

Minutes
State Board of Education
Monday, August 11, 2003

The State Board of Education met on Monday, August 11, 2003, in the Auditorium of the State Education Building. JoNell Caldwell, Chairman, called the meeting to order at 9:00 a.m.

Board members present: JoNell Caldwell, Chairman; Shelby Hillman, Vice-Chairman; Luke Gordy, Dr. Calvin King; Randy Lawson; MaryJane Rebick; Diane Tatum; and Dr. Jeanna Westmoreland,

Board members absent: Robert Hackler

Ms. Caldwell welcomed Randy Lawson and Diane Tatum as members of the Board. This was their first regularly scheduled meeting since being appointed to the Board.

Special Presentation – NASA Marshal Space Flight Center’s Education Strategy and Initiatives

Ms. Caldwell recognized Lucia Cape and Steve Culivan both field representatives with the National Aeronautics and Space Administration (NASA). Their presentation highlighted education initiatives funded by NASA, related information about programs currently engaging Arkansas schools, and invited the Board and its representative(s) to become more familiar with NASA educational programs. (Ms. Caldwell asked that Dr. Watson be the contact person between NASA and the Board.)

Report – Charter School Application Update

Ms. Caldwell recognized Dr. Michael Scoles for this report. Dr. Scoles reported that the Department has received applications for eight open enrollment charter schools to begin operation in 2004-2005. He informed the Board that these applications would first be screened by Department staff before being presented to the Board. He did note that given the number of applications from State Congressional District Number 2, it would not be possible to approve all of them in addition to the other open enrollment charters. Charter legislation limits the number of open enrollment charters that can be approved from any one congressional district.

Legal Update

Scott Smith was recognized for this report. Mr. Smith reported that on July 24th, Pulaski County Special School District filed a complaint on the Jacksonville detachment decision. Ms. Caldwell was served on behalf of the Board on July 26th. Mr. Smith stated that his office was preparing a response, which would be filed prior to the deadline. He expects hearings to occur in the near future.

Discussion of Act 1738 of 2003

Patricia Martin was recognized to lead this discussion. She provided background information related to the Act and its implications for approval of loan and bond applications from local districts during the next 12 months. She implied this statute was passed as a transition between current funding structure and some new model that may be developed pursuant to the Lake View Case and the Supreme Court's decision.

Ms. Hillman asked for clarification of the Department's responsibility for implementation of Amendment 74 and assuring the local districts meet the requirements of that amendment. Ms. Martin responded that final authority for implementation and monitoring of such actions is placed on the county Quorum Courts. Ms. Martin stated that in instances when the districts fail to comply, the Quorum Court of that county must respond.

Ms. Rebick inquired as to how the Department or other entity should determine regular and scheduled maintenance of facilities as specified in the Act. Dave Floyd responded that in mandates from the Lake View trial and other cases, the State must assume the responsibility to maintain facilities so that over the lifetime of those buildings, they remain a safe environment for children and staff. He stated that to date, there are no mandated maintenance requirements, but implied that such requirements might be expected in the future. He further stated that districts or local entities are expected to maintain buildings in such a manner that they are safe and useable for the life expectancy of the facility.

Ms. Hillman asked, "What happens if the Quorum Court fails to exercise its responsibility?" Ms. Martin suggested that Act 2680 speaks to that situation and provides for citizen responsibility should the court fail to act properly.

Chair and Director Reports

There was not a Chair's Report nor a Director's Report.

Consent Agenda

Ms. Hillman moved adoption of the consent agenda. Mr. Lawson seconded the motion. The motion was adopted unanimously.

- Minutes June 9, 2003; Teleconference June 24, 2003; Teleconference July 14, 2003; and Teleconference July 25, 2003.
- Newly Employed, Promotions and Separations
- Commitment to Principles of Desegregation Settlement Agreement; Report on the Execution of the Implementation Plan

- Approval of Organizations for Implementation of Act 648 Community Service Program

Ms. Caldwell reported that Action Agenda 17: Request for Approval of Governor's School Site Selection would be postponed until the September meeting.

