

SCHOOL BOARD notes

Bergen County Board Member to Lead NJSBA



Raymond R. Wiss

A veteran Bergen County school board member was elected NJSBA president at the annual Delegate Assembly Saturday in Plainsboro. Raymond R. Wiss has been a member of the Northern Valley Regional Board of Education since 2001. Previously, he served on the Old Tappan school board for seven years.

At Saturday's meeting, Wiss expressed concern "about the environment into which public education has been thrust

and the critical need for NJSBA to have a leadership role in the dialogue that is changing the educational landscape."

He continued, "Our responsibility is to take our experience as board of education members and to translate our priorities to a sometimes hostile group of legislators and taxpayers to make certain that the interests and welfare of public education and our children are protected and advanced."

Wiss chairs a committee that has overseen the renovation and redesign of NJSBA's headquarters building in Trenton, so that it could accommodate the web-

based training and information services needed by the state's school board members. The project is scheduled for completion in August. He has also been Bergen

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NJSBA Opposes Voucher Bill

NJSBA is opposing a bill that would use corporate tax credits to fund school vouchers – essentially diverting public funds to non-public schools at a time when boards of education are dealing with a \$1.2 billion cut in state aid to education.

The "Opportunity Scholarship Act" (S-1872) was released May 13 by the Senate Economic Growth Committee. It now goes to the full Senate. The bill would give tax credits to corporations that contribute to a fund, operated by the Department of Treasury, which would provide "scholarships" – vouchers – that may be used at a public or non-public school of a student's choice.

The proposal would divert a minimum of \$360 million from the state's general fund over the next five years.

"NJSBA questions the logic of diverting funds from the state's revenue stream to private school programs at a time when sufficient funds are not available for our public schools," said Marie S. Bilik, NJSBA executive director.

Pilot Program The Opportunity Scholarship Act would create a pilot program in 36 districts where at least one traditional

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NJSBA Budget Cuts Dues, Gives Credit for Services

Every school district will see a reduction in dues and receive a \$2,000 credit to use for Association fee based services, under NJSBA's 2010-2011 budget approved May 14 by the Association's Board of Directors.

The \$9.385 million budget calls for a 6.2 percent reduction in revenue and expenses, which amounts to a \$616,243 reduction.

Dues Lowered Total revenue from dues will be reduced by \$362,216, or 4.9 percent – with individual districts seeing a reduction ranging from 2.5 percent to 5 percent. The reduction of dues is in addition to the \$2,000-per-district credit that school boards can use for NJSBA services.

NJSBA's budget also includes a reduction of five staff positions, down to 70, and a salary freeze for staff.

The Salaries and Personnel Administration accounts represent a combined decrease of \$520,855, or 7.2 percent. In addition, the Association's net cost for healthcare will decrease by \$40,438, which was achieved through greater staff contributions toward healthcare coverage, as well as staff opting out of health coverage.

Credit Offered In recognition of the unprecedented financial climate facing school districts, the Association will continue to provide on-site mandatory board member training as a dues-based service in 2010-2011. However, the Association anticipates that school districts will have a difficult time securing funds for advanced training and services in areas, such as labor relations and policy, which are extremely critical in this economic climate.

Therefore, NJSBA will use a portion of its surplus to provide every school district with the \$2,000 credit that can be used for any Association service, such as strategic planning, policy manual services, non-mandatory Board Member Academy training programs, Workshop registration, or the web-based Accountability Act training.

Town Hall Meetings Scheduled to Discuss Race to the Top

With the June 1 deadline for the submission of the federal Race to the Top competitive grant applications quickly approaching, the New Jersey Department of Education (NJDOE) has scheduled several town hall meetings. The meetings are designed to provide an opportunity for district boards of education, administrators, charter school leaders, teachers' union representatives and members of the public to obtain information on the state's application for the federal grants.

