

MINUTES
STATE BOARD OF EDUCATION
EMERGENCY MEETING
August 17, 2021
Via Conference Call

Chair Tom Grady called the emergency meeting to order at 4:00 p.m. The following members were present: Vice Chair Ben Gibson, Monesia Brown, Marva Johnson, Ryan Petty, and Andy Tuck.

ACTION ITEM

Consideration of Probable Cause for Noncompliance with Department of Health Emergency Rule 64DER21-12, Protocols for Controlling COVID-19 in School Settings – Alachua County School District

Chair Grady started by outlining the issue at hand, two Florida counties have determined through their superintendents and Boards to take a path that is contrary to state law. Adding it is the responsibility of the State Board to determine whether that is the case or not.

Chair Grady recognized Commissioner Richard Corcoran for an overview of events leading to this meeting. Commissioner Corcoran started by reminding the board that it is the surgeon general that provides direction for controlling communicable diseases in schools and that the department and state are required to follow that emergency rule. Adding that Alachua requires a medical note in order to opt out of masking, defying the Department of Health's rule. Commissioner Corcoran then recognized Matt Mears, General Counsel, for an overview of the state's probable cause.

Mr. Mears started by briefing the board on the statute that gives the State Board of Education the responsibility of ensuring that local school boards are complying with the law, section 1008.32, F.S. Continuing, Mr. Mears outlined the process of ensuring compliance, starting with the commissioner initiating an investigation, writing a letter to the district to come in to compliance with the law, and finally the scheduling of an emergency meeting. Mr. Mears then stated that the Alachua County School Board is not in compliance with the law.

Commissioner Corcoran then made a recommendation that Alachua County School District and superintendent comply with the law and that the State Board of Education use its enforcement powers to enforce the health protocols found in emergency rule 64DER21-12 to protect the right of parents to make health and educational decisions for their children.

Chair Grady recognized Carlee Simon, Superintendent, Alachua County to present their case regarding compliance with the emergency rule 64DER21-12. Superintendent Simon started by thanking the board for allowing her to make Alachua's case and argued that Alachua County is in compliance with the emergency rule. DOE emergency rule 6AER21-02, provides access for the parent to opt out by utilizing the Hope Scholarship and that families with a medical concern for wearing a mask have a medical exemption that must be signed by a qualified medical professional.

Chair Grady then opened the board for questions. Ms. Johnson asked for the superintendent to reiterate why she thinks Alachua County is in compliance with the emergency order. Vice Chair Gibson explained that the emergency rule regarding the Hope Scholarship is an option for parents if their child

experiences COVID harassment. He Continued by asking Superintendent Simon if the district's policy is being equated to COVID harassment so students would be eligible for a Hope Scholarship. Mr. Petty asked Superintendent Simon to explain the process that parents should follow to opt their child out of wearing a mask. Chair Grady asked if the superintendent agrees with Alachua's policy manual bylaw, "the Board recognizes that ultimate responsibility for public education rests with the state." Mr. Tuck asked at what point does this become an ethics issue.

After lengthy deliberation Chair Grady called for a motion to approve the commissioner's recommendation. Mr. Tuck made the motion with a second by Mr. Petty. Chair Grady then opened the board for public comment. Upon conclusion of public comment, Chair Grady then made a motion to amend the commissioner's recommendation adding, authorize and direct the commissioner to investigate further, the conduct and acts of Alachua County, particularly the superintendent and the school board in Alachua County, to take all legal steps to enforce rules of the board, rules of the Department of Health and laws that have been duly enacted by the legislature in accordance with the Florida constitution, including withholding funds from the district in a way that would not harm students, removing officers, enhanced reporting and accountability to the SBOE and a report to the legislature with enforcement recommendations to fully implement the constitution, statutes, and rules of the Department of Health and Department of Education.

Chair Grady called for a motion to approve the amended recommendation. Mr. Tuck made the motion with a second by Mr. Petty. The motion passed unanimously. Chair Grady then called the vote on the original motion. The motion passed unanimously.

Consideration of Probable Cause for Noncompliance with Department of Health Emergency Rule 64DER21-12, Protocols for Controlling COVID-19 in School Settings – Broward County School District

Chair Grady recognized Commissioner Corcoran to provide a recommendation to the board for Broward County. Commissioner Corcoran recommended that the State Board of Education authorize and direct the commissioner to investigate further, the conduct and acts of Broward County, particularly the superintendent and the school board in Broward County, to take all legal steps to enforce rules of this board, rules of the Department of Health and laws that have been duly enacted by the legislature in accordance with the Florida constitution, including withholding funds from the district in a way that would not harm students, removing officers, enhanced reporting and accountability to the SBOE and a report to the legislature with enforcement recommendations to fully implement the constitution, statutes and rules of the Department of Health and Department of Education.

Chair Grady recognized Dr. Vickie Cartwright, Interim Superintendent, Broward County School District to present their case regarding compliance with the emergency rule 64DER21-12. Dr. Cartwright thanked the board, the commissioner and briefed the board on why Broward has chosen to require a mask mandate. Including guidance from the Centers for Disease Control, the American Academy of Pediatrics, and two local Broward hospitals. Dr. Cartwright added that Broward believes they are in compliance with the rule because of the exemptions provided in the policy regarding facial covering, specifically Broward County Public Schools policy 21-70.

Chair Grady then called for a motion to approve the commissioner's recommendation. Vice Chair Gibson made the motion with a second by Mr. Petty. Chair Grady then opened the board for questions. Vice Chair Gibson asked how Broward came to create a rule that goes against the emergency order. Mr. Tuck asked what role the Department of Health played in your decision making. Mr. Petty asked how a

parent in Broward can help their student opt out of the face mask mandate. Chair Grady asked, if the superintendent could identify any physician, psychiatrist, health care provider that you specifically spoke to about the mental health issues that affects children post COVID, including issues arising out of wearing masks. After lengthy deliberation, Chair Grady opened the board for public comment. Upon conclusion of public comment, Chair Grady called the vote and the motion passed unanimously.

ADJOURNMENT

Having no further business, Chair Grady adjourned the meeting of the State Board of Education Emergency Meeting at 6:50 P.M.

Chris Emerson, Corporate Secretary

Tom Grady, Chair