Request for Final Approval of the Rules Governing Distance Learning

Jim Boardman was recognized to present this item. Mr. Boardman stated that public hearings were held and suggested revisions were incorporated into the final document as submitted. Ms. Rebick moved adoption. Mr. Lawson seconded the motion. The motion was adopted unanimously.

Request for Final Approval of the Permanent Rules Governing Arkansas Comprehensive Testing, Assessment and Accountability Program and the Academic Distress Program

Janinne Riggs was recognized to present this item. Ms. Riggs stated that as a result of public comment many revisions were made in the final text. She noted three minor additional edits that are suggested. Additionally, she informed the Board that a recently proposed amendment to the No Child Left Behind Accountability Workbook was approved by the U.S. Department of Education (USDE). This amendment will necessitate further revision in the proposed rules that describe the process for determining when a school has made Adequate Yearly Progress. The amendment allows the school to use either the three-year composite performance rating or the performance of the most current year whichever is greater. A second amendment, which was also approved by USDE, allows a school's performance rating to be measured against a confidence interval, rather than an absolute value.

Ms. Rebick moved approval of the Rules with the revisions as described. Ms. Hillman seconded the motion.

Mr. Lawson inquired as to when schools would receive test data from scoring of the high school end-of-course exams. Ms. Riggs stated that those tests were administered later in the school year than other criterion-referenced exams and that the company has 90 calendar days to return those results to schools. It is projected that scores will be returned by Friday (August 15).

Walter Hussman requested permission to speak to the Board on this issue by signing the public participation request form. Mr. Hussman indicated that he wished to speak to the issue of changing the type of testing that is to be used in the accountability determination for schools. He stated that he has a philosophical disagreement with this decision. It is his contention that a norm-referenced test should be administered every year to all students as the measure of a school's accountability. He says that he and other business and professional representatives throughout the state have a need to compare student

performance and school performance with students and schools in other areas of the country, not just with how students do compared with state content standards. It was his opinion that a norm-referenced test – perhaps with augmentation – was the only way to accomplish this objective. He stated that it was his understanding that an augmented norm test could be purchased for approximately \$10.00 per student per year. He expressed his opinion that parents would rather know how their child was performing compared to other students in other states and how schools were doing as compared to schools in other states, not just other schools in Arkansas.

Ms. Rebick thanked Mr. Hussman for his comments. She stated that there had been an open comment period for several weeks as well as public hearings where these ideas should have been considered. Mr. Gordy noted that business leaders have expressed their concern for having an instrument to compare Arkansas schools with other states. He stated that the Criterion Referenced Testing Program (CRT) represents an outstanding job in developing an assessment system. He wished there had been a way to blend that work in such a way as to be able to make national comparisons. Mr. Gordy wants to be sure that the State keeps up the good work, but works toward meeting the business needs. He also noted that most teachers agree with the tenets of the CRT assessment.

Mr. Lawson asked Mr. Simon to explain, in layman's terms, the need to switch to criterion-referenced tests from norm-referenced tests and to highlight the primary differences between a norm-referenced test and a criterion-referenced test. Mr. Simon explained that for many years the only test administered and funded by the state was a norm-referenced test. Those tests are published by private vendors, test a body of content that may or may not link to a state's content standards, and are scored based on a comparison to a "norming group" of students generally from a wide geographical area, and produce scores based on percentiles. The criterion-referenced tests are developed by states under a contract with one or more vendors, test a body of content based entirely on the State's content standards, and are scored based on the students' performance on the content. There is not an attempt, nor is it possible, to link one state's performance tests with any other state's assessment system, he said.

