

**MINUTES
STATE BOARD OF EDUCATION**

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

March 9, 2017

The 337th meeting of the State Board of Education was convened on Thursday, March 9, 2017. Public notice of the meeting was made in accordance with the Sunshine Meeting Act of 1986. The meeting was called to order at 8:56 a.m. by Chairman Larry Wittig.

Attending:

James Agras <i>(via phone)</i>	Sen. John Eichelberger	Colleen Sheehan
Andrew Ahr	James Grandon	Craig Snider
Carol Aichele	Pamela Gunter-Smith	Lavinia Soliman
Jay Badams	Kirk Hallett	Joshita Varshney
James Barker <i>(via phone)</i>	Shirlann Harmon	Karen Farmer White
Nathan Barrett	Maureen Lally-Green	Lee Williams
Nicole Carnicella	<i>(via phone)</i>	Larry Wittig
Sandra Dungee-Glenn	Jonathan Peri	

The minutes of the January 12, 2017, meeting of the State Board of Education were approved on an **Badams/Gunter-Smith** motion.

**REPORT OF THE PROFESSIONAL STANDARDS
AND PRACTICES COMMISSION**

Dr. George Drake provided the following report on behalf of the Professional Standards and Practices Commission (PSPC).

Dr. Drake announced that the PSPC will hold its next meeting on March 13 at which time it will consider 23 disciplinary cases. He reported that the Commission's Practices Committee also will meet to consider a first draft of revisions to the Code of Professional Practice and Conduct for Educators. The revisions articulate standards of practice and conduct with respect to social media use by educators, electronic communications with students and appropriate student-teacher boundaries. Dr. Drake stated that work also is underway to establish a Professional Ethics Taskforce, and said the first priority of the Task Force will be to develop program guidelines addressing professional ethics that will apply to every teacher education program in Pennsylvania.

Dr. Drake reported that the Office of Chief Counsel (OCC) has a total of 1,798 open educator discipline cases, 336 of which are designated as "high priority" because they involve allegations of sexual or physical abuse of children or certain criminal charges/convictions. Finally, Dr. Drake shared that Stefanie Reisser recently joined the OCC's Educator Discipline

Division as a full-time prosecutor, bringing the complement of full-time prosecuting attorneys to five with plans to expand the division moving forward.

INFORMATION/DISCUSSION
APPLICATION OF THE WASHINGTON TOWNSHIP
INDEPENDENT SCHOOL DISTRICT

Chairman Wittig summarized the November 2015 opinion issued by Commonwealth Court that vacated the Board's order on the application of the Washington Township Independent School District (WTISD), remanded the matter back to the Board for further proceedings, and defined a standard for the Board's scope of review of such applications. He announced that the Board convened an Executive Session on February 6, 2017, at which time the Board's counsel reviewed the court's opinion. However, Mr. Wittig noted that the Board lacked quorum for that session and, as such, did not engage in discussion about the process that would be used to undertake re-consideration of the application.

In the interim, Mr. Wittig said he notified parties to this matter that he anticipated the Board would entertain arguments on the application and make an opportunity available for public comment at its March 9, 2017, meeting. He said he also notified the parties of an opportunity to submit written comment to the Board, and noted that all written comments received in advance of the meeting were shared with Board members and, as requested, with the media.

Mr. Wittig then outlined the process that would be used to re-consider the application. He noted that the process was discussed on March 8, 2017, when the Board convened as the Committee of the Whole and that no members of the Board objected to the process. Mr. Wittig said he would grant limited time for arguments as follows: 15 minutes for WTISD, 15 minutes for the Northern York County School District (NYCSD), and 15 minutes collectively for the Dover Area School District (DASD), Dover Area Education Association (DAEA), and Keep Us In Dover Schools (KIDS). Following the close of arguments, Mr. Wittig said the Board would accept public comment limited to three minutes per speaker. He said the Board then would engage in deliberations on the application and said the Board may convene in Executive Session to discuss legal questions related to the application.

The Board then proceeded to hear arguments on the application.

Daniel Fennick, counsel to WTISD, stated that the opinion issued by Commonwealth Court made it clear that the Board cannot use discretionary judgment in this matter. He said statute establishes a three-part process for consideration of Independent School District (ISD) applications and that two of those three decisions – related to appropriate public support and educational merit – already have been made by the York County Court of Common Pleas and the Secretary of Education, respectively. Mr. Fennick said the Board can't override or disagree with the Department of Education's decision.

He said the WTISD believes the Board's role is extremely limited to considering standards that the Board should have set in 1963 (which he noted he has been unable to locate) and to considering the standards established in Sections 291 and 293(a) of the School Code.

Further, Mr. Fennick argued that language in Section 293(a) that refers to a 4,000 student population figure for the approval of administrative units is not applicable in this context given that both DASD and NYCSD are below 4,000 in enrollment and that the Board's decision in Riegelsville did not make reference to this student population figure.

