

**DRAFT MINUTES
COMMONWEALTH OF VIRGINIA
BOARD OF EDUCATION
RICHMOND, VIRGINIA
March 20, 2019**

The Board of Education met at the James Monroe State Office Building, Jefferson Conference Room, 22nd Floor, Richmond, with the following members present:

Mr. Daniel A. Gecker, President
Ms. Kim E. Adkins
Ms. Anne Holton
Dr. Jamelle Wilson

Mrs. Diane T. Atkinson, Vice President
Dr. Francisco Durán
Dr. Tamara Wallace
Dr. James F. Lane,
Superintendent of Public Instruction

Mr. Gecker called the meeting to order at 10:00 a.m.

EXECUTIVE SESSION #1

Mrs. Atkinson made a motion to go into executive session under *Virginia Code §2.2-3711(A) (40)*, for the purpose of discussion and consideration of records relating to denial, suspension, or revocation of teacher licenses, and that Susan Williams, legal counsel to the Virginia Board of Education; as well as staff members Dr. James Lane, Patty Pitts, Nancy Walsh, Kevin Foster and Ann Belanger whose presence will aid in this matter, participate in the closed meeting. The motion was seconded by Dr. Wilson and was carried unanimously. The Board went into Executive Session at 10:01 a.m. Mrs. Atkinson made a motion that the Board reconvened in open session at 11:08a.m. The motion was seconded by Dr. Wilson and carried unanimously.

Mr. Gecker made a motion that the Board certify by roll-call vote that to the best of each member's knowledge (i) only public business matters lawfully exempt from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered. Any member who believes there was a departure from these requirements shall so state prior to the vote, indicating the substance of the departure that, in his or her judgement, has taken place. The statement of the departure will be recorded in the minutes.

Board roll call:

- Dr. Durán – yes
- Dr. Wallace - yes
- Mrs. Atkinson - yes

- Mr. Gecker - yes
- Dr. Wilson - yes
- Ms. Holton – yes
- Ms. Adkins – yes

The Board made the following motions:

- Issue a license in Case #1; however, the Board ordered that the license be restricted and that an endorsement in Administration and Supervision not be issued;
- Defer action in Case #2 until the Georgia licensure action is complete or for six months, whichever is soonest;
- Revoke the license of Evette Upshaw Cartwright; and
- Revoke the license of Nicole Angela Lacy.

EXECUTIVE SESSION #2

Mrs. Atkinson made a motion to go into executive session under Virginia Code §2.2-3711(A)(7), for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. Susan Williams, legal counsel to the Virginia Board of Education; as well as staff members Shelley Loving-Ryder, Sarah Susbury, Kevin Foster and Ann Belanger whose presence will aid in this matter, participate in the closed meeting. The motion was seconded by Dr. Wilson and was carried unanimously. The Board went into Executive Session at 11:16a.m. Mrs. Atkinson made a motion that the Board reconvened in open session at 11:39a.m. The motion was seconded by Dr. Wilson and carried unanimously.

Mr. Gecker made a motion that the Board certify by roll-call vote that to the best of each member's knowledge (i) only public business matters lawfully exempt from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered. Any member who believes there was a departure from these requirements shall so state prior to the vote, indicating the substance of the departure that, in his or her judgement, has taken place. The statement of the departure will be recorded in the minutes.

Board roll call:

- Dr. Durán – yes
- Dr. Wallace - yes
- Mrs. Atkinson - yes

- Mr. Gecker - yes
- Dr. Wilson - yes
- Ms. Holton – yes
- Ms. Adkins – yes

The members of the Board of Education who were present voted unanimously to direct legal counsel, Susan Williams, to initiate a civil action on the Board's behalf in Henrico County Circuit Court against Eric Dean Tatum seeking (1) a permanent injunction prohibiting him from divulging any information related to secure mandatory test content that he obtained in violation of Va. Code § 22.1-19.1 while he was serving as a member of any Standards of Learning Assessment Committee convened by the Virginia Department of Education and (2) civil penalties in the amount of \$3,000 for three distinct violations related to secure mandatory tests.

ADJOURNMENT

There being no further business of the Board of Education, Mr. Gecker adjourned the meeting at 11:42a.m.

