

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

**May 24, 2005
9:15 a.m. – 12:45 p.m.
Northampton High School
380 Elm Street, Northampton, MA 01060**

Members of the Board of Education Present:

James A. Peyser, Chairman, Milton
J. Richard Crowley, Vice-Chairman, Andover
Emily Levine, Chair, Student Advisory Council, Leeds
Roberta Schaefer, Worcester
Henry M. Thomas, III, Springfield

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

Members of the Board of Education Absent:

Harneen Chernow, Jamaica Plain
Judith Gill, Chancellor, Board of Higher Education
Abigail Thernstrom, Lexington

Chairman James A. Peyser called the meeting to order at 9:15 a.m.

Comments from the Chairman

Chairman James A. Peyser opened the meeting by noting that the Board is meeting at Northampton High School in honor of Emily Levine, who is concluding her elected term as chair of the State Student Advisory Council and a member of the Board of Education. Northampton Mayor Mary Clare Higgins, the School Superintendent, Dr. Isabelina Rodriguez-Babcock, and the high school principal, Dr. Beth Singer, welcomed the Board. Chairman Peyser read a citation to Ms. Levine, and thanked her for the initiative she has taken to engage students in discussions about educational issues.

Chairman Peyser reported that he will appoint a committee of the Board to conduct the annual performance evaluation of the Commissioner.

Statements from the Public

- Tom Ashe of the Springfield School Committee addressed the Board on the Springfield Student Assignment Plan.
- Robert McCollum of the Springfield School Committee addressed the Board on the Springfield Student Assignment Plan.
- Ronda Lewis, a principal in Springfield, addressed the Board on the Springfield Student Assignment Plan.
- Leon Moultrie, a parent in Springfield, addressed the Board on the Springfield Student Assignment Plan.
- Sharon Godbaut, a parent in Springfield, addressed the Board on the Springfield Student Assignment Plan.
- Tim Rook, Springfield City Council Chair, addressed the Board on the Springfield Student Assignment Plan.
- Paul Newlin, a Selectman from Wheatley, addressed the Board on the Chapter 70 formula.
- Stephona Stokes, a parent of a Roxbury Charter High School student, addressed the Board on the Roxbury Charter High School.
- Jacqueline Rhodes, a parent of a Roxbury Charter High School student, addressed the Board on the Roxbury Charter High School.
- A panel representing the Roxbury Charter High School, including Con Chapman, Steve Leonard, Robert Raminow, and Senator Bill Owens, addressed the Board on the Roxbury Charter High School.

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 26, 2005 regular meeting as presented by the Commissioner.

The vote was unanimous.

1. Amendments to Special Education Regulations

The Board discussed amendments to the Special Education Regulations. In December 2004, the Board voted to solicit public comment on proposed amendments to the Special Education Regulations (603 CMR 28.00). In response to concerns that were raised about some of the proposals during the public comment period, the Commissioner decided in February to withdraw many of the proposed changes from consideration, to allow more time for the Department to work with interested parties on those issues. The amendments that the Board approved were limited to necessary changes regarding assignment of school district responsibility, technical or formatting changes required by the Secretary

of State's rules on promulgating regulations, and changes required under the federal special education law, IDEA 2004. At the Commissioner's recommendation, the Board deferred action on one remaining section of the regulations related to school district responsibility for special education students in charter, vocational, Metco and choice schools [section 28.10 (6)(a)] until the June meeting.

On a motion duly made and seconded, it was:

VOTED: that the Board of Education, in accordance with G.L. c. 69, section 1B and G.L. c. 71B, and having solicited and reviewed public comment in accordance with the Administrative Procedure Act, G.L. c. 30A, section 3, hereby adopt the amendments to 603 CMR 28.00 (Special Education Regulations), as presented by the Commissioner.

The vote was unanimous.

2. Proposed Revisions to High School Science and Technology/Engineering Standards

The Board discussed proposed revisions to the High School Science and Technology/Engineering Standards. At the February 2005 Board meeting, the Board had an initial discussion about adding science and technology to the competency determination requirement for high school graduation. As the Commissioner noted at that time, based on feedback received from high school science teachers, the Department needs to make some modifications to the current (2001) state high school standards for biology, chemistry, earth and space science, introductory physics and technology/engineering. The revisions will create a single, comprehensive list of standards for each domain and clarify some standards according to recommendations from science educators.

In response to questions from Board members, Commissioner Driscoll and Deputy Commissioner Nellhaus explained that the schedule for science MCAS testing at the high school level builds in two years for schools to make any necessary adjustments to the revised standards. The MCAS tests will reflect the revised standards in 2007. Under the proposed regulation that is now out for public comment, the MCAS science tests will not count towards the competency determination requirement until 2008, for the class of 2010. Mr. Thomas stated that he supports the proposed new science competency determination requirement as long as it will be fair and equitable. Commissioner Driscoll responded that the Department and the Board will review the student performance data in 2006 and 2007 to be sure we are moving in the right direction and at the right pace with the new science requirement.

