

APPROVED
25-2005

Rockville, Maryland
September 26, 2005

The Board of Education of Montgomery County met in regular session at the Carver Educational Services Center, Rockville, Maryland, on Monday, September 26, 2005, at 6:30 p.m.

Present: Mrs. Patricia B. O'Neill, President
in the Chair
Mr. Steve Abrams
Ms. Sharon W. Cox
Ms. Valerie Ervin
Dr. Charles Haughey
Mrs. Nancy Navarro
Mr. Gabriel Romero
Mr. Sebastian Johnson, Student Board Member
Dr. Jerry Weast, Secretary/Treasurer

Absent: None

or () indicates student vote does not count. Four votes needed for adoption.

RESOLUTION NO. 515-05 Re: **RESOLUTION FOR CLOSED SESSION**

On recommendation of the Superintendent and on motion of Ms. Cox seconded by Mr. Romero, the following resolution was adopted unanimously:

WHEREAS, The Board of Education of Montgomery County is authorized by the *Education Article* and *State Government Article* of the *Annotated Code of Maryland* to conduct certain meetings or portions of its meetings in closed sessions; now therefore be it

Resolved, That the Board of Education of Montgomery County conduct a closed session on September 26, 2005, in Room 120 from 6:00 to 6:30 p.m. to discuss the Human Resources Appointments with a subsequent vote in open session, as permitted under Section 10-508(a)(1) of the *State Government Article*; and be it further

Resolved, That the Board of Education of Montgomery County receive legal advice as permitted under Section 10-508(a)(7) of the *State Government Article*; and be it further

Resolved, That the Board of Education of Montgomery County dedicate part of the closed session on September 26, 2005, to acquit its executive functions and to adjudicate and review appeals, which is a quasi-judicial function outside the purview of the Open Meetings Act under Section 10-503(a) of the *State Government Article*; and be it further

Resolved, That this portion of the meeting continue in closed session until the completion of business.

RESOLUTION NO. 516-05 Re: **APPROVAL OF THE AGENDA**

On recommendation of the Superintendent and on motion of Ms. Cox seconded by Dr. Haughey, the following resolution was adopted unanimously:

Resolved, That the Board of Education approve its agenda dated September 26, 2005.

RESOLUTION NO. 517-05 Re: **WALK TO SCHOOL DAY**

On recommendation of the Superintendent and on motion of Mr. Abrams seconded by Dr. Haughey, the following resolution was adopted unanimously:

WHEREAS, In 1997, the first national “Walk to School Day” was sponsored in Chicago and, in 2000, the first international “Walk to School Day” was celebrated; and

WHEREAS, East Silver Spring Elementary School was the first Montgomery County Public School to sponsor a local “Walk to School Day”; and

WHEREAS, An estimated 25,000 children nationally are injured or killed as pedestrians by motor vehicles each year; and

WHEREAS, Many children could be saved from injury and death each year if every community took steps to make pedestrian safety a priority, to teach children about pedestrian safety, and to become aware of the difficulties and dangers that children face on their trip to school or the bus stop each day; and

WHEREAS, Obesity rates among children have more than doubled in the past 20 years, according to the National Longitudinal Study of Youth; and

WHEREAS, Parents and community leaders again are joining together nationwide to walk children to school or to the bus stop to promote pedestrian safety in their community and, also, to promote physical fitness; now therefore be it

Resolved, That the Board of Education proclaim October 5, 2005, as “Walk to School Day”; and be it further

Resolved, That the school system notify the public and school community of “Walk to School Day,” publicize this resolution and the school system’s participation through internal and external media, and encourage everyone to consider the safety of pedestrians and, in particular, student walkers—every day.

Re: **PUBLIC COMMENTS**

The following people testified before the Board of Education:

	<u>Person</u>	<u>Topic</u>
1.	Cindy Kerr	Language Assistance
2.	Lee Brundidge	Ex-Gay
3.	Evelyn Frankl	Tracking
4.	Fred Evans	Safety and Security
5.	John Morgan	New Curriculum
6.	Mark Adelman	Use of Appropriate Language in Education Policy
7.	Kelly Giblin	Community Outreach
8.	Fran Rothstein	Equity in Education
9.	Reta Johnson	Sex Education Curriculum
10.	Ruth Jacobs	Revised Curriculum
11.	Irene Tituana	Language Access
12.	Candance Kattar	Language Access
13.	Jim Kennedy	Health Curriculum
14.	Alejandrina Funes	Centro de familia
15.	Sarah Bisceglie	Safety & Security of Students

Re: **BOARD/SUPERINTENDENT COMMENTS**

Dr. Weast said the entire MCPS family was very sad and wished to express its condolences to the families affected by the tragic events at James Hubert Blake High School. MCPS is developing strategies with other Montgomery County agencies to deal with violence. First, there will be an increased police presence at athletic events. Second, all vacant education facility officer positions will be filled as soon as possible. Third, MCPS will increase its visibility with new event jackets. Fourth, there will be more lights and cameras where needed. Fifth, staff will hear principals' suggestions and insights. Sixth, activities for children will continue. Violence is systemic and there must be comprehensive countywide solutions.

Mr. Johnson reported that he visited with hurricane evacuees from the Gulf who are attending school in MCPS. He enjoyed visiting with the students and welcoming them to Montgomery County. Also, the first Student Advisory Committee meeting was held last week, and there are interesting concerns, including the safety issue.

Mrs. Navarro expressed her condolences to the families. She commended the superintendent on the steps that are being taken to bolster safety within the county.

Mr. Abrams thanked the superintendent for his comments and the measured response to the recent tragedy. He was encouraged by the recognition a need for heightened awareness balanced with the continuance of normal student activities. The educational facilities officer program is important, and he hoped that the county would expand the program.

Dr. Haughey agreed with Mr. Abrams, and he knew that there were many people in the community ready to offer help.

Ms. Ervin knew that the community was grieving and both families will never be the same. There is a need to get to the root cause of violence in Montgomery County.

Mr. Romero stated that language should not be a barrier, and he pointed out that people bring a history and culture to Montgomery County. He was pleased that people wanting translation services had come to the Board to express their needs.

Ms. Cox joined her colleagues in sending heartfelt condolences to the families. Throughout the public comments, there was an underlying theme of engaging students. The system needs to see them as individuals who have worth and should be treated with respect. MCPS does not have the capacity to do this alone; all community groups must work together.