Daniel Gecker
President

DRAFT MINUTES
COMMONWEALTH OF VIRGINIA
BOARD OF EDUCATION
RICHMOND, VIRGINIA
March 21, 2019

The Board of Education met at the James Monroe State Office Building, Jefferson Conference Room, 22nd Floor, Richmond, with the following members present:

Mr. Daniel A. Gecker, President
Ms. Kim E. Adkins
Ms. Anne Holton
Dr. Tamara Wallace

Mrs. Diane T. Atkinson, Vice President
Dr. Francisco Durán
Dr. Keisha Pexton
Dr. Jamelle Wilson
Dr. James F. Lane,
Superintendent of Public Instruction

Mr. Gecker called the meeting to order at 9:01 a.m.

MOMENT OF SILENCE

Mr. Gecker asked for a moment of silence.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance followed the moment of silence.

APPROVAL OF MINUTES

Ms. Adkins made a motion to approve the minutes of January 23-24, 2019, meeting of the Board. The motion was seconded by Mrs. Atkinson and carried unanimously. Copies of the minutes had been distributed in advance of the meeting.

RESOLUTIONS OF RECOGNITION

Resolution of Recognition to Virginia's 2018 Principals of the Year were presented to the following principals:

- Dr. David Ellena, Virginia's 2018 Outstanding Middle School Principal
- Kaitlyn Engelemeier-Foor, Virginia's 2018 National Outstanding Assistant Principal
- Andy Jacks, Virginia's 2018 National Distinguished Principal

- Dr. Catherine Worley, Virginia's 2018 Outstanding High School Principal

PUBLIC COMMENT

Ms. Emily Webb, director of board relations, informed the Board that no one has signed up for public comment. Mr. Gecker opened the floor for any comments. There being no response, Mr. Gecker closed the public comment portion of the meeting.

CONSENT AGENDA

A. Resolution of Recognition to Commemorate April 2019, as the Month of the Military Child

B. Final Review of Proposed Revisions to the Virginia School Bus Specifications

C. Final Review of Nominations to Fill Vacancies on the State Special Education Advisory Committee

D. Final Review of Proposed State Approved Textbooks for K-12 English

Dr. Wilson made a motion to approve the Consent Agenda as presented. The motion was seconded by Mrs. Atkinson and carried unanimously.

ACTION/DISCUSSION ITEMS

E Final Review of an Amendment to Virginia's Consolidated State Plan under the Every Student Succeeds Act of 2015 (ESSA)

Dr. Lynn Sodat, director, office of ESEA programs, presented this item to the Board for final review.

Dr. Sodat reported that this item was presented to the Board at their January 24, 2019 business meeting and discussed in detail. Dr. Sodat provided a brief summary and answered questions from the Board.

During the consolidated state plan review and negotiation process, USED required Virginia to include in the state plan an assurance that the state would develop an ineffective teacher definition and report data based on the definition by September 15, 2019.

The approval letter from USED received in May 2018 included the requirement to amend the state plan no later than September 15, 2019. Following receipt of the approval letter, previous stakeholder feedback on the ineffective teacher definition was revisited with several stakeholder groups, department staff, educational leaders and members of Virginia Education Association (VEA). As a result of discussions with stakeholders and within the Department, the definition below is recommended for Board review and approval.

An ineffective teacher is defined as a teacher who is both out-of-field and inexperienced. This also means a teacher in his/her first year teaching who is assigned to teach a class outside of the teacher's endorsement area. This definition is reported only to meet the federal reporting requirements.

Dr. Sodot shared two public comments received through the department email inbox.

If approved by the Board, the state plan will be amended to include this definition and will be submitted to USED for review and approval. This definition is recommended only to meet the federal reporting requirement.

The Superintendent of Public Instruction recommended the Board of Education approve the amendment to the consolidated state plan. Approval allows department staff to submit the amendment and definition to be reviewed by USED prior to the reporting date.

Mrs. Atkinson expressed concern of the recommended definition. She noted that the department and Board are on a path of judicious work through the development of the Profile of a Virginia Educator and major revisions to the current teacher evaluation guidelines. She further stated that she hopes in the future that the Board and department will be able to provide a more specific definition.

