

Charles E. "Chas" Roemer, President

**B  
E  
S  
E**



**BOARD  
of  
ELEMENTARY  
and  
SECONDARY  
EDUCATION**

*The Board of Elementary and Secondary Education shall provide leadership and create policies for education that expand opportunities for children, empower families and communities, and advance Louisiana in an increasingly competitive global market.*

**OFFICIAL BOARD MINUTES**

**Meeting of July 1, 2014**

# LOUISIANA STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION

JULY 1, 2014

The Louisiana Purchase Room  
Baton Rouge, LA

The Louisiana State Board of Elementary and Secondary Education met in special session on July 1, 2014, in the Louisiana Purchase Room, located in the Claiborne Building in Baton Rouge, Louisiana. The meeting was called to order at 11:50 a.m. by Board President Chas Roemer.

Board members present were Dr. Lottie Beebe, Ms. Holly Boffy, Ms. Connie Bradford, Mr. Jim Garvey, Ms. Carolyn Hill, Dr. Judith Miranti, Ms. Kira Orange Jones, Mr. Chas Roemer, and Ms. Jane Smith.

Mr. Jay Guillot and Mr. Walter Lee were absent.

Agenda Item 2. On motion of Mr. Garvey, seconded by Ms. Bradford, the Board approved the agenda, as printed and disseminated. (Schedule 1)

Dr. Beebe and Ms. Hill were recorded as being opposed to the motion.

Agenda Item 3. **Items for Consideration**

Agenda Item 3.1. Public comments were received on Agenda Item 3.1., "Consideration of an update report regarding Executive Order No. BJ 2014-6, Executive Order No. BJ 2014-7, and related implementation:"

**Support:** Ms. Deborah Bellinger, Ms. Delores Bishop, Ms. Jade Brown, Mr. Wayne Cola, Ms. Sharrell Dupree, Ms. Brooke Falgout, Mr. Christopher Garner, Ms. Kathryn Goppelt, Ms. Rachel Guidry, Ms. Desiree Hanvy, Mr. DeAndre Hill, Mr. William Matthew Howry, Ms. Brenda Nixon, Ms. Terri Pimmcke, Ms. Destini Nicole Prew, Ms. Mary Louise Phenix, Mr. Edward L. Rispono, Ms. Amanda Stenson, and Ms. Judith Vail, concerned citizens; Mr. John Warner Smith, Education's Next Horizon; Ms. Rayne Martin, Stand for Children; Mr. Michael Olivier, Committee of 100; Ms. Amy Deslattes, Louisiana Core Advocates; Dr. Phillip Rozeman, Blueprint Louisiana and

(Continues on page 2)

Shreveport and Bossier Chamber of Commerce; Ms. Stephanie Desselle, Council for a Better Louisiana; Ms. Kelli Bottger, Louisiana Federation for Children; Ms. Ruthie Frierson, Citizens for 1 Greater New Orleans; Ms. Veronica Brooks, Louisiana Association of Public Charter Schools; and Ms. Arielle McConduit, Urban League of Greater New Orleans.

**Oppose:** Ms. Lee Barrios, Ms. Rita C. Floberg, Mr. William M. Floberg, Ms. Amy Lemoine, Mr. Bill McNair, Ms. Nita T. McNair, Ms. Stacy Morgan, and Mr. Ralph Roshto, concerned citizens; Mr. Nathan Curtis, KELB Radio; Mr. Frank Buckley, C-6, who provided a handout entitled, “Leslie Rosenthal Jacobs ’77 2013 Distinguished Alumna Acceptance Speech”; and Ms. Constance Diane Long, Mr. Guy Terry, and Ms. Patricia Terry, Louisiana Power Coalition.

