

**MINUTES
STATE BOARD OF EDUCATION**

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

September 17, 2015

The 328th meeting of the State Board of Education was convened on Thursday, September 17, 2015. Public notice of the meeting was made in accordance with the Sunshine Meeting Act of 1986. The meeting was called to order at 8:47 a.m. by Chairman Larry Wittig.

Attending:

James Agras *(via phone)*
Jay Badams
James Barker
Nicole Carnicella
Kirk Hallett

Donald LeCompte
Jonathan Peri
Mollie Phillips *(via phone)*
Rep. Stan Saylor
Colleen Sheehan *(via phone)*

Craig Snider *(via phone)*
Lavinia Soliman
Joshita Varshney
Karen Farmer White
Lee Williams *(via phone)*
Larry Wittig

The minutes of the July 9, 2015 meeting of the State Board of Education were approved on a **Hallett/Badams** motion.

COMMITTEE REPORTS

AD HOC COMMITTEE ON PRIVATE SCHOOL ACCREDITATION

Chairman Kirk Hallett reported that the Committee met on September 16, 2015, to take action on two applications for five-year renewal of private school accrediting authority submitted by Middle States and the Pennsylvania Association of Independent Schools (PAIS). Mr. Hallett reviewed the Department's findings on each application and noted that both applications were rated as acceptable on all attributes evaluated by teams of Department staff using a standard rubric that is aligned to the criteria set forth in Chapter 52. The Department offered a positive recommendation on each application, and the Committee acted to endorse both applications for consideration by the State Board.

Mr. Hallett also provided an update on ongoing activity related to the application for renewal of accrediting authority of The Educational Enrichment Initiative (TEEI). In July 2015, the Board adopted an interim order disapproving TEEI's application, contingent on extending TEEI a 30-day window to pursue a pre-decisional hearing. Mr. Hallett reported that TEEI did not seek a hearing by the deadline to make such a request, and, as such, the Board's order to disapprove TEEI's application is final.

Mr. Hallett further reported that, after the deadline to request a hearing, TEEI submitted a letter to Secretary Rivera requesting that he intercede on its application, and the Department declined to intercede as the Secretary does not have legal jurisdiction in this matter.

Finally, Mr. Hallett provided an update on the appeal filed by Kumon franchisees with the State Board of Private Academic Schools. Mr. Hallett said Kumon sought relief from accreditation requirements by asking that Board to determine whether tutoring centers like Kumon meet the definition of a school under the Private Academic Schools Act. In August 2015, the Private Academic Schools Board issued a verbal opinion that Kumon centers do meet this definition and, as such, either must be licensed or accredited by an organization approved by the State Board of Education.

SPECIAL COMMITTEE ON THE WASHINGTON TOWNSHIP INDEPENDENT SCHOOL DISTRICT

Special Committee Chairman Jonathan Peri reported that the Committee has completed its review of the record on the application of the Washington Township Independent School District (WTISD). On September 16, 2015, the Committee met to review its findings and adopted a unanimous recommendation to disapprove the application. Mr. Peri said the Committee's report and recommendation would be presented for the Board's consideration this morning.

Mr. Peri summarized the procedural history of WTISD's application seeking transfer from the Dover Area School District (DASD) to the Northern York County School District (NYCSD). At the June 3 and 4, 2015, public hearing on the application, the Committee received evidence in support of the application from WTISD and evidence in opposition to the transfer from DASD, Dover Area Education Association (DAEA) and Keep us In Dover Schools (KIDS). The NYCSD did not take a position on the application. In addition to the full evidentiary hearing provided, Mr. Peri said the Committee also offered community members an opportunity to express their opinions on the proposed transfer either by submitting comments in writing or by addressing the Committee during a public comment period held at the conclusion of the hearing. Mr. Peri said all public comments were carefully considered by the Committee and reflected a great deal of pride in the community of Washington Township and its students. Throughout the process, Mr. Peri said the Committee remained fully dedicated to deciding this matter deliberatively and with careful consideration of the evidentiary record.