NJSBA expects to support the state's Race to the Top application, as it did in the first round of the grant competition. "We encourage boards to examine the proposal and see if the district feels it is appropriate to support it," said Marie S. Bilik, NJSBA executive director.

Information about the state's Race to the Top application can be found on the Department of Education's website at: www.state.nj.us/education. Select "Race to the Top Round 2 Application," on the

left side of the home page.

Early this week, NJDOE meetings were held in Ocean City and Westampton. The remaining town hall meetings include:

- Thursday, May 20, 6:30 p.m.: Harrison High School, 800 Hamilton St., Harrison
- Tuesday, May 25, 7 p.m.: Raritan Valley Community College, Grand Conference Room, 118 Lamington Road, Branchburg
- Tuesday, June 1, 7 p.m.: Neptune Township High School, 60 Neptune Blvd., Neptune
- Wednesday, June 2, 7 p.m.: Passaic County Technology Institute, 45 Reinhardt Road, Wayne

District officials who are unable to attend a meeting may send questions to Pam Castellanos at NJDOE by email at pam.castellanos@doe.state.nj.us, or speak directly with their executive county superintendent. 🍎

Voucher Bill

continued

public school, charter school or alternative public school is identified by the state Department of Education as "chronically failing." Any low-income student in the district, even one not attending a "failing" school, could apply for a voucher.

In addition, the bill would reserve one-quarter of the funds generated by the tax credits for students already attending a non-public school.

"The bill also raises practical questions," said Bilik. "Who is responsible for transporting 'scholarship' students to the schools outside their home district? Is it the student's district of residence, or the receiving district? Will designated districts be required to replicate support programs available to students in their original districts, such as after-school programs?"

"This proposal ignores local school boards' responsibility to represent their communities in determining school choice options," Bilik continued. "It also does not address the needs of students in targeted districts who do not participate in the program. A better approach would be for the state to direct improvement efforts within the public school system in a way that ensures that they reach all schoolchildren."

Choice Bill In other news, the Senate Education Committee on May 13 approved S-1073, which makes permanent the voluntary interdistrict public school choice program that the state Department of Education created approximately a decade ago. The bill already passed the Assembly, and is now poised for a vote by the full Senate.

The bill does not require districts to take part in any choice program if they do not want to. NJSBA supports the measure. NJSBA believes in local determination of school choice within the public schools. Options could include choice among schools in the district (intra-district), including charter or magnet schools, or could extend to schools in other districts (inter-district) through mutual agreement of the school boards. 🍎

Innovations in Special Education Highlights



Boonton Township's iPod Program Honored

Boonton Township's Rockaway Valley School uses iPods to help special needs middle school students. Classroom tests are read and uploaded onto the iPods and classified students can hear the test read to them as they take the exam with regular instruction students. The program was one of 12 programs recognized during the May 17 Innovations in Special Education Awards ceremonies in Trenton.

Pictured left to right are: Dr. Roseann Humphrey, superintendent/principal, Boonton Township; Cordé Reed, director of special services; Debbi O'Connor, teacher; Glenda Elsmore, resource room teacher; Beverly Johnson, computer teacher and podcast coordinator; and Krista Merkelbach, computer teacher and podcast coordinator.



Passaic Special Ed Program Honored In Passaic County Technical Institute's "Shop Talk" program, deaf children prepare to work in fields such as culinary arts, auto servicing, medical arts and clerical skills by learning the specific vocabulary and language they need to succeed in those areas. The program was honored at the Innovations in Special Education Awards.

Pictured at left is Naomi Miller, speech and language therapist at Passaic County Technical Institute, and the founder of the program.

SPRING SCHOOL LAW FORUM 2010

Designed for School Board Attorneys – Board Members and Administrators Welcome



Tuesday, June 8, 2010

9 a.m. – 2 p.m. (Registration 8:30 a.m.)

**N.J. Principals and Supervisors Association
Headquarters, Monroe Township, N.J.**

Members: \$150 per person

Non-members: \$225 per person

Registration includes buffet lunch.

