Minutes of the Regular Meeting

**of the Massachusetts Board of Elementary and Secondary Education**

**February 23, 2010**

**8:40 a.m. – 1:15 p.m.**

**Department of Elementary and Secondary Education**

**75 Pleasant Street**

**Malden, MA**

Members of the Board of Elementary and Secondary Education Present:

**Maura Banta**, Chair, Melrose

**Harneen Chernow**, Vice Chair, Jamaica Plain

**Gerald Chertavian**, Cambridge

**Michael D'Ortenzio Jr.**, Chair, Student Advisory Council, Wellesley

**Thomas E. Fortmann**, Lexington

**Beverly Holmes**, Springfield

**Ruth Kaplan**, Brookline

**Dana Mohler-Faria**, Bridgewater

**Paul Reville**, Secretary of Education, Worcester

**Sandra L. Stotsky**, Brookline

**Mitchell D. Chester**, Commissioner of Elementary and Secondary Education, Secretary to the Board

Member of the Board of Elementary and Secondary Education Absent:

**Jeff Howard**, Reading

Chair Maura Banta called the meeting to order at 8:40 a.m.

**Comments from the Public**

* Lynn Superintendent Cathy Latham addressed the Board on the Lynn Preparatory Charter School.
* Lynn Deputy Superintendent Jaye Warry addressed the Board on the Lynn Preparatory Charter School.
* Senator Thomas McGee addressed the Board on Lynn Preparatory Charter School.
* Representative Steven Walsh addressed the Board on Lynn Preparatory Charter School.
* Representative Mark Falzone addressed the Board on Lynn Preparatory Charter School.

**Comments from the Commissioner**

Commissioner Chester said he has given a lot of thought to the new charter applicants. The commissioner said under the new statute the Board continues to be the authority to approve charters. The commissioner said it is important to maintain the integrity of the process and standards that have been established and ensure that decisions are grounded in the merits of each application. Commissioner Chester said while he continues to believe that the application for the Lynn Preparatory Charter School is strong, he is pulling his recommendation for this proposed charter because legal questions have been raised about whether it meets the provision in the law that prohibits conversion of a private school to a public charter school. He said before proceeding with this sort of application, the Department would develop standards to navigate between two key provisions in the statute: the prohibition on private school conversions and the new provision encouraging the award of charters to proven providers. Vice Chair Chernow thanked the Lynn delegation for presenting their views and commended the commissioner for his decision to pull the application.

**Comments from the Public**

* Worcester Mayor Joseph O'Brien addressed the Board on the Spirit of Knowledge Charter School.
* Worcester School Committee member Tracy Novick addressed the Board on the Spirit of Knowledge Charter School.
* Worcester School Committee member John Monfredo addressed the Board on the Spirit of Knowledge Charter School.
* Worcester Superintendent Melinda Boone addressed the Board on the Spirit of Knowledge Charter School.
* Worcester Public Schools chief financial officer Brian Allen addressed the Board on the Spirit of Knowledge Charter School.
* Worcester City Councilor Kate Toomey addressed the Board on the Spirit of Knowledge Charter School.

Board member Dana Mohler-Faria had to leave the meeting at 9:30 a.m.

**Comments from the Public**

* Kim Shanahan, a parent, addressed the Board on the Lowell Community Charter Public School.

Proposed Regulations on School and District Accountability and Assistance (Amendments to Regulations on Underperforming Schools and School Districts, 603 CMR 2.00)

Commissioner Chester said the proposed regulations before the Board today are intended to implement the new school and district accountability and assistance system, consistent with the statutory changes in the 2010 education reform law. Deputy Commissioner Karla Baehr distributed an updated version of the proposed regulations. She said these regulations integrate the triangle from the Department's accountability with the new law enacted in January 2010. Last month, the Board voted to solicit public comment on the first piece of the new accountability regulations related to the identification of Level 4 schools. This full set of regulations would replace the current Regulations on Underperforming Schools and School Districts, 603 CMR 2.00.

Board member Sandra Stotsky thanked the Department for incorporating most of her suggested changes. She said she appreciated the specific mention of research-based mathematics and English language arts programs, particularly for schools with a growing English language learner population.

Commissioner Chester said he believes these regulations will line up well with the policies of the U.S. Department of Education and the likely reauthorization of the ESEA in terms of how to classify schools.