**Information Only/Other:** Ms. Marla Baldwin, Mr. Lennie Ditoro, Ms. Vicky Johnston, Ms. Jenny Klein, Ms. Dominique Magee, Dr. Elizabeth Meyers, Mr. Anthony Nichols, Mr. Bob Reid, Ms. Deanna Russell, Ms. Debbie Sachs, Ms. Mercedes Schneider, Ms. Leslie Truax, Ms. Candyce Watsey, and Ms. Sara Wood, concerned citizens; Ms. Kristy Nichols, State Commissioner of Administration; Mr. Michael Deshotels, Louisiana Association of Educators, who provided a handout entitled, “Louisiana Educator”; Mr. Scott Richard, Louisiana School Boards Association; Mr. Thomas Enright, Office of the Governor; and Ms. Kate Mehok, Crescent City Schools.

Motion 3.1.1 On motion of Ms. Orange Jones, seconded by Ms. Smith, the Board received an update report regarding Executive Order No. BJ 2014-6, Executive Order No. BJ 2014-7, and related implementation.

Ms. Hill was recorded as being opposed to the motion.

\* \* \* \* \*

Ms. Smith offered a motion, seconded by Dr. Beebe, that, if approved by the Division of Administration, the 2013-2014 assessment instruments continue to be used in the 2014-2015 school year to ensure continuity and consistency for all stakeholders.

A Roll Call Vote was taken on Ms. Smith's motion.

Yeas: Dr. Beebe, Ms. Hill, and Ms. Smith.

Nays: Ms. Boffy, and Mr. Garvey.

Abstentions: Dr. Miranti.

Absences: Ms. Bradford, Mr. Guillot, Mr. Lee, and Ms. Orange Jones.

As presiding officer, Mr. Roemer exercised his right to not vote.

The motion failed.

\* \* \* \* \*

More discussion followed, and Ms. Smith asked for reconsideration of her failed motion due to the temporary absence from the dais of Board members attending the meeting who were unaware that a motion was about to be considered. No BESE Members objected to that reconsideration, and the President allowed a second Roll Call Vote.

Ms. Smith offered a motion, seconded by Dr. Beebe, that, if approved by the Division of Administration, the 2013-2014 assessment instruments continue to be used in the 2014-2015 school year to ensure continuity and consistency for all stakeholders.

Yeas: Dr. Beebe, Ms. Hill, and Ms. Smith.

Nays: Ms. Boffy, Ms. Bradford, Mr. Garvey, Dr. Miranti, Ms. Orange Jones, and Mr. Roemer.

Abstentions: None.

Absences: Mr. Guillot and Mr. Lee.

The motion failed.

\* \* \* \* \*

Prior to receiving public comments on Agenda Item 3.2., the Board recessed at 4:30 p.m. The Board reconvened at 4:45 p.m.

Agenda Item 3.2.

Public comments were received on Agenda Item 3.2., "Consideration of the potential retention of special legal counsel regarding Executive Order No. BJ 2014-6, Executive Order No. BJ 2014-7, and related implementation:"

