

Minutes
Special State Board of Education Meeting
Monday, March 25, 2019

The Arkansas State Board of Education (State Board) met Monday, March 25, 2019, in the Arkansas Department of Education (Department) Auditorium. Chair Dr. Jay Barth called the meeting to order at 10:33 a.m.

Present: Dr. Jay Barth, Chair; Charisse Dean, Vice-Chair; Diane Zook; Ouida Newton; Brett Williamson; Susan Chambers (via phone); Dr. Fitz Hill; Dr. Sarah Moore; Kathy McFetridge; Randi House, 2018 Arkansas Teacher of the Year; and Johnny Key, Commissioner.

Absent: None

Changes to the Agenda

Staff Attorney Ms. Mary Claire Hyatt said that the Department requests to add an item to the end of the action agenda. Department requests, per Ark. Code Ann. § 6-17-425, that the State Board issue a subpoena so the Department can obtain financial records of Covenant Keepers Charter School.

Mr. Williamson moved, seconded by Ms. Dean, to hear the requested action item at the end of the action agenda. The motion passed unanimously.

Action Agenda

A-1 Consideration of Probationary Status for Lee County School District and Lee High School

General Counsel Ms. Lori Freno said that following an on-site review at Lee County School District, the Department determined that both the district and Lee High School to be in probationary violation of the following Rules Governing the Standards for Accreditation.

- Lee County School District: Probationary violation of 1-C.2.1 – Each school district shall maintain accurate student records, including graduation requirements. Specifically, the District did not maintain accurate up-to-date transcripts, and parents/students were not notified of issues/significant changes, such as students waiving Smart Core.
- Lee High School: Probationary violation of 1-C.2.2 – For graduation, students must have acquired a minimum of 22 units of credit as determined by the State Board of Education. Specifically, students expected to graduate did not have appropriate guidance to schedule a minimum of 22 units of approved credit, and student transcripts did not reflect the appropriate courses aligned with Smart Core or Core.

On March 6, 2019, the Department notified the Lee County School District of these findings and the District has appealed the Department's determination. The State Board must first consider the appeal. If the State Board denies the appeal and finds either the District or High School to be in probationary status, the State Board may take any of the actions set forth in Ark. Code Ann. § 6-15-207. Ms. Freno then went over the procedures for the appeal.

Assistant Commissioner for Public School Accountability Ms. Deborah Coffman said that an on-site monitoring visit was conducted on February 5, 2019 and during the visit, an issue regarding transcripts was discovered. She said that without intervention, 35 of the 56 seniors will either not graduate on time or will graduate with an incomplete or incorrect transcript. She said that due to the lack of adult oversight student transcripts contained errors, course schedules do not include the required 22 credits, students were not on track to graduate with Smart Core, and the appropriate documentation for a waiver of Smart Core had not been put into place at that time. Ms. Coffman noted that students were not enrolled in credit recovery as needed and evidence that the students were being supported during credit recovery was not obvious.

Ms. Coffman reviewed the timeline of events following the initial visit. On February 26, 2019, Ms. Coffman, Chief of Staff Ms. Gina Windle, and Standards Support Specialist Dr. Kristi McIntosh met with Lee County High School Principal Mr. Earnest Simpson, High School Counselor Mr. Todd Taylor, and Lee County Superintendent Ms. Elizabeth Johnson to review all 56 senior transcripts due to continued transcript issues being found on Triand. Ms. Coffman said that the counselor suggested having a support meeting with the Department one day each week. Dr. McIntosh was notified on February 27, 2019, that the counselor had been suspended on February 21, 2019. The counselor was reinstated on February 28, 2019. On March 5, 2019, Ms. Coffman and Dr. McIntosh met with Mr. Taylor to review the senior transcripts again. Ms. Coffman emailed a letter to Ms. Johnson on March 6, 2019 regarding a notice of probationary status appeal hearing and Director of Monitoring Ms. Tracy Webb emailed Ms. Johnson on the same date regarding the required corrective actions to be taken regarding Standards for Accreditation and Federal Programs. Mr. Taylor was suspended on March 6, 2019. Standards Support Specialists Dr. McIntosh and Ms. Krista Harrell met with Mr. Simpson and the High School Counselor Substitute Ms. Billie McCray to review the senior transcripts; however, Ms. McCray did not have access to a computer, eSchool, or Triand at the time of the meeting. Ms. Coffman said the Department received an email from Ms. Johnson containing an appeal letter an evidence packet on March 20, 2019 and the special State Board meeting was scheduled.

