Minutes
State Board of Education
September 18, 2009

The State Board of Education met at 9:03 a.m. on Friday, September 18, 2009, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. All members of the board were present, as follows:

Presiding: Gail Lowe, Chair; Rick Agosto; Lawrence A. Allen, Jr., Vice Chair; Mary Helen Berlanga; David Bradley; Barbara Cargill; Bob Craig; Cynthia Dunbar; Pat Hardy; Mavis B. Knight; Terri Leo, Secretary; Don McLeroy; Ken Mercer; Geraldine Miller; Rene Nuñez

Invocation

Pledge of Allegiance

Approval of Minutes

State Board of Education, July 17, 2009

MOTION AND VOTE: *It was moved by Mr. Craig and carried unanimously to approve the Minutes of the July 17, 2009, meeting of the State Board of Education, as printed.*

Public Testimony

Individual testimony will be taken to address items other than those on the board agenda.

The State Board of Education received no presentations of public testimony.

1. Resolutions and Presentations

Heroes for Children, State Board of Education Districts 1-15

The State Board of Education adopted by unanimous consent a resolution recognizing Maria Luisa Muñoz, Sally Garcia, Charlotte Travis, Lucy Blome, Tom Shaw, Howard Caywood, Jorge Garza, Leon Bailey, Norm Pleasant, John Blazier, Doyle Lee, Katie Pedigo, Felicia Washington, Cameron Roberts, and AnnMarie Ramiro as Heroes for Children.

2. Approval of Consent Agenda

Any agenda item may be placed on the consent agenda by any State Board of Education committee. The State Board of Education may elect to take separate action on any item on the consent agenda.

In addition to the items on the original consent agenda, the following agenda items received unanimous approval in committee and were brought forward to the consent agenda for board approval:

- Official Agenda Item #10—Proposed Approval of Updates to the Texas State Plan for the Education of Gifted/Talented Students
- Official Agenda Item #11—Recommended Penalties for Failure to Correct Factual Errors in Adopted Instructional Materials
- Official Agenda Item #12—Proposed Revisions to 19 TAC Chapter 101, Assessment, Subchapter A, General Provisions, and Subchapter B, Development and Administration of Tests
- Official Agenda Item #13—Proposed Amendments to 19 TAC Chapter 105, Foundation School Program, Subchapter B, Use of State Funds, §105.11, Maximum Allowable Indirect Cost
- Official Agenda Item #14—Per Capita Apportionment Rate for 2009-2010 School Year
- Official Agenda Item #20—Proposed Amendments to 19 TAC Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools, §100.105, Application to Public Senior College or University Charters
- Official Agenda Item #21—Proposed Guidelines and Application for the Residential Treatment Facility Charter Established in Human Resources Code by HB 3689

Mrs. Lowe reported that Official Agenda Item #13 was being pulled from the consent agenda, per Mr. Bradley's request.

By unanimous consent, the State Board of Education approved the following items on the consent agenda, including the six items that were brought forward.

(1) Ratification of the Purchases and Sales of the Investment Portfolio of the Permanent School Fund for the Months of June and July 2009
(Board agenda page III-15)
(COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND)

The State Board of Education ratified the purchases and sales for the months of June and July 2009, in the amount of $554,429,467 and $608,962,626, respectively, as recommended by the Committee on School Finance/Permanent School Fund.

(2) Recommendation for Appointment to the Lackland Independent School District Board of Trustees
(Board agenda page IV-1)
(COMMITTEE ON SCHOOL INITIATIVES)

The State Board of Education approved the reappointment of Mr. Brian Miller to serve a two-year term of office from September 18, 2009, through September 17, 2011, on the Lackland Independent School District Board of Trustees, as recommended by the Committee on School Initiatives.