Secretary Paul Reville suggested including a reference to health and human service supports for students, because part of the theory of action is that it takes more than instructional interventions to address some students’ academic deficiencies. The secretary said schools need to show some evidence of that in their planning and success in those areas before exiting Level 4 status. Deputy Commissioner Baehr asked whether citing the condition on students' social, emotional, and health needs along with effective leadership, instruction and an aligned curriculum would draw sufficient attention to that issue. Secretary Reville said yes. Dr. Stotsky said that while she appreciated that component as important to all children, she was concerned about diluting the conditions. Board member Ruth Kaplan suggested that family-school relationships should also be included in the exit criteria, which should be aligned with the conditions. Board member Gerald Chertavian said that to not include the social, emotional, and health needs of children would be myopic.

Board member Beverly Holmes asked how long a school could stay in Level 5. Deputy Commissioner Baehr said it appears from the law and regulations that a school could stay in Level 5 indefinitely. Deputy Commissioner Baehr said under Level 4, a district has three years to demonstrate the capacity to turn around a school. The commissioner can grant an extension. In Level 5, the commissioner has a range of options including closing the school, restarting, or continuing. Vice Chair Harneen Chernow said the role of the Board changes significantly under the law: in the past the Board reviewed and voted on school turnaround plans, but under the new regulations, the Board's role is to come up with the regulations and vote districts into Level 5, but everything else is left up to the commissioner, who reports to the Board.

Board member Thomas Fortmann said he understands the importance of social, emotional, and health needs of children, and noted that Ms. Kaplan made a case to add another element to the list. He suggested that since every member might have different priorities, this is something to leave up to the commissioner. Chair Banta said having spent six years on the accountability board, she did not think that mentioning four conditions would exclude any others.

Mr. Chertavian made a motion to add social, emotional and health needs to the list of exit criteria in the draft regulations.

**On a motion duly made and seconded, it was:**

MOVED: that "students' social, emotional, and health needs" be added to 603 CMR 2.05(10)(ii) as a new clause (d).

The motion was defeated 4-5. Mr. Chertavian, Secretary Reville, Chair Banta, and Vice Chair Chernow voted in favor of the motion.

Ms. Kaplan made a motion to delete language in the draft regulations that references only three areas (effective leadership, effective instruction, aligned taught curriculum) in progress that schools must demonstrate.

On a motion duly made and seconded, it was:

VOTED: that 603 CMR 2.05(10)(ii) be amended to read:

(ii) progress in implementing the conditions for school effectiveness described in 603 CMR 2.03(4)(b).

The vote was unanimous.

Dr. Fortmann made a motion to add back language on "including use of appropriate research-based mathematics and reading programs."

On a motion duly made and seconded, it was:

VOTED: that 603 CMR 2.05(10)(ii) and other appropriate sections be amended to add back language on "including use of appropriate research-based mathematics and reading programs."

The vote was unanimous.

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education, in accordance with G.L. c. 69, § 1B; c. 69, §§ 1J and 1K, as amended by Chapter 12 of the Acts of 2010; and c. 71, § 38G, hereby authorize the Commissioner to proceed in accordance with the Administrative Procedure Act, G.L. c.30A, § 3, to solicit public comment on the proposed Regulations on School and District Accountability and Assistance, 603 CMR 2.00, as presented by the Commissioner. The proposed regulations would replace the current Regulations on Underperforming Schools and School Districts, 603 CMR 2.00.**

The vote was unanimous.

Comments from the Commissioner

Commissioner Chester showed a video clip to preview the upcoming launch of the new WGBH series, "High School Quiz Show," which premieres on Monday, March 22, 2010 at 7:30 p.m. on Channel 2.

# Approval of the Minutes

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education approve the minutes of the January 25, 2010 special meeting and January 26, 2010 regular meeting as amended.**

The vote was 8-0-1. Ms. Kaplan abstained.