Mrs. O'Neill was pleased that people came to the Board to express their ideas and needs. The Strategic Planning forums included the need for translation services and support of non-English speaking students. All parents want the best for their children. The tragedy at Blake was difficult for everyone, and students should be aware of consequences of their actions.

RESOLUTION NO. 518-05

Re: **APPROVAL OF MARYLAND ENERGY ADMINISTRATION FINANCING AGREEMENT FOR ROBERTO CLEMENTE MIDDLE SCHOOL ENERGY CONSERVATION PROJECT**

On recommendation of the Superintendent and on motion of Dr. Haughey seconded by Ms. Cox, the following resolution was adopted unanimously:#

WHEREAS, On June 14, 2005, the Board of Education (Board) approved an energy performance improvement contract for work at Roberto Clemente Middle School; and

WHEREAS, The Maryland Energy Administration, an agency of the State of Maryland, has offered the Montgomery County Public Schools below-market financing of 2 percent per year for the sum of \$245,000; and

WHEREAS, The general counsel for the Board has reviewed the loan agreement and is of the opinion that it is within the authority of the Board to approve such an agreement subject to a non-appropriation clause; and

WHEREAS, The project will improve system performance and generate substantial energy cost savings/avoidance that will offset the initial investment; and

WHEREAS, The repayment of the loan is to be made from energy savings in future years and is limited by a non-appropriation clause; now therefore be it

Resolved, That the Montgomery County Board of Education approve the loan agreement with the Maryland Energy Administration for \$245,000 to fund the energy performance improvements at Roberto Clemente Middle School; and be it further

Resolved, That the Board president and the superintendent be authorized to execute the documents necessary for this transaction.

RESOLUTION NO. 519-05 Re: **AWARD OF CONTRACT – RICHARD MONTGOMERY HIGH SCHOOL**

On recommendation of the Superintendent and on motion of Dr. Haughey seconded by Ms. Cox, the following resolution was adopted unanimously:#

WHEREAS, On January 13, 2004, the Board of Education authorized staff to utilize a construction management process for the Richard Montgomery High School replacement project; and

WHEREAS, On August 9, 2005, a single bid was received for the heating, ventilation, and air conditioning (HVAC) work; and

WHEREAS, The single bid exceeds the estimated cost for the HVAC work; and

WHEREAS, State procurement statutes allow local education agencies to negotiate for a lower cost if there is only a single bidder for a project; and

WHEREAS, The contractor, Ronco Mechanical Contractors, Inc. (Ronco), agreed to explore ways to reduce the cost of the HVAC work and negotiate a price that is lower than their bid; and

WHEREAS, On September 13, 2005, a contract was awarded for the underground piping portion of the bid to Ronco to keep the project on schedule while the final price was being negotiated; and

WHEREAS, Ronco has agreed to unilaterally lower their total bid price by \$200,000 without any change in the project specifications; and

WHEREAS, Staff has recommended that the balance of the HVAC work for the Richard Montgomery High School replacement project be awarded to Ronco with a \$200,000 reduction in their bid price; and

WHEREAS, The Minority Business Enterprise participation for the Richard Montgomery

High School replacement project will be reported at the completion of all bid activity for this project; and

WHEREAS, Ronco has completed similar work successfully for the Montgomery County Public Schools; now therefore be it

Resolved, That a contract be awarded to Ronco Mechanical Contractors, Inc., in the amount of \$11,498,498 for the mechanical package for the Richard Montgomery High School replacement project, less the underground piping portion, in accordance with drawings and specifications prepared by SHW Group, LLP.

RESOLUTION NO. 520-05 Re: **ROCKVILLE HIGH SCHOOL – DELAY CLAIM**

On recommendation of the Superintendent and on motion of Mr. Abrams seconded by Ms. Cox, the following resolution was adopted unanimously:#

WHEREAS, During construction of the Rockville High School modernization project, a number of changes to the design were needed due to unforeseen conditions in the old building and interface issues between the new construction and existing structure; and

WHEREAS, These changes delayed the project work because they impacted the critical path of the construction schedule; and

WHEREAS, The contract completion date could not be extended because it would have impacted the reopening of Northwood High School since Rockville High School was housed there during its modernization; and

WHEREAS, The contractor agreed to proceed with the changes and accelerate the remaining work to enable Rockville High School to open as scheduled for the 2004–05 school year with the understanding that the additional cost would be negotiated after the project was completed; and

WHEREAS, Staff has negotiated a final contract payment settlement that is significantly less than the contractor's claim for the additional project cost; and

WHEREAS, Funds are available in the modernization program contingency for this payment; and

WHEREAS, Staff feels the settlement is equitable and recommends approval to avoid potential litigation; now therefore be it

Resolved, That a change order in the amount of \$2,270,000 be approved for the contract with Hess Construction Company for the modernization of Rockville High School as settlement for all revisions to the contract requirements and schedule impacts.

RESOLUTION NO. 521-05

Re: **RECOMMENDED FY 2006 SUPPLEMENTAL
APPROPRIATION FOR THE ENTREPRENEURIAL
ACTIVITIES FUND**

On recommendation of the Superintendent and on motion of Dr. Haughey seconded by Ms. Cox, the following resolution was adopted unanimously:#

Resolved, That the superintendent of schools be authorized to receive and expend, subject to County Council approval, an FY 2006 supplemental appropriation of \$100,000 for the Entrepreneurial Activities Fund in the following category:

<u>Category</u>	<u>Positions</u>	<u>Amount</u>
81 Entrepreneurial Activities Fund	<u>2.0*</u>	<u>\$100,000</u>
Total	<u>2.0*</u>	<u>\$100,000</u>

*Positions

*1.0 Customer services specialist

*1.0 Bindery equipment operator

and be it further

Resolved, That this supplemental appropriation be funded with \$100,000 from increased graphics and printing services revenue; and be it further

Resolved, That a copy of this resolution be forwarded to the county executive and County Council; and be it further

Resolved, That the county executive be requested to recommend approval of this resolution to the County Council.