(ATTACHMENT 1, page 13)

(3) Recommendation for Appointments to the Randolph Field Independent School District Board of Trustees
(Board agenda page IV-13)
(COMMITTEE ON SCHOOL INITIATIVES)

The State Board of Education approved the reappointment of Mr. John McKinley, and the appointments of Mr. Larry Clemons and MSgt Jeffrey Morris to each serve a two-year term of office from September 18, 2009, through September 17, 2011, on the Randolph Field Independent School District Board of Trustees, as recommended by the Committee on School Initiatives.

(ATTACHMENT 2, page 17)

10. Proposed Approval of Updates to the Texas State Plan for the Education of Gifted/Talented Students
(Board agenda page II-1)
(COMMITTEE ON INSTRUCTION)

The State Board of Education approved the proposed updates to the Texas State Plan for the Education of Gifted/Talented Students, as amended and as recommended by the Committee on Instruction.

(ATTACHMENT 3, page 27)

11. Recommended Penalties for Failure to Correct Factual Errors in Adopted Instructional Materials
(Board agenda page II-21)
(COMMITTEE ON INSTRUCTION)

The State Board of Education accepted the recommendation of the Committee on Instruction to: assess penalties for failure to correct errors to Harcourt School Publishers, Macmillan/McGraw-Hill, and Glencoe/McGraw-Hill; waive penalties for Houghton Mifflin Company, Grades 3, 4, and 5 Spanish materials, in lieu of the publisher's replacement of those student and teacher materials; and, assess penalties for failure to correct errors to Houghton Mifflin Company, English and Spanish consumable materials for Grades K-2, and English materials for Grades 3-5 for which units have been ordered, and forego penalties for materials for which no units have been ordered.

12. Proposed Revisions to 19 TAC Chapter 101, Assessment, Subchapter A, General Provisions, and Subchapter B, Development and Administration of Tests
(First Reading and Filing Authorization)
(Board agenda page II-27)
(COMMITTEE ON INSTRUCTION)

The State Board of Education approved for first reading and filing authorization the proposed revisions to 19 TAC Chapter 101, Assessment, Subchapter A, General Provisions, and Subchapter B, Development and Administration of Tests, as amended and as recommended by the Committee on Instruction.

14. Per Capita Apportionment Rate for 2009-2010 School Year
(Board agenda page III-11)
(COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND)

The State Board of Education adopted the per capita apportionment rate of $262 for the 2009-2010 school year, as recommended by the Committee on School Finance/Permanent School Fund.

(ATTACHMENT 4, page 43)

20. Proposed Amendment to 19 TAC Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools, §100.105, Application to Public Senior College or University Charters
(First Reading and Filing Authorization)
(Board agenda page IV-87)
(COMMITTEE ON SCHOOL INITIATIVES)

The State Board of Education approved for first reading and filing authorization the proposed amendment to 19 TAC Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools, §100.105, Application to Public Senior College or University Charters, as recommended by the Committee on School Initiatives.

21. Proposed Guidelines and Application for the Residential Treatment Facility Charter Established in Human Resources Code by HB 3689
(Board agenda page IV-93)
(COMMITTEE ON SCHOOL INITIATIVES)

The State Board of Education approved the Residential Treatment Facility Charter Guidelines and Application, as recommended by the Committee on Initiatives.

COMMITTEE OF THE FULL BOARD

Mrs. Lowe reported on the following discussion items of the Committee of the Full Board meeting held on August 14, 2009: Work Session on High School Graduation Requirements and Work Session on Instructional Materials. She reported on the following discussion items of the Committee of the Full Board meeting held on September 16, 2009: General Strategic Planning Session with NEPC, General Investment Counsel for the Permanent School Fund; Public Hearing Regarding Instructional Materials Submitted for Adoption by the State Board of Education Under Proclamation 2010; Public Hearing on Proposed Amendments to 19 TAC Chapter 74, Curriculum Requirements, Subchapter E, Graduation Requirements, Beginning with School Year 2004-2005, and Subchapter F, Graduation Requirements, Beginning with School Year 2007-2008; and Discussion of Proposed Amendments to 19 TAC Chapter 74, Curriculum Requirements, Subchapter E, Graduation Requirements, Beginning with School Year 2004-2005, and Subchapter F, Graduation Requirements, Beginning with School Year 2007-2008. Mrs. Lowe also reported on the following discussion item of the Committee of the Full Board meeting held on September 17, 2009: Commissioner's Comments Regarding the SBOE Agenda.

