

**MINUTES
STATE BOARD OF EDUCATION**

**333 Market Street | 1st Floor
Harrisburg, PA 17126**

November 14, 2013

The 317th meeting of the State Board of Education was convened on Thursday, November 14, 2013. Public notice of the meeting was made in accordance with the Sunshine Meeting Act of 1986. The meeting was called to order at 8:55 a.m. by Larry Wittig, Chairman.

Attending:

Sec. Carol Aichele	James Grandon	Colleen Sheehan <i>(via phone)</i>
Kevin Bates	Kirk Hallett	Craig Snider
Wendy Beetlestone	Francis Michelini <i>(via phone)</i>	Karen Farmer White <i>(via phone)</i>
Emily Clark	Jonathan Peri	Lee Williams
Sandra Dungee Glenn <i>(via phone)</i>		Larry Wittig
	Mollie Phillips <i>(via phone)</i>	

APPROVAL OF MINUTES

The minutes from the September 14, 2013 meeting of the State Board of Education were approved unanimously on a **Peri/Hallett** motion.

REPORT OF THE ACTING SECRETARY OF EDUCATION

Dr. Carolyn Dumaresq provided a status report on the following subjects:

Independent Regulatory Review Commission (IRRC) Meeting on Chapter 4

Dr. Dumaresq stated that preparations are being made to present the final-form revisions to Chapter 4 to IRRC at its public meeting on November 21.

Portal Storm Exercise on Hacking

Department staff recently participated in an exercise with the Governor's Office focused on protecting against hacking into the state's online systems and how to communicate to the public that a website was hacked should such an incident ever occur. Dr. Dumaresq said some of the Department's major systems, such as SAS, sit on an outside portal that would not be in jeopardy.

Charter Schools

Dr. Dumaresq noted that the legislature has been engaged in a lot of conversation on charter school reform, and said the Department has been responding to various pieces of

legislation with information. She said there are currently six new cyber charter school applications seeking authorization from the Department, and said PDE will hold hearings on the applications from November 15-22.

Teacher Evaluation & School Performance Profiles

The Acting Secretary reported that the new teacher evaluation system has been launched and said the Department is working closely with school districts as it gets underway. She then highlighted one piece of that system – the new School Performance Profiles. Dr. Dumaresq stated that there are currently 3,003 school buildings that are displayed with data on the School Performance Profiles, and noted that 555 schools had suppressed data due to coding errors on the Keystone Exams. Dr. Dumaresq said the system should be fully operational by December 9th. She also provided statistics on site usage and said the most frequent visitors are teachers, school administrators and parents.

Chairman Wittig posed an anecdotal observation regarding the School Performance Profiles and an elementary school in his home district of Tamaqua. He stated that one building appears to not be performing well on the site, but said the building just doesn't have the necessary data and he was unsure how to rectify the situation from a public relations standpoint since all other buildings in the district look good.

INFORMATION/DISSUSION

Chapter 18 (Financial Recovery)

Chairman Wittig opened discussion on Chapter 18, a new regulation being promulgated per a statutory assignment made to the Board by Act 141. Mr. Wittig summarized the provisions of Act 141 focused on assisting districts experiencing financial difficulty, including a new early warning system designed to identify and support districts that display signs of pending fiscal challenges and a new financial recovery system for districts with more pressing challenges.

Chairman Wittig then explained the assignment made to the Board in Act 141. The Board was tasked with developing regulations that identify whether there are criteria in addition to the 15 presented in statute that the Secretary may consider in determining whether to place a school district in financial recovery status and providing guidance to the Secretary in determining whether designated districts would be placed in either moderate or severe recovery status.

Mr. Wittig reminded the Board that, pursuant to Act 141, the Board consulted with an advisory committee to develop additional criteria and initially approved a proposed version of Chapter 18 in January. Subsequently, the Board withdrew the regulation from consideration by the Governor's Policy Office, Governor's Budget Office and Office of General Counsel in order to further refine the criteria to limit burdensome data collection, modify the criteria to decrease the risk of over-identifying districts, and ensure continuity with other provisions of Act 141, including the early warning system.

Finally, Mr. Witting reminded the Board that today's action does not constitute final approval of the regulation, but will initiate the first stage of the regulatory review process. Chairman Wittig then called on Acting Secretary Dumaresq to discuss the revisions to the proposed Chapter 18 before the Board for consideration.

Dr. Dumaresq discussed the Early Warning system operated by the Department to look at initial triggers of financial concern, reach out to districts and provide technical assistance. She then discussed the proposal to remove certain criteria from the proposed regulation in Section 18.5.