RESOLUTION NO. 522-05

Re: **UTILIZATION OF THE FY 2006 PROVISION FOR
FUTURE SUPPORTED PROJECT FUNDS**

On recommendation of the Superintendent and on motion of Dr. Haughey seconded by Ms. Cox, the following resolution was adopted unanimously:#

WHEREAS, The grants qualify for a transfer of appropriation from the Provision for Future Supported Projects, pursuant to the provisions of County Council Resolution No. 15-631, approved May 27, 2005; and

WHEREAS, The projects do not require any present or future county funds; and

WHEREAS, Sufficient appropriation is available, within the FY 2006 Provision for Future Supported Projects, to permit the transfers within state categories; now therefore be it

Resolved, That the superintendent of schools be authorized to receive and expend, within the FY 2006 Provision for Future Supported Projects, as specified below:

<u>Project</u>	<u>Positions</u>	<u>Amount</u>
Quality Teacher Incentive Program		\$ 12,000
Montgomery County Infants and Toddlers Program		55,905
Individuals with Disabilities Education Act – Alternative Maryland State Assessment		15,000
Emotional Disabilities Cluster Model	1.0*	185,000
Individuals with Disabilities Education Act – Transition, Dropout, and Graduation Gap		40,000
Arts in Education Model	1.0*	248,818
Enhancing Immersion Programs K-8	0.5*	175,777
Fine Arts Initiative		137,085
Judith Hoyer Early Care and Education – Gaithersburg Judy Center	1.0*	322,000
Judith Hoyer Early Care and Education – Silver Spring Judy Center	2.5*	202,988
Judith Hoyer Enhancement Grant for Local School Systems		100,000
Title I		<u>405,189</u>
Total	<u>6.0*</u>	<u>\$ 1,899,762</u>

Positions

- *1.0 Social worker
- *1.0 Teacher
- *0.5 Clerical
- *2.0 Program manager
- *1.0 Teacher
- *0.5 Secretary

and be it further

Resolved, That a copy of this resolution be sent to the county executive and County Council.

RESOLUTION NO. 523-05 Re: **AWARD OF CONTRACT FOR DENTAL PLANS**

On recommendation of the Superintendent and on motion of Mr. Abrams seconded by Ms. Cox, the following resolution was adopted unanimously:#

WHEREAS, From time to time, Montgomery County Public Schools bids elements of the Employee Benefit Plan to ensure that the programs offered are competitive and cost effective; and

WHEREAS, Having been duly advertised under Request for Proposals 4178.1, Dental Program and Services, companies were asked to submit proposals to provide Dental Preferred Provider Option and Dental Maintenance Organization benefits to Montgomery County Public Schools employees and retirees; and

WHEREAS, Aon Consulting, Inc., was retained by Montgomery County Public Schools to assist staff in evaluating proposals and conducting finalist interviews; and

WHEREAS, Staff has identified a vendor that best meets the needs of Montgomery County Public Schools; and

WHEREAS, Staff recommends awarding a contract to provide both Dental Preferred Provider Option and Dental Maintenance Organization coverage for Montgomery County Public Schools employees and retirees to Aetna, Inc.; and

WHEREAS, This recommendation was shared with the employee bargaining units through the Joint Employee Benefits Committee; now therefore be it

Resolved, That a contract for Dental Preferred Provider Organization and Dental Maintenance Organization plans be awarded to Aetna, Inc.; and be it further

Resolved, That the superintendent of schools be authorized to execute the documents necessary to implement this action.

RESOLUTION NO. 524-05 Re: **HUMAN RESOURCES APPOINTMENT**

On recommendation of the Superintendent and on motion of Mr. Abrams seconded by Ms. Cox, the following resolution was adopted unanimously:

Resolved, That the following personnel appointment be approved effective September 25, 2005:

<u>Appointment</u>	<u>Current Position</u>	<u>As</u>
Faith Connolly	Acting Director, Department of Shared Accountability	Director, Department of Shared Accountability

Re: PROCUREMENT OF PRESCRIPTION DRUGS

Mrs. O'Neill invited Council Members Denis and Perez to the table. In addition, Ms. Edythe Miller (MCAASP), Ms. Bonnie Cullison (MCEA), and Mr. David Ridich (Local 500) came to the table. Staff available were: Mr. Larry Bowers, chief operating officer; Mrs. Susanne DeGraba, chief financial officer; and Mr. G. Wesley Girling, director, Benefits Strategy and Vendor Relations.

Over the last several months, MCPS staff has been evaluating the possibility of purchasing lower-cost prescription drugs from Canada. This initiative has received support from several areas, including the employee associations and the Montgomery County Council. It also is an initiative that is legally questionable, given the advice of counsel. This memo provides an overview of the background and present circumstances of the initiative for today's discussion.

Background

On November 4, 2003, the Montgomery County Council approved Resolution No. 15-385 on securing lower-price prescription drugs for current and retired employees of Montgomery County agencies. The resolution discussed the affect of the soaring price of prescription drugs and arguments for and against enabling agency employees and retirees to obtain lower-cost drugs from Canada.

The resolution called on the Task Force on Health Benefits Improvements, created on April 29, 2003, by then-Council President Michael Subin, to examine the issue and report to the Council's Management and Fiscal Policy Committee.

On November 25, 2003, the Task Force recommended the creation of an interagency joint labor/management committee to pursue this effort. The committee, composed of County agency benefits staff and union representatives, was convened by Council Member Tom Perez and met on January 9 and 21, February 4 and 19, and March 25, 2004.

The committee focused on three questions about possible drug re-importation from Canada—Is it safe? Is it legal? Is it cost effective? To help answer these questions, the committee convened a public forum on February 23, 2004. The forum, moderated by Mr. Perez, featured an overview by benefits staff on prescription drug costs for agencies and their employees; an expert panel with diverse perspectives on the safety, legal, and cost issues; and a panel of employees with concerns about prescription drugs.

In its April 2004 report, the committee concluded that safety issues can be addressed effectively; that while the legal picture is muddled, the risk of actual litigation is low; and that the annual savings could reach \$6 million with 40-percent participation. The committee recommended that a voluntary program that allows county agency employees, retirees, and their dependents to purchase maintenance drugs from an approved Canadian supplier should be pursued.

During union negotiations in spring 2004, the Board of Education and its three employee associations agreed to support and advocate for the creation of a voluntary Canadian mail order pharmacy option for purchasing maintenance drugs, once it was determined to be safe, cost effective, and legal for MCPS employees. The parties agreed to issue a Request for Proposals (RFPs) seeking bids from Pharmacy Benefit Management companies in Canada for a program of drug re-importation.

On September 21, 2004, the County Council approved a resolution that recommended that the county agencies jointly design and issue a comprehensive RFP seeking proposals from vendors to provide lower-cost maintenance prescription drugs for agency employees and retirees.

Prior to that action, the County Council sought a legal opinion from the Montgomery County attorney. The county attorney opined that the Prescription Drug Marketing Act of 1987 bars re-importation of drugs by anyone, other than the original manufacturer and the Secretary of Health and Human Services, and that a re-importation plan was not legal.

