STATE BOARD OF EDUCATION OF OHIO MINUTES

March 2013 Ohio Department of Education 25 South Front Street Columbus, Ohio 43215

MEMBERS OF THE STATE BOARD OF EDUCATION

Angela Thi Bennett Deborah Cain
Michael Collins Stephanie Dodd
Tess Elshoff Joe Farmer
Sarah Fowler Thomas Gunlock
Jeffrey Hardin Ann Jacobs

C. Todd Jones Kathleen McGervey
Darryl D. Mehaffie Jeffrey Mims
Mary Rose Oakar Mark Smith

Mary Rose Oakar Mark Smith
Debe Terhar Bryan C. Williams

EX OFFICIO MEMBERS

Senator Peggy Lehner Representative Gerald Stebelton

SECRETARY

Michael Sawyers

Acting Superintendent of Public Instruction

Mr. Smith was absent from the meeting.

The State Board convened on Monday, March 11, at the Ohio Department of Education in Columbus.

President Terhar convened the Business Meeting of the State Board of Education on Monday, March 11, at 9 a.m.

President Terhar asked the Recording Secretary to call the roll.

MEMBERS PRESENT

Angela Thi BennettDeborah CainMichael CollinsStephanie DoddTess ElshoffJoe FarmerSarah FowlerThomas GunlockJeffrey HardinAnn Jacobs

C. Todd Jones Kathleen McGervey

Darryl D. Mehaffie Jeffrey Mims Mary Rose Oakar Debe Terhar

Bryan C. Williams

EX OFFICIO MEMBERS

Senator Peggy Lehner

Representative Gerald Stebelton

MEMBERS ABSENT Mark Smith

NOTE: Ms. Fowler entered the room after roll call.

President Terhar called on Vice President Gunlock, who Moved that that the State Board of Education go into Executive Session pursuant to Ohio Revised Code Section 121.22(G)(1) to consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a public employee or official; that the State Board of Education go into Executive Session pursuant to Ohio Revised Code Section 121.22(G)(1) to consider the investigation of charges or complaints against a public employee, official, licensee, or regulated individual; that the State Board of Education go into Executive Session pursuant to Ohio Revised Code Section 121.22(G)(3) for the purpose of conferring with legal counsel about matters that are the subject of pending or imminent court action.

Mr. Mims Seconded the motion.

The President called for a roll call vote.

YES VOTES

Angela Thi Bennett Michael Collins Tess Elshoff Sarah Fowler Jeffrey Hardin C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams Deborah Cain Stephanie Dodd Joe Farmer Thomas Gunlock Ann Jacobs Kathleen McGervey

Jeffrey Mims Debe Terhar

Motion carried.

The Board went into Executive Session at 9:10 p.m.

The Board recessed from Executive Session at 11:30 a.m.

The State Board recessed for lunch.

Reconvene Executive Session

The Board reconvened Executive Session at 12:15 p.m.

The Board recessed from Executive Session at 3 p.m.

President Terhar recessed the State Board meeting at 3 p.m.

The Board's Achievement, Capacity and Committee on Urban Education met beginning at 3:15 p.m.

President Terhar reconvened the meeting of the State Board of Education on Tuesday, March 12, at 9 a.m.

Chapter 119 Hearing

March 12, 2013 9 a.m.

Hearing Regarding the Amending, Rescinding and Adoption of Rules

Amending of Rule 3301-24-08 of the Administrative Code entitled *Professional or associate license renewal*; the amending of Rules 3301-24-19 to 3301-24-22 of the Administrative Code regarding *Alternative resident educator licenses*; and the proposed adoption of 3301-35-15 of the Administrative Code entitled *Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion*.

MEMBERS PRESENT

Angela Thi Bennett
Michael Collins
Stephanie Dodd
Joe Farmer
Sarah Fowler
Thomas Gunlock
C. Todd Jones
Carryl D. Mehaffie
Mary Rose Oakar

Deborah Cain
Stephanie Dodd
Sarah Fowler
Ann Jacobs
Kathleen McGervey
Jeffrey Mims
Debe Terhar

MEMBERS ABSENT

Bryan C. Williams

Tess Elshoff Jeffrey Hardin

Mark Smith

NOTE: Mrs. Cain, Mr. Collins, Ms. Jacobs and Mr. Jones entered the room after roll call.

President Terhar stated the Board would proceed with the public hearing on the following rule actions: Amending of Rule 3301-24-08 of the Administrative Code entitled *Professional or associate license renewal*; the amending of Rules 3301-24-19 to 3301-24-22 of the Administrative Code regarding *Alternative resident educator licenses*; and the proposed adoption of 3301-35-15 of the Administrative Code entitled *Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion*.

The President called on Assistant Attorney General, Amy Golian. Ms. Golian called on P.R. Casey, Chief Legal Counsel for the Ohio Department of Education.

Mr. Casey presented the following Board Exhibits:

Board Exhibit 1 is the public notice that appears in the Register of Ohio and references the proposed rule actions subject to this hearing;

Board Exhibits 2 through 4 would be a true and accurate copies of the Resolutions of Intent adopted by the State Board of Education declaring its intent to amend and adopt the rules subject to this public hearing;

Board Exhibit 5 would be true and accurate copies of the rules subject to this hearing that were originally filed with Joint Committee on Agency Rule Review (JCARR), Legislative Service Commission (LSC), and the Secretary of State on February 8, 2013, of which three were subsequently revised on February 27, 2013; and

Group Exhibit 6 would be a true and accurate copy of written testimony submitted to the department concerning proposed Rule 3301-35-15 of the Administrative Code entitled *Standards* for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

Mr. Casey explained the rules had been made available to all persons affected by the rules.

President Terhar stated that testimony would be received, either orally or in writing, for or against, the amendment of the rules that are under consideration. Anyone who wished to testify must complete the registration sheet. All testimony would be limited to no more than five minutes. If additional time is needed, consideration would be given to a reasonable extension. Any written testimony would be marked as Group Exhibit 6.

President Terhar announced that the Board would now receive testimony on the proposed amending of Rule 3301-24-08 of the Administrative Code entitled *Professional or associate license renewal* and the proposed amending of Rules 3301-24-19 to 3301-24-22 of the Administrative Code regarding *Alternative resident educator licenses*.

PUBLIC TESTIMONY ON THE PROPOSED AMENDING OF RULE 3301-24-08 OF THE ADMINISTRATIVE CODE ENTITLED *PROFESSIONAL OR ASSOCIATE LICENSE RENEWAL* AND THE PROPOSED AMENDING OF RULES 3301-24-19 TO 3301-24-22 OF THE ADMINISTRATIVE CODE REGARDING *ALTERNATIVE RESIDENT EDUCATOR LICENSES*.

There were no requests.

President Terhar announced that the Board would now receive testimony on the proposed adoption of 3301-35-15 of the Administrative Code entitled *Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion*.

PUBLIC TESTIMONY ON THE PROPOSED ADOPTION OF 3301-35-15 OF THE	
ADMINISTRATIVE CODE ENTITLED STANDARDS FOR THE IMPLEMENTATION OF	
POSITIVE BEHAVIOR INTERVENTION SUPPORTS AND THE USE OF RESTRAINT AN	D
SECLUSION.	

The following individuals spoke to the Board regarding adoption of 3301-35-15 of the administrative code:

- 1) Ms. Jennifer Alzberger, ACLU of Ohio.
- 2) Mrs. Michelle Kallick.
- 3) Ms. Susan Tobin, Chief Legal Counsel, Disability Rights Ohio.
- 4) Mrs. Aimee Gilman, Law Office of Aimee Gilman.
- 5) Professor Ruth Colker, OSU College of Law.
- 6) Mrs. Robyn Traywick.
- 7) Mr. Jason Fuller.
- 8) Mrs. Arlena Zeek.
- 9) Ms. Helena S.
- 10) Ms. D. Ricketts-Burton.
- 11) Ms. Shakyra Diaz, Policy Director, ACLU of Ohio.

President Terhar called on Ms. Bondurant, who submitted into evidence State Board Exhibits 1 through 6.

The President stated that the exhibits were so received. As there was no more testimony, she declared the public hearing closed at 10:50 a.m.

The Board's Legislative and Budget Committee met beginning at 11 a.m.

Full Board Financial Disclosure Training

The State Board received Financial Disclosure training beginning at 11:30 a.m.

The State Board recessed for lunch at 12:15 p.m.

PUBLIC PARTICIPATION ON NONACTION ITEMS

- 1) Ms. Susan Tobin, Disability Rights Ohio. Ms. Tobin spoke to the Board regarding the individual state complaint process concerning IDEA.
- 2) Ms. Aimee Gilman, Law Office of Aimee Gilman. Ms. Gilman spoke to the Board regarding the letter of findings concerning the complaint filed by Disability Rights Ohio against the Columbus City School District.

This concludes Public Participation on Nonaction Items.

President Terhar reconvened the Business meeting of the State Board of Education on Tuesday, March 12, at 1:30 p.m.

President Terhar asked the Recording Secretary to call the roll.

MEMBERS PRESENT

Angela Thi Bennett Deborah Cain Michael Collins Stephanie Dodd Tess Elshoff Joe Farmer Sarah Fowler Thomas Gunlock C. Todd Jones Ann Jacobs Kathleen McGervey Darryl D. Mehaffie Jeffrey Mims Mary Rose Oakar Debe Terhar Bryan C. Williams

EX OFFICIO MEMBERS

Senator Peggy Lehner Representative Gerald Stebelton

MEMBERS ABSENT

Jeffrey Hardin Mark Smith

NOTE: Mrs. Elshoff entered the room after roll call.

President Terhar called on Vice President Gunlock, who Moved that that the State Board of Education go into Executive Session pursuant to Ohio Revised Code Section 121.22(G)(1) to consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a public employee or official; that the State Board of Education go into Executive Session pursuant to Ohio Revised Code Section 121.22(G)(1) to consider the investigation of charges or complaints against a public employee, official, licensee, or regulated individual; that the State Board of Education go into Executive Session pursuant to Ohio Revised Code Section 121.22(G)(3) for the purpose of conferring with legal counsel about matters that are the subject of pending or imminent court action.

Ms. Fowler Seconded the motion.

The President called for a roll call vote.

YES VOTES

Angela Thi Bennett Deborah Cain
Michael Collins Stephanie Dodd
Tess Elshoff Joe Farmer

Sarah Fowler Thomas Gunlock
Ann Jacobs C. Todd Jones
Kathleen McGervey Darryl D. Mehaffie
Jeffrey Mims Mary Rose Oakar
Debe Terhar Bryan C. Williams

Motion carried.

The Board went into Executive Session at 1:30 p.m.

The Board recessed from Executive Session at 3:10 p.m.

The President called on Mr. Gunlock, who welcomed Board members and guests, and led the Board in the Pledge of Allegiance.

Vice President Gunlock called for the approval of the Minutes of the February 2013 meeting. He asked if there were any corrections to the Minutes.

Ms. Fowler stated that Mr. Farmer had provided the report-out from the Achievement Committee, not Mr. Jones.

It was Moved by Mr. Mims and Seconded by Ms. McGervey that the Minutes be approved with the correction as noted. The Vice President called for a voice vote.

Motion carried unanimously.

Voting and Introduction of Ohio's next State Superintendent of Public Instruction

Mr. P.R. Casey, Chief Legal Counsel, Ohio Department of Education, reviewed the voting process for the next State Superintendent of Public Instruction. Board members were asked to state the name of the candidate they would be supporting. Mr. Casey stated that a simple majority would be needed and that would be nine.

President Terhar called for a roll call vote by each Board member to say the name of the candidate they would be voting for.

ROLL CALL VOTES

Angela Thi Bennett – Dr. Richard Ross Deborah Cain – Michael Sawyers Michael Collins – Michael Sawyers Stephanie Dodd – Michael Sawyers Tess Elshoff – Dr. Richard Ross Joe Farmer – Dr. Richard Ross Sarah Fowler – Abstain

Thomas Gunlock – Dr. Richard Ross
Jeffrey Hardin – Dr. Richard Ross
Ann Jacobs – Michael Sawyers
C. Todd Jones – Dr. Richard Ross
Kathleen McGervey – Dr. Richard Ross
Darryl D. Mehaffie – Dr. Richard Ross
Jeffrey Mims – Michael Sawyers
Mary Rose Oakar – Michael Sawyers
Debe Terhar – Dr. Richard Ross
Bryan C. Williams – Dr. Richard Ross

Ms. Fowler stated that due to her inability to vote no, she was compelled to abstain from the vote and asked that her explanation be entered into public record.

President Terhar announced that Dr. Richard A. Ross had been elected as Ohio's 37th State Superintendent of Public Instruction.

PUBLIC PARTICIPATION ON ACTION ITEMS

There was no Public Participation on Action Items.

BOARD PRESENTATIONS AND DISCUSSION FROM THE SEARCH COMMITTEE

Chair: Debe Terhar, Vice Chair: Tom Gunlock

Mr. Gunlock gave a report from the Search Committee meeting focusing on the following issues:

Mr. Gunlock thanked members of the Search Committee for all their effort.

BOARD PRESENTATIONS AND DISCUSSION FROM THE ACHIEVEMENT COMMITTEE

Chair: C. Todd Jones, Vice Chair: Joe Farmer

Mr. Jones gave a report from the Achievement Committee meeting focusing on the following issues:

Rule 3301-52-01, Appropriate Uses of Early Child Education Screening and Assessment Information:

The Committee discussed and approved the resolution of intent of the proposed amendments to Rule 3301-52-01, Appropriate Uses of Early Child Education Screening and Assessment Information. These rules have been reviewed as part of the five-year review process. Only minor revisions have been made to the rule. The amendments include updates to reflect changes in federal and state law references. Final adoption of the rules is scheduled for June 2013.

Career Technical Education:

The Committee heard a presentation on Career Technical Education. Ashtabula County Technical and Career Center teachers, Bob Olin and Jack McMurphy, discussed the importance of preparing students for entry into the workforce.

BOARD PRESENTATIONS AND DISCUSSION FROM THE CAPACITY COMMITTEE

Chair: Tom Gunlock, Vice Chair: Bryan Williams

Mr. Williams gave a report from the Capacity Committee meeting focusing on the following issues:

Update on New Licensure Assessments by the Evaluation Systems Group of Pearson:

Matt DiBartolomeo, Ed.D. from the Evaluation Systems Group of Pearson provided an update on the 40+ validation and qualifying score setting studies that are being organized and will be held in Columbus in April with Ohio educators. Dr. DiBartolomeo discussed the work of the Ohio Assessments for Educators (OAE) Bias Review Committee and Content Advisory Committees, and gave examples of how the validation of the assessments, including the process for recommending qualifying scores for each assessment, is conducted while offering Committee members an opportunity to ask questions and receive clarification on elements of this work.

