

Penny Dastugue, President

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**BOARD
of
ELEMENTARY
and
SECONDARY
EDUCATION**

It is the mission of this board to provide leadership and enact policies that result in improved academic achievement and responsible citizenship for all students

OFFICIAL BOARD MINUTES

Meeting of August 3, 2011

LOUISIANA STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION

AUGUST 3, 2011

**The Poydras Building
1st Floor Hearing Room
Baton Rouge, LA**

The Louisiana State Board of Elementary and Secondary Education met in special session on August 3, 2011, in the 1st Floor Hearing Room, located in the Poydras Building in Baton Rouge, Louisiana. The meeting was called to order at 10:10 a.m. by Board President Penny Dastugue.

Board members present were Mr. Dale Bayard, Mr. John Bennett, Ms. Connie Bradford, Ms. Glenny Lee Buquet, Ms. Penny Dastugue, Mr. Jim Garvey, Ms. Louella Givens, Mr. Keith Guice, and Ms. Linda Johnson.

Mr. Walter Lee and Mr. Chas Roemer were absent.

Agenda Item 3 On motion of Mr. Bayard, seconded by Mr. Guice, the Board approved the agenda, as printed and disseminated. (Schedule 1)

Agenda Item 4 On motion of Ms. Bradford, seconded by Mr. Garvey, the Board approved the minutes of June 15, 2011, amending Motion 9-B-37 and the motion pertaining to Agenda Item 15, as follows:

Motion 9-B-37

On motion of Ms. Johnson, seconded by Mr. Lee, the Board approved the following contracts:

Contractor:	Various Families Helping Families Contractors
Previous Contract:	Yes
Contract Amount:	\$979,000.00
Amended Amount:	\$152,366.00
New Contract Amount:	\$1,077,366.00
Contract Period:	07/01/11 - 06/30/12
Fund:	Federal IDEA
Competitive Process:	No, Exempted by R.S. 39:1494.1

(Motion continues on page 2)

Description of Service: The contractor will provide resources, direct support, materials, and training opportunities to families, educators, and service providers of students with disabilities. The services provided through this contract will assist in complying with the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA) and its regulations. Due to the revised 2011 BESE meeting schedule and in an effort for this contract to be effective on July 1, 2011, the LDE is requesting BESE to give this contract special consideration at its June meeting.

Families Helping Families Contractors	Contract Amount
Families Helping Families of Southeast Louisiana, Inc.	\$ 98,000.00
Families Helping Families of Greater Baton Rouge, Inc.	\$ 98,000.00
Bayou Land Families Helping Families, Inc.	\$ 76,000.00
Families Helping Families of Acadiana, Inc.	\$ 76,000.00
Families Helping Families of Southwest Louisiana, Inc.	\$ 98,000.00
Families Helping Families at the Crossroads of Louisiana, Inc.	\$141,000.00
Families Helping Families Region 7, Inc.	\$ 76,000.00
Families Helping Families of Northeast Louisiana, Inc.	\$ 98,000.00
Northshore Families Helping Families, Inc.	\$ 98,000.00
Families Helping <u>Families</u> of Greater New Orleans, Inc.	\$120,000.00

Agenda Item 15

On motion of Ms. Johnson, seconded by Mr. Garvey, the Board approved the following contract amendment, as recommended by the LDE, for the LDE and Board agencies:

Recovery School District

Contractor: McGlinchey Stafford
 Previous Contract: Yes
 Begin Date: 04/01/2009
 End Date: 04/01/2012
Current Contract Value: \$850,000
Amended Amount: \$99,974.52
New Contract Value: \$949,974.52
 Source of Funds: SGR
 Competitive Process: No - True Professional

(Motion continues on page 3)

Description of Service: The contractor will continue to provide professional legal representation of the interests to the State, as it pertains to matters relating to the enforcement or constitutionality of the Recovery School District.

Justification for Contract: The Recovery School District is a defendant in pending litigation in which the McGlinchey Stafford law firm is providing legal representation to the state. The contractor is very involved in complex litigation involving the enforcement or constitutionality of laws relating to the Recovery School District or any other schools formed under or created pursuant to the Recovery School District statutes, as well as any actions taken by, or on behalf of, the Recovery School District. (Schedule 26)

Agenda
Item 5

Notices of Intent

Agenda
Item 5-A

On motion of Ms. Johnson, seconded by Mr. Bennett, the Board approved for final adoption revisions to Bulletin 741, *Louisiana Handbook for School Administrators*: §2302. Uniform Grading Policy.

