



‘Additional legal council’ sought Mingo Board Meeting Dec. 2/3

The Mingo County Board of Education will meet in regular session on Dec. 2. One of the items the board will discuss—based on the Agenda for that meeting—is “Status of SBA [School Building Authority of West Virginia] Grant.”

At a Dec. 3 meeting scheduled for 9:00 a.m., the board is to consider “[Potentially securing] additional legal counsel to address issues that may arise concerning the Mingo County Comprehensive Educational Facilities Plan and various matters related thereto,” based on the agenda for that session.

The W. Va. Board of Education will meet at 1:30 p.m. on Dec. 3. According to the WVBE agenda, the board will consider matters regarding the MCBOE “including its Comprehensive Educational Facilities Plan.” A separate WVBE agenda item is set for “Legal and/or Personnel Matters”—a standard state board meeting consideration.

Since the May election of a new board majority in Mingo County, there has been considerable speculation that the WVBE, armed with the power of a recently-enacted law, will intervene in the county in order to proceed with a previously-approved school facilities plan. Two newly elected board members—and one veteran board member—oppose the plan which would close several small high schools.

As discussion of the issue has progressed, there have been questions as to whether or not WVBE deliberations concerning Mingo County will be held in open session. According to various sources contacted by WWSBA, there is no specific provision of law that would exempt the discussions from open session, except that the board could argue the matter is adjudicatory in nature, possibly falling under one of the exceptions for open meetings.

There is speculation as to whether or not the state board will consider the matter in open session.

As stated by Lew Brewer, executive director of the state Ethics Commission, there is “no obvious exemption [in the state’s Open Meetings Laws] that I’m aware of that would apply to that sort of action [meeting to discuss the Mingo CEFP and related matters in

closed or executive session].” Moreover, Brewer said the issue of “adjudicatory matters” as a possible reason for the board to enter into executive session isn’t clear-cut and that the MCBOE situation is, on its face, “not confidential by statute [it terms of being an adjudicatory matter].” In certain cases involving adjudicatory matters, a person’s rights could conceivably be abridged if discussed prior to resolution of pending legal matters or issues. Any MCBOE action involves the school board as a public (corporation)—and

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Overview

STATS

2004 Regular Session: *Adjourned Sine Die*
Days Until 2005 Regular Session: 41
Interim Meetings Remaining: December - January 2005

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QUOTE

“I’m so tired of being degraded. I’m also exhausted. I’m tired of going to school on Saturday and Sunday. You’re killing kindergarten through second-grade teachers physically and emotionally.” — *A Kanawha County teacher discussing a W. Va. Department of Education student achievement program.*

‘Prioritized curriculum’: among targets Teachers’ Group Complains of Paperwork

Deputy State Superintendent of Schools Steven Paine says W. Va. Department of Education representatives “have been in touch with the two major teacher organizations in an attempt to gain input on how to remedy the abundance of paperwork” teachers face as part of a coordinated WVDE effort to improve student achievement in light of the federal No Child Left Behind Act.

Paine’s comments come on the heels of an initiative by the W. Va. Education Association that is aimed at highlighting what WVEA officials claim are perhaps well-meaning state initiatives meant to boost student achievement but which, in translation, stifle teachers’ creativity, flexibility and classroom effectiveness, according to the organization.

WVEA also is concerned with the cost of county-paid consultants—many of whom have been used by the WVDE in county team-

See **MORE PAPERWORK** on page 7

Slagle, Smith, Stilley, O’Cull

Board Members on Transition Team

Scott Slagle (Preston), Carol Smith (Lincoln), Lori Stilley, Ph.D. (Jefferson) and Howard M. O’Cull, Ed.D. serve as members of Governor-elect Joe Manchin’s Transition Team for K-12 Education.

The group, which totals 32 members, met for the first time Tuesday, Nov. 30. Each of 34 “Team Manchin” groups have convened to examine policy-related questions concerning issues such as public education, higher education, business-related matters, health care, faith-based initiatives and the like.

County superintendents serving on the K-12 Team include Carolyn Long, Braxton County Schools Superintendent; Jane Reynolds, Taylor County Schools Superintendent; and, Mark A. Manchin, Ed.D., McDowell County Schools Superintendent.

Additionally, Steve Pilato (Fayette) serves as a member of the Small Business and Emerging Businesses Team along with Mike Yura (Monongalia). Manny Arvon, Berkeley County Schools Superintendent, serves on the Special Education Team.

According to a handout from the Governor-elect’s staff, about 500 persons from throughout the state serve on the teams.

