

**County Board of Education**  
**Ronald L. Stewart Center**  
**77 Santa Barbara Road, Pleasant Hill, California**  
**March 21, 2007**

**ROLL CALL:** Pamela Mirabella, Area 1 Trustee; David Krapf, Area 2 Trustee; Daniel Gomes, Area 3 Trustee; Glenn Ruley, Area 4 Trustee; and Daniel Borsuk, Area 5 Trustee

**Absent:** None.

**Others:** Joseph Ovick, Ray Penning, Susan Magnone, Mike Bowers, Peggy Marshburn, Jane Shamieh, Marie McClaskey, Wendy Richard, Lindi Huntsman, and Kerry Kilmer, County Office staff; Esther Milbury, Deputy County Counsel; Student A-3/21/07 and parents; Philip Milestone, Esq., counsel for Student A-3/21/07; Elizabeth Rho-Ng, Esq., counsel for Mt. Diablo Unified School District; Student B-3/21/07 and parent; Jahmal Davis, Esq., counsel for Student B-3/21/07; Sloan Simmons, Esq., counsel for West Contra Costa Unified School District. A partial list of attendees is on file at the County Office of Education.

**Presiding:** Dr. David Krapf, Board President

The regular meeting of the Contra Costa County Board of Education was called to order at 5:30 p.m. with the recitation of the Pledge of Allegiance.

**AGENDA REVIEW AND ADOPTION** The Board adopted the agenda as presented (M/S: Borsuk/Ruley).

**PUBLIC COMMENT** None.

**CLOSED SESSION**  
**Expulsion Appeal of Student**  
**A-3/21/07**

The Board convened in closed session at 6:33 p.m. to consider the expulsion appeal of parents for their child, Student A-3/21/07, from the Mt. Diablo Unified School District. After the parties made their presentations, the Board recessed to closed deliberation at 7:10 p.m. The Board reconvened to closed hearing at 7:38 p.m. and then immediately to open session. Deputy County Counsel Esther Milbury announced that the Contra Costa County Board of Education voted unanimously to deny the appeal and to uphold the expulsion; the Board decided not to consider the late submission of the District's brief in accordance with its policies; it found that the District board did not act without or in excess of its jurisdiction in expelling the student; there was evidence in the record to support the District board's decision to expel the student based upon violation of Education Code section 48900(A)(1)(i) and (k) when the student threatened another student, defied valid school authority by refusing to follow the principal's directions, repeatedly used profanity toward school personnel and law enforcement, disrupted school activities, and struggled with law enforcement; the student received a fair hearing before the administrative panel and the District Board; the record shows that the student received advance notice of the hearing and of her hearing rights as required by Education Code section 48918(B); there was substantial evidence in the record to support the expulsion based on the violations of the Education Code; the District board did not commit a prejudicial abuse of discretion; there is evidence in the record to support the District board's findings that, due to the nature of the act, the student was threatening another student, ignored the principal's directions, and was unable to control herself after intervention by school administration and law enforcement, the student's presence on campus would cause a continuing danger to her physical safety or that of others; there was no relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the underlying expulsion hearing; therefore, the Contra Costa County Board of Education denied the appeal and has upheld the District board's decision to expel Student A-3/21/07. In addition, she noted that the Board authorized the Chairperson, pursuant to Education Code section 48923(c), to sign this Board's decision when it is reduced to writing, and pursuant to Education Code section 48920, the County Board of Education would render its written findings and decision within three schooldays.