Mr. Fennick said the lengthy record in this case is without much factual dispute, and that he would focus his arguments on the standards outlined in Section 291 save for the issue of topography that he said was not unique to this case. He stated that the court has directed the Board to grant the transfer unless the transfer violates either the standards of the Board or Sections 291 and 293(a).

Mr. Fennick argued that pupil population is a significant issue. He said enrollments in DASD are growing much higher than in NYCSD because of DASD's birth rates and that DASD is experiencing extreme amounts of stress due to the increase. At the time of the Board's hearing on the application, Mr. Fennick said DASD already was using five portable classrooms. He argued that moving 300 students out of DASD will give the district breathing room and more time to plan. He said DASD previously testified that it does not have a space issue, and said that immediately after that testimony DASD began discussing a building program because it's overcrowded.

Chairman Wittig asked why one district would procreate at such a higher rate than its neighbor. Mr. Fennick responded that the issue is one of land use and that there are enormous subdivisions going up in DASD.

Mr. Fennick then stated that DASD's elementary classes exceed the district's own policy for class size.

Regarding community characteristics, Mr. Fennick said crime statistics show that for 12 years Dover had a higher record of in-school crime and double the number of arrests. He then stated that students residing in WTISD identify with the community of Northern for recreational and other activities.

Mr. Fennick said transportation time for students residing in WTISD will be reduced significantly if the transfer is approved and that students living in the northernmost section of WTISD live closer to schools in NYCSD.

Related to the use of existing school buildings, Mr. Fennick argued that the educational impact questionnaire completed by NYCSD said it could accommodate WTISD students and that NYCSD is undertaking elementary building renovations.

In conclusion, Mr. Fennick asked the Board to follow the instructions issued by Commonwealth Court and to grant the transfer.

Dr. Colleen Sheehan asked Mr. Fennick to address arguments presented on the question of comprehensive education and half-day vs. full-day kindergarten. Mr. Fennick said everyone has an opinion on which is better and that both districts have a comprehensive program of education. He said the issue of half-day vs. full-day already was looked at by the Secretary of

Education as a matter of educational merit and said that should be the end of the inquiry on kindergarten.

Dr. Eric Eshbach, Superintendent of NYCSD, accompanied by his counsel William Zee, delivered a statement to the Board. Dr. Eshbach said NYCSD took a neutral position on the application for transfer in January 2015 and, at that time, adopted a resolution that also addressed the following items related to approval of a potential transfer: 1) a statement that the July 1, 2015, effective date identified by the York County Court of Common Pleas was not possible or practical and a recommendation that a July 1, 2017, effective date be established if a transfer was to be implemented to give NYCSD sufficient time to prepare, renovate and expand existing facilities to accommodate the increase in students; 2) a request that the Board recommend that the Department of Education grant NYCSD supplemental funding and waivers from Plancon if an earlier effective date was required; and 3) a request that the Board require DASD and NYCSD to prepare a joint plan of transition as a condition of a transfer.

Since it had been more than two years since that resolution was adopted, Dr. Eshbach provided current information on the potential impact of a transfer on NYCSD. He spoke to NYCSD's commitment to a well-balanced, comprehensive education and said the district has an unwavering commitment to local control. Dr. Eshbach said the ISD process is challenging in that it promotes local control while seemingly giving no comparable voice to the communities that comprise NYCSD. Because NYCSD respects the concept of local control, Dr. Eshbach said the district will continue to maintain a neutral position on the application. If the transfer is approved, Dr. Eshbach said NYCSD will continue to provide a quality education despite the challenges and impacts associated with assuming responsibility for approximately 300 new students. However, Dr. Eshbach said it would be remiss not to address the challenges a transfer would present, and he requested that the Board consider those challenges in making its decision.

Among the challenges for NYCSD, Dr. Eshbach said the increase in enrollment would require NYCSD to undertake additional building projects at Wellsville Elementary and Northern Middle School. Dr. Eshbach said the district delayed decision-making on elementary renovations until after the Board released its order denying the application in 2015. At that time, NYCSD moved forward with plans for elementary expansion and renovation based on current enrollment. Those plans were approved by PDE and renovations to Wellsville are underway and slated to be completed in August 2018. Dr. Eshbach said the addition of WTISD students would require NYCSD to redesign its approved elementary renovations to accommodate more students. He said the ramifications of that are significant and would require adequate time, planning and capital along with the cooperation of the Department of Education to alter its current approved plan. In light of that, Dr. Eshbach requested that, if approved, the transfer occur no earlier than July 1, 2019, or at least two years after a final approval order is issued.