Mr. Simon also described the purpose of the National Assessment of Educational Progress (NAEP) as being the only real test that could be considered a national test. Unfortunately, the NAEP only compares states because of the sampling strategies that are used in administration of that test. Schools that participate in the NAEP are selected by a national sampling technique, but not all schools nor all students in any one school take all of the assessment. Thus, school or student scores are not generated, nor is it possible to observe performance below the state level.

Mr. Simon fully described the assessment system of criterion-referenced tests that are mandated for a state's full compliance with the Federal guidelines imposed by *No Child Left Behind*. When Arkansas is in full compliance, students in grades 3-8 will be tested annually in reading/literacy and mathematics and end-of-course tests in Algebra I, Geometry and Literacy in grade 11. In 2005-2006, performance testing in science will be added in at least two grade levels between grade 3 and grade 8 with an end-of-course test

in Biology I. Also, the Omnibus Education Act, Act 1467 of 2003 adopted by the Arkansas Legislature, provides for additional screening of all kindergarten children annually and for testing in at least mathematics and reading for students in grades 1 and 2. Tests for grades 1 and 2 have not been selected, but will probably be a standardized format. Additionally, Act 1467 provides for norm-referenced testing at grades to be determined by the State Board of Education. In the proposed Rules under consideration, that recommendation, which has been subjected to public hearings, is for norm-referenced testing at grades 5 and 9 each year.

Mr. Simon pointed out to the Board that teachers across the state are realizing the importance of the accountability system. Teachers are embracing the need to “teach to the standards.”

Mr. Simon stated that the State has engaged the expertise of a national panel of experts to validate the assessment process. This panel is not supportive of the notion of adopting an augmented norm-referenced test as the basis for accountability measures. To date, the Department has not sought bids or cost estimates on an augmented norm-referenced test. Mr. Simon expressed opposition to any proposal that would invalidate the State’s standards and the work that has been done toward meeting the tenets and the law of *No Child Left Behind*. He charged the Board to respect the roles of the different tests and respect the work of teachers and other Arkansas educators who have worked to get this system into place.

Mr. Lawson inquired as to the role of NAEP in the State’s accountability process. Mr. Simon explained that NAEP is a sampling test and that not all schools nor all students in any school selected for the sample are invited to participate. Arkansas has schools that wish to be excused from participating in the NAEP assessment. Further, NAEP does not test reading and mathematics annually and scores are awarded only at the State level. There are no school scores nor individual student scores on NAEP.

Mr. Lawson also wanted to know if any thought had been given to state funding to schools that wish to administer additional standardized tests. Mr. Simon responded that no funds were currently in the assessment budget for such expenditures. Mr. Simon did mention that the State provides the option for schools to give national tests – Plan (Grade 10) and Explore (Grade 8). These are national tests administered by choice of local districts. Also, most schools make available the ACT test and some students take the SAT test. All of these have national visibility and standards.

Mr. Lawson stated that he agreed with most of Mr. Simon’s points. However, he does believe there is a need for more vehicles, such as a norm-referenced test, to compare ourselves with the nation and the world.

Mr. Lawson moved to amend the motion on the floor to include a provision for the state to pay for optional norm-referenced testing in Grades 2 through 9.

Dr. Westmoreland suggested that such an arrangement would have limited use at the state level due to random use in the schools. Mr. Lawson vowed it was his opinion that additional testing would be good for students and good for schools.

Ms. Rebick reminded Board members that this amendment currently does not have a second and it appears in discussion.

The motion did not get a second.

Mr. Gordy moved to amend the main motion by adding “the State shall make available, on an optional basis, norm-referenced testing for students in Grades 2 through 9, when additional funds are appropriated by the legislature.” Mr. Lawson seconded the motion.

Dr. King expressed concern for amending the Rules at this point after the period of public comment has ended. He asked if such an amendment at this point would necessitate the Rules being re-submitted for public comment. Scott Smith advised that such action would not be required.