**Expulsion Appeal of Student  
B-3/21/07**

The Board convened in closed session at 7:48 p.m. to consider the expulsion appeal of parents for their child, Student B-3/21/07, from the West Contra Costa Unified School District. After the parties made their presentations, the Board recessed to closed deliberation at 8:23 p.m. The Board reconvened to closed hearing at 9:06 p.m. and then immediately to open session. Deputy County Counsel Esther Milbury announced that the Contra Costa County Board of Education voted three to two to affirm the appeal and reverse the District board's decision to expel Student B-3/21/07. She further stated that the County Board of Education found that the student did not receive a fair hearing before the administrative panel and the District board, and the student was not afforded the opportunity to confront and question all witnesses that testified at the hearing. In addition, she noted that the Board authorized the Chairperson, pursuant to Education Code section 48923(c), to sign this Board's decision when it is reduced to writing, and pursuant to Education Code section 48920, the County Board of Education would render its written findings and decision within three schooldays. At the request of Student B-3/21/07's legal counsel, the Board reconvened to closed deliberation at 9:10 p.m. in order to consider the matter of expunging the expulsion from the student's record. The Board reconvened to open session at 9:12 p.m., at which time Deputy County Counsel Esther Milbury announced that the Contra Costa County Board of Education voted unanimously to not expunge the expulsion from the record of Student B-3/21/07.

**RECOGNITIONS**

None.

**PUBLIC HEARINGS & APPEALS**

**Public Hearing on General Waiver**

At 5:32 p.m., Board President Krapf opened the Public Hearing on the General Waiver Request to Waive Education Code section 35706 as to the Petition to Transfer Territory from the Knightsen Elementary School District to the Oakley Union Elementary School District. As there was no public comment, Dr. Krapf closed the public hearing at 5:33 p.m.

**ADMINISTRATIVE ITEMS**

**SUPERINTENDENT**

**Report**

Dr. Joseph Ovick, County Superintendent of Schools, reported the following: last week, he attended the State Superintendents Council meeting as a representative of CCSESA and noted that he had previously sent a set of studies that were discussed at the meeting to all of the Board members; he encouraged the Board to schedule a study session during the summer months to discuss the studies. Dr. Ovick mentioned that he would provide an executive summary of the studies when it becomes available.

**BUSINESS AND ADMINISTRATIVE  
SERVICES**

**County School Service Fund (CSSF)  
Investment Activities**

Administrative Business Services Director Wendy Richard provided an update to the Board on the County School Service Fund (CSSF) Investment Activities for the quarter ending Dec. 31, 2006.

**2006-2007 Second Period Interim  
Report of the County School Service  
Fund Budget**

Administrative Business Services Director Wendy Richard presented the 2006-2007 Second Period Interim Report of the County School Service Fund Budget, which details the financial condition of the County Office and compares current year projected expenditures and revenues to the Board-approved Operating Budget. Mrs. Mirabella asked why a cost-of-living adjustment had been made for classified personnel but not for certificated personnel, and Mrs. Richard responded that it was because negotiations have not yet been completed with the certificated unit but that she was leaving a placeholder for that amount. Mrs. Mirabella asked if there were anything in the "unmet" criteria and standards that might be considered challenging, and Mrs. Richard stated that what stands out is the deficit spending but that that is because the agency anticipates spending the prior year's fund balance. Mr. Gomes asked for information on Form 201, and Mrs. Richard replied that that represented the post-employment benefits fund into which the Board had voted previously to place \$200,000 each year in order to fund the agency's unfunded liability based on the actuarial study it had received. She noted that a plan must be put into place by next year to state how the agency would fund its unfunded liability for the post-retirement benefits. The Board then voted unanimously to approve the 2006-2007 Second Period Interim Report of the County School Service Fund Budget (M/S: Mirabella/Gomes).

**Board Resolution No. 10-06/07**

Dr. Joseph Ovick, County Superintendent introduced this item and explained the necessity for adopting this resolution, which would allow the County Committee on School District Organization more time to review this complex matter. He noted that this resolution was prepared upon the advice of the County Committee's legal counsel and consultant. The Board voted by the following roll call vote to adopt Resolution No. 10-06/07 in the Matter of the Contra Costa County Board of Education Approving the General Waiver Request to Waive Education Code section 35706 as to the Petition to Transfer Territory from the Knightsen Elementary School District to the Oakley Union Elementary School District: Mirabella, aye; Gomes, aye; Ruley, aye; Borsuk, aye; and Krapf, aye (M/S: Mirabella/Ruley).