Discuss proposed new Rule 3301-102-08, Standards for Measuring Sponsor Compliance with Applicable Laws and Rules:

The Capacity Committee reviewed draft rule 3301-102-08 Standards for measuring sponsor compliance with applicable laws and rules. The rule is being promulgated in accordance with RC 3314.016, and the rule addresses one of three components of the new sponsor performance evaluation. During the Committee's review of the draft rule, two concerns were addressed and Department staff was charged with revising the draft rule for the Committee's consideration during the SBOE meeting on March 12. The Committee requested that edits be made to the draft rule to clarify that the sponsor's rating is based on the sponsor's monitoring of its community schools' compliance with rule and law. The Committee also requested that language be included which addressed a sponsor's obligation to monitor its schools for compliance with all rules per statute and to clarify that the statutory compliance items selected for review will be identified in the Department's protocol that will be established to implement the rule.

Discuss Rules 3301-83-09, -10, -16, -17, -21, -22, 3301-51-10, and proposed new rule 3301-83-24, Pupil Transportation Rules:

Department staff presented revisions of seven pupil transportation rules, for the purpose of five year review, along with a separate new rule combining sections of current rule. The purpose of the rules is to ensure safe pupil transportation by clarifying pupil safety instruction, transportation personnel training, non-routine pupil transportation, authorized passengers, vehicle maintenance, and special education pupil transportation.

The revisions followed multiple internal and external stakeholder meetings, and online posting for comments in coordination with the Common Sense Initiative (CSI) process. Among the substantive changes to the rules:

- For special education transportation, changing the "door-to-door" reference to a reference to alternative pick up and drop off as determined by the student's IEP.
- Adding to driver training emergency evacuation procedures, bullying training, and driving a route with an experienced driver on board.
- Clarifying timelines for required training.
- Clarifying roles and process for revocation of certification for drivers and on-the-bus instructors.
- Removing misleading provisions on uses of school buses, and replacing with references to other laws for use of buses other than for school-related transportation.
- Aligning out-of-state trip language with current law.
- Clarifying language on when fees are allowed or disallowed to be charged to parents/students.

The Committee voted to recommend these proposed rule changes to the Full Board for approval. There will be an intent resolution in April.

BOARD PRESENTATIONS AND DISCUSSION FROM THE COMMITTEE ON URBAN EDUCATION

Chair: Angela Thi-Bennett, Vice Chair: Mike Collins

Mrs. Bennett gave a report from the Committee on Urban Education meeting focusing on the following issues:

Dr. John Richard presented the list of 966 schools defined in Section 4 of HB555. To support the work of the Committee on Urban Education, a brief survey was sent (3-11-13) electronically to the principals and superintendents in the identified schools and districts in an effort to include stakeholder feedback in the development of recommendations for a comprehensive statewide plan to intervene directly in and improve the performance of persistently poor performing schools and school districts. While the offices within the Center for Accountability and Continuous Improvement are working in most of the identified schools, identification on the HB555 list will be new for some districts. Accordingly, all calls will be managed by John Richard, senior executive director of the Center.

Chair Bennett reviewed the notes from the meeting on Thursday, March 7, 2013 with the OSBA Urban School District Advisory Network. Appreciative of the invitation to share feedback, the local Board of Education members from Cleveland Heights-University Heights, South Western City, Springfield City, Urbana City, Warren City and Warrensville Heights City shared the academic and non- academic barriers to achievement in their districts as well as offered recommendations on what the state can do to intervene to assist in turning around low performing schools and districts. Ms. Bennett also discussed the presentation on non-academic barriers from Ms. Laura Rooney from the Ohio Department of Health that occurred following the meeting at OSBA. Supporting the work and research of addressing non-academic barriers to learning, Ms. Bennett distributed information regarding the Red Treehouse (RedTreehouse.org) collaboration; Dr. Richard also referenced the report, Healthier Students Are Better Learners: A Missing Link in School Reforms to Close the Achievement Gap.

Finally, Chair Bennett and Mrs. Oakar explained the benefits of meeting with the directors within the Center for Accountability & Continuous Improvement; a summary of Center presentation will be provided to all Committee members. Ms. Bennett and Mrs. Oakar were pleased to learn the depth and breadth of the work already occurring in most of the HB555 schools and districts through the Center offices. Accordingly, Dr. Richard and the Center directors will use their current work to frame recommendations for review and consideration by the Committee in April 2013; survey data will be presented at the April meeting as well. The Committee will continue to attend meetings to collect additional stakeholder feedback as opportunities arise.

BOARD PRESENTATIONS AND DISCUSSION FROM THE LEGISLATIVE AND BUDGET COMMITTEE

Chair: Bryan Williams, Co-Chair: C. Todd Jones

Mr. Williams gave a report from the Legislative and Budget Committee meeting focusing on the following issues:

The Committee received a report on SB 21, which includes an update to the implementation criteria of the Third Grade Reading Guarantee.

The Committee initiated a discussion regarding the Medicaid to schools program.

REVIEW OF WRITTEN REPORTS, ITEMS FOR VOTE AND ITEMS FOR CONSIDERATION FOR NEXT MONTH

President Terhar announced that Item 3 would be voted on separately.

Consent Agenda (4); Volume 2

- 1. RESOLUTION OF INTENT TO AMEND RULE 3301-52-01 OF THE ADMINISTRATIVE CODE ENTITLED APPROPRIATE USES OF EARLY CHILDHOOD EDUCATION SCREENING AND ASSESSMENT INFORMATION (VOLUME 2. PAGE 4)
- 2. RESOLUTION OF INTENT TO AMEND RULES 3301-102-01 TO 3301-102-07 OF THE ADMINISTRATIVE CODE REGARDING COMMUNITY SCHOOLS (VOLUME 2, PAGE 8)
- 3. RESOLUTION OF INTENT TO ADOPT RULE 3301-102-08 OF THE ADMINISTRATIVE CODE ENTITLED STANDARDS FOR MEASURING SPONSOR COMPLIANCE WITH APPLICABLE LAWS AND RULES (VOLUME 2, PAGE 35)
- 4. RESOLUTION OF INTENT TO ADOPT RULE 3301-102-10 OF THE ADMINISTRATIVE CODE REGARDING THE ACADEMIC PERFORMANCE RATING AND REPORT CARD SYSTEM FOR COMMUNITY SCHOOLS THAT SERVE STUDENTS ENROLLED IN DROPOUT PREVENTION AND RECOVERY PROGRAMS (VOLUME 2, PAGE 38)

Territory Transfers (3); Volume 2

- 5. RESOLUTION TO CONFIRM AND APPROVE THE RECOMMENDATION OF THE HEARING OFFICER AND TO DENY THE TRANSFER OF SCHOOL DISTRICT TERRITORY FROM THE BUCKEYE CENTRAL LOCAL SCHOOL DISTRICT, SENECA COUNTY, TO THE MOHAWK LOCAL SCHOOL DISTRICT, SENECA COUNTY, PURSUANT TO SECTION 3311.24 OF THE OHIO REVISED CODE (VOLUME 2, PAGE 41)
- 6. RESOLUTION TO CONFIRM AND APPROVE THE RECOMMENDATION OF THE HEARING OFFICER AND TO APPROVE THE TRANSFER OF SCHOOL DISTRICT TERRITORY FROM THE FAIRBORN CITY SCHOOL DISTRICT, GREENE COUNTY, TO THE HUBER HEIGHTS CITY SCHOOL DISTRICT, MONTGOMERY COUNTY, PURSUANT TO SECTION 3311.24 OF THE OHIO REVISED CODE (VOLUME 2, PAGE 95)
- 7. RESOLUTION TO CONFIRM AND APPROVE THE RECOMMENDATION OF THE HEARING OFFICER AND TO DENY THE TRANSFER OF SCHOOL DISTRICT TERRITORY FROM THE MEDINA CITY SCHOOL DISTRICT, MEDINA COUNTY, TO THE HIGHLAND LOCAL SCHOOL DISTRICT, MEDINA COUNTY, PURSUANT TO SECTION 3311.24 OF THE OHIO REVISED CODE (VOLUME 2, PAGE 148)

Items 8 through 13 were school personnel resolutions.

Administrative Rules (3); Volume 3

- 14. RESOLUTION TO AMEND RULE 3301-4-01 OF THE ADMINISTRATIVE CODE TITLED NOTICE OF MEETINGS (VOLUME 3, PAGE 205) (EXECUTIVE COMMITTEE)
- 15. RESOLUTION TO AMEND RULE 3301-23-44 OF THE ADMINISTRATIVE CODE ENTITLED TEMPORARY AND SUBSTITUTE LICENSES (VOLUME 3, PAGE 209) (CAPACITY COMMITTEE)
- 16. RESOLUTION TO AMEND RULE 3301-24-09 OF THE ADMINISTRATIVE CODE TITLED PERFORMANCE-BASED LICENSURE FOR ADMINISTRATORS (VOLUME 3, PAGE 215) (CAPACITY COMMITTEE)

Items for Consideration for Next Month

There were no Items for Consideration for Next Month.

President Terhar announced that Item 3 would be pulled from the Consent Agenda and voted on separately.

President Terhar presented the following recommendations (Items 1, 2 and 4) on the Consent Agenda:

1. RESOLUTION OF INTENT TO AMEND RULE 3301-52-01 OF THE ADMINISTRATIVE CODE ENTITLED APPROPRIATE USES OF EARLY CHILDHOOD EDUCATION SCREENING AND ASSESSMENT INFORMATION

The Achievement Committee **RECOMMENDS** that the State Board of Education **ADOPT** the following Resolution:

WHEREAS Section 4.02 of Am. Sub. H.B. 282 of the 123rd GA requires the State Board of Education to adopt rules addressing the use of screening and assessment data, including, but not limited to, protection of the identity of individual children through assignment of a unique but not personally identifiable code; parents' rights; and the use of the data by school personnel as it relates to kindergarten entrance; and

WHEREAS Rule 3301-52-01 of the Administrative Code, *Appropriate uses of early childhood education screening and assessment information*, is proposed to be amended pursuant to the requirements of five-year rule review; and

WHEREAS Rule 3301-52-01 of the Administrative Code ensures that early childhood programs use early childhood education assessment and screening information consistent with the purposes and intention for the assessments; assures parents' rights with regard to federal and state laws regarding privacy; document annual training of staff related to use and placement of confidential

child records as well as obtaining parental consents; provides written information to parents about the nature, method, timelines, and uses for screenings and assessments; and provides written information to parents regarding the appropriate use of assessments and screenings at kindergarten entry including information that such assessments cannot be used to determine eligibility for kindergarten entrance; and

WHEREAS the proposed changes to the rule would remove a reference to a program that is no longer in existence and update federal and state law references; and

WHEREAS the Common Sense Initiative Office reviewed the rule pursuant to its mandate regarding any potential adverse impact administrative rules may have on private business and recommended that the rule, pending approval by the State Board of Education, be filed with the Joint Committee on Agency Rule Review; and

WHEREAS the Achievement Committee reviewed the proposed changes during its February 2013 meeting and approved the proposed changes during its March 2013 meeting: Therefore, Be It

RESOLVED, That the State Board of Education hereby declares its intent to amend Rules 3301-52-01 of the Administrative Code, which is attached hereto and incorporated herein by this reference; and, Be It

FURTHER RESOLVED, That the Superintendent of Public Instruction be, and he hereby is, directed to file with the Secretary of State, Legislative Service Commission, and the Joint Committee on Agency Rule Review, the full text of the proposed rule to be amended and the same be made available upon request, without charge, to all persons affected by the rule; and, Be It

FURTHER RESOLVED, That the Department of Education, Office of Legal Counsel, is hereby authorized to revise or refile the rule to address issues determined to be of a non-substantive nature, including grammatical problems and other technical issues inherent to the content of the rule and accompanying forms; but that substantive issues related to rule content ultimately requiring revision or refiling of the rule will be brought before the State Board of Education for review and consideration; and, Be It

FURTHER RESOLVED, That the acting Superintendent of Public Instruction be, and he hereby is, directed to give proper notice under the provisions of Chapter 119. of the Revised Code of the holding of a hearing on said rule; that public notice be given in the Register of Ohio; and that said notice contain a general statement of the subject matter to which the rule relates.

2. RESOLUTION OF INTENT TO AMEND RULES 3301-102-01 TO 3301-102-07 OF THE ADMINISTRATIVE CODE REGARDING COMMUNITY SCHOOLS

The Capacity Committee **RECOMMENDS** that the State Board of Education **ADOPT** the following Resolution:

WHEREAS Rules 3301-102-01 to 3301-102-07 of the Administrative Code are proposed to be amended pursuant to the requirements of five-year rule review; and

WHEREAS Section 3314.015 of the Revised Code requires the State Board of Education to adopt rules containing criteria, procedures, and deadlines for processing applications for such approval, for oversight of sponsors, for revocation of the approval of sponsors, and for entering into written agreements with sponsors; and Section 3314.08 of the Revised Code requires the department to adopt rules governing the payments to community schools; and

WHEREAS Chapter 3301-102 of the Administrative Code establishes the following: the criteria, procedures, and deadlines for processing applications for approval of sponsors of new start-up community schools; the written agreement between the department and the approved entity authorizing it sponsorship authority; the sponsor's monitoring and reporting requirements; revocation of sponsorship; and, payments, adjustments and deductions for community schools; and

WHEREAS the proposed changes to the rules would bring the rules into compliance with recent changes to the Revised Code brought about by House Bill 153 of the 129th General Assembly; clarify the eligibility and approval criteria and the application and approval processes for sponsor applicants; raise the quality of sponsor practice (i.e. monitoring, oversight, and technical assistance) as well as clearly set forth the requirements of sponsorship for entities contemplating becoming sponsors; ensure that community schools and sponsors have a clear understanding of the steps involved in beginning payments, continuing payments, and how payments are calculated while providing flexibility sufficient to accommodate changes in law, the roles of other relevant agencies, and updates to the department's reporting systems; and

WHEREAS the Common Sense Initiative Office reviewed the rules pursuant to its mandate regarding any potential adverse impact administrative rules may have on private business and recommended that the rules, pending approval by the State Board of Education, be filed with the Joint Committee on Agency Rule Review; and

WHEREAS the Capacity Committee, following several months of review, approved the proposed amendments to Rules 3301-102-01 to 3301-102-07 of the Administrative Code during it January 2013 meeting: Therefore, Be It

RESOLVED, That the State Board of Education hereby declares its intent to amend Rules 3301-102-01 to 3301-102-07 of the Administrative Code, which are attached hereto and incorporated herein by this reference; and, Be It FURTHER RESOLVED, That the Superintendent of Public Instruction be, and he hereby is, directed to file with the Secretary of State, Legislative Service Commission, and the Joint Committee on Agency Rule Review, the full text of the proposed rules to be amended and the same be made available upon request, without charge, to all persons affected by the rules; and, Be It

FURTHER RESOLVED, That the Department of Education, Office of Legal Counsel, is hereby authorized to revise or refile the rules to address issues determined to be of a non-substantive nature, including grammatical problems and other technical issues inherent to the content of the rules and accompanying

forms; but that substantive issues related to rule content ultimately requiring revision or refiling of the rules will be brought before the State Board of Education for review and consideration; and, Be It

FURTHER RESOLVED, That the acting Superintendent of Public Instruction be, and he hereby is, directed to give proper notice under the provisions of Chapter 119. of the Revised Code of the holding of a hearing on said rules; that public notice be given in the Register of Ohio; and that said notice contain a general statement of the subject matter to which the rules relate.