**Support:** Ms. Catriona Anderson, Ms. Delores Bishop, Ms. Jade Brown, Mr. Wayne Cola, Mr. Peter Cook, Ms. Sharrell Dupree, Mr. Christopher Garner, Ms. Rachel Guidry, Mr. DeAndre Hill, Mr. William Howry, Ms. Tricia Miller, Ms. Mary Louise Phenix, Ms. Destini Nicole Prew, Ms. Amanda Stenson, and Mr. Michael Tipton, concerned citizens; Mr. Brian Adams, Teach for America; Ms. Sandra Ardoin, Louisiana Core Advocates; Ms. Veronica Brooks, Louisiana Association of Public Charter Schools; Mr. Bob Brown, New Orleans Business Council; Ms. Charmaine Cacciappi and Ms. Kim Sport, United Way of Southeast Louisiana; Ms. Marie Centanni, Chamber of Southwest Louisiana; Ms. Ellen Daugherty, Louisiana Association of Teachers of Mathematics (LATM); Mr. Rory Denicola, Ms. Rita Gutierrez, Mr. Hunter Howell, Ms. Lana Venable, and Ms. Shannon Venuto, Exxon Mobil; Ms. Keisha Dubuclet, Center for Development and Learning; Mr. Barry Erwin, Council for a Better Louisiana; Ms. Ruthie Frierson, Ms. Betty Hope, Ms. Nancy Marsiglia, and Ms. Ann Rabin, Citizens for 1 Greater New Orleans; Ms. Dana Henry, Stand for Children; Mr. Mickey Landry, Choice Foundation; Ms. June Leopold, National Council of Jewish Women; Mr. Eric B. Lewis, Black Alliance for Educational Options; Mr. Tony Ligi, Jefferson Business Council; Ms. Kate Mehok, Crescent City Schools; Ms. Brigitte Nieland, Louisiana Association of Business and Industry; Ms. Morgan Carter Ripski, Collegiate Academies; Dr. Phillip Rozeman, Blueprint Louisiana and Shreveport and Bossier Chamber of Commerce; Ms. Madelyn Schenk, Women's Leadership Council; Mr. John Warner Smith, Education's Next Horizon; and Mr. Davis Zaunbrecher, New Schools for New Orleans.

(Continues on page 5)

**Oppose:** Ms. Lee Barrios, Mr. James Crumling, Ms. Brooke Falgout, Ms. Kathryn Goppelt, Dr. Elizabeth Meyers, Ms. Stacy Morgan, Mr. Ralph Roshto, Ms. Terri Timmcke, and Ms. Sara Wood, concerned citizens; Mr. Bob Reid, Tea Party of Louisiana; and Ms. Constance Diane Long, Mr. Guy Terry, and Ms. Patricia Terry, Louisiana Power Coalition.

**Information Only/Other:** Ms. Marla Baldwin, Mr. Michael Deshotels, Mr. Lennie Ditoro, Ms. Vicky Johnston, Ms. Jenny Klein, Ms. Dominique Magee, Mr. Anthony Nichols, Mr. Bob Reid, Ms. Deanna Russell, Ms. Debbie Sachs, Ms. Mercedes Schneider, Ms. Leslie Truax, and Ms. Candyce Watsey, concerned citizens; Mr. Dannie P. Garrett, III, Louisiana School Boards Association; Ms. Kristy Nichols, State Commissioner of Administration; Mr. Steve Monaghan, Louisiana Federation of Teachers; and Ms. Stafford Palmieri, Office of the Governor.

Motion  
3.2.1

On motion of Ms. Smith, seconded by Dr. Beebe, the Board directed the State Superintendent of Education to request a meeting or series of meetings with the Governor and the Governor’s legal counsel regarding the 2014-2015 state academic assessments and report to the Board by July 18, 2014, on the results of such meeting.

\* \* \* \* \*

Ms. Smith offered a motion, seconded by Ms. Hill, to table “Consideration of the potential retention of special legal counsel regarding Executive Order No. BJ 2014-6, Executive Order No. BJ 2014-7, and related implementation,” until the State Superintendent of Education provides a report regarding meetings with the Governor and the Governor’s legal counsel regarding 2014-2015 state academic assessments.

A Roll Call Vote was taken on Ms. Smith’s motion.

Yeas: Dr. Beebe, Ms. Hill, and Ms. Smith.

Nays: Ms. Boffy, Ms. Bradford, Mr. Garvey, Dr. Miranti, Ms. Orange Jones, and Mr. Roemer.

Abstentions: None.

(Continues on page 6)

Absences: Mr. Guillot and Mr. Lee.

The motion failed.

