

**CONNECTICUT STATE BOARD OF EDUCATION
Hartford**

**Legislation and Policy Development Committee Meeting
December 2, 2015**

**Minutes
(Approved 1/6/16)**

Pursuant to notice filed with the Secretary of the State, the State Board of Education Legislation and Policy Development Committee met in Room 1C, Legislative Office Building, Hartford, Connecticut on December 2, 2015.

I. Call to Order

Committee Chair Theresa Hopkins-Staten called the meeting to order at 8:34 a.m. Also present were committee members Robert Trefry, Joseph Vrabely, Maria Mojica, and Erin Benham. Mr. Terry Jones was absent.

Also present for all or part of the meeting were the following Department of Education staff members: Assistant to the Commissioner for Board Matters Pamela Charland; Chief of Staff Kelly Donnelly; Chief Operating Officer Charlene Russell-Tucker, Bureau Chief Mark Linabury; Communications Director Abbe Smith; Bureau Chief of Special Education Isabelina Rodriguez; Legal Director Peter Haberlandt; Legislative Liaison Laura Stefon; and Paralegal Michael Wallace.

II. Approval of Meeting Minutes

On a motion made by Mr. Vrabely and seconded by Ms. Hopkins-Staten, the Committee unanimously approved the October 7, 2015, Legislation and Policy Development Committee meeting minutes.

III. Legislative Proposals

Legislative Liaison Laura Stefon summarized the following 2016 legislative proposals:

An Act Concerning Various Revisions and Additions to the Education Statutes: Under current law, there is a timing problem with the effective date of the data for Goodwin's September magnet grant. The data and the payment are both assigned a September 1 date. The State Department of Education (SDE) requires processing time for the payment, so this proposal would establish August 1st as the date for the student counts.

An Act Concerning Minor Revisions to Bilingual Education Certification: Authorizing elementary bilingual teachers to serve students in Grades K through 8 will potentially provide districts with the flexibility to create multi-age bilingual education groups that serve the needs of students who require instruction in both languages. Language clarifying these grade levels for the elementary bilingual endorsement was contained in a section of the statute that was

inadvertently eliminated in legislation passed in July 2015. This proposal recommends adding that language back into the bilingual statute.

IV. Alternative Education Working Group Update

Committee Chair Hopkins-Staten opened the discussion by reminding members that the committee received a presentation approximately a year ago regarding the need for clearer standards concerning alternative education offered to students in nontraditional educational settings such as students with special social, emotional or behavioral needs that are not being adequately met in a traditional school setting. She noted that committee discussion at that time identified a need to put some guidelines in place so that students who are outside of a traditional school setting are insured access to a high quality education that would allow them to be job ready and college ready. Ms. Hopkins-Staten further noted the passage of recent legislation directing the SDE to adopt guidelines for the provision of alternative education.

SDE Chief Operating Officer Charlene Russell-Tucker and Bureau Chief Mark Linabury provided an update on the Alternative Education Working Group.

Ms. Russell-Tucker noted that the working group has been working for about a year to develop guidelines. Ms. Russell-Tucker explained that, with the recent passage of Public Act 15-133, which directs SDE to adopt guidelines for alternative education, the working group would now need to meet again to look at the guidelines and ensure they line up with the new law.

Mr. Linabury summarized the various sections of Public Act 15-133. He noted that, under the new law, alternative education programs should address the social, emotional, behavioral and academic needs of students in nontraditional educational settings. Mr. Linabury explained that the task of developing guidelines has been challenging but the working group had produced a working draft that is currently under review. Mr. Linabury explained, in summary, that the draft guidelines would look at the purpose of the program, criteria for how and when a student may enter and exit alternative education, and provide an annual review of alternative education programs with a goal of understanding the expectations of the program and its approach.

Bureau Chief of Special Education Dr. Isabelina Rodriguez provided the committee with an overview of Child Find.

Dr. Rodriguez stated that Child Find is based on federal IDEA regulations and requires districts to identify students who may need special education services and refer them for such services as early as possible. Dr. Rodriguez explained that students who may need special education services should not be referred straight to an alternative program but should first be identified as special education students so they can go through the special education process and get the services they need, as required by IDEA. She noted that district staff would benefit from additional training and professional development concerning Child Find.

V. Follow-up Discussion re: Appointment of Hearing Officers

Committee Chair Hopkins-Staten opened the discussion. She explained that, in the Committee's discussion in September concerning appointment of SDE hearing officers, the Committee noted the need to increase the diversity of the hearing officer pool in view the fact that the majority of

proceedings handled by hearing officers are expulsion proceedings, which involve a disproportionate number of students of color, according to SDE data. The Chair noted that, at her request, the SDE Legal Department has been looking at this issue. SDE Legal Director Peter Haberlandt noted that the Legal Department has been actively examining various ideas on how to accomplish the goal of increasing the diversity of the pool of hearing officers, from more aggressive proactive outreach in recruitment of hearing officer candidates to closely examining the issue of whether to expand the pool of Hearing Officers to include non-lawyers, an idea that had been raised in prior Committee discussion.