One team is responsible for considering matters relating to ethics, an area the Governor-elect is likely to strongly promote, according to various sources and news media accounts. At a W. Va. Association of School Administrators meeting in July,

then gubernatorial candidate Manchin called for stronger ethics laws—an evident reference to the situation involving then House Education Committee Chairman Jerry Mezzatesta (D-Hampshire) who, Nov. 29, pleaded no contest to destroying legislative computer records. (*See article on page 3.*)

Education Emphasis

In subsequent statements made to news media representatives following his election as governor Nov. 2, Manchin has said his administration will have an especial emphasis on education and economic development, with a spokesperson for the governor-elect saying, “...(T)here will never be another meeting where economic development and education are not together. Each one needs to know what the other is doing, to make sure they’re on the same path.”

Manchin also will concentrate on a “seamless curriculum” for public education—a concept related to ensuring that public education is interconnected from Pre-K programs through college and technical school.

The governor-elect’s three-member education transition team is headed by Jay Cole of the Office of the Secretary and the Arts; Pat Kusimo, Ph.D., a consultant and educational adviser; and, Sandy Vanin, Ph.D., a W. Va. University professor.

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The Legislature provides county board of education members, state policymakers, school administrators, and others information, opinion and commentary regarding West Virginia legislative issues. This publication does not necessarily reflect the official views, opinions or policies of the WVSBA, unless specifically stated.

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Defeated In November Election Mezzatesta, Wife Fined; Receive Probation

Former House Education Chairman Jerry Mezzatesta (D-Hampshire) was placed on 90 days' probation and ordered to pay a \$500 fine Monday (Nov. 29) after pleading no contest to a misdemeanor charge that he altered or deleted legislative computer records.

Mezzatesta's wife, Mary Lou, also received the same sentence and fine.

The couple won't serve jail time.

Mezzatesta and his wife agreed earlier in the month to plea the charges. Kanawha County Prosecutor Mike Clifford launched an investigation soon after he said he found evidence the Mezzatestas deleted "important information" from HEC computers.

Mezzatesta was previously investigated for using his HEC position to unfairly benefit his employer, the Hampshire County Board of Education, then lying to the state Ethics Commission about it.

Mezzatesta said he agreed to the plea in an effort to avoid a long trial.

Shortly after the appearance before Kanawha County Magistrate Carol Fouty, various news organizations reported that Mezzatesta appeared at the House of Delegates, presenting a near \$1,000 bill for various expenses incurred with the hearing and three days of per diem pay for, among other things, cleaning out his legislative office. Under terms of the state *Constitution*, his term ended Nov. 30 at midnight in that he was defeated in the Nov. 2 General Election.

Scheme

Based on various reports, including a House of Delegates internal report, the Mezzatestas took part in a scheme last summer to fend off allegations that the then nine-term legislator had violated state ethics laws relating to procuring grants from the W. Va. Department of Education including direct solicitation of funds from State Superintendent David Stewart. Mary Lou Mezzatesta, as part of the House investigation that had been ordered by Speaker Bob Kiss (D-Raleigh), admitted dictating a fabricated letter as part of the alleged cover-up, which apparently involved two or three HEC staff members or part-time staff members.

(According to various press accounts at the time, the allegedly-fabricated letter was dictated after Stewart's attorney purportedly contacted Richard Lindroth, then Mezzatesta's lawyer, saying the state superintendent could no longer stand by a previous affidavit he had given. That statement purportedly stated that Mezzatesta hadn't 'personally' solicited funds from the state superintendent. In subsequent news reporting, Stewart said he had been 'mistaken' about his statements—a fact reiterated several times in reporting about the matter including a Nov. 30 *Charleston Gazette* editorial. Earlier in the year, a *Gazette* reporter had produced a letter indicating certain moneys would be forwarded from the W. Va. Department of Education as per a request from Mezzatesta made to the state superintendent. Once the contents of that letter became known, the Mezzatestas allegedly concocted a fabricated letter to show that the HEC chairman—in making and apparently receiving the WVDE dollars requested—wasn't soliciting particular funds but that he was discussing funding in general.)

'Repulsive and Embarrassing Conduct'

Candy Canan, a Hampshire County school librarian, appeared

at Monday's hearing before a Kanawha County magistrate, saying Mezzatesta's conduct was "repulsive and embarrassing" to citizens in Hampshire County and the state. Canan serves as vice president of the Hampshire County Education Association.

During the last several days, there have been several developments in what has become known as the "Mezzatesta mess," including a revelation by *Charleston Gazette* reporter Eric Eyre that the Mezzatesta's deleted computer files related to fabricated letters and a video poker machine company, Viking Vending Services, run by Mary Lou Mezzatesta. Eyre based his reporting on a criminal complaint filed against the Mezzatestas.

