

New Hampshire
State Board of Education
Minutes of the September 15, 2016 Meeting

AGENDA ITEM I. CALL TO ORDER

The regular meeting of the State Board of Education was convened at 9:05 a.m. at the State Department of Education, 101 Pleasant Street, Concord, NH. Tom Raffio presided as Chairman.

Members present: Tom Raffio, Cindy C. Chagnon, Bill Duncan and Gary Groleau. Helen G. Honorow, Gregory Odell and Emma Rous were unable to attend due to other commitments. Virginia M. Barry, Commissioner of Education and Paul K. Leather, Deputy Commissioner of Education were also present.

AGENDA ITEM II. PLEDGE OF ALLEGIANCE

Bill Duncan led the pledge of allegiance.

AGENDA ITEM III. PUBLIC COMMENT

Bonnie Dunham expressed her appreciation and thanks to the Board, Department and Special Education Bureau for the public comment component of the special education rules process. Bonnie provided the board with additional suggested changes to some sections of the special education rules for the discussion later in the meeting.

AGENDA ITEM IV. OPEN BOARD DISCUSSION

A. Update on Science Standards – Barbara Hopkins handed out an updated flyer on the public forums being held throughout the state and is working with school superintendents on scheduling another forum mid-October, it's location TBD, bringing the total to eight public forums. The first public forum held at Pinkerton Academy was well received with approximately 50 attendees, representing industry, higher education, teachers, and mostly parents. Barbara noted that when she looked at data from prior surveys it did not specify SAU and/or school; therefore, she has sent out a new survey to include this information so the reporting would be more accurate. She has had 70 respondents so far of mostly teachers as well as eighteen SAUs. All are reporting some progression of using of the next generation science standards. Barbara reported on some of the survey comments and will be sharing them with key stakeholders once the survey is completed so they can be addressed.

Chairman Raffio asked to be reminded what next steps need to be taken by the board after the last scheduled public forum on October 27, 2016.

Bill Duncan responded that the board should be prepared to make a motion/recommendation, after considering all the feedback.

Cindy Chagnon suggested if it had not already happened, to send special invitations to the state senators, the executive council and the two gubernatorial candidates, encouraging them to attend a forum in their region.

A video of some of the public forums will be shown at the October meeting.

B. Home Education Advisory Council Annual Report Follow-up Discussion – Chairman Raffio asked Deputy Commissioner Leather if the department had had a chance to review the report addendum that provided six recommendations/observations. Heather Gage, Director, Division of Educational Improvement, representing the department on the Home Education School Advisory Council, was present and addressed the board. Heather had not yet received the report and addendum. She will review and report back at the October board meeting.

Commissioner Barry clarified that the report addendum recommendations/observations reflect a paradigm shift from previous home school parents wanting a “hands off” approach from the department to one involving more involvement/collaboration.

Cindy Chagnon quantified that while some of the recommendations/observations on the addendum could be resolved through the department and the board, others would require the advisory to work with their legislators.

C. New Hampshire Coalition for Business and Education (NHCBE) - Chairman Raffio mentioned that the New Hampshire Coalition for Business and Education (NHCBE) board will be meeting later this month and that he recently spoke to over 250 Manchester middle school teachers about what employers are looking for in terms of skills (e.g., communication, writing, analytical) from potential candidates for employment.

D. New Hampshire Teacher of the Year - Cindy Chagnon was excited to mention tomorrow’s surprise announcement of the 2017 New Hampshire Teacher of the Year. The quality of teaching staff in New Hampshire is phenomenal and made it extremely hard to narrow down the selection from five finalists to one.

AGENDA ITEM V. SPECIAL PRESENTATIONS

A. Farmington - Teacher/Farmington School Board – SB-FY-14-08-004

Attorney James Allmendinger and his client, Demetria McKaig were present. Attorney Peter Phillips representing the Farmington School Board was present as well as Ruth Ellen Vaughn, Interim Superintendent of Schools for Farmington/SAU#61.

Chairman Raffio asked if a settlement was pursued in this case. Attorneys Allmendinger and Phillips both responded that there were past attempts to settle the case.

Chairman Raffio stated that the board would not address the timeliness issue as part of its decision and thanked both attorneys for being succinct in their presentations.

Attorney Allmendinger stated that, in his view, a decision denying back pay is an abdication of the board's responsibility to public school teachers.

MOTION: Bill Duncan made the following motion, seconded by Cindy Chagnon.

