

**STATE BOARD OF PUBLIC SCHOOL EDUCATION**  
**MINUTES OF MEETING**  
**January 22, 2024**

State Board of Public School Education members met in the CTE 15<sup>th</sup> Floor Conference Room at the State Capitol and via Teams on Monday, January 22, 2024. The meeting was called to order by Chairwoman Sonia Meehl at 1:00 pm.

**State Board Members in Attendance:**

Chair Sonia Meehl  
Vice Chairman Mike McHugh  
Board Member Josh Johnson  
Board Member Lyndsi Engstrom

**State Board Member Present Virtually:**

Superintendent Kirsten Baesler  
Board Member Burdell Johnson  
Board Member Eric Nelson

**Others in Attendance:** Judge Timothy Dawson (Administrative Law Judge), Allyson Hicks (Asst. States Atty), Shauna Marchus (NDDPI), Robert LaFavor (NDDPI), Levi Jacobson (Petitioner), Julie Jacobson (Petitioner), Jeffrey Sattler (Developer), Brandt Dick (Burleigh County Supt.), Jeff Fastnacht (BPS Supt.). Sixteen guests were present for the Jacobson Annexation hearing, three guests stayed for the Bakker Dissolution.

**Others Present Virtually:** Donna Fishbeck (NDDPI), Adam Tescher (NDDPI), Kyle Davison (SEEC Executive Director), Jolene Garty (SEEC), Marlys Ohlhauser

**1. APPROVAL OF MINUTES – November 27, 2023**

Josh Johnson moved to approve the minutes from the November 27, 2023 - regular meeting. Lyndsi Engstrom seconded the motion. No discussion. The motion carried unanimously.

**2. Hold a hearing, discuss, and take action on an appeal of a denial of annexation from the Burleigh County Reorganization Committee regarding the annexation of property from the Apple Creek Public School District No. 39 of Burleigh County in North Dakota to Bismarck Public School District No. 1 of Burleigh County in North Dakota. (Jacobson Appeal)**

The hearing was held Monday, January 22, 2024, beginning at 1:02 pm and was conducted by Administrative Law Judge Timothy Dawson from the Office of Administrative Hearings, pursuant to North Dakota Century Code Chapter 15.1-12. This was an evidentiary hearing for the board to hear testimony and consider other evidence as presented on issues as outlined in the Jacobson annexation packet. The annexation packet from Burleigh County was entered into evidence and marked as Exhibit 1. Judge Dawson explained the rules and procedures of the hearing as well as the penalties for perjury. He

noted that the board wished to waive the rules of evidence per North Dakota Century Code Section 28-32-24. Only relevant evidence will be admitted at the hearing. He explained that at the close of testimonies, the State Board of Public School Education will make the final decision. If any party does not agree with the final decision, they may appeal under North Dakota Century Code Chapter 28-32, the Administrative Agencies Practices Act. The proceedings were recorded, and persons testifying were sworn in by Administrative Law Judge Timothy Dawson.

Brandt Dick, the Burleigh County Superintendent of Schools, testified about the Jacobson family's annexation petition, detailing its history and the reasons behind it. The petition seeks to annex three lots into the Bismarck Public School (BPS) District due to transportation difficulties and employment locations. Dick explained that the first petition was withdrawn due to a misunderstanding but was resubmitted with amendments. The Jacobsons presented evidence of township meeting minutes initially supporting their petition, which were later amended. Transportation challenges were a central concern, as Apple Creek School District doesn't provide transportation, and BPS doesn't offer open enrollment.

Levi Jacobson, the petitioner, testified about the transportation hardships his family faces and the lack of busing to Apple Creek School. He emphasized the negative impact on their work schedules and their children's education, particularly in the long term. He also addressed concerns about the snowball effect of additional annexations, minimizing the impact by including only necessary lots.

Jeffrey Sattler, a lot owner and developer, supported the annexation, acknowledging a slight tax increase but expressing approval.

Troy Miller, representing Apple Creek School, testified against the annexation, presenting evidence of amended meeting minutes and financial information showing losses for Apple Creek School and minimal gains for BPS.

Various members of the Apple Creek Township Board and residents testified against the annexation, emphasizing the value of the small school, concerns about the rural atmosphere, and potential precedent for future annexations.

Additional testimony came from BPS Superintendent Jeff Fastnacht, who clarified BPS's neutrality on the annexation and addressed questions about boundaries and transportation.

Levi Jacobson returned to address questions about tax statements, and Brandt Dick testified about taxpayers' knowledge of their school district through property tax statements. There being no further testimony, Judge Dawson closed the evidentiary hearing at approximately 2:23 pm and returned the meeting to Chair Meehl.