4. RESOLUTION OF INTENT TO ADOPT RULE 3301-102-10 OF THE ADMINISTRATIVE CODE REGARDING THE ACADEMIC PERFORMANCE RATING AND REPORT CARD SYSTEM FOR COMMUNITY SCHOOLS THAT SERVE STUDENTS ENROLLED IN DROPOUT PREVENTION AND RECOVERY PROGRAMS

The Accountability Committee **RECOMMENDS** that the State Board of Education **ADOPT** the following Resolution:

WHEREAS Section 3314.017 of the Revised Code, as enacted by House Bill 555 of the 129th General Assembly, requires the State Board of Education to adopt rules prescribing an academic performance rating and report card system that satisfies the requirements of this section for community schools that primarily serve students enrolled in dropout prevention and recovery programs; and

WHEREAS Rule 3301-102-10 of the Administrative Code satisfies the various requirements for performance-indicators, performance-levels, and benchmarks, as established by Section 3314.017 of the Revised Code; and

WHEREAS stakeholder input was solicited through various means, which included Ohio Department of Education website postings with electronic comment opportunities, an interactive online stakeholder feedback session to solicit discussion and feedback, and various internal and external meetings and conference calls; and

WHEREAS the Accountability Committee, at its March 2013 meeting, voted to recommend adoption of the proposed rule to the State Board of Education: Therefore, Be It

RESOLVED, That the State Board of Education hereby declares its intent to adopt Rule 3301-102-10 of the Administrative Code, which is attached hereto and incorporated herein by this reference; and, Be It

FURTHER RESOLVED, That the acting Superintendent of Public Instruction be, and hereby is, directed to file with the Secretary of State, Legislative Service Commission, and the Joint Committee on Agency Rule Review the full text of the proposed rule and the same be made available upon request, without charge, to all persons affected by said rule; and, Be It

FURTHER RESOLVED, That the Department of Education, Office of Legal Counsel, is hereby authorized to revise or refile the rule to address issues determined to be of a non-substantive nature, including grammatical problems

and other technical issues inherent to the content of the rule and accompanying forms; but that substantive issues related to rule content ultimately requiring revision or refiling of the rule will be brought before the State Board of Education for review and consideration; and, Be It

FURTHER RESOLVED, That the acting Superintendent of Public Instruction be, and he hereby is, directed to give proper notice under the provisions of Chapter 119. of the Revised Code of the holding of a hearing on said rule; that public notice be given in the Register of Ohio; and that said notice contain a general statement of the subject matter to which the rule relates.

It was Moved by Mr. Farmer and Seconded by Mrs. Elshoff that the Consent Agenda (Items 1, 2 and 4) be approved.

President Terhar called for a roll call vote.

YES VOTES

Angela Thi Bennett Michael Collins Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams Deborah Cain Stephanie Dodd Joe Farmer Thomas Gunlock Kathleen McGervey Jeffrey Mims Debe Terhar

Motion carried.

Emergency Consideration was requested by Mr. Gunlock and granted by Board leadership.

Mr. Gunlock presented the following recommendation (Item 3):

3. RESOLUTION OF INTENT TO ADOPT RULE 3301-102-08 OF THE ADMINISTRATIVE CODE ENTITLED STANDARDS FOR MEASURING SPONSOR COMPLIANCE WITH APPLICABLE LAWS AND RULES

The Capacity Committee **RECOMMENDS** that the State Board of Education **ADOPT** the following Resolution:

WHEREAS House Bill 555 of the 129th General Assembly requires the State Board to adopt rules, by July 1, 2013, that prescribe standards for measuring compliance with applicable state laws and rules governing all sponsors of community schools, which would be one of the three components of the new sponsor evaluation system; and

WHEREAS stakeholder input was solicited through various means, which included Ohio Department of Education website postings with electronic comment opportunities, an interactive online stakeholder feedback session to solicit

discussion and feedback, and various internal and external meetings and conference calls; and

WHEREAS the Achievement Committee reviewed the proposed changes during its February 2013 meeting and approved the proposed changes during its March 2013 meeting: Therefore, Be It

RESOLVED, That the State Board of Education hereby declares its intent to promulgate Rule 3301-102-08 of the Administrative Code, *Standards for measuring sponsor compliance with applicable laws and rules*, which is attached hereto and incorporated herein by this reference; and, Be It

FURTHER RESOLVED, That the acting Superintendent of Public Instruction be, and hereby is, directed to file with the Secretary of State, Legislative Service Commission, and the Joint Committee on Agency Rule Review the full text of the proposed rule and the same be made available upon request, without charge, to all persons affected by said rule; and, Be It

FURTHER RESOLVED, That the Department of Education, Office of Legal Counsel, is hereby authorized to revise or refile the rule to address issues determined to be of a non-substantive nature, including grammatical problems and other technical issues inherent to the content of the rule and accompanying forms; but that substantive issues related to rule content ultimately requiring revision or refiling of the rule will be brought before the State Board of Education for review and consideration; and, Be It

FURTHER RESOLVED, That the acting Superintendent of Public Instruction be, and he hereby is, directed to give proper notice under the provisions of Chapter 119. of the Revised Code of the holding of a hearing on said rule; that public notice be given in the Register of Ohio; and that said notice contain a general statement of the subject matter to which the rule relates.

It was Moved by Mr. Gunlock and Seconded by Mr. Mims that the above recommendation (Item 3) be approved.

President Terhar called for a roll call vote.

YES VOTES

Angela Thi Bennett Michael Collins Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams Deborah Cain Stephanie Dodd Joe Farmer Thomas Gunlock Kathleen McGervey Jeffrey Mims Debe Terhar

Motion carried.

President Terhar presented the following recommendation (Item 5):

5. RESOLUTION TO CONFIRM AND APPROVE THE RECOMMENDATION OF THE HEARING OFFICER AND TO DENY THE TRANSFER OF SCHOOL DISTRICT TERRITORY FROM THE BUCKEYE CENTRAL LOCAL SCHOOL DISTRICT, SENECA COUNTY, TO THE MOHAWK LOCAL SCHOOL DISTRICT, SENECA COUNTY, PURSUANT TO SECTION 3311.24 OF THE OHIO REVISED CODE

I **RECOMMEND** that the State Board of Education **ADOPT** the following resolution:

WHEREAS, the State Board of Education did, on October 9, 2012, declare its intention to consider the request to transfer certain school district territory from the Buckeye Central Local School District, Seneca County, to the Mohawk Local School District, Seneca County pursuant to Section 3311.24 of the Ohio Revised Code; and

WHEREAS, the Superintendent of Public Instruction was directed to notify the parties of such intent and to notify them of their opportunity for a hearing; and

WHEREAS, a hearing was requested by the resident petitioner, and by the Buckeye Central Local School District, and the hearing was held on December 17, 2012, before Hearing Officer Ronda Shamansky, and

WHEREAS, the Hearing Officer, in her report dated January 15, 2013, recommends that the State Board of Education deny the proposed transfer of territory from the Buckeye Central Local School District to the Mohawk Local School District, pursuant to Ohio Revised Code Section 3311.24; and

WHEREAS, petitioner filed objections to the hearing officer's report and recommendation on February 4, 2013, and the Buckeye Central Local School District filed a response to the objections on February 12, 2013: Therefore, Be It

RESOLVED, that upon consideration of the hearing officer's report and recommendation, petitioner's objections, and the school district's responses thereto, the State Board of Education hereby confirms and approves the recommendation of the hearing officer and denies the request for the transfer of territory from the Buckeye Central Local School District, Seneca County, to the Mohawk Local School District, Seneca County; and Be It

FURTHER RESOLVED, that the Superintendent of Public Instruction be, and he hereby is, directed to serve a true copy of this resolution on the Petitioner, the Boards of Education of the Buckeye Central Local School District and the Mohawk Local School District, and counsel of record, if applicable.

It was Moved by Mr. Gunlock and Seconded by Mr. Mehaffie that the above recommendation (Item 5) be approved.

Mr. Jones Moved to Amend the resolution by Substitution. He moved the Board disapprove the recommendation of the Hearing Officer and to approve the transfer of school district territory from the Buckeye Central Local School District to the Mohawk Local School District. Mr. Gunlock Seconded the motion.

Mr. Jones stated that he felt the Hearing Officer's rationale to be unpersuasive and the negative financial impact stated by the Buckeye Central School District to be overwrought. He further stated he found the position of the moving land owners to be persuasive.

President Terhar called for a roll call vote on the proposed amendment by Mr. Jones.

YES VOTES

Angela Thi Bennett

Michael Collins

Tess Elshoff

Thomas Gunlock

Kathleen McGervey

Jeffrey Mims

Deborah Cain

Stephanie Dodd

Sarah Fowler

C. Todd Jones

Darryl D. Mehaffie

Bryan C. Williams

NO VOTES

Joe Farmer Mary Rose Oakar

Motion carried.

Resolution as amended:

RESOLUTION TO DISAPPROVE THE RECOMMENDATION OF THE HEARING OFFICER AND TO APPROVE THE TRANSFER OF SCHOOL DISTRICT TERRITORY FROM THE BUCKEYE CENTRAL LOCAL SCHOOL DISTRICT, SENECA COUNTY, TO THE MOHAWK LOCAL SCHOOL DISTRICT, SENECA COUNTY, PURSUANT TO SECTION 3311.24 OF THE OHIO REVISED CODE

I **RECOMMEND** that the State Board of Education **ADOPT** the following resolution:

WHEREAS, the State Board of Education did, on October 9, 2012, declare its intention to consider the request to transfer certain school district territory from the Buckeye Central Local School District, Seneca County, to the Mohawk Local School District, Seneca County pursuant to Section 3311.24 of the Ohio Revised Code; and

WHEREAS, the Superintendent of Public Instruction was directed to notify the parties of such intent and to notify them of their opportunity for a hearing; and

WHEREAS, a hearing was requested by the resident petitioner, and by the Buckeye Central Local School District, and the hearing was held on December 17, 2012, before Hearing Officer Ronda Shamansky, and

WHEREAS, the Hearing Officer, in her report dated January 15, 2013, recommends that the State Board of Education deny the proposed transfer of territory from the Buckeye Central Local School District to the Mohawk Local School District, pursuant to Ohio Revised Code Section 3311.24; and

WHEREAS, petitioner filed objections to the hearing officer's report and recommendation on February 4, 2013, and the Buckeye Central Local School District filed a response to the objections on February 12, 2013: Therefore, Be It

RESOLVED, that upon consideration of the hearing officer's report and recommendation, petitioner's objections, and the school district's responses thereto, the State Board of Education hereby disapproves the recommendation of the hearing officer on the basis that, after having examined the evidence and considered the arguments of the parties, the State Board of Education rejects certain findings of fact and conclusions of law made by the hearing officer. The State Board of Education rejects the findings of fact that the transfer will have a negative financial impact on the Buckeye Central School District, that the financial impact will be multiplied if other residents sought territorial transfers, that the proposed transfer would not contribute to the good organization of either school district involved because it creates an unusual and arbitrary district boundary, and that the transfer will cause a financial hardship to the Buckeye Central School District, and any related conclusions of law. To the contrary, the State Board of Education finds that petitioner did not prove a substantial negative financial impact. Although the Buckeye Central School District is required to make annual payments of \$46,470 per year to pay a debt obligation incurred in its agreement with Tiffin City School District in 2002, the record does not reflect what portion of that debt payment is attributable to the smaller portion of territory sought to be transferred here. Furthermore, under R.C. 3311.24(A)(4)(b), upon approval of the transfer, Buckeye Central School District has the opportunity to make "an equitable division of the funds and indebtedness between the districts involved," and thus the ability to recoup the appropriate portion of these payments attributable to the territory being transferred. In addition, although the evidence did establish a loss of taxable value connected to the transfer of the property, there was no evidence that the relatively small loss of property tax revenue to Buckeye Central School District would have a negative impact on the district. The State Board of Education also considers findings and conclusions based upon a concern that this transfer will spark future transfers as speculative and irrelevant to whether this transfer should be approved. Furthermore, many school districts have boundaries that are not in straight lines or that do not follow roads, and the existence of such a boundary is not evidence that the proposed transfer will not contribute to the good organization of the Buckeye Central School District; and Be It

FURTHER RESOLVED that the State Board of Education finds that the petitioners established that it is a shorter and safer commute for the children of the territory to the schools of the Mohawk Local School District, that petitioners and their children consider themselves part of the Mohawk Local School District community, and that the lawful preference of the residents of the territory with school age children is that they attend the Mohawk Local School District. The fact that the children are already attending Mohawk through local enrollment is not a valid reason not to consider their preference. When considering all of the relevant factors, the State Board of Education finds that the petitioners met their burden of proof and that the transfer serves the ultimate good of the majority of pupils involved. For all of these reasons, the State Board of Education approves the request for the transfer of territory from the Buckeye Central School District, Seneca County, to the Mohawk Local School District, Seneca County; and Be It

FURTHER RESOLVED, that the Superintendent of Public Instruction be, and he hereby is, directed to serve a true copy of this resolution on the Petitioner, the Boards of Education of the Buckeye Central Local School District and the Mohawk Local School District, and counsel of record, if applicable.

President Terhar called for a roll call vote on the resolution as amended.

YES VOTES

Angela Thi Bennett Michael Collins Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams Deborah Cain Stephanie Dodd Joe Farmer Thomas Gunlock Kathleen McGervey Jeffrey Mims Debe Terhar

Motion carried.