In its decision, the Supreme Court remanded to the state board of education “the issue of whether McKaig is entitled to additional remedies.” *Appeal of Farmington School District* No. 2015-0032 (N.H. Supreme Court, April 7, 2016) (slip opinion at 11). Regardless of whether or not this motion had been filed timely, the State Board does not believe that it has authority to order additional remedies. The State Board's authority is limited to that which has been granted by the legislature. *See In re Chase Home for Children (N.H. HHS) (N.H. HHS)*, 155 N.H. 528 (2007) (DHHS hearing panel's authority was limited by statute and did not include the power to order retroactive payments). There is no statutory authority for the State Board of Education to award monetary damages or economic relief as a remedy. The duties and responsibilities of the State Board are defined by statute: RSA 21-N:9, RSA 21-N:11, RSA 186:11 and RSA 186:5.

Additional authority is given to the state board in RSA 189-14-b, authorizing the state board to review a teacher's nonrenewal. Pursuant to this statute, the state board of education shall uphold a decision of a local school board to nonrenew a teacher's contract unless the local school board's decision is clearly erroneous.” Based on our reading of RSA 189-14-b, this law limits our decision to affirmation or reversal of the school board's decision. The legislature has not provided additional authority to the state board and therefore the board is unable to order additional remedies.

Therefore, Ms. McKaig's Motion for Rehearing and Reconsideration is denied.

VOTE: This was done by a roll call vote: Gary Groleau – Yes; Cindy Chagnon – Yes; Tom Raffio – Yes; Bill Duncan – Yes. The motion was adopted by a 4-0 vote, with the chairman voting.

E. Oz Land Early Learning Center/NHDOE – SB-FY-15-08-001 – Attorney Erin McIntyre, representing the New Hampshire Department of Education was present. There was no representative present for Oz Land Early Learning Center.

The Department of Education, through its attorney, requested that the board issue a final decision denying Oz Land Early Learning Center's appeal of a suspension and termination of its agreement with CACFP and finding that Ozland is ineligible to participate in the Child and Adult Care Food Program. The Department asked that this decision cover any and all appeals concerning Ozland's participation in the CACFP.

MOTION: Cindy Chagnon made the following motion, seconded by Bill Duncan, to request the documentation from New Hampshire Department of Health and Human Services involving this case be made available to the board and defers discussion and final decision to next month's meeting.

VOTE: The motion was adopted by unanimous vote of the Board with the Chairman voting.

B. Program Evaluation and Quality Assurance Review prepared for NHDOE Bureau of Special Education by Pignora Consulting, LLC – Santina Thibedeau, Administrator, Bureau of Special Education and State Director of Special Education, gave an in-depth presentation providing the board with some key pieces of information, such as:

- Background information on the selection process for contracting with an independent, nationally recognized organization in program evaluation and quality assurance in accordance to RSA186:C:5.
- The fiscal impact of the selection process.
- An overview of the significant changes and improvements the bureau made as a result of the 2012 program evaluation.
- Overview of OSEP's monitoring of special education.
- Overview of Pignora's data collection process and development of the report.
- The bureau's and stakeholders' feedback to the report and prioritization of the recommendations.
- Concluding with the implementation of the recommendations based on the bureau's analyzing current projects, staff resources, and fiscal resources.

Cindy Gagnon asked if the report would now go to the legislature. Santina responded that the report would go to the same individuals as the 2012 report and that the bureau would provide a progress report on the website.

Commissioner Barry stated that Santina and her department have been amazing in response to issues out in the field and that the report does not accurately reflect this work. She further clarified that we continue to close the gap in special education and an emphasis on inclusion and that the report could have been more helpful in guiding us to the next level. Commissioner Barry also stated that this sentiment regarding the report has been echoed by those out in the field, as well as by the New Hampshire School Administrators Association (NHSAA), the New Hampshire Association of Special Education Administrators (NHASEA), and the Parent Information Center (PIC).

Cindy Gagnon noted that she could see why the data would be somewhat skewed because there were so few respondents with two-thirds of the questions left unanswered.

C. Picture This: An Innovative Approach to Literacy Learning –Beth Olshansky, Director, Center for the Advancement of Art-Based Literacy, UNH, presented her work with inquiry-based and project-based units of study using Picturing Writing and Image-Making models to foster literacy and writing with children.