The County Council took the county attorney opinion under advisement, but voted by a 7–2 margin to approve the resolution. The package outlines the experience of other jurisdictions, including the cities of Boston and Springfield, Massachusetts; the states of Wisconsin, Illinois, Rhode Island, and Vermont; and the District of Columbia.

Montgomery County Agency Effort

On January 27, 2005, MCPS and the other county agencies jointly issued an RFP requesting proposals from qualified vendors. Five vendors responded by the March 1, 2005, deadline, and the county agencies and union staff, with the assistance of Aon Consulting, evaluated the proposals. Two vendors were selected for interview—CANUSA Health Group was interviewed on May 25, 2005; and No Borders, Inc., was interviewed on June 24, 2005. CANUSA provides a program to senior citizens of Indiana; the city of Worcester; Rensselaer County, New York; and citizens of Oak Creek, Wisconsin. No Borders, Inc. is involved in programs with the state of Minnesota, Minnesota seniors, and has connections to the City of Boston program.

The county government has not participated in this process primarily because the county attorney would be expected to disapprove any contract entered into between the county government and a Canadian pharmacy. Given the conclusion reached in the county attorney's opinion, there was no reasonable expectation that the county attorney would approve such a contract. Montgomery College and the Maryland-National Capital Park and Planning Commission have been involved in the evaluation of vendors, but have made no commitment to proceed with introducing a Canada drug program.

Fluctuating prices have made the savings analysis challenging, especially since potential savings are eroded during times when the U.S. dollar is weak compared to Canadian currency. To ensure current pricing, CANUSA and No Borders, Inc., were asked to re-price

actual claims paid during the month of May under the prescription drug plan administered for MCPS by Caremark, Inc. Evaluation of the re-priced claims shows that a variety of factors need to be considered when evaluating potential savings, including the following:

Utilization—How many MCPS employees and retirees will be willing to purchase drugs from Canada? Employees currently pay \$10 for a 90-day prescription when purchasing a preferred brand name drug and \$25 when purchasing a non-preferred brand name drug under the Caremark plan. Co-pays would need to be waived to create a financial incentive for MCPS employees to purchase from Canada. It is questionable whether employees will go to Canada to purchase drugs to save \$10 or \$25.

Shipping Charges—Canadian vendors charge anywhere from \$10 to \$15 to ship prescriptions across the border. Caremark includes shipping in its pricing structure. Thus, the difference between Canadian pharmacy and Caremark costs will be partially offset by the Canadian pharmacy shipping charges.

Waiver of Co-pays—Because the plan contemplates waiving co-pays, the first \$10 or \$25 of savings (depending on the drug purchased) go to employees. MCPS will only save money if the differential between the Canada price and the U.S. price is more than the waived co-pay amount. In many instances this is not the case. For example, through Caremark, a 90-day supply of a preferred brand name drug that costs \$100 would cost the employee \$10 and MCPS \$90. If the same drug were purchased through Canada at a price of \$80, the employee would pay \$0 because the co-pay is waived and MCPS would pay \$95 (\$80 plus the \$15 shipping charge). The employee would save money; MCPS would pay more than it pays through the domestic program.

Price Fluctuations—Because prices fluctuate, MCPS would have to monitor regularly the pricing changes to determine if and when there is a financial benefit to permitting the purchase of drugs through Canada.

Savings Estimates

There are three outlines for estimated savings under three utilization scenarios. Scenario 1 assumes 5 percent of eligible active and retiree prescription purchases are routed to Canada. Scenario 2 assumes 8 percent of eligible active and 10 percent of eligible retiree prescription purchases are routed to Canada, and Scenario 3 assumes 40 percent of eligible active and retiree prescription purchases are routed to Canada. Depending on the scenario, the savings for MCPS range from \$154,560 to \$1,235,802. The rows labeled “Annual Lost Co-pay” reflect the co-pays that would be waived to induce employees to purchase their maintenance medications from Canada. The lost co-pay amount also is the savings MCPS employees and retirees would realize under each scenario. Depending on the scenario, employee and retiree savings range from \$33,840 to \$270,792. Staff believes that the assumptions even in Scenario 1 are optimistic. It is highly unlikely that 40 percent of prescriptions would be routed to Canada.

CANUSA Pharmacy Site Visit

Mr. G. Wesley Girling, director of benefits strategy and vendor relations, and Ms. Kathleen McAuliffe, consultant with Aon Consulting, made a site visit to CANUSA's pharmacy in Windsor, Ontario, on Thursday, August 4, 2005. The purpose of their visit was to evaluate CANUSA's pharmacy operation and assess their ability to process prescriptions on behalf of MCPS employees and retirees.

CANUSA and other Canadian pharmacies do not operate out of large mail-order facilities. Rather, they fill prescriptions in retail settings that handle walk-in customers for the community. Prescriptions mailed to the U.S. are filled and mailed by the same pharmacists filling retail prescriptions. While it is clear the retail setting can handle a relatively sizeable demand for mail-order prescriptions, its capacity is limited.

Prescriptions from the U.S. are written by an American doctor, and re-written by a Canadian physician. U.S. customers are required to complete relatively detailed medical disclosure and application forms. If there are problems or if the Canadian physician is unable to interpret the prescription, CANUSA staff will contact the U.S. doctor via fax or telephone to ensure the prescription is filled accurately. Prescriptions are filled at the retail pharmacy, and the pharmacist or pharmacy assistant puts the prescription in a box, affixes the mailing label, inserts required customs documents, and mails the prescription. The customer can track prescriptions through both Canadian and U.S. mail via the CANUSA Web site.

Citizens Plan

During his visit, Mr. Girling confirmed with CANUSA that they would be interested in, and capable of, managing a prescription-drug purchase plan for the citizens of Montgomery County even if the county agencies chose not to implement a plan for their employees. Mr. Girling will facilitate a meeting between CANUSA and Council staff in the coming weeks to explore that possibility.

Legal Opinions

At the July 1, 2005, meeting, the Board's Audit Committee requested that staff seek a legal opinion as to whether the Board of Education could legally proceed with implementing a plan to allow employees and retirees to purchase drugs from Canada. On August 16, 2005, Reese and Carney, Attorneys at Law, rendered an opinion that confirmed the conclusions reached in the aforementioned county attorney opinion. It should be noted that in its opinion Reese and Carney incorrectly indicated that MCPS had recommended a plan. No plan has been recommended at this point. MCPS merely agreed to explore instituting a plan as long as the plan would be safe, legal, and cost effective.