Ms. Rebick expressed the concern that this action is a flippant action of the Board. The proposal as submitted has been reviewed, submitted for public comment, revised and is ready for adoption. She spoke against adopting the amendment.

The amendment was adopted on a vote of 6 yes – 1 no. (Rebick voted no)

Vote on the motion to adopt amended Rules was adopted on vote of 6 yes – 1 no. (Rebick voted no.)

Request for Final Approval of Proposed Rules Governing the Arkansas Fiscal Assessment and Accountability Program

Scott Smith was recognized to present this item. Mr. Smith noted that these Rules had been previously reviewed by the Board, were submitted to public comment, and minor revisions were made to accommodate suggestions from the hearings. Mr. Gordy moved to adopt these Rules. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Request for Final Approval of Proposed Rules Governing the Guidelines, Procedures, and Enforcement of the Arkansas Public Choice Act

Scott Smith was recognized to present this item. Ms. Hillman inquired as to what action is or can be taken when an adjoining district fails to accept or cannot accept a request for transfer. Mr. Smith responded that the student (or his family) has the right of appeal of any local choice decision to the Board. He stated that there are many reasons why a local district may not accept a transfer – overcrowding, insufficient building space, or desegregation concerns related to racial balance in the district. Further, a district may only reject a student because of good reason or law, it is not just a choice of the receiving

district. Mr. Smith continued that if choice emanates from a student in a district in academic distress, transportation costs are the responsibility of the original district to a contiguous district not in distress.

Mr. Lawson asked about the funds that would follow a student to the new district. Mr. Smith indicated that only state funds would be required to follow a student. Local revenue in the home district is not required to support a student in another district. Funding for transportation is generally a local issue.

Mr. Gordy moved approval of the proposed Rules. Ms. Hillman seconded the motion. The motion was adopted unanimously.

(The Chair requested Action Agenda Item – 5: Request for Final Approval of Sanctions Imposed in Public Schools/Public School Districts for Failure to Meet Standards for Accreditation be moved to later in the Agenda.)

Request for Approval of the Repeal of the Rules and Regulations Identifying and Governing School Districts in Academic or Fiscal Distress

Ms. Hillman moved adoption. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Request for Approval of the Repeal of the Rules and Regulations Governing Student Assessment Component Arkansas Comprehensive Testing, Assessment and Accountability Program

Ms. Hillman moved adoption. Ms. Tatum seconded the motion. The motion was adopted unanimously.

Request for Approval of the Repeal of the Rules and Regulations Governing Professional Development

Ms. Tatum moved adoption. Ms. Hillman seconded the motion. The motion was adopted unanimously.

Request for Adoption of Rules Governing Initial and Standard Administrator Licensure

Donna Zornes and Kristi Pugh were recognized to present this item. Ms. Pugh stated that these Rules have been in development several months and have met all required steps for public comment and revision. Mr. Gordy inquired if “highly qualified” individuals in the non-traditional program still could be recognized without going through layers of unnecessary procedures. Ms. Zornes responded yes. He asked how many have been approved. Ms. Zornes stated that approximately 10% of the applicants would be considered as exceptionally well qualified.

Ms. Rebick asked about the section describing financial support. Ms. Zornes stated that in the mentor phase each candidate receives \$2000 financial support. Of that amount \$1200 is used as stipend for the Mentor and \$800 for materials for the new teacher or for materials suggested by the Mentor. They explained that an initial license is valid from one to three years, during which time the candidate must work with a Mentor and complete the Praxis III assessment. Ms. Pugh noted that the reference to Workforce Education was now out of date and a revised name for that department would be submitted in the final copy.

Dr. Westmoreland asked about the limiting factor of only recognizing NCATE as a regional accrediting association. She suggested that a more inclusive way of referring to that option would be to say referenced from NCATE or other regional accrediting association. Without this change in wording, some candidates coming into the state would be at a distinct disadvantage.

