

**Minutes of the Regular Meeting
of the Massachusetts Board of Education**

**May 25, 2004
9:20 a.m. – 12:00 noon**

**Belmont High School
221 Concord Avenue, Belmont, Massachusetts**

Members of the Board of Education Present:

James A. Peyser, Chairman, Milton
Henry M. Thomas, III, Vice-Chairman, Springfield
Harneen Chernow, Jamaica Plain
J. Richard Crowley, Andover
Jeff DeFlavio, Chair, Student Advisory Council, Belmont
Judith Gill, Chancellor, Board of Higher Education
Roberta Schaefer, Worcester
Abigail Thernstrom, Lexington

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

Chairman James A. Peyser called the meeting to order at 9:20 a.m.

Comments from the Chairman

Chairman Peyser opened the meeting by introducing Belmont School Superintendent Peter Holland and Belmont School Committee Chair Scott Stratford, who welcomed the Board to Belmont High School. Chairman Peyser read a citation for Belmont High School senior Jeff DeFlavio, who is concluding two years of service as the chair of the state Student Advisory Council and as a member of the Board of Education.

Chairman Peyser also announced that he has appointed a committee to conduct the annual performance evaluation of the Commissioner. Board Vice Chairman Henry Thomas, III, and Board member Rick Crowley will serve with the Chairman on this committee. The Board will vote on the Commissioner's performance evaluation at the June meeting.

Comments from the Commissioner

Commissioner David Driscoll updated the Board on the FY 05 budget process. The Senate Ways & Means Committee has released its proposed budget for FY 05, and debate in the Senate began on May 19th. After the Senate adopts its budget proposal, the House-Senate conference committee will convene to reconcile the differences between the House and Senate versions of the budget. The Commissioner highlighted two areas of particular interest in the budget proposals: (1) a proposed moratorium on charter schools, which would include some charter schools approved by the Board that have not yet opened; and (2) the proposed creation of a new department of early education and care to oversee early childhood functions currently housed at the Department of Education, the Office for Child Care Services, and the Department of Public Health. The Commissioner noted also that legislation has been filed to revise the School Building Assistance law.

The Commissioner reported on the status of the Holyoke and Winchendon Public Schools, which the Board voted to declare as under-performing districts. The Office of Educational Quality and Accountability (EQA) has conducted fact-finding visits in each district. Board members received copies of the Tier III reports at the meeting. The Commissioner said the Department is continuing to work with leaders in both school districts as they prepare their turnaround plans for presentation to the Board.

Approval of the Minutes

On a motion duly made and seconded, it was:

VOTED: that the Board of Education approve the minutes of the April 27, 2004 regular meeting as presented by the Commissioner.

The vote was unanimous.

1. School Performance Overview and Update

The Board heard a presentation from Associate Commissioner Julianne Dow on the school performance review process, which is defined both by the Massachusetts education reform law and the federal No Child Left Behind Act. Commissioner Driscoll noted that school accountability issues will be a large part of the Board's work during the next year. Associate Commissioner Dow responded to questions from Board members about school choice under the No Child Left Behind Act and how Massachusetts school performance standards relate to those in other states. She explained that when a school is identified for improvement, the school takes the lead; when it is identified for corrective action, the district takes the lead; and the state gets involved when a school is identified for restructuring. She added that all 16 schools in which the Department has been conducting panel reviews this year are in corrective action status, indicating that we have aligned our state accountability system with the federal standards. Chairman Peyser thanked the Commissioner, Associate Commissioner Dow, and the Department for the work that has been done to implement a unified system of school accountability in the Commonwealth. The Chairman also thanked Deputy Commissioner Mark McQuillan, who is leaving the Department, for all of his work on implementing the No Child Left Behind Act.

2. Proposed Amendments to Regulations on Under-Performing Schools and Districts

The Board discussed proposed amendments to the Regulations on Under-Performing Schools and Districts, with respect to the process for reviewing district performance. The proposed amendments: (1) clarify the respective roles of the Office of Educational Quality and Accountability and the Commissioner/Board of Education; (2) incorporate recommendations of the Governor's Task Force on State Intervention in Under-Performing Districts; and (3) make some editorial changes.

Chairman Peyser reviewed the current district accountability process, and explained how the proposed amendments would streamline the process of district performance review. Commissioner Driscoll noted that the amendments address the need to act expeditiously to address problems in under-performing districts.

On a motion duly made and seconded, it was:

VOTED: that the Board of Education, in accordance with G.L. c. 69, s. 1B, 1J, and 1K, hereby authorize the Commissioner to solicit public comment under the Administrative Procedure Act, G.L. c. 30A, s. 3, on the proposed amendments to the Regulations on Under-Performing Schools and School Districts, 603 CMR 2.00.