Mr. Peri then reviewed in detail the findings presented in the Committee's report. He noted that the report was not an exhaustive review of all information made available to the Board. Rather, he said the report analyzed those portions of the record that the Committee believed were most relevant and important to the Board's decision. The report was organized around four broad issues that were identified as most pertinent in this matter: comparison of educational programs in DASD and NYCSD; financial impact on DASD; property taxes and the closing of Kralltown Elementary School; and NYCSD's capacity to accommodate the students of Washington Township. Mr. Peri noted that the Committee did review other information related to educational considerations, including information presented related to school safety. However, he said the Committee did not find this factor to be as persuasive as others in informing its final recommendation. Mr. Peri further noted that in her review of WTISD's application, former Education Secretary Carolyn Dumaesq expressed caution in the use of safety data because it is self-reported and the School Code requires school administrators to contact law enforcement if

certain incidents occur at a school but grants discretion in notifying law enforcement in other circumstances.

Given the uncertainty related to NYCSD's capacity to effectuate a transfer during the next school year; motivating factors related to property taxes and the closing of Kralltown Elementary School; the negative financial impact on DASD; and the Committee's assessment that the educational programs of DASD and NYCSD are in general parity, Mr. Peri said the Committee unanimously recommends that the application of the WTISD be disapproved. Finally, Mr. Peri noted that, under the Pennsylvania rules of appellate procedure, any aggrieved party may file appeal to the final order of the Board to the Commonwealth Court.

REPORT OF THE SECRETARY OF EDUCATION

Secretary Rivera provided an update on ongoing State Budget negotiations and said he hoped to share more information in the near future about a budget that has a positive impact on education and children. Although there is no budget in place, Mr. Rivera said the Department has been moving forward and preparing for key initiatives that are in the best interest of students and communities such as early childhood education; alignment of career and technical education programs to community needs; and affordability of and access to higher education.

Secretary Rivera also announced the hiring of two new Deputies at the Department – Dr. Wil Del Pilar, Deputy Secretary of Postsecondary and Higher Education, and Glenn Miller, Deputy Secretary of Commonwealth Libraries.

Finally, Secretary Rivera shared that the U.S. Department of Education approved Pennsylvania's one-year waiver to the Elementary and Secondary Education Act. The waiver allows for a pause in the inclusion of 2015 PSSA scores in School Performance Profiles and teacher effectiveness ratings due to changes to the assessment that took effect in the 2014-15 school year.

Upon time for discussion, Craig Snider commented on media reports on ghost teaching in the Philadelphia School District. Mr. Snider said he sought to draw attention to a concern he holds about teachers being out of classrooms for long periods of time to conduct union business while still earning a wage, seniority and benefits, particularly at a time when schools are experiencing cutbacks.

Rep. Stan Saylor commented that the House Education Committee will be sending legislation to the House floor to forbid ghost teaching. He explained that two unions in Pennsylvania represent teachers: the American Federation of Teachers (AFT) and the Pennsylvania State Education Association (PSEA). Rep. Saylor said PSEA has four or five teachers absent from the classroom due to union duties and that PSEA reimburses school districts for their salaries and benefits, including for the substitute teachers that take their place. However, Rep. Saylor expressed concern with the system in place with the AFT in Philadelphia related to teachers on leave for union duties. Chairman Wittig noted that this is an issue for local districts and does not fall under the purview of the Board. Secretary Rivera shared that many districts have such provision in their contracts and, as a result, are reimbursed. He noted that these provisions do not solely apply to a union practice, but extend to other circumstances where a

district may place a teacher or administrator on special assignment to, for example, write curriculum. The Secretary said we must be careful in painting the use of such provisions with a broad brush and said that, ultimately, these are local decisions that should be made in the best interest of the district and its students.