Mr. Gordy moved adoption of Rules with the addition of language to accommodate “other regional accrediting associations” as well as NCATE. Dr. King seconded the motion. The motion was adopted unanimously.

Request for Approval of Rules Governing Initial, Standard and Provisional Teacher License

Ron Tolson was recognized to present this item. Mr. Tolson indicated that the Rules had worked through a similar review process as the Administrator Rules. Dr. Westmoreland questioned the provision for licensure based on testing vs. completing degree requirements. Mr. Tolson indicated that for initial licensure every candidate must have an earned degree. Additional areas of licensure in a content area could be added based on testing. Ms. Rebick moved adoption. Mr. Gordy seconded the motion. The motion was adopted unanimously.

Approval for Public Comment of Proposed Revisions to Rules Governing Teacher Licensure by Reciprocity

Dr. King moved approval for public comment. Ms. Hillman seconded the motion. The motion was adopted unanimously.

Approval for Public Comment of Proposed Rules Governing Non-Traditional Teacher Licensure

Jim Chism was recognized to present this issue. Mr. Chism stated that the State has operated non-traditional licensure options since 1987. He stated that approximately one-half of those who enter work through the program remain in teaching. Mr. Gordy stated that this is a good program for the state. His primary concern – especially in Northwest Arkansas – is to have sufficient slots for candidates to enroll in the program. He stated that limiting the program to 90 participants per geographical region is too limiting. Mr. Chism responded that new sites would be added next year and consideration was

underway to expand the number of candidates in Northwest Arkansas provided the host institution is agreeable.

Ms. Tatum moved approval for public comment. Mr. Lawson seconded the motion. The motion was approved unanimously.

Request for Approval for Public Comment on the Proposed Rules for Child Find

Marcia Harding indicated this proposal is a technical amendment to keep this guidance consistent with current federal statutes. Dr. Westmoreland asked about the opportunity for participation of private schools. Ms. Harding responded that under IDEA (federal authorizing legislation for students with disabilities) there was no individual entitlement to special education for students enrolled in private schools. Ms. Hillman moved approval for public comment. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Request for Approval for Public Comment on the Proposed Revised Rules for Mediation and Hearings

Ms. Harding again noted these changes are technical amendments required by changes in federal statutes. She pointed to Page 33 as being the primary change in this document. Ms. Hillman moved adoption for public comment. Dr. King seconded the motion. The motion was approved unanimously.

Request for Approval of the Boundary Line Change Between Huntsville School District and Rogers School District

Scott Smith was recognized to present this item. Mr. Smith reported that this was an item agreed to by both local boards and patrons that are involved. Mr. Lawson moved approval. Ms. Rebick seconded the motion. The motion was adopted unanimously.

Request for Final Approval of Sanctions Imposed in Public Schools/Public School Districts for Failure to Meet Standards for Accreditation

Mr. Simon indicated this item was deferred due to some of the information being compromised in packaging for the Agenda Book. Dr. Charity Smith noted for each of the Standards for Accreditation, a sanction (cite or probation) was indicated for non-compliance. Dr. Smith also reported that on Page 13, the document refers to "School Improvement Plan," which should be revised to read, "Comprehensive School Improvement Plan." This brings the document into agreement with current practice. Further, she proposed to amend Section 15.03.1 to read "hold a current, valid license from Arkansas." She explained some candidates may have a license, but it may not be current.

Ms. Rebick moved adoption. Ms. Tatum seconded the motion. The motion was adopted unanimously.

Request for Approval of the Repeal of the Rules and Regulations Governing the Standards for Accreditation of Arkansas Public Schools

Mr. Lawson moved adoption. Mr. Gordy seconded the motion. The motion was adopted unanimously.

Request for Appeal of the Repeal of the Rules and Regulations Governing the Probationary Status and Accountability of Public Schools

Ms. Tatum moved adoption. Mr. Gordy seconded the motion. The motion was adopted unanimously.