Because of time constraints, the Committee of the Full Board did not discuss proposed amendments to 19 TAC Chapter 66, State Adoption and Distribution of Instructional Materials. The Committee, by unanimous consent, agreed to hold the discussion until this general board meeting. Anita Givens, associate commissioner for standards and programs, introduced the discussion item. She and John Lopez, managing director of instructional materials and educational technology, highlighted various proposed changes to 19 TAC Chapter 66. Mrs. Lowe reminded board members that this was a discussion item that is scheduled to be brought back in November for first reading and filing authorization.

3. Proposed Amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.3, Description of a Required Secondary Curriculum
(First Reading and Filing Authorization)
(Board agenda page I-1)

MOTION AND VOTE: *It was recommended by the Committee of the Full Board and carried by the State Board of Education to approve for first reading and filing authorization the proposed amendment to 19 TAC Chapter 74, Curriculum Requirements, Subchapter A, Required Curriculum, §74.3, Description of a Required Secondary Curriculum. (Mr. Craig was absent for the vote.)*

4. Proposed Revisions to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions
(First Reading and Filing Authorization)
(Board agenda page I-11)

MOTION AND VOTE: *It was recommended by the Committee of the Full Board and carried unanimously by the State Board of Education to approve for first reading and filing authorization the proposed revisions to 19 TAC Chapter 74, Curriculum Requirements, Subchapter C, Other Provisions. (Mr. Craig and Ms. Leo were absent for the vote.)*

5. Update on Social Studies Texas Essential Knowledge and Skills (TEKS) Review
(Board agenda page I-21)

No action was taken on this item by the State Board of Education.

Because of time constraints, board agenda items number 6, 7, 8, and 9 were not considered by the Committee of the Full Board during its meeting held the previous day. The Committee voted to consider these items during this general board meeting.

6. Update on Texas Essential Knowledge and Skills (TEKS) Review
(Board agenda page I-25)

Before the item was introduced, Mrs. Knight shared two issues she became aware of while attending a Social Studies TEKS Review Committee meeting: one relating to the potential need for criteria for the SBOE members to follow when naming expert reviewers, and one relating to the definition of "methodology."

Ms. Givens provided an update of the review of the TEKS. The following documents were distributed related to the TEKS revision process:

- TEKS Processes/Instructional Materials/College Readiness Standards (CRS) Timelines, (3 subjects only), September 2009
- TEKS, CRS, and Instructional Materials Working Document, September 2009
- TEKS Review Schedule, October 2009-January 2010
- Application for SBOE Technology Applications TEKS Review Committees

Ms. Givens explained the current status of the TEKS for the English language arts electives and for social studies.

Discussion ensued regarding whether or not SBOE members should establish criteria regarding the naming of expert reviewers. Board members also discussed the role of TEKS review committees.

Ms. Givens then presented an overview of the technology applications TEKS review process and indicated that the application to serve on the review committee would be posted on the TEKS webpage and e-mailed to Board members.

In response to a question regarding the timeline for updated social studies instructional materials, Ms. Givens explained that social studies is scheduled to be called for in Proclamation 2013. If the schedule is followed, then state panel members would be reviewing the materials during the summer of 2012. The materials would be adopted by the board in November 2012 and would be scheduled to go into classrooms in the fall of 2013.

7. Proposed Amendments to Proclamation 2010
(Board agenda page I-29)

Ms. Givens introduced the item, presented three options to adjust maximum cost to match the amount funded by the legislature, and explained that if maximum cost was reduced, the board would need to amend Proclamation 2010 to allow the publishers another opportunity to submit final bids.