Several sources say the watchdog group, West Virginia Wants to Know, is likely to urge the HCBOE to remove Mezzatesta from his position in the board central office due to his fine and 90 days' probation. Other sources, including attorneys who specialize in school law, say that action may not be as "easy as it seems," in the words of one attorney, especially in that Mezzatesta is on sick leave from his employment. (He announced a few weeks ago that he was diagnosed with prostate cancer.) The board also would have to prove there is some nexus between Mezzatesta's sentencing and his job performance.

Successor

Another development concerns speculation about Mezzatesta's successor, with some education employee groups beginning to lobby for various candidates. Speaker Bob Kiss, who removed Mezzatesta as HEC chairman Aug. 2, has said he is in "no hurry" to name a committee chairman, making those comments on MetroNews "Talkline." In that interview, the speaker said he had issued a letter to all House members asking them if they are interested in the position. Kiss said that while the HEC chairman doesn't have to be "politically powerful," he is looking for someone who can "hit the ground running and (who) knows what they're doing."

There also is a move among some delegates to petition for removal of HEC members who were strongly aligned with Mezzatesta—and to even pare the number of educator-members of the committee. In discussing the latter notion, a ranking member of the House leadership said the committee likely will include several educators, although there may be some "shuffling" among members. A third development concerns the HEC staff and whether or not there will be some changes in staffing, especially involving members who may have participated in activities relating to the allegedly fabricated letters. (No one but the Mezzatestas received fines or probation for actions involving the letters.) Additionally, few members of the House leadership—and some delegates—are beginning to express frustration that Mezzatesta, in the midst of the various controversies, didn't look out for the institution (House of Delegates) per se, even charging the state for pay on the day that he and Mary Lou Mezzatesta allegedly deleted computer files.

New Allegations

The fine and probation are among several woes Mezzatesta has suffered lately, including his Nov. 2 election bid loss which came as a surprise to most observers. (For instance, an Oct. 31

See **FINE / PROBATION** on page 8

Modifications Likely for Exam Structure

By Jason B. Keeling

West Virginia's "rigorous" education accountability system may be further modified to enhance student performance, according to Deputy State Schools Superintendent Steve Paine, who on Nov. 9 presented the recommendations of a W.Va. Department of Education assessment committee to the Legislative Oversight Commission on Education Accountability.

Per the state Legislature's direction within **House Bill 4001**, the assessment committee met from June through August to review the need for end-of-course (EOC) exams in grades 9-12 and establish the cost of assessing secondary students in grade 11 under terms of the federal No Child Left Behind Act.

State officials are distinguishing between summative and formative assessment. Summative assessment provides a snapshot of student content mastery, knowledge, and skills upon completion of the school year. Formative assessment periodically evaluates student achievement in order to adjust instructional time or develop strategies to improve student proficiency.

The assessment committee recommended instituting a state-wide program that includes both summative and formative assessments by 2007-2008, according to Paine. More immediately, he said that already developed EOC exams would be made available to county school systems for optional formative assessment of secondary students.

The efforts are intended to provide a more accurate picture of student achievement in West Virginia, but will also be useful in

preparing students for college entrance exams, he said.

Senate Education Chairman Robert Plymale (D-Wayne) concurred, but stated he was "going to push end-of-course exams," and requested the WVDE estimate the cost of conducting such for select courses.

He said many other states implement EOC exams, and have seen benefits through the student intervention strategies made possible by the information collected, which helps identify the students in greatest need.

State Schools Superintendent David Stewart discussed the state department's school system improvement efforts. He said four school system capacity conferences had been conducted and attended by representatives of each county school system. Much of the department's "West Virginia Achieves" program, which is the state's accountability plan under NCLB, has been driven by its local level focus.

Seventy-eight percent of state public schools will be recognized under the "West Virginia Achieves," and 71 percent have met NCLB's adequate yearly progress requirement, he said.

Stewart also said 30 professional development schools had been identified by the superintendents within the 10 counties outlined in **House Bill 4669** earlier in the year. The WVDE was allocated \$400,000 by the Legislature for these elementary or middle schools, according to Stewart, who said other funding options were being pursued as well.

— *The writer is president of Keeling Strategic Communications, Cross Lanes. Online at: KeelingStrategic.com.*

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'Raising issue to a higher level'

Interim Committee Discusses Uniforms

Interim legislative Education Subcommittee B discussed school uniforms at its Nov. 7, 2004 meeting in Charleston.

