

## **Special Board Minutes (Draft)**

Monday, February 20, 2017 @ 5:00 p.m.

Administration Conference Room

**Present:** Wendy Bremner-Chair, Steve Conway, Brian Gallup, Brenda Croff, Velden Calica, James Running Fisher, James Evans, Kristy Bullshoe.

**Approval of Agenda:** Motion by Mr. Conway to approve the agenda with no changes. Second by Ms. Croff. All in favor/Motion carried.

**Public Comment:** None.

### **ITEMS OF ACTION**

**Approval of Resolution-Declaration of Emergency:** Ms. Bremner asked if the district is required by law to declare an emergency if the school board chooses to use aggregate hours. Mr. Rouse stated that the board is required to approve the resolution and also stated that there are not enough aggregate hours to cover 5 days, only 3.75 hours. Mr. Gallup motioned to approve the resolution. Second by Mr. Conway. *Discussion:* Ms. Bremner read the statute for school closure MCA 20-9-806, "if a school is closed by reason of an unforeseen emergency that results in a declaration of emergency by the board of trustees...." Mr. Rouse stated that MCA Statute 20-1-301 varies by grade. The hours calculated for each school is 6.12 hours per day which is equal to 3.5 days. Ms. Bremner stated that if the district has enough hours for 3 days, can the board put the 2 days at the end of the year and not declare an emergency. Mr. Rouse stated that the board must declare an emergency first and also noted that the time period would be changed which affects the union. Mr. Rouse stated concern about not having to makeup 3 days when the teacher contract is for 187 days and the days will change to 184. Ms. Bremner stated that if they are salaried or exempt employees, the board can give those days. Mr. Rouse asked if the board believes through Administrative Rule that they have the authority to say the teachers don't have to work 187 days without breaking any federal laws. Mr. Gallup did not feel this to be true for the school and noted that this is state money too. Ms. Croff stated that the Boarding Dorm was informed that they have to make-up the days regardless and they are federally funded; Boarding school staff is not salaried, but teachers are. Mr. Gallup stated that he is willing to agree to this but does not want to break any laws; the district has never paid staff for not working. Mr. Rouse stated that the union contract specifies the number of days and if the teachers don't work those days the board is giving \$200,000+ for work not done. Mr. Rouse stated that it is his responsibility of watching over the instruction of kids and the need to maximize time on task. Mr. Conway asked if there are any built in days to allow for no make-up time. Mr. Rouse stated that there are enough minutes in the schedule for 3+ days that are not identified, it is just a surplus of minutes; the calendar was built with extra number of days to maximize instruction. Mr. Calica asked if everyone could go in a half hour early each day or half day later to make up the time. Mr. Rouse stated that there is an agreement with the union in place and this creates a problem for classified staff as they will accumulate over 40 hours, the same happens if we work a Saturday. Mr. Running Fisher stated that kids won't go to school any longer into June, there's not enough time for summer months.

Francis Guardipee stated that the board presented the ideas for makeup days but certified staff had other options. When the board options were sent out to staff, most chose option #1. Mr. Guardipee stated that he is trying to follow the contract but the law says that they can take 1 day (certified) and then they have to makeup 4 days. Mr. Guardipee was concerned because teachers go off to school and there are other programs that start in June and they will be affected. Rick d'Hooze says they can take leave, as agreed, one time only and Jeff Cowens sent out the options to all building reps.

Mr. Rouse stated that he did communicate the options for Easter break and the option to use personal leave, but the Union has to agree to that, they must meet and confer and the Board can choose to waive 1 day.

Ms. Bremner stated that the school term, day, and week is subject to statutes 20-1-301, 20-1-308, and any applicable collective bargaining agreement covering the employment of affected employees, the trustees of a school district shall set the number of days in a school term, the length of the school day, and the number of school days in a school week and report them to the superintendent of public instruction. Mr. Rouse stated that

meeting that requirement is through the union agreement. Ms. Bremner noted that it says to solicit employees not affected by any collective bargaining agreement. Mr. Rouse stated that the district has an agreement with the union, and is not supposed to negotiate with each individual only with the union president. Ms. Bremner stated that the teachers are saying this is not being negotiated it is only what Mr. Rouse ordered. Mr. Rouse stated that he is working through the union presidents. Ms. Bremner asked if the options proposed by union are being disregarded. Mr. Rouse stated that he did not disregard their options, he only explained why the district couldn't do the options requested.

Mr. Conway asked Mr. Rouse if he has asked that these days be waived by the Governor's office. Mr. Rouse stated that the law is clear on how the school shall proceed, and it is not through the governor. The Board can waive one day.

Mr. Running Fisher stated that he understands that the board can waive one day and staff has to make up 2 days. Mr. Rouse stated that based on the aggregate hours the board can waive one of those 3 days and there would be one day left.

Mr. Evans asked what if the district has more days like these, the board doesn't want to stretch things too thin. Mr. Rouse stated that everyone will expect to be paid for that day if something happens.