\* \* \* \* \*

Motion  
3.2.2

On motion of Mr. Garvey, seconded by Dr. Miranti, the Board adopted the following Resolution:

**RESOLUTION**

LOUISIANA STATE BOARD OF ELEMENTARY  
AND SECONDARY EDUCATION

A resolution to obtain the services of Preis Gordon, APLC, and Barrasso Usdin Kupperman Freeman & Sarver, LLC, as special legal counsel, subject to the approval of the Louisiana Attorney General, to pursue legal remedies on behalf the Louisiana State Board of Elementary and Secondary Education regarding recent actions by Governor Jindal and the Louisiana Division of Administration, among others, as it pertains to the academic assessment program for Louisiana public school students.

WHEREAS, the Louisiana Constitution in Article VIII, §3 confers upon the Louisiana State Board of Elementary and Secondary Education the authority to supervise and control the public elementary and secondary schools in Louisiana,

WHEREAS, Louisiana Revised Statute 17:24.4 requires the Louisiana State Board of Elementary and Secondary Education to establish statewide content standards and to implement the Louisiana Competency-Based Education Program and Louisiana Educational Assessment Program for public school students,

WHEREAS, Louisiana Revised Statute 17:24.4 requires that, beginning with the 2014-2015 school year, standards-based assessments implemented by the Louisiana State Board of Elementary and Secondary Education in English language arts and mathematics shall be based on nationally recognized content standards,

(Continues on page 7)

WHEREAS, in 2010 the Louisiana State Board of Elementary and Secondary Education adopted the Common Core State Standards in English language arts and mathematics for Louisiana public schools,

WHEREAS, in 2010 Louisiana joined a consortium of states named the Partnership for the Assessment of Readiness for College and Careers (PARCC) pursuant to an agreement signed by Governor Jindal, the President of the Louisiana State Board of Elementary and Secondary Education, and the Louisiana State Superintendent of Education for the purpose of developing and implementing an assessment system to measure student knowledge and skills against a common set of college- and career- ready standards in English language arts and mathematics,

WHEREAS, the agreement pursuant to which Louisiana joined the PARCC consortium explicitly states that a member state can terminate its participation in the consortium only by written notice signed by the individuals holding the same positions as the individuals who signed the agreement, which for Louisiana is the Governor of Louisiana, the President of the Louisiana State Board of Elementary and Secondary Education and the State Superintendent of Education,

WHEREAS, the Chief Procurement Officer for the Louisiana Office of State Purchasing within Governor Jindal's administration signed an addendum to the PARCC agreement in which she confirmed by her signature dated June 10, 2010, that "...Louisiana may, consistent with the procurement laws and regulations of Louisiana, participate in the Consortium procurement processes described in this Addendum 3" to the PARCC agreement,

WHEREAS, the addendum to the PARCC agreement allows Louisiana to participate in the Consortium procurement process, however, the Louisiana Department of Education has instead chosen to continue to utilize its existing testing contracts, which were, in fact, competitively bid; such contracts provide a variety of services; and the tests these vendors assemble, deliver, collect, score, analyze, and report on will include some PARCC content and some content acquired through other means,

(Continues on page 8)

WHEREAS, by letter dated June 28, 2013, the Director of Louisiana's Office of Contractual Review approved an amendment to the Louisiana Department of Education's contract with Data Recognition Corporation for additional test development to ensure better alignment of state assessments with the Common Core State Standards through updates and modifications to the current test forms, as created by Data Recognition Corporation through said contract,

WHEREAS, on June 18, 2014, Governor Jindal issued Executive Order No. BJ 2014-7 pursuant to which the governor purported unilaterally to overrule the decision of the Louisiana State Board of Elementary and Secondary Education to contract with certain assessment vendors and prohibit the implementation of the PARCC assessment in Louisiana,

WHEREAS, on June 18, 2014, the director of Louisiana's Office of Contractual Review, at the direction of Governor Jindal's Commissioner of Administration issued a letter to the Louisiana Department of Education, an administrative arm of the Louisiana State Board of Elementary and Secondary Education, purporting unilaterally to suspend the Louisiana Department of Education's contracts with Data Recognition Corporation for the development and administration of standardized assessments for Louisiana's public school students,