Beth Lipscomb, a school secretary at Charleston's J.E. Robins Elementary School and also the parent of a student attending the school, told committee members that uniforms were successful at the inner city school primarily because of school officials' diligence in explaining the concept to the public, including the benefits of uniforms, and by allowing parents, based on Kanawha County Board of Education policies, significant say in "going to uniforms."

Lipscomb said the key to the J.E. Robins effort hinged on various forms and methods of communication, including discussions of the idea in PTO meetings, through working with the school's Local School Improvement Council, and through various means of discussing the notion with parents, including written communications.

Under the KCBOE policy, 80 percent of parents must approve a uniforms initiative. Lipscomb said an earlier initiative failed primarily because not enough effort was given to communications. When the initiative was renewed, Lipscomb said there was very little "controversy," because of extensive and varied means of communications.

'Financial Assistance'

As instituted by J.E. Robins, the school provides financial assistance to parents who can't easily afford uniforms (through the PTO). Lipscomb said she was able to outfit her child for about \$150. "It was a big help. It makes a lot of difference [in terms of the cost of school clothing]," she said. If parents were to shop at some stores such as Gabriel Brothers or Wal-Mart, the costs could be less and that state clothing vouchers virtually could cover costs, she said. (State law stipulates that an "alternative means" must be provided relating to costs for uniforms.)

Uniforms lead to better discipline, according to Lipscomb, and she says the approach tends to lead to an "equalization" among students—in additional the financial benefits accruing to parents. J.E. Robins, according to Lipscomb, does allow students to accessorize, especially in terms of shoes, and allows certain days in which uniform-wearing is optional. The school also has a "color" of the month in which students are encouraged to wear attire of a certain color, and the school provides various rewards to students who wear uniforms which, according to Lipscomb, is "about 95 percent of students." Teachers are encouraged to wear similar "uniform attire," although Lipscomb said some teachers don't.

KCBOE member William J. Raglin, invited by the committee to discuss the matter, said the board is interested in a uniform dress code primarily because of a desire to improve behavior and to improve academic achievement, although he said, "uniforms are not a panacea."

Raglin said more Kanawha County schools likely would "go to uniforms" if the 80 percent requirement were lowered. (County boards determine the percentage under terms of the applicable "school uniforms statute," §18-2-32.) He also said care must be taken to protect student rights of expression and that there would always be exceptions for students who are part of groups such as ROTC.

Accessorizing

Raglin, commenting on J.E. Robins' approach to accessorizing, said this aspect of the school plan could lead to "variations to the

point that they [J.E. Robins] won't have uniforms. Evaluating uniforms in context of exceptions may be defeating the purpose of uniforms," he said, although commending J.E. Robins and Glenwood Elementary School, another urban Charleston school, for embracing the concept.

In closing his remarks, Raglin urged legislators to support "further study" to examine the efficacy of uniforms particularly in regard to any effect upon student achievement or improved school discipline. He also said more "uniform initiatives" should be "driven from the ground up" rather than fomented by county boards per se, citing PTOs, parent-teacher organizations and LSICs as key organizations to support uniforms in schools. (State law requires a considerable degree of local parental/community involvement.)

'Higher Level' for Uniforms

Legislators, in discussing the issue, appeared mostly supportive of uniforms in schools, commending the KCBOE and schools for their approach to the issue. Sen. Mike Oliverio (D-Monongalia), who said he was a strong supporter of uniforms, said the discussion must go to "a higher level" in terms of awareness of legislation which allows schools to require uniforms and in terms of providing "incentives" for uniform usage, including possibly lowering the "threshold" required for adoption of uniforms and proper study and evaluation of the benefits of uniforms. He also contends the state may want to be less prescriptive in statute regarding uniforms, although acknowledging there must be some basal consistency.

Constitutional Rights

In discussing the issue from the vantage of the W. Va. Department of Education, Mary Jane Kerwood, who oversees Safe Schools programs, cited studies which support uniforms as a means of promoting or supporting school discipline and in efforts that may lead to enhanced student achievement, based on a Virginia study of uniforms.

She, however, cautioned county boards that students' constitutional rights can't be abridged and that school/community support is essential to any use of uniforms. In regard to the latter notion, she commended J.E. Robins Elementary School and Glenwood Elementary for working with their school communities, saying that the best uniforms programs are done "school-by-school." She also said, in answer to a question by Sen. Oliverio, that schools starting uniform programs aren't likely to abandon the idea, based on the Virginia study and studies from other states.

