

**Alaska State Board of Education & Early Development**  
**Approved Minutes**  
**April 13, 2012, Special Meeting**  
**Via Tele/videoconference**

The meeting was called to order by Chair Esther Cox at 10:04 a.m. All members were present with the exception of Carol Schaeffer, Col. Sullivan and Madison Manning who were excused. The Pledge of Allegiance was recited. The Chair asked if any member had disclosures to report. None did. The proposed agenda was unanimously approved with a motion made by Jim Merriner and seconded by Pat Shier. Commissioner Hanley indicated he was waiting to be called to the House Finance Committee and asked Deputy Commissioner Morse to proceed. Mr. Morse gave a brief background about how the board had arrived at this juncture and why they were reviewing two district waiver requests, saying the board requested further information at its March meeting and had directed the director of school finance to obtain answers to a list of questions and report at this special meeting.

**Work Session**

Neil Slotnick, Assistant Attorney General, reviewed the legal issues behind AS 14.17.520, which requires school districts to budget for and spend a minimum of 70% on instruction. If a school district is unable to meet this requirement at the end of the year, due to circumstances beyond its control, it can request a waiver from the State Board of Education & Early Development. The waivers being presented today are after audits for last year. Pat Shier asked what it meant to be beyond a district's control, saying that he recognized some districts could not meet the requirement because of high administrative costs, which he felt were in the district's control.

Mr. Morse asked Elizabeth Nudelman, Director of School Finance, to review what was contained in the board's packet. She indicated there were two districts under consideration, Lower Yukon and Yupiiit. Each packet section had the district's initial waiver request; a letter to the district requesting more information, with attachment; the district's response to EED; and spread sheets to further elaborate the district's position.

**Lower Yukon School District waiver request.** Mr. Shier said he appreciated folks from Lower Yukon being available as he felt it was appropriate to discuss the issue of moving funds that were due to lapse into another fund, and displacing other funds as a result. Jenny Martens, business manager for Lower Yukon, was present via video to answer questions. She asked if he was referring to grant funds that would have lapsed. Mr. Shier asked if they displaced operation funds. Ms. Marten explained that she was new to the district and knew right away that the district

would not make the 70/30 split this year. She indicated several reasons: there had been a 36% increase in insurance, capital projects needed participating shares, stabilization funds were coming in, and there was an upgrade planned for technology. Pat Shier inquired if employee benefits were to be charged to instruction. Ms. Nudelman said they are instructional expenses and include para-professionals as well.

Ms. Benshoof asked where capital projects money came from. Ms. Martens said it comes from the foundation and impact aid, reminding the board that Lower Yukon is an REAA and therefore has no tax base. Ms. Benshoof asked if the capital projects list was greater than usual. Ms. Martens said she didn't have a lot of history about that, indicating it goes up and down depending on need.

Mr. Merriner had several questions. Alex Russin, Assistant Superintendent, was also present. He answered some technical questions, saying Lower Yukon had 11 school sites and 1,985 students. Mr. Merriner asked if the information received was normal, and Ms. Nudelman said EED had requested it. Ms. Benshoof inquired about stipends for the local board, saying state board members get no stipend. She felt the district needed to review that policy because the costs were so high. Mr. Russin said they would review it. Ms. Cox asked Ms. Martens if the CIP came from instruction dollars. Ms. Martens said it came from freed-up funds that were not previously used, such as the tech upgrade. Mr. Merriner asked what the district meant by not having receipts. Ms. Martens said that when she came, she only had what the previous manager had compiled and submitted; there were no notes or receipts; she didn't know how the budget had been developed. She said her detailed budget is quite different. She said she had no details to work from in relation to previous history of the district's waiver requests. She said the budget is a moving document and there are always changes in any budget. In relation to grant funds, Ms. Martens said not all stimulus funds were spent in the first year, so the district had additional funds for instruction, and fuel was the only non-instructional expense. She said she did not know or recognize the amount of contributions until the awards came in September. The Commissioner asked if funds that were transferred into capital from instruction were then reversed and transferred back. Ms. Martens said reimbursements are actually expenses. It goes back into the capital fund it was expended from at the end of close-out. She said they needed clarification on the #500 fund. Ms. Nudelman said capital projects can be completed either with funds or without funds and then reimbursed. Mr. Slotnick asked about EED's interpretation about transfers from operating to capital funds. Ms. Nudelman said until a district meets the 70% requirement, the funds should not be used for capital projects unless the expenditure is beyond the district's control. She said the question before the board today was, are transfers to capital projects beyond the district's control? Mr. Schneider said they needed to be careful to not micro-manage the situation, and explore the phrase "beyond district control," and now that the board has made a point, does it move on? Ms. Cox said that high insurance costs, energy costs, and high teacher turnover have been historic reasons to grant a waiver in the past, not capital projects. Mr.