New Charter Applicants

Secretary Reville asked that the following statement be read into the record:

I would like to take this opportunity to inform the members of the Board that I intend to recuse myself from our deliberations and our vote on the proposed charter school for Worcester. This weekend while reviewing the materials on the Spirit of Knowledge Academy, I discovered that the founders were actively negotiating to lease space from the church in which I am an active and long-standing member. This and other ties to the Worcester community, cultivated during 35 years of residency, might possibly give rise to a perception of conflict on this matter. Consequently, even though I do not believe I have any legally defined conflicts of interest with respect to this proposal, my concern over the potential appearance of conflict moves me to abstain from today's action. In all other matters today and going forward, I intend to continue to fulfill my obligations as a member of this board, in compliance with both the letter and spirit of state law.

Commissioner Chester said the new charter applicant process began last summer. Fourteen prospectuses were submitted in August, and after an initial review, eight groups were invited to submit a final application. Seven of the eight applicant groups submitted a final application, and one subsequently withdrew, leaving six finalists. Commissioner Chester said every application had some positives and some negatives, and that one application deserved a very clear thumbs up – Spirit of Knowledge Charter School (SOKCS). The commissioner said two additional schools needed further discussion – Lynn Preparatory Charter School and Discovery Charter School. The commissioner said he withdrew his recommendation on Lynn Preparatory based on concerns around the legal prohibition of private schools becoming charter schools. The commissioner added that concerns about Lynn Preparatory were in the legal realm, and did not relate to the merits of the application. On the Discovery Charter School, the commissioner said in his view Discovery did not meet the criteria.

Chair Banta asked Board members who attended the public hearing in Worcester to report on that meeting. Board member Michael D'Ortenzio Jr. said his impression was that more community members spoke in opposition than in favor of the SOKCS application. Mr. D'Ortenzio Jr. said the founding board members made a strong showing. Dr. Fortmann said he counted six speakers in opposition versus 25 speakers in support of the SOKCS application. Dr. Fortmann said he heard from one 40-year resident of Worcester who said if the city had created Horace Mann schools, another charter school would not have been necessary.

Board member Gerald Chertavian, in response to comments made during the public comment period at the start of the meeting, asked about the ability of the proposed management team. Charter Schools Director Mary Street said that Julia Sigalovsky was the lead founder of the Advanced Mathematics and Science Academy (AMSA) Charter School, which is a very successful charter school. She said Ms. Sigalovsky has perseverance and gets the job done. Dr. Fortmann asked about outreach. Associate Commissioner Wulfson said the school is required to have a recruitment and retention plan under the new law. Ms. Street said the SOKCS has over 100 applications in hand, and has met with a lot of community leaders as part of its outreach.

Dr. Stotsky suggested the Department survey parents to find out why they want to send their children to charter schools. Commissioner Chester said the issue is resources and priorities, and the Department cannot commit to new data gathering at this point.

Board member Ruth Kaplan questioned whether the school could emphasize AP courses and still attract a high number of special education and ELL students. Ms. Street said the school says it will have high standards for all students.

Dr. Fortmann said AMSA has created a regional school of excellence and he is in favor of that. He encouraged the Department to be sure the school takes steps to recruit broadly and to bring all students up to high standards. Vice Chair Chernow said she was not sure the AMSA track record reflects experience serving a population that includes low-income, special education, and English language learner students. Board member Beverly Holmes asked whether the SOKA philosophy has been incorporated elsewhere and expressed concern about diversity and requiring family involvement. Ms. Street said the SOKA philosophy has not yet been implemented in other schools in Massachusetts. Associate Commissioner Wulfson said recruitment of a diverse student population is an important issue and as to family involvement, the Department has made clear that schools may encourage but may not require a family to be involved. Commissioner Chester said under the new law all charter schools must develop a recruitment and retention plan, with the idea that charter school student enrollment should reflect the diversity of the district or districts from which students are drawn.

Mr. D'Ortenzio Jr. said the school's application is strong as is the school calendar and progression of study through the grades. He asked about the recruitment and retention plan. The commissioner said this is new territory and will be further defined in the proposed regulations the Board will review in March. He said a number of charters in greater Boston have been motivated by the new law to be more affirmative in their outreach.

Ms. Kaplan said this is a very aspirational program and expressed concern about whether the school could achieve its goals and also serve special education and limited English proficient students.

