved and released for public comment proposed revisions to these rules to implement the many changes made by Act 1178 of 2011. As a result of comments received during the public comment period, the Department substantially modified the proposed revisions.

The Department requested the proposed rules as modified by approved for a second public comment period.

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

Consideration of Approval for Second Public Comment Period: Revisions to Arkansas Department of Education Rules Governing the Non-Traditional Licensure Program

On September 12, 2011, the State Board approved and released for public comment proposed revisions to these rules to implement the many changes made by Act 1178 of 2011. As a result of comments received during the public comment period, the Department substantially modified the proposed revisions.

The Department requested the proposed rules as modified be approved for a second public comment period.

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

Consideration of Final Approval: Revisions to Rules Governing Public School End-of-Course Assessments and Remediation

Act 989 of 2011 moved the onset of high-stakes EOC assessments for English II from 2013-2014 to 2014-2015. The rule is revised to reflect this change, to remove obsolete data references, and to make grammatical and stylistic corrections.

The State Board approved and released these revisions for public comment October 10, 2011. One comment was received during the public comment period. The only change made corrected a grammatical error in § 5.06. The State Board was requested to give final approval to the proposed revisions.

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

Consideration for Final Approval: Proposed Rules Governing Physical Education Course Credit for Organized Physical Activity Courses

Act 1231 of 2011 amended Arkansas law related to physical education course credit. Additionally, it became necessary to make several technical corrections to the rule, last approved by the State Board of Education (State Board) in July 2005. The State Board released the proposed rules for public comment on October 10, 2011.

Department staff made no revisions to the rule in response to the public comments. The State Board was requested to give final approval to the proposed rules.

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

Consideration for Final Approval: Proposed Rules Governing the Arkansas Department of Education Guidelines for the Development, Review and Revision of School District Student Discipline and School Safety Policies

Acts 613, 835 and 907 of 2011 amended Arkansas law related to student discipline and school safety. Additionally, it became necessary to make several technical corrections to the rule last approved by the State Board of Education (State Board) in May 2007.

The State Board released the proposed rules for public comment October 10, 2011. Department staff made no revisions to the rule in response to the public comments. The State Board was requested to give final approval to the proposed rules.

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

Consideration for Final Approval: Proposed Rules Governing the Guidelines, Procedures and Enforcement of the Arkansas Opportunity Public School Choice Act

Acts 1124 and 1147 of 2011 amended Arkansas law concerning Opportunity School Choice. Additionally, it became necessary to make several technical corrections to the rule last approved by the State Board of Education in May 2004. The State Board released the proposed rules for public comment September 12, 2011. Arkansas Department Education (ADE) staff received public comments concerning the proposed rules. ADE staff made minor revisions to the rule in response to the public comments.

The State Board was requested to give final approval to the rules.

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

Consideration for Final Approval: Proposed Rules Governing the Issuance of Subpoenas by the Arkansas State Board of Education

Ark. Code Ann. § 6-17-425 provides the State Board of Education (State Board) with the authority to issue subpoenas. The State Board released the proposed rules for public comment October 10, 2011. The Arkansas Department Education (ADE) staff received no public comments to the proposed rules.

The State Board was requested to give final approval to the proposed rules.

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

Consideration for Final Approval: Proposed Rules Governing the School Superintendent Mentoring Program

Act 586 of 2011 created the Superintendent Mentoring Program and required the State Board of Education (State Board) to establish rules to implement the program. The State Board released the proposed rules for public comment September 12, 2011. Arkansas Department Education (ADE) staff received public comments concerning the proposed rules. ADE staff made minor revisions to the rule in response to the public comments.

The State Board was requested to give final approval to the proposed rules.

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

Consideration for Final Approval: Revisions to ADE Rules Governing Required Training for School Board Members

In its meeting of November 14, 2011, the State Board gave final approval to revisions of this rule. Subsequently, the Department's staff discovered that a needed change had been inadvertently omitted -- applications for program approval are now completed online and not in paper. Exhibit "A" to the rule has been revised to reflect the online submission process.

The State Board to give final approval to the rule revisions as modified.

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

Consideration for Final Approval: Proposed Rules Governing Public Charter Schools

Acts 987, 989 and 993 significantly amended the Arkansas Charter Schools Act. Those statutory amendments, combined with the recent recommendations made to the State Board of Education (State Board) by the National Association of Charter School Authorizers, make it necessary to revise the current public charter school rules. Currently, the Arkansas Department of Education (ADE) maintains two separate public charter school rules. One rule addresses open-enrollment and conversion public charter schools and the other addresses limited public charter schools. The ADE recommends that the current rules be repealed and replaced with the new, proposed rules that address open-enrollment, conversion and limited public charter schools.

The State Board first approved these proposed rules for public comment June 13, 2011. ADE staff made several revisions to the proposed rules based upon comments received during the public comment period and upon corrections ADE staff determined should be made to the proposed rules. Consequently, the State Board released the revised rules for a second public comment period October 10, 2011. No revisions were made to the rule in response to the second round of public comments. The State Board was requested to give final approval to the proposed rules.

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

Consideration for Final Approval: Repeal of Current Arkansas Department of Education Rules Governing Limited Public Charter Schools

Arkansas Department of Education (ADE) staff recommended the current rule pertaining to limited public charter schools be repealed so it could be replaced with a new public charter school rule that includes open-enrollment, conversion and limited public charter schools. The State Board of Education (State Board) approved the proposed repeal for public comment on June 13, 2011. No public comments to the proposed repeal were received.

The State Board was requested to give final approval to the proposed repeal.

Ms. Saviers moved, seconded by Ms. Newton, final approval of the repeal. The motion carried unanimously.

Consideration for Final Approval: Repeal of Current Arkansas Department of Education Rules Governing Public Charter Schools

Arkansas Department of Education (ADE) staff recommends that the current rule pertaining to public charter schools be repealed so that it can be replaced with a new public charter school rule that includes open-enrollment, conversion and limited public charter schools. The State Board of Education (State Board) approved the proposed repeal for public comment June 13, 2011. No public comments to the proposed repeal were received.

The State Board was requested to give final approval to the proposed repeal.

Ms. Newton moved, seconded by Ms. Saviers, final approval of the repeal. The motion carried unanimously.

Consideration for Emergency Adoption: Arkansas Department of Education Rules Governing the Administration of Glucagon to Arkansas Public School Students Suffering from Diabetes

The State Board of Education (State Board) approved a version of these rules for public comment during its November 2011 meeting. Based upon a request made by the legislative sponsor of the underlying statute, Arkansas Department of Education (ADE) staff recommends the State Board approve the proposed rule on an emergency basis.

On December 1, 2011, the Arkansas State Board of Nursing adopted its version of the rule on an emergency basis. Adopting the rule on an emergency basis will allow consistent application of the rule and will make it possible for school districts to begin training immediately.

Ms. Mahony moved, seconded by Mr. Ledbetter, approval of the rules on an emergency basis. The motion carried unanimously.

Adjournment

The meeting adjourned at 3:05 p.m.

These minutes were recorded by Phyllis Stewart.

Dr. Tom W. Kimbrell, Commissioner

Jim Cooper, Vice Chair