



Illinois State Board of Education

Jesse Ruiz, Board Chair
Dr. Christopher Koch, State Superintendent

Illinois State Board of Education*

100 North First Street
4th Floor Board Room
Springfield, Illinois 62777

Special Board Meeting September 2, 2004

Conference Call Access Number:

1-866-274-6951 (Public Only Line)

passcode **9810024** followed by the # **key**

*(In order to cut down on the background noise,
participants are asked to mute their phone while someone is speaking.
To do this, dial *6, and to unmute dial *6 again)*

SCHEDULE AND AGENDA OF MEETING

THURSDAY, September 2, 2004

11:00 a.m.

A. Call Meeting to Order/Roll Call

B. Public Participation

**C. Authorization for Superintendent to finalize the contract with
Harcourt Assessment Inc. for the Illinois Enhanced Assessment System**

D. Closed Session

E. Adjourn

*All State Board of Education meetings listed on this agenda will be accessible to persons with disabilities. Persons planning to attend who need special accommodations should contact the Board office no later than the date prior to the meeting.

Contact the Superintendent's office at the State Board of Education, 100 North First Street, Springfield, Illinois 62777-0001.

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100 North First Street
Springfield, IL 62777

September 2, 2004
State Board Meeting

ILLINOIS STATE BOARD OF EDUCATION

100 North First Street
4th Floor Board Room
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Wednesday, September 2, 2004

<p><u>Call Meeting to Order/ Roll Call</u></p>	<p>The Chair, Dr. Janet Steiner, called the September 2, 2004 Special Board meeting to order at 11:07 a.m. (the meeting was by phone). She then requested that the roll be called. A quorum was present.</p> <p>MEMBERS PRESENT (by telephone): Dean Clark Ronald Gidwitz Joyce Karon Gregory Kazarian Richard Sandsmark Janet Steiner</p>
<p><u>Public Participation</u></p>	<p>Dr. Steiner began by stating that the meeting would start with Public Participation. She then asked if there were any people on the phone line who would like to participate and to identify themselves.</p> <p>Mr. Michael Hussey, Vice President of Pearson Education Measurement, introduced himself. He stated that he had been with the organization for 15 years. Mr. Hussey said the reason for his participation was in regard to two letters that he had sent to Superintendent Schiller, one on August 4, 2004 and the other on August 31, 2004. Pearson asked that those letters be sent to the Board members in preparation for this Special Board Meeting, which Mr. Hussey then stated that the Special Board Meeting was announced the past Monday, August 30th. He then stated that the letters mentioned were created based on the Resolution from the ISBE's most recent board meeting on August 18, 2004, with regard to the award of a contract for the Illinois Assessment. Mr. Hussey then said Pearson received the letter dated August 31, 2004, from David Wood, Chief Procurement Officer yesterday. He stated that the letter denied Pearson's protest on two premises. First, policy role and second, merit. Mr. Hussey then outlined Pearson's responses to both those issues. First, on procedure and timing, he said the letter was received on the 7th day. The Illinois procurement and precedent is clear on this. He stated that our letter noted receipt on August 25th, the 7th day after the</p>