Mr. Gecker also stated that the Board is looking at research to determine and understand the ineffectiveness of first-year teachers and the skillset

Board members expressed concerns over the recommended definition for ineffective teacher and how it would affect the federal reporting data.

Ms. Holton asked for more information from the public comments received by the department. She also asked for more information on collecting teacher evaluation data. Dr. Lane stated that the department is assessing this collection with the EIM office and that more follow-up is needed with school divisions and associations.

Board members expressed concern of not having more information to back up the definition such as teacher evaluations, the impact in local school divisions, and equity. Dr. Lane assured the Board that the department is very interested in gathering more data in this area, and as soon as it is made available, will share it with the Board.

Mrs. Atkinson made a motion to approve the amendment to Virginia's Consolidated State Plan under the ESSA Act of 2015. The motion was seconded by Ms. Adkins and carried unanimously.

F. First Review of Proposal to Include Multiple Races Student group in State Accreditation

Dr. Jen Piver-Renna, director of research, presented this item to the Board for first review.

Virginia Department of Education guidelines indicate that any student groups comprising five percent or more of the annual student enrollment should be considered in accountability models. In the 2018-2019 school year, students identifying as two or more races (non-Hispanic) comprised 5.7 percent of all students enrolled. Students identifying as two or more races are currently only counted in the "All Students" student group for state accreditation. The Department recommends adding a "Multiple Races" student group to state accreditation beginning in the 2019-2020 school year to include students who identify as two or more races, affecting indicators of academic achievement gaps in English and academic achievement gaps in mathematics.

The Department of Education's school accountability guidelines include a long-standing definition of "major racial and ethnic groups" as comprising five percent or more of the annual student enrollment. At the beginning of the 2018-2019 school year, five racial and ethnic groups exceeded 5 percent of student enrollment: Asian students (7.1 percent); Black students (22.2 percent); Hispanic students (16.2 percent); White students (48.4 percent); and students identifying as two or more races (5.7 percent). Students identifying as two or more races are included in the "All Students" reporting group for all other academic and school quality indicators used for state accreditation, but are not listed as a separate reporting group for the achievement gap indicators in English (reading and writing) and mathematics.

The Board received this proposal for first review.

G. First Review of Recommended Cut Scores for the Grades 3-8 Standards of Learning Mathematics Tests Based on the 2016 Mathematics Standards

Mrs. Shelley Loving-Ryder, assistant superintendent for student assessment and ESEA Programs, presented this item to the Board.

In 2018-2019 new Standards of Learning (SOL) tests, measuring the 2016 mathematics content standards will be administered. Because of the changes in the content measured by these tests, the Virginia Board of Education must adopt new “cut” scores. Consistent with the process used in 1998 and in 2011-2012, committees of educators were convened in February 2019 to recommend to the Board of Education (BOE) minimum cut scores for the achievement levels of fail/basic, pass/proficient, and pass/advanced for the grades 3-8 SOL mathematics tests.

The Superintendent of Public Instruction recommends that the Board of Education waive first review and adopt the scaled scores of at least 400 for pass/proficient and at least 500 for pass/advanced for the grades 3-8 SOL mathematics tests based on the 2016 Mathematics SOL. These scaled scores shall be equivalent to the following number of items correct on the test forms reviewed by the educator committees convened for standard setting:

- Grade 3 mathematics: 23 for pass/proficient and 36 for pass/advanced
- Grade 4 mathematics: 27 for pass/proficient and 45 for pass/advanced
- Grade 5 mathematics: 26 for pass/proficient and 44 for pass/advanced
- Grade 6 mathematics: 26 for pass/proficient and 45 for pass/advanced
- Grade 7 mathematics: 26 for pass/proficient and 44 for pass/advanced
- Grade 8 mathematics: 27 for pass/proficient and 45 for pass/advanced

Because the minimum-scaled score for the fail/basic achievement level will be specific to each test, the Superintendent of Public Instruction recommends that the Board adopt cut scores based on the following number of items correct on the test forms reviewed by the educator committees convened for standard setting. Scaled scores that represent the same level of achievement will be determined once the Board adopts the cuts scores for each test.