Del. David Perry (D-Fayette), in discussing the matter, said he endorses the "premise" behind uniforms but said, "I'd be very hesitant to dictate uniforms." Other legislators echoed his comments, mentioning that state law makes the wearing of uniforms optional or discretionary and that current laws, if amended, might concentrate on various incentives, although committee members didn't cite what these incentives might be except to say that officials in schools where uniforms are worn might want to discuss their experience with other schools in the county or that the Legislature encourage greater use of uniforms.

In a final phase of committee discussion, Deputy State Superintendent Steve Paine opined that more schools in the state haven't "gone to uniforms" because West Virginia has no "persistently dan-

gerous schools” as defined by the federal No Child Left Behind Act.”

Detention Centers for Alternative Education

In other action, the committee briefly discussed use of detention centers for at-risk youth or for alternative education. According to a WVDE study of the matter, the notion is fraught with several flaws, including transportation cost, regulations that would prohibit the use of detention centers for such purposes, questionable availability of space in the facilities, and whether or not alternative education students would receive the best education via this means. Another problem is special education needs of alternative education students as well as possible confidentiality problems.

Frank Andrews, a WVDE official making the above comments, was joined by other persons from the Department of Corrections and a Brooke County official who said a program in his county, which concentrates on a community correction board involving various agencies, is the best way to deal with delinquency and with some of the problems which cause students to end up in alternative education schools—or detention centers. He cautioned against using detention facilities for alternative education purposes for several reasons, including the “mixing” of “non-detention” individuals with individuals who are housed in detention centers due to break-

ing various laws.

Andrews said “boot camp-type programs” designed for alternative education aren’t “very successful” leading to “negative recidivism rates”—a point which Mountaineer Challenge officials, who run such a camp, and its supporters contest.

Alternative Education Funding

There was some discussion of increased funding for alternative education, although legislators acknowledge the prospects for such, given past legislative actions, aren’t that favorable. (School boards collectively receive about \$2 million for alternative learning centers—around \$30,000 per board.)

Senate Concurrent Resolution 100, adopted in the 2004 Regular Session, required a study of the feasibility of school uniforms. An original provision of **House Bill 4001**, the omnibus bill of the regular session, would have made the wearing of uniforms a requirement in schools. The provision was later stricken from the bill, substituted by the study. Sen. Majority Leader Truman Chafin (D-Mingo) made the original motion for required uniforms.

House Concurrent Resolution 59, also adopted in the 2004 regular session, dealt with the use of juvenile detention centers for local alternative education programs. That resolution was sponsored by former Del. Ernie Kuhn (D-Boone).

MINGO BOARD

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isn’t a strict personnel matter. (If the state board were to vote to intervene in Mingo County, the county superintendent’s position would be declared vacant—as a subsequent result of that vote.)

Case Law

In reviewing the MCBOE issue, some observers contend that since funds have been expended on the project—although no SBA moneys per se—the board will run afoul of a 1991 state Supreme Court of Appeals case. That case, arising in Monroe County, essentially developed the case law notion that once a board, as a continuing corporation, has embarked upon a particular project, especially after having committed resources to that project, a subsequent board can’t “undo” that action—or at least easily.

Another train of thought is that the WVBE, if wishing to intervene, could use other rationales for its action, including personnel or finances. Persons who hold that position point to the wording of the WVBE’s agenda which alludes to “Mingo County: Including its Comprehensive Educational Facilities Plan.”

‘Fiat’

Finally, some individuals, including W. Va. School Boards Association Executive Director Howard M. O’Cull, Ed.D., says the board, if voting to intervene in Mingo County, may want to refer both to the appropriate intervention statute—§18-2E-5—as well as “secondary reference” to a 20-year-old state Supreme Court of Appeals Court case, *Bailey v. Truby*, in which the high court reiterated the WVBE’s right to exercise its “power of ‘general supervision’ over the state’s educational system...” In that 1984 case, the supreme court upheld the state board’s constitutional right to enact a rule which required students participating in athletics to have a 2.0 average—effectively overriding county board policies to the contrary or effectively requiring adherence to such a policy.

Admitting that this approach could be construed as a matter of “fiat,” O’Cull contends that its is more “clear-cut, pure and directed

in terms of rationale then using things like ‘personnel,’ ‘finances,’ the CEFP and the like.” He also says such a legal stance would allow the state board to clearly demonstrate its ability to engage in actions that address “hot spots” that may arise in the state—with the precedent for doing so being lodged in the WVBE’s ability, by statute, to address deficiencies in low-performing schools.

O’Cull, however, predicts that no matter the rationale the state board may use to justify any possible intervention, the action will be subject to litigation. He cites the Friday morning MCBOE action as “proof” of that matter. According to other sources, some community attorneys and small schools advocates may try to intervene legally. Indeed, some state board members and others see the matter as a “contest of wills,” especially since the original MCBOE plan, as approved by the “former board,” appears sound educationally in terms of curricular offerings, facilities, and community residual benefits—not to mention the economic development angle. Obviously, the WVBE will consider these matters in their decision.