Ms. Coffman said that there are 12 seniors who still need to be enrolled in 16.5 credits of recovery courses and 12 seniors are currently enrolled in 30 credits of recovery courses with limited progress. She also said that two seniors have not had access to the 22 required credits, while 10 additional student transcripts still need verification of documentation. Among the students in grade 11, 20 students have transcript errors and 31 of the 44 students have completed the on-time credits necessary to graduate. Among the students in grade 10, 13 students have transcript errors and 31 of the 48 students have completed the on-time credits necessary to graduate. Among the students in grade 9, 2 students have transcript errors and 32 of the 48 students have completed the on-time credits necessary to graduate. Ms. Coffman noted that these numbers are best estimates, based on current information, and does not reflect cohort data. Ms. Coffman said that there were numerous errors and incomplete documentation for transcripts.

Lee County School District Superintendent Ms. Elizabeth Johnson said that they were appealing the determination and that the district would never knowingly violate standards. She said the Department team came in on February 5; however, the errors which were referenced at the time were only about teacher licensure and background check and not student records. Ms. Johnson said that they have done everything that they can do at the Lee County School District to ensure the students graduate on time. She also said that she felt that they did not have sufficient notice of the determination and that a letter received on March 5 was the first time anyone told them about big problems happening in the district. Ms. Johnson said that they have two documents about what was wrong with standards in Lee County and that all the allegations about the Lee County School District were incorrect. She said that the district reviewed the transcript and data that the Department looked at in Triand and replaced missed data and by the district's count, there were only 10 students in need of credit recovery classes and those students were enrolled in the required courses. Ms. Johnson stated that she thinks that if they are given any status, that it should be something less than probationary and stated that the current administration came into the problems in the district. She said that the district has reviewed all of the standards to ensure their compliance and they are working to ensure compliance for students graduating and that they have a plan in place.

Lee County School District Federal Programs Coordinator and District Coordinator Ms. Mary Hayden said that she sent the documentation which Ms. Johnson mentioned in her presentation to Ms. Coffman, Dr. McIntosh, and Ms. Webb to send to the members of the State Board for their review.

Ms. Zook asked if the district gives interim tests so that they can see how well their students are progressing. Ms. Hayden said that the test they are using comes from iReady and it is given three times a year to test math and literacy. She said they also use Star for grades K-2 and Class Works. Ms. Zook asked if the teachers are provided the results of the tests. Ms. Hayden said the teachers do have access to the results and the districts brought in representatives from the companies to train the teachers on how to look at the data. Ms. Zook asked if the data is shared with parents. Ms. Hayden said that the results from iReady and Star are shared with parents.

Dr. Moore asked if the credit recovery courses are being offered as online courses. Ms. Hayden said that they are Apex and that some students are working with teachers. Dr. Moore asked if the majority of regular courses are taught in person or online. Ms. Hayden said that the majority of courses are taught on campus with a teacher. Dr. Moore asked if there is currently someone employed as a high school counselor. Ms. Hayden said that there is a substitute counselor in place. Dr. Moore asked if they have any supplemental services in place for mental health and college and career readiness. Ms. Hayden said that there are supplemental services and that they work with external providers for services not handled directly by the counselor's office.

Ms. Zook asked Lee High School Principal Mr. Ernest Simpson Jr. if he was aware of all the issues being brought before the State Board. Mr. Simpson said that he was basically aware of the

issues. Ms. Zook asked how long he has been principal at Lee High School and a high school principal in general. He said since July 1, 2018, for both questions; however, he was a middle school principal before he retired.

Ms. Newton asked how they are making sure that the students in credit recovery classes are getting what they need to complete a course in the teacher-led credit recovery classes. Mr. Simpson said that they talked to the teachers about what the students need to receive credit for those classes. Ms. Newton asked how they know they mastered the material. Mr. Simpson said that they test the students. Ms. Newton asked, based on the data the district is looking at, how many students are not on track to graduate? Mr. Simpson said maybe three.

Dr. Barth asked Ms. Coffman what the Lee County School District's previous standards for accreditation issues were during the 2013-2014 school years. Ms. Coffman said that she was uncertain; however, Public School Program Coordinator Ms. Suzanne Knowles had told her that the Department's Guidance and School Counseling Unit had previously been in contact with Lee High School regarding issues for student transcripts.