**Surplus Cellular Telephones**

County Superintendent of Schools Joseph Ovick, Ed.D., introduced this item and explained that the CCCOE would no longer be paying cellular telephone bills through the agency due to changes in IRS regulations and that releasing responsibility for cell phone bills would save the agency approximately \$20,000 per year. Instead, phone purchases, service, and accessories would now be the responsibility of the employee along with any fees above the stipend limit of \$40. Mr. Borsuk asked for clarification on the payment of a stipend and what would happen when an employee left, and Dr. Ovick responded that the employee would purchase a phone and receive \$40 per month as a stipend for telephone usage; after leaving the agency, the employee would keep the phone, since he/she had paid for it, but would no longer receive a stipend. Dr. Krapf asked if employees could choose their own phone service, and Dr. Ovick stated that they could. Mrs. Mirabella asked how a stipend amount of \$40 was determined, and Dr. Ovick responded that staff had checked to see what other county offices of education and school districts were paying their employees. Mrs. Mirabella also asked what would happen in the case of a manager who needed to use his/her cellular phone more than the \$40 stipend would cover, and Dr. Ovick clarified that those persons, such as himself and Cabinet members who tend to use their cellular phones a great deal, would not be paid a stipend but, instead, would have their phone usage paid for; those employees would then reimburse the agency for any personal phone calls made. Mr. Borsuk asked what would happen to the surplus cellular phones, and Dr. Ovick responded that the employees currently using the phones would now own them, since they had little or no value as surplus property. Mrs. Mirabella asked if this procedure would be set out in a Board policy or regulation, and Dr. Ovick stated that this is a matter that could be brought up with the Policy Committee. The Board then voted unanimously to approve the surplus of 152 cellular telephones that are no longer being billed to the agency due to changes in IRS regulations (M/S: Mirabella/Ruley).

**Staff Report**

None.

**STUDENT PROGRAMS AND SERVICES**

**Contra Costa SELPA Local Plan Assurances**

Ray Penning, Associate Superintendent, Student Programs and Services, explained the reason behind the required additions to the Contra Costa SELPA Local Plan Assurances. Mr. Borsuk asked if there was anything noteworthy about the Assurances, and Mr. Penning stated that he did not believe so. Mrs. Mirabella noted that the paragraph on Private Schools was interesting because it appears to set forth how students enrolled in private schools will receive special education services, and Mr. Penning clarified that while students enrolled in private schools have access to special education services, they are not required to receive such services at their private school; rather, those services may be offered offsite. Mrs. Mirabella asked how many private school students are currently being served, and Mr. Penning informed her that very few are being served because the rule is that they can only be served to the extent that there are funds left over once public school students have been served. He clarified that private school students are not automatically entitled to the same amount of services to which a public school student is entitled. The Board then voted unanimously to approve the required additions to the Contra Costa SELPA Local Plan Assurances (M/S: Ruley/Mirabella).

## **ROP Curriculum**

Ray Penning, Associate Superintendent, Student Programs and Services, introduced Principal Lindi Huntsman, who noted that this Introduction to Engineering course is a 180-hour, yearlong course for the San Ramon Valley High School's AP Environmental Science Academy. She also informed the Board that the curriculum has already been reviewed and approved by the U.C., Berkeley, Engineering Department and includes Architectural Design and Robotic Components within the curriculum. Mr. Borsuk inquired whether a similar program had already been improved in the past, and Ms. Huntsman clarified that it had originally been planned to run in the 2004-05 school year, but the civil engineering teacher left to return to the industry; however, now there is another civil engineering teacher who is available to teach the course. Mrs. Mirabella asked if it would be difficult to hire additional teachers so that this course could be offered at other high schools, and Ms. Huntsman stated that she hoped so since teachers for science, math, and health are always being sought because the need is so great for careers in those areas. The Board then voted unanimously to approve the following new curriculum: Introduction to Engineering (M/S: Ruley/Gomes). Ms. Huntsman noted that the Robotics Team from California High School competed in Silicon Valley last weekend and are now the Northern California champions who will go on to Atlanta, Georgia, to compete next month.

## **Staff Report**

Associate Superintendent Ray Penning apologized to the Board for the volume and timeliness of the delivery of the materials for this evening's appeal hearings but noted that some of the materials were submitted beyond the timeline by attorneys associated with the cases. He noted that, as a result of the late receipt of the materials, it would be determined during the hearing whether or not they would be considered. Mr. Penning then reported that the State Board of Education has approved the San Ramon Valley Unified School District's SELPA plan and the Contra Costa SELPA revision, and he noted that State Superintendent for Public Instruction Jack O'Connell stated during the State Board of Education meeting that he wished that everyone could be as cooperative as the Contra Costa SELPA and the San Ramon Valley Unified School District in working things out so smoothly.