President Terhar presented the following recommendation (Item 6):

6. RESOLUTION TO CONFIRM AND APPROVE THE RECOMMENDATION OF THE HEARING OFFICER AND TO APPROVE THE TRANSFER OF SCHOOL DISTRICT TERRITORY FROM THE FAIRBORN CITY SCHOOL DISTRICT, GREENE COUNTY, TO THE HUBER HEIGHTS CITY SCHOOL DISTRICT, MONTGOMERY COUNTY, PURSUANT TO SECTION 3311.24 OF THE OHIO REVISED CODE

I **RECOMMEND** that the State Board of Education **ADOPT** the following resolution:

WHEREAS, the State Board of Education did, on June 15, 2012, declare its intention to consider the request to transfer certain school district territory from the Fairborn City School District, Greene County, to the Huber Heights City School District, Montgomery County pursuant to Section 3311.24 of the Ohio Revised Code; and

WHEREAS, the Superintendent of Public Instruction was directed to notify the parties of such intent and to notify them of their opportunity for a hearing; and

WHEREAS, a hearing was requested by the resident petitioner, and the hearing was held on September 19, 2012, before Hearing Officer Lawrence Pratt, and

WHEREAS, the Hearing Officer, in his report dated January 4, 2013, recommends that the State Board of Education approve the proposed transfer of territory from the Fairborn City School District, Greene County, to the Huber Heights City School District, Montgomery County, pursuant to Ohio Revised Code Section 3311.24; and

WHEREAS, the Fairborn City School District filed objections to the hearing officer's report and recommendation on January 18, 2013, and the petitioner filed a response to the objections on January 28, 2013: Therefore, Be It

RESOLVED, that upon consideration of the hearing officer's report and recommendation, the school district's objections, and the petitioner's responses thereto, the State Board of Education hereby confirms and approves the recommendation of the hearing officer and approves the request for the transfer

of territory from the Fairborn City School District, Greene County, to the Huber Heights City School District, Montgomery County; and Be It

FURTHER RESOLVED, that the Superintendent of Public Instruction be, and he hereby is, directed to serve a true copy of this resolution on the Petitioner, the Boards of Education of the Fairborn City School District and the Huber Heights City School District, and counsel of record, if applicable.

It was Moved by Mr. Jones and Seconded by Mrs. Dodd that the above recommendation (Item 6) be approved.

President Terhar called for a roll call vote.

YES VOTES

Angela Thi Bennett Michael Collins Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams Deborah Cain Stephanie Dodd Joe Farmer Thomas Gunlock Kathleen McGervey Jeffrey Mims Debe Terhar

Motion carried.

President Terhar presented the following recommendation (Item 7):

7. RESOLUTION TO CONFIRM AND APPROVE THE RECOMMENDATION OF THE HEARING OFFICER AND TO DENY THE TRANSFER OF SCHOOL DISTRICT TERRITORY FROM THE MEDINA CITY SCHOOL DISTRICT, MEDINA COUNTY, TO THE HIGHLAND LOCAL SCHOOL DISTRICT, MEDINA COUNTY, PURSUANT TO SECTION 3311.24 OF THE OHIO REVISED CODE

I RECOMMEND that the State Board of Education ADOPT the following resolution:

WHEREAS, the State Board of Education did, on June 15, 2012, declare its intention to consider the request to transfer certain school district territory from the Medina City School District, Medina County, to the Highland Local School District, Medina County pursuant to Section 3311.24 of the Ohio Revised Code; and

WHEREAS, the Superintendent of Public Instruction was directed to notify the parties of such intent and to notify them of their opportunity for a hearing; and

WHEREAS, a hearing was requested by the resident petitioner, and the hearing was held on November 9, 2012, before Hearing Officer Larry Pratt, and

WHEREAS, the Hearing Officer, in his report dated January 7, 2013, recommends that the State Board of Education deny the proposed transfer of territory from the Medina City School District to the Highland Local School District, pursuant to Ohio Revised Code Section 3311.24; and

WHEREAS, petitioner filed objections to the hearing officer's report and recommendation on January 18, 2013, and the Medina City School District filed a response to the objections on January 28, 2013: Therefore, Be It

RESOLVED, that upon consideration of the hearing officer's report and recommendation, petitioner's objections, and the school district's responses thereto, the State Board of Education hereby confirms and approves the recommendation of the hearing officer and denies the request for the transfer of territory from the Medina City School District, Medina County, to the Highland Local School District, Medina County; and Be It

FURTHER RESOLVED, that the Superintendent of Public Instruction be, and he hereby is, directed to serve a true copy of this resolution on the Petitioner, the Boards of Education of the Medina City School District and the Highland Local School District, and counsel of record, if applicable.

It was Moved by Mrs. Dodd and Seconded by Mr. Farmer that the above recommendation (Item 7) be approved.

Mr. Gunlock Moved to Amend the resolution by Substitution. He moved the Board disapprove the recommendation of the Hearing Officer and to approve the transfer of school district territory from the Medina City School District to the Highland Local School District. Mr. Jones Seconded the motion.

Mr. Gunlock stated this situation was similar to Item 5 and additionally he felt the fiscal loss to the Medina City School District was minimal and the petitioner had established that his residence was closer to Highland schools.

President Terhar called for a roll call vote on the proposed amendment by Mr. Gunlock.

YES VOTES

Angela Thi Bennett

Michael Collins

Thomas Gunlock

Kathleen McGervey

Jeffrey Mims

Deborah Cain

Sarah Fowler

C. Todd Jones

Darryl D. Mehaffie

Mary Rose Oakar

Bryan C. Williams

NO VOTES

Stephanie Dodd Joe Farmer

Motion carried.

Resolution as amended:

7. RESOLUTION TO DISAPPROVE THE RECOMMENDATION OF THE HEARING OFFICER AND TO APPROVE THE TRANSFER OF SCHOOL DISTRICT TERRITORY FROM THE MEDINA CITY SCHOOL DISTRICT, MEDINA COUNTY, TO THE HIGHLAND LOCAL SCHOOL DISTRICT, MEDINA COUNTY, PURSUANT TO SECTION 3311.24 OF THE OHIO REVISED CODE

I **RECOMMEND** that the State Board of Education **ADOPT** the following resolution:

WHEREAS, the State Board of Education did, on June 15, 2012, declare its intention to consider the request to transfer certain school district territory from the Medina City School District, Medina County, to the Highland Local School District, Medina County pursuant to Section 3311.24 of the Ohio Revised Code; and

WHEREAS, the Superintendent of Public Instruction was directed to notify the parties of such intent and to notify them of their opportunity for a hearing; and

WHEREAS, a hearing was requested by the resident petitioner, and the hearing was held on November 9, 2012, before Hearing Officer Larry Pratt, and

WHEREAS, the Hearing Officer, in his report dated January 7, 2013, recommends that the State Board of Education deny the proposed transfer of territory from the Medina City School District to the Highland Local School District, pursuant to Ohio Revised Code Section 3311.24; and

WHEREAS, petitioner filed objections to the hearing officer's report and recommendation on January 18, 2013, and the Medina City School District filed a response to the objections on January 28, 2013: Therefore, Be It

RESOLVED, that upon consideration of the hearing officer's report and recommendation, petitioner's objections, and the school district's responses thereto, the State Board of Education hereby disapproves the recommendation of the hearing officer on the basis that the State Board rejects certain findings of fact and conclusions of law made by the hearing officer. The State Board rejects the findings of fact relative to the negative financial impact of the transfer on the Medina City School District and that the transfer would represent a windfall to the Highland Local School District, and the related conclusions of law. Although the evidence established an annual loss of revenue in the amount of \$27,089.69 to the Medina City School District, the evidence did not establish that this loss of revenue would negatively affect the ability of the district to serve its students. The State Board also rejects the finding of fact that the distance from the territory to the two districts is comparable, and that the educational benefit of the transfer to the petitioner's child is speculative; and Be It

FURTHER RESOLVED, that the State Board of Education finds that the balancing of the factors weighs in favor of approving the transfer, and that the transfer serves the ultimate good of the affected pupils. Petitioner has established that his residence is closer to the schools of the Highland Local School District, that the territory is isolated from the Medina City School District; that residents of the territory have a sense of community with the Highland Local School District and its residents, and that the residents with school age children in the territory have a lawful preference to attend the schools of the Highland Local School District. The State Board of Education finds that these factors

outweigh the loss of revenue to the Medina City School District. For all of these reasons, the State Board of Education approves the request for the transfer of territory from the Medina City School District, Medina County, to the Highland Local School District, Medina County; and Be It

FURTHER RESOLVED, that the Superintendent of Public Instruction be, and he hereby is, directed to serve a true copy of this resolution on the Petitioner, the Boards of Education of the Medina City School District and the Highland Local School District, and counsel of record, if applicable.

President Terhar called for a roll call vote on the resolution as amended.

YES VOTES

Angela Thi Bennett
Michael Collins
Joe Farmer
Thomas Gunlock
Kathleen McGervey
Jeffrey Mims
Debe Terhar

Deborah Cain Stephanie Dodd Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams

Motion carried.

Lori Kelly, Director, Office of Professional Conduct, presented the following recommendation (Item 8):

8. RESOLUTION TO ACCEPT THE REPORT AND RECOMMENDATION OF THE HEARING OFFICER TO SUSPEND THE FIVE-YEAR PROFESSIONAL EARLY CHILDHOOD TEACHING LICENSE OF MARCUS C. ADAMS

I **RECOMMEND** that the State Board of Education **ADOPT** the following Resolution:

WHEREAS Marcus C. Adams holds a five-year professional early childhood teaching license issued in 2011; and

WHEREAS on May 18, 2012, the State Superintendent of Public Instruction, on behalf of the State Board of Education, notified Marcus C. Adams of its intent to determine whether to limit, suspend, revoke, or permanently revoke his five-year professional early childhood teaching license issued in 2011 pursuant to Ohio Revised Code 3319.31(B)(1). The notice was based upon Mr. Adams' 2009 conviction in the Franklin County Municipal Court for one misdemeanor count of disorderly conduct and 2011 conviction in the Franklin County Municipal Court for one misdemeanor count of criminal mischief; and

WHEREAS Mr. Adams requested a hearing regarding the State Board's intent; and

WHEREAS a hearing was held on November 7, 2012; and

WHEREAS Mr. Adams was present at the hearing and was represented by counsel; and

WHEREAS the hearing officer recommends that Mr. Adams' five-year professional early childhood teaching license be suspended indefinitely with the suspension being at least a minimum of four years from the date of the hearing with the last two years of the suspension period to be stayed as long as Mr. Adams complies with the terms of his court-ordered probation. The remaining two years of the suspension period will remain stayed provided that Mr. Adams compiles with the following terms and conditions for at least a three year period beginning on the date the suspension is stayed: Mr. Adams shall abstain completely from the use of alcohol; Mr. Adams shall abstain completely from using or possessing drugs, except those lawfully prescribed; Mr. Adams shall maintain participation in an alcohol rehabilitation program acceptable to the State Board or its designee, no less than two times per week, or as otherwise directed by the State Board or its designee and provide documentation of his participation as required by the State Board or its designee; Mr. Adams shall appear before the State Board or its designee as requested; and Mr. Adams shall obey all federal, state, and local laws and rules governing the licensure of educators in Ohio. The hearing officer's recommendation is based upon Mr. Adams' unbecoming conduct warranting a sanction that is significant, yet provides an incentive for Mr. Adams to comply with terms that would allow him to return to the teaching profession; and

WHEREAS the State Board of Education considered the objections to the hearing officer's report and recommendation which Mr. Adams timely filed: Therefore, Be It.

RESOLVED, That the State Board of Education, pursuant to Ohio Revised Code 3319.31(B)(1), hereby **SUSPENDS** Marcus C. Adams' five-year professional early childhood teaching license issued in 2011 based upon Mr. Adams' 2009 conviction in the Franklin County Municipal Court for one misdemeanor count of disorderly conduct and 2011 conviction in the Franklin County Municipal Court for one misdemeanor count of criminal mischief. The suspension shall be an indefinite suspension with Mr. Adams serving a minimum suspension period of at least four years beginning on November 7, 2012 with the last two years of the minimum suspension period to be stayed as long as Mr. Adams complies with the terms of his court-ordered probation. The remaining two years of the minimum suspension period will remain stayed provided that Mr. Adams compiles with the following terms and conditions for at least a three year period beginning on the date the suspension is stayed: Mr. Adams shall abstain completely from the use of alcohol; Mr. Adams shall abstain completely from using or possessing drugs, except those lawfully prescribed; Mr. Adams shall maintain participation in an alcohol rehabilitation program acceptable to the State Board or its designee, no less than two times per week, or as otherwise directed by the State Board or its designee and provide documentation of his participation as required by the State Board or its designee; Mr. Adams shall appear before the State Board or its designee as requested; and Mr. Adams shall obey all federal, state, and local laws and rules governing the licensure of educators in Ohio. The State Board also orders Mr. Adams to complete random alcohol/drug tests as requested by the State Board or its designee to verify his compliance with the terms to abstain from the use of alcohol and non-prescribed drugs. If Mr. Adams fails to comply with any of the aforementioned terms and conditions, any stay of the suspension will be abolished automatically. Further, the State Board orders that Marcus C. Adams be

ineligible to apply for any license issued by the State Board of Education until on or after the date his license suspension is stayed and provided that he is in compliance with the aforementioned terms and conditions related to his suspension remaining stayed; and, Be It Further

RESOLVED, That the State Board of Education, directs the Ohio Department of Education, on its behalf, to implement the aforementioned terms and conditions regarding Mr. Adams' license. Further, if said terms and conditions have not been fulfilled completely upon Mr. Adams applying for a new license, the State Board directs the Ohio Department of Education to evaluate the new application in accordance with its orders and ensure all outstanding terms and conditions are addressed; and, Be It Further

RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to notify Mr. Adams of this action.

It was Moved by Mr. Gunlock and Seconded by Ms. McGervey that the above recommendation (Item 8) be approved.

Ms. McGervey Moved to Amend by Substitution. She proposed to revoke Marcus C. Adams' five-year professional early childhood teaching license issued in 2011 based upon Mr. Adams' 2009 conviction in the Franklin County Municipal Court for one misdemeanor count of disorderly conduct and 2011 conviction in the Franklin County Municipal Court for one misdemeanor count of criminal mischief. Further, the State Board of Education, in accordance with Ohio Administrative Rule 3301-73-22(A)(2)(b), order Marcus C. Adams be permanently ineligible to apply for any license issued by the State Board of Education. Mr. Mehaffie Seconded the motion.

Ms. McGervey referred to Mr. Adams as having engaged in violent, physically aggressive acts in 2009 and 2011 which resulted in two criminal convictions. Despite completing a 40 week domestic violence course after his conviction in 2009, Mr. Adams engaged in the same violent behavior in 2011. Mr. Adams' repeated misconduct, despite completing a domestic violence course, demonstrate that he is not amendable to rehabilitation.