MOTION AND VOTE: *It was moved by Mrs. Berlanga, seconded by Mr. Nuñez, and carried that the State Board of Education adopt Option B, Proclamation 2010 Estimated Maximum Cost for First-Year Purchases (reducing maximum cost for all subjects and grade levels by 4.74%), and amend the proclamation to allow publishers to submit new bid prices. (Mr. Agosto was absent for the vote.)*

8. Proposed Amendments to Proclamation 2011
(Board agenda page I-31)

Ms. Givens introduced the item and presented two options to adjust maximum cost to match the amount funded by the legislature. Additionally, she introduced proposals to further amend Proclamation 2011 and reduce maximum costs.

MOTION: *It was moved by Dr. McLeroy and seconded by Mrs. Cargill to amend Proclamation 2011 to reflect Option A, Estimated Maximum Cost for First-Year Purchases (reducing maximum cost for all subjects and grade levels by 6.66%).*

At this point, Proclamation 2012 was considered next so that agency staff could have time to work on further proposed changes to Proclamation 2011.

MOTION AND VOTE: *It was moved by Mrs. Knight and seconded by Ms. Hardy to not apply the reductions in Option A to Prekindergarten systems and to adjust the reduced cost for all other elements to achieve the $495 million funding level. The motion failed, with 4 members voting Aye and 8 members voting No, as follows:*

Aye:	*Mr. Allen*	*Mrs. Knight*
	Ms. Hardy	*Mr. Nuñez*
No:	*Mr. Bradley*	*Mrs. Lowe*
	Mrs. Cargill	*Dr. McLeroy*
	Ms. Dunbar	*Mr. Mercer*
	Ms. Leo	*Mrs. Miller*

(Mr. Agosto, Mrs. Berlanga, and Mr. Craig were absent for the vote.)

VOTE: *A vote was taken on the motion to amend Proclamation 2011 to reflect Option A, Estimated Maximum Cost for First-Year Purchases (reducing maximum cost for all subjects and grade levels by 6.66%). The motion carried unanimously. (Mr. Agosto, Mrs. Berlanga, and Mr. Craig were absent for the vote.)*

MOTION AND VOTE: *It was moved by Ms. Leo, seconded by Dr. McLeroy, and carried unanimously to amend Proclamation 2011, as follows:*

Stipulations/Requirements/Recommendations for Proclamation 2011 for All Content Instructional Materials

- *A publisher that offers digital versions of a print program must bid the versions separately. This requirement is not intended to forbid the inclusion of digital components in a print submission.*
- *All digital programs must be platform-neutral. Digital materials must be equally accessible on PCs and Macs.*
- *Publishers of electronic programs are to offer a price for a statewide license.*
- *Publishers are to provide a digital version of all teacher materials.*
- *Publishers are to provide ancillaries electronically.*

(Mr. Agosto, Mrs. Berlanga, and Mr. Craig were absent for the vote.)

9. Proclamation 2012 of the State Board of Education Advertising for Bids on Instructional Materials
(Board agenda page I-33)

Ms. Givens introduced the item and recommended that the board postpone the issuance of Proclamation 2012 of the State Board of Education Advertising for Bids on Instructional Materials and asked the board to provide direction on what, if any, changes it would like to make to Proclamation 2012 to achieve cost efficiencies.