## **EDUCATIONAL SERVICES**

### **Staff Report**

Dr. Susan Magnone, Associate Superintendent, Educational Services, updated the Board on AVID (Advancement Via Individual Determination), which is a program that is housed at the CCCOE and serves the seven counties in the San Francisco Bay Area. She explained that AVID's purpose is to target students who normally score in the middle range (B- through C+) and who come from families that traditionally do not have a history of attending college. She noted that the goal of AVID is for the students to learn skills such as how to take notes, read a textbook, and prepare for tests so that they can raise their grades and be prepared to go on to college. Dr. Magnone shared a success story in which all 19 graduating seniors of a high school in Napa Valley who participated in AVID have been accepted into four-year colleges; she noted that all of these students were from immigrant families that did not have a tradition of attending college. She expressed her admiration for AVID and noted how this success story represents an example of how the right intervention and involvement can make a substantial difference in children's lives.

## **HUMAN RESOURCES**

### **Staff Report**

Michael Bowers, Associate Superintendent, Human Resources, reported that Kaiser Permanente insurance increased by 10.73% (\$501 per year for single-payer and \$1,002 per year for two-party) and Blue Shield insurance increased by 13.8% (\$704 per year for single-payer and \$1,409 per year for two-party) on January 1, 2007, and that these increases are being paid by the agency for administrative staff and Board members.

## **COMMUNICATIONS**

### **Staff Report**

Chief Communications Officer Peggy Marshburn reported that to date she has only received bios from two Board members and that she does not plan to post the bios on the agency's Website until the bios of all five Board members are submitted to her. She invited the remaining three Board members to e-mail their bios to her. Mrs. Mirabella asked for specifics on what Mrs. Marshburn expected to see in a bio, and Mrs. Marshburn responded that, while the wording would be entirely up to each Board member, she might wish to include what she would like her constituents to know about her, such as who she is, why she wishes to serve on the Board, and what area she represents.

**BOARD  
Legislative Update**

None.

**CONSENT ACTIONS**

**Minutes of February 21 and March 7,  
2007; and Temporary County  
Certificates**

The Board voted to approve/accept/grant the following Consent Actions: minutes of the February 21 and March 7 Board meetings; and applications for Temporary County Certificates (M/S: Mirabella/Gomes).

**CORRESPONDENCE/  
EVENTS CALENDAR**

**Correspondence:** None.

**Calendar of Events:** April 9 – Public Information Network workshop: “Spokesperson Training,” 8:30 a.m. – 4:30 p.m., COE Board Room; May 10 – ROP Spring Award Celebration, 3:30 – 5:00 p.m., Pleasant Hill Community Center; May 23 – Graduation Luncheon for 22-year-old students exiting CCCO special education school programming, 12:00 noon; May 24 – Evening Commencement for the DVC Community Based Instruction Class, 7:00 p.m.; June 8 – Marchus School Graduation and Awards Ceremony, 12:00 noon; June 21 – Public Information Network: “Wake Me Up, Please: Public Information Nightmares—Networking and Problem Solving”

**BOARD REPORTS OF  
ACTIVITIES**

No written reports of activities were submitted by Board members. Mrs. Mirabella shared an article about the new charter school that was published in the Sunday edition of the Contra Costa Times.

**ADJOURNMENT**

There being no further business, the Board adjourned at 9:12 p.m. in memory of Joseph P. Ovick, County Superintendent Ovick’s father, who passed away on March 20, 2007.

Joseph A. Ovick, Ed.D., Ex Officio Secretary  
County Board of Education

Copies of all resolutions adopted by the Board are on file in the Office of the Superintendent, Ex Officio Secretary of the Board of Education.

These unadopted minutes are summaries and excerpts from the regular meeting of March 21, 2007, and are subject to amendment and/or correction prior to the approval of the County Board of Education.