The vote was unanimous. After the public comment period, the Commissioner will bring the amendments back to the Board for final action either at the summer meeting or in September.

3. School Building Assistance

The Board discussed amendments to the School Construction Regulations. The Board initially reviewed the amendments at the February 2004 Board meeting and sent them out for public comment. The amendments to the regulations address: a 7.3% annual cost factor adjustment; final audit requirements; procedures governing the sale or lease of school buildings that have received a state grant; recent changes to the DCAM requirement on contractor and designer evaluation; and clarifications and other minor wording changes. Board member Richard Crowley asked about the 7.3% cost factor adjustment in relation to the total of \$9 billion worth of projects under the School Building Assistance Act. Chairman Peyser said he shares this concern, but the Board has to adjust the cost factors in accordance with the law. Associate Commissioner Jeff Wulfson added that public construction reform is the likeliest route to cost containment.

The Board discussed and agreed unanimously to a wording change in section 38.16(5)(a), adding "and/or" between the words "non-profit" and "public."

On a motion duly made and seconded, it was:

VOTED: that the Board of Education, under the authority of G.L. c. 69, s. 1B, and G.L. c. 71B, s. 5A, and having solicited public comment in accordance with G.L. c. 30A, the Administrative Procedure Act, hereby adopt the amendments to the school

construction regulations, 603 CMR 38.00, as presented by the Commissioner and amended.

The vote was unanimous.

The Board also discussed adjusted grant amounts based on the final close-out audits for 41 school construction projects. Based on the audits, the Department has adjusted the School Building Assistance grants that were originally awarded to these communities. The audit adjustments represent a total decrease for all the projects of over \$9 million.

On a motion duly made and seconded, it was:

VOTED: that the Board of Education, in accordance with 603 CMR 38.12 and on recommendation of the Commissioner, hereby approve the final approved costs and state construction grants as listed in Attachment 4.

The vote was unanimous.

Associate Commissioner Jeff Wulfson reported to the Board on the updated School Building Assistance priority list that adds five more projects to the existing list. Under state law, a community that secured local funding authorization for a capital or major reconstruction project by June 30, 2003, shall be placed on the priority list for reimbursement at the rate for which it would have been eligible on January 31, 2003. These five projects have now met all application requirements and have been added to the end of the priority list.

4. Charter School Renewals and Amendments

The Board discussed an amendment to the charter of the Pioneer Valley Performing Arts Charter School. The amendment changes the location of the school from Hadley to South Hadley. The school intends to locate the middle school in South Hadley from Hadley for the 2004-05 school year and relocate the rest of the school to South Hadley during the following school year. Under the Charter School Regulations, the Board of Education must approve this type of change in the material terms of a school's charter.

On a motion duly made and seconded, it was:

VOTED: that the Board of Education, in accordance with General Laws chapter 71, section 89 and 603 CMR 1.00, hereby amend the charter granted to Pioneer Valley Performing Arts Charter School (change of location) as presented by the Commissioner. Approval of this amendment is expressly conditioned upon compliance by the school with all state and federal laws regarding accessibility, occupancy and use, health and safety, and public construction. The school must provide evidence of compliance with state and federal laws regarding these issues to the Department prior to opening to serve students at its new location. Failure to meet these conditions may result in the imposition of sanctions, including but not limited to placing the charter school on probation and/or revocation of the school's charter.

The vote was unanimous.

The Board discussed the renewal of the charter for the Community Day Charter School in Lawrence. Joan Silverman and Bruce Bean made a presentation to the Board about the school's accomplishments, focusing on the school's use of data to assist teachers in improving classroom instruction. Chairman Peyser commented that Community Day is the first charter school in Massachusetts to have its charter renewed for a second five-year term. He commended the K-8 school on its extraordinary track record in preparing its students, most of whom are from low-income families, for academic success in high school and beyond.

On a motion duly made and seconded, it was:

VOTED: that the Board of Education, in accordance with General Laws chapter 71, section 89, and 603 CMR 1.00, hereby grant a renewal of a public school charter to the following school for the five-year period from July 1, 2005 through June 30, 2010, as recommended by the Commissioner:

Commonwealth Charter School:

Community Day Charter School

Location: Lawrence

Number of students: 306

Grade levels: K-8

Said charter 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 conditions as the Commissioner may from time to time establish, all of which shall be deemed conditions of the charter.

The vote was unanimous.

5. Approval of Grants

The Board discussed \$158,345 in federal grants for community service learning (school-based programs), and amendments to grants under the federal program for 21st Century Community Learning Centers.

On a motion duly made and seconded, it was:

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

The motion passed 7:0. Vice-Chairman Henry Thomas, III abstained.

On a motion duly made and seconded, it was:

VOTED: that the meeting adjourn at 12:00 noon, subject to the call of the Chairman.

Respectfully submitted,

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