Dr. Moore asked if the Lee County School District had been placed on a level for state accountability. Ms. Coffman said that under the Every Student Succeeds Act that they had been given a 1003 grant and so there is an implied level two of support. She said that her intention in visiting the school was to offer a level of support; however, when they did not observe immediate action, they felt that their level of support was not going to be met in the timeline that the students needed. Dr. Moore asked if Dr. Hernandez and his team had come into the district. Ms. Coffman said that Assistant State Superintendent Ms. Sheila Whitlow has been providing support.

Ms. Zook asked how a student who is below level in reading and math complete an online course. Ms. Johnson said that the students are never left alone, there are certified teachers in the room with them; she said that these teachers are not necessarily certified teachers in the subject that the students are studying. She said that based on the last printout that she saw, the students are passing. Ms. Zook asked, when students are screened for dyslexia, what is done for those found with markers. Ms. Johnson said that at the high school there were three students identified as dyslexic, one student is getting help and the other two went to special education classes. Ms. Johnson said that sometimes students are too low to be classified as dyslexic and so they are put in special education classes. Ms. Johnson said that this is another route for black students to go to special education classes. Ms. Zook said that there is no level too low or too high to be considered dyslexic and there is not a racial component to dyslexia. Ms. Zook said that if the district's specialists who handle dyslexic students are advising Ms. Johnson that there are levels that are too low or high or racially based, then those specialists need training to have the accurate information regarding dyslexia.

Ms. Chambers asked what additional resources would be available if the State Board were to deny the appeal. Ms. Coffman said that if the appeal were denied and the State Board gives the

district a probationary status, that would give the Department permission to go in immediately with a team to clean up transcripts and support students and get them scheduled for the courses which they need to graduate. She said that trained counselors are needed on-site immediately. Ms. Coffman said that they believe that there may be some IEPs which may need to be reviewed regarding students graduating with appropriate coursework. She said that they need someone at the district to ensure that transcripts for future classes are accurately reported. She also said that master schedules need to be built to ensure that students don't miss the required 22 courses.

Ms. McFetridge asked about the number of trained counselors that will be available for support to the district. Ms. Coffman said that there would be two from the Guidance and School Counseling Unit from the Department. She said that they also reached out to partners for retired counselors to come in to help as needed. Ms. McFetridge asked if the district has to be on probationary status to bring in the additional counselors. Ms. Coffman said that if there was an agreement and relationship in place with the district going in, they may have been able to come to a mutual decision to do that together.

Ms. Johnson said that they have no problem with anyone coming in to help them; however, there is currently a retired counselor of over 30 years of experience in place. The counselor has talked to all the students and someone else does the manual entry of the information. Ms. Johnson said that the principal and superintendent are handling the scheduling.

Ms. Zook asked why Ms. Johnson felt that the issues are the total responsibility of the high school counselor. Ms. Johnson said that is because the counselor was the one to keep the records. She also said that eSchool has made the counselors' jobs more difficult, stating that there are too many things to do. She said that they are trying to make more manageable for counselor.

Ms. McFetridge moved, seconded by Mr. Williamson, to hear public comment. Public comment was heard.

Ms. Zook moved, seconded by Mr. Williamson to deny the appeal. There was a roll call vote. The motion passed unanimously. Probationary status affirmed for Lee High School and Lee County School District.

Ms. Freno reviewed the options available to the State Board for next steps.

Mr. Key said that the Department recommends reconstitution of the district leadership, according to Ark. Code Ann. § 6-15-207, by removing permanently the superintendent and board of directors. Further, the Department recommends that the State Board delegates authority to the commissioner to appoint someone as administrator to the affairs of the district, under the supervision of the commissioner.

Ms. Zook asked if the reconstituting would expand beyond the central office. Mr. Key said that the recommendation just follows along with item # 7 of Ark. Code Ann. § 6-15-207 and only

addresses the superintendent and board members. Ms. Zook asked if the State Board could choose to extend beyond those two parties. Ms. Freno said that item # 8 is very broad and states that the State Board can choose to take any legal action.

Ms. Zook moved, seconded by Mr. Williamson, to take the department's recommendation, but also add high school principal for removal.

Ms. Freno said that reconstitution is not clearly defined and the principal is under the Teacher Fair Dismissal Act and can be removed for cause.

Ms. Newton said that she has difficulty in having personnel discussions as a State Board and said that it is not appropriate in this type of setting. She noted that the newly appointed superintendent would be able to make that decision.

Ms. Chambers agreed, saying that adding the high school principal feel like it is a bit of an overreach for the State Board.

Dr. Hill also said that the State Board should allow the superintendent to make the personnel changes.

Ms. Zook withdrew her motion and Mr. Williamson agreed.