Chairman Raffio thanked Beth for her presentation. Commissioner Barry also thanked Beth for an outstanding presentation and suggested Beth visit some of the NG2 schools which focus on the types of teaching methodologies that are most impactful for children. Commissioner Barry also suggested Beth look at the Smarter Balanced data in terms of utilization of pictures and the integration of language in writing. The Commissioner thought it was important to recognize that there is a huge repertoire of teaching methodologies being taught throughout the state and is seeing a very strong emphasis on integration of language (i.e., pictorial, audio, etc.) using a much more multi-sensory integration process throughout the state, especially in early childhood learning and more and more in the middle school.

AGENDA ITEM VI. LEGISLATIVE ISSUES/RULES

A. Manifest Educational Hardship– presented by Attorney Diana Fenton.

MOTION: Cindy Chagnon made the motion, seconded by Bill Duncan, to approve the proposed Ed 320 Manifest Education Hardship rule as presented.

VOTE: The motion was adopted by unanimous vote of the Board with the Chairman voting.

B. Code of Ethics Proposed Enabling Legislative Language – presented by Attorney Diana Fenton and Representative Rick Ladd.

Bill Duncan expressed his appreciation to Representative Ladd and thanked him for the work he has done with department to arrive at consensus.

MOTION: Cindy Chagnon made the motion, seconded by Bill Duncan to endorse the proposed enabling statutory language for a Code of Ethics as presented.

VOTE: The motion was adopted by unanimous vote of the Board with the Chairman voting.

Representative Ladd let the board know that he will be taking the proposed language forward.

The board also wanted to acknowledge and thank Nicole Heimarck for her work on the stakeholder feedback.

C. Readopt with Amendment ED 1101 Final Proposal for the Special Education Rules – presented by Attorney Diana Fenton

Chairman Raffio asked Attorney Fenton to remind the board where the proposal was in the process and next steps.

Attorney Fenton stated that the final proposal is due the end of October and that the proposal was before the board today to allow additional feedback received since last month's meeting to be incorporated into the final proposal and still meet the October deadline.

Bonnie Dunham reviewed and explained her suggested changes provided to the board earlier in the meeting.

Attorney Fenton recognized and thanked Bridget Brown and Bonnie Dunham for the tremendous amount of work they contributed to the final proposal as well as to acknowledge and thank the many others that also contributed.

Attorney Fenton wanted to assure the public that all comments were heard and reviewed and to the best of our ability addressed, incorporated, and implemented into the final proposal.

Chairman Raffio asked that before the board authorizes the final proposal to go to the Office of Legislative Services (OLS) and on to the Joint Legislative Committee on Administrative Rules (JLCAR), that Bonnie Dunham's recommendations presented to the board today be considered for implementation into the final proposal.

D. Various Items and Related Bills

There were no items for discussion.

E. Discussion on Legislation and Process

There were no items for discussion.

AGENDA ITEM VII. COMMISSIONER'S REPORT AND NEW DEPARTMENT BUSINESS

Commissioner Virginia Barry reported on the following topics:

- The New Hampshire School Administrators Association (NHSAA) recently held their first meeting of the school year, which was very well attended. The collaborative relationship between the department and the NHSAA has tremendously improved communication with superintendents; assistant superintendents as well as other members of school leadership teams. We provided them with an update on the reorganization of the department to help them better understand how the department operates and provide clarity on how we can better collaborate. We also presented on our top priorities and goals for the up-coming school year. Commissioner Barry spoke about the following two items:
 1. Mathematics – It is clear, even with the vast amount of data collected, that we have not been able to move the needle on mathematics. Even though good work is being done across the state, we recognize more needs to be done. Over the last two years we've discovered that there is an enormous amount of change constantly happening with mathematics curriculum. Dr. Chip McGee, Bedford School Superintendent, has some great ideas and is working closely with Scott Mantie, Division of Program Support Director focusing on kindergarten through twelve grade in exploring ways to move the needle on mathematics.
 2. Granite State Leadership Academy – Thanks to funding from the department, NHSAA started the Granite State Leadership Academy in early September. This is a select group of approximately twenty-two currently working in the field that is comprised of a great cross-section of people from throughout the state. This program is a great professional development opportunity that will also greatly improve our school leadership pipeline.
 3. HB 1145 Statutory Study Committee on Expulsion/Suspension PK-3 - Keith Burke, Consultant with the Bureau of Instructional Support and Student Assessment, and working closely with the department's data

people to report on at the next committee meeting chaired by Representative Rick Ladd. The department's policies on PK-3 expulsion/suspension are clear; however, some members of the House wanted to be absolutely certain on this, which is why we are taking a look. We don't see or anticipate there being any problems.