President Terhar called for a roll call vote.

YES VOTES

Deborah Cain
Joe Farmer
Sarah Fowler
C. Todd Jones
Kathleen McGervey
Jeffrey Mims
Mary Rose Oakar
Debe Terhar
Michael Collins
Sarah Fowler
C. Todd Jones
Maryl D. Mehaffie
Mary Rose Oakar

NO VOTES

Angela Thi Bennett Stephanie Dodd

Motion carried.

Resolution as amended:

8. RESOLUTION TO REJECT PORTIONS OF THE REPORT AND RECOMMENDATION OF THE HEARING OFFICER AND TO REVOKE

PERMANENTLY THE FIVE-YEAR PROFESSIONAL EARLY CHILDHOOD TEACHING LICENSE OF MARCUS C. ADAMS

I RECOMMEND that the State Board of Education ADOPT the following Resolution:

WHEREAS Marcus C. Adams holds a five-year professional early childhood teaching license issued in 2011; and

WHEREAS on May 18, 2012, the State Superintendent of Public Instruction, on behalf of the State Board of Education, notified Marcus C. Adams of its intent to determine whether to limit, suspend, revoke, or permanently revoke his five-year professional early childhood teaching license issued in 2011 pursuant to Ohio Revised Code 3319.31(B)(1). The notice was based upon Mr. Adams' 2009 conviction in the Franklin County Municipal Court for one misdemeanor count of disorderly conduct and 2011 conviction in the Franklin County Municipal Court for one misdemeanor count of criminal mischief; and

WHEREAS Mr. Adams requested a hearing regarding the State Board's intent; and

WHEREAS a hearing was held on November 7, 2012; and

WHEREAS Mr. Adams was present at the hearing and was represented by counsel; and

WHEREAS the hearing officer recommends that Mr. Adams' five-year professional early childhood teaching license be suspended indefinitely with the suspension being at least a minimum of four years from the date of the hearing with the last two years of the suspension period to be stayed as long as Mr. Adams complies with the terms of his court-ordered probation. The remaining two years of the suspension period will remain stayed provided that Mr. Adams compiles with the following terms and conditions for at least a three year period beginning on the date the suspension is stayed: Mr. Adams shall abstain completely from the use of alcohol; Mr. Adams shall abstain completely from using or possessing drugs, except those lawfully prescribed; Mr. Adams shall maintain participation in an alcohol rehabilitation program acceptable to the State Board or its designee, no less than two times per week, or as otherwise directed by the State Board or its designee and provide documentation of his participation as required by the State Board or its designee; Mr. Adams shall appear before the State Board or its designee as requested; and Mr. Adams shall obey all federal, state, and local laws and rules governing the licensure of educators in Ohio. The hearing officer's recommendation is based upon Mr. Adams' unbecoming conduct warranting a sanction that is significant, yet provides an incentive for Mr. Adams to comply with terms that would allow him to return to the teaching profession; and

WHEREAS the State Board of Education considered the report and recommendation of the hearing officer and the objections which Mr. Adams timely filed; and

WHEREAS the State Board rejects Finding of Fact numbered 15 and the hearing officer's proposed recommendation which suspends Mr. Adams license with the suspension to be stayed if Mr. Adams complies with his probation and monitoring conditions; and

WHEREAS the State Board of Education finds that Mr. Adams' conduct unbecoming an educator has an impact on his immediate and future licensure and employment and supports an order that permanently prohibits him from applying for any license issued by the State Board of Education. These findings are based upon the mitigating factors in the case being outweighed by the nature and seriousness of Mr. Adams' conduct. Mr. Adams engaged in violent, physically aggressive acts in 2009 and 2011 which resulted in two criminal convictions. Despite completing a 40 week domestic violence course after his conviction in 2009, Mr. Adams engaged in the same violent behavior in 2011. Mr. Adams' conduct negatively reflects on the teaching profession and his violent actions and criminal convictions are not indicative of a role model to students. Mr. Adams' repeated misconduct, despite completing a domestic violence course, demonstrate that he is not amendable to rehabilitation and he lacks the ability to adhere to the high ethical standards detailed in the *Licensure Code of Professional Conduct for Ohio Educators*: Therefore, Be It

RESOLVED that the State Board of Education considered the report and recommendation of the hearing officer and the objections which Mr. Adams timely filed; and, and Be It Further

RESOLVED that the State Board rejects Finding of Fact numbered 15 and the hearing officer's proposed recommendation which suspends Mr. Adams license with the suspension to be stayed if Mr. Adams complies with his probation and monitoring conditions; and, Be It Further

RESOLVED that the State Board of Education finds that Mr. Adams' conduct unbecoming an educator has an impact on his immediate and future licensure and employment and supports an order that permanently prohibits him from applying for any license issued by the State Board of Education. These findings are based upon the mitigating factors in the case being outweighed by the nature and seriousness of Mr. Adams' conduct. Mr. Adams engaged in violent, physically aggressive acts in 2009 and 2011 which resulted in two criminal convictions. Despite completing a 40 week domestic violence course after his conviction in 2009, Mr. Adams engaged in the same violent behavior in 2011. Mr. Adams' conduct negatively reflects on the teaching profession and his violent actions and criminal convictions are not indicative of a role model to students. Mr. Adams' repeated misconduct, despite completing a domestic violence course, demonstrate that he is not amendable to rehabilitation and he lacks the ability to adhere to the high ethical standards detailed in the *Licensure Code of Professional Conduct for Ohio Educators*

RESOLVED, That the State Board of Education, pursuant to Ohio Revised Code 3319.31(B)(1), hereby **REVOKES** Marcus C. Adams' five-year professional early childhood teaching license issued in 2011 based upon Mr. Adams' 2009 conviction in the Franklin County Municipal Court for one misdemeanor count of disorderly conduct and 2011 conviction in the Franklin County Municipal Court for one misdemeanor count of criminal mischief. Further, the State Board of Education, in accordance with Ohio Administrative Rule 3301-73-22(A)(2)(b), order Marcus C. Adams be permanently ineligible to apply for any license issued by the State Board of Education; and, Be It Further

RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to notify Mr. Adams of this action.

President Terhar called for a roll call vote on the resolution as amended.

YES VOTES

Deborah Cain
Joe Farmer
Sarah Fowler
Thomas Gunlock
Kathleen McGervey
Jeffrey Mims
Debe Terhar
Michael Collins
Sarah Fowler
C. Todd Jones
Darryl D. Mehaffie
Mary Rose Oakar
Bryan C. Williams

NO VOTES

Angela Thi Bennett Stephanie Dodd

Motion carried.

Lori Kelly, Director, Office of Professional Conduct, presented the following recommendation (Item 9):

9. RESOLUTION TO REVOKE PERMANENTLY THE FIVE-YEAR LONG TERM SUBSTITUTE TEACHING LICENSE OF LATANYA M. EMERSON (AKA LATANYA M. NOLCOX)

I RECOMMEND that the State Board of Education ADOPT the following Resolution:

WHEREAS Latanya M. Emerson (aka Latanya M. Nolcox) holds a five-year long term substitute teaching license issued in 2008; and

WHEREAS Ms. Emerson's five-year long term substitute teaching license issued in 2008 is suspended pursuant to a consent agreement which she entered into with the State Board of Education in 2011; and

WHEREAS on January 9, 2013, the Acting State Superintendent of Public Instruction, on behalf of the State Board of Education, notified Latanya M. Emerson of its intent to determine whether to limit, suspend, revoke, or permanently revoke her five-year long term substitute teaching license issued in 2008 pursuant to Ohio Revised Code 3319.31(B)(1), (B)(2)(a) and (B)(3). The notice was based upon Ms. Emerson's conduct unbecoming a licensed educator which resulted in her receiving a letter of admonishment from the State Board in 2008, entering into a consent agreement with the State Board in 2011, and pleading guilty in the Cuyahoga County Common Pleas Court to one felony count of improperly handling firearms in a motor vehicle in 2012 and subsequently being accepted into an intervention in lieu of conviction program; and

WHEREAS the notice informed Ms. Emerson that if she fails within thirty days to request a hearing in accordance with Section 119.07 of the Revised Code, the State Board of Education will proceed to determine whether to limit, suspend, revoke, or permanently revoke her five-year long term substitute teaching license issued in 2008; and

WHEREAS Latanya M. Emerson did not request a hearing in accordance with Section 119.07 of the Revised Code; and

WHEREAS the State Board of Education has reviewed the affidavit of the Director of the Office of Professional Conduct, Notice of the State Board of Education's Intended Action and Opportunity for a Hearing, certified court records from the Cuyahoga County Common Pleas Court, certified police records from the Warrensville Heights Police Department, and the letter of admonishment and consent agreement that previously imposed disciplinary action against Ms. Emerson's credentials; and

WHEREAS Ohio Administrative Code Rule 3301-73-05 authorizes the State Board of Education to impose disciplinary action against any licenses held or applied for without holding an administrative hearing if the applicant and/or license holder fails within thirty days to request a hearing in accordance with Section 119.07 of the Revised Code: Therefore, Be It

RESOLVED, That the State Board of Education, pursuant to Ohio Revised Code 3319.31(B)(1), (B)(2)(a) and (B)(3), hereby **REVOKES** Latanya M. Emerson's five-year long term substitute teaching license issued in 2008 based upon Ms. Emerson's conduct unbecoming a licensed educator which resulted in her receiving a letter of admonishment from the State Board in 2008, entering into a consent agreement with the State Board in 2011, and pleading guilty in the Cuyahoga County Common Pleas Court to one felony count of improperly handling firearms in a motor vehicle in 2012 and subsequently being accepted into an intervention in lieu of conviction program. Further, the State Board, in accordance with Ohio Administrative Code Rule 3301-73-22(A)(2)(b), orders Latanya M. Emerson be permanently ineligible to apply for any license issued by the State Board of Education; and, Be It Further

RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to notify Ms. Emerson of this action.

It was Moved by Mr. Gunlock and Seconded by Ms. Fowler that the above recommendation (Item 9) be approved.

President Terhar called for a roll call vote.

YES VOTES

Angela Thi Bennett Michael Collins Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams Deborah Cain Stephanie Dodd Joe Farmer Thomas Gunlock Kathleen McGervey Jeffrey Mims Debe Terhar

Motion carried.

Lori Kelly, Director, Office of Professional Conduct, presented the following recommendation (Item 10):

10. RESOLUTION TO ACCEPT THE REPORT AND RECOMMENDATION OF THE HEARING OFFICER TO SUSPEND THE FIVE-YEAR PROFESSIONAL EDUCATION OF THE HANDICAPPED TEACHING LICENSE AND FIVE-YEAR PROFESSIONAL ELEMENTARY TEACHING LICENSE AND TO REVOKE THE FIVE-YEAR PROFESSIONAL PUPIL SERVICES LICENSE OF STACEY J. KIRKSEY

I **RECOMMEND** that the State Board of Education **ADOPT** the following Resolution:

WHEREAS Stacey J. Kirksey holds a five-year professional education of the handicapped teaching license issued in 2011 and five-year professional elementary teaching license issued in 2011 and held a five-year professional pupil services license issued in 2007; and

WHEREAS on February 10, 2012, the State Superintendent of Public Instruction, on behalf of the State Board of Education, notified Stacey J. Kirksey of its intent to determine whether to limit, suspend, revoke, or permanently revoke her five-year professional education of the handicapped teaching license issued in 2011, five-year professional elementary teaching license issued in 2011 and five-year professional pupil services license issued in 2007 pursuant to Ohio Revised Code 3319.31(B)(1). The notice was based upon Ms. Kirksey engaging in conduct unbecoming an educator when she resigned her employment in 2011 with Trotwood-Madison City School District as a school psychologist and kept in her possession confidential student records for twenty-nine students and did not begin to return the records for at least four months despite being asked and directed multiple times to return the records to the district and the district being adversely affected by Ms. Kirksey's actions; and

WHEREAS Ms. Kirksey requested a hearing regarding the State Board's intent; and

WHEREAS a hearing was held on October 19, 2012; and

WHEREAS Ms. Kirksey was present at the hearing and was represented by counsel; and

WHEREAS the hearing officer recommends that Ms. Kirksey's five-year professional education of the handicapped teaching license issued in 2011 and five-year professional elementary teaching license issued in 2011 be suspended for one year and her expired five-year professional pupil services license issued in 2007 be revoked. The hearing officer's recommendation is based upon Ms. Kirksey's unacceptable actions and extremely poor judgment being mitigated by her excellent record as a teacher and school psychologist in the past, her medical and personal problems contributing to her conduct, her not being employed in a school psychologist position any longer, and her performance at her current position being praised; and

WHEREAS the State Board of Education considered the objections to the hearing officer's report and recommendation which Ms. Kirksey timely filed: Therefore, Be It

RESOLVED, That the State Board of Education, pursuant to Ohio Revised Code 3319.31(B)(1), hereby **SUSPENDS** Stacey J. Kirksey's five-year professional education of the handicapped teaching license issued in 2011 and five-year professional elementary teaching license issued in 2011 for a period of one year with the suspension beginning on March 12, 2013 and **REVOKES** Ms. Kirksey's five-year professional pupil services license issued in 2007 based upon Ms. Kirksey engaging in conduct unbecoming an educator when she resigned her employment in 2011 with the Trotwood-Madison City School District as a school psychologist and kept in her possession confidential student records for twentynine students and did not begin to return the records for at least four months despite being asked and directed multiple times to return the records to the district. Further, the State Board, in accordance with Ohio Administrative Code Rule 3301-73-22(A)(2)(a), orders that Stacey J. Kirksey be ineligible to apply for any license issued by the State Board of Education until on or after March 12, 2014; and, Be It Further

RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to notify Ms. Kirksey of this action.

It was Moved by Mr. Gunlock and Seconded by Ms. McGervey that the above recommendation (Item 10) be approved.

Ms. Fowler Moved to Amend the resolution by Substitution. She Moved to accept the report but modify the recommendation of the Hearing Officer. Ms. Fowler's proposed amendment would suspend Stacey J. Kirksey's five-year professional education of the handicapped teaching license issued in 2011 and five-year professional elementary teaching license issued in 2011 for a period of one year, beginning on March 12, 2013. The proposed amendment further orders the one year suspension to be stayed provided that Ms. Kirksey does not engage in further violations of Section 3319.31 of the Ohio Revised Code and/or the Licensure Code of Professional Conduct for Ohio Educator. Ms. McGervey Seconded the motion.