Next, Dr. Eshbach said the addition of WTISD students also would require renovations to Northern Middle School to address capacity at that facility. He said the administrative process for such projects takes, on average, 2 to 2.5 years and that Northern would need exceptions to Plancon to accommodate the changes.

Dr. Eshbach further stated that there can be no expectation that all WTISD students would be able to attend the same elementary school, and said that students would be assigned to

either Wellsville Elementary or Northern Elementary. He then reiterated that DASD and NYCSD should be required to submit a joint transition plan as a condition of a transfer to ensure educational needs are addressed appropriately for affected families. He said special consideration would need to be given to students with IEPs, career and technical education students and students in other programs designed to meet the specific needs of an individual or a group of students for which there is not parity between the districts.

Dr. Eshbach said that, if a transfer is approved, NYCSD will need time to address staffing needs to hire more elementary, middle and high school staff. Further, he said the potential enrollment increase likely will result in increased class sizes at two elementary schools, the middle school and the high school, and that NYCSD may need to revisit its class size guidelines. He also spoke to potential changes in educational programming that may result from a transfer, particularly at the middle school and in how students are grouped at the elementary level.

Dr. Eshbach concluded by sharing that the changes he discussed are achievable, but that NYCSD would need appropriate time to ensure can they be achieved with fidelity. He emphasized that, if approved, the effective date should be at least two years after the transfer order. He stated that NYCSD's position of neutrality should not be interpreted as ambivalence or misinterpreted as uncaring or a conclusion that the transfer request lacks viability. He reiterated that the position reflects respect for local control while recognizing that the district would need appropriate time to successfully make necessary changes.

James Grandon asked Dr. Eshbach to address the impact of a transfer on NYCSD's tax base. Dr. Eshbach said figures from December 2014 estimated an additional \$4 million in taxes for NYCSD and expenses of \$3.2 million.

Sen. Eichelberger asked how many students would be impacted by the transfer and how those students are dispersed among grades. Dr. Eshbach said there are approximately 300 students in WTISD that are pretty equally dispersed with about 20-30 students per grade level. Sen. Eichelberger asked how many additional staff NYCSD would need to hire. Dr. Eshbach said the district would need over 15 new staff and he delineated the positions that would need to be filled. Sen. Eichelberger then asked if DASD would be able to reduce its complement by 15 to save costs. Dr. Eshbach deferred to DASD on that question.

Chairman Wittig sought clarification as to whether the cost figure cited by Dr. Eshbach included added debt service and the superintendent confirmed that it did.

Dr. Sheehan asked if Dr. Eshbach was familiar with how long it takes an ISD to prepare for a transfer. Dr. Eshbach replied that there are not many superintendents who have experience with similar cases and, as such, he is not aware of others' experiences.

Dr. Sheehan then asked for information on the maximum number of students per grade and the average students per grade. Dr. Eshbach replied that NYCSD has adopted "not to exceed" policies rather than class size limits. He said current class sizes are less than 20. Chairman Wittig said that is a very good class size and asked whether that may contribute to NYCSD's academic performance. Dr. Eshbach spoke to academic research on class size, and

said maintaining such class sizes has been balanced by decisions to provide for other instructional needs within their means, such as offering half-day kindergarten.

The following individuals represented DASD before the Board: Benjamin Pratt, solicitor; Ken Cherry, Superintendent; and Jennifer Benko, Business Manager. They were joined by Heather Dengler of KIDS. DAEA did not participate.

Mr. Pratt said facts have changed since the process seeking a transfer started more than five years ago, but that Dover's ability to provide a comprehensive education for its students remains unchanged.

Mr. Pratt said the standards in Section 291 of the School Code are guiding factors for the Board, and he argued that Section 293 also needs to be taken into consideration. He said that section states that no plan should be approved in which a proposed district contains less than 4,000 pupils. As both districts in this case are below 4,000 in enrollment, Mr. Pratt said that raises a question of whether the plan should be approved or not due to that fact.

Related to pupil population, Mr. Pratt said there were facts cited today that are not supported in the record. He said the court's opinion raises a question of whether the Board needs to establish a new record for the case based on updated facts. He said the impact of students needs to be considered and that nothing in the School Code speaks to the transition issues addressed by Dr. Esbach. Further, Mr. Pratt said there is no delay process for the year the transfer would take effect.

Regarding transportation, Mr. Pratt said students in the southern part of WTISD will be impacted differently by travel time to NYCSD than students in the northern part of the township. He said the average school bus commute in DASD is 52 minutes and that, in comparison to other districts in York County, that number is at or below the average commute in other districts.

Related to the use of existing school buildings, Mr. Pratt said Dover's current facilities already serve WTISD students. He said recent discussions in DASD about building projects was not initiated because of capacity issues, but because the district has an old building that needs to be updated and renovated for modern technology. He argued that NYCSD cannot use its existing facilities to accommodate WTISD students and that a transfer would actually require that district to build to accommodate the new students.