Commissioner Barry mentioned working with SERESC on the possibility of them having a charter school for high school students using the P-Tech model. They are also working with the NH Charitable Foundation to possibly offer scholarships to students enrolled in the program. Cindy Chagnon inquired if there would be any charter school startup costs. Commissioner Barry stated that there would not be, but they still have the monies from their original charter school proposal.

Deputy Commissioner Paul Leather reported on the following topics:

- The STEM Task Force will soon be issuing another report requesting that the board adopt STEM standards above and beyond science and mathematics. In a communication back to the STEM Task Force, by the department, it was explained that this would be an extensive process and would require it to be tied to a statute that currently does not have a STEM standard requirement. In the communication, it was suggested that the STEM standards instead be used as a model for board consideration.
- Heather Gage, Director, Division of Educational Improvement is currently leading the team committees (*i.e., instructional improvement, English language learner engagement, teacher preparation, teacher professional development*) on the implementation plan for Every Student Succeeds Act (ESSA). The leadership team, which now includes newly hired Chris Motika, Administrator of Integrated Programs, recently met with other chief state school officers in Atlanta, GA to work on issues surrounding ESSA implementation. Commissioner Barry and Heather, along with other chief state officers, are working on a process to redouble efforts on engaging significant stakeholder groups, particularly advocacy groups. The implementation plan should be completed by January, followed by regional public forums. Commissioner Barry mentioned continuing to keep the legislators involved, and recently met with Representatives Mary Gile and Terri Wolfe and agreed to a presentation in late October to the legislators. Commissioner Barry also mentioned national controversy surrounding the submission dates for state implementation plans (*i.e., March 2017 and July 2017*) because of the regulations and requirements. A fall 2017 implementation could be problematic if the implementation plan is submitted in July.
- The Accountability Task Force has been meeting since spring and is expending and developing a new plan for accountability, and hope to present their recommendations to the board soon. The new plan will look

fairly similar to what we currently have in place. Under the new plan, PACE would continue and the task force is looking at piloting iReady, a next generation system for teaching and learning. Bill Duncan, who has been attending the meetings, noted the difference between reporting measures and using measures for accountability. There is a cost associated with data accessibility and reporting and will be difficult to produce with the small budget currently in place. Bill Duncan recommended that the board consider going to the legislature for support. Bill Duncan also noted that there is an opportunity to create a college and career ready diploma model that could be influential and competency based. The infrastructure from the PACE initiative could be used to also support/guide this new diploma model.

AGENDA ITEM VIII. OLD BUSINESS

There was no Old Business at this meeting.

AGENDA ITEM IX. CONSENT AGENDA

A. Minutes of August 15, 2016

MOTION: Cindy Chagnon made the motion, seconded by Gary Groleau, to approve the Minutes of August 15, 2016.

VOTE: The motion was adopted by unanimous vote of the Board with the Chairman voting.

B. Polaris Charter School Amendment Request to Change from a Single Director to one consisting of a Director of Business Operations and a Director of Student Services and Academics.

MOTION: Cindy Chagnon made the motion, seconded by Gary Groleau, pursuant to Ed 318.11, that the State Board of Education authorizes the *Polaris Charter School* to amend its charter to allow for a Director of Business Operations and a Director of Student Services and Academics, rather than a single school director.

VOTE: The motion was adopted by unanimous vote of the Board with the Chairman voting.

AGENDA ITEM X. TABLED ITEMSA. Oz Land Early Learning Center/NHDOE – SB-FY-15-08-001

MOTION: Cindy Chagnon, seconded by Bill Duncan to remove the Oz Land Early Learning Center/NHDOE from the table.

VOTE: The motion was adopted by unanimous vote of the Board with the Chairman voting.

B. Lempster – Fall Mountain Regional School District Tuition Agreement**AGENDA ITEM XI. NONPUBLIC SESSION**

The Board did not go into Nonpublic Session.

AGENDA ITEM XII. ADJOURNMENT

MOTION: Cindy Gagnon made the motion, seconded by Gary Groleau, to adjourn the meeting at 11:52 a.m.

VOTE: The motion was adopted by unanimous vote of the Board present, with the Chairman voting.



Secretary