Pending Approval: 5.1 hours of CLE credits*

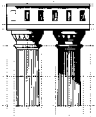
Learn about cutting-edge developments in school law. Practicing school board attorneys will share research and their experience in addressing the latest court decisions, administrative rulings, and statutes and code that affect public education and school district governance.

Learn about the latest developments in:

- Student Residency Law
- Open Public Records Act
- Destruction of Public Records Law
- Hot Issues in Special Education
- RIFs and Non-Renewals
- School Law Update

**This program is pending approval from the Board on Continuing Legal Education of the Supreme Court of New Jersey for 5.1 hours of total CLE credit. Of these, none qualify as hours of credit for ethics/professionalism, and none qualify as hours of credit toward certification in civil trial law, criminal trial law, workers compensation law and/or matrimonial law. BCLE Reg. 302:10*

If you have any questions, Please contact Cindy Stanhope at (609) 278-5254, or e-mail cstanhope@njsba.org.



Academy Credits: 1

CBM Core Areas: School Law, Policy, Board Operations, Relationships

MBM Core Areas: School Law, School/Community Relationships

CBL Status: Not eligible for credit

Cancellation Policy: Cancellations made up to 10 working days prior to the program date will be refunded the entire registration fee. Cancellations made between 10 working days and 72 hours of the program start will be charged \$25. Cancellations made within 72 hours and no-shows will be charged full fee.

The school district accountability law places travel restrictions on school board members. Travel approval is required in advance. For information, visit www.njsba.org/accountabilityact/

All registrations must be prepaid.

Please register me for the **Spring School Law Forum 2010**, Tuesday June 8, 2010, 9 a.m. – 2 p.m. at N.J. Principals and Supervisors Association Headquarters, Monroe Township, N.J.

Registration Fee:

\$150 per Member

\$225 per Non-member

Payment enclosed

Bill Board (Voucher enclosed)*

NAME: _____ TITLE: _____

DISTRICT: _____ COUNTY: _____

ADDRESS: _____

PHONE: (h) _____ (b) _____

FAX: _____ E-MAIL: _____

Return to: New Jersey School Boards Association, Call Center

413 W. State Street, P.O. Box 909, Trenton, New Jersey 08605-0909 or FAX: (609) 278-5280

*If you wish to be billed and a voucher is required for your records, please send it with your registration to avoid duplication. Travel directions will be provided when your registration is confirmed.

Court OKs Tenure Charges on 'Unfounded' Abuse Case

On May 12, the New Jersey Supreme Court ruled that a school district could pursue tenure charges against a teacher who was accused of sexual contact with a student, even after a Department of Children and Families (DCF) investigation failed to uncover sufficient evidence to criminally prosecute for abuse or neglect.

Justice Virginia Long, author of the court majority opinion in *In the Matter of the Tenure Hearing of Gilbert Young, Jr.*, wrote, "it is inconceivable to us that the legislature intended that a school district with overwhelming evidence of sexual wrongdoing on the part of a teacher, developed after its own investigation, would be powerless to act because DCF found no violation of the abuse and neglect statute."

Board, DCF Investigations The case arose out of charges of sexual abuse filed with DCF against a teacher. DCF deemed the charges "unfounded" after its investigation, concluding that the behavior did not meet the statutory definition of abuse and neglect because the involved student had

not been injured or placed at risk of harm. The Roselle school board filed tenure charges of unbecoming conduct against the teacher, and supported its charges with additional proof, including an independent police investigation. The teacher argued that the board's tenure charges must be dismissed in light of a statutory provision that precludes an "unfounded" DCF complaint for child abuse and neglect to be used against an employee for any purpose relating to employment.

After a trial, the administrative law judge determined that the statute did not preclude the board from seeking the teacher's tenure dismissal. The judge noted that the district produced its own witnesses and documents to support the tenure charges, and met its burden in demonstrating that the teacher engaged in conduct that could destroy public respect and confidence. The education commissioner adopted those findings and the Appellate Division affirmed. The teacher asked the Supreme Court to review the matter.

