

## Unapproved School Board Meeting Minutes

Dickinson Public Schools  
Special School Board Meeting

May 27, 2016; 12:00 p.m.  
Central Office Board Room

The Dickinson Public School Board held a special meeting on May 27, 2016, at the Central Administration Office. Board members present were: President Sarah Ricks, Vice President Kris Fehr, Mrs. Leslie Ross, Mr. Brent Seaks, and Mrs. Tanya Rude. Administrator present was Superintendent Douglas Sullivan. Others present were: Attorney David Phillips (via conference call), Mrs. Merrill Fahlstrom, Mrs. Sherry Loris, Mrs. Dana Price, Mrs. Ellen Getz, Ms. Jill Nelson-Wetzstein, Mrs. Rhonda Tormaschy, Mr. Lyle Smith, Ms. Fern Pokorny, Ms. Leann Mehrer, Mrs. Christa Enebo, Mr. Reed Price, Mrs. Amanda Fisher, and Mrs. Twila Petersen.

**Call to Order** - Board President Ricks called the meeting to order at 12:00 p.m.

**Public Participation** – There were seven requests for public participation. The requests were received from Mr. Lyle Smith, Ms. Fern Pokorny, Mrs. Dana Price, Mrs. Merrill Fahlstrom, Mrs. Sherry Loris, Ms. Jill Nelson-Wetzstein, and Mrs. Ellen Getz. President Ricks reminded each participate they had a five minute time limit. She invited the participants to come up as their names were called and join the Board members at the table.

Mr. Lyle Smith addressed the Board. He stated his position as president of the Dickinson Education Association (DEA). Mr. Smith explained the speech language pathologists (SLPs) had voiced concerns with administration regarding the workload placed on them due to the vacancy of three SLP positions. After several meetings with Dr. Sullivan they contacted the DEA for possible guidance. They met as a group and decided to pursue the avenue drafted within the negotiated agreement and filed grievances as a last resort. Mr. Smith said he was extremely confused because during the negotiations the presentation regarding the concerns of the SLP out of contract time could not be addressed by the Board negotiators. Mr. Smith referenced Century Code which describes a negotiating unit.

Mrs. Fern Pokorny addressed the Board stating she worked for North Dakota United. She referenced the teacher contracts which were due within 14 days of the date of the contract in accordance with North Dakota Century Code. She requested an extension for the speech language pathologist teachers. President Ricks did not know if that could be addressed at this meeting since it was not a topic on the agenda and thanked Mrs. Pokorny for bringing it to their attention.

Mrs. Dana Price, speech language pathologist, addressed the Board. She asked for clarification of the determination of the loss of preparation time and noted as a team their concern was that Tienet logs were used for most of the times. Mrs. Price explained that Tienet logs out after 45 minutes which would make it appear that the pathologist was doing paperwork for 45 minutes. She explained at the previous Board meeting it was stated that the consultant recommends 24 minutes of prep time per week for each student's needs and 36 minutes of prep time for each student's case manager. Mrs. Price did not agree with those minutes. In her opinion the District was short three speech language pathologists (SLPs) for the year and therefore the remaining SLPs had to absorb the students which created additional caseloads and therefore it would be apparent that work would need to be done outside the contract time. Going into this year it was apparent there would be double the caseload and that must have been the expectation in the beginning. The SLPs worked hard to keep up with the paperwork and stay in compliance as much as possible. She noted it was frustrating that the out of contract time could not be discussed. Tinyi was discussed as an option to help the SLPs, however there were several flaws in the program. Tinyi would require additional staffing for scheduling and technology in the room at a cost of \$80 per child per session. She noted the SLPs appreciated the positive communication at the April meeting and would appreciate the opportunity today and in the future for that open dialogue.

**Public Participation (cont.)**

Mrs. Merrill Fahlstrom, speech language pathologist, addressed the Board regarding the caseload size discussed at the May 23 meeting. At that meeting it was stated the national caseload average was 50 students. Mrs. Fahlstrom said that 50 students was not manageable. The national association has suggested looking at other options for service delivery. One option would include weighted caseloads in which more severe students would be weighted higher. They would not be counted as just one student but they would be counted as 1.5 in those cases where the student had severe disabilities. They also suggest other service delivery systems such as a 3-to-1 system which would be working with students three weeks and one week off to do paperwork, evaluations, etc. She stated that North Dakota's average is not 50 students but lower caseloads. North Dakota recognizes the importance of serving those students to provide optimal progress. Larger caseloads are unmanageable with no progress being made. Students at DPS are seen 3-5 times per week and are making progress. Mrs. Fahlstrom also requested an extension on signing the teacher contract. She asked the Board to reassure the SLPs that there is not a repeat of what happened this school year.

