

**Minutes of the Regular Meeting
of the Massachusetts Board of Elementary and Secondary Education**

**Tuesday, November 25, 2014
8:35 a.m. – 12:55 p.m.**

**Department of Elementary and Secondary Education
75 Pleasant Street, Malden, MA**

Members of the Board of Elementary and Secondary Education Present:

Margaret McKenna, Chair, Boston

David Roach, Vice-Chair, Millbury

Vanessa Calderón-Rosado, Milton

Harneen Chernow, Jamaica Plain

Katherine Craven, Brookline

Karen Daniels, Milton

Matthew Malone, Secretary of Education

James Morton, Springfield

Pendred Noyce, Boston

Mary Ann Stewart, Lexington

Donald Willyard, Chair, Student Advisory Council, Revere

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

Chair McKenna called the meeting to order at 8:35 a.m.

Comments from the Chair

Chair McKenna welcomed members of the Board and the public. She recapped the Monday evening special meeting on special education and educator licensure. She said the special education data report tells an important story on low income and minority students and on the lack of inclusion. Chair McKenna said she appreciated the Commissioner initiating the data review, the Board learned a great deal from the presentation, and the Board looks forward to getting an update in the spring. On educator licensure, Chair McKenna said the Commissioner has taken the licensure proposals linked to educator evaluation off the table. She said the conversation on educator preparation and licensure will continue.

Comments from the Commissioner

Commissioner Chester said the Department hosted several recent events to support districts, such as the curriculum and instruction summit and PARCC implementation conference. He updated the Board about the ongoing Level 4 school discussions with the Springfield and Boston Public Schools. Commissioner Chester cited a Child Trend report that shows Hispanic students making gains, particularly in mathematics, noting that the gains in Massachusetts outpaced the national average. The commissioner said the National Assessment Governing Board, on which he serves, plans to release a report benchmarking state progress as it relates to NAEP; Massachusetts stands out, but is no longer the only state at the top of the rankings.

Comments from the Secretary

Secretary Malone updated the Board on the work going on to ensure a smooth transition to the new Administration. He said he is interested in finding the right balance on summative assessments and district-determined measures. Secretary Malone said he has been focused on alternative education, student pathways, and alignment between early education and K-12. He noted that the school safety and security taskforce did a site visit in Clinton, and technical assistance grants will be released soon. Secretary Malone said he has visited 300 school systems.

Comments from the Public

1. Amy Howland, teacher, Academy of the Pacific Rim, addressed the Board on educator preparation, licensure, and evaluation.
2. Rick Glassman, of the Disability Law Center, addressed the Board on restraint and seclusion regulations.
3. Michael Mullen, Jr., Director of Government Affairs and Communications at the Massachusetts Association of 766 Approved Private Schools (maps), addressed the Board on restraint and seclusion regulations.
4. Barbara Madeloni, President of the Massachusetts Teachers Association, addressed the Board on the proposed charter school waiver.
5. Kathleen Smith, Superintendent of the Brockton Public Schools, addressed the Board on the proposed charter school waiver.
6. Robert Sullivan, Brockton City Council President, addressed the Board on the proposed charter school waiver.
7. Sarah Catanagni, legal counsel for the Brockton School Committee, addressed the Board on the proposed charter school waiver.
8. Representative Michael Brady addressed the Board on the proposed charter school waiver.
9. Judy Klimkiewicz, of the Massachusetts Association of Vocational Administrators, addressed the Board on the proposed vocational technical regulations.
10. Representative Claire Cronin addressed the Board on the proposed charter school waiver.

Approval of Minutes

On a motion duly made and seconded, it was:

VOTED: that the Board of Elementary and Secondary Education approve the minutes of the October 20, 2014 Special Meeting and October 21, 2014 Regular Meeting.

The vote was 10-1-0. James Morton abstained.

Waiver Request from Brockton Charter Applicant Group

Commissioner Chester said he is recommending the Board grant the waiver, as outlined in his memo. He said the statutory, regulatory, and policy timelines all converged to create an unintended situation. Commissioner Chester said he does not recommend reversing the Board's prior decision to determine the lowest ten percent using growth and achievement, but rather grant a limited and targeted waiver of the requirements for this cycle, as a matter of basic fairness. He

outlined additional information for Board members, including: the regulations allow for a waiver for good cause and exceptional circumstances; granting the waiver would not constitute approval of the charter group's application, but simply allow it to go forward; Brockton is not over the charter school spending cap; and granting the waiver would not create a precedent. The commissioner said he has great respect for the outstanding work in the Brockton Public Schools.

In response to Ms. Noyce's question, Deputy Commissioner Wulfson said the calculation of the lowest ten percent pertains only to the charter school law. Mr. Willyard said the intent of the charter school law is prioritization; to establish charter schools, not prevent them. He expressed support for the waiver, to allow the application to be considered on its merits. Ms. Stewart said the Board has heard public testimony that is overwhelmingly opposed to the waiver. Ms. Chernow said the Board went through a long and transparent process of amending the charter school regulations months ago, which included reviewing simulations of district rankings based upon the formula. She said Brockton did the work to improve student outcomes and moved out of the bottom ten percent. Ms. Noyce said she favors choice for parents, but the current statute is an error of legislation, and it is not the role of the Board to correct it.