Ms. Bremner stated that the difference is that these days were declared an emergency by the tribe and the governor which is different than normal closure. Jercy Matt asked how many days are given for a disaster. Ms. Bremner stated 2 days.

Mr. Running Fisher and Mr. Gallup agreed that the district should makeup 3 days but not in June because student attendance will be down.

Mr. Gallup stated that he would like to see some enrollment numbers right now because he has heard that enrollment is bad and getting worse. Mr. Rouse stated that some of the problem is due to the buyback money and some to weather.

Mr. Calica asked if some employees have to use leave for those days. Mr. Rouse stated that employees who did not work did use their leave. Mr. Evans asked if they used comp time or overtime. Mr. Rouse stated that the district does not earn comp time.

Dave Knopfle stated that BPS is a school district that is within the boundaries of a reservation and the Blackfeet tribe considered this an emergency and asked if that does exempt our students from making days up. Mr. Knopfle suggested that someone should research Blackfeet law compared to state law. Mr. Gallup stated that this is a state school and the state declared an emergency/disaster. Mr. Gallup will support what the law says.

Mr. Conway stated that when the district did not have water for 3-4 days the past superintendent got a waiver from the governor and BPS did not have to make it up. Mr. Rouse stated that it is within the boards' authority to forgive 3 days. Mr. Conway stated that the 2 remaining days can be debated and BPS can ask the governor to waive those. Mr. Rouse stated that they will go back to MCA 20-1-806 where it says the board has to show reasonable effort to makeup 3 days. Ms. Bremner stated that based on the instructional days lost the board would not want to say not to makeup those days; those 2 days are valuable.

Rae TallWhiteMan stated that it is different for classified. The options submitted by the classified staff were not recognized. Classified will opt to follow what the certified staff does for makeup days. Ms. TWM stated that there are people worried about what their paycheck is going to look like.

Amanda Flammand stated that it took her 7 years to accumulate 40 hours of leave. Ms. Flammand stated that she was told that she could not work during these days, which is a forced leave. Ms. Flammond asked if there is a way to get the leave back. Mr. Rouse stated that he does not have authority to authorize pay for that time the board has the authority to do more. Mr. Gallup stated that the board does not have the authority to write a check for hours

not worked. Mr. Rouse stated that the board can waive days. Mr. Gallup stated the board can waive 3 days. Mr. Rouse stated that staff had to use their leave to get a check and if you start waiving days the board needs to consider this.

Katherine SkunkCap stated that kids will not be here in June, physically or mentally. There are a lot of cultural things that start in June and they won't be in school and people are off to college. June won't be a quality teaching time for the kids. Ms. SkunkCap suggested working Tuesday and Thursday of Easter/Spring vacation.

Brenda Kramer stated that she is glad to finally get some clarity in aggregate hours because there has been a lot of misconception going back and forth. This is the first time in 6 years that something like this has ever happened all over the county. Mr. Rouse already gave one day and that was safe. Ms. Kramer stated that now she is hearing that aggregate hours really do exist and also stated that there is a very key point in 3<sup>rd</sup> paragraph in the labor agreement, it is the union as a whole who needs to be addressed in the decision. The next is days forgiven, 3 out of 5. She understands using aggregate hours for 3 or maybe 2 days, but suggested they leave a buffer. Also note that people have made arrangements to be gone during spring break but we still have a responsibility to students. People are willing to negotiate and everybody should work together.

Mr. Conway suggested bringing the meeting to a close and stated that he agrees with Ms. Kramer.

Mr. Conway moved to make a motion to forgive 3 days and makeup 2 days. Second by Mr. Gallup. *Discussion:* Ms. Bremner stated that it would be up to the union to decide what 2 days they will use as makeup days. Francis Guardipee stated that this is a small group and they will have people emailing and having problems the same as before. Mr. Gallup stated that the board needs to decide tonight. Mr. Conway stated that the board will not have another meeting to wait for those teachers. Mr. Guardipee stated that he will accept that. Mr. Conway stated that he motioned to forgive 3 days because of the aggregate hours accumulated and makeup 2 days. Mr. Gallup stated that the 2 days will be up to administration to negotiate with the union. No further discussion. All in favor/Motion carried.

Ms. Croff asked to make a motion to reinstate any leave used during the emergency days for classified or others that worked. Ms. Bremner granted the motion. Second by Ms. Bullshoe. No further discussion. All in favor/Motion carried.

Ms. Bremner asked if there was a motion and second to approve the resolution. Mr. Conway stated that he will make a new motion to approve the resolution to declare an emergency. Seconded by Mr. Gallup. All in favor/Motion carried.

Motion by Mr. Gallup to adjourn at 5:57 p.m. Second by Ms. Croff. Motion carried.

Respectfully submitted:

\_\_\_\_\_ Carlene Adamson, Board Secretary

\_\_\_\_\_ Wendy Bremner, Board Chairperson

\_\_\_\_\_ Stacy Edwards, District Clerk