Dr. Jay Badams commended the Department on the ESEA waiver that he said gives districts needed breathing room as they address the impact of changes to the PSSAs. Dr. Badams also commented on the state budget. He noted that Erie's public schools will be out of cash in two weeks and said that, since the wake of the recession, the district operates on a razor thin margin. Since 2010, Dr. Badams said Erie has overcome a \$26 million structural budget deficit, a \$16 million cumulative cash deficit, leveraged non-instructional real estate to gain capital, furloughed over 300 staff and downsized its administration by almost 50 percent. He said the district has reached a point where it must decide to either borrow a line of credit at cost to continue operations, close schools or hope for the generosity of staff to work without pay. Dr. Badams said he knows he is not alone and that other districts are facing similar tough decisions. Chairman Wittig stated that this is a valuable debate and that his district faces the same challenges. Mr. Wittig further stated that the added cost of the PSERS contribution is the driving force behind local budget issues. Rep. Saylor said the legislature planned to take action shortly to allocate a three or four month supply of funds for education so that districts will not have to incur a cost for borrowing.

REPORT OF THE PROFESSIONAL STANDARDS AND PRACTICES COMMISSION (PSPC)

A representative of the Professional Standards and Practices Commission (PSPC) was unable to attend the meeting. Chairman Wittig noted that a written report from the PSPC, as well as the Educator Discipline Report from June 2015, was made available to the Board and to members of the public.

PUBLIC COMMENT

Rachel Mailey, a mother of five children in the Dover Area School District and representative of Keep us In Dover Schools (KIDS), thanked the Special Committee for recommending that the transfer of Washington Township be denied. Ms. Mailey thanked the Committee for the time and energy devoted to the process and for giving thoughtful consideration to all information presented. She said she is hopeful that the children of Washington Township can remain in their home schools and asked the entire Board to support the recommendation to deny the transfer. Regardless of the vote, Ms. Mailey said the focus now must be on moving forward for the children of Washington Township and their education and on healing the wounds that have split the community. She remained positive that all children in Washington Township would continue to receive a high quality education regardless of the vote and reiterated her hope that children affected by the application for transfer would remain in Dover schools.

Joe Sieber, President of the Washington Township Education Coalition, expressed appreciation for the work of the Board and the Special Committee. Mr. Sieber asked if questions were allowed. Chairman Wittig said the Board does not respond to questions during public

comment. Mr. Sieber asked if the vote on the application of the Washington Township Independent School District would be a roll call vote, and Mr. Wittig clarified that it would be a voice vote.

Mr. Sieber shared that, as a parent and township resident, his involvement began with work on the township's comprehensive plan. He said he has been involved with this matter since the closing of Kralltown Elementary School in 2011 and that 1,500 days have transpired since the process started. Mr. Sieber said he felt that length of time has held the community at bay and that a conversation with the legislature is necessary to address 242, the Code and the process because it is ridiculous.

Mr. Sieber disagreed with the Special Committee's recommendation. He stated his belief that the recommendation offered in the case of Porter Township used metrics that were denied for this decision and that are within the Board's latitude. He said it took six and seven years for other communities to get through this process, and said that should be addressed to avoid agony for future applicants. Mr. Sieber said he thinks the Board got it right with decisions made to approve the transfer of Riegelsville and to deny the transfer of Porter Township and that those determinations were based on empirical, not anecdotal, evidence.

Mr. Sieber said he does not believe the education in Dover and Northern are in general parity and said a 10-year history shows consistently higher scores for Northern on standardized tests. Mr. Sieber said the Board eliminated and ignored the state's evidence. He requested that the Board table its decision until November to review the record and not rely on the Committee's recommendation. Mr. Sieber noted that the Special Committee has latitude and is not bound by former Secretary of Education Carolyn Dumesq's decision, but questioned why the Secretary went through it then. Mr. Sieber said the vast majority of township residents signed a legal petition in support of the transfer, including over 180 parents of school age children, and suggested that is the standard on which the application should be evaluated. He said he does not value taxes over education. Mr. Sieber said SAT and ACT results should be granted greater consideration and that SPPs are too limited to serve as the basis for a decision.