Ms. Fowler noted the unacceptable actions and extremely poor judgment being mitigated by her excellent record as a teacher and school psychologist in the past, her medical and personal problems contributing to her conduct, her not being employed in a school psychologist position any longer, and her performance at her current position being praised.

Ms. McGervey also noted the extra-ordinary medical and family issues and stated this issue warranted compassion.

President Terhar called for a roll call vote on the proposed amendment.

YES VOTES

Deborah Cain Tess Elshoff Sarah Fowler Darryl D. Mehaffie Debe Terhar Michael Collins Joe Farmer Kathleen McGervey Jeffrey Mims Bryan C. Williams

NO VOTES

Angela Thi Bennett Thomas Gunlock Mary Rose Oakar Stephanie Dodd C. Todd Jones

Motion carried.

Resolution as amended:

10. RESOLUTION TO ACCEPT THE REPORT BUT MODIFY THE RECOMMENDATION OF THE HEARING OFFICER TO SUSPEND THE FIVE-YEAR PROFESSIONAL EDUCATION OF THE HANDICAPPED TEACHING LICENSE AND FIVE-YEAR PROFESSIONAL ELEMENTARY TEACHING LICENSE OF STACEY J. KIRKSEY

I RECOMMEND that the State Board of Education ADOPT the following Resolution:

WHEREAS Stacey J. Kirksey holds a five-year professional education of the handicapped teaching license issued in 2011 and five-year professional elementary teaching license issued in 2011 and held a five-year professional pupil services license issued in 2007; and

WHEREAS on February 10, 2012, the State Superintendent of Public Instruction, on behalf of the State Board of Education, notified Stacey J. Kirksey of its intent to determine whether to limit, suspend, revoke, or permanently revoke her five-year professional education of the handicapped teaching license issued in 2011, five-year professional elementary teaching license issued in 2011 and five-year professional pupil services license issued in 2007 pursuant to Ohio Revised Code 3319.31(B)(1). The notice was based upon Ms. Kirksey engaging in conduct unbecoming an educator when she resigned her employment in 2011 with Trotwood-Madison City School District as a school psychologist and kept in her possession confidential student records for twenty-nine students and did not begin to return the records for at least four months despite being asked and directed multiple times to return the records to the district and the district being adversely affected by Ms. Kirksey's actions; and

WHEREAS Ms. Kirksey requested a hearing regarding the State Board's intent; and

WHEREAS a hearing was held on October 19, 2012; and

WHEREAS Ms. Kirksey was present at the hearing and was represented by counsel; and

WHEREAS the hearing officer recommends that Ms. Kirksey's five-year professional education of the handicapped teaching license issued in 2011 and five-year professional elementary teaching license issued in 2011 be suspended for one year and her expired five-year professional pupil services license issued in 2007 be revoked. The hearing officer's recommendation is based upon Ms. Kirksey's unacceptable actions and extremely poor judgment being mitigated by her excellent record as a teacher and school psychologist in the past, her medical and personal problems contributing to her conduct, her not being employed in a

school psychologist position any longer, and her performance at her current position being praised; and

WHEREAS the State Board of Education considered the hearing officer's report and recommendation and the objections which Ms. Kirksey timely filed; and

WHEREAS the State Board modifies the proposed recommendation that suspends Ms. Kirksey's five-year professional education of the handicapped teaching license issued in 2011 and five-year professional elementary teaching license issued in 2011 and revokes her expired five-year professional pupil services license issued in 2007; and

WHEREAS the State Board of Education finds that the seriousness of Ms. Kirksey's conduct unbecoming to the teaching profession warrants disciplinary action. However, it is not persuaded that a one year suspension of Ms. Kirksey's current licenses and a revocation of her expired license is an appropriate sanction in this matter. After considering the mitigating factors which the hearing officer identified in this case, the State Board finds that Ms. Kirksey's one year suspension should be stayed provided that Ms. Kirksey does not engage in further violations of Section 3319.31 of the Ohio Revised Code and/or the *Licensure Code of Professional Conduct for Ohio Educators*. These findings are based upon Ms. Kirksey's extreme health, personal, and financial concerns which affected her actions and impaired her judgment, her requests for assistance in completing required paperwork not being granted, her returning the student files with most of the necessary work completed, her employers testifying to her excellent work history since this situation occurred, and her failure to return the files being an isolated incident of misconduct: Therefore, Be It

RESOLVED that the State Board modifies the proposed recommendation that suspends Ms. Kirksey's five-year professional education of the handicapped teaching license issued in 2011 and five-year professional elementary teaching license issued in 2011 and revokes her expired five-year professional pupil services license issued in 2007; and, Be It Further

RESOLVED that the State Board of Education finds that the seriousness of Ms. Kirksey's conduct unbecoming to the teaching profession warrants disciplinary action. However, it is not persuaded that a one year suspension of Ms. Kirksey's current licenses and a revocation of her expired license is an appropriate sanction in this matter. After considering the mitigating factors which the hearing officer identified in this case, the State Board finds that Ms. Kirksey's one year suspension should be stayed provided that Ms. Kirksey does not engage in further violations of Section 3319.31 of the Ohio Revised Code and/or the *Licensure Code of Professional Conduct for Ohio Educators*. These findings are based upon Ms. Kirksey's extreme health, personal, and financial concerns which affected her actions and impaired her judgment, her requests for assistance in completing required paperwork not being granted, her returning the student files with most of the necessary work completed, her employers testifying to her excellent work history since this situation occurred, and her failure to return the files being an isolated incident of misconduct; and, Be It Further

RESOLVED, That the State Board of Education, pursuant to Ohio Revised Code 3319.31(B)(1), hereby **SUSPENDS** Stacey J. Kirksey's five-year professional education of the handicapped teaching license issued in 2011 and five-year professional elementary teaching license issued in 2011 for a period of one year,

beginning on March 12, 2013, based upon Ms. Kirksey engaging in conduct unbecoming an educator when she resigned her employment in 2011 with the Trotwood-Madison City School District as a school psychologist and kept in her possession confidential student records for twenty-nine students and did not begin to return the records for at least four months despite being asked and directed multiple times to return the records to the district. The State Board further orders the one year suspension to be stayed provided that Ms. Kirksey does not engage in further violations of Section 3319.31 of the Ohio Revised Code and/or the *Licensure Code of Professional Conduct for Ohio Educator*; and, Be It Further

RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to notify Ms. Kirksey of this action.

President Terhar called for a roll call vote on the resolution as amended.

YES VOTES

Angela Thi Bennett Michael Collins Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams Deborah Cain Stephanie Dodd Joe Farmer Thomas Gunlock Kathleen McGervey Jeffrey Mims Debe Terhar

Motion carried.

Lori Kelly, Director, Office of Professional Conduct, presented the following recommendation (Item 11):

11. RESOLUTION TO DENY PERMANENTLY THE ONE-YEAR ADULT EDUCATION PERMIT APPLICATION OF CHAD M. ROBINSON

I **RECOMMEND** that the State Board of Education **ADOPT** the following Resolution:

WHEREAS Chad M. Robinson has applied for a one-year adult education permit; and

WHEREAS on January 2, 2013, the Acting State Superintendent of Public Instruction, on behalf of the State Board of Education, notified Chad M. Robinson of its intent to deny or permanently deny his application for a one-year adult education permit pursuant to Ohio Revised Code 3319.31(B)(1), (B)(2)(c), and (F) and Rule 3301-20-01(E) of the Ohio Administrative Code. The notice was based upon Mr. Robinson's 2011 conviction in the Toledo Municipal Court for one misdemeanor count of failure to keep dog confined, 2008 conviction in the Sylvania Municipal Court for one misdemeanor count of unauthorized use of property, 2007 conviction in the Toledo Municipal Court for one misdemeanor count of menacing, 2007 conviction in the Lucas County Common Pleas Court, Juvenile Division, for one misdemeanor count of non-support contempt, 2007

conviction in a separate case in the Lucas County Common Pleas Court, Juvenile Division, for one misdemeanor count of non-support contempt, 2006 conviction in the Bowling Green Municipal Court for one misdemeanor count of underage consumption and one minor misdemeanor count of drug abuse-possession of marijuana, and failure to disclose his convictions on his pending application; and

WHEREAS the notice informed Mr. Robinson that if he fails within thirty days to request a hearing in accordance with Section 119.07 of the Revised Code, the State Board of Education will proceed to deny or permanently deny his application for a one-year adult education permit; and

WHEREAS Chad M. Robinson did not request a hearing in accordance with Section 119.07 of the Revised Code; and

WHEREAS the State Board of Education has reviewed the affidavit of the Director of the Office of Professional Conduct, Notice of the State Board of Education's Intended Action and Opportunity for a Hearing, certified court records from the Toledo Municipal Court, Sylvania Municipal Court, Lucas County Common Pleas Court, and Bowling Green Municipal Court, and certified police records from the Holland Police Department and Bowling Green Police Department; and

WHEREAS Mr. Robinson is not eligible for licensure by the State Board of Education since he does not meet the rehabilitation criteria established by Rule 3301-20-01(E) of the Ohio Administrative Code because five years have not elapsed since he was convicted of unauthorized use of property, a theft-related offense; and

WHEREAS Ohio Administrative Code Rule 3301-73-05 authorizes the State Board of Education to impose disciplinary action against any licenses held or applied for without holding an administrative hearing if the applicant and/or license holder fails within thirty days to request a hearing in accordance with Section 119.07 of the Revised Code: Therefore, Be It

RESOLVED, That the State Board of Education, pursuant to Ohio Revised Code 3319.31(B)(1), (B)(2)(c), and (F) and Rule 3301-20-01(E) of the Ohio Administrative Code, hereby **DENIES** Chad M. Robinson's application for a oneyear adult education permit based upon Mr. Robinson's 2011 conviction in the Toledo Municipal Court for one misdemeanor count of failure to keep dog confined, 2008 conviction in the Sylvania Municipal Court for one misdemeanor count of unauthorized use of property, 2007 conviction in the Toledo Municipal Court for one misdemeanor count of menacing, 2007 conviction in the Lucas County Common Pleas Court, Juvenile Division, for one misdemeanor count of non-support contempt, 2007 conviction in a separate case in the Lucas County Common Pleas Court, Juvenile Division, for one misdemeanor count of nonsupport contempt, 2006 conviction in the Bowling Green Municipal Court for one misdemeanor count of underage consumption and one minor misdemeanor count of drug abuse-possession of marijuana, and failure to disclose his convictions on his pending application. Further, the State Board, in accordance with Ohio Administrative Code Rule 3301-73-22(A)(3)(b), orders Chad M. Robinson be permanently ineligible to apply for any license issued by the State Board of Education; and, Be It Further

RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to notify Mr. Robinson of this action.

It was Moved by Mr. Mehaffie and Seconded by Mr. Gunlock that the above recommendation (Item 11) be approved.

President Terhar called for a roll call vote.

YES VOTES

Angela Thi Bennett Michael Collins Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams Deborah Cain Stephanie Dodd Joe Farmer Thomas Gunlock Kathleen McGervey Jeffrey Mims Debe Terhar

Motion carried.

Lori Kelly, Director, Office of Professional Conduct, presented the following recommendation (Item 12):

12. RESOLUTION TO REVOKE PERMANENTLY THE PERMANENT NON-TAX TEACHING CERTIFICATE OF JEFFREY E. SANDERS (AKA JEFFERY E. SANDERS)

I RECOMMEND that the State Board of Education ADOPT the following Resolution:

WHEREAS Jeffrey E. Sanders (aka Jeffery E. Sanders) holds a permanent non-tax teaching certificate issued in 2000; and

WHEREAS on January 2, 2013, the Acting State Superintendent of Public Instruction, on behalf of the State Board of Education, notified Jeffrey E. Sanders of its intent to determine whether to limit, suspend, revoke, or permanently revoke his permanent non-tax teaching certificate issued in 2000 pursuant to Ohio Revised Code 3319.31(B)(1). The notice was based upon Mr. Sanders' 2010 conviction in the Cleveland Heights Municipal Court for one misdemeanor count of disorderly conduct and 2012 default judgment in the Cuyahoga County Common Pleas Court for violating the Ohio Consumer Sales Practices Act when he committed unfair and deceptive acts and practices by misrepresenting the validity, import, and substance of the instruction, schooling, and education provided to consumers, including the level of acceptance of the degrees and/or diplomas conferred; and

WHEREAS the notice informed Mr. Sanders that if he fails within thirty days to request a hearing in accordance with Section 119.07 of the Revised Code, the State Board of Education will proceed to determine whether to limit, suspend,

revoke, or permanently revoke his permanent non-tax teaching certificate issued in 2000; and

WHEREAS Jeffrey E. Sanders did not request a hearing in accordance with Section 119.07 of the Revised Code; and

WHEREAS the State Board of Education has reviewed the affidavit of the Director of the Office of Professional Conduct, Notice of the State Board of Education's Intended Action and Opportunity for a Hearing, certified court records from the Cleveland Heights Municipal Court and Cuyahoga County Common Pleas Court, and certified police records from the Cleveland Heights Police Department; and

WHEREAS Ohio Administrative Code Rule 3301-73-05 authorizes the State Board of Education to impose disciplinary action against any licenses held or applied for without holding an administrative hearing if the applicant and/or license holder fails within thirty days to request a hearing in accordance with Section 119.07 of the Revised Code: Therefore, Be It

RESOLVED, That the State Board of Education, pursuant to Ohio Revised Code 3319.31(B)(1), hereby **REVOKES** Jeffrey E. Sanders' permanent non-tax teaching certificate issued in 2000 based upon Mr. Sanders' 2010 conviction in the Cleveland Heights Municipal Court for one misdemeanor count of disorderly conduct and 2012 default judgment in the Cuyahoga County Common Pleas Court for violating the Ohio Consumer Sales Practices Act when he committed unfair and deceptive acts and practices by misrepresenting the validity, import, and substance of the instruction, schooling, and education provided to consumers, including the level of acceptance of the degrees and/or diplomas conferred. Further, the State Board, in accordance with Ohio Administrative Code Rule 3301-73-22(A)(2)(b), orders Jeffrey E. Sanders be permanently ineligible to apply for any license issued by the State Board of Education; and, Be It Further

RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to notify Mr. Sanders of this action.

It was Moved by Ms. McGervey and Seconded by Mr. Mims that the above recommendation (Item 12) be approved.

President Terhar called for a roll call vote.

YES VOTES

Angela Thi Bennett Michael Collins Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams Deborah Cain Stephanie Dodd Joe Farmer Thomas Gunlock Kathleen McGervey Jeffrey Mims Debe Terhar

Motion carried.