Agenda
Item 5-B

On motion of Mr. Garvey, seconded by Ms. Givens, the Board deferred until its meeting on Thursday, August 18, 2011, consideration of the final adoption of revisions to Bulletin 1706, *Regulations for Implementation of the Children with Exceptionalities Act*, Subpart 1. Regulations for Children with Disabilities: §151. Adoption of State Complaint Procedures and Early Resolution Program, §508. Due Process Hearing Request, §511. Impartial Due Process Hearing and Hearing Officer Appointments, §513. Hearing Rights, §514. Finality of Decision; Appeal; and Compliance with Hearing Decision, and §905. Definitions.

Agenda
Item 6

Board Advisory Council Appointments

(Schedule 2)

On motion of Ms. Buquet, seconded by Mr. Bennett, the Board approved the appointment of Mr. Joseph Peychaud to the Nonpublic School Commission, upon the recommendation of Ms. Louella Givens. Mr. Peychaud replaces Sr. Kathleen Finnerty on the Commission.

On motion of Ms. Buquet, seconded by Mr. Bennett, the Board approved the appointment of Ms. Marian Fertitta to the Nonpublic School Commission, upon the recommendation of Ms. Glenny Lee Buquet. Ms. Fertitta replaces Sr. Immaculata Paisant on the Commission.

(Continues on page 4)

On motion of Ms. Buquet, seconded by Mr. Bennett, the Board approved the reappointment of Ms. Terry Simoneaux to the Special Education Advisory Council, upon the recommendation of Ms. Ollie S. Tyler, Acting State Superintendent of Education.

On motion of Ms. Buquet, seconded by Mr. Bennett, the Board approved the reappointment of Ms. Brenda Sharp to the Special Education Advisory Council, upon the recommendation of Mr. Bruce D. Greenstein, Secretary of the Louisiana Department of Health and Hospitals.

On motion of Ms. Buquet, seconded by Mr. Bennett, the Board approved the reappointment of Ms. Kim Barnette to the Special Education Advisory Council, upon the recommendation of Mr. James M. LeBlanc, Secretary of the Louisiana Department of Public Safety and Corrections.

On motion of Ms. Buquet, seconded by Mr. Bennett, the Board approved the appointment of Dr. James Meza to the Superintendents' Advisory Council, upon the recommendation of Mr. Jim Garvey. Dr. Meza fills a vacancy on the Council.

Agenda Item 7 On motion of Ms. Buquet, seconded by Ms. Bradford, the Board approved the new faculty, course offerings, and textbooks (FY 2011-2012) for the Louisiana School for Math, Science, and the Arts. (Schedule 3)

Agenda Item 8 On motion of Ms. Johnson, seconded by Ms. Givens, the Board recommended Mr. Keith Gamble as its nominee to the Governor for reappointment to the Board of Supervisors of Louisiana Community and Technical Colleges. (Schedule 4)

Agenda Item 9 On motion of Ms. Buquet, seconded by Mr. Garvey, the Board approved the Cooperative Endeavor Agreement between the Board of Elementary and Secondary Education and the ARC of Greater New Orleans. (Schedule 5)

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At this point in the meeting, Ms. Dastugue welcomed those in attendance and thanked them for being present and engaged in the matter regarding Abramson Science and Technology Charter School. Ms. Dastugue reminded Board members and the audience that, because of the very sensitive nature of the matters that the Board would be considering, the Board would likely be using Executive Session to discuss matters pertaining to pending and prospective litigation, personnel issues, and anything that could reveal the identity of a child, including the identification of a classroom teacher of that child. Ms. Dastugue asked that all keep that in mind during the proceedings.

Ms. Dastugue introduced Ms. Angelique Freel, Assistant Attorney General serving as BESE’s legal counsel. Ms. Dastugue stated that Ms. Freel would be advising the Board, as it goes through this process, to assure that nothing is said or done that would have any impact on pending litigation or pending investigations because the matter before the Board today is very specific to a school and the receipt by the Acting State Superintendent of Education of the Findings to date of a very broad investigation, much of which is not from this meeting today and will not be discussed here today. Ms. Dastugue stated that the Board would also be receiving the Findings of the investigation today. The Board will be asked to make a decision that centers around the health, safety, and welfare of the children at Abramson Science and Technology Charter School. Ms. Dastugue respectfully asked that individuals consider their comments and questions specific to the guidance that they have been given. She also advised that if the Board’s attorney advises a Board member or a member of the audience making public comment that those comments cannot be spoken in a public meeting because of the confidentiality of the litigation, of the children, or of the investigation, that Board members and members of the audience respect that decision if they are notified that they are to cease speaking.