In its opinion, Reese & Carney, LLP, indicated that in addition to current federal law prohibiting the re-importation of prescription drugs, Board members and staff could face potential civil liability as follows:

“Aside from criminal liability, the County Board could face potential civil liability in tort actions filed by employees and/or retirees who might claim to have suffered injuries from the importation of foreign drugs. Notwithstanding the fact that the prescription program will be voluntary and that patients will be required to sign waivers of liability, the potential for litigation exists. In such civil lawsuits, the County Board will not be able to assert the defense of governmental immunity so the current Maryland law placing a \$100,000.00 cap on civil liability would not apply and judgments could exceed that figure.”

MCPS requested a second legal opinion from counsel at DLA Piper Rudnick Gray Carey US LLP (DLA Piper). On August 30, 2005, DLA Piper opined “It is our opinion that a credible argument asserting the legality of such a drug re-importation program, voluntary or otherwise, cannot be made.”

Recent FDA Actions

The states of Nevada and Texas recently proposed legislation that would authorize their respective state Boards of Pharmacy to license Canadian pharmacies to import prescription drugs into their states as a way to bypass federal restrictions. On May 20, 2005, the U.S. Food and Drug Administration (FDA) wrote to the governor of Nevada advising him that the state’s efforts would violate federal law and put citizens at risk. On June 17, 2005, the FDA sent a similar letter to the governor of Texas. While the FDA has not taken any action against any of the municipalities that have introduced a prescription re-importation plan, it continues to reserve the right to do so at any time.

Infrastructure Issues

MCPS would have to put an infrastructure in place to manage a prescription drug re-importation program. This would require additional staff. The school system would need to—

monitor fluctuations in drug price to ensure that plan participants can only purchase drugs that cost less in Canada than in the U.S.;

monitor when prescription drugs come off patent and become available in generic form at which point they are not eligible for purchase in Canada;

communicate with employees to let them know when they need to switch back to the domestic pharmacy because a drug comes off patent or is now less costly domestically;

coordinate purchases between the domestic and Canadian pharmacy to ensure that plan participants cannot purchase the same drugs at both sites (thus allowing them to get more than a 90-day supply at the same time);

establish a mechanism to deal with situations in which a prescription is confiscated by the FDA or customs at the Canadian/U.S. border, including determining who pays for a replacement prescription if a retail override is required to enable a patient to get his/her

medication until a new prescription can be sent from Canada; and

establish a tracking mechanism to ensure that prescriptions are filled with drugs from Canada only. While any contract with a Canadian pharmacy would include language specifying that the drugs purchased by MCPS plan participants must come from Canada, it is common for Canadian pharmacies to partner with European, Middle East, and Third World countries to meet their import demands.

Re: DISCUSSION

Mr. Perez started by stating that the county had a fiscal and health-care crisis. A group convened to study the cost of prescription drugs for employees since the cost has doubled over last five to six years. According to the FDA, the Montgomery County plan for securing drugs via the re-importation of drugs was illegal, but there are varying legal opinions. The question remains: if it is illegal, why have no jurisdictions been sued or reprimanded by the federal government? With regard to sovereign immunity for elected officials, the Board would not lose it unless there was an intentional tort established. Furthermore, studies had answered the questions about the safety of the drugs, and surveys have indicated that 72 percent of employees want to voluntarily sign a waiver to participate in such a program. Finally, the prescription drug plan would save the county a substantial sum of money.

Mr. Denis stated that the Council had a shared vision with the school system, and the Council has never been disappointed by the Board. There is a need for a powerful legal argument to overcome a deliberate act taken by a governmental body since this is a policy issue to procure reasonably priced prescription drugs. Furthermore, a well-constructed contracting process can ensure that tort liability is a non-issue.

Ms. Cullison stated that all MCPS unions come to the Board united in support of this program. During negotiations, there have been significant steps taken to control the cost of prescription drugs. Therefore, out-of-pocket costs for prescription drugs have increased for employees. There was an agreement to restructure co-payments and put out a bid for a supplemental prescription drug mail-order purchasing program. Approval of the voluntary supplemental prescription mail-order would be good for taxpayers, employees, and retirees.

Mr. Rodich commented that all three unions are willing to work with the issues which have been well vetted by the Council and MCPS staff. The employees that work part-time and those at the lower end of the pay scale have to make tough choices when there are multiple prescriptions. Here is an opportunity for leadership born out of courage and recognition that there is a need to help these employees.

Ms. Miller agreed with what had been said by the others. The union negotiated with the understanding that prescription drugs would be procured in the most affordable manner.

Mrs. O'Neill noted that she had had conversations with all union representatives. She has

been struggling with this decision. She was not worried about the safety issues, but she was concerned about the legal issues. She said she had worked incredibly hard for the children of Montgomery County, and she had never been asked to violate the law. The oath of office states that "I do solemnly promise and declare that I will support the Constitution of the United States and that I will be faithful and bear true allegiance to the State of Maryland and support the constitution and laws thereof, and that I will to the best of my skill and judgment diligently and faithfully without partiality or prejudice execute the office of Board member according to the constitution and laws of this state." The attorney general for Maryland, the county attorney, and MCPS general counsel all agree that this plan is illegal. The county attorney's opinion states that "any person who violates any acts of this provision shall be imprisoned for not more than one year or fined not more \$1,000 or both. Felony liability attaches to anyone who knowingly and intentionally violates any of the Food, Drug, and Cosmetic Act." She could not violate the law. However, the county could seek a waiver.

Ms. Ervin thought people had spoken eloquently about this issue, which is one of equity and fairness. Many employees of the school system cannot afford to pay for some of the maintenance drugs they have been prescribed. This is how to save lives, not just dollars. In *Brown v. Board*, there were courageous people who locked arms, broke the law knowingly, and willingly went to jail. She said it is important to point out that the Board has previously negotiated this issue with the union. The Board and the unions agreed to support and advocate for the creation of a voluntary Canadian mail-order pharmacy option for purchasing maintenance drugs. The prescription drug plan will be put out for bid during 2004 and will solicit bids from pharmacy benefit management companies in Canada as well as the United States. She asked the unions to respond. Ms. Cullison replied that in negotiations work was done on cost-saving measures, and one of them was to find a more reasonable prescription program, such as drug importation from Canada.