### **Discussion and Decision:**

Chair Meehl read the Finding of Facts from the Jacobson annexation packet. She noted that in section C2 of the petition, the statement regarding bonded indebtedness, to which

the petitioned property would be subjected is not applicable as Apple Creek does not have any bonded indebtedness.

Allyson Hicks read section M - change in disparity in current per-student valuation.

Chair Meehl asked about the adjustment of numbers in Section M, questioning why the enrollment figures for Bismarck are being altered when the Jacobsons opted not to send their daughter to school last year. Allyson Hicks answered that this count includes any child between four and 17 years old, looking ahead to the future when the minor child will attend school.

Allyson Hicks explained that because this hearing is an appeal, the board should review the appeal on a de novo basis. She directed the State Board members to consider the facts presented at the hearing and form their own decisions based on the information presented today. She explained that they do not approve or disapprove of the county committee's actions. She reminded the board members that they are to ensure agreement with all the findings, especially in Section O. Allyson Hicks clarified that there was no affirmative denial vote; rather, a motion to approve failed, leading to an effective denial.

Board members added the following relevant factors:

- Transportation is not provided for students by the Apple Creek School District
- BPS does not accept open enrollment from other school districts
- The petition includes the least amount of land
- The Burleigh County reorganization committee voted against approving the petition initially 5-0, and subsequently against 3-2 in the revised petition
- The differences in per-student valuation is reasonable
- Petitioner understands that his taxes would increase if the petition is approved
- The last petition for annexation from Apple Creek to BPS was 2013-2014 and this petition was denied by the State Board of Public Education
- The distance between the residence to the Apple Creek School and between the residence and the Rita Murphy Elementary School differs by 2.6 miles and by 3 minutes.
- There is opposition to the petition at the State Board level
- Petitioner is aware that the school district decides the school of attendance.
- Petitioner is aware that BPS provides transportation, but only to the assigned school.
- Approval would provide greater opportunity for future annexations away from Apple Creek
- Apple Creek provides quality education and before-school and after-school programs.
- Annexation would have a greater impact on the Apple Creek district than on BPS
- It is 2.4 miles from the Jacobson residence to the Apple Creek School

Allyson Hicks referenced section C2 regarding bonded indebtedness, explaining that according to the century code 15.1-12-08, Bismarck's preexisting bonded indebtedness won't

automatically attach to Apple Creek properties unless specified and only new bonded indebtedness would attach to the property.

Chair Meehl directed the board members to clarify the intention on whether or not to attach the bonded indebtedness to the three lots being annexed. She mentioned the fact that the petitioner is aware of the tax increase, regardless of the decision on attaching bonded indebtedness.

Josh Johnson moved that the bonded indebtedness of BPS would be attached to the three lots if the annexation was approved. Lyndsi Engstrom seconded the motion.

NAME	VOTE (Yes/ No)
Vice Chair Mike McHugh	Yes
Board Member Eric Nelson	Yes
Superintendent Kirsten Baesler	Yes
Board Member Burdell Johnson	Yes
Board Member Josh Johnson	Yes
Board Member Lyndsi Engstrom	Yes
Chair Sonia Meehl	Yes

Chair Meehl noted that the motion passed 7-0.

Burdell Johnson moved to deny the annexation for the following reasons:

- One family affecting a large area
- There should have been more research done about school districts

Mike McHugh seconded the motion.

Discussion was held amongst the group on the relevancy and wording of these factors. Josh Johnson mentioned that he did not agree with these factors, and it was discussed that these were not listed as relevant factors before.

Mike McHugh proposed altering the factors of the motion to include the following:

- Approval would provide greater opportunity for future annexation from Apple Creek.

Burdell Johnson agreed to revise his motion to deny the annexation to now include the following reasons:

- The developer did not state which school district the lot was in
- Approval of the petition would have a much greater impact on the Apple Creek School District than on the Bismarck School District.

- Approval would provide greater opportunity for annexations away from Apple Creek School District
- Burleigh County reorganization committee voted against approving the petition initially 5-0, and subsequently against 3-2 in the revised petition

**Discussion – motion to deny the annexation:**

Josh Johnson expressed his intention to deny the petition based on consideration of information from the reorganization committees at the local level and the testimony provided in Jacobson's petition.

Superintendent Baesler expressed gratitude to those providing testimony and acknowledged the concerns raised in opposition. She mentioned that the threats to school districts regarding potential future annexations are real, which the board has seen before in Minot and Williston districts. She stated that the State Board does not want to make decisions that will harm school districts. Supt. Baesler recognized the Jacobson's struggle to balance work schedules and transportation for their children and their effort make sure the children's education is not negatively affected. She stated that the reason schools exist and the reason this Board of Public Education exists is to educate children, and she wants to keep the children at the core of decisions. She asked the leaders of BPS and ACS to come to an agreement to avoid putting families in these difficult situations. She acknowledged the permanent nature of the decision on an annexation and the need to consider factors like land valuation and taxable valuation also.