Related to allowing consideration of districts that did not show improvement under financial watch status, Dr. Dumaresq said, based on internal PDE reviews, the Department would automatically consider such districts for financial recovery status and the criteria was unnecessary because it is already part of PDE's decision-making process.

Dr. Dumaresq also recommended removing three criteria that looked at loss in local revenues, and said these items were out of a district's control and there is nothing we can do to prevent them from occurring. She noted that the state automatically provides special aid to help a district right its' ship if a district experiences a downturn in real estate taxes at the threshold included in the regulation. And, she stated that taking into account a 15 percent reduction in earned income tax is a small amount of a district's budget and it would be overreach to put a district in financial recovery status unless more serious triggers were present.

Dr. Dumaresq further recommended removing consideration of missed payments for social security or pension obligations. She explained that the IRS would intervene if a district missed social security payments and, therefore, PDE action is unnecessary. She further explained that there are mechanisms in place if a district fails to make pension payments that would allow the pension system to request that PDE deduct payment. While these may be serious issues, Dr. Dumaresq surmised that there are avenues in place to address them and ancillary issues driven by the circumstances that led to the missed payments would be captured by other criteria in the proposed regulation.

Related to a criteria suggesting the Secretary may consider undisputed payments due to creditors, Dr. Dumaresq said she was concerned this criteria may put the Department in the position as serving as a broken for unpaid creditors and that she was uncertain whether the Department has authority to determine undisputed payments between districts and vendors.

Related to a criteria focused on spending related to academics, Dr. Dumaresq said the criteria raised concern over local control over budgeting. Dr. Dumaresq then said the criteria proposed to allow the Secretary to consider information related to financial challenges or irregularities provided by federal, state or local authorities was unnecessary because the Department already received audits from school districts and the Auditor General and a system is in place to intervene if malpractice is identified.

Finally, Dr. Dumaresq suggested removing the criteria allowing the Secretary to consider whether a local school board had been removed from office due to neglect of duty related to

fiscal responsibilities. Rather, Dr. Dumaresq said the Department would look at the underlying issues as to why the local governing board was removed and such issues would be captured by other criteria in Chapter 18.

18.5 -

Wendy Beetlestone stated that her questions with respect to Section 18.5 were largely addressed by the Acting Secretary's remarks, but said it is difficult to determine whether to accept Dr. Dumaresq's explanations of the sections. She noted that the ensuing public comment period would provide an opportunity to further reflect on whether some of the criteria should be retained or to add new criteria.

Ms. Beetlestone then expressed concerned with Section 18.7(b), which states that, "*the Secretary shall issue a declaration that a financial recovery school district is in severe recovery status if the financial conditions of the school district indicate that the school district may be unable to fulfill the 180 days of instruction*". Ms. Beetlestone noted that language was changed from "*if the school district "is" unable to fulfill 180 days of instruction*". Ms. Beetlestone stated that the section was unclear, could lead to overreach by the Department, and asked who decides the criteria for fulfilling 180 days of instruction. Jonathan Peri suggested that the language be changed to "*is or is reasonably foreseen to be*". Dr. Dumaresq said the intent of using the term "may be" was to allow the district to investigate available revenue sources and not have such determinations based on a desire for the state to send more funds. Ms. Beetlestone suggested that the language be connected to the objective criteria identified in the regulation.

Sandra Dungee Glenn agreed with Ms. Beetlestone's statements and asked why the definition for the term Financial Watch School District was proposed to be removed from the Chapter. Executive Director Karen Molchanow explained that the deletion is a technical edit to align with the proposed removal of the provision that used the term Financial Watch School District. While the Financial Watch System would still exist under statutory provisions, the term would not be used in the regulation and therefore is unnecessary.

Ms. Dungee Glenn asked if there was a member of the Board's Advisory Committee that is on the State Board and if those members were comfortable with the removal of criteria developed by the Advisory Committee. Chairman Wittig noted that Jonathan Peri, Maureen Lally-Green, James Agras and himself were involved in those meetings. Mr. Wittig said that the Committee was comprehensively staffed and approached its recommendations with a "kitchen sink" approach where 5 or 6 recommendations blossomed into 10 or 20 that may have led to redundancy. Mr. Wittig noted that today was the first he had heard Dr. Dumaresq's explanation related to removing certain criteria and he was comfortable with her remarks. He further noted that this is not a final-form regulation and the Board will have an opportunity to consider whether the criteria should be further revised throughout the regulatory process. Mr. Peri concurred with Mr. Wittig that this is the first time he had heard Acting Secretary Dumaresq's comments on this Chapter and that the opportunity to revisit this during the public comment period lends a level of comfort, with the exception of the question raised by Ms. Beetlestone pertaining to Section 18.7.