- Grade 3 mathematics: 10 items correct
- Grade 4 mathematics: 13 items correct
- Grade 5 mathematics: 11 items correct
- Grade 6 mathematics: 12 items correct
- Grade 7 mathematics: 12 items correct
- Grade 8 mathematics: 12 items correct

Ms. Adkins made a motion to waive first review and adopt the cut scores as presented. The motion was seconded by Dr. Wallace and carried unanimously.

H. First Review of Proposed Regulations Governing the Designation of School Divisions of Innovation (Final Stage)

This item was removed from the agenda. It will be brought back before the Board at a future meeting.

I. First Review of Proposed Revisions to the Regulations Governing the Collection and Reporting of Truancy (8VAC20-730) (Fast-Track)

Mr. Joseph Wharff, associate director, office of student services, presented this item to the Board for first review.

In 2018, the Virginia General Assembly, amended § 22.1-258 of the *Code of Virginia*, relating to the appointment of attendance officers; notification when pupil fails to report to school; plan; conference; and court proceedings. The amendments to § 22.1-258 offered changes to the timeline and process for intervening with students and families for continued and repeated student non-attendance.

In response to Code changes, the Office of Student Services hosted multiple stakeholder groups and sought feedback from across the Commonwealth on Chapter 8VAC20-730, as written, and the amendments to § 22.1-258. The proposed amendments to 8VAC20-730 align the chapter with § 22.1-258 of the *Code of Virginia*. Additionally, the amendments offered the opportunity for the Virginia Department of Education (VDOE) to incorporate feedback from school division personnel involved in truancy intervention and attendance data collection. This feedback was incorporated into the amendments to 8VAC20-730 and are reflective in the substantive changes made to the chapter that are not in direct response to § 22.1-258 of the Code of Virginia.

Substantive changes made to the regulations include expanding the number of days a parent has to provide an excuse for an absence from three days to five days. This will provide school division personnel time to work with students and families to address excused versus unexcused absences. Additionally, in response to feedback from data specialists from around the Commonwealth, the amendments remove the specific data collection requirements and reflect that data will be collected based on § 22.1-258 of the Code of Virginia. The change to data collection requirements reflect a need for the agency to be responsive to changes in § 22.1-258 of the Code of Virginia. The current regulations guiding data collection could not be updated efficiently when the 2018 General Assembly updated § 22.1-258 of the Code of Virginia which resulted in a delay in data collection methods for the 2018-2019 school year. This update will allow the Virginia Department of Education to adjust data collection efforts in a timely manner for school divisions. In addition, through provisions in 8 VAC20-730 the Virginia Department of Education will ask that school divisions report two categories of unexcused absences that are indicated in the definition of “unexcused absence” in 8 VAC20-730-10.

The Board received this item for first review.

J. First Review of Recommendations Concerning Applications for Literary Funds Loans

Mr. Kent Dickey, deputy superintendent of budget, finance, and operations, presented this item to the Board.

Mr. Dickey explained that the Literary Fund provides low-interest loans for new school construction and for additions or permanent improvements to existing schools to help provide students with a safe and secure environment in which to learn.

Southampton County submitted Literary Fund loan applications that have been reviewed by department staff. The projects involve structural roof replacements at six schools in the division. The applications have been approved as to form, but the plans and specifications for the project have not yet been finalized. Once the plans and specifications have been received and approved by the department, these applications will have met all of the Board of Education requirements necessary to be approved for a Literary Fund loan and will be eligible for placement on the First Priority Waiting List by a separate action of the Board. Until such time, the projects would remain on the Approved Application List.

When the plans and specifications for the Southampton County projects are submitted to the department and found to be in proper form, a future agenda item will be presented to the Board requesting that these projects be moved to the First Priority Waiting List. Recommendations to approve additional Literary Fund loan applications will be presented to the Board on a periodic basis as additional loan applications are received, if found in proper order after review by the department.

The Superintendent of Public Instruction recommended the Board waive first review and approve the six (6) Literary Fund loan applications submitted by Southampton County totaling \$5,950,000 for placement on the Approved Application List.

Ms. Adkins made a motion to waive first review and to approve the applications to move forward with placement of the First Priority Waiting List for Southampton County Public Schools. The motion was seconded by Dr. Durán and carried unanimously.