Agenda
Item 10

On motion of Ms. Bradford, seconded by Mr. Garvey, the Board ratified the Board President’s ad hoc decision to place Abramson Science and Technology Charter School under suspension, pending investigation.

Ms. Givens was recorded as being opposed to the motion. (Schedule 6)

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Acting State Superintendent of Education Ollie Tyler’s report to the Board regarding Abramson Science and Technology Charter School follows.

“Last month, after learning of allegations of incidents possibly sexual in nature involving students attending Abramson Science and Technology Charter School, the Louisiana Department of Education commenced an investigation of Abramson, which is operated by the Pelican Educational Foundation.

The purpose of this investigation was to determine if there are legitimate concerns about the safety, health, and welfare of students attending the Abramson school, and to determine if Abramson or the Pelican Educational Foundation, or any of their employees violated any provisions of federal or state law, any policies of the State Board of Elementary and Secondary

(Continues on page 6)

Education, or the Charter School Contract for a Type 5 Charter School in the Recovery School District, entered into on June 1, 2007, between Pelican and its Board of Directors and BESE for the purpose of operating the Abramson School. The scope of this investigation has included, but has not been limited to, the following:

- Allegation of incidents, possibly sexual in nature, involving two young students,
- Allegation of incidents, possibly sexual in nature, involving other students.
- Other allegations, including an allegation of attempted bribery by a person possibly affiliated with Pelican, have been referred to appropriate state agencies. Thus, the Louisiana Department of Education's investigation is on-going, as several other agencies are investigating other alleged incidents. However, because our investigation has already yielded several preliminary findings that involve the safety, health and welfare of students at Abramson, we feel compelled to bring these issues to your attention for possible termination of the charter contract between BESE and Pelican and its Board of Directors and BESE regarding the Abramson School. I am recommending revocation of the Abramson charter for the following reasons:
 - Lack of supervision. Our investigation has uncovered multiple instances of students at Abramson not being adequately supervised by school staff.
 - Failure to investigate. The failure to fully investigate instances of alleged sexual behavior occurring on the school campus seems to be a pattern; thereby placing the safety, health, and welfare of students in jeopardy.
 - Failure to take action and/or failure to document, lack of adequate documentation, failure to provide documentation upon the request of BESE and LDOE staff, and lack of follow-up pertaining to alleged incidents involving the safety, health, and welfare of students.

The Charter Contract for the Abramson school, in paragraph 2.10 provides: "The School shall comply with all applicable federal and state laws concerning student welfare, safety, and health, including but not limited to, state laws regarding the reporting of child abuse, accident prevention, and disaster response, and any state regulations governing the operation of school facilities."

(Continues on page 7)

The Charter Contract for the Abramson School, in paragraph 2.15.2 provides: "The Charter Operator shall supply in a timely manner all reports, test results, and other information that is required under this Agreement, state law, and BESE policies and regulations."

Pursuant to Children’s Code Article 603(15), a mandatory reporter of suspected child abuse and neglect includes "teaching or child care provider," which is defined as any person who provides training and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, or school staff member.

The Charter Contract for the Abramson School, in paragraph 5.4.2 provides: "The Charter Contract may be terminated immediately and the Charter revoked if BESE determines that the health, safety, and welfare of students is threatened."

For the foregoing reasons, I recommend that the Charter Contract be terminated pursuant to BESE Bulletin 126, Section 1701(B)(1) and in accordance with the paragraph 5.4.2 of the Charter Contract."

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Ms. Tyler invited Ms. Erin Bendily and Ms. Joan Hunt to provide the Board with other detailed information about the Findings.

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On Point of Personal Privilege, Ms. Johnson recognized former BESE member Tammie McDaniel, who was in attendance.

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Ms. Bendily provided the Board with handouts entitled:

- Abramson Science and Technology Charter School Campus Visit – May 6, 2011, 1:00 p.m.;
- Facility Condition Assessment – Abramson Science and Technology – Louisiana Department of Education – Recovery School District – June 8, 2011; and
- Abramson Facility Site Follow-Up Visit - July 26, 2011.

Discussion followed.