Mr. Pratt said population changes related to a potential transfer would cause a \$2 million loss to DASD. He noted that property tax reform legislation is pending and said this issue should be considered related to potential population changes and the ability of fewer residents to maintain support for DASD.

Mr. Pratt then addressed the capability of providing a comprehensive program of education and said there is no legal definition for the term comprehensive. He said DASD offers full-day kindergarten while NYCSD does not; DASD offers in-house Career and Technical Education (CTE) in 10 areas while NYCSD does not; and that DASD has full-day CTE while NYCSD does not. He said the Board needs to determine what it considers comprehensive, and noted that the Board's earlier hearing did not identify a large difference between the districts.

Mr. Cherry spoke to the comprehensiveness of the district. He reviewed the composition of schools and staff, academic offerings for students, resources for specially-designed instruction, and extracurricular opportunities.

Ms. Dengler spoke on behalf of parents who want to remain in DASD. She said many initial supporters of the petition for transfer have moved or have changed their minds and want their kids to stay in DASD.

She addressed the issue of community characteristics and said WTISD has argued the transfer would make the community more culturally aligned. Ms. Dengler rebutted that argument and said most residents shop and participate in local churches, activities and clubs that are not in Northern York. She said Dover area businesses have offered their support for retaining WTISD students, and that they appreciate the diversity and inclusiveness of DASD schools. She surmised that community characteristics of Dover are our characteristics and said the community already is culturally aligned.

On the issue of transportation, Ms. Dengler said the issue is not a problem but just flip flops depending where you live in the township, meaning some students would have shorter and some would have longer bus rides.

Ms. Dengler said Rep. Seth Grove supports KIDS and agrees that students receive an excellent education in Dover. She said there is no reason to approve the transfer due to potential population changes and that the district could accommodate more students. She reiterated elements of DASD's comprehensive program of education that were discussed by Mr. Cherry and noted that DASD was recognized by Governor Wolf and Secretary Rivera in their Schools That Teach tour.

Chairman Wittig sought clarification regarding the fiscal impact of the transfer with DASD stating that it would experience a \$2 million loss and NYCS D stating it would gain \$4 million. Ms. Benko replied that the \$2 million impact reflects the net effect after expenses.

Dr. Pamela Gunter-Smith asked how many families KIDS now represents. Ms. Dengler said 100 parents initially joined KIDS to protest the transfer five years ago and that the number has grown, but she did not have an exact figure.

Mr. Grandon asked how the children that would be affected feel about the transfer. Jonathan Peri stated that Mr. Fennick raised the issue of popular support for the transfer and asked someone to address that issue. Ms. Dengler said there has not been a comprehensive petition gauging support since the initial petition. She noted that the initial petition followed the closing of the local elementary school and that many signed the petition out of anger over the closure or a promise of lower taxes.

Dr. Sheehan said that while popular support, revenue and taxes matter, those matters have been decided and consideration of those issues by the Board at this stage fall outside of its jurisdiction.

Sen. Eichelberger asked how many staff DASD would be able to do away with if the transfer is approved. Mr. Cherry's reply was thirteen. Sandra Dungee Glenn sought information on DASD's class size and construction projects. Mr. Cherry said DASD is at 75% capacity and has plenty of space to accommodate future enrollment. He said the district is exploring building a new high school where their current middle school is located and that the middle school is in bad need of repairs. He then reviewed the district's class size policy and class size fluctuations. Chairman Wittig said the figures cited for class size are very good given the circumstances facing school districts in the Commonwealth.

Nicole Carnicella asked DASD to address school crime rates and whether the figures had improved. Mr. Pratt stated that the Secretary did not give much credit to that information in her determination of educational merit because the safety figures are deceiving based on what some districts report and do not report under the Safe Schools Act. Chairman Wittig asked whether DASD and NYCSD have a school resource officer. DASD does retain a school resource officer through a Safe Schools grant, which NYCSD employs a Director of Safety & Security.

PUBLIC COMMENT

The following individuals provided public comment on the application of WTISD:

Vicki Mills, Washington Township resident and parent, thanked the Board for its previous support of KIDS. Ms. Mills said it is unfair that the Washington Township Education Coalition is trying to tear her children away from DASD and their friends, coaches and teachers, and that they do not know what is best for her children. Ms. Mills said the vast majority of people that support the transfer do not have children in school. She said Washington Township students have been subject to six years of uncertainty as the petition has been considered. Ms. Mills said her daughter was in third grade when the petition started and that she is now a freshman in high school. She spoke to potential set-backs for her daughter and other athletes in being considered for college scholarships if they are forced to move districts. Ms. Mills asked the Board to deny the transfer.

