

Windham School District
Board of Trustees
265th Meeting



Minutes

August 18, 2011
Austin, Texas

WINDHAM SCHOOL DISTRICT BOARD OF TRUSTEES

**Crowne Plaza Hotel
6121 North IH-35
Austin, Texas 78752
Salons E-H and Waterloo**

**August 18, 2011
2:30 PM**

ORDER OF BUSINESS

Call to Order

Convene Windham School District (WSD) Board of Trustees (Board)

Regular Session

- A. Discussion, Consideration, and Possible Action Regarding Consent Items
 - 1. Minutes of the June 10, 2011, WSD Board Meeting
 - 2. Appraisers for the 2011-2012 School Year
 - 3. Personal Property Donations
 - 4. Excused Absences

- B. Discussion, Consideration, and Possible Action Regarding the WSD Budget and Salary Schedule for 2011-2012

- C. Discussion, Consideration, and Possible Action Regarding Veteran's Employment Preference Appeal
 - 1. Gonzalo DeLeon, Principal, Rudd and Montford units
 - 2. Diana Fielding, Teacher, Ellis Unit
 - 3. Deborah Case, Teacher, Ellis Unit

Adjourn into Executive Session (Salons E-H)

Executive Session

Discussion of Personnel Matters Relating to Mr. DeLeon, Principal, Rudd and Montford units; Ms. Fielding, Teacher, Ellis Unit; and Ms. Case, Teacher, Ellis Unit (Closed in accordance with Section 551.074, Government Code).

Reconvene WSD Board (Salons E-H)

- C. Veteran's Employment Preference Appeals (cont.)
- D. Superintendent's Report – Update on Reduction in Force
- E. Report from the Chairman, WSD Board
 - 1. Importance of Contact Hours on Budget and Student Achievement
 - 2. Importance of Leadership Development and Mentoring Within the District
 - 3. Chairman's Fitness Challenge
- F. Public Comments

Adjourn into Executive Session (Waterloo)

Discussion of Personnel Matters Relating to the Superintendent of the Windham School District (Closed in accordance with Section 551.074, Government Code).

Adjourn

The WSD Board may discuss and take action on any of the items posted on this meeting agenda. The WSD Board may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

**MINUTES OF THE WINDHAM SCHOOL DISTRICT
BOARD OF TRUSTEES**

265th MEETING

The Windham School District Board of Trustees met in session on Thursday, August 18, 2011, at the DoubleTree Hotel in Austin, Texas.

BOARD MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Judge Larry Gist
Eric Gambrell
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

BOARD MEMBERS ABSENT:

Leopoldo (Leo) Vasquez, III, Secretary

WINDHAM STAFF MEMBERS PRESENT:

Debbie Roberts, Superintendent
Linda Goerdel
Michael Mondville
Veronica Casanova
Marjie Haynes
Don Lawrence

**TEXAS DEPARTMENT OF CRIMINAL
JUSTICE STAFF MEMBERS PRESENT:**

Brad Livingston
Bryan Collier

CONVENED

Oliver Bell, Chairman, called the 265th meeting of the Windham School District (WSD) Board of Trustees (Board) to order on Thursday, August 18, 2011, at 2:34 p.m. in accordance with Chapter 551 of the Texas Government Code, the *Open Meetings Act*. During the regular session, the Board conducted business from the agenda posted in the Texas Register. A quorum was present and the meeting was declared open.

Chairman Bell recognized Angela Isaack from the Legislative Budget Board and Mike Meyer, Senate Finance.

The chairman reported the Board was committed to providing the opportunity for public presentations on topics posted on the meeting agenda, as well as public comment on issues within its jurisdiction as provided in Rule 300.1. Persons interested in providing presentations at the meeting were required to complete a registration card and submit it at least ten minutes prior to the meeting's posted start time. On posted agenda topics, three speaker registration cards were received by board staff prior to the

required deadline. In addition, two cards were received for the public comment period. Regarding the posted agenda topics, these comments will be heard prior to the board taking action on that topic. If an individual is not present when called upon, they will forfeit their opportunity to speak. Individuals registered to make public comments on non-posted topics will speak during the designated time on the agenda at the end of the meeting. A red light on the timer, in front of the chairman, will notify each presenter when their time has expired. As to the presenters speaking on veteran's employment preference appeals, a presentation time of 10 minutes has been designated per appellant. If there are multiple speakers on one appeal case, that 10 minutes allocation shall be shared. Public presentations on any other topic will be limited to three minutes. In addition, regarding conduct and decorum, if the chairman determines that a spectator or presenter is being disruptive, they will be asked to immediately cease or to leave the meeting or if necessary will be escorted out.

**DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING
CONSENT ITEMS**

Chairman Bell called the Board's attention to the Consent Items on the agenda which consisted of the minutes of the June 10, 2011, meeting, appraisers for the 2011-2012 school year, personal property donations, and excused absences.

Chairman Bell asked if there were any comments, objections or amendments to the Consent Items. Seeing none, the Consent Items were approved as submitted.

**DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING THE WSD
BUDGET AND SALARY SCHEDULE FOR 2011-2012**

Linda Goerdel, WSD Chief Financial Officer, presented the District's proposed budget for the upcoming school year. Referring to the provided budget book, she stated that the 2012 budget for regular programs directly reflects the reduction in funding for WSD through the appropriation to the Texas Education Agency (TEA). The 2012 appropriated funds from TEA are approximately 27% less than last year. To address this reduction in funding, significant cuts were reflected in the areas of salaries and personnel costs, travel, supplies, and other operating expenses. As to salaries, every employee will receive a pay cut; that reduction in pay is reflected in the salary schedules and plans.

Federal grants from the U.S. Department of Education are basically the same with the exception of the American Recovery & Reinvestment Act or the ARRA grant, which expired in June. Funding from the U.S. Department of Education for the Incarcerated Individuals Program Grant will expire in August, 2012.

The memorandums of understanding (MOUs) between WSD and Texas Department of Criminal Justice (TDCJ) for the recreational and library services programs along with the publication of the ECHO, the offender newspaper, will remain the same. The MOU for the college academic and vocational training at the post-secondary level is reduced approximately \$1 million to reflect the reduction in appropriated funds to TDCJ for this strategy.

Chairman Bell thanked the WSD staff for the work they have done on the budget. He added there are clear challenges with a 27% cut. It is significant by any measure, but the mission of the district will be carried out to the best of WSD's ability with the resources available.

Carmen Villanueva-Hiles moved that the WSD Board of Trustees approve the WSD Budget and Salary Schedule for 2011-2012, as presented and authorize the Superintendent of the WSD to make transfers as necessary as authorized by policy.

J. David Nelson seconded the motion, which prevailed unanimously when called to a vote.

(Attachment – WSD 2011-2012 Budget and Salary Schedule)

**DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING VETERAN’S
EMPLOYMENT PREFERENCE APPEAL**

- 1. Gonzalo De Leon, Principal, Rudd and Montford units**
- 2. Diana Fielding, Teacher, Ellis Unit**
- 3. Deborah Case, Teacher, Ellis Unit**

Michael Mondville, WSD General Counsel, informed the Board that Gonzalo De Leon, a principal in the West Texas Region, along with Ms. Stanfield-Fielding and Ms. Case, both teachers at the Ellis Unit were all aggrieved by the reduction in force (RIF) earlier this year. They have appealed to the Board to determine if the district properly applied the Veteran’s Employment Preference. This is preferential treatment afforded veterans in matters of hiring and, as in this case, a RIF.

The statute, Texas Government Code Chapter 657, defines a veteran entitled to the employment preference as one who has served 90 or more days in a branch of the armed forces, who was honorably discharged and who is competent. All three of the individuals who have appealed meet these criteria and are entitled to the veteran’s employment preference.

In applying the employment preference to a RIF, the statute is vague as to what the preference actually is, stating only if an individual is entitled to a hiring preference, then they are also entitled to a preference when the workforce is reduced. The statute states that an individual who qualifies for the Veteran’s employment preference is entitled to a preference in employment over other applicants for the same position who do not have a greater qualification.

Mr. Mondville referenced an opinion by Attorney General Dan Morales from 1996, DM-422, which concluded “The preference for veterans in a reduction workforce mandated by section 657.007 of the Government Code is not absolute. Veterans are to be preferred when selection is among similarly qualified and similarly situated employees, but they are not entitled preference over more qualified employees who are not veterans.” To clarify, if you have two employees equally qualified, you keep the veteran. If a non-veteran is better qualified than a veteran, you keep the better-qualified, non-veteran. In each of the cases before the board, Mr. Mondville noted this was the practice followed by Windham.

The Board approved WSD’s Reduction in Force policy, WBP-07.51 on April 8, 2011. The criterion used to determine the individuals to be impacted by a RIF has been relatively unchanged since 1993.