Burdell Johnson asked about a land exchange option. Chair Meehl mentioned that has not been presented for this annexation.

Eric Nelson acknowledged that the petitioners have done a very diligent job of trying to do what is best for their family, but the community's concerns are also very significant. He suggested that if the board was to approve this annexation, the burden for future annexations should be as diligent as petitioner Jacobson has demonstrated.

Chair Meehl commended the Jacobsons for their thorough approach to addressing concerns of the county board and revising their petition to reduce the lots involved. She stated the family's reasons for seeking an annexation are legitimate, noting the restrictive open enrollment policy of the Bismarck Public School District. She highlighted the family's considerable efforts, such as delaying their daughter's school enrollment by one year in hopes of getting this annexation approved so she could attend a BPS school. Chair Meehl stated that she is inclined to vote in favor of the annexation therefore against the current motion to deny the annexation. Chair Meehl mentioned that local boards may find it hard to act on local issues because they are acting on matters that affect their friends or neighbors.

Chair Meehl called for a vote on the motion to deny the annexation.

NAME	VOTE (Yes/ No)
Board Member Eric Nelson	No
Superintendent Kirsten Baesler	No
Board Member Josh Johnson	Yes
Board Member Burdell Johnson	Yes
Vice Chair Mike McHugh	Yes
Board Member Lyndsi Engstrom	No
Chair Sonia Meehl	No

Chair Meehl noted that the motion failed 4-3.

Superintendent Baesler moved to approve the annexation based on all the factors the State Board listed in Subsection O and for the additional reasons:

- The petitioner has demonstrated the need for his family and the education of a child that is best for them.
- There is quality education opportunities available in both districts
- BPS provides transportation and the ability to get to school will substantially affect the education of the minor child

Eric Nelson seconded the motion.

**Discussion – motion to approve the annexation:**

Superintendent Baesler commented that regardless of how this vote goes, she asked the Bismarck Public School District and neighboring districts to address the potential impact of developments on district boundaries proactively. She emphasized the need for early discussions on various options, including open enrollment, land swaps, and tuition agreements, in order to analyze and explore alternatives for families facing situations similar to the Jacobsons'.

Josh Johnson commended the petitioners for their efforts and expressed that he understood their desire to make the best educational decision for their child, however he is concerned about the potential precedent this approval could set and the impact it may have on the community and school district in the future. Mike McHugh agreed to Josh Johnson's comments and concerns.

Josh Johnson expressed understanding of the petitioners' situation but raised concerns about cases where individuals move into a residence without being aware of the school district boundaries. He emphasized that correcting such oversights might not be the responsibility of this board.

Superintendent Baesler agreed with Josh Johnson's comments, emphasizing that realtors and developers should be responsible for informing individuals about school district boundaries.

She suggested that this issue might need a legislative or regulatory solution and expressed a commitment to discuss potential improvements with lawmakers so this board is not making significant decisions for school districts based on real estate transactions.

Burdell Johnson expressed concern about the potential impact on many individuals in the future if they approve this petition for one family.

Eric Nelson agreed with the concerns raised by Josh Johnson and Mike McHugh about the potential of setting a precedent and emphasized the importance of future petitions, from this area, having as specific details as the petitioner Jacobson's case to earn a favorable vote.

Chair Meehl called for a vote on the motion to approve the annexation:

NAME	VOTE (Yes/ No)
Vice Chair Mike McHugh	No
Board Member Lyndsi Engstrom	Yes
Board Member Burdell Johnson	No
Superintendent Kirsten Baesler	Yes
Board Member Eric Nelson	Yes
Board Member Josh Johnson	No
Chair Sonia Meehl	Yes

Chair Meehl noted that the motion passed 4-3, the annexation is approved and it will take effect on July 1, 2024.

Chair Meehl called a recess at 3:32 and called the meeting to order at 3:44 pm.

**3. Review the record, discuss, and take action on the proposed dissolution of the Bakker Public School District #10 to Strasburg Public School District #15 in Emmons County.**

Chair Meehl called up Brandt Dick to answer questions from Allyson Hicks.

Allyson Hicks stated that in the county dissolution meeting minutes, there are specific motions related to specific dissolution factors related to the allocation of money and property, but she did not find a motion adopting the findings of fact and recommending dissolution, even though the board signed the page stating that they determine it shall be dissolved. She asked if that was an error in the minutes, or was a motion not made. Brandt Dick stated that he did not know they had to have a motion to formally approve because all the information showed what the board members were agreeing to.