Mrs. O'Neill noted the difference in language and that the superintendent's paper referred to "legal and safe." Mr. Bowers explained that during negotiations the Board made it clear that "legal and safe" had to be in the supplement drug prescription plan. There is no contract language because the unions and Board continue to disagree.

Ms. Ervin asked if this plan was voluntary and participants sign a waiver, the Board was deliberating whether to approve the RFP. Mrs. O'Neill replied that the item is for action, but there is no recommendation from the superintendent.

Mr. Johnson stated that he was looking for clarity and opinions that would help him to understand the issue and allay fears about the legality. Four legal opinions state that the plan is not legal, and the Board should not ignore those opinions. Under the best plan and 40-percent employee participation, there would be a savings of \$1.2 million a year that will fluctuate based on the economy and strength of the dollar. Furthermore, the new plan could require additional staff. He did not think that defying the law, especially if it is not cost effective, is the best way to serve the interest of employees. He did not support the plan.

Mr. Perez pointed out that legal opinions have been waived in the past in order to pass significance legislation to help people in the county. Mr. Johnson agreed that it is not possible to have absolute certainty on every issue, but the Board is being asked to take a legal risk. That risk does not outweigh what will be gained by the plan.

Mr. Romero was concerned about working things out later. The FDA has not sued anyone, but that is not an assurance that they will not. The tort aspect concerned him greatly, both personally and as a Board member. The program could be implemented if it was legal and saved money. The Audit Committee has studied this issue, and there were questions about whether it would be a cost-saving measure. If it does not save money, there is no need take action.

Mrs. Navarro commented that health-care costs are a big challenge in this country and county. Based on courageous conversations, there is a time to take courageous actions. Almost everything the Board does carries some sort of a liability risk. She thought the savings were significant, and the support personnel could benefit from the plan. She supported the plan.

Mr. Abrams stated that if the county government believed this was important, there are contracts issued by the county under the direction of the county executive. The county executive will not follow the 7-2 vote under his jurisdiction because his attorney will not sign off on the contract.

Ms. Cox noted that the Council's posture on this issue is ceremonial because it cannot take action to enter into in a contract. Furthermore, the county executive has not been convinced to go forward with the plan. Her main concern was that the Board was being asked to move forward as the first agency in Montgomery County. If the Board is sued, that money will come out of the classroom. She could not get by the fact that the Board would have to defy the law, and that is wrong.

Mr. Abrams was amazed by the Council members, because the Board had legitimate questions that the Council members have avoided. There is a benefit to collective purchasing. There is a benefit to collaboration. The question is: why does the school system have to go first? If the Council was committed, why is not the county government putting out a contract? After that, the school system would join as there would be no impediment to the process or criminal attachment to knowingly adopt this plan. Mr. Perez stated that the school system would be the biggest cost saver, and Mr. Girling led the team to investigate the program.

Mr. Abrams noted that the case has not been tested. If as Board member he is forced to implement a contract on which he voted against, he would file suit for declaratory judgment as to whether that criminal penalty attaches. He would not be asked to make a political statement rather than find a way to solve a problem. There is a legal solution, and that is to change the federal law. The Council can choose civil disobedience, but where is the

Council's authority to impose civil disobedience on another elected body where there is a criminal penalty? Mr. Denis stated that he was sensitive to the oath of office, but on what grounds would a lawsuit be filed? Furthermore, the federal government has not sued or brought sanctions to any jurisdiction receiving prescription drugs from Canada.

Mr. Abrams asked Mr. Denis to answer the question about the criminal penalty for violating the statute for any elected official who knowingly breaches the act. As a Council member, the law was not violated because there is no contract. However, a Board member who enters a contract would enter that ambit. Mr. Denis was confident that there would be no legal exposure.

Mr. Abrams noted that the Canadian government is considering laws to restrict export of prescription drugs. There has been speculation on the cost savings, but the school system has spent \$30,000 in staff time pursuing this issue as well as in legal costs. Mr. Denis was concerned about this issue early in the process, and time is spent because people are opposed to the plan.

Mr. Abrams remarked that the cost of medicine is high because development costs are not shared with other countries. The regulatory system in the United States leads to costs. Fixing the drug costs does not resolve the health-care drivers. A local elected Board of Education that is under county and state authority cannot deal with a national issue. He preferred to file a new law.

Dr. Haughey noted that he was a member of the MCPS health-care system and therefore was a recipient. He could recuse himself, but he wanted people to know of his situation. This is a difficult issue, and he thanked everyone for bringing the Board to this discussion.

Re: PROCUREMENT OF PRESCRIPTION DRUGS

On motion of Dr. Haughey and seconded by Mr. Abrams, the following resolution was placed on the table:

Resolved, That the Board of Education defer further consideration of a Canadian prescription drug program for our employees and seek a waiver from the United States Food and Drug Administration unless, in the interim, Congress enacts legislation approving the importation and re-importation of drugs from Canada; provided, however, that should the County Council vote to adopt such a program for county employees without the receipt of such waiver or enactment of such legislation, the Board shall reconsider at that time whether to proceed with a similar program for its employees.

RESOLUTION NO. 525-05(a)

Re: PROCUREMENT OF PRESCRIPTION DRUGS

On motion of Mr. Abrams and seconded by Ms. Cox, the following amendment was

adopted with Mr. Abrams, Ms. Cox, Dr. Haughey, (Mr. Johnson), Mrs. O'Neill, and Mr. Romero voting in the affirmative; Ms. Ervin and Mrs. Navarro voting in the negative:#

Resolved, That the Board of Education defer further consideration of a Canadian prescription drug program for our employees and **encourage the county to** seek a waiver from the United States Food and Drug Administration unless, in the interim, Congress enacts legislation approving the importation and re-importation of drugs from Canada; provided, however, that should the County Council vote to adopt such a program for county employees without the receipt of such waiver or enactment of such legislation, the Board shall reconsider at that time whether to proceed with a similar program for its employees.

RESOLUTION NO. 525-05(b)

Re: **PROCUREMENT OF PRESCRIPTION DRUGS**

On motion of Ms. Cox and seconded by Mr. Abrams, the following amendment was adopted with Mr. Abrams, Ms. Cox, Dr. Haughey, (Mr. Johnson), Mrs. O'Neill, and Mr. Romero voting in the affirmative; Ms. Ervin and Mrs. Navarro voting in the negative:#

Resolved, That the Board of Education defer further consideration of a Canadian prescription drug program for our employees and encourage the county to seek a waiver from the United States Food and Drug Administration unless, in the interim, Congress enacts legislation approving the importation and reimportation of drugs from Canada; provided, however, that should the County Council ~~vote to adopt~~ **Government enact** such a program for county employees without the receipt of such waiver or enactment of such legislation, the Board shall reconsider at that time whether to proceed with a similar program for its employees.