In a RIF, Mr. Mondville stated that the district considers five criteria: certification; performance as reported on the most recent evaluation; seniority with the district; professional background outside the district; and educational background. Each is considered in turn, and ties are eliminated. Once identified, the best qualified were offered new contracts for 2011-2012, and the least qualified were, unfortunately, given RIF letters. How many were retained and how many were eliminated in a region or at a unit was determined based on other factors outside the scope of these appeals.

As to performance, Mr. Mondville noted the district compared individuals rated by the same managers. Mr. De Leon is a principal in the West Texas Region, and West Texas Regional Administrator Mike Vickers evaluated him. Mr. De Leon was compared to other principals in the West Texas Region, whom Mr. Vickers also evaluated. Ms. Fielding and Ms. Case both work at the Ellis Unit and the Unit Principal, James Masters evaluated them. They were compared with other teachers at Ellis, whom Mr. Masters also evaluated.

Finally, Mr. Mondville reminded the board that when he refers to the best and least qualified, those are relative terms. All three of these individuals received good evaluations, but when the workforce must be reduced 27%, good people have to be cut.

Chairman Bell stated that Mr. De Leon and his attorney have both signed up to speak, as well as Ms. Case. He reminded them of the 10 minutes time frame for each appellant and asked them to focus their appeal on the Veteran's Employment Preference.

Logan Howard, attorney representing Mr. De Leon, stated that he and Mr. De Leon feel that a serious injustice has occurred. He provided a background on Mr. De Leon, including his military experience, educational background, and WSD experience. He stated that Mr. De Leon began working for Windham in 2000 as an academic/vocational counselor and was promoted to principal in 2006. For the past five years, he has been the principal at the Rudd and Montford units.

Mr. Howard noted that the Veteran's Employment Preference was implemented by the Texas Legislature in order to assist veterans who have served this country by helping them gain and maintain employment with the state of Texas. The Veteran's Employment Preference is also applicable in a RIF. It is defined in the Windham Board Policy. It does not require the retention of a veteran in place of a more qualified employee who is not a veteran. The law is clear that when you have two similarly qualified employees, the veteran must be retained. Other than the definition section of the Windham policy, veteran's preference is not mentioned in the actual procedures to be followed in a RIF. The next time veteran's preference is mentioned is in the RIF priority consideration for position vacancies. Aside from the fact that veteran's preference is not mentioned in the RIF implementation criteria for decision, the idea that a principal's qualifications can be effectively gauged by one year's evaluation is unfair. The 2010-2011 evaluations were the only things considered when ranking principals for the RIF. He said this occurred despite the fact that the Windham policy states, "other written evaluative information is to be taken into consideration." Additionally, one year's evaluation does not accurately represent the qualifications of each principal. A principal's qualifications should be shown by a number of factors, including the evaluations, seniority, professional background and educational background. Despite the fact Texas Education Code Section 21.354 stipulates administrators are to be appraised annually, Mr. De Leon received no evaluations for his first three years as principal. In fact, none of the 15 principals in the West Texas Region of Windham received an evaluation for those three years.

Mr. Howard reported that after reviewing two years of evaluations for 12 of the West Texas Region principals, he realized that no principal was rated as needs improvement in any of the 52 categories on the evaluations. He felt it was clear that these evaluations are completely arbitrary and in no way a reflection of a principal's actual performance. He added that the academic performance of a principal's unit would be one basis for objectively measuring each principal's performance.

Mr. Howard compared several West Texas principal's unit accountability ratings and their performance evaluations. He stated that the requirements of the Veterans Employment Preference during a reduction in force were not properly implemented by Windham. The Veterans Employment Preference was never considered by Windham because the only thing considered was one year of evaluations. Objectively, Mr. De Leon is clearly better qualified than a number of principals in the West Texas Region. He had better academic performance than some principals; he has an extensive educational background; and he has more combined years of professional work experience and experience at Windham than all but one principal in the West Texas Region.

Mr. Howard concluded by stating if purely subjective criteria can always trump objective criteria, Veteran's Employment Preference will be rendered meaningless. He thanked the Board for its time and consideration in this matter.

Mr. De Leon addressed the Board and explained why he felt he should retain his position. For the past five years, the schools under his leadership at the Rudd and Montford units have been productive units. As to Veteran's Employment Preference, he felt Windham has ignored the intent of the law.

Ms. Deborah Case thanked the Board for the opportunity to speak. She asked the Board to review Texas Government Code Section 657.004, Preference Required for Public Entities and Public Works. It states that a public entity or public work that does not have 40% of its employees who are entitled to the preference shall, in filling vacancies, give preference to individuals entitled to a veteran's employment preference until it does have at least 40% of its employees who are entitled to the preference. Ms. Case stated this section should be the first consideration in the RIF's implementation.