Mr. Sieber said the Committee's recommendation sends the message that Dover matters and that Washington Township is expendable. He said the decision preserves the sacred cow of Dover's tax base and that the purpose of Washington Township would remain to subsidize Dover Borough and Dover Township. Mr. Sieber said travel times for elementary students are shorter to Northern and that the Board's decision will order children to travel further to schools with a higher in-school crime rate. Mr. Sieber also said cost projections that were characterized as speculative were prepared by the expert writing the cost recovery plan for Chester-Upland. He asked how bad a school district must be in order to allow for a transfer and said the standard a district must meet should be defined up front.

Kathy Kennedy-Meyer stated that the Pennsylvania Public School Code makes transfer issues all about taxes. Ms. Kennedy-Meyer said the requirement for signing a petition to get an initiative started requires that someone be a taxable inhabitant of a township – not a resident or a person with a child in the school district – just a taxable inhabitant. She said the Special Committee disfavors petitions that are about taxes, but it's built into the School Code.

Ms. Kennedy-Meyer then addressed the points on which the Committee based its recommendation. She said she would not discuss educational programs because Mr. Sieber spoke to that. Regarding financial impact, Ms. Kennedy-Meyer said Dover's financial dilemma highlights ongoing poor business decisions. Regarding teacher furloughs, Ms. Kennedy-Meyer said there is no guarantee that someone will always have a job and said that furloughs happen. She also said that less staff at Dover likely would translate to more teachers at Northern and that she imagined the same student/teacher ratio needs to be maintained if you are transferring a body of students. Further, Ms. Kennedy-Meyer said it was her understanding that the same union represents teachers in both school districts and that, in her opinion, the union should have had a neutral position during this process.

Ms. Kennedy-Meyer said the closing of Kralltown Elementary School is one of the best examples of poor decision-making by the Dover Area School District, and that the closing has on-going negative effects, including higher transportation costs, longer commutes and maintenance expenses for building upkeep. She said Dover has a meeting scheduled to discuss use of the building and that she couldn't wait to find out what they intend to do with it because, in her opinion, the district will need to use the building to house students again in the future.

With regard to property taxes, Ms. Kennedy-Meyer said the fact that Northern currently has lower taxes is a bonus and there is no guarantee this will remain the case. Ms. Kennedy-Meyer said, in her opinion, Washington Township is being held hostage to the Dover Area School District simply because of their tax dollars. Regarding capacity issues, Ms. Kennedy-Meyer said the Committee looked at Northern's honest appraisal of its current facilities, but did not give consideration to Dover's facilities. She said birthrate predictions show Dover will face overcrowding in future years and that the transfer would give Dover some breathing room. Ms. Kennedy-Meyer acknowledged that the School Code would require the transfer to take place in the next school year, but said, in her opinion, things could be amended or agreements could be made to reach a mutually agreeable timeline. Ms. Kennedy-Meyer asked the Board delay its vote to allow members to review all evidence presented. Finally, Ms. Kennedy-Meyer asked if the Board could address the process for appeal in section 2-293.1.

David Kreitzer, a taxpayer from Washington Township who signed the petition for transfer, shared that his daughter already graduated from Dover and he currently does not have any children in Dover schools. He stated that taxes are at the leisure of the local school board and can be changed in an instant. He said he doesn't see how this is an issue between both districts and that residents have no control over the taxes they pay. Mr. Kreitzer said the catalyst for the transfer petition was the closing of Kralltown Elementary School and commute times for elementary students. Mr. Kreitzer said the idea for the petition to move school districts was out of frustration with the school board not reacting to problems that persist. He asked that if it would be possible for the State Board to visit the Dover school board and ask them to fix the problems if the transfer is not approved.

