



**Minutes
State Board of Education
August 24, 2020**

Brooke Axiotis
President
Des Moines

Bettie Bolar
Vice President
Marshalltown

Joshua Byrnes
Osage

Brian J. Kane
Dubuque

Michael L. Knedler
Council Bluffs

Mike May
Spirit Lake

John Robbins
Iowa Falls

Georgia Van Gundy
Waukee

Kimberly Wayne
Des Moines

Hannah Groos
Student Member
Norwalk

Ann Lebo
Director and
Executive Officer

The State Board of Education meeting was held on Monday, August 24, 2020, in person at the Iowa Department of Education, Grimes State Office Building, ICN Room, 400 E. 14th Street, Des Moines, Iowa, and via Zoom. State Board members present were Brooke Axiotis, Bettie Bolar, Joshua Byrnes, Brian Kane, Mike Knedler, Mike May, John Robbins, and Hannah Groos. Iowa Department of Education staff members present were Ann Lebo, David Tilly, Amy Williamson, Thomas Mayes, Heather Doe, Larry Bice, David Canaday, Pam Spangler, Shan Seivert, Wren Hoffman and Jody Crane. Also in attendance were Miriam Van Heukelem, Ahlers and Cooney, P.C.; Bruce Johnson, attorney at law; Christopher King; C. Swanson; Daniel Van Sant, Disability Rights Iowa; and M.E. Howell.

STATE BOARD BUSINESS MEETING

Brooke Axiotis called the meeting to order at 2:40 p.m.

Joshua Byrnes made a motion and Brian Kane seconded to approve the agenda. The motion carried.

This meeting was conducted in electronic format, with remote access information provided in the notice of the meeting, as permitted by section nine of Governor Reynolds's proclamation of May 26, 2020.

COMMUNICATION

Public Comment

There was no public comment.

BOARD ACTION/DISCUSSION AGENDA

C.K. and M.K. v. Sioux City Community School District

Thomas Mayes, Attorney, Department of Education, presented background information regarding C.K. and M.K. v. Sioux City Community School District. This appeal concerning bullying and harassment was referred to an administrative law judge with the Iowa Department of Inspections and Appeals for a hearing and proposed decision. Prior to the hearing, the

school district filed a motion to dismiss for lack of jurisdiction, which was denied by the assigned administrative law judge. The school filed an appeal of the denial of its motion to dismiss. The State Board of Education requested legal argument on its authority to hear this interlocutory appeal.

Mayes presented the following questions to be determined by the State Board:

- a) Does the State Board have jurisdiction to hear an interlocutory appeal?
- b) If the State Board has jurisdiction, should it exercise it or defer the question to an issue when it considers the final proposed decision from the administrative law judge?

Miriam Van Heukelem, Attorney for Respondent, provided oral argument and highlighted information included in the “Brief Regarding State Board of Education Jurisdiction to Hear Interlocutory Appeal.”

Bruce Johnson, Attorney for Complainants, provided oral argument and highlighted information included in the “Appellee’s Brief Supporting Affirmance of Administrative Law Judge’s Order Denying Motion to Dismiss.”

There was discussion regarding the review conducted by a three-member panel of the Sioux City Community School District board, 281 Iowa Administrative Code 6.19(8), Attorney General’s opinion, date of the hearing on the merits, evidence of precedent, the school district’s position that proceedings to develop a factual record and move for summary judgement would not be necessary because this is a jurisdictional motion, whether the school district has the ability to delegate a final decision to a panel of three, and whether the jurisdiction determination can be challenged.

State Board members deliberated which way they were leaning for the motion.

Motion Brian Kane made a motion and Joshua Byrnes seconded that the State Board does not have jurisdiction to take this interlocutory appeal and directing the Department to propose amendments to Chapter 6 to consider rules that would allow a specific interlocutory appeal in contested cases.

President Axiotis invited counsel for final comments.

There was discussion regarding the board’s authority. Van Heukelem read the Attorney General’s opinion and Johnson commented.

Discussion continued regarding the motion and voting process.

Bettie Bolar called the question.

Vote: A roll call vote was taken. Aye: Bettie Bolar, Joshua Byrnes, Brian Kane, Mike Knedler, and John Robbins. Nay: Brooke Axiotis and Mike May. The motion passed.

Mike Knedler made a motion and John Robbins seconded to adjourn the meeting. The motion carried.

The meeting adjourned at 3:35 p.m.

Brooke Axiotis
President

Ann Lebo
Director