

**MINUTES**  
**STATE BOARD OF EDUCATION**  
**MEETING**  
May 16, 2023  
Conference Call

Chair Ben Gibson called the meeting to order at 10 a.m., the following members were present: Vice Chair Ryan Petty, Monesia Brown, Esther Byrd, Grazie Christie, Kelly Garcia and MaryLynn Magar. Chair Gibson thanked the board members and stated that under Article IX, Section 2 of the Florida Constitution, the State Board of Education has authority to supervise Florida's education system as provided by law.

**Action Items**

**Consideration of Probable Cause for Noncompliance with Rule 6A-1.099811, Florida Administrative Code, School Improvement State System of Support for Deficient and Failing Schools**

Chair Gibson recognized Andrew King, General Counsel, Department of Education to provide the board an overview of the consideration of probable cause. Mr. King thanked the board and stated that the process involves an investigation by the commissioner, determination of probable cause, documentation of compliance, and potential actions if the district fails to comply. Mr. King then recognized Manny Diaz Jr., Commissioner, Department of Education to present his memorandum of probable cause. Commissioner Diaz thanked the board and addressed the ongoing concerns regarding Warrington Middle School's performance. He expressed disappointment in the district's inability to fulfill its responsibilities in serving the students at Warrington Middle School and presented alarming statistics demonstrating the school's consistent underperformance that emphasized the district's failure to implement effective turnaround plans.

Commissioner Diaz recommended that the board demand documentation from the district regarding an agreement with a charter school operator to convert Warrington Middle School into a public charter school. He proposed that the district be given a 48-hour deadline to comply and urged the board to declare the district unwilling or unable to comply with state law if it failed to meet the deadline. Continuing, Commissioner Diaz recommended reporting the district's failure to the legislature, withholding funding equivalent to the salaries of board members and the superintendent, and requiring the district to provide daily progress reports on negotiations with the charter school operator.

Chair Gibson then recognized Escambia County Superintendent Tim Smith and Escambia School Board Chairman Paul Fetsko. Superintendent Smith thanked the board and stated that on May 1st, the board approved a charter agreement form and a lease agreement. Adding that, negotiations with Charter Schools USA, posed challenges, leading to counter proposals from the charter company on May 5th. Superintendent Smith highlighted two key points of contention: the 1.5 mills discretionary capital dollars and administrative fees. With Charter Schools USA requesting 100% of the discretionary capital dollars beginning in the second year and no administrative fees and the district proposing a ramp-up concept for administrative fees, with Charter Schools USA insisting on no administrative fees.

Continuing, Superintendent Smith emphasized the importance of clarifying the language added by Charter Schools USA in the agreement regarding zoning. With the district seeking clarity to ensure that the language did not hinder the enrollment of 200 students per grade level. The goal was to provide

students with the opportunity to attend their community school without the need for transportation to other areas in the district. Superintendent Smith informed the board that the confusion regarding the added language was resolved, and it was confirmed that it would not impede on the enrollment of 200 students per grade level. The request from Charter Schools USA was to allow students who choose to enroll in the K-5 component of the school to continue into grades six, seven, and eight.

Chair Gibson then opened the board for questions. Ms. Brown asked Superintendent Smith if they are in agreement with the Department that Escambia is unable to meet and comply with the requirements of the department and if the Escambia County School Board met prior to the State Board meeting to discuss the situation with the charter contract. Ms. Byrd asked if the district fully understands, that they are out of compliance with the law. Chair Gibson asked, if, at the Escambia board meeting scheduled for May 16, will the charter contract be recommended for approval. Vice Chair Petty followed and asked, if the State Board finds Escambia in non-compliance and votes to withhold the salaries of the board and superintendent, where in the budget will those funds be taken from. Commissioner Diaz then commented, that the responsibility for the failure to serve the students at Warrington Middle School lies solely with Escambia County. Pointing out that the district has been failing these students for the past ten years and had multiple opportunities to improve the situation. He reminded the superintendent that the district chose the charter operator and it is their responsibility to comply with state board rules and laws. Commissioner Diaz added that he found it shocking that the charter contract was not already on the Escambia board agenda for May 16. Ms. Magar asked Chairmen Fesko if he would support the addition of the Warrington Charter Contract being placed on Escambia Board agenda and if he will support the charter contract as presented tonight.

Chair Gibson then recapped the recommendation and probable cause considerations from Commissioner Diaz. Stating that the recommendation includes directing Escambia County to document compliance with state law by confirming whether there is a written and signed agreement between the parties, or if one will be reached and signed within the next 48 hours. If compliance is not achieved within 48 hours, the board will find the district unwilling or unable to comply with state law. Following the 48-hour period, the board will report the district's failure to the legislature, withhold funding equivalent to the salaries of every board member and the superintendent, and require the district to provide daily reports on the negotiation progress with the charter school operator.

Chair Gibson then called for a motion to approve the Commissioners recommendation. Ms. Byrd made the motion with a second by Ms. Magar. The motion passed unanimously.

#### **ADJOURNMENT**

Having no further business, Chair Gibson adjourned the meeting of the State Board of Education at 10:37 A.M. EST.

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Chris Emerson, Corporate Secretary

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Ben Gibson, Chair