Act 1738 of 2003 Exemptions

Patricia Martin was recognized to present this item. Ms. Martin reminded Board members that discussion earlier in the meeting established precedent for considering these requests. She reported that each item had been reviewed carefully by the Department Loan and Bond Committee. The Committee recommends approval of these requests. She noted that the Osceola request was originally denied by the Fiscal Distress Committee; however, the District submitted additional evidence that makes it approvable.

Ms. Martin reported that the request from Alma School District exceeds the 27% debt limit as set by law. Approval of exception is dependent on appearance by the local superintendent to explain the condition for exceptional consideration. Charles Dyer, superintendent at Alma, was introduced to the Board. Mr. Dyer indicated that a variety of debt issues have been incurred by the local Board to keep facilities current and progressive. One of the reasons for this request is to restructure debt and decrease interest rates. The total debt ratio for the district with this issue would be approximately 30%.

Ms. Hillman asked about local district growth. Mr. Dyer indicated that the student population is increasing by approximately 5% per year. Ms. Rebick asked if the district had ever been recommended for fiscal distress. Mr. Dyer responded no.

Mr. Gordy requested information concerning the report of certification violations as part of the loan and bond review process. He stated that this information was requested several years ago because it appeared that this avenue was the only way that the Board would be apprised of staff certification issues. He observed that this information is forthcoming in a subsequent item. He asked if getting the accreditation report would be a regular report in the future. With a positive response from Dr. Smith, Mr. Gordy suggested that it should not be necessary to confuse the loan and bond reviews with accreditation issues. Mr. Simon assured Mr. Gordy that it is intended that every school be subject to accreditation review each year.

It was the consensus of the Board that accreditation status would no longer need to be reported on loan and bond reviews.

Ms. Hillman moved approval of issues described on pages one through three of the loans and bonds that are exempt from special consideration under Act 1738. Ms. Rebick seconded the motion. The motion was adopted unanimously.

Mr. Lawson moved approval of requests from McNeil, Piggott and Bentonville. Mr. Gordy seconded the motion. The motion was adopted unanimously.

Arkansas Public Schools Accreditation Report

Dr. Charity Smith was recognized to present this report. Dr. Smith stated that this report summarizes each school's accreditation status by indicating the number and type of violation of the accreditation standards as currently adopted.

Mr. Gordy asked how the Board could get more information concerning some of these teacher violations, such as the number of teachers teaching out of field as opposed to those with no licensure. He asked for specific numbers. He also inquired as to how many districts fail to offer the full curriculum required in the Standards. Dr. Smith indicated this information can be made available.

Ms. Hillman expressed concern for a local school making a decision to hire a non-certified teacher when a fully licensed teacher was available. She asked if there was any way to track such actions on the part of local districts. Dr. Smith indicated that local hiring practices were not part of the review process. Mr. Simon suggested that often in hiring many factors in addition to licensure must factor into an employment decision. He stated that often a licensed teacher may not be the best candidate for the position and a license should not be the only criteria for making a hiring decision.

Ms. Rebick inquired as to the difference between cite and probation. Annette Barnes referred to the newly adopted Rules. Some accreditation factors are labeled cite, others probationary. It's a matter of degree and impact on students.

Mr. Lawson moved to accept the report. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Public Comment – Debbie Pelley

Ms. Pelley was recognized to speak for the allotted three minutes. She quoted from summary results of a survey conducted among teachers. She stated that respondents to her survey were not pleased about being required to teach from the content standards thus limit creativity of the teacher. She stated that teachers are not happy about being required to teach toward a test.

Public Comment – Iris Stephens

Ms. Stephens was recognized to speak for the allotted three minutes. She stated that teachers she talked with were unhappy with the administration of schools being “top down” where administrators make all the decisions. She believes teachers are opposed to administrators dictating curriculum.

Adjourn

Mr. Lawson moved adjournment. Mr. Gordy seconded the motion. The meeting adjourned at 1:35 p.m.

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