Minutes of the Regular Meeting
of the Massachusetts Board of Education

June 24, 2003
9:00 a.m. – 11:45 a.m.

Massachusetts Department of Education
350 Main Street, Malden, Massachusetts

Members of the Board of Education Present:

James A. Peyser, Chairman, Dorchester
Henry M. Thomas, III, Vice-Chairman, Springfield
Charles D. Baker, Swampscott
J. Richard Crowley, Andover
Jeff DeFlavio, Chair, Student Advisory Council, Belmont
Judith Gill, Chancellor, Board of Higher Education (by Patricia Plummer, designee)
William K. Irwin, Wilmington
Roberta Schaefer, Worcester
Abigail Thernstrom, Lexington

David P. Driscoll, Commissioner of Education, Secretary to the Board

Chairman Peyser called the meeting to order at 9:00 a.m.

Comments from the Chairman
Chairman James Peyser opened the meeting by congratulating student Board member Jeff DeFlavio, who has been re-elected by the State Student Advisory Council to serve as its Chair. Mr. DeFlavio will serve a second term as a Board of Education member through June of 2004.

Comments from the Commissioner
Commissioner Driscoll shared the results of the most recent National Assessment of Educational Progress (NAEP) reading report with the Board. Massachusetts is the only state in the nation that has demonstrated "significantly above average" results in reading, based on the 2002 administration of the NAEP in grades 4 and 8. Massachusetts fourth graders outscored their peers nationwide and eighth graders tied with several other states for first place on the 2002 NAEP reading exam. Commissioner

Driscoll said, "These results are a credit to the good work that is done every day in classrooms across the Commonwealth." The NAEP writing results will be released in July.

Approval of the Minutes

On a motion duly made and seconded, it was:

VOTED: that the Board of Education approve the minutes of the May 27, 2003 regular meeting as presented by the Commissioner.

The vote was unanimous.

1. School and District Accountability System: Proposed Performance and Improvement Standards for Two Additional Indicators (Attendance and Graduation Rates)

The Board discussed modifications to the School and District Accountability System for Cycle III, to meet the new federal mandates under the No Child Left Behind Act. Associate Commissioner Juliane Dow reviewed the proposed changes, which involve adding student attendance (at the elementary and middle school levels) and graduation rates (at the high school level) as performance indicators. Superintendents Paul Dakin of Revere and Joseph Bage of Brockton commented on these additional indicators. Both superintendents said the MCAS has helped to improve teaching and learning in their school districts.

The proposed standards would mean that for Cycle III (2003 and 2004), an elementary or middle school's average attendance rate will be used as a factor in determining whether the school has made adequate yearly progress (AYP), and the grade 12 competency determination attainment rate will be used as the interim measure of a high school's graduation rate for purposes of determining AYP.

On a motion duly made and seconded, it was:

VOTED: that the Board of Education, for purposes of the School and District Accountability System required by federal and state law, hereby approve, for use during Cycle III (2003 and 2004), the measures to be used and the Adequate Yearly Progress "cut points" to be established for the graduation and attendance rate performance indicators, as presented by the Commissioner.

The vote was unanimous.

2. Amendment to Regulations on Education Programs for English Learners (603 CMR 14.06 – Parental Right of Enforcement)

The Board discussed a regulation relating to the provision in Question 2 concerning a parental right of enforcement (Mass. General Laws chapter 71A, § 6, as amended). With limited exceptions, Question 2 requires public schools to provide English learners with sheltered English immersion instruction.

Section 6 of the law permits parents of English learners to sue school employees if they willfully and repeatedly fail to implement the law. The proposed regulation establishes an administrative process at the local and state levels for resolving these disputes in a manner less adversarial, costly and time-consuming than filing a court claim.

Commissioner Driscoll presented the regulation with recommended revisions, based on recent comments submitted by the Massachusetts Teachers Association. He noted that the revisions focused on providing notice to teachers.

On a motion duly made and seconded, it was:

VOTED: **that the Board of Education, in accordance with G.L. chapter 69, § 1B and chapter 71A, as most recently amended, and having solicited and reviewed public comment in accordance with the Administrative Procedure Act, G.L. chapter 30A, § 3, hereby adopt 603 CMR 14.06, as presented and amended by the Commissioner. The new regulation implements the provision in G.L. chapter 71A, § 6 (as amended by Question 2) concerning parents' right to enforce the law.**

The vote was unanimous.

3. Amendment to Regulations on Competency Determination (603 CMR 30.03)

The Board discussed an amendment to the Competency Determination Regulations. The amendment makes clear that the competency determination applies beyond the class of 2003 and that the Board may add additional subjects in future years. Board member Jeff DeFlavio made a statement in opposition to the competency determination, to which other Board members responded.

On a motion duly made and seconded, it was:

VOTED: **that the Board of Education, in accordance with G.L. c. 69, §§ 1B and 1D, and having solicited and reviewed public comment in accordance with the Administrative Procedure Act, G.L. c.30A, § 3, hereby approve the amendment to the Regulation on the Standards for the Competency Determination, 603 CMR 30.03, as presented by the Commissioner.**

The motion passed 8:1. Mr. DeFlavio opposed the motion.