**VOTED: that the Board of Elementary and Secondary Education, in accordance with General Laws chapter 71, section 89, and 603 CMR 1.00, and subject to the conditions set forth below, hereby grants a charter to the following school as recommended by the Commissioner:**

**Commonwealth Charter:**

***Spirit of Knowledge Charter School***

**Location: Worcester**

**Number of Students: 275**

**Grade Level: 7-12**

**Opening Year: 2010**

**The charter school shall be operated in accordance with the provisions of General Laws chapter 71, section 89; 603 CMR 1.00; and all other applicable state and federal laws and regulations and such conditions as the Commissioner may from time to time establish, all of which shall be deemed conditions of the charter.**

The vote was 6-2-1. Vice Chair Chernow and Ms. Kaplan voted in opposition. Secretary Reville abstained.

Lowell Community Charter School

Commissioner Chester presented his recommendation to grant a probationary renewal with conditions of the charter for Lowell Community Charter Public School. He distributed an amended motion. The commissioner said he and staff members have had discussions with the school district and the charter school. He said the recovery plan would have to give us confidence that the charter school is acting decisively to address underperformance and governance. The commissioner said the district has expressed interest in considering whether and how it might bring the core elements of the school into the district as a Horace Mann or Innovation School. Commissioner Chester said he has grave concerns about the school's governance and leadership and that he is not yet convinced that this school is on a pathway to success. The commissioner said the renewal with conditions is intended to define the parameters of getting there.

Secretary Reville commended the commissioner and said this is a complicated situation. The secretary asked if these goals are realistic. The commissioner said the changes are necessary as an alternative to non-renewal and the question is the capacity of the school to make the changes that are needed. Secretary Reville asked whether the Department favors any particular management company. Commissioner Chester said at no time did he say the contract had to be awarded to SABIS or any other particular company, but he encouraged the charter school to contact others who could speak to the strengths and weaknesses of various management companies. In terms of the grade span reduction, the commissioner said the bulk of the enrollment is in the earlier grades and by focusing on those grades, he hopes the school can be more successful in addressing the current deficiencies. Dr. Fortmann said he was surprised that the grade level reduction was down to grade 4. The commissioner said that is because in the Lowell Public Schools, grade 5 is the start of middle school.

Mr. D'Ortenzio Jr. said that March 1 seems too short a deadline, and that he wanted to make sure the school has time to develop a proposal. Ms. Street said the Department needs to know the school's student enrollment projections by March 19th. Mr. D'Ortenzio Jr. moved that the due date of the school's proposal be changed from March 1, 2010 to March 10, 2010. The motion was duly made and seconded, and it passed unanimously.

Vice Chair Chernow said this was a very tough decision to tell students who had planned on being at the charter school in grades 5-7 that they need to transfer. Dr. Fortmann agreed that this can be a disruptive process but that it is not unique to charters. Associate Commissioner Wulfson noted that the Department advised the parents a couple of months ago, in connection with the initial recommendation not to renew the charter, that they should explore their options for enrolling their children in school for the next school year.

**On an amended motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education, in accordance with General Laws chapter 71, section 89, and 603 CMR 1.00, hereby grant a probationary renewal with conditions of a public school charter to the following school for the five-year period from July 1, 2010 through June 30, 2015, as recommended by the Commissioner.**

**Lowell Community Charter Public School:**

**Location: Lowell**

**Number of students: 900 (610 as of September 2011)**

**Grade levels: Kindergarten through 8 (Kindergarten through 4 as of September 2011)**

**This probationary renewal is explicitly conditioned as follows. Failure to meet these conditions may result in revocation of the charter or imposition of additional conditions.**

1. **No later than March 10, 2010, the school shall submit a plan to reduce the school’s maximum enrollment to 610 students and grade span to Kindergarten-grade 4 from Kindergarten-grade 8 no later than September 2011. This plan will include a reduction of at least two designated middle school grades for the 2010-11 school year. No later than September 2011, the school’s maximum enrollment shall be 610 and it shall serve grades Kindergarten through 4.**
2. **No later than April 30, 2010, Lowell Community Charter Public School shall submit to the Charter School Office the following:**
   1. **a comprehensive self-evaluation that determines the strategies to be used to address academic underperformance and governance in the school, including, but not limited to:**
      * 1. **a possible contract with a management company with a proven track record;**
        2. **implementation of proven curricular and instructional programs;**
        3. **a comprehensive revamping of school leadership;**
        4. **the addition of members to the board of trustees with the skills and experience to implement systemic changes in leadership and programs.**