During the past few months, the WVBE has asked the state superintendent to “monitor” the MCBOE situation.

Legislative Resolution

Mingo officials, among others, have expressed a concern that the WVBE may seek a legislative “resolution” to the issue such as occurred with 2004 McDowell County Schools legislation—a situation wherein there was little reliance on legislative process such as public hearings and the like. Thus far, legislators haven’t publicly commented on the issue.

Finally, the board’s action in October essentially was to not proceed with further aspects of the CEFP. Several attorneys contacted by WVSBA say the board will need to have an “alternate plan” in effect if courts are to take their action seriously, as based on previous case law regarding school consolidations. According to MCBOE officials, county board members have provided listed concerns regarding the current CEFP and related documents—but no alternative plan per se.

Howard E. Seuffer Jr., Bowes Rice McDavid Graff & Love, is MCBOE counsel.

Mon. County Bus Operators Go Huntin’

Dozens of Monongalia County Board of Education students didn’t have a way to school Nov. 22 and 23 because 10 bus routes weren’t completed by bus operators.

County school officials, in what was a widely-reported story throughout the state, contended the bus operators called in sick for the first day of deer season, which began on Nov. 22. According to county transportation official Irv Schutztner, school officials knew 11 drivers would be off work, but were caught off guard when several others called in Monday morning (Nov. 22).

Schutztner says MCBOE officials were anticipating some kind of problem and agreed to use five Preston County bus operators as driver substitutes, although only two of those individuals showed up for work.

Monongalia school officials, in commenting on the incident, say deer hunting is a long-standing tradition across the state and many workers aren’t willing to break the tradition. Schutztner says not much can be done to the drivers.

Monongalia County schools had the entire week of deer season off last year, but the county decided against that for this year’s school calendar in hopes of achieving 180 days’ instruction as re-

quired by state law.

In later press reports, MCBOE members, including Vice President Nancy Walker, called the incident a “shame,” saying the board may consider some type disciplinary action against the bus operators.

Under current law, school employees receive 1.50 days per month for sick leave, and are granted three days of personal leave “without cause.” The latter leave was granted employees by the Legislature in 1979 (**Senate Bill 6**).

Although the state School Service Personnel Association hasn’t commented on the issue, Executive Director Bob Brown told legislators earlier in the fall that county boards could schedule 180 instructional days within the regular school calendar by, among other things, not closing schools for deer season. News media reports haven’t said whether or not the bus operators are members of the WVSSPA. If so, that organization may be called upon to represent the bus operators in regard to any county board disciplinary actions.

(Also refer to Kercheval opinion regarding the school calendar. It is printed on page 9.)

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MORE PAPERWORK

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leader trainings focused on increasing student achievement. To that end, WVEA “has initiated an investigation into the implementation of these [student achievement-based] programs by seeking data from county and state sources through the Freedom of Information Act,” according to WVEA Executive Director David Haney. WVEA officials contend that over \$100,000 has been spent in one county alone to procure the services of consultant Max Thompson. The organizations questions both Thompson’s methodology and the need for such “a high-priced, one-size fits all approach [to student achievement],” according to WVEA President Tom Lange.

WVEA leaders say about 20 counties are using these “out-of-state” consultants.

FOIA

In addition to the FOIA approach, the organization is sponsoring a series of teacher/school board dialogue sessions throughout the state. The first such session, which generated considerable news media interest, was held at Capital High School. A second session is scheduled next week in Cabell County, according to Lange.

According to WVEA officials, the organization’s primary concern is that student achievement programs have been added to a “plethora of initiatives already in place in county school system,” according to Lange. As stated in a news release, WVEA officials say the programs result in “excessive paperwork and lack of creativity...[that] does not take into account the varied learning styles of...students or [teachers’] expertise as instructional leaders in determining at what rate and sequence content will be delivered.”

Lange says that while some program components are “useful, the key is the implementation and flexibility that the individual schools and counties give to their teachers.” In that vein, the organization is going to try determining which programs are successful. WVEA will “ask that the ones that aren’t [successful] be removed from an over-crowded education plate,” according to Lange.

‘Robot-Type Fashion’

Based on subsequent news media comments, WVEA is mostly concerned with a “one-size-fits-all approach to instruction.” Lange told the Associated Press some of these programs were required to be implemented in classrooms in a “robot-type fashion,” meaning teachers can’t use their flexibility and creativity. One such program he refers to is “prioritized curriculum.” Through this initiative, teachers follow county-prescribed guidelines so that aspects of each course are taught on a consistent basis. Teachers are asked to post “essential questions” on classroom blackboards so that students will know the objectives of the day’s lessons.