Taylor Mills, freshman at Dover Area High School, spoke to the difficulty of fitting in at school. Ms. Mills said she is a thriving athlete and that she would like to attend Penn State University for both athletics and academics. She acknowledged the support of amazing teachers who moved with students from Kralltown to North Salem after the elementary school in Washington Township was closed and said they've helped students thrive.

Margaret Mailey, freshman at Dover Area High School, said she has attended Dover schools for her entire educational career and relayed her support for staying in the district. Ms. Mailey spoke highly of Dover's music program and how the positive relationships she developed through this program early on eased her transition into high school, built her confidence to try new activities and allowed her to experience being part of great community. Ms. Mailey said those relationships and connections cannot be easily replaced. She said she believes a transfer to NYCSD would have a negative impact on WTISD students and DASD.

Bobby Dengler, Washington Township resident and DASD parent, said local school districts played a big role in deciding where to build his home years ago. Mr. Dengler said his community

always has enjoyed a great and diverse public education and that he finds it abhorrent that certain politicians who support the transfer have never discussed it with DASD administrators or visited their schools. Mr. Dengler said over five years many new families have moved into the area fully expecting their children to attend Dover schools. Mr. Dengler added that community members that have children with special needs have been more than adequately supported by DASD and fear the affect this unwanted change might have. Mr. Dengler said the district has award-winning music and athletic programs and that he is Dover proud.

Joe Sieber, president of the Washington Township Education Coalition and parent of a child in Dover schools, expressed his support for the transfer along with the majority of taxable inhabitants of Washington Township and 180 parents of school age kids. Mr. Sieber said KIDS does represent most of the 276 students involved in the transfer. Mr. Sieber asked the Board to support local rights to determine school district boundaries and to support school choice. He said one size doesn't fit all and that the School Code should be amended as it pertains to boundary changes. Mr. Sieber said you can't separate land use and planning from educational aspects and that the goal of good education is never going away. Mr. Sieber said NYCS D is better, closer and safer than the Board ignored and didn't read the record in support of that. He said NYCS D doesn't turn its back on its community schools

Jennifer Snyder, resident of Washington Township, asked the Board to approve the transfer stating that the laws are clear and that they met and exceeded what was asked. Ms. Snyder spoke to the work she did to canvas the community for signatures in support of the petition and said over 74% of Washington Township residents were in favor. According to Ms. Snyder, NYCS D has performed better and higher than DASD on state assessments and that it is closer and safer. Ms. Snyder said the Board ranks schools and that Dover is on the bottom. Ms. Snyder said she pays a lot of taxes and even though she doesn't have kids in school she wants her tax dollars used wisely for good education. She said she personally collected 200 students, but does not know how many of those individuals had children in school.

Christopher Cobb, Principal at North Salem Elementary School in DASD and former principal at Kralltown Elementary in Washington Township, discussed a number of enhancements to the academic program and student supports that have been made at North Salem since the Board's denial of the transfer in 2015. Mr. Cobb said the school is thriving academically, has been named a Title I Distinguished School, and that its SPP score places it 8th out of 62 elementary schools in surrounding counties. He said the school also has made continued growth on the SPP.

State Representative Dawn Keefer expressed her support of the Washington Township Education Coalition and its application for transfer. Rep. Keefer addressed the merits of the petition related to community characteristics, transportation, and the ability to provide a comprehensive program of education. Rep. Keefer stated that the characteristics of the Washington Township community strongly support a transfer to NYCS D. She said the Washington Township residents that she knows and that have contacted her office participate in community activities in Dillsburg. She also said a large number of Washington Township residents work in Harrisburg and, as such, the location of NYCS D is more favorable for them to allow their students to participate in extracurricular activities. She said the proximity of Washington Township to NYCS D as it relates to transportation favors the transfer. Related to the issue of a comprehensive program of education, Rep. Keefer said NYCS D can accommodate the students and that the only issues

DASD shared with her office was a concern for the tax base related to its debt load, which is an issue she said the Board is not allowed to consider. Rep. Keefer also said Washington Township's population growth is stagnant, which would be a benefit to NYCSD. She said 1,426 taxpayers of Washington Township followed the law to achieve the transfer that was found to have educational merit by the Secretary of Education.

Dr. Sheehan asked Rep. Keefer whether the legislature provides for a contingency to allow time for a district to prepare for a transfer to occur. Rep. Keefer said the judge is forced to give a date based on the school's calendar year, but that she believed the Board could dictate a date for a transition. Chairman Wittig said he believed the timing is addressed in the Code and that he would have staff clarify.

Dr. Carnicella inquired about the difference in taxes between DASD and NYCSD.

Karen Molchanow, Executive Director of the Board, provided clarification on the question related to an effective date for a potential transfer. She cited Section 227.1 of the School Code that states changes to the boundary lines of a school district would take effect the first Monday of July following approval by the Council of Basic Education of the annexation for school purposes. Ms. Molchanow said this section governs the Board's authority related to the establishment of an effective date.