Agenda Item 11 On motion of Mr. Garvey, seconded by Ms. Buquet, the Board received the report regarding Abramson Science and Technology Charter School. (Schedule 7)

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Public comments in opposition to the recommendation of Acting State Superintendent of Education Ollie Tyler that BESE terminate and revoke the Charter School Contract with the Board of Directors for Pelican Educational Foundation governing Abramson Science and Technology Charter School pursuant to BESE Bulletin 126, Section 1701(B)(1) and in accordance with the paragraph 5.4.2 of the Charter Contract were received from Mr. Andrew Lee, Attorney with Jones Walker Law Firm, representing Pelican Educational Foundation/Abramson Science and Technology Charter School. Mr. Lee provided the following information to the Board:

- Exhibit 1 - August 3, 2011, Memorandum of Pelican/Abramson in Response to July 27, 2011, Memorandum of Ollie Tyler, Acting Superintendent, Louisiana Department of Education, to Penny Dastugue, President, BESE
- Exhibit 2 - Annotated July 28, 2011, Memorandum of Ollie Tyler, Acting Superintendent, Louisiana Department of Education, to Penny Dastugue, President, BESE
- Exhibit 3 - Charter Contract with Pelican Educational Foundation, Excerpt Exhibit 1
- Exhibit 4 - Title 28, Louisiana Administrative Code, Section 1703 "Revocation Proceedings"
- Exhibit 5 - Affidavits of Abramson Supporters
- Exhibit 6 – Affidavit of teacher involved
- Exhibit 7 – Affidavit of a paraprofessional who had involvement in one of the incidents
- Exhibit 8 – Affidavit/Verification of a special education specialist
- Exhibit 9 – Copy of New Orleans Police Department report

(Continues on page 9)

Mr. Lee also provided the Board with cards indicating the names of 107 individuals who were in opposition to the recommendation to terminate and revoke the Charter School Contract with the Board of Directors for Pelican Educational Foundation governing Abramson Science and Technology Charter School, but who did not wish to address the Board.

Lengthy discussion followed.

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On Point of Personal Privilege, Ms. Givens recognized Cynthia Willard-Lewis, who represents District 2, in which Abramson Science and Technology Charter School is located. Ms. Givens requested that Senator Willard-Lewis be provided with copies of the information that the Board has received.

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Mr. Ben Slater, attorney for Pelican Educational Foundation, provided Board members with a handout entitled, "Success Report – Abramson Science and Technology."

Discussion followed.

Ms. Givens requested a set of records pertaining to the last time the Board considered revocation of a charter school contract. She indicated that she believed Milestone/SABIS was one such contract, possibly in 2007.

Ms. Bendily stated that two (2) Type 2 Charters were previously considered for revocation, but not approved; one in 1998 and one in 1999. Ms. Bendily indicated that she would work with Board staff to provide those records to Ms. Givens.

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Additional public comments in opposition to the recommendation of Acting State Superintendent of Education Ollie Tyler that BESE terminate and revoke the Charter School contract with the Board of Directors for Pelican Educational Foundation governing Abramson Science and Technology Charter School were received from: Mr. Eugene Kennedy, Mr. Tefvik Kosar, Mr. Steve Uwaezuoke, Mr. Brandon Theodore, Mr. Jacques Williams, Ms. Karen Fontenot, Ms. Mamie R. McDonald, Mr. Robert Roberts, Mr. Greg Baptiste, Ms. Kristin Ingraham Sylve, Mr. Mustafa Abdullah, Mr. Jabir Abdullah, Ms. Loan Phan, Ms. Enjoli Kaufman, Mr. Ben Slater, and Neshandra Hill.

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The Board received public comments in support of the recommendation of Acting State Superintendent of Education Ollie Tyler that BESE terminate and revoke the Charter School contract with the Board of Directors for Pelican Educational Foundation governing Abramson Science and Technology Charter School from: Ms. Danna Gilmore, Ms. Karran Harper Royal, Mr. Lloyd Dressel, and Ms. Lee Barrios.

Mr. Michael Deshotels provided a handout to Board members entitled, "Questions to BESE concerning the Abramson Charter School allegations," and expressed his support of the recommendation to terminate and revoke the Charter School contract with the Board of Directors for Pelican Educational Foundation governing Abramson Science and Technology Charter School.

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Senator Cynthia Willard-Lewis offered comments directed toward establishing a safe environment for all children to achieve and succeed. She stated that the issue is one of accountability, consistency, due process, immediacy, responsiveness, and reporting requirements. Senator Willard-Lewis stated that she is very troubled that there has been no consistency in reporting requirements and uniformity in the application of those requirements for all schools. Senator Willard-Lewis stated that there should be reporting requirements for all schools in all systems and immediacy of reporting all incidents, regarding the nature of those incidents, no matter how minor. In addition, Senator Willard-Lewis requested the Board's support in assuring that the Recovery School District must address uniformity of facilities.

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Public comments regarding Agenda Item 13, "Consideration of Executive Session relative to litigation concerning Berry, et al., v. Pastorek et al., U.S.E.D., Docket No. 10-cv-04049," were received from Ms. Karran Harper Royal.