4. Response from Holyoke Public Schools to EMAC Report

The Board heard a presentation from Holyoke Mayor Michael Sullivan and School Superintendent Eduardo Carballo on their response to the Tier II report on the Holyoke Public Schools prepared by the Office of Educational Quality and Accountability (EQA) and transmitted to the Board by the Educational Management Audit Council (EMAC).

Chairman Peyser thanked Mayor Sullivan and Superintendent Carballo for their presentation, noting that the factual information they presented will be helpful to both the Commissioner and Board in their deliberations. After the Commissioner has reviewed the information presented by the Holyoke officials, he will make a recommendation to the Board about next steps, in accordance with the Board's Regulations on Underperforming Schools and School Districts.

5. Amendments to Charter School Regulations (603 CMR 1.00)

The Board discussed amendments to the Charter School Regulations, 603 CMR 1.00. The amendments clarify the process for granting, amending, renewing and revoking charters.

On a motion duly made and seconded, it was:

VOTED: **that the Board of Education, in accordance with G.L. chapter 69, §1B, and chapter 71, § 89, and having solicited and reviewed public comment in accordance with the Administrative Procedure Act, G.L. chapter 30A, § 3, hereby adopt the amendments to the Charter School Regulations, 603 CMR 1.00, as presented by the Commissioner.**

The vote was unanimous.

6. Commissioner's Salary

The Board discussed a motion made by Board member Bill Irwin regarding a salary increase for the Commissioner. In annual performance reviews in January 2002 and January 2003, the Board rated the Commissioner's performance as outstanding. In January 2003, the Board's performance review committee supported a salary increase for the Commissioner based on his performance and the fact that he has not had a raise in two years, but deferred action till June. The Board's vote grants the Commissioner the same percentage increase as was provided to Department of Education administrators in FY 03 under the state management compensation system (2.8%) plus 2.0% based on the outstanding performance evaluation. Chairman Peyser said that he enthusiastically endorses the outstanding performance evaluation of the Commissioner, but because of budgetary conditions, he reluctantly must oppose the motion.

On a motion duly made and seconded, it was:

VOTED: **that the salary of the Commissioner of Education be adjusted to reflect the same percentage increase as was provided to Department of Education administrators in FY 2003 under the state management compensation system (2.8%) and a 2.0% increase based on the outstanding evaluation of the Commissioner by the Board in January 2003. Hereafter, the Board shall conduct the evaluation of the Commissioner at its regular meeting in May of each year.**

The motion passed 7:1. Mr. Peyser opposed the motion.

7. Approval of Grants and Other Matters

The Board discussed a $6,900 amendment to a previously approved federal grant under the family literacy program.

On a motion duly made and seconded, it was:

VOTED: that the Board of Education approve the grants as presented by the Commissioner.

The vote was unanimous.

The Board also discussed the requests from 22 small towns that will tuition their students to public schools in other towns rather than operating their own schools.

On a motion duly made and seconded, it was:

VOTED: that the following public school districts, in accordance with provisions of Chapter 71, sections 1, 4, and 6, be permitted not to maintain certain public schools for the school year 2003-2004 and to tuition their students to other school districts for said year.

SCHOOL DISTRICT	GRADES
Acushnet	9-12
Berkley	9-12
Clarksburg	9-12
Devens	K-12
Erving	7-12
Farmington River Regional (Otis/Sandisfield)	7-12
Florida	9-12
Gosnold	K-12
Granville	9-12
Hancock	K-12
Lanesboro	9-12
Monroe	K-12
Mount Washington	K-12
Nahant	7-12
New Ashford	K-12
Pembroke	7-12
Richmond	9-12
Rowe	7-12
Savoy	6-12
Shirley	9-12
Truro	7-12
Tyringham	K-12

The vote was unanimous.

The Board also discussed an annual motion to authorize the Commissioner, in consultation with the Chairman and members of the Board, to approve grants and any other matters that require action between June 24th and the August Board meeting. The Commissioner will report to the Board on any such approvals.

On a motion duly made and seconded, it was:

VOTED: that the Board of Education authorize the Commissioner, in consultation with the Chairman, to act on behalf of the Board in approving grants between June 24, 2003 and the next regularly scheduled Board meeting on August 26, 2003; provided that the Commissioner shall report to the Board at the August 26, 2003 meeting on any grants that have been so approved.

The vote was unanimous.

8. Schedule for Regular Board Meetings through June 2004

The Board reviewed the proposed schedule for regular Board meetings from August 2003 through June 2004. All meetings are on the fourth Tuesday of the month, except for December. After further review, the final schedule will be posted on the Department's website on July 1.

On a motion duly made and seconded, it was:

VOTED: that the meeting adjourn at 11:45 a.m., subject to the call of the Chairman.

Respectfully submitted,

David P. Driscoll
Commissioner of Education
and Secretary of the Board