Mrs. Sherry Loris, speech language pathologist, addressed the Board. She stated that she was hoping the amount of missed preparation time that was discussed on May 23 would be reconsidered. As a group, the SLPs consider their workloads equal amongst themselves. The offer on May 23 had the amount of prep time different for each SLP teacher.

Mrs. Jill Nelson-Wetzstein, speech language pathologist stated the intense caseloads caused the SLPs to cancel students in order to test other students. Those students that were already on an IEP may not have gotten their designated time.

Mrs. Ellen Getz, speech language pathologist, addressed the Board. She noted that she serves students at Hope Christian Academy along with students at Dickinson High School, Trinity High School and preschool students at the Early Childhood Center. She thanked the Board for their consideration and listening to the comments provided by the SLPs. Mrs. Getz explained the SLPs have given up a lot of their personal time and worked very hard to do the best they could to serve the students. Mrs. Fehr inquired regarding the process for non-public school students and funding for those students. Superintendent Sullivan responded the IDEA requires all students to be served. There is no additional revenue received by the School District for this service. Mrs. Getz explained that she is contacted by special education teachers who have speech and language concerns noted on an IEP. She added it is a thorough process involving assessment, planning, and testing and then writing an IEP and meeting regarding the IEP.

President Ricks thanked all those providing public participation and appreciated the thoughtfully prepared comments.

**Speech Language Pathologist Grievances** – President Ricks requested this topic be placed on the agenda so that she could give a recap and clear up a few points of misunderstanding from the May 23 meeting. She stated at the May 23 meeting the data and subsequent research pertaining to the grievances filed were reviewed. The caseload size recommended by the ASHA was the only objective measure she could find because it would not be practical to figure out the work load approach at this time. She added the national norm does not necessarily represent best practice. At the May 23 meeting President Ricks mentioned there were two issues; the grievances themselves and larger issues brought to light by the grievances. The Board was able to discuss and consult with their attorney to act on the

**Speech Language Pathologist Grievances (cont.)**

grievances themselves. The action taken at the May 23 meeting was to grant in part and deny in part the grievances. The Board agreed to pay the SLPs for any prep time that could be proven was missed during the year as shown by the data that was provided to the board. The data compiled was not using Tienet. The District can only pay for what can be proven and therefore calculations were made based on each individual schedule starting with how much time was in the schedule originally for prep time and then deducting any time that was spent for assessment or other meetings in their calendars. Mrs. Ricks understood it was not a complete picture but it was what could objectively be put together for each person. Mrs. Rude inquired if it included the whole year or just a snapshot. President Ricks responded that it was September through a majority of April.

President Ricks expressed that the payment was not for work done outside of the work day. She noted because of the way the negotiated agreement is worded the work outside the contract day could not be addressed. A larger issue brought to light through the grievances was the need for policy and regulations to address the needs of the special education personnel. President Ricks said she has heard frustration in regards to the issue of personnel covering vacant positions not being discussed more during negotiations. Due to the fact that there was a grievance related to that issue it would have been difficult to discuss. The DEA did bring a proposal for this topic and the Board negotiators gave a reaction and some reasoning on why the board was not interested in that particular proposal. The DEA invited the Board negotiators to bring back some language but it would have been difficult to discuss as there was an ongoing grievance. At that time, the Board negotiators would not have been prepared nor even fully understand the full scope of the problem in order to draft good language that would serve the district well into the future. President Ricks assured the SLPs that the matter is not being dropped. The Board intends to create policy and/or regulation to prevent the same situations from arising. It needs to be done correctly and sometimes doing it correctly takes more time.

President Ricks stated the Board has discussed the idea that the current working conditions in the negotiated agreement do not match the reality of a SLPs job. Because the SLPs have a higher paperwork to student ratio than a general educator therefore 90 minutes of prep time might not be adequate. The Board mentioned the possibility of creating a proposal and submitting it to the DEA beyond what they were able to give the SLPs in response to their grievance. During the May 23 attorney consultation, the attorney made it clear to the Board that it could not discuss a potential proposal to the DEA during that meeting because it would require a separate agenda item of agreement negotiations and the agenda of the special meeting could not be altered by a motion. That is why no further discussion on the matter occurred on Monday. President Ricks said that it brings her to the purpose of today's meeting. The Board intends to discuss its options and decide what, if anything, it might propose. President Ricks made it clear that the Board is not obligated in any way to do this, but the Board wants to be professional and to make sure that it has thoroughly discussed the situation