Resolution was created. Mr. Hussey then proceeded to say that by Illinois precedent, the first day of knowledge is always considered the 0 day when calculating time period. The first day therefore would be the 19th, with the 25th being the 7th day. He then stated that our letter did note receipt by the 25th. Mr. Hussey then proceeded with the second issue, merit. He said the scope of the RFP had been materially changed since the time the proposals were created and evaluated. He then spoke about how the state legislature removed four of the seven subject areas to which were originally planned to test. Mr. Hussey then asserted that from a budget perspective, 6.3 million the legislature removed from the 2005 and subsequent years represented a change of 28% from the previously communicated 2005 assessment budget, which he thought were significant scope changes. Mr. Hussey then stated it was likely, if not certain, that the state will not receive the best value on this contract by negotiating with only one vendor for the significantly-reduced scope. He further stated that the basis for questioning the award is that it appears to be outside the legal process of awarding a bid of this type. He then added that the proposed contract scope is significantly different from the RFP released more than one year ago. And secondly, there was no authority to exclusively negotiate significantly modified scope with only one of multiple vendors. Mr. Hussey continued by saying that an award based on negotiations with only one vendor is a violation of Illinois Procurement Law. Pearson has engaged in legal counsel in this matter and Mr. Hussey stated that on the line with him were both Pearson counsel and Illinois counsel. Pearson had counsel with the law firm of Dykema, Gossett, Rooks, & Pitts to provide Pearson with legal advice for the process of procurement bids under Illinois law and the rights of Pearson as a bidder. Mr. Hussey then said that what Pearson stated in their letter had been confirmed to them by their legal counsel. He said that while ISBE's legal counsel and Pearson's may have some disagreement, that this matter would create potential litigation. Mr. Hussey then continued by saying that ISBE's resolution stated that the process of item development and creating new assessments takes up to 18 months. He further stated that utilizing the standards, Illinois will have difficulties meeting federal reporting requirements and would be at risk and would need to find an alternative to avoid those risks for Illinois schools and accomplishes needed for developing new tests in accordance with the new Illinois law for federal requirements.

Mr. Hussey then suggested as an alternative, Pearson offers the following.

He stated that to minimize the risk for Illinois schools, the current board and ISBE staff, Pearson suggests extending the current contract as necessary while a new RFP is specified and

	<p>released. He further asserted that Pearson’s response to this request for test specifications can be met in less than 60 days and Pearson commits to work with ISBE on a solution.</p> <p>Mr. Hussey then thanked Chair Steiner, the Board Members and Superintendent Schiller for giving Pearson an opportunity to express their views on this very important decision.</p> <p>Superintendent Schiller then asked Chair Steiner if there were any other public comments. Chair Steiner than asked the public if there were any additional comments and there were none. Dr. Schiller then asked if there were any further public comments from anyone present in Springfield and there were none.</p>
<p><u>Motion to Enter into Closed Session</u></p>	<p>Dr. Steiner stated that the Board would adjourn to enter into Closed Session. She therefore requested a motion to do so. Dean Clark moved that the Illinois State Board of Education go into Closed Session under the exceptions set forth in the Open Meetings Act of the State of Illinois as follows: Section 2 (c) (1) for the purpose of discussing information regarding appointment, employment, compensation, discipline, performance, or dismissal of an employee, including hearing testimony on a complaint lodged against an employee. The motion was seconded by Ron Gidwitz.</p>
<p><u>Roll Call Vote</u></p>	<p>Dr. Steiner then requested a roll call vote to enter into Closed Session. The motion passed as all members presented voted affirmatively and the members went in to Closed Session at 11:22 a.m.</p>
<p><u>Approval to Finalize Contract for the Illinois Enhanced Assessment System</u></p>	<p>The open portion of the meeting resumed at 11:49 a.m. At that time, Dr. Steiner requested roll call be taken. Dr. Steiner stated that the ISBE is prepared to take action for the only item on the agenda. Greg Kazarian moved that the ISBE authorize the State Superintendent to proceed with negotiations on the final contract with the bidder previously selected to develop and score the Illinois Enhanced Assessment System in response to the RFSP’s issued in August 2003. Given that the State Superintendent received a letter of concurrence from the Office of the Governor that the Chief Procurement Officer has determined that proceeding with the contract is consistent with state law and given that the award of the contract is in the best interest of ISBE and the State of Illinois. Mr. Kazarian further moved that the ISBE authorize the State Superintendent to execute a final contract upon the completion of negotiations. Ronald Gidwitz seconded the motion.</p>
<p><u>Adjournment of Meeting</u></p>	<p>Dr. Steiner then requested a motion to adjourn. Dick Sandsmark made the motion to adjourn, while Joyce Karon seconded the motion. A roll call vote to adjourn the meeting was taken and all members voted affirmatively and the meeting adjourned at 11:51 a.m.</p>

Respectfully Submitted,

Dr. Vinni Hall
Secretary Pro Tem

Mr. Jesse Ruiz
Chairman