Different Standards The Supreme Court, which found the statutory language to be ambiguous, wanted to avoid an "absurd result." The court noted the different standards involved in DCF cases and tenure dismissal matters. For example, DCF might conclude that sexual contact between a student and his former teacher does not constitute abuse or neglect because of the age of the student or because the formal student-teacher relationship had passed. "That is a far cry from suggesting that it is not conduct unbecoming a school employee," wrote Justice Long, adding that it "would be anomalous to hamstring the district solely because of a less than complete investigation by DCF or one whose focus was different from the focus in a tenure case." The court concluded that the district was not barred from conducting an independent investigation and uncovering additional evidence to support tenure charges.

Justice Roberto Rivera-Soto was the lone dissenting judge. 🍌

NJ Supreme Court Rules on Free Speech at Meeting

The New Jersey Supreme Court on Monday upheld a decision against a school board that refused to allow a father to speak at a meeting for "no reason other than the unpopular viewpoint he expressed." However, the court rejected the \$100,000 award that a jury had granted the father for violation of his free speech rights.

The 5-2 ruling indicates that school board policies can still regulate public comment based on issues such as time and manner, but boards need to ensure they are not restricting public comment based on an unpopular viewpoint.

The case of *Philip A. Besler v. West Windsor-Plainsboro Regional Board of Education* arose after the father, Philip Besler, attended several school board meetings to publicly complain about the girls' high school basketball coach for abusive lan-

guage, some of which was directed toward his daughter. After speaking about the coach's conduct at seven board meetings, Besler was gavelled-down by the board president when the same issue was raised at an eighth meeting in 1997.

At the ensuing trial, a jury awarded Besler \$100,000 in damages for pain and suffering for violations of his free-speech rights.

The board's attorney argued before the Supreme Court that the gaveling was a legitimate restriction on the time, place, and manner of public speech.

NJSBA, which participated as *amicus curie*, or "friend of the court," argued that the Open Public Meetings Act granted the board the right to exclude the public from discussions involving personnel matters. Besler's attorney argued that both the

state and the federal constitution gave his client the right to address matters of public importance during the public portion of a board meeting.

The Supreme Court found "Besler offered minimal evidence of emotional distress and the damages award is so clearly excessive that it constitutes a miscarriage of justice." The reduction of the \$100,000 award will be sent to a trial court to decide.

"Heightened protection is given to speech in public forums, including the public comment period of a school board meeting," the court said. "However, the right to free speech is not absolute and is subject to reasonable limitations."

The court said that statements made by the board president "revealed impatience

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PUT YOUR POLICY MANUAL ONLINE



Online Policy Service helps to save **money** and **time** by reducing administrative costs and freeing up the time of IT personnel. Even if your district is not using the NJSBA file code system, you can still use our online service. Some of the Online Policy Service features include:

- 24/7 access to board policy on your district Web site for all to view, not just administration;
- Interactive links from each policy to related NJ codes, statutes & case law;
- Specially designed search engine to locate specific policy language within seconds;
- Faster turnaround on policy updates;
- Customized table of contents.

Contact Lisa Deon at (609) 278-5222 or e-mail her at ldeon@njsba.org to set up a FREE demonstration.

Bergen County Board Member *continued*

County's representative to NJSBA's Board of Directors and has served on various state association committees.

Wiss is a member of the Bergen County School Boards Association executive committee. In 2007, he received the Archie F. Hay Award for Distinguished Service from the Bergen County organization. He has also earned the Certificated Board Member designation through NJSBA's Board Member Academy.

He is managing member of the law firm of Wiss & Bouregy and former mayor of Old Tappan.

Approximately 170 delegates attended Saturday's meeting.