Mrs. Fehr requested information when the District became aware there was a problem. Superintendent Sullivan responded that the District advertised for two speech language pathologist positions starting last school year and knew it would be a difficult challenge to fill the positions. Mrs. Fehr inquired why the Board was only hearing about the issue at the end of this school year. Dr. Sullivan responded that according to the information provided by the SLPs they met with Mrs. Martinson in May 2015 and expressed their concerns about the upcoming school year. Dr. Sullivan added he met with the SLPs at least twice during the year. Mrs. Fehr inquired regarding the remedy and how was it handled. Superintendent Sullivan responded that he had met with the Central Office administrators and had

**Speech Language Pathologist Grievances (cont.)**

conversations about possible alternatives. During the meetings with the SLPs he had asked if they had suggestions about how the District could possibly address some of the issues. Ultimately what was done at that point was implement a recruitment process and research possibilities outside the country and reviewing services through Tinyi to try and find SLPs. The SLPs were offered at one time the same remedy to the grievances that the Board has adopted. Mrs. Fehr inquired if the SLPs had been paid on that offer. Dr. Sullivan responded that the response given when the offer was made was that the .43% of the salary was the requested resolution. He explained that it was beyond his authority to make that type of payment. He could work with the time within the contract from 8:00-3:45. The remedy was rejected by the SLPs and appealed to the school board. Mrs. Fehr agreed that the superintendent did not have the power to accept the counter offer. She expressed her frustration that the board could have known about the details earlier but also understood the process of the grievances. Mrs. Rude concurred that it would have been nice to have known sooner and started to review the policies to help with this situation. Mrs. Fehr addressed President Ricks and asked her to explain the data that she reviewed since only President Ricks had reviewed it. President Ricks responded the data received was a combination of schedules, calendars, and Tienet records. She added that some individuals did not have 90 minutes of preparation time in their schedules every day. In reviewing the material President Ricks could see some students being rescheduled due to an assessment or meeting. There were indications that the SLPs were working evenings and on weekends. Mrs. Rude inquired if there were some common standards for the time spent with the student and the paperwork for students. President Ricks responded the student time is regulated by the IEP itself.

Mrs. Fehr addressed Dr. Sullivan and inquired in May 2015 when the SLPs met with Mrs. Martinson and expressed their concerns what was the response from the District. Dr. Sullivan responded he did not recall the details of the conversation. Mrs. Fehr referred the question to the SLPs for input from that conversation. Mrs. Price responded on behalf of the SLPs. She said the SLPs all met together with Mrs. Martinson. They knew it was going to be tough going into the school year. Mrs. Martinson asked the SLPs to hope for the best and not to get too discouraged as there still could be applicants closer to the school year. It was the understanding of the SLPs that Mrs. Martinson would be going to the superintendent on their behalf to discuss their concerns.

**Agreement Negotiations (Executive Session Anticipated)** – President Ricks stated the next item on the agenda was Agreement Negotiations. As per North Dakota Century Code NDCC 15.1-16-22, 44-04-19.1(9), and 44-04-19.2; Mr. Seaks moved to close the meeting and go into executive session for the purpose of agreement negotiations. Mrs. Ross seconded the motion. There was no discussion on the motion. A roll call vote was taken on the motion: ayes-Rude, Seaks, Ross, Fehr, Ricks; nays-none. The motion carried unanimously. The executive session was recorded and all members of the governing body were reminded to limit their discussion during the executive session to the announced topic. Any collective decision, collective commitment, or other final action by the governing body must occur after it reconvenes in an open meeting, unless final action is specifically required by law to be taken during the executive session.

President Ricks stated Board policy BCAD allows certain individuals to be in attendance at the closed meeting. She directed the following to be in attendance: the School Board Members Mrs. Kris Fehr, Mrs. Tanya Rude, Mrs. Leslie Ross, Mr. Brent Seaks, Chair Sarah Ricks, Superintendent Douglas Sullivan, and Recording Secretary Twila Petersen. The meeting convened in executive session and all members of the public who were in attendance were asked to leave the room. President Ricks

**Agreement Negotiations (cont.)**

anticipated adjourning the executive session and reconvening to the open portion of the meeting at approximately 1:45 p.m. The executive session began at 12:54 p.m. and was attended by Mrs. Fehr, Mrs. Rude, Mrs. Ross, Mr. Seaks, Chair Ricks, Superintendent Sullivan, and Recorder Petersen.