Schneider said there are exceptions, such as leaky roofs, and asked if that is a capital expenditure. Ms. Nudelman said Lower Yukon transferred dollars to the capital fund for miscellaneous capital projects; there is \$2.7M in the fund. If a district has an emergency capital need, the board would consider a waiver. Ms. Martens said the amount in FY11 was \$369,000 in the #500 fund (Capital Projects) and \$2.7M identified. In her research, no program services or instruction were compromised. Operational dollars were obligated to the tank farm and teacher housing. She said the district had been proactive about quality housing for teachers and facilities.

Mr. Merriner asked if \$12,000 was an accurate figure for local board expenses. Ms. Martens said board member expenses are \$1,000 per board member, per meeting. Mr. Shier asked if health insurance was really \$191,000 for board members, and asked about PERS and TERS payments. Ms. Martens said four board members were eligible for TERS/PERS benefits and the local board makes that decision. Mr. Shier asked if they had to offer benefits in order to get people to serve on the board. Ms. Martens said she had no history to speak to that. Ms. Cox asked what the board budget was, and Ms. Marten replied that for FY11 it was \$556,000. Ms. Benshoof commented that spending over a half million dollars for school board members was not out of the district's control. Ms. Martens said the amount also included advisory boards at 11 sites. Mr. Schneider asked Ms. Nudelman if she was aware of the board expenses, and she said she was not aware of the total costs including health insurance or PERS/TERS payments. Ms. Martens reiterated that the decisions had not affected instruction.

**Yupiiit School District waiver request.** Howard Diamond, Superintendent, was present at the GCI office in Anchorage, and online were Michelle George and Lucienne Smith from the district business office. Commissioner Hanley said the Yupiiit issues were similar to the Lower Yukon issues. Mr. Diamond described the district as having 452 students in three separate schools sites, Akiachak, Tuluksak and Akiak. He said he had just been signed to another two-year contract with the district. He also indicated that their students were at the bottom of testing results, and the district was working with the department and the commissioner's office to turn that around. Ms. Cox noted that the district's instructional portion had fallen from 70%, to 68%, to 65% in the past, and to this year's low of 63%. She asked why the district would project 71% when it had been closer to 68% in the past. Mr. Diamond asked Ms. Smith to answer. She said the budget was a best guess when it was submitted, and subsequently their technology funds were approved late in the year, and they had had a high teacher turnover and high legal fees. Mr. Schneider asked how many years in a row had they requested a waiver. Mr. Diamond said he didn't know. In Ms. Nudelman's absence, Mr. Blackwell, auditor with School Finance, said this was the third year: The instructional portion in 2009 was 68%, in 2010 it was 65% and 2011 it was 63%. Mr. Schneider asked why there was a downward trend; he asked what could stop it. Mr. Diamond said that was a good question, and they were taking a good look, but a lot had to do with the generic situation that is present in western Alaska. He said in building a budget, they can't control fuel costs. When asked what he could control, Mr. Diamond said there was a constant

high cost for preventative maintenance and community projects. They were looking to bring in a construction group to do the preventative maintenance, and at outsourcing items such as painting. Mr. Schneider asked how much control the superintendent had. Mr. Diamond said there were seven board members who get \$500 a meeting and meet 12 times a year, and \$200 for special meetings. He indicated that the board no longer attends conferences outside of Alaska; only the chair goes to those.

Ms. Benshoof asked if Yupiit School District was not within another district, and asked why they couldn't share boards. Mr. Morse said Yupiit is near a couple of other districts, and in 1985 it became its own Rural Education Attendance Area (REAA). Mr. Diamond said that was correct and gave a brief history of the district beginning in 1982, when it left the Bureau of Indian Affairs; the citizens petitioned the state for their own schools, becoming established in 1985 as a single school district. Chevak, which is near but too far in miles to be included, became its own district.

Mr. Merriner inquired about job-fair costs and the teacher turnover rate. Mr. Diamond deferred to Ms. Smith. Ms. Smith said superintendent travel included job-fair travel and it was \$25,000 to \$30,000 with trips to the Lower 48. She said they had to attend more than one job fair in the Lower 48 because of high teacher turnover. Ms. George said trips to Portland, Ore., cost \$8,864. Mr. Shier asked if instruction suffered with the \$900,000 unexpended instructional amount that was in the FY 2011 budget. Ms. George said the Internet services upgrade project was developed, funded and approved late in FY12. Ms. Benshoof asked if they could discuss administration costs. Ms. Cox said she noted that there was a superintendent, three principals, two assistant superintendents, a maintenance director, and a host of other high administration jobs for a district of only 452 students. She said she was surprised they all kept busy. Mr. Diamond said there were three separate buildings separated by 20 miles each with no roads to connect them. He described the duties for each administrator. Mr. Merriner asked Ms. Nudelman if districts reported travel expenses annually. She said she would have to look more closely at it, but districts do report travel in each of the functional categories. Ms. Smith said the budget travel component includes all travel and dollars from School Improvement Grants for the year. Mr. Shier asked why the district's regional board meeting was held in Anchorage in May. Mr. Diamond said it was in conjunction with the Association of Alaska School Boards meeting – trying to best use the time when they were all together. He said another Anchorage meeting was in conjunction with a meeting of the Citizens for the Educational Advancement of Alaska's Children. Ms. Cox inquired about the high \$94,000 legal expenses. Mr. Diamond said that was due to the ongoing lawsuit over the gym floor situation in Tuluksak.