Teachers at the Kanawha County WVEA-sponsored forum say that such initiatives, besides limiting teacher creativity, result in excessive paperwork and drain valuable time and energy. They also contend county superintendents—following the “lead” set by WVDE official—are gearing everything toward testing and placing teachers in boxes. The entire scenario—especially state- or county-prescribed instructional methodologies—result in the loss of academic freedom in teaching—a cardinal tenet of the profession, according to Lange.

‘Degrading, Exhausted’

Several teachers at the Kanawha County forum used terms such as “degrading” or “exhausted” to describe the approach, especially to prioritized curriculum. Paine, in the statement issued by the WVDE, says “we want our teachers to teach and our students to learn. Both groups deserve nothing less. We will continue to monitor the situation and work on solutions.”

Reaction to the Kanawha County forum was varied, with County Schools Superintendent Ron Duerring, Ed.D., saying he understands the challenges teachers face but that things aren’t likely to change because of NCLB guidelines. One benefit of such programs, according to Duerring, is that teachers know what must be emphasized. “Now you have a curriculum that will be taught and tested. We prioritized and put it in a timeframe. It is guidelines. There are teachable moments,” he said in an AP interview.

The *Charleston Daily Mail*, while acknowledging that various regulations and “bureaucratic clutter interferes with teaching,” says accountability isn’t going away and that it is “normal to expect results in schools” that will contribute to increased student learning.

Programs Aspects Questioned

In recent months a few county board members and superintendents have questioned certain aspects of the WVDE approach, especially use of teams of school officials and educators from various counties who travel throughout the state to learn about student achievement strategies—at county expense. County superintendents and board members from small counties have made the point that the time involved constrains other required activities.

Among many WVSBA members there is the perception that county boards, not made privy to WVDE student achievement initiatives (including adoption of a five-year strategy or plan), will be ultimately responsible for approaches and strategies for which they haven’t been initially involved or consulted in most counties. This was an overwhelming sentiment at WVSBA’s November Committee on Legislation meeting—and a meeting of the WVSBA/WVBE Training Standards Review Committee held a few days later. Some board members say WVDE officials appear to want the accountability for student achievement to rest ultimately with local boards—sentiment which grew out of two WVDE presentations to county board members, one at Orientation ’04 and at the WVSBA 50th Anniversary Conference. Department officials, however, say board members will be involved “at some point” in the process, although that place or juncture of involvement hasn’t been enumerated. In response to these developments, WVSBA Executive Director Howard M. O’Cull, Ed.D., has requested a meeting with top WVDE officials to discuss the matter. That meeting has yet to be scheduled by Department personnel.

Another facet of the student achievement issue concerns “awards” being provided by WVDE officials to various county

schools in regard to NCLB “achievement.” Some county board members, speaking at the November COL meeting, questioned the validity of these awards, saying some schools receiving distinctions “aren’t our best schools,” in the words of one member. At that meeting, other members say the awards may be made on achievements based on small NCLB cell size, and that some schools may not perform well next year. Additionally, members say county superintendents generally support the notion of awards, although some superintendents privately express the same concern as members—concerns which other educators also share, according to various accounts.

‘Effective Schools Model’

County board members, especially Immediate Past President William J. Raglin (Kanawha), also question why NCLB moneys were “grabbed” by the state, centralized and then shuffled back to counties in “terms of prescription.” He and several board members say counties, rather than operating from state-prescribed guidelines in order to meet NCLB guidelines, should have been given an opportunity to devise their own plans which the state could approve (or reject) and then fund. Board members also question the need to “beef up” personnel in the WVDE, and may ask O’Cull to seek information from the WVDE regarding the “number of staff” added since NCLB became law. Other education organizations also are considering this approach, according to O’Cull. Another line of thinking is that the entire approach the WVDE is using to increasing student achievement is based on “effective schools research,” and that there are some “significant questions” as to the validity of this approach which was heavily touted in West Virginia during the 1980s, with much of its foundational data grounded in earlier research and literature. Additionally, some board members conclude the entire WVDE initiative, as explained by superintendents, is “theoretical” and not practical—as well as “faddish.”

~

Smith, Parsons Honored By Challenge Group

Lincoln County Board of Education President Carol Smith and Mason County Schools Superintendent Larry Parsons, Ed.D., were honored in October by the small schools advocacy group Challenge West Virginia.