Sara Rothrock, Washington Township resident and parent, spoke in opposition to the transfer. Ms. Rothrock said she moved to DASD two years ago with the understanding that her children would attend DASD. She said she would have purchased a home in a different area if she wanted her children to attend a different district. Ms. Rothrock said her children underwent a lengthy transition to get used to their new district. Ms. Rothrock said people in Washington Township who want their children to attend NYCSD and want their taxes lowered should move to NYCSD. She stated that she would like to see the petition signed again and will pursue a change back to Dover if the transfer is approved. She spoke in support of the teachers in Dover and the success her children have enjoyed since they moved to the district.

Lauren Whitehead-Swivel, an educator and athletic trainer from Washington Township, said her son moved from DASD to NYCSD years ago following her divorce. She said her son had an easy transition and thrived with NYCSD's curriculum in ways that he couldn't have in Dover. As an athletic trainer, Ms. Whitehead-Swivel said she had the opportunity to work at both school districts and stated that there is a major difference in the facilities, amount of athletic trainers, and the safety provided by the program.

Kira Feeser, student at Dover Intermediate School, said she made the honor roll each semester this year and received a great education from North Salem Elementary. She said her bus ride to school is about 20 minutes. Ms. Feeser said she finds it offensive that members of the WTEC stated in the paper that students at DASD are thugs and criminals. She said DASD students are hard-working both academically and socially. Ms. Feeser said she does not want to leave her friends in Dover. She also spoke about the integral role her grandparents play in supporting her daily activities and their inability to assist in the case of a transfer. Ms. Feeser said her parents should be in charge of deciding where she attends school. Ms. Feeser said she is interested in the agricultural science classes offered at DASD that are not offered at NYCSD.

Ralph McGregor, resident of Washington Township, shared that he has served as a former PTO President, Chairman of the Planning Commission and member of the Dover Area School Board. Mr. McGregor said the geographic borders that were drawn in the 1950's during the school consolidation process placed Washington Township in DASD as a geographic misfit. He said that area does not represent the community of the township. He said this issue does not deal with immediate emotions, but that there are immediate needs that can be met with seminars and counseling. He said they are talking about decades in the future and a citizens' movement guided by statute. He said this is not a tax issue, but a matter of allowing students to be closer to their school.

Mark Williams, resident of Washington Township and parent, spoke in support of the transfer. Mr. Williams said DASD recently acknowledged a capacity issue and is developing a plan to build new schools and address growth and overcrowding issues. Mr. Williams said this is evidence by plan on DASD's website and comments to the media. Mr. Williams said parents are requesting the transfer in order for their children to attend a school with higher performance and available capacity. He said taxpayers will benefit by not building capacity in one district when it exists in another district. He said children affected by the transfer live closed to NYCS D schools and that birth rates in DASD will result in difficult, unpredictable and expensive decisions that will not occur in NYCS D. He cited factors presented by WTEC's expert witness related to population growth in DASD. He said DASD class sizes exceed its own policy and that staffing ratios in NYCS D are more favorable. Mr. Williams said approving the transfer will improve circumstances for both students and taxpayers.

A representative for Erin Border read her comments since Ms. Border did not make the meeting. In those comments, Ms. Border expressed that the majority of township residents support the transfer. The comments reflected that Ms. Border holds no ill will toward DASD, its teachers or the children of Washington Township, nor is she fighting for smaller taxes. The comments reflected that she believes NYCS D is the better district with less travel time and that when she purchased her home in DASD there was a community school one mile away. The comments said she is seeking a chance to give Washington Township children the best education, spend less time on the bus, and attend a safe school.

Veronica Roblyer, teacher at North Salem Elementary School, said she taught 23 of her 29 years as a 2nd & 3rd grade teacher at the now-closed Kralltown Elementary school in Washington Township and that she opposes the transfer. Ms. Roblyer provided statistics from DASD's 2016 state assessments that showed DASD outperformed NYCS D in many categories, particularly those categories representing historically underperforming students and in math. Ms. Roblyer said North Salem scored at or near the top of the list in most categories, the third grade at North Salem scored above all NYCS D elementary schools, and scored in the top 20 percent of schools in the state. Mr. Roblyer said the data prove that it is a fallacy that the transfer has educational merit.

Eammon Mailey, junior at Dover Area High School, commented that Dover is his home and he wants to graduate from Dover. Mr. Mailey spoke to his involvement in the school's music and athletic programs and has had opportunities to perform at Carnegie Hall and Pearl Harbor and received an offer to sing at the 2020 Olympic games. Mr. Mailey feels he is receiving an above-

average education at DASD. He said his house is not closer to NYCSD and that the transfer would be add miles to his school travel time.