PUBLIC COMMENT

Jay Hertzog, President of the Pennsylvania Association of Colleges and Teacher Educators (PACTE) informed the Board that Acting Secretary Dumaresq gave a 75-minute session in which she answered questions and interacted with over 300 attendees at PACTE's 43rd Annual Teacher Education Assembly. Mr. Hertzog thanked Dr. Dumaresq for taking time out of her busy schedule to attend the meeting and to address the conference attendees in such an open and forthright manner.

Kirk Hallett added to the discussion about new online GED testing that was raised during yesterday's Council of Higher Education meeting. Mr. Hallett said he would like to serve as a messenger for the struggling students he works with that are trying to complete their remaining GED tests before the current GED program ends on December 31st. Mr. Hallett asked whether there is a way to grandfather these students into the new testing system so they don't have to retake all five tests. He noted that there are limited testing dates available, and the price of the exam will rise after January 1st. He further noted that some students experience challenges with computer-based testing. Dr. Dumaresq said she would check to see if anything can be done for interim test takers.

ACTION ITEMS

ACADEMIC STANDARDS FOR BUSINESS, COMPUTER AND INFORMATION TECHNOLOGY

A motion to deny the application of the Porter Township Initiative Independent School District was made by Wendy Beetlestone and seconded by Ed Sheehan.

VOTE: The motion was approved by voice vote with only Chairman Wittig dissenting.

PROPOSED REGULATION: CHAPTER 18 (FINANCIAL RECOVERY)

Jonathan Peri made a motion to approve Proposed Regulation: Chapter 18 (Financial Recovery), as amended to revise the term "may be" in Section 18.7(b) to "is or is reasonably unlikely to be", and to authorize Board staff to make changes as necessary to conform with regulatory requirements. The motion was seconded by Craig Snider.

VOTE: Roll Call vote: 13-YES, 0-NO, 0-Abstentions. (*Aichele-YES, Beetlestone-YES, Dungee Glenn-YES, Grandon-YES, Hallett-YES, Michelini-YES, Peri-YES, Phillips-YES, C. Sheehan-YES, Snider-YES, Farmer White-YES, Williams-YES, Wittig-YES*) (*Grandon by Proxy*)

RESOLUTION HONORING EDWARD SHEEHAN

A motion to approve a resolution honoring Edward Sheehan was made by Lee Williams and seconded by Jon Peri.

VOTE: All were in favor as indicated by unanimous voice vote.

RESOLUTION ACKNOWLEDGING HIGHMARK'S SUPPORT OF THE BOARD'S STUDENT LEADERSHIP PROGRAM

A motion to approve a resolution acknowledging Highmark's support of the Board's Student Leadership Program was made by Lee Williams and seconded by Craig Snider.

VOTE: All were in favor as indicated by unanimous voice vote.

RESOLUTION ACKNOWLEDGING THE PENNSYLVANIA ASSOCIATION OF STUDENT COUNCILS' SUPPORT OF THE BOARD'S STUDENT LEADERSHIP PROGRAM

A motion to approve a resolution acknowledging the Pennsylvania Association of Student Councils' support of the Board's Student Leadership Program was made by Craig Snider and seconded by Wendy Beetlestone.

VOTE: All were in favor as indicated by unanimous voice vote.

ANNOUNCEMENTS

Chairman Wittig announced the status of the Board's final Chapter 4 regulation. Since the Board's September meeting, the regulation was approved by the Governor's Policy Office, Governor's Budget Office and Governor's Office of General Counsel. Mr. Wittig said it is slated to be considered by the Independent Regulatory Review Commission (IRRC) on November 21st.

Mr. Wittig also reported that the Ad Hoc Committee on Mandatory Dating Violence Education has engaged Dr. Teresa Wojcik, Villanova University, to conduct background research to inform the Board's study on the benefits and detriments of mandating dating violence education in public schools. The Chairman announced that the Committee's next meeting will be held on December 12th at Villanova University at 2:30 pm. At that time, he said the Committee will review Dr. Wojcik's research and discuss potential recommendations to include in the report.

Finally, Mr. Wittig said the Board's committee list was updated to incorporate assignments for new members and give all members a balanced set of responsibilities. A copy of the revised Committee listing was provided to the Board and available for members of the public.

ADJOURNMENT

There being no further items of business, the meeting was adjourned at 9:50 a.m. on a **Williams/Hallett** motion.

Stephanie Jones
Administrative Assistant