Lori Kelly, Director, Office of Professional Conduct, presented the following recommendation (Item 13):

13. RESOLUTION TO ACCEPT THE REPORT AND RECOMMENDATION OF THE HEARING OFFICER TO SUSPEND THE FIVE-YEAR PROFESSIONAL SPECIAL ALL GRADES TEACHING LICENSE AND TO REVOKE THE THREE-YEAR PUPIL ACTIVITY PERMIT OF JEFF V. WILLIS

I RECOMMEND that the State Board of Education ADOPT the following Resolution:

WHEREAS Jeff V. Willis holds a five-year professional special all grades teaching license issued in 2009 and held a three-year pupil activity permit issued in 2009; and

WHEREAS on April 20, 2012, the State Superintendent of Public Instruction, on behalf of the State Board of Education, notified Jeff V. Willis of its intent to determine whether to limit, suspend, revoke, or permanently revoke his five-year professional special all grades teaching license issued in 2009 and three-year pupil activity permit issued in 2009 pursuant to Ohio Revised Code 3319.31(B)(1) and (B)(3). The notice was based upon Mr. Willis engaging in the following conduct unbecoming to the teaching profession: he hit three juvenile males with a baseball bat and as the males attempted to leave in a car he broke the window of the car with the baseball bat in 2011; he hit an adult male with a hammer during an altercation that resulted in him being charged in 1993 with aggravated assault in the Fulton Superior Court, being placed in a pretrial diversion program, and having the case dismissed after he completed the pretrial diversion program; and he was charged with one misdemeanor count of shoplifting in 1991 in the Charleston Municipal Court which resulted in him forfeiting his bond; and

WHEREAS Mr. Willis requested a hearing regarding the State Board's intent; and

WHEREAS a hearing was held on November 9, 2012; and

WHEREAS Mr. Willis was present at the hearing and was represented by counsel: and

WHEREAS the hearing officer recommends that Mr. Willis' five-year professional special all grades teaching license and three-year pupil activity permit be suspended for a period of one year and prior to reinstatement or issuance of any license by the State Board that Mr. Willis must show evidence of having completed 20 hours of training in anger management. The hearing officer's recommendation is based upon Mr. Willis being honest and forthright with the State Board regarding his actions, being highly respected by students, teachers, administrators, and parents, and taking full responsibility for his actions; and

WHEREAS the State Board of Education considered the objections to the hearing officer's report and recommendation which Mr. Willis timely filed; and

WHEREAS Mr. Willis' three-year pupil activity permit issued in 2009 expired on June 30, 2012; and

WHEREAS the State Board of Education must reconcile the expiration of Mr. Willis' pupil activity permit with the hearing officer's recommendation that his permit be suspended for one year; and

WHEREAS the State Board of Education, pursuant to Ohio Revised Code 3319.31(B)(1), can revoke a permit that has been issued to any person and has expired: Therefore, Be It

RESOLVED, That the State Board of Education, pursuant to Ohio Revised Code 3319.31(B)(1) and (B)(3), hereby **SUSPENDS** Jeff V. Willis' five-year professional special all grades teaching license issued in 2009 for a period of one year beginning on March 12, 2013 and REVOKES Mr. Willis' expired three-year pupil activity permit issued in 2009 based upon Mr. Willis engaging in the following conduct unbecoming to the teaching profession: he hit three juvenile males with a baseball bat and as the males attempted to leave in a car he broke the window of the car with the baseball bat in 2011; he hit an adult male with a hammer during an altercation that resulted in him being charged in 1993 with aggravated assault in the Fulton Superior Court, being placed in a pretrial diversion program, and having the case dismissed after he completed the pretrial diversion program; and he was charged with one misdemeanor count of shoplifting in 1991 in the Charleston Municipal Court which resulted in him forfeiting his bond. Further, the State Board, in accordance with Ohio Administrative Code Rule 3301-73-22(A)(2)(a), orders that Jeff V. Willis be ineligible to apply for any license issued by the State Board of Education until on or after March 12, 2014 and provided that upon reapplication he submits evidence to the Ohio Department of Education that he has completed 20 hours of anger management training; and, Be It Further

RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to notify Mr. Willis of this action.

It was Moved by Ms. McGervey and Seconded by Mr. Farmer that the above recommendation (Item 13) be approved.

Ms. Fowler Moved to Amend the resolution by Substitution. She proposed that the one year suspension should be stayed and should remained stayed provided Mr. Willis completes 20 hours of training in anger management by June 30, 2013 and does not engage in further violations of Section 3319.31 of the Ohio Revised Code and/or the Licensure Code of Professional Conduct for Ohio Educators. Ms. McGervey Seconded the motion.

Ms. Fowler spoke about the inflammatory situation that occurred regarding Mr. Willis' family and the fact that the school district might lose a teacher willing to teach in this area.

Mr. Gunlock spoke about the situation that occurred in 1993 and the fact that he struck the SUV with a baseball bat as the students were driving away. He also stated he had an issue with individuals taking the law into their own hands.

Mrs. Bennett stated she did feel comfortable with the proposed amendment do to the fact he engaged the students with the bat.

Ms. McGervey noted the inflammatory situation that occurred with his daughter.

Mrs. Dodd and Mr. Jones stated they would not support the amendment.

President Terhar called for a roll call vote on the proposed amendment.

YES VOTES

Michael Collins Joe Farmer

Sarah Fowler Kathleen McGervey Jeffrey Mims Mary Rose Oakar

Debe Terhar

NO VOTES

Angela Thi Bennett Deborah Cain
Stephanie Dodd Tess Elshoff
Thomas Gunlock C. Todd Jones
Darryl D. Mehaffie Bryan C. Williams

Motion denied.

President Terhar called for a roll call vote on the original motion.

YES VOTES

Angela Thi Bennett

Michael Collins

Tess Elshoff

Sarah Fowler

C. Todd Jones

Deborah Cain

Stephanie Dodd

Joe Farmer

Thomas Gunlock

Kathleen McGervey

Darryl D. Mehaffie

Mary Rose Oakar

Debe Terhar

Bryan C. Williams

Motion carried.

Mr. Gunlock presented the following recommendation (Item 14):

14. RESOLUTION TO AMEND RULE 3301-4-01 OF THE ADMINISTRATIVE CODE TITLED NOTICE OF MEETINGS

The Executive Committee **RECOMMENDS** that the State Board of Education **ADOPT** the following Resolution:

WHEREAS Section 3301.07 of the Revised Code authorizes the State Board of Education to adopt rules as necessary for carrying out any function imposed on it by law and rules that are necessary for its government and the government of its employees; and

WHEREAS Rule 3301-4-01 of the Administrative Code, which is proposed to be amended pursuant to the requirements of five-year rule review, establishes the

process by which any person may determine the time and place of all regularly scheduled meetings or special meetings of the board or one of its committees; and

WHEREAS the proposed changes to the rule would align the rule to the obligations placed on the State Board of Education by open meetings law; and

WHEREAS the Executive Committee reviewed the proposed amendments during its November 2012 meeting and voted to recommend the proposed rule action to the State Board of Education during its December 2012 meeting; and

WHEREAS the State Board of Education adopted a Resolution of Intent to amend Rule 3301-4-01 of the Administrative Code during its December 2012 meeting; and

WHEREAS the Department of Education held a public hearing on Rule 3301-4-01 of the Administrative Code on February 11, 2013; and

WHEREAS the Joint Committee on Agency Rule Review held a hearing on Rule 3301-4-01 of the Administrative Code on February 25, 2013, during which the committee took no action on the rule: Therefore, Be It

RESOLVED, That the State Board of Education hereby amends Rule 3301-4-01 of the Administrative Code, which is attached hereto and incorporated herein by this reference; and, Be It

FURTHER RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to complete the process of amending the rule by filing with the Secretary of State, Legislative Service Commission, and the Joint Committee on Agency Rule Review, the full text of the proposed amendment and that the same be made available upon request, without charge, to all persons affected by the rule.

It was Moved by Mr. Gunlock that the above recommendation (Item 14) be approved.

President Terhar called for a roll call vote.

YES VOTES

Angela Thi Bennett Michael Collins Joe Farmer Thomas Gunlock Kathleen McGervey Mary Rose Oakar Bryan C. Williams Deborah Cain Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Debe Terhar

Motion carried.

Mr. Gunlock presented the following recommendation (Item 15):

15. RESOLUTION TO AMEND RULE 3301-23-44 OF THE ADMINISTRATIVE CODE ENTITLED TEMPORARY AND SUBSTITUTE LICENSES

The Capacity Committee **RECOMMENDS** that the State Board of Education **ADOPT** the following Resolution:

WHEREAS Section 3319.22 of the Revised Code authorizes the State Board of Education to adopt rules establishing standards and requirements for educator licenses of categories, types, and levels the board elects to provide; and

WHEREAS Rule 3301-23-44 of the Administrative Code, *Temporary and substitute licenses*, establishes standards and requirements for obtaining and renewing temporary and substitute educator licenses; and

WHEREAS Rule 3301-23-44 of the Administrative Code is proposed to be amended pursuant to the requirements of five-year rule review; and

WHEREAS the proposed changes are mostly non-substantive and technical and are intended to clean-up and clarify the rule whereas other changes include the addition of proposed language about a temporary teaching license for military science (JROTC), which the department has issued for many years; and

WHEREAS the Capacity Committee, at its November 2012 meeting, unanimously voted to recommend adoption of the proposed rule changes to the State Board of Education; and

WHEREAS the State Board of Education, at its December 2012 meeting, adopted a Resolution of Intent to amend Rule 3301-23-44 of the Administrative Code; and

WHEREAS on February 11, 2013 the State Board of Education held a public hearing concerning the proposed amending of Rule 3301-23-44 of the Administrative Code regarding Temporary and Substitute Licenses; and

WHEREAS on February 25, 2013, the Joint Committee on Agency Rule Review held a hearing on the rule during which the committee took no action: Therefore, Be It

RESOLVED, That the State Board of Education hereby amends Rule 3301-23-44 of the Administrative Code that is attached and incorporated herein by this reference; and, Be It

FURTHER RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to complete the process of amending the rule by filing with the Secretary of State, Legislative Service Commission, and the Joint Committee on Agency Rule Review, the full text of the adopted rule and that the same be made available on request, without charge, to all persons affected by the rule.

It was Moved by Mr. Gunlock that the above recommendation (Item 15) be approved.

President Terhar called for a roll call vote.

YES VOTES

Angela Thi Bennett Michael Collins Joe Farmer Thomas Gunlock Kathleen McGervey Mary Rose Oakar Bryan C. Williams Deborah Cain Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Debe Terhar

Motion carried.

Mr. Gunlock presented the following recommendation (Item 16):

16. RESOLUTION TO AMEND RULE 3301-24-09 OF THE ADMINISTRATIVE CODE TITLED PERFORMANCE-BASED LICENSURE FOR ADMINISTRATORS

The Capacity Committee **RECOMMENDS** that the State Board of Education **ADOPT** the following Resolution:

WHEREAS Section 3319.22 of the Revised Code authorizes the State Board of Education to adopt rules establishing standards and requirements for educator licenses of categories, types, and levels the board elects to provide; and

WHEREAS Section 3319.61 of the Revised Code required the Educator Standards Board to develop state standards for principals that reflect what principals are expected to know and be able to do at all stages of their careers; and

WHEREAS Rule 3301-24-09 of the Administrative Code, *Performance-based licensure for administrators*, establishes performance expectations for licensed principals that are congruent with the Ohio Standards for Principals; and

WHEREAS Rule 3301-24-09 of the Administrative Code is proposed to be amended pursuant to the requirements of five-year rule review; and

WHEREAS the proposed changes to the rule include elimination of references to the principal entry-year program, which was discontinued in 2010 due to budgetary constraints; and

WHEREAS licensed principals are still expected to demonstrate success in the areas contained in the Ohio Standards for Principals, outside the context of a principal entry-year program; and

WHEREAS the Capacity Committee, at its November 2012 meeting, unanimously voted to recommend adoption of the proposed rule changes to the State Board of Education; and

WHEREAS the State Board of Education, at its December 2012 meeting, adopted a Resolution of Intent to amend Rule 3301-24-09 of the Administrative Code; and

WHEREAS on February 11, 2013 the State Board of Education held a public hearing concerning the proposed amending of Rule 3301-24-09 of the Administrative Code regarding Performance-Based Licensure for Administrators; and

WHEREAS on February 25, 2013, the Joint Committee on Agency Rule Review held a hearing on the rule during which the committee took no action: Therefore, Be It

RESOLVED, That the State Board of Education hereby amends Rule 3301-24-09 of the Administrative Code that is attached and incorporated herein by this reference; and, Be It

FURTHER RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to complete the process of amending the rule by filing with the Secretary of State, Legislative Service Commission, and the Joint Committee on Agency Rule Review, the full text of the adopted rule and that the same be made available on request, without charge, to all persons affected by the rule.

It was Moved by Mr. Gunlock that the above recommendation (Item 16) be approved.

President Terhar called for a roll call vote.

YES VOTES

Angela Thi Bennett

Michael Collins

Joe Farmer

Thomas Gunlock

Kathleen McGervey

Jeffrey Mims

Deborah Cain

Tess Elshoff

Sarah Fowler

C. Todd Jones

Darryl D. Mehaffie

Mary Rose Oakar

Bryan C. Williams

Motion carried.