Smith was presented with an award for her “strong and steady voice for small schools.” Parsons received an award for his “dedicated service to his community and the children of Mason County.”

Parsons’ award was presented by CWV Fellow Darrell Hagley, a former Mason County school board member. According to CWV Coordinator Linda Martin, Parsons was honored for his—and the Mason County Board’s—initiative to maintain community-based schools through recent passage of an excess levy which kept Hannan High School open. That school is located near the Mason/Putnam County line. In presenting the award, Hagley also cited Parsons’ work with the Mason Board in the mid-1990s to return \$14 million to the School Building Authority of West Virginia, moneys which would have been used to build a single county high school.

In presenting Smith’s award, CWV Fellow Thomas Ramey said the Lincoln board member had led county residents to stand up against consolidation in a county having been taken over by the state. According to Ramey, “Where there was no money for the fight

[against school consolidation], she helped with hot dog sales and fund-raisers.”

The awards were presented at CWV’s fall conference which was held October 22 in Charleston.



WVSBA

Deer Season: Is Education Truly Important?

By Hoppy Kercheval

I'm confident every opinion poll that asks the question shows that we in West Virginia believe education is important. But our actions don't back up our words.

Consider what happens every year at this time. Public schools are closed or disrupted because of deer season. Monongalia County is trying to have school at least a couple days this week, but yesterday ten buses did not run because there were not enough drivers.

Parents of children on the affected bus routes were told to get their kids to school as best they could while the missing bus drivers roamed the woods in search of their kill on the opening day of bucks only gun season.

Monongalia County school officials said 11 drivers had scheduled the day off. Some drivers called in sick yesterday morning and several other drivers simply did not show up for work.

The bus driver situation is pathetic, but not the entire problem. Some counties simply close down Thanksgiving week. If the county has a lot of snow days school officials cancel spring break. But when you cancel spring break you upset parents and teachers who have planned vacations.

School field trips, athletic events, teacher service days, the flu,

snow days, they all make the school calendar a patchwork rendering the required 180 days of instruction an unattainable goal in many counties.

One solution would be to allow county school systems to start school earlier and end school later. Current state law requires the 180 days of instruction to be met between August 26th and June 8th. Adding one week on the front of the school year would allow for deer season and spring break and meet the 180-day mark.

Or we could consider the more revolutionary idea of year-round school. That concept has its own set of problems, but more school systems around the country are shifting to it, replacing the antiquated nine-month calendar.

Or West Virginia could open deer season on the Saturday before Thanksgiving week so bus drivers and other school employees can be in the woods for the first day without missing school.

West Virginia needs to consider these and other changes to make sure education is a priority. Otherwise, the state will just be like some of those Monongalia County school kids yesterday, waiting for a bus that never comes.

— *Used by permission. The Talkline Host's Commentary was aired on MetroNews Nov. 23, 2004.*

FINE / PROBATION

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Charleston Gazette-Mail headline proclaimed, "Mezzatesta keeps support at home"). He also faces yet unresolved ethics commission charges, and has had surgery for prostate cancer. According to Clifford, these developments contributed to the decision to reach a plea deal. (New ethics charges have been filed against the Mezzatestas because of the Viking Vending allegations. These violations, filed by WVWTK, allege that Mrs. Mezzatesta in particular was doing business for Viking Vending on HEC office computers. Mary Lou Mezzatesta is a part-time House employee assigned to the HEC.)

WVWTK spokespersons say that while they would have liked to have seen "a tougher prosecution (and) tougher penalties, Mr. Mezzatesta has been disgraced and discredited. He has tasted justice, but he hasn't had to eat it yet."

In October, Clifford handed off part of his investigation to the Hampshire County Prosecuting Attorney, saying there was strong evidence that Mezzatesta lied in an affidavit he gave to the Ethics Commission earlier in the year. Steve Moreland, the Hampshire County Prosecuting Attorney, disqualified himself from the case, asking the state Prosecuting Attorneys Institute to assign a special prosecutor. That office, according to *Charleston Gazette* reporting, is still looking for someone to take the case.

Delegate-Elect Rowan

Mezzatesta's legislative successor is Republican Ruth Rowan, a HCBOE elementary school teacher who ran for office for the first time.

In regard to so-called "double-dipping," several educator-legislators, including veteran Senator Roman Prezioso (D-Marion), say

the practice is wrong and that they won't engage in it. Also, the EC has proposed changes in its rules which would disallow legislators and other public servants from receiving taxpayer-funded salaries for simultaneous jobs. This is one of several EC proposals which the group plans to submit to the Legislature in the 2005 regular legislative session.





THE EDUCATION GROUP

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