MOTION: *It was moved by Ms. Leo and seconded by Dr. McLeroy to amend Proclamation 2012, as follows:*

Stipulations/Requirements/Recommendations for Proclamation 2011 for All Content Instructional Materials

- *A publisher that offers digital versions of a print program must bid the versions separately. This requirement is not intended to forbid the inclusion of digital components in a print submission.*
- *All digital programs must be platform-neutral. Digital materials must be equally accessible on PCs and Macs.*
- *Publishers of electronic programs are to offer a price for a statewide license.*
- *Publishers are to provide a digital version of all teacher materials.*
- *Publishers are to provide ancillaries electronically.*
- *Publishers are encouraged to offer print programs in a format that is appropriate for ebook readers.*

MOTION AND VOTE: *It was moved by Ms. Dunbar, seconded by Ms. Leo, and carried unanimously to amend the motion by removing the last line "Publishers are encouraged to offer print programs in a format that is appropriate for ebook readers." (Mr. Agosto, Mrs. Berlanga, and Mr. Craig were absent for the vote.)*

MOTION AND VOTE: *It was moved by Mrs. Miller, seconded by Ms. Leo, and carried unanimously to amend the motion by amending the heading as follows: Stipulations/Requirements/Recommendations for Proclamation 2012 [~~2011~~] for All Content Instructional Materials. (Mr. Agosto, Mrs. Berlanga, and Mr. Craig were absent for the vote.)*

VOTE: *A vote was taken on Ms. Leo's motion, as amended. The motion carried unanimously. (Mr. Agosto, Mrs. Berlanga, and Mr. Craig were absent for the vote.)*

MOTION: *It was moved by Ms. Leo and seconded by Mrs. Cargill to direct agency staff to bring Proclamation 2012 back to the State Board of Education for action at the November 2009 meeting.*

There being no objection, Ms. Leo withdrew her motion. Agency staff was directed to bring Proclamation 2012 back to the State Board of Education for action at its March 2010 meeting.

After Proclamation 2012 was considered, the board returned to Proclamation 2011 to continue where it left off.

COMMITTEE ON INSTRUCTION

10. Proposed Approval of Updates to the Texas State Plan for the Education of Gifted/Talented Students
(Board agenda page II-1)

Action taken on this item by the State Board of Education is addressed under agenda item #2—Approval of Consent Agenda.

11. Recommended Penalties for Failure to Correct Factual Errors in Adopted Instructional Materials
(Board agenda page II-21)

Action taken on this item by the State Board of Education is addressed under agenda item #2—Approval of Consent Agenda.

12. Proposed Revisions to 19 TAC Chapter 101, Assessment, Subchapter A, General Provisions, and Subchapter B, Development and Administration of Tests
(First Reading and Filing Authorization)
(Board agenda page II-27)

Action taken on this item by the State Board of Education is addressed under agenda item #2—Approval of Consent Agenda.

COMMITTEE ON SCHOOL FINANCE/PERMANENT SCHOOL FUND

13. Proposed Amendment to 19 TAC Chapter 105, Foundation School Program, Subchapter B, Use of State Funds, §105.11, Maximum Allowable Indirect Cost
(First Reading and Filing Authorization)
(Board agenda page III-1)

MOTION AND VOTE: *It was recommended by the Committee on School Finance/Permanent School Fund and carried by the State Board of Education to approve for first reading and filing authorization the proposed amendment to 19 TAC Chapter 105, Foundation School Program, Subchapter B, Use of State Funds, §105.11, Maximum Allowable Indirect Cost, to set the indirect cost rate at 35% for programs other than compensatory education, and to bring this item back to a work session to be held in October for further discussion. (Mr. Agosto, Mrs. Berlanga, and Mr. Craig were absent for the vote.)*

14. Per Capita Apportionment Rate for 2009-2010 School Year
(Board agenda page III-11)

Action taken on this item by the State Board of Education is addressed under agenda item #2—Approval of Consent Agenda.