Mr. Haberlandt summarized the Legal Department's approach in considering these issues. He noted that, as an initial step, it is critical to gather information about what SDE Hearing Officers actually do, the types of disputes that they need to decide, and their duties and responsibilities. The next step was to make an informed, sensible and responsible judgment about the qualifications and experience that are necessary or preferable for serving as a hearing officer in the types of cases that are at issue. The final step of the approach is to identify actionable realistic steps that can be taken to increase the diversity of the hearing officer pool.

Mr. Haberlandt provided an overview of what SDE hearing officers do, noting that there are two panels: one administers several kinds of proceedings outside of special education, and the other handles special education impartial due process hearings. The Legal Department of SDE has organizational and recruitment/selection responsibility for the panel that administers non-special education matters, while the Special Education department oversees the panel responsible for due process hearings. Mr. Haberlandt explained that the non-special education hearing officers handle expulsion proceedings concerning students at the Connecticut Technical High School System (CTHSS), school accommodation cases relating to residency and transportation, proceedings concerning revocation or denial of educator certificates, and other proceedings.

Mr. Haberlandt noted that the non-special education hearing officers who were reappointed by the State Board of Education in July 2015 were appointed to three-year terms. He further explained these hearing officers are not SDE employees but are on contract and are assigned matters on a rotating periodic basis. He also noted that all of the hearing officers who currently serve on either panel used by SDE for any type of matter are lawyers.

Mr. Haberlandt explained that SDE does not have a role in appointing hearing officers for expulsion proceedings in any of Connecticut's other school districts.

Mr. Haberlandt noted that the Legal Department was focusing its analysis of hearing officers on CTHSS expulsion proceedings because they account for the vast majority of matters handled by non-special education hearing officers at SDE. He further explained that, in order to determine the duties and responsibilities of these hearing officers – and the desired qualifications and experience for selecting new hearing officers – it is important to have a solid understanding of expulsion proceedings.

Mr. Haberlandt provided an overview of expulsion proceedings under Connecticut law generally and with respect to such proceedings at CTHSS, including the legal grounds for expulsions under state and federal law, the rights of students facing expulsion, and who is empowered to decide these proceedings under the law. The discussion noted that a significant percentage of expulsions involve contraband, i.e., drugs, alcohol, weapons, etc., possession of which is

regulated by state and federal law, which requires expulsion in many situations involving contraband. The discussion also noted that CTHSS students facing expulsion are advised of their right to counsel and committee members inquired whether publicly funded counsel was available to such students; Mr. Haberlandt opined that it was unlikely that publicly funded counsel was available in expulsion cases as a matter of right as in criminal cases, but that legal clinics and legal aid organizations may provide legal services relating to expulsions to students and families unable to retain counsel.

Discussion also noted that, under State law, local Boards of Education can elect to have expulsion proceedings heard by a hearing officer or by a panel of Board members. It was suggested that, in larger districts, there is likely heavy reliance on hearing officers. Mr. Haberlandt reported that the SDE Legal Department's research on this matter supports this conclusion and further suggests that hearing officers are typically lawyers.

Mr. Haberlandt noted that the legalistic character of expulsions and expulsion proceedings should inform consideration of what qualifications and experiences, including legal training, are needed or beneficial for the hearing officers who must handle such proceedings. He explained that the Legal Department is trying to gather information about practices in school districts across Connecticut to understand how hearing officers are chosen, what qualifications are sought and efforts to diversify the pool.

Committee member Mr. Vrabely asked whether anything in existing law gives SDE a role in hearing officer selection outside of CTHSS specifically, and Mr. Haberlandt responded that the answer appears to be no, based on the Legal Department's research to date. Mr. Vrabely commented that thought should be given to addressing hearing officer selection more broadly.

Committee Chair Hopkins-Staten emphasized the importance of fairness and competency in the work of hearing officers. She further noted that the SDE needs to make efforts to achieve greater diversity of hearing officers, particularly in view of the fact that the State Board of Education has taken on diversity as one of its goals. She further observed that it makes good sense that hearing officers represent the demographics of the students that are brought before them. Ms. Hopkins-Staten observed that legal training may not be strictly necessary and referred to her prior experience dealing with non-lawyer commissioners who proved highly effective at deciding legal matters with the assistance of attorney advisors.

Mr. Vrabely and Ms. Hopkins-Staten both commented that the discussion should be directed toward the goal of developing guidelines or policies relative to diversity and inclusiveness for hearing officers. Mr. Haberlandt noted that this challenge is not unique to SDE and the Legal Department has found some helpful resources including the potential to learn from other districts and employers who have implemented successful diversity strategies.

VI. Adjourn

The meeting was adjourned at 9:29 a.m.

Prepared by:

Michael Wallace, Paralegal