Allyson Hicks proposed that the State Board not deny this dissolution but instead table it. She

requested clarification from the Emmons County Reorganization Committee. She stated that they do not need another hearing, but there needs to be a motion adopting page 16 of the packet.

Mike McHugh moved to table consideration of the dissolution of the Bakker School District. Lyndsi Engstrom seconded.

**Discussion - Bakker Dissolution:**

Lyndsi Engstrom asked if there would have been another way to have caught this issue in advance of guests traveling here. Allyson Hicks answered that if there is a statutory requirement that is missing, she could call and handle it ahead of time. She stated that in this case, it is an opinion, and the State Board could have proceeded. She explained she could not have made that decision on her own. She stated the board could infer the motion, but then they would accept the legal liability, so the board members have to decide.

Chair Meehl called for a vote on the motion to table the Bakker Dissolution:

NAME	VOTE (Yes/ No)
Board Member Josh Johnson	Yes
Board Member Burdell Johnson	Yes
Board Member Eric Nelson	Yes
Board Member Lyndsi Engstrom	Yes
Superintendent Kirsten Baesler	Absent – Not voting
Vice Chair Mike McHugh	Yes
Chair Sonia Meehl	Yes

Chair Meehl noted that the motion passed 6-0.

Allyson Hicks requested that Brandt Dick email her directly once the committee meets and she will have it put back on the next State Board meeting's agenda.

**4. REA Presentation:**

- a. SEEC – South East Education Cooperative: Kyle Davison and Jolene Garty.

Jolene Garty and Kyle Davison discussed the SEEC's legislative history, growth, structure, and key programs. They presented details of their members, listing 36 member districts, including 38,789 students. They outlined their governing board and detailed their organizational chart including the agency's 42 total employees. They mentioned that their philosophy focused on professional development coordination and they also discussed outcomes of the 2022 Cognia accreditation. The strategic plan, diverse revenue streams, and a projected budget of \$9 million were outlined. They also discussed SEEC and PK-12 Strategic Vision Framework and discussed various programs stating their



most impactful work is in early childhood experiences. Their focus on educational development to produce quality education personnel and student services, as well as future organizational growth and sustainability, addressing workforce challenges, behavioral health, and emerging technology were outlined.

Josh Johnson expressed gratitude to SEEC for their statewide leadership. He acknowledged the prevalent challenges schools face in behavioral health and inquired about the support that SEEC or other areas can offer. Kyle Davison responded by emphasizing the need for better infrastructure to provide access to necessary professionals. He suggested the consolidation of special education units to allocate funds more efficiently and closer to students. He also highlighted the need for a closer relationship between Human Services and schools to provide stronger infrastructure, build better capacity in the schools, and better understand how to access economic and support assistance.

Superintendent Baesler expressed gratitude for the partnership between DPI and SEEC and showed appreciation for SEEC's expertise in assisting schools with complex tasks related to Medicaid and behavioral health. She asked for more details on how they are assisting school districts to not leave money on the table that is there for Medicaid as they are seeking services from the schools; she also asked for clarification if it is just for their region or for the state. Kyle Davison responded that Medicaid billing covers the whole state, including all students with IEPs and parents who qualify for Medicaid, which is approximately 15% in any district. He noted it generates six to seven million dollars. He mentions the expansion of Medicaid administrative claiming (MAC) to include administrative services beyond direct care, and efforts to include students without IEPs in the billing process. Superintendent Baesler also asked how the State Board or DPI can support SEEC's initiatives and encourage school districts to utilize available resources, especially in the context of behavioral health. Kyle Davison agreed to provide opportunities.

Chair Meehl asked about the process for schools and districts to become members of SEEC. Kyle Davison explained that schools must be contiguous to another REA, and there is a process through the Superintendent of Public Instruction for approval to opt out of SEEC and join another REA. Discussion was held about the challenges of serving a diverse range of districts. Kyle Davison noted they do not have the staff to serve 36 school districts at the level they want or need, so they drive interest in those districts that collectively want to move in a certain direction and focus on initiatives that can be scaled for broader impact.

Superintendent Baesler mentioned that there is a webinar coming up about funding your plan versus how to spend your funds. The link for that webinar was provided: [State Board of Public School Education | North Dakota Department of Public Instruction \(nd.gov\)](#)

Josh Johnson moved to accept the REA presentation of SEEC. Mike McHugh seconded. No discussion. The motion was approved unanimously.

There being no other business before the Board, the meeting was adjourned at 4:29 p.m.

**NEXT MEETING:** The next meeting is scheduled for February 26, 2024 at 1:00 p.m.

Minutes taken and prepared by Shauna Marchus

Respectfully submitted,

ATTEST:

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Sonia Meehl  
Chairwoman

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Date

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Kirsten Baesler  
Executive Director & Secretary

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Date