**The evaluation must include an action plan with a timetable for the implementation of corrective actions, must set deadlines for the completion of key tasks, and must set clear and specific implementation benchmarks to allow the Charter School Office to monitor implementation.**

1. **No later than June 30, 2010, Lowell Community Charter Public School shall have completed the process to receive approval from the Charter School Office for an Accountability Plan, including objectives and measures regarding academic success, organizational viability, and faithfulness to charter in alignment with the implementation benchmarks of the self-evaluation.**
2. **By December of 2011, Lowell Community Charter Public School shall demonstrate that it is an academic success by:**
   1. **meeting academic growth targets in English language arts and mathematics, as established by the Department of Elementary and Secondary Education, or**
   2. **achieving Adequate Yearly Progress in the aggregate and for all statistically significant subgroups in English language arts and mathematics in 2010 and 2011, and**
   3. **by meeting the goals and objectives established in the school’s Accountability Plan.**

**Lowell Community Charter Public School shall be operated in accordance with the provisions of General Laws chapter 71, section 89, and 603 CMR 1.00 and all other applicable state and federal laws and regulations and such additional conditions as the Commissioner may from time to time establish, all of which shall be deemed conditions of the charter.**

The vote was unanimous.

Mr. Chertavian had to leave the meeting at 1:00 p.m.

**Proposed Amendment for Advanced Math and Science Academy (AMSA) Charter School**

Commissioner Chester said through an oversight this amendment was not brought to the Board last month in conjunction with the school's renewal. Secretary Reville said he supports the amendment but reiterated his concerns about the demographics and the school’s outreach to underserved populations; he asked that staff keep an eye on these issues. Ms. Kaplan asked about attrition rates for this school. Mr. Wulfson said the Department has a new measure to look at stability rates, and that in FY08, this school's rate was 5 percent, which was about the same as the Marlborough Public Schools. Mr. D'Ortenzio Jr. said he agreed with Secretary Reville about recruitment and retention of students. Associate Commissioner Wulfson noted that Chapter 12 of the Acts of 2010 contains a provision regarding regional charter schools needing to recruit within their region, which would mean AMSA may have to expand its region or reduce the number of students from outside its region going there. Dr. Fortmann said he plans to visit the school.

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education, in accordance with General Laws chapter 71, section 89, and 603 CMR 1.00, hereby amend the charter granted to the following school as presented by the Commissioner:**

### *Advanced Math and Science Academy Charter School (enrollment increase from 828 to 966 students and grades served from 6-11 to 6-12)*

**Location: Marlborough**

**Maximum enrollment: 966**

**Grade levels: 6-12**

**Effective year: 2010**

The vote was 6-0-2. Ms. Kaplan and Dr. Stotsky abstained.

**Comments from the Commissioner**

Commissioner Chester presented Board members with a memorandum to update them on the process to set up a hearing on the Robert M. Hughes Charter School charter revocation. The commissioner said that he testified before the House Ways & Means Committee yesterday on the FY11 budget, and will send his testimony to Board members. He noted the information in the Board packet about charter school matters that he has approved on behalf of the Board. Dr. Stotsky mentioned her request, in the January Board minutes, for a public meeting in March at which a group of public high school math and English teachers and public college level math and ELA professors who teach freshman courses could present comments directly to the Board comparing the Common Core public comment draft (due in mid-March) to the current Massachusetts standards, and asked about the planning for it.

**Comments from the Secretary**

Secretary Reville noted that the Board of Higher Education recently approved the establishment of the University of Massachusetts Law School. The secretary said Governor Patrick has submitted his FY11 budget proposal, and the Administration discussed that proposal at yesterday's House Ways & Means hearing. The secretary said it will be challenging to maintain the commitment to K-12 funding.

**Next Meeting**

The next regular meeting of the Board of Elementary and Secondary Education is scheduled for Tuesday, March 23, 2010 at the Department of Elementary and Secondary Education in Malden.

**On a motion duly made and seconded, it was:**

**VOTED: that the Board of Elementary and Secondary Education adjourn the meeting at 1:15 p.m., subject to the call of the chair.**

The vote was unanimous.

Respectfully submitted,

Mitchell D. Chester

Commissioner of Elementary and Secondary Education

and Secretary to the Board