RESOLUTION NO. 526-05

Re: **PROCUREMENT OF PRESCRIPTION DRUGS**

On motion of Dr. Haughey and seconded by Mr. Abrams, the following resolution was adopted with Mr. Abrams, Ms. Cox, Dr. Haughey, (Mr. Johnson), Mrs. O'Neill, and Mr. Romero voting in the affirmative; Ms. Ervin and Mrs. Navarro voting in the negative:#

Resolved, That the Board of Education defer further consideration of a Canadian prescription drug program for our employees and encourage the county to seek a waiver from the United States Food and Drug Administration unless, in the interim, Congress enacts legislation approving the importation and reimportation of drugs from Canada; provided, however, that should the County Government enact such a program for county employees without the receipt of such waiver or enactment of such legislation, the Board shall reconsider at that time whether to proceed with a similar program for its employees.

Re: **AN ASSESSMENT OF LANGUAGE ASSISTANCE SERVICES PROVIDED BY MCPS TO THE SCHOOL COMMUNITY**

Dr. Weast invited the following people to the table: Ms. Jody Leleck, associate superintendent, Office of Curriculum and Instructional Programs; Dr. Michael Cohen, director, Department of Instructional Programs; and Dr. Karen Woodson, director, Division of ESOL/Bilingual Programs.

On June 28, 2005, the Office of Legislative Oversight (OLO) completed a report for the Montgomery County Council on assistance for students and their families with limited English proficiency. The report, titled *An Assessment of Language Assistance Services Provided by Montgomery County Public Schools to the School Community*, contains findings and recommendations that were discussed during a worksession convened by the County Council Education Committee on July 21, 2005. Mr. Thomas E. Perez, Montgomery County Council President, then requested on September 16, 2005, that MCPS address the findings and recommendations and provide a status report to the Council by December 1, 2005. This memorandum provides the Board with a summary of the report, as well as the comprehensive efforts taken by MCPS to work collaboratively in continuing to improve services to limited English proficient (LEP) students and parents.

The growing diversity of Montgomery County underscores the importance of interagency cooperation in providing effective LEP services. In MCPS, the range of students' limited English proficiency is extensive and the composition of nationalities and languages of these students reflects an international scope, with students from more than 160 countries and speaking approximately 140 languages. Since 1995, the number of LEP students has increased by 5,494 students (75 percent) to an overall enrollment of 12,851 in 2004—nine percent of the total MCPS enrollment. By the end of the 2004–2005 school year, the LEP enrollment had increased to more than 13,000 students.

Re: **DISCUSSION**

Ms. Ervin noted the large turnout of people, especially those who spoke about translation services. The OLO report had recommendations, and she wanted to know what the next steps were for MCPS. How many people use the Web site and other services? Ms. Alvez replied that during August there were 1,000,000 documents downloaded—77,000 of which were non-English documents—and 51,000 visitors per day. Dr. Weast added that the ultimate goal is to communicate to parents in their language of choice. Mrs. O'Neill remarked that the MCPS Educational Foundation provides mini-grants to schools to provide training and open computer labs for parents.

Dr. Haughey was impressed with the presentation, and he asked how the funding agencies will be convinced that the investment is paying off. Dr. Weast was confident that children can learn when the staff is convinced that children can learn and there are no barriers of language, poverty, or mobility.

Ms. Cox thought it was important to make clear to staff what they have authority over and to encourage staff to try innovations to overcome barriers. As outreach increases, she assumed

that there would be an increase in the number of people who are familiar with and use the services. The OLO recommendations were for more bilingual counselors and parent outreach services. Will there be an increase in staffing levels over time? Dr. Woodson replied that the ESOL team is proactive in identifying schools that have needs and providing counseling and parent outreach. Ms. Cox remarked that the recommendation of OLO was not a policy but regulatory language.

Mrs. Navarro asked if the report was not an assessment of ESOL services, but focused on ways to communicate with parents and community members. She asked what the \$40 million is targeted to accomplish. Dr. Woodson stated that was a large share of the ESOL counseling program. Ms. Ervin asked for a break down on how the \$40 million is spent in LEP Services and Support.

Mrs. Navarro asked about the Translation Unit's timeline, and what the expectation is to accomplish the goals. Ms. Leleck replied that it depends on funding and the plans are to expand with four communication specialists.

Mrs. Navarro was convinced that there was a need to partner with community-based organizations since they were able to mobilize the large turnout for this meeting. They came to the Board because they believe MCPS has more to accomplish. She thought it would show MCPS' commitment if the Board took action on the OLO recommendations.

Mr. Romero spoke about anecdotal experience, such as when Hispanic students are involved in higher-level courses and they do better on exams. Also, he thought it was safe to say that students who do not do well have little or no support at home. Furthermore, the education level of parents plays a role in how much support they can provide their children. Another aspect is attitude, not only in the school house, but also at home. Parents must be encouraged to be responsible for their child. Mr. Romero planned to speak to the administration about a focused approach to develop linkages and partnerships. Dr. Weast commented that it is MCPS' responsibility to eliminate institutional barriers and attitudes—individual or collective—that create a system that does not support having some children take the higher-level courses that are the prerequisites for success, especially on the SAT and High School Assessment (HSA).

Ms. Ervin stated that Title VII of the Civil Rights Act states every student in the school system has the right to equal access. She thought the OLO report was speaking directly to that issue. The students at the Board meeting do not feel that they have equal access to education based on limited English proficiency. Mr. Romero thought it was about capacity not willingness on the part of the school system. Ms. Ervin stated that the system does not have that luxury since it is a legal obligation to provide equal access. Ms. Leleck replied that the OLO report found MCPS to be in compliance with all federal laws, but MCPS wants to get over the language barrier so that students can be successful. Dr. Weast commented that there are slots open for early childhood education, and those children should receive language education before they start school.

Mrs. Navarro commented that community groups have worked hard to empower parents, and the community will react to education issues. It is wonderful to collaborate with other agencies.

Mrs. O'Neill pointed out that there is always a need for improvement. MCPS has more children who need support. She had always supported more ESOL services for adults because this is one way those parents can help their children.