Crystal Berkheimer, a Washington Township resident and parent, thanked the Board for listening to township residents and for traveling to York for the hearing. Ms. Berkheimer said she has a different perspective than other residents because she has worked as an aide for the Dover Area School District for the past two years. Ms. Berkheimer said if members of the Washington Township Education Coalition could see what she sees on a daily basis they would

not be as upset as they are. Ms. Berkheimer said she has friends who live in Northern and loves that she lives close to so many different things on the line between the two districts. Ms. Berkheimer said she did not always feel this way. She shared that she was President of the PTO when Kralltown Elementary School closed and that she was upset when the school closed. More than anything, Ms. Berkheimer said she wants the Board to know that Dover does listen. She noted opportunities for involvement through running for the school board or volunteering in classrooms through a mentorship program. Regarding crime rate, Ms. Berkheimer said Dover employs a student resource officer that the students love and that the district, of course, uses him if there is trouble. She said the positive daily happenings in the district far outweigh the bad. Ms. Berkheimer said district staff go far above and beyond for students. She said all parties at the hearing had equal time to make their presentations. Ms. Berkheimer asked the Board not to delay its vote until November given how much time already has transpired related to consideration of the application. Ms. Berkheimer said the community needs to move on and to heal.

ACTION ITEMS

APPLICATION OF THE COMMISSION ON ELEMENTARY AND SECONDARY EDUCATION OF THE MIDDLE STATES ASSOCIATION OF COLLEGES AND SCHOOLS SEEKING RENEWAL OF ACCREDITING AUTHORITY

A motion to approve the application of the Commission on Elementary and Secondary Education of the Middle States Association of Colleges and Schools seeking renewal of authority as an accreditor for pre-K, nursery, kindergarten, elementary, secondary and special education programs in private academic schools, as well as tutoring centers, educational testing and remedial centers, for a five-year period was made by Kirk Hallett and seconded by Rep. Stan Saylor.

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

APPLICATION OF THE PENNSYLVANIA ASSOCIATION OF INDEPENDENT SCHOOLS SEEKING RENEWAL OF ACCREDITING AUTHORITY

A motion to approve the application of the Pennsylvania Association of Independent Schools seeking renewal of authority as an accreditor for pre-K, nursery, kindergarten, elementary and secondary programs in private academic schools for a five-year period was made by Kirk Hallett and seconded by Jay Badams.

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

APPLICATION OF THE WASHINGTON TOWNSHIP INDEPENDENT SCHOOL DISTRICT

A motion to disapprove the application of the Washington Township Independent School District was made by Jonathan Peri and seconded by Mollie Phillips.

Upon discussion on the motion, Colleen Sheehan asked if legislation from several years ago had been enacted asking districts to take distances for students into consideration in order for students to attend school in the closest local neighborhood. Rep. Saylor said he recalled such

legislation, but that he was not certain that a clear definition of a neighborhood school exists. For instance, he cited Forest and Warren counties as parts of the state that have county-wide school districts compared to places like York County that have many districts within its borders. Rep. Saylor said he could not comment further because he could not recall the exact legislation.

Dr. Sheehan offered a motion for the Board to table the motion on the application of the Washington Township Independent School District in order to gather information on the question she raised related to neighborhood schools. The motion did not receive a second. Therefore, the Board proceeded with consideration of the motion on the application offered by Mr. Peri.

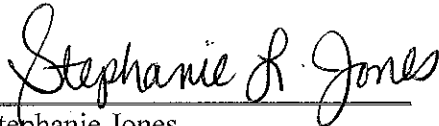
VOTE: All were in favor as indicated by a voice vote, with Dr. Sheehan dissenting.

ANNOUNCEMENTS

There were no announcements.

ADJOURNMENT

There being no further items of business, the meeting was adjourned at 10:00 a.m. on a **Badams/Sheehan** motion.



Stephanie Jones
Administrative Assistant