On a motion duly made and seconded, it was:

VOTED: that the Board of Education, in accordance with Chapter 69, section 1E of the Mass. General Laws, authorize the Commissioner to solicit public comment on the proposed revisions to the high school Science and Technology/Engineering standards (Earth and Space Science, Biology, Chemistry, Introductory Physics, and Technology/Engineering).

The vote was unanimous. After the public comment period, the Commissioner will bring the standards back to the Board at the November meeting for final action.

3. Amendments to Springfield Student Assignment Plan

The Board continued its discussion on amendments to Springfield's student assignment plan. At the April meeting, the Board had an initial discussion of the new student assignment plan adopted by the Springfield School Committee, for which the superintendent and school committee have requested Board approval under the racial imbalance law. Springfield Superintendent Joseph Burke presented information on the plan to the Board and responded to questions. He said the plan will improve racial balance in the city's schools by reducing the number of schools that are out of balance and that it will provide other educational benefits, including increased opportunities for parental involvement, predictability in school enrollments, and greater options for students to participate in extended day programs and after-school academic support services. He is appointing a Boundary Schools Advisory Committee to review and report annually on implementation of the plan. Superintendent Burke added that the school department will provide an appeal process for parents.

In response to questions from Board members, Superintendent Burke provided additional details about magnet school enrollment, transfer options as required by the No Child Left Behind Act, weaknesses of the district's current controlled choice plan, the role of the new advisory committee, the appeals process, student demographics, and academic performance of the Springfield Public Schools.

Chairman Peyser, who expressed concern that the new plan reduces parental choice, said he does not believe the Board is empowered to render an enforceable judgment on Springfield's student assignment proposal, in light of the current law and student demographics. Chairman Peyser made the following statement:

We have two decisions to make – one substantive and one procedural. But, depending on how we decide the procedural question, the substantive issues before us may be moot.

Before raising the procedural issue, let me first offer my view on the substance of the district's so-called "boundary plan."

I have long believed that parental choice must be an essential element of any serious education reform initiative. I believe that choice – rightly conceived and implemented – can help ensure that student needs are well matched to school strengths, and can create a consumer-driven stimulus for system-wide change and improvement. Equally important, I believe that there is a moral dimension to parental choice. If we really mean it when we say that parents are their children's first and most important teacher, then we must respect their role by giving them at least some voice in where their children attend school.

The plan before us today represents a step away from choice, and therefore is a step away from what I consider to be effective reform. This is in no way an endorsement of the status quo. Neighborhood schools can provide a positive influence on educational outcomes, but only if those schools are freely chosen by parents. Rather than expending energy and time reducing opportunities for parents to choose their child's school, we should be focusing all our efforts on

creating more quality schools that are worth choosing. That will not happen simply by reshuffling school enrollment. In the end, what matters are not marginal changes in the demographic composition of Springfield's schools; what matters is addressing the root causes of school failure or stagnation.

As I said at the outset, however, we are also confronted with a procedural question that may trump my reservations about this plan. In the past, districts have submitted various racial balance plans to this board as a pre-requisite for receiving additional state funding, either under the so-called 636 program or school building assistance. Several years ago, both of those funding streams were eliminated. The other potential basis for our consideration of these plans is the Racial Imbalance Act. But the specific terms of the Racial Imbalance Act have long been an anachronism for most urban school districts.

Under the law, a school is considered racially imbalanced if more than 50 percent of its students are non-white. In Springfield, like many other Massachusetts cities, non-white students now comprise the overwhelming majority of district enrollment and thus all of its schools are racially imbalanced. Given this demographic reality, there is no way that Springfield's schools can become racially balanced, under the law's definition. Furthermore, the remedy required under the Racial Imbalance Act is a plan ensuring that all students in racially unbalanced schools are given the right to transfer to a school of their choice that has non-white enrollment of less than 30 percent. In a district like Springfield, this is a null set.

While we continue to have jurisdiction in cases where district demographics still fit the standards embedded in the Racial Imbalance Act, and in cases that clearly violate the general policy of the Commonwealth supporting racially diverse schools, I do not believe that this board is empowered to render an enforceable judgment on Springfield's student assignment proposal.

Commissioner Driscoll said he agrees that the Board does not necessarily have jurisdiction over the Springfield plan at this point, but in any event, he and the Department will play an active role in Springfield as the plan is implemented, with a focus on improving school performance throughout the district.

Board member Henry Thomas voiced his opposition to the plan, which he believes takes away choice from parents without giving them something significant in return. He questioned whether the Massachusetts court might still have jurisdiction over the matter, and urged the Board to take a vote on the plan. Mr. Thomas added that the quality of education in the Springfield schools must be improved, and he expressed concern that collective bargaining negotiations with the teachers appear to be stalled. Vice Chairman Crowley asked the Commissioner to comment on the letter from the Racial Imbalance Advisory Council that was included in the Board package. The Commissioner said he acknowledges the concerns the advisory council presented, and he believes they can be addressed by monitoring the results as the plan is implemented. After much discussion about the plan, Vice Chairman Crowley made a motion that the Board accept the plan. Pending legal clarification, Chairman Peyser ruled the motion out of order on grounds that the Board lacks jurisdiction to take a binding vote. The Board then voted 3:2 to adopt a non-binding motion expressing the view that the new student assignment plan should be rejected, as written. The Board asked Rhoda Schneider, General Counsel for the Department

of Education, to prepare an opinion regarding the Board's jurisdiction in this matter. If necessary based on the legal opinion, the Chairman will call a special meeting of the Board to vote on the plan.