Holly Feeser, resident of Washington Township and member of KIDS, stated that there are roughly 1,900 people that occupy Washington Township with approximately 300 children, which equates to roughly 125 parents. Ms. Feeser said those statistics show what a small voice parents have in the township compared to individuals who support the transfer for tax purposes. She relayed the experience of a parent of an autistic student at North Salem whose father fears he would experience a setback in the considerable progress that has been made with the teachers in DASD in the event of a transfer. She said members of KIDS have been flooding Rep. Keefer's office with calls and that there is significant opposition in the community to the transfer. She also stated that NYCSD stands to gain financially if the transfer is approved. She challenged the WTEC to get the same level of support on another petition.

Rebecca Williams, resident of Washington Township, said she was one of the parents of over 180 students that signed the initial petition for transfer. Ms. Williams said her concerns pertained to overcrowding in the district. She cited an August 2016 article from the *York Dispatch* in which the Facilities, Safety and Technology Manager for DASD stated that overcrowding was another major concern for the Intermediate School. She rebutted earlier comments from Mr. Cherry that DASD's building plans are not related to overcrowding and said media articles support her rebuttal.

Janice Laird, Washington Township resident, said a WTEC representative knocked on her door asking her to sign the petition if she'd like lower taxes. She said nothing was ever mentioned about a property transfer or switching school districts because one is superior when she was approached. As a teacher in York City Schools, Ms. Laird wondered what precedent would be set by approving this transfer and potential ripple effects of changes being sought in other districts. She said her children love DASD, feel safe there and that her son has been inspired by his experience to become a music teacher.

Following the close of public comment, the Board entered into Executive Session.

DELIBERATIONS ON THE APPLICATION OF THE WASHINGTON TOWNSHIP INDEPENDENT SCHOOL DISTRICT

The Board adjourned its Executive Session and re-convened for public deliberations on the merits of the application. Mr. Wittig reminded the Board that discussion would be limited to the standards identified in Section 291 of the School Code and standards of the Board that were developed in the 1960s. Tom Howell, counsel to the Board, explained that a set of standards relative to the organization of administrative units was promulgated by the Board many years ago, but that the standards do not continue to be published. He provided Mr. Fennick with a document that included a citation to the standards and said that the standards promulgated by the Board largely followed the standards identified in Section 291.

Mr. Wittig offered that he tends to side with the petitioners in ISD cases as a matter of personal philosophy. However, based on the standards in Section 291, Mr. Wittig said he has a different view on this case. He said he believes a transfer would be a detriment to DASD's

ability to provide a comprehensive education program and would cause financial devastation to the district, as opposed to the upside for NYCSD. Mr. Wittig also said the fact that NYCSD would need to undertake construction to accommodate the WTISD students goes against the standards the Board must consider. He said the necessary renovations could not be completed in time to statutorily meet a July deadline for a transfer, which may affect the provision of a comprehensive program of education.

Mr. Snider acknowledged the adverse consequences of division in the community and suggested that the Board make the General Assembly aware of a need to address transition planning as it pertains to future ISD applications. He said while the Board does not have the authority to require the districts involved to take certain actions if a transfer is approved, the districts independently could form local agreements that address some transition issues.

Mr. Grandon stated that his focus was on the children and that he has not heard one child state that they are not getting a proper education at NYCSD or heard evidence that persuaded him that NYCSD is a better option at this point. Mr. Snider replied that his understanding was that the Secretary ruled on educational merit and it was not the Board's role to make another determination of educational merit. Mr. Wittig noted that the determination of educational merit was issued years ago and that information related to educational quality has changed since that time in a way that would adversely affect the provision of a comprehensive program of education by changing the make-up of a district that arguably has made academic strides.

Lee Williams said the issue of community characteristics appears to be a wash and that where people shop and participate in activities seems to be driven by where they live in the township. She said the issue of transportation also appears to be a wash depending where people are situated in the community. Related to the use of existing school buildings, Dr. Williams said one district would need to increase its buildings and hire more teachers while the other can accommodate the students in existing buildings. She further stated she heard information today pertaining to the provision of a comprehensive program of education that supports DASD's programming, particularly at the high school and the offering of in-house CTE.

Ms. Dungee Glenn said she came to the same conclusions as Dr. Williams and that it did not seem as if there is a disparity in the educational programs offered by DASD. She said the issue of use of facilities is pertinent.

Dr. Sheehan said this case has been tough for a lot of people and that the Board needs to accept responsibility. She said the case has gone on too long and created fissures in the community that need to be healed. Dr. Sheehan said the Board is beholden to the decision of the Court of Common Pleas and the Secretary of Education. Dr. Sheehan spoke in support of local self government and said the Board needs to exercise restraint in following the law. She said questions of taxes and revenue, changes in residents' position on the transfer, and becoming accustomed to a particular school are not within the Board's scope of authority.