Chair McKenna said she will support the waiver. She said the Department knew the impact of the regulation changes, except for the "not less than two" provision, and encouraged applicants to move through the process. Chair McKenna said the Department did not make a determination of the lowest ten percent until October, and the circumstances have not occurred before. Vice-Chair Roach said he would prefer to vote against the waiver, and Brockton made compelling arguments, while the proponents made disingenuous arguments. He said he is, however, basing his decision on fairness, due to the sequence and confluence of events, and he is willing to grant a one-time only exception with the waiver approval.

Mr. Wulfson and Deputy General Counsel Kristin Valcourt explained the proposed motion further. The motion was made and seconded.

On a motion duly made and seconded, it was:

MOVED: that the Board of Elementary and Secondary Education, in accordance with 603 CMR 1.03(2), hereby waive the amendments to 603 CMR 1.04(9) as adopted by the Board on March 25, 2014; and the Board further directs the Commissioner to publish a ranking of districts based on the criteria in said regulation prior to the adoption of said amendments; provided that this waiver shall apply only to applications for Commonwealth charter schools submitted during the 2014-15 application cycle.

Chair McKenna said it was not her understanding that the Department would publish a new ranking. Mr. Wulfson said the motion follows the language of the statute. Commissioner Chester asked if the motion could be amended. Ms. Valcourt said the motion could be amended to not include the publishing of the rankings. Associate Commissioner Cliff Chuang reviewed the current list on the Department's website.

Secretary Malone said he is proud of the progress in Brockton and was prepared to support the waiver, but is now unclear on the motion. He said he supported the Board's decision to add growth to the calculation of the lowest ten percent. He suggested the motion be tabled. At Chair McKenna's direction, the Board took a ten-minute break.

Ms. Noyce moved to amend the motion to include revised language, removing the requirement to publish the calculation.

On a motion duly made and seconded, it was:

VOTED: that the Board of Elementary and Secondary Education amend the motion so that it reads as follows: “that the Board of Elementary and Secondary Education, in accordance with 603 CMR 1.03(2), hereby waive the amendments to 603 CMR 1.04(9) as adopted by the Board on March 25, 2014; and the Board further directs the Commissioner to ~~publish~~ determine a ranking of districts based on the criteria in said regulation prior to the adoption of said amendments solely for the purpose of determining whether the New Heights Charter School of Brockton application submitted in the 2014-15 application cycle may proceed.”; ~~provided that this waiver shall apply only to applications for Commonwealth charter schools submitted during the 2014-15 application cycle.~~

The motion passed 9-2-0. Harneen Chernow and Mary Ann Stewart voted in opposition.

Secretary Malone proposed a motion to table the vote until December.

On a motion duly made and seconded, it was:

MOVED: that the Board of Elementary and Secondary Education table this matter until the December meeting.

The motion failed 2-8-1. Secretary Malone and Katherine Craven voted in support. Harneen Chernow abstained.

On a motion duly made and seconded, it was:

VOTED: that the Board of Elementary and Secondary Education, in accordance with 603 CMR 1.03(2), hereby waive the amendments to 603 CMR 1.04(9) as adopted by the Board on March 25, 2014; and the Board further directs the Commissioner to determine a ranking of districts based on the criteria in said regulation prior to the adoption of said amendments solely for the purpose of determining whether the New Heights Charter School of Brockton application submitted during the 2014-15 application cycle may proceed.

The motion passed 8-3. Pendred Noyce, Harneen Chernow, and Mary Ann Stewart voted in opposition.

Lawrence Public Schools: Progress Report on Second Full Year of Receivership

Commissioner Chester introduced Superintendent Jeff Riley and Deputy Superintendent Seth Racine. Commissioner Chester acknowledged Lawrence Teacher Union President Frank McLaughlin in the audience. Mr. Riley said Lawrence is entering the third year of the turnaround effort and outlined the key initiatives, including: fostering high-performing autonomous schools; reducing central office and shifting resources to schools; bringing in partners to operate and support schools; expanding the school day in grades 1-8; adding vacation- and summer-learning opportunities; increasing enrichment opportunities; negotiating a new teachers contract; creating new teacher leadership opportunities; and offering universal free lunch for all students. Mr. Riley said the schools are overseen using a model of open architecture, tailoring each school's program to the needs of its students. He said the district's English language arts student growth percentile increased by 9 points since 2012, and mathematics increased by 17 points. He said the school population is growing and school facilities will need to expand to accommodate the growth.