Re: **AN ASSESSMENT OF LANGUAGE ASSISTANCE SERVICES PROVIDED BY MCPS TO THE SCHOOL COMMUNITY**

On motion of Mrs. Navarro and seconded by Mrs. O'Neill, following resolution was placed on the table for consideration at the next meeting:

Resolved, That the Board of Education refer the Office of Legislative Oversight's Report to the superintendent of schools for the drafting of either a new policy/regulation or amending of existing policy/regulation or a stand-alone regulation to be considered by the Board's Policy Committee, to establish greater systemwide awareness and more consistent use of language assistance services, to include the following elements:

1. identifying the language assistance services available
2. incorporating existing procedures on the use of language assistance services for recurring events such as PTA meetings and parent-teacher conferences
3. establishing procedures on the use of language assistance services for unforeseen events such as an unscheduled school visit by a parent or an emergency phone call from a parent whose native language is other than English
4. providing professional development on when and how to use language assistance services
5. providing adequate notice to LEP parents about the availability of language assistance services
6. establishing a process that tracks the use and evaluates the effectiveness of the language assistance services
7. identifying responsible offices
8. recruiting and strategic placement of bilingual school-based staff
9. partnering with community-based organizations.

Ms. Cox asked staff to talk to the people who testified to ascertain if staff is counseling students to leave school or giving inaccurate information about GED requirements and testing. Ms. Cox requested a report on what needs to be done to address real or perceived issues.

**Mr. Johnson left the meeting.

Re: **UPDATE ON TEACHER PROFESSIONAL GROWTH**

SYSTEM

Dr. Weast invited the following people to the table: Mrs. Darlene Merry, associate superintendent, Office of Organizational Development; Ms. Bonnie Cullison, president, MCEA; Ms. Catherine A. Jasperse, principal, Rock Creek Valley Elementary School; Ms. Stacy A. Ashton, staff development teacher, Rock Creek Valley Elementary School; and Mr. Robert Durbin, lead consulting teacher, Office of Organizational Development.

There was an update to the Board on the progress implementing the Teacher Professional Growth System (PGS), which is one of three professional growth programs for MCPS employees. Following the successful implementation of the teacher PGS, similar systems were initiated for administrative and supporting services staff. The focus of the teacher PGS has been on building the capacity of staff to effectively develop instructional skills and practices to maximize student achievement. As a result, staff has focused on ensuring that new and veteran teachers continue to develop their skills in effective teaching, their knowledge of the curriculum, and their mastery of subject area content. MCPS has been recognized for these efforts and the results. At the Harvard University Public Education Leadership Project program this summer, MCPS was identified as a school district that has realized great success in building staff capacity that has resulted in increased student achievement. Additionally, in the August 10, 2005, edition of *Education Week*, the MCPS workforce excellence initiative was highlighted as a best practice.

Ms. Cox requested information about the Teacher Professional Growth System. She asked that the report include:

1. What systems have been established to design, support, monitor, evaluate, and make appropriate changes, when the data show something is not working as planned. Give examples of those systems, what they show, and how they are used.
2. Is there disaggregated data on the evaluation of the staff development teachers (SDTs)? What is MCPS doing to address poor evaluations?
3. What work remains to strengthen the use of the Professional Development Plan (PDP)?
4. What are the implications for the professional growth system to remove the barrier of low expectations for students? Will staff development offerings be revised? Will staff work with SDTs to address that issue?
5. What is being done to improve the feedback process about the implementation of the SDT role, and is there a data collection system?
6. Is the data collected from the PGS used to create better training to focus efforts with SDTs or course offerings? What is the alignment with the Strategic Plan? Could staff provide a framework that shows the alignment?

On recommendation of the Superintendent and on motion of Ms. Cox seconded by Dr. Haughey, the following resolution was adopted unanimously by members present:

WHEREAS, The Board of Education of Montgomery County is authorized by the *Education Article* and *State Government Article of the Annotated Code of Maryland* to conduct certain meetings or portions of its meetings in closed sessions; now therefore be it

Resolved, That the Board of Education of Montgomery County conduct a closed session on Tuesday, October 11, 2005, in Room 120 of the Carver Educational Services Center to meet from 8:30 to 10:00 a.m. and 12:15 to 2:00 p.m. to discuss personnel matters, as permitted under Section 10-508(a)(1) of the *State Government Article*, consult with counsel to obtain legal advice, as permitted by Section 10-508(a)(7) of the *State Government Article*; review and adjudicate appeals in its quasi-judicial capacity; and discuss matters of an executive function outside the purview of the Open Meetings Act (Section 10-503(a) of the *State Government Article*); and be it further

Resolved, That such meetings shall continue in closed session until the completion of business.

RESOLUTION NO. 528-05 Re: **REPORT OF CLOSED SESSION**

On recommendation of the Superintendent and on motion of Ms. Cox seconded by Mr. Romero the following resolution was adopted unanimously by members present:

On September 13, 2005, by unanimous vote of members present, the Board of Education voted to conduct closed sessions as permitted under the *Education Article* § 4-107 and *State Government Article* § 10-501, *et seq.*, of the *Annotated Code of Maryland*.

The Montgomery County Board of Education met in closed sessions on September 13, 2005, from 9:05 to 9:55 a.m. and 1:15 to 2:30, p.m. in Room 120 of the Carver Educational Services Center, Rockville, Maryland, and

1. Reviewed and considered the following appeals in its quasi-judicial capacity outside the purview of the Open Meetings Act (Section 10-503(a) of the *State Government Article*): NEC-2005-27, DCC-2005-28, DCC-2005-30, DCC-2005-31, T-2005-32, T-2005-33, NEC-2005-34, NEC-2005-35, NEC-2005-36, DCC-2005-38, NEC-2005-42, NEC-2005-47, 2005-26, 2005-31, 2005-32, and 2005-33.
2. Reviewed and adjudicated the following appeals in its quasi-judicial capacity outside the purview of the Open Meetings Act (Section 10-503(a) of the *State Government Article*) with a subsequent vote to approve in open session: 2005-18, 2005-21, 2005-23, 2005-24, T-2005-49, and NEC-2005-50.
3. Discussed the Human Resources Monthly Report and appointments with a subsequent vote in open session, as permitted under Section 10-508(a)(1) of the

- State Government Article.*
4. Considered the acquisition of real property for a public purpose and matters directly related thereto, as permitted under Section 10-508(a)(3) of the *State Government Article* and Section 4-107(d) of the *Education Article*.
 5. Received legal advice as permitted under Section 10-508(a)(7) of the *State