Slate of Officers The NJSBA delegates also elected the following local school board members to serve as officers for 2010-2012:

- Charles T. Miller, East Amwell, Hunt-

erdon County: Vice President for County Activities

- Donald T. Webster Jr., Manchester Township, Ocean County: Vice President for Finance
- John Bulina, Tabernacle Township, Burlington County: Vice President for Legislation/Resolutions.

NJSBA's outgoing president, Harry J. Delgado of the South Brunswick Board of Education, will assume the position of Immediate Past President.

Resolutions Approved In other business, the Delegate Assembly approved two resolutions.

Acting on a resolution from the Glassboro Board of Education, the delegates called for changes in law that would allow school districts to charge fees for summer school. Currently, any district that offers remedial or advanced classes is prohibited by the state from charging for the service.

With severe cuts in school funding, school districts are finding it increasingly difficult to continue offering such services.

A resolution from the South Plainfield Board of Education asks NJSBA to seek measures that would give schools more authority to take action concerning specific harassment, intimidation or bullying situations while law enforcement officials are investigating the incident. The resolution expresses concern that school administrators and teachers may be unsure of what actions they may take to prevent further harassment when law enforcement has not yet finished an investigation. 🍏



Above, Frank Gwaltney of the Woodbury Board of Education, right, votes on an issue before the Delegate Assembly. Left, a delegate uses an electronic voting tool to register his vote.

Legislative Committee to Meet

In accordance with the Open Public Meetings Act, notice is hereby provided of a meeting of NJSBA's Legislative Committee. The meeting will be held at the Robert Wood Johnson Health and Wellness Center, 3100 Quakerbridge Road, Hamilton, at 8:30 a.m. Saturday, June 5. The meeting is open to the public.



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 Telephone: 1-888-88NJSBA • Web site: www.njsba.org

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Raymond R. Wiss, *president*
 Marie S. Bilik, *executive director*

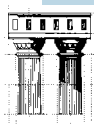
SCHOOL BOARD NOTES

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School Board Attorneys May Receive Credit for Training

Because of a recent court rule, all New Jersey attorneys – including school board attorneys – are required to participate in a mandatory continuing legal education program consisting of 24 hours of approved professional development over a two-year period. NJSBA has applied to the New Jersey Supreme Court to have its programs accredited.


NJSBA has applied for school board attorneys to receive credit – called Continuing Legal Education credit (CLE) – for its April 22 program, “Your School Budget Has Been Defeated: What’s Next?” NJSBA used the program’s registration list to compile the names of participating attorneys. Those attorneys will receive two Certificate of Attendance forms, and they will be asked to sign both forms, returning one to NJSBA and keeping the other for their personal records. Attorneys who participated in the program and want CLE credit should contact Cindy Stanhope at (609) 278-5254 or by e-mail cstanhope@njsba.org to confirm that their name is on NJSBA’s registration list.

NJSBA is also in the process of getting approval for CLE credits for the NJSBA Spring School Law Forum on June 8 at the New Jersey Principals and Supervisors Association headquarters in Monroe Township, as well as the School Law Forum at Workshop in October in Somerset.

Free Speech at Meeting
continued


and antagonism toward a viewpoint he did not want to hear,” noting that the jury rejected the claims that Besler was silenced because of his repetitive remarks

or because the board needed to conduct an orderly meeting.



The court also rejected the personnel issue, saying that the Open Public Meetings Act merely allows a board to go into closed session to discuss personnel. 

C A L E N D A R


June 7



-  Gloucester County School Boards Association (SBA) Spring Meeting, Gloucester County Institute of Technology Theater, Sewell, 6:30 p.m.

June 8

-  Spring School Law Forum, New Jersey Principals and Supervisors Association,  Monroe Township, 9 a.m.

June 10

-  Ocean County SBA, Annual Spring Meeting, Central Regional High School presentation room, Bayville, 6:30 p.m.

-  Denotes pre-registration required
-  Denotes NJSBA Board Member Academy Training Program