Commissioner Chester said he is very encouraged by the work in Lawrence. He said the district is being watched nationally, including being a model for the Springfield Empowerment Zone. In response to Ms. Noyce's question, Mr. Riley said teacher retention has not changed much. Ms. Stewart inquired about parent engagement. Mr. Riley said the schools are more open and attuned to the diverse needs of parents. He said he found that parents want to be involved, which was not the previous notion within the district. Mr. Roach said he was encouraged by his visit to the district in October. He inquired about the teacher career ladder and opportunities for mid-career teachers. Mr. Racine said there are leadership opportunities for teachers and a career ladder to advanced and master levels. He said in the first cohort, 540 teachers were eligible, 63 applied, and 23 were awarded. Mr. Riley said the educators in Lawrence at the top rung are receiving higher compensation than under the previous step-and-lane system, and the district is exploring other options for legacy teachers.

Chair McKenna thanked Mr. Riley and Mr. Racine. She suggested scheduling a further discussion on the teacher career ladder and turnaround exit strategies at a future Board meeting.

Secretary Malone left the meeting at 11:30 a.m. Undersecretary James DiTullio represented the Secretary for the duration of the meeting.

Progress Report: *Integration of College and Career Readiness Recommendations*

Gerald Chertavian, former member of the Board of Elementary and Secondary Education and chair of the Task Force for the Integration of College and Career Readiness (ICCR); Neil Sullivan, Executive Director of the Boston Private Industry Council; and Dana Brown, Principal of Malden High School, addressed the Board. Mr. Chertavian said the majority of students, and the vast majority of low-income students, have to work while pursuing postsecondary education; only 8 percent of people in the U.S. earn four-year college degrees between the ages of 18-22. He said the statewide definition of college and career readiness was adopted by the Boards of Elementary and Secondary Education and Higher Education in 2013 based on the career readiness definition established through the work of the ICCR Task Force. Mr. Chertavian reviewed the six high-level recommendations of the ICCR Report. Mr. Sullivan presented on the connecting activities program, which received level funding in fiscal year 2015; he said it will be challenging to move the needle on employer sponsoring and exploration activities without adequate funding and a comprehensive, strategic employer outreach strategy. Mr. Brown gave

the Board an overview of career development and exploration activities. Chair McKenna expressed support for the work and suggested a further discussion and update in the spring.

Proposed Amendments to Vocational Technical Education Regulations, 603 CMR 4.00

Commissioner Chester said the proposed regulations address several areas, including Chapter 74 program approval, admissions, non-resident tuition, and exploratory programs. He said the proposed regulations will be out for comment through January, and he plans to bring them back to the Board in February for a final vote. Mr. Wulfson said the Department has met with the field several times to discuss changes to the regulations.

On a motion duly made and seconded, it was:

VOTED: that the Board of Elementary and Secondary Education, in accordance with G.L. chapter 69, §§ 1B and 1F and chapter 74, § 2, hereby authorize the Commissioner to proceed in accordance with the Administrative Procedure Act, G.L. chapter 30A, § 3, to solicit public comment on the proposed amendments to the Vocational Technical Education Regulations, 603 CMR 4.00, as presented by the Commissioner.

The vote was unanimous.

Ms. Calderón-Rosado left the meeting at 12:05 p.m.

Update on Proposed Amendments to Regulations on Restraint and Seclusion, 603 CMR 18 and 603 CMR 46

Commissioner Chester updated the Board on the regulatory process and major issues that have been raised during the public comment period. He reviewed data on the reported restraints by school type, duration of reported restraints, and age of the student. The commissioner noted that schools are currently required to file individual written reports with the Department whenever a physical restraint of a student lasts longer than 20 minutes, and when a restraint of any duration results in serious injury to staff or students. James DiTullio said the Board is moving parallel with the Board of Early Education and Care in amending the regulations, and both boards are scheduled to adopt final regulations in December.

Educator Evaluation: Report on FY2014 Data

Commissioner Chester provided an update on educator evaluation throughout Massachusetts. He said the framework for evaluation is intended to ensure that each student in the Commonwealth is taught by an effective educator, in schools and districts led by effective leaders. Commissioner Chester reviewed the FY2014 educator evaluation data, covering 71,700 educators from 372 districts; statewide, 86.5 percent of educators evaluated last year were rated Proficient, 8.1 percent received an Exemplary rating, 4.8 percent received a rating of Needs Improvement, and 0.5 percent were rated as Unsatisfactory.

In response to Ms. Noyce's question, Rob Curtin, Director of Data Services, said the Department can track data on Needs Improvement ratings from one year to the next. Ms. Chernow suggested reviewing the data from Level 4 and Level 5 schools. Mr. Curtin noted that individual school

results are posted on the Department's website. Chair McKenna suggested there should be incentives to encourage highly rated educators to work in the most challenged schools. Ms. Stewart said she would like to learn more about family engagement as a factor in educator evaluation.

Update on Level 5 Schools

Commissioner Chester said he recently visited all four Level 5 schools, and Mary Ann Stewart joined the visit to the Dever School. The district superintendent joined each visit. Mr. Johnston said the Department is convening the receivers and Superintendent Durkin monthly to coordinate efforts and learn from each other.

On a motion duly made and seconded, it was:

VOTED: that the Board of Elementary and Secondary Education adjourn the meeting at 12:55 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