Mr. Gunlock presented the following recommendation (Item 17):

17. RESOLUTION TO MODIFY THE HEARING OFFICER'S REPORT AND RECOMMENDATION AND TO SUSPEND THE FIVE-YEAR PROFESSIONAL PREKINDERGARTEN TEACHING LICENSE OF SHERRY ORTH

I **RECOMMEND** the State Board of Education ADOPT the following resolution:

WHEREAS Sherry Orth holds a five-year professional prekindergarten teaching license; and

WHEREAS on April 12, 2011, the State Board of Education adopted a resolution permanently revoking the five-year professional prekindergarten teaching license of Sherry Orth; and

WHEREAS Sherry Orth appealed the State Board's order permanently revoking her five-year professional prekindergarten teaching license to the Franklin County Court of Common Pleas in Case Number 11-CV-005897; and

WHEREAS on February 15, 2012, the Franklin County Court of Common Pleas affirmed the State Board's order that permanently revoked the five-year professional prekindergarten teaching license of Sherry Orth; and

WHEREAS on February 23, 2012, Sherry Orth appealed this decision to the Tenth District Court of Appeals in Case Number 12-AP-000155; and

WHEREAS on September 28, 2012, the Tenth District Court of Appeals rendered a decision sustaining Ms. Orth's first assignment of error in toto and her fourth and fifth assignments of error in part and vacating the judgment of the Franklin County Court of Common Pleas; and

WHEREAS the Tenth District Court of Appeals remanded the matter to the State Board of Education for further proceedings in accordance with its decision; and

WHEREAS on November 13, 2012 the State Board vacated its April 12, 2011 order which permanently revoked Ms. Orth's five-year professional prekindergarten teaching license and remanded the case to the administrative hearing officer for further proceedings in accordance with the decision of the Tenth District Court of Appeals; and

WHEREAS the State Board directed the hearing officer to submit a report and recommendation to the State Board regarding the issue of whether a classroom teacher who accidentally inflicts scratches on an out-of-control preschool student deserves disciplinary action and if so, what disciplinary action is recommended; and

WHEREAS the hearing officer recommends that Ms. Orth's five-year professional prekindergarten license be permanently revoked or in the alternative Ms. Orth's license be revoked and any future licenses issued to Ms. Orth be limited to preclude her from teaching special education students; and

WHEREAS Ms. Orth timely filed objections to the hearing officer's report and recommendation; and

WHEREAS the State Board of Education has considered the report and recommendation of the hearing officer, Ms. Orth's objections, the factors listed in Rule 3301-73-21 of the Ohio Administrative Code, and the ethical standards for the teaching profession as adopted by the State Board in the *Licensure Code of Professional Conduct for Ohio Educators*; and

WHEREAS the State Board accepts the following portions of the hearing officer's report and recommendation: findings of fact numbered 1, 2, 3, 4, 5, 6, 7, 8, 12, 13, 15, 21, 33, 40, 41, and 42; and conclusions of law numbered 1, 2, 5, 6, 7, 8, 9, 10, 16, 17, 18, and 20; and

WHEREAS the State Board rejects the following portions of the hearing officer's report and recommendation because they exceed the scope of the remanded issue and/or they are not relevant to the issue before the State Board: findings of fact numbered 9, 10, 11, 14, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 34, 35, 38, and 39; and conclusions of law numbered 3, 4, 12, 13, 14, 15, 21, and 22; and

WHEREAS the State Board rejects in part the following portions of the hearing officer's report and recommendation and accepts the remaining portions of each numbered section: reject the second sentence in finding of fact numbered 32 which states "On November 30, 2009, she rescinded her letter of resignation."; reject the word "outside" in the first sentence of finding of fact numbered 36; reject the second sentence in finding of fact numbered 37 which states "Floor restrains are known to be dangerous, and if true, this was the second time that day that Orth used a prohibited floor restraint."; reject the last sentence in conclusion of law numbered 11 that reads "Further, the Hearing Officer concludes, as a matter of law, that ODE has proven by a preponderance of evidence, that Orth's failure to timely inform school officials about the incident constitutes conduct unbecoming a teacher, in violation of R.C. §3319.31(B)(1)."; and reject the phrase "with the exception of Orth's failure to provide medical care" in conclusion of law numbered 19; and

WHEREAS the State Board rejects the hearing officer's recommendation to permanently revoke Ms. Orth's license and rejects the hearing officer's alternative recommendation to revoke Ms. Orth's license and limit her future licenses to preclude her from teaching special education students; and

WHEREAS the State Board finds that conduct which accidentally inflicts scratches on an out-of-control preschool student constitutes conduct unbecoming to the teaching profession when the injury is caused by the teacher repeatedly dragging a student across the ground toward the teacher. The State Board further finds that this unbecoming conduct warrants disciplinary action and a suspension is the presumptive range of disciplinary action in the *Licensure Code of Professional Conduct for Ohio Educators* for less severe violations of Principle Two; and

WHEREAS the State Board concludes that Ms. Orth's conduct in accidentally inflicting scratches on an out-of-control preschool student when, by her own admission, she repeatedly dragged the student across the ground toward her constitutes conduct unbecoming to the teaching profession in violation of section 3319.31(B)(1) of the Ohio Revised Code. At the time of the incident, Ms. Orth, who holds a bachelor's degree in early childhood education as well as a master's degree in early education of the handicapped student, was 48 years old, had more than 25 years of experience educating children, and had spent her entire career and been specially trained and educated in interacting with children with behavioral problems. Ms. Orth admits that she caused the injuries to the child's backside by dragging him back toward her multiple times. The injuries consisted of multiple scratches on the student's backside; scratches that broke the skin causing redness and bleeding. Considering Ms. Orth's extensive education, experience and training in interacting with children with behavioral problems, the State Board concludes that the severity of the injury the student sustained does indeed warrant disciplinary action; and

WHEREAS the State Board concludes that Ms. Orth's unbecoming conduct warrants disciplinary action, but does not warrant the most severe disciplinary action based on her lack of prior disciplinary action, her lack of intent to harm the student, and the counseling which she completed after the incident occurred. The State Board also finds a limitation on Ms. Orth's future licenses is not appropriate in light of her conduct appearing to be an isolated incident in her 25 year teaching career and her conduct occurring while she was trying to address an out-of-control student. It is the State Board's understanding that Ms. Orth did not or could not use her teaching license since she resigned her teaching position with the Columbus City School District on or about November 6, 2009. The State Board finds that a suspension from the date of Ms. Orth's resignation would appropriately address Ms. Orth's unbecoming conduct: Therefore, Be It

RESOLVED, that the State Board accepts the following portions of the hearing officer's report and recommendation: findings of fact numbered 1, 2, 3, 4, 5, 6, 7, 8, 12, 13, 15, 21, 33, 40, 41, and 42; and conclusions of law numbered 1, 2, 5, 6, 7, 8, 9, 10, 16, 17, 18, and 20; and, Be It Further

RESOLVED, that the State Board rejects the following portions of the hearing officer's report and recommendation because they exceed the scope of the remanded issue and/or they are not relevant to the issue before the State Board: findings of fact numbered 9, 10, 11, 14, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 34, 35, 38, and 39; and conclusions of law numbered 3, 4, 12, 13, 14, 15, 21, and 22; and, Be It Further

RESOLVED, that the State Board rejects in part the following portions of the hearing officer's report and recommendation and accepts the remaining portions of each numbered section: reject the second sentence in finding of fact numbered 32 which states "On November 30, 2009, she rescinded her letter of resignation."; reject the word "outside" in the first sentence of finding of fact numbered 36; reject the second sentence in finding of fact numbered 37 which states "Floor restrains are known to be dangerous, and if true, this was the second time that day that Orth used a prohibited floor restraint."; reject the last sentence in conclusion of law numbered 11 that reads "Further, the Hearing Officer concludes, as a matter of law, that ODE has proven by a preponderance of evidence, that Orth's failure to timely inform school officials about the incident constitutes conduct unbecoming a teacher, in violation of R.C. §3319.31(B)(1)."; and reject the phrase "with the exception of Orth's failure to provide medical care" in conclusion of law numbered 19; and, Be It Further

RESOLVED, that the State Board rejects the hearing officer's recommendation to permanently revoke Ms. Orth's license and rejects the hearing officer's alternative recommendation to revoke Ms. Orth's license and limit her future licenses to preclude her from teaching special education students; and, Be It Further

RESOLVED, that the State Board finds that conduct which accidentally inflicts scratches on an out-of-control preschool student constitutes conduct unbecoming to the teaching profession when the injury is caused by the teacher repeatedly dragging a student across the ground toward the teacher. The State Board further finds that this unbecoming conduct warrants disciplinary action and a suspension is the presumptive range of disciplinary action in the *Licensure Code of Professional Conduct for Ohio Educators* for less severe violations of Principle Two; and, Be It Further

RESOLVED, that the State Board concludes that Ms. Orth's conduct in accidentally inflicting scratches on an out-of-control preschool student when, by her own admission, she repeatedly dragged the student across the ground toward her constitutes conduct unbecoming to the teaching profession in violation of section 3319.31(B)(1) of the Ohio Revised Code. At the time of the incident, Ms. Orth, who holds a bachelor's degree in early childhood education as well as a master's degree in early education of the handicapped student, was 48 years old. had more than 25 years of experience educating children, and had spent her entire career and been specially trained and educated in interacting with children with behavioral problems. Ms. Orth admits that she caused the injuries to the child's backside by dragging him back toward her multiple times. The injuries consisted of multiple scratches on the student's backside; scratches that broke the skin causing redness and bleeding. Considering Ms. Orth's extensive education, experience and training in interacting with children with behavioral problems, the State Board concludes that the severity of the injury the student sustained does indeed warrant disciplinary action; and, Be It Further

RESOLVED, that the State Board concludes that Ms. Orth's unbecoming conduct warrants disciplinary action, but does not warrant the most severe disciplinary action based on her lack of prior disciplinary action, her lack of intent to harm the student, and the counseling which she completed after the incident occurred. The State Board also finds a limitation on Ms. Orth's future licenses is not appropriate in light of her conduct appearing to be an isolated incident in her 25 year teaching career and her conduct occurring while she was trying to address an out-of-control student. It is the State Board's understanding that Ms. Orth did not or could not use her teaching license since she resigned her teaching position with the Columbus City School District on or about November 6, 2009. The State Board finds that a suspension from the date of Ms. Orth's resignation would appropriately address Ms. Orth's unbecoming conduct; and, Be It Further

RESOLVED, that the State Board of Education hereby **SUSPENDS** Sherry Orth's five-year professional prekindergarten license from November 6, 2009 through March 12, 2013 based on her accidentally inflicting scratches on an out-of-control preschool student when she repeatedly dragged a student across the ground toward her; and, Be It Further

RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to notify Ms. Orth of this action.

It was Moved by Mr. Gunlock and Seconded by Mr. Jones that the above recommendation (Item 17) be approved.

President Terhar called for a roll call vote.

YES VOTES

Angela Thi Bennett Michael Collins Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Deborah Cain Stephanie Dodd Joe Farmer Thomas Gunlock Kathleen McGervey Jeffrey Mims Debe Terhar

President Terhar presented the following recommendation:

Bryan C. Williams

Motion carried.

RESOLUTION TO APPOINT DR. RICHAR PUBLIC INSTRUCTION	RD ROSS SUPERINTENDENT OF
the State of Ohio and Ohio Revised Co hereby appointed to the position of Su no later than April 8, 2013. Such appoint that Dr. Ross meets the qualifications possesses the qualifications of an elect the Constitution of the State of Ohio; the XV, Section 7 of the Constitution of the	or as required by Article XV, Section 4 of akes an oath of office as required by Article
State Board of Education as an "at wil	nard Ross will serve at the pleasure of the l' employee, and will receive an annual car allowance of \$550 per month or use of a
It was Moved by Mr. Mehaffie and Seconded b 18) be approved.	y Mrs. Bennett that the above recommendation (Item
Ms. Oakar wished Dr. Ross well in his new pos	sition as State Superintendent of Public Instruction.
President Terhar thanked Board members and	d Ray & Associates for the effort they brought forth.
President Terhar called for a roll call vote.	
YES VOTES Angela Thi Bennett Stephanie Dodd Joe Farmer Thomas Gunlock Kathleen McGervey Jeffrey Mims Debe Terhar	Michael Collins Tess Elshoff Sarah Fowler C. Todd Jones Darryl D. Mehaffie Mary Rose Oakar Bryan C. Williams
ABSTAIN Deborah Cain	
Motion carried.	

Full Board Presentation on the Recommendations of the Accountability Committee:

The State Board Accountability Committee has been meeting to make recommendations about the key elements of the new report card system. Highlights from the presentation:

The chart presents which performance measures will be included in which August report card and how, and if such measures will be graded or report only.

New Local Report Card (LRC) Measures & Components HB 555 As Enrolled							
Performance Measures	Aug 2013	Aug 2014	Component	Aug 2015	Aug 2016 +		
Overall Grade		•		Calculated	Calculated		
Component Grade				Calculated	Calculated		
AMOs	Graded	Graded	Gap Closing (Graded)	Graded	Graded		
Performance Index	Graded	Graded	Achievement (Graded)	Graded	Graded		
Performance Indicators*	Graded	Graded		Graded	Graded		
Graduation Rate (4-year)	Graded	Graded	Grad Rate (Graded)	Graded	Graded		
Graduation Rate (5-year)	Graded	Graded		Graded	Graded		
Value-Added (Overall)	Graded	Graded	Progress (Graded)	Graded†	Graded†		
Value-Added: Gifted	Graded	Graded		Graded	Graded		
Value-Added: SWD	Graded	Graded		Graded	Graded		
Value-Added: Lowest Quintile	Graded	Graded		Graded	Graded		
High School Progress	-			-	Graded§		
Third Grade Guarantee Progress	2	Graded	K-3 Literacy (Graded)	Graded	Graded		
College Admission Test (Participation rate and non-remediation score)	3	RO	Prep for Success (Graded)	RO	RO		
Dual Enrollment Credits		RO		RO	RO		
Industry Credentials	18 00000 Î	RO		RO	RO		
Honors Diplomas Awarded	*	RO		RO	RO		
AP Participation & Score	*	RO		RO	RO		
IB Participation & Score	4	RO		RO	RO		
College & Career Ready Assess.			Prep for Success‡	RO	RO		

RO = Report Only

Note: For any building that a measure does not apply due to grade levels served, the State Board shall designate the performance measures that are applicable to the building and that must be calculated separately and used to calculate the buildings overall grade.

- * For the 2014 LRC, 80% proficient or higher will be required before an assessment indicator can be "met" (85% for grade 11). The SBOE will set the new percentage required when the PARCC assessments begin for the 2015 LRC. Beginning on the 2015 LRC, the indicators will include the gifted indicator, which measures the performance and growth of gifted students.
- † In order for a building or district to receive an "A" in the Overall Value-Added measure, all of the Value-Added subgroup grades must be at least a "B".
- § The Value-Added grade for high school will be included in the "Progress" grouping pending a change in citations.
- ‡ The State Board of Education may include this measure in the Prepared for Success grade. The Preparation for Success component receives a grade like the other five components.

While the plan presently focuses on format and methodology for measures required for the August 2013 report cards, the State Board Accountability Committee will continue their work and update

^{- =} Not Included at All

the State Board as more information becomes available, including how measures will be weighted to determine each component grade and the overall composite grade required for August 2015.

Mr. Farmer Moved to adjourn the meeting. Mrs. Bennett Seconded the motion.

The President requested a voice vote.

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Motion carried.

President Terhar adjourned the meeting at 6:30 p.m. The next regularly scheduled meeting of the State Board of Education is April 8-9, 2013.

ATTEST:

Debe Terhar President

State Board of Education

Michael Sawyers

Acting Superintendent of Public Instruction

Michael Saugen

Please note: Copies of the attachments referenced in the Minutes may be obtained by contacting the Office of Board Relations at the Ohio Department of Education at (614) 728-2754.