WHEREAS, the Louisiana State Board of Elementary and Secondary Education believes the aforementioned actions of Governor Jindal and his administration to be beyond the scope of their legal authority and to be, among other things, an unconstitutional attempt by Governor Jindal and his administration to usurp the authority conferred upon the Louisiana State Board of Elementary and Secondary Education by the Louisiana Constitution and statutory law,

WHEREAS, the Louisiana Attorney General and the Louisiana Department of Justice provide legal representation to state governmental officers, agencies, and boards, including the Governor of Louisiana and the Louisiana State Board of Elementary and Secondary Education,

WHEREAS, a conflict of interest may exist for the Louisiana Attorney General and Department of Justice in representing both the Governor of Louisiana and the Louisiana State Board of Elementary and Secondary Education in the matters referenced.

(Continues on page 9)

THEREFORE BE IT RESOLVED that the Louisiana State Board of Elementary and Secondary Education does hereby authorize its officers to retain the firms of Preis Gordon, APLC, and Barrasso Usdin Kupperman Freeman & Sarver, LLC, subject to the approval of the Louisiana Attorney General, to represent the Board’s interest and to take legal steps necessary to obtain clarification regarding the matters referenced in this resolution and matters related thereto up to, but not including, filing a lawsuit or taking any similar legal proceedings.

BE IT FURTHER RESOLVED that the representation of Preis Gordon, APLC, and Barrasso Usdin Kupperman Freeman & Sarver, LLC, be provided to the Louisiana State Board of Elementary and Secondary Education on a pro bono basis.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the Louisiana Attorney General.

A Roll Call Vote was taken on Mr. Garvey’s motion.

Yeas: Ms. Boffy, Ms. Bradford, Mr. Garvey, Dr. Miranti, Ms. Orange Jones, and Mr. Roemer.

Nays: Dr. Beebe, Ms. Hill, and Ms. Smith.

Abstentions: None.

Absences: Mr. Guillot and Mr. Lee.

The motion passed.

\* \* \* \* \*

Agenda  
Item 3.3.

Public comments were received on Agenda Item 3.3., “Consideration of an Executive Session to consult with counsel and receive legal advice pursuant to La. R.S. 42:17 A. (10) and La. Code of Evidence Article 506 regarding Executive Order No. BJ 2014-6, Executive Order No. BJ 2014-7, and related implementation:”

**Support:** None.

(Continues on page 10)

**Oppose:** Ms. Lee Barrios, Mr. James Crumling, Ms. Brooke Falgout, Ms. Kathryn Goppelt, Dr. Elizabeth Meyers, Ms. Stacy Morgan, Mr. Ralph Roshto, Ms. Terri Timmcke, and Ms. Sara Wood, concerned citizens; Mr. Dannie P. Garrett, III, and Mr. Scott Richard, Louisiana School Boards Association; and Ms. Constance Diane Long, Mr. Guy Terry, and Ms. Patricia Terry, Louisiana Power Coalition.

**Information Only/Other:** Mr. Michael Deshotels, Mr. Lennie Ditoro, Ms. Jenny Klein, Ms. Dominique Magee, Mr. Anthony Nichols, Ms. Debbie Sachs, Ms. Mercedes Schneider, Ms. Leslie Truax, and Ms. Candyce Watsey, concerned citizens; Mr. Steve Monaghan, Louisiana Federation of Teachers; and Mr. Bob Reid, Tea Party of Louisiana.

Motion 3.3.1 On motion of Mr. Garvey, seconded by Ms. Boffy, the Board agreed to not enter into Executive Session to consult with counsel regarding Executive Order No. BJ 2014-6, Executive Order No. BJ 2014-7, related implementation, and potential retention of special legal counsel.

With no further business to come before the Board, the meeting was adjourned at 5:40 p.m.