Ms. Newton moved, seconded by Ms. Dean, to accept Department's recommendation as stated. There was a roll call vote. The motion passed unanimously.

A-2 Reports Concerning Act 1240 and Charter School Waivers

Staff Attorney Ms. Mary Claire Hyatt discussed the options of how new laws or changes in laws impact existing waivers. She said the first being a change in law that doesn't really change the context in which the waiver was granted. She said the Teacher Salary Law is a good example of this because as it was written, it only really changed the numbers that were the grid in the law. She said that those who previously requested this waiver were waiving the whole law as it exists and changing the number does not really change the intent of granting the waiver. This would not require any change or update to the waiver. The other option would be something that either repeals an entire section of the code and places it somewhere else or changes the law so significantly that schools would need to come before the State Board individually or as a group to make the change. The third option is that they might have a waiver of a particular section or a particular purpose and the law changes somewhat and may or may not require that they come to renew the waiver. Ms. Hyatt said that at the Department, the Charter School unit will reach out to those schools with waivers when there are new rules and laws to provide support. She said that the Legal unit will issue Commissioner's Memo with a statement regarding waivers when there are new rules or laws created.

Ms. Hyatt said that regarding salary, all that changed were the numbers on the grid and it does not change the context in which the waivers were granted. Those schools with the waiver still

have the waiver, the numbers just change. She also said that the budget implications are not as they thought since no one is losing the waiver right now and they can continue on with the waiver. Ms. Hyatt said that for open-enrollment and district conversions which hold the waiver charter authorizer can make modification as needed and can require reporting on a particular waiver. Ms. Hyatt said that those with the waiver are not eligible for the additional funding and that may incentive some schools to give up their waiver. She reviewed those who have the waiver: one 1240 waiver in Helena-West Helena, a district conversion in Van Buren, and almost all open enrollment schools have the waiver except for Imboden Charter School, Arkansas Arts, Southeast Arkansas Prep, and Little Rock Prep.

Dr. Barth said that when renewals happen there is an emphasis on the new waivers being requested and he believes that it would be helpful and important to highlight those areas where they are asking for the same waiver, but the area of law has changed in some significant ways. In this way there could be a conscious consideration of the continued appropriateness of the waiver.

Ms. Zook asked if the schools with the salary schedule waiver had been made aware that they would not be eligible for the additional funds. Mr. Key said that is how it is drafted right now; however, nothing has been finalized to share with the schools in question.

There was no action required for this item.

A-3 Request for Subpoena for Valerie Tatum *(Added to the agenda)*

Staff Attorney Ms. Mary Claire Hyatt gave the State Board members a draft order and draft subpoena for Valerie Tatum in regards to Covenant Keepers Charter School. Ms. Hyatt provided background information to explain why the subpoena is necessary. She said that on January 15 is when the charter authorizer accepted the voluntary nonrenewal of the Covenant Keepers Charter. On January 29, a letter was sent to the school to request financial and other information, the Department didn't receive a response, and between January 29 - February 7, items were removed without approval from the school grounds, this included filing cabinets. The charter was immediately revoked by the State Board on February 15. It was discovered between February 15 - March 1 that the missing filing cabinet included the needed financial records. On March 1, a letter was sent out requesting the records by March 6 and on March 6, Ms. Hyatt received an email from Ms. Valerie Tatum which indicated her refusal to turn over the records. On the same day Ms. Hyatt responded requesting copies of the records or to be allowed to make copies and she received no response. Ms. Hyatt has made several calls to the attorney that Ms. Tatum said was representing her; however, she was notified that the attorney was not representing Ms. Tatum. Ms. Hyatt tried calling Ms. Tatum, but was unable to leave a voicemail and received no response. There was also no response to emails or written communications sent to Ms. Tatum.

Ms. Hyatt said that per Ark. Code Ann. § 6-17-425 that the State Board can issue a subpoena so the Department can obtain financial records of Covenant Keepers Charter School which are

missing. The requested subpoena would compel Ms. Tatum to give the records to the Department by April 5 or, failing that, would compel her attendance to the April 11 State Board meeting to produce the documents.

Ms. Dean moved, seconded by Ms. Newton, to affirm the order as is. There was a roll call vote. The motion passed unanimously.

Public Comment

Public comment was heard on a request for the State Board to consider having a full dyslexia audit completed on any schools which are be considered for a return to local control prior to their release.

Adjournment

Ms. Zook moved, seconded by Ms. Dean, to adjourn the meeting. The motion passed unanimously. The meeting adjourned at 12:29 p.m.

Minutes recorded by Tiffany Donovan