Ms. Case asked for clarification if her veteran's preference was being used in her reemployment. She has applied for several positions that were for Cognitive Intervention or CHANGES II but has not been selected. The individuals applying are certified teachers, but they are not all trained in Cognitive Intervention, CHANGES II or English as a Second Language (ESL), and they are not a veteran. She requested the Board grant her request to be rehired to a teaching position based not only on her status as a veteran but because she is also highly qualified and trained in literacy, cognitive intervention, CHANGES II or ESL. Ms. Case provided a copy of her statement and certification to the board staff.

Chairman Bell stated that as presentations by registered speakers on this agenda topic were concluded, the Board would adjourn into executive session which is closed to the public in accordance with Texas Government Code Section 551.074. As the executive session is to be held in Salon E-H, all meeting attendees were asked to leave the room. The Board adjourned into executive session at 3:05 p.m.

The regular session of the Windham School District Board of Trustees reconvened in accordance with Chapter 551 of the Texas Government Code the *Open Meetings Act*. A quorum of the board was present and the meeting was declared open at 4:18 p.m.

VETERAN'S EMPLOYMENT PREFERENCE APPEALS (cont.)

Chairman Bell stated that the Board completed its review of the Veteran's Employment Preference appeals and would, at this time, go through a series of motions regarding those appeals.

The Chairman asked for a motion regarding Mr. De Leon, Principal at the Rudd and Montford units.

Judge Larry Gist moved that the WSD Board of Trustees uphold the decision of the WSD superintendent as it relates to the Veteran's Employment Preference and Mr. De Leon being subject to the recent reduction in force.

Terrell McCombs seconded the motion, which prevailed unanimously when called to a vote.

The Chairman asked for a motion regarding Ms. Fielding, teacher at the Ellis Unit.

Janice Harris Lord moved that the WSD Board of Trustees uphold the decision of the WSD superintendent as it relates to the Veteran's Employment Preference and Ms. Fielding being subject to the recent reduction in force.

Mr. Nelson seconded the motion, which prevailed unanimously when called to a vote.

The Chairman asked for a motion regarding Ms. Case, teacher at the Ellis Unit.

Tom Mechler moved that the WSD Board of Trustees uphold the decision of the WSD superintendent as it relates to the Veteran's Employment Preference and Ms. Case being subject to the recent reduction in force.

Ms. Lord seconded the motion, which prevailed unanimously when called to a vote.

(Attachment – Veteran's Employment Preference Overview As It Relates To WSD's Reduction In Force, Summer 2011)

SUPERINTENDENT'S REPORT - UPDATE ON REDUCTION IN FORCE

Debbie Roberts, WSD Superintendent, gave an update on the RIF. She stated that Windham's budget was reduced by 27% during the past legislative session. As a result of those reductions, Windham eliminated 271 positions.

Most of those eliminated positions were associated with the closing of schools on eight units, (including six intensive treatment facilities, along with the Duncan and Central units.) In addition, schools were significantly reduced on those facilities where the average Windham academic age was 40 and older. WSD also eliminated 33% of its principal positions, increasing the number of principals that are supervising two and three campuses. The number of regional offices was decreased from four to three.

During the month of June, Windham supervisors distributed 210 RIF letters. Since that time, 80 of the RIF impacted employees were hired back, and 22 employees have retired. Therefore, 102 of the 210 eliminated staff have either been rehired or have retired. In addition, 15 left for other employment and four for further education.

Despite these cuts, Windham staff are committed to providing educational services to offenders incarcerated in the Texas Department of Criminal Justice in the most effective and efficient manner possible.

REPORT FROM THE CHAIRMAN

1. Importance of Contact Hours on Budget and Student Achievement

Chairman Bell commented that within the educational system, contact hours reflect the actual number of hours a student receives classroom instruction. Tracking contact hours is a vital component of the WSD budget. Windham's funding is allocated from the state's foundation school fund, based on the amount established in the General Appropriations Act, for each contact hour between a teacher and a student. The year's overall contact hours are based on the best 180 days of the 210 day school year. This funding formula provides the largest percent of the WSD budget, so the management of contact hours between a teacher and the student is a priority for the district.

In addition to the budget, the management of contact hours is essential to student achievement and advancement. Outside of the assumed positive relationship between contact hours or attendance and student achievement, there are a number of studies and research papers that validate the correlation.