Mr. Merriner inquired if a data administrator was a requirement of the School Improvement Grant. Mr. Diamond said the amount of work that is required to revamp the evaluation is enormous and the position will be gone when the grant runs out. He said they were trying to plan

for the time when the incentive would be gone. He noted that the district attendance rate had gone from 78% before the grant to 88% presently.

Mr. Merriner said he still had concerns regarding the \$900,000 and if it fell in the category of being beyond the district's control. Ms. Cox said she would need to hear more from the district as to which instruction dollars they intended to use and how the \$200,000 was used. Ms. Smith said part of the \$200,000 was used for fuel.

## **Business Meeting**

Pat Shier moved and Geri Benshoof seconded a motion to deny the Lower Yukon School District its requested waiver. Ms. Cox said she would prefer a positive motion; however, the Assistant Attorney General said the motion was in a good form. Mr. Shier spoke to his motion, saying there were several budget areas he felt were not out of the control of the school district, and they could have still met the instructional needs of the students. Mr. Merriner asked if it would hurt to have an external audit done, saying he was concerned with the impact on the students. The Commissioner said the board could grant the waiver and request a further audit, but the district would have to speak to that. Mr. Slotnick clarified that if the board finds that the district over-spending was not out of the district's control, the district can appeal the board's decision and a settlement can be negotiated. He said the board could also stay the waiver and ask for an internal audit. Ms. Nudelman said she didn't know what an external audit would look like and she wasn't sure what new information would be uncovered. She said EED already had the information and they would need to do something other – such as reviewing invoices for maintenance. Mr. Shier said his concern was that the local board was consuming extraordinary resources that were not specifically operations. Ms. Benshoof said she was of a mind to vote against the motion since the district history was near 70%, but would like to put them on notice that there are areas that need attention such as capital projects and board expenses. Mr. Schneider asked, is it beyond the district's control, saying he had a hard time holding the students hostage for the superintendent's or the board's mismanagement, believing that instruction would suffer, and expressing again his concern for micro-managing. Mr. Shier said he was gratified to hear that the district's instruction did not suffer. Ms. Cox said she wanted to send a message loud and clear that the district expenses were out of whack and expressed hope that Ms. Martens could get a handle on those expenses. Mr. Shier said he made the motion because he felt the district's failure to meet the 70% instruction requirement was not out of the district's control, citing moving money from one account to another and excessive board expenses. Mr. Merriner asked if withholding the money at stake would affect student instruction. Ms. Martens said they would have to make tough decisions. Alex Russin, the Assistant Superintendent, said he had no crystal ball, but this discussion had given him a good platform to begin discussions with their board. He said they were on notice. He said they need to look at how the board spends its money. He noted that any type of reduction would have an impact. Mr. Schneider said he hoped the discussion was

supportive and not punitive. Mr. Shier said he was unable to determine that the district failed to meet the requirement because of circumstances beyond its control.

The motion was defeated by a roll call vote of 4-2. A new motion was made by Geri Benshoof and seconded by Phil Schneider to grant the waiver. The motion was passed by a roll call vote of 5-1.

Geri Benshoof moved and Janel Keplinger seconded a motion to grant the waiver to Yupiit School District. Mr. Shier said the circumstance in the district were different. He said he was unable to make a determination that the dollars were outside of the district control. Ms. Benshoof said she felt that administrative costs were within the district's control and that one of the reasons for the waiver was administrative costs. She said she would vote against the motion. Ms. Cox said she was concerned with administrative costs, travel, and the instructional portion dropping to 63%. She inquired if an external audit would be appropriate in this case, to which the Commissioner said it might be the same answer as before. Mr. Shier thought if the motion fails perhaps more information would come from an appeal. Mr. Schneider said he wanted to see the downward slide stop and wondered how much of a role the board or EED could play. Ms. Keplinger said she didn't want to penalize students, but the trend needed to change and wondered how else to make a statement. Ms. Cox noted these were not the only dollars in the district; that they had a huge SIG grant. Mr. Shier said an appeal could set up an opportunity to discover more detailed information. Mr. Merriner said he keeps going back to the question of "beyond the district's control" and what that means. Mr. Morse clarified that audits are done by the districts using independent auditors and sent to the department.

The motion failed by a roll call vote of 1-5.

Ms. Cox asked that the department send the district the appeal procedure.

### **Board Comments**

Janel Keplinger said she loved the video conferencing capability.

Jim Merriner thanked the districts.

Pat Shier said the issues were not trivial and thanked the districts.

Esther Cox thanked the districts.

Commissioner Hanley said the board did a commendable job.

Pat Shier moved to adjourn; the motion was seconded by Jim Merriner and passed by unanimous consent.