COMMITTEE ON SCHOOL INITIATIVES

15. Review of Proposed Amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Types and Classes of Certificates Issued, §232.4, Probationary Certificates
(Board agenda page IV-41)

MOTION AND VOTE: *It was recommended by the Committee on School Initiatives and carried unanimously by the State Board of Education to take no action on the proposed amendment to 19 TAC Chapter 232, General Certification Provisions, Subchapter A, Types and Classes of Certificates Issued, §232.4, Probationary Certificates. (Mr. Agosto, Mr. Allen, Mrs. Berlanga, and Mr. Craig were absent for the vote.)*

16. Review of Proposed Amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.1, General Authority, and §233.15, Languages Other Than English
(Board agenda page IV-49)

MOTION AND VOTE: *It was recommended by the Committee on School Initiatives and carried unanimously by the State Board of Education to take no action on the proposed amendments to 19 TAC Chapter 233, Categories of Classroom Teaching Certificates, §233.1, General Authority, and §233.15, Languages Other Than English. (Mr. Agosto, Mr. Allen, Mrs. Berlanga, and Mr. Craig were absent for the vote.)*

17. Review of Proposed Revisions to 19 TAC Chapter 241, Principal Certificate
(Board agenda page IV-55)

MOTION AND VOTE: *It was recommended by the Committee on School Initiatives and carried unanimously by the State Board of Education to take no action on the proposed revisions to 19 TAC Chapter 241, Principal Certificate. (Mr. Agosto, Mrs. Berlanga, and Mr. Craig were absent for the vote.)*

18. Review of Proposed Revisions to 19 TAC Chapter 242, Superintendent Certificate
(Board agenda page IV-67)

MOTION AND VOTE: *It was recommended by the Committee on School Initiatives and carried unanimously by the State Board of Education to take no action on the proposed revisions to 19 TAC Chapter 242, Superintendent Certificate. (Mr. Agosto, Mrs. Berlanga, and Mr. Craig were absent for the vote.)*

19. Review of Proposed Amendment to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter B, Enforcement Actions and Guidelines, §249.14, Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition
(Board agenda page IV-79)

MOTION AND VOTE: *It was recommended by the Committee on School Initiatives and carried unanimously by the State Board of Education to take no action on the proposed amendment to 19 TAC Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, Subchapter B, Enforcement Actions and Guidelines, §249.14, Complaint, Required Reporting, and Investigation; Investigative Notice; Filing of Petition. (Mr. Agosto, Mrs. Berlanga, and Mr. Craig were absent for the vote.)*

20. Proposed Amendment to 19 TAC Chapter 100, Charters, Subchapter A, Open-Enrollment Charter Schools, §100.105, Application to Public Senior College or University Charters
(First Reading and Filing Authorization)
(Board agenda page IV-87)

Action taken on this item by the State Board of Education is addressed under agenda item #2—Approval of Consent Agenda.

21. Proposed Guidelines and Application for the Residential Treatment Facility Charter Established in Human Resources Code by HB 3689
(Board agenda page IV-93)

Action taken on this item by the State Board of Education is addressed under agenda item #2—Approval of Consent Agenda.

REPORTS OF COMMITTEES REGARDING AGENDA ITEMS ON COMMITTEE AGENDAS

Committee on Instruction

No report was presented.

Committee on School Finance/Permanent School Fund

Mr. Bradley reported on the following discussion item of the meeting of the Committee on School Finance/Permanent School Fund held on August 13, 2009: Consideration of Texas Attorney General Opinion GA-0707 Regarding Transfers from the Permanent School Fund to the Available School Fund and Consideration of Process to Make Required Determinations, and stated that this was discussed again by the Committee at its meeting on September 16. From the September 16 meeting of the Committee on School Finance/Permanent School Fund, he reported on the following items: Second Quarter of 2009 Permanent School Fund Performance Report and Review of the Permanent School Fund's Outstanding Request for Proposals and Request for Qualifications.

Committee on School Initiatives

Mrs. Knight, vice chair of the Committee on School Initiatives, reported on Discussion of Proposed Revisions to the Application and Process for Awarding Open-Enrollment Charters.

REPORTS OF OTHER STATE BOARD OF EDUCATION MEMBERS REGARDING AGENDA ITEMS AND EDUCATIONAL ACTIVITIES AND CONCERNS IN INDIVIDUAL DISTRICTS

No reports were presented.

The meeting adjourned at 1:30 p.m.

_____

Terri Leo, Secretary