The executive session was adjourned at 1:53 p.m. The public was invited to return to the meeting room and the meeting was back in open session. President Ricks stated the discussion of the executive session was agreement negotiations and that no other topics were discussed.

**Attorney Consultation-Agreement Negotiations Strategy (Executive Session Anticipated) –**

President Ricks stated the next item on the agenda was Attorney Consultation—Agreement Negotiations Strategy. As per North Dakota Century Code N.D.C.C. § 44-04-19.1(2) and 44-04-19.2, Mrs. Rude moved to close the meeting and go into executive session for the purpose of Attorney Consultation regarding agreement negotiations strategy. Mr. Seaks seconded the motion. There was no discussion on the motion. A roll call vote was taken on the motion: ayes-Fehr, Rude, Ross, Seaks, Ricks; nays-none. The motion carried unanimously. The executive session was recorded and all members of the governing body were reminded to limit their discussion during the executive session to the announced topic. The prohibition on taking final action during the executive session did not apply to providing guidance or instructions from the attorney. President Ricks stated Board policy BCAD allows certain individuals to be in attendance at the closed meeting. She directed the following to remain in the room during the executive session: Attorney David Phillips via conference call, the School Board Members Mrs. Tanya Rude, Mrs. Kris Fehr, Mr. Brent Seaks, Chair Sarah Ricks, Superintendent Douglas Sullivan, and Recording Secretary Twila Petersen. The meeting convened in executive session. The members of the public who were attending the meeting were asked to leave the room. President Ricks anticipated adjourning the executive session and reconvening the open portion of the meeting, at approximately 2:10 p.m. The executive session began at 1:57 p.m. and was attended by Attorney Phillips via conference call, Mrs. Rude, Mrs. Fehr, Mr. Seaks, Chair Ricks, Superintendent Sullivan, and Recorder Petersen.

The executive session was adjourned at 2:35 p.m. The public was invited to return to the meeting room and the meeting was back in open session. President Ricks stated the discussion of the executive session was attorney consultation regarding agreement negotiations strategy and no other topics were discussed. President Ricks stated they were able to speak to the attorney about various options. Mrs. Fehr moved to direct the administration, with guidance from legal counsel, to issue a one-time only retroactive payment based on federally mandated speech language pathologist paperwork and caseload norms for services provided to Dickinson students. Payment will be for 34 days at each speech language pathologist's daily rate. The administration was further directed to submit this offer to the DEA, which will have 15 days from the date of the letter to accept the offer. If the offer is rejected nothing further will be given. Mrs. Rude seconded the motion. President Ricks called for discussion on the motion. She stated that she wanted to make it clear that this was a remedy above and beyond the negotiated agreement and that the Board was not required to do a separate agreement for 34 days for each individual SLP. Mrs. Fehr said earlier there was a request for additional time for the SLPs to turn in their teacher contracts. Mrs. Fehr stated she would not be in favor of extending the deadline. President Ricks noted that everyone should know what is expected at this point. Mrs. Ross said that the Board had come back late from executive session twice and she apologized on behalf of the Board. She stated that the Board was put to the test in two areas. One area they all agreed on as a Board was what was best for the students and have the services provided to the student and that service was very much

**Attorney Consultation-Agreement Negotiations Strategy (cont.)**

valued. The second area the Board reviewed and worked really hard was to be fair and equitable for the SLPs and for the Board and for the auditor. She believed the Board met that challenge and owed a great deal of gratitude to the SLPs for enduring this process and reiterated that they were valued. She added that as a parent she understood the importance of the services the SLPs provide. Mrs. Ross noted that President Ricks had put in an inordinate amount of time and energy to understand the material submitted and understand the challenges within the SLP position and the knowledge of what they do which made a difference. She felt the Board made a conscientious proposal and hoped the SLPs would appreciate the proposal and find out what a true compromise looks like. Mrs. Rude said she concurred with what Mrs. Ross said and personally thanked the SLPs for doing their job and understood it is not an easy job. She added as a Board they wish that the matter had been brought to them sooner so that it could have been worked on last summer. Mr. Seaks said he could not thank the SLPs enough for what they do and expressed his appreciation for their patience during the process. Mrs. Fehr said that she did not feel the issue was necessarily over with for the Board because proper measures need to be in place so that it did not happen again, now that they understand the extraordinary caseloads. A roll call vote was taken on the motion: ayes-Seaks, Ross, Rude, Fehr, Ricks; nays-none. The motion carried unanimously.

**Adjournment**- At 2:42 p.m. President Ricks declared the meeting adjourned.

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Sarah Ricks, Board President

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Vince Reep, Business Manager

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Twila Petersen, Secretary