One of the more circulated studies was conducted by Michael Gottfried from the University of Pennsylvania. His group evaluated a sample of elementary and middle school students starting in September 1994 through June 2001, covering seven school years. The study found a significant relationship between individual attendance and student-level achievement in both GPA scores and standardized testing.

Offender educational achievement is a corner stone in helping to reduce recidivism. As noted in past chairman reports, numerous studies have been conducted that illustrate vocational education and academic education significantly reduce the recidivism rate of participating offenders after their release.

Chairman Bell added that TDCJ currently has the lowest recidivism rate of all large prison systems in the country. Windham plays a big role in helping offenders attain those qualifications that enable them to become contributing members of the community.

Earlier this year, California began taking steps to revamp educational classes in their prison system. This was following the release of a report by the California Rehabilitation Oversight Board which cited problems within the system to include increased class size, reduced time in class, and the elimination of some vocational education programs. The report also found that the state's correctional educational model did not comply with the 2007 recommendations of the California Legislative Analyst Office. Those recommendations included establishing funding based on actual attendance or contact hours to improve participation and achievement – such as Windham's budget structure. Additional recommendations that matched WSD operations were the development of a case management system for offender placement in education programs, and the creation of half-day programs to increase program capacity and effectiveness.

The recent reduction in force at WSD will impact operations, but the district will continue to provide effective educational services to the offender population. The staff is dedicated and knows what happens in the classroom makes an impact.

2. Importance of Leadership Development and Mentoring Within the District

Cuts to the WSD budget resulted in a district wide reduction in force. It also resulted in a number of changes in WSD's operational structure on prison facilities. Reductions of this kind clearly make for trying times. Chairman Bell urged the WSD staff both at the administrative and unit level to not be discouraged. Remain focused on the core responsibility of WSD, which is to reduce recidivism by assisting offenders to become responsible productive members of the community. Chairman Bell noted an interesting thing about hard and trying times is that you can look at them with frustration or you can look at them as a challenge. He also noted challenges can provide an opportunity to assess practices, consider alternative scenarios, and to allow employees to shine as they take on more responsibilities and leadership roles in a changing environment. There are definitely challenges ahead for WSD, but the opportunity is also right for the staff to develop their leadership skills, expand their horizons, and face the future with a positive "go forth" attitude. It is equally important for the staff to support their peers and provide mentoring opportunities because those peers will be the future leaders of the district.

Chairman Bell thanked Ms. Roberts for continued involvement with her staff. He added that the interaction with the education subcommittee will be helpful to the district as we look at new ways to approach education.

3. Chairman's Fitness Challenge

The fourth quarter of the Chairman's Fitness Challenge concluded in mid-July. Chairman Bell thanked the TDCJ and the WSD for their participation. He reported the Division 7 winner for the fourth quarter challenge was Windham Administration, with the Gulf Coast Region finishing second, and the South Texas Region finishing third. These rankings will be posted in the TDCJ *CONNECTIONS* newsletter.

PUBLIC COMMENTS

For public comments on issues within the jurisdiction of the Board, but not posted on the agenda, two registration cards were received prior to the established deadline. During the comment period, speaker comments must remain pertinent to issues under the jurisdiction of the Board. If deviations are sensed, the speaker will be notified. Continued deviations will be considered disruptive conduct. If an

individual registered to speak is not present when first called upon, their name will be called once more following any other registered speakers. If he or she is not present at that point, he or she will forfeit the opportunity to speak. Board members and district staff may ask questions for clarification; however, discussion on a topic cannot take place due to the requirements of the *Open Meetings Act*. Comment time is set for three minutes per individual. The individuals signed up to speak were Floyd and Marilyn Miller.

Mr. and Mrs. Miller addressed the Board concerning Ms. Miller being impacted by the RIF. They explained why they felt her RIF should be rescinded, touching on her background and experience, and asked the board to review and rescind the RIF decision as it applied to her position.

Chairman Bell thanked everyone that made presentations to the Board. He added that their comments had been noted and recorded. The issues raised will be addressed by district staff in written form. He stated that if anyone would like a copy of the response, to leave their name and address on the follow up sheet that is located on the speaker registration table.

The Board adjourned into executive session which is closed to the public in accordance with the Texas Government Code, Section 551.074, at 4:40 p.m. and moved to the Waterloo Room.

ADJOURNMENT

There being no further business, the 265th meeting of the WSD Board of Trustees adjourned at 5:49 p.m.

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Chairman

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Secretary

*Signature on file.

Note: Referenced attachments for the approved minutes are available upon request from the Office of Executive Services..