REPORTS

K. Statewide Annual Performance Report for Career and Technical Education and the Virginia Community College System as a Sub-recipient of Perkins funds from the Department of Education for School Years 2016-2017 and 2017-2018 (written report)

L. Report on the Timeline for the Review and Revision to the 2013 Dance Arts Standards of Learning, Music Standards of Learning, theatre Arts Standards of Learning, and Visual Arts Standards of Learning (written report)

M. Legislative Report: 2019 General Assembly (written report)

DISCUSSION ON CURRENT ISSUES- by Board of Education Members and Superintendent of Public Instruction

Ms. Adkins shared with the Board that a long time Henry County educator, Lynn Fitzgibbons, passed away unexpected in a house fire on February 22, 2019. Ms. Fitzgibbons was a recently retired Henry County Public Schools educator after 43 years of service. She was a principal of Ridgeway Elementary School, Assistant Principle of Magna Vista High School and recently the Administrator of the county's Community Learning Center, the school system's alternative school program. While working at the Martinsville-Henry County Chamber of Commerce, Ms. Adkins had the pleasure of working with her to help the Chamber advance its workforce initiatives. Ms. Fitzgibbons was passionate about helping people, protecting all those she cared for, and standing up for the underdog. She was always very clear about her expectations, and she would quickly let you know if you were not doing what she expected. She was a master at providing redirection, guidance, support, even if she had to 'get real' and have a tough conversation, you would know she loved and believed in you."

DINNER MEETING

The Board met for a public dinner on Wednesday March 20, 2019, at 6 p.m., at the Berkley Hotel with the following members present: Ms. Adkins, Mrs. Atkinson, Dr. Durán, Mr. Gecker, Ms. Holton, Dr. Pexton, Dr. Wallace and Dr. Wilson. The following department staff attended Dr. James Lane, superintendent of public instruction, Ms. Emily Webb, director of board relations, Ms. Monica Callahan, incoming assistant superintendent of policy, Dr. David Myers, incoming assistant superintendent of data and Dr. Samantha Hollis, incoming assistant superintendent of special education. The following topics were discussed informally:

- Introduction of new staff
- Electronic board books
- Item G – cut scores
- Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia
- Legislative update from the 2019 General Assembly

No votes were taken, and the dinner event ended at 7:35 p.m.

ADJOURNMENT OF THE BUSINESS SESSION

There being no further business of the Board of Education, Mr. Gecker adjourned the business meeting at 10:42 a.m.

Mr. Daniel Gecker, President

Following the adjournment of the business session, the Board held a public hearing at 11:30a.m. on the proposed *Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia.*

Mr. Gecker welcomed guests to the Board's public hearing and provided a brief overview of the proposed regulations, the development and outreach process undertaken by the department and the board, and the standard regulatory process. He stated that with the exception of minor technical corrections and clarifications, the proposed regulations have not been changed since the Board's approved in March 2017.

The following individuals addressed the Board regarding the proposed regulations:

1. Delegate Dickie Bell
2. Cheryl Poe, Advocating 4 Kids, Inc.
3. Deanna Mulvihill, PhD RN
4. Rachael C. Deane, Legal Director, JustChildren
5. Christine Germeyer, Chair, State Special Education Advisory Committee
6. Heather Luke, parent
7. Alex Campbell, student
8. Sean Campbell, parent
9. Amy Trail, Families of Autism Community Enrichment Services
10. Heidi Bunkua, parent
11. Pamela Ononiwu, parent
12. Amanda Mills, parent
13. Teresa L. Champion, parent
14. Jennifer Tidd, parent
15. Tonya Milling, Executive Director, The ARC of Virginia
16. Melanie Lickenfelt, parent
17. Jennifer Vernon, parent
18. Beth Tolley, parent
19. Alexa Zagorites, parent

20. Angela Neely, Virginia Council of Administrators of Special Education
21. Dena Rosenkrantz, Virginia Education Association
22. Sanaa Bouzit, parent
23. Limya Elshazli, parent
24. John Cimino, Virginia Board for People with Disabilities

There being no further speakers at the Board of Education's public hearing on the proposed *Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia*, Mr. Gecker adjourned the hearing at 12:32p.m.

DRAFT