Dr. Sheehan said the lower court made a financial determination about the impact of the transfer. Chairman Wittig responded that the court just states the impact and does not use that information in its determination of whether to establish an ISD. He said the role of determining

fiscal impact falls elsewhere and he believes it is the role of the Board. Dr. Sheehan said she does not believe fiscal impact is within the standards the Board needs to limit itself to considering.

Dr. Sheehan said topography does not seem to be an issue and that arguments have been made on both sides related to transportation. She said community characteristics is of importance and that it's hard to determine from this perspective. Dr. Sheehan said use of existing school buildings is relevant and that DASD also is building more. Dr. Sheehan said the Board cannot revisit the issue of educational merit and said she interprets a comprehensive education program to mean comprehensive in terms of breadth of offerings. She said both districts appear to be doing a fantastic job. However, she said the issue at hand is whether a transfer would violate the standards the Board must follow.

Mr. Hallett said he feels the process related to ISD applications is seriously flawed. He said this was a very difficult decision to have to make again and that the impact of the transfer on people in the community is important.

Mr. Snider asked about the application of a statutory provision cited by Commonwealth Court that says no plan of organization or reorganization shall be approved if the proposed district contains a pupil population of less than 4,000. Mr. Howell said that, historically, a reorganization plan that would result in a district of less than 4,000 students could not be approved unless certain enumerated factors existed. He advised that the provision is not determinative in this instance because both districts are equally affected in that regard. Upon further discussion, Mr. Howell said it's possible a court could read that provision as weighing against any transfers affecting less than 4,000 students, but that the opinion issued by the court in this case seemed to put it at a more precise balance point by stating the Board role to consider whether an application is contrary to the standards or would not violate the standards.

Dr. Carnicella suggested that the districts work amongst themselves to let the students attend school where they want. Dr. Carnicella said issues of topography, pupil population, transportation and buildings are a wash. She said the determinative standard from her perspective is the ability to provide a comprehensive program of education and that programs at DASD would suffer from a \$2 million deficit and loss of 13 teachers. She said she does not see a benefit to the NYCSD by receiving new students as the result of a transfer, but that she does see a detriment to DASD.

Jay Badams said he considered the application from the perspective of the primary reasons to approve it and that, with other issues being a wash, he was left with the matters of comprehensiveness and requirements for additional space in NYCSD. Based on those factors, he said he saw little reason to approve the transfer.

Mr. Peri offered that he does not believe building projects in DASD are relevant to the standards in this case as they are of its own volition and not in response to the nature of growth there. Mr. Peri then asked the Board's counsel to clarify the two sides of the issue related to standard of violation that were addressed by Commonwealth Court. Mr. Howell reviewed the court's opinion that directed the Board to approved the transfer if the assignment of WTISD would not violate the standards identified by the court or the deny the application if the approval would be contrary to those standards.

Sen. Eichelberger offered to work with the legislature to improve the ISD process. The Senator said he would not base a decision on test scores that fluctuate every few years. He said the only thing that concerned him was the use of existing school buildings. He suggested that maybe the districts involved could enter into a financial arrangement for a year or two to address facility needs. He said he believed the standards had been met and that the Board has an obligation to listen to the majority of the people in the township that are asking for approval.

Mr. Snider again turned to the matter of whether a transfer can be approved if the resulting district would have less than 4,000 students and said he did not know why the court would have pointed out that provision if they didn't think it was relevant. Mr. Snider said the fact that the district resulting from a transfer would have less than 4,000 students seems determinative in his view. Dr. Sheehan responded that that Court of Common Pleas reviewed data on the population of the district and that considering that now would overstep the Board's authority. She then said making a determination based on financial impact is not a legitimate basis of decision.

ACTION ITEMS

APPLICATION OF THE WASHINGTON TOWNSHIP INDEPENDENT SCHOOL DISTRICT

A motion to approve the transfer of the Washington Township Independent School District was made by Chairman Larry Wittig and seconded by the Hon. Carol Aichele.

VOTE: Roll Call vote: 4-**AYE**, 14-**NAY**, 0-Abstentions. (*Agras- AYE, Aichele- NAY, Badams- NAY, Barker- AYE, Barrett- NAY, Carnicella- NAY, Eichelberger- AYE, Dungee Glenn- NAY, Farmer White- NAY, Grandon- NAY, Gunter-Smith- NAY, Hallett- NAY, Lally-Green- NAY, Peri- NAY, Sheehan-AYE, Snider- NAY, Williams- NAY, Wittig- NAY*)

ANNOUNCEMENTS

There were no announcements.

ADJOURNMENT

There being no further items of business, the meeting was adjourned at 1:40 p.m. on a **Dungee Glenn/Aichele** motion.



Stephanie Jones
Administrative Assistant