4. School and District Accountability System: Cycle IV Attendance and Graduation Targets

Associate Commissioner Juliane Dow updated the Board on the Cycle IV attendance and graduation targets, as part of the Commonwealth's school and district accountability system. In December 2002, the Board voted to incorporate two additional performance indicators into the school and district accountability system, in compliance with the federal No Child Left Behind Act: *graduation rate* for high schools and *attendance* for elementary and middle schools. In June 2003, the Board approved Adequate Yearly Progress (AYP) cut-points for these indicators for Cycle III, effective for school years 2002-2003 and 2003-2004. A school's *grade 12 competency determination attainment rate* was approved to serve as the interim graduation rate measure, and the AYP target for Cycle III is a rate of 70% or higher. The AYP target for attendance for Cycle III is average attendance of 92% or higher or a 1% or greater improvement in average attendance rate compared to the previous year. For the upcoming Cycle IV, the Commissioner is recommending that the Board retain the same measures and AYP cut-points that were used for Cycle III. The Board is scheduled to vote on this matter at the June meeting.

5. Charter Schools

The Board discussed a request from Roxbury Charter High School's board of trustees to rescind the December 2004 vote to revoke the school's charter. In December 2004 the Board voted to revoke the charter of Roxbury Charter High School, effective June 2005. Chairman Peyser made the following statement:

When we voted to revoke Roxbury Charter High School's charter – based on looming insolvency, governance chaos, and persistent educational deficiency – we agreed to reconsider our decision, if the school “caught lightning in a bottle.”

In the intervening months, the school has established some degree of organizational stability – with the help and intervention of DOE – and it has begun to plan for the future. While this is commendable, it does not constitute lightning in a bottle.

Now, at the 11th hour, we are told that a new donor has been found who will ensure the school's fiscal solvency and a new principal has been hired who will turn around the educational program. I am grateful to them for stepping up and I applaud the school's board for reaching out to them. But, decisions about charter renewal and revocation have to be about demonstrated performance, not promises and last-minute personnel changes – all made under the threat of school closure.

A charter is a public trust that cannot be granted – or restored – lightly. And the decision must be grounded in evidence, not hope or wishful thinking. It is for this reason that I do not believe we should rescind our vote to revoke Roxbury Charter High School's charter.

Mr. Thomas said he had argued the door should be open for the Board to rescind its initial vote on revocation if the facts warranted rescission. He suggested that one year of probation might be appropriate, as long as the school is financially viable. Commissioner Driscoll responded that the school is not financially viable based on its pre-enrollment report of 140 students. Chairman Peyser added that in past years even fewer students actually enrolled in September than were listed on the pre-enrollment report. Mr. Thomas moved to rescind the revocation vote and to grant the school one year of probation with close monitoring by the Department. The motion failed to attract a second.

The Board declined to rescind its vote. The school's board of trustees has also requested an administrative hearing, as is its right. Chairman Peyser said that he is deeply concerned that some Roxbury Charter High School students have not yet enrolled in other schools for the 2005-06 school year. He noted that the Board took its vote in December in order to give parents ample time to make other arrangements.

The Board discussed an amendment to the charter of Mystic Valley Regional Charter School, authorizing the school to locate a second facility in Everett, which is within the school's specified region of Everett, Malden, Medford, Melrose, Stoneham, and Wakefield.

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 amends the charter granted to Mystic Valley Regional Charter School (change in location of the school's second facility within its region to the city of Everett), as presented by the Commissioner. This amendment is conditioned upon the school complying with all applicable requirements relating to accessibility, occupancy and use of the school building.

The vote was unanimous.

6. Board of Education Annual Report for 2004

The Board discussed the Board of Education Annual Report for 2004. The report, which includes key data and chronicles the major decisions and actions of the Board from January – December 2004, will be sent to the Governor and the Legislature and will be posted on the Department's website.

On a motion duly made and seconded, it was:

VOTED: that the Board of Education, in accordance with G.L. c. 69, sections 1A and 1B, approve the annual report for 2004 as presented, and authorize its publication.

The vote was unanimous.

7. Approval of Grants

The Board discussed \$799,870 in grants under two federal programs: the Perkins Act (equipment and supplies for vocational-technical education programs) and 21st Century Community Learning Centers (programs for English language learners and for summer academic enrichment).

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.

On a motion duly made and seconded, it was:

VOTED: that the meeting adjourn at 12:45 p.m., subject to the call of the Chairman.

Respectfully submitted,

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