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Agenda
Items 12
and 13

On motion of Ms. Johnson, seconded by Ms. Givens, the Board went into Executive Session at 12:55 p.m. to discuss matters relative to:

- Pelican Educational Foundation, Inc. v. BESE, et al., 19th JDC, Docket No. 603880;
- litigation concerning Berry v. Pastorek, USED, Docket No. 10-cv-04049;
- personnel; and
- investigative proceedings regarding allegations of misconduct.

A Roll Call Vote was taken.

Yeas: Mr. Bayard, Mr. Bennett, Ms. Bradford, Ms. Buquet, Mr. Garvey, Ms. Givens, Mr. Guice, Ms. Johnson, and Ms. Dastugue.

Nays: None.

Abstentions: None.

Absences: Mr. Lee and Mr. Roemer.

The motion passed.

The Roll Call Vote on the motion to go into Executive Session passed. It was noted that no votes would be taken while the Board was in Executive Session; all votes would be made in public.

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On motion of Mr. Garvey, seconded by Mr. Bennett, the Board allowed Acting State Superintendent of Education Ollie Tyler, Ms. Joan Hunt, Ms. Angelique Freel, Ms. Erin Bendily, and Ms. Catherine Pozniak into the Executive Session.

A Roll Call Vote was taken.

Yeas: Mr. Bayard, Mr. Bennett, Ms. Bradford, Ms. Buquet, Mr. Garvey, Ms. Givens, Mr. Guice, and Ms. Dastugue.

Nays: None.

Abstentions: None.

(Continues on page 12)

Absences: Ms. Johnson, Mr. Lee, and Mr. Roemer.

The motion passed.

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On motion of Mr. Garvey, seconded by Ms. Bradford, the Board reconvened into Regular Session at 3:26 p.m. A quorum was present.

Agenda
Items 11
and 12

On motion of Mr. Garvey, seconded by Ms. Buquet, the Board immediately terminated the Charter Contract between the Louisiana Board of Elementary and Secondary Education and Pelican Educational Foundation, Inc., and its Board of Directors entered into for the purpose of operating Abramson Science and Technology Charter School and revoked the Charter, based on a determination that the health, safety, or welfare of students is threatened.

A Roll Call Vote was taken.

Yeas: Mr. Bennett, Ms. Bradford, Ms. Buquet, Mr. Garvey, Mr. Guice, Ms. Johnson, and Ms. Dastugue.

Nays: Ms. Givens.

Abstentions: None.

Absences: Mr. Bayard, Mr. Lee, and Mr. Roemer.

The motion passed.

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On motion of Ms. Buquet, seconded by Mr. Garvey, the Board adopted as BESE's findings and basis for termination of the Charter Contract between the Louisiana Board of Elementary and Secondary Education and Pelican Educational Foundation, Inc., and its Board of Directors entered into for the purpose of operating Abramson Science and Technology Charter School, the letter from Acting State Superintendent of Education Ollie S. Tyler to BESE President Penny Dastugue, dated July 28, 2011, outlining the investigative findings of the Louisiana Department of Education, excepting the allegations regarding bribery, which were not considered by the Board.

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Ms. Dastugue stated that this is a reminder that the Board of Directors of Pelican Educational Foundation, Inc., shall have direct responsibility for carrying out the dissolution of the school and the disposition of assets, in accordance with the Dissolution Plan and applicable law. BESE shall, at its discretion, have authority to supervise, oversee, or direct the dissolution of the business and affairs of the charter school.

Ms. Dastugue stated that there will be communication from RSD Superintendent John White, with more specific details. This school will be open on August 10, 2011. It will be a direct-operated school by the Recovery School District. The Board's intent and desire is that it remain as a STEM school; and all students currently enrolled in this school can remain so.

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On motion of Ms. Johnson, seconded by Ms. Bradford, the Board directed the Acting State Superintendent of Education, in concert with the RSD Superintendent, to provide in September 2011:

1. a clear delineation of roles and responsibilities between the LDE Charter Office and the RSD in monitoring the oversight of Type 5 charter schools;
2. an outline of what needs to be monitored and the staff and funding needed to adequately provide the monitoring;
3. information regarding how the current administrative fee paid by the Type 5 charter is being used and if some of this money should be used to pay for monitoring;
4. information regarding how the Board will be advised on any major findings in the future;
5. policy recommendations that need to be adopted by the Board; and
6. an organizational chart of RSD employees housed in New Orleans and Baton Rouge.

Agenda Item 13 On motion of Mr. Guice, seconded by Ms. Givens, the Board received the report regarding *Berry v. Pastorek*, USED, Docket No. 10-cv-04049.

With no further business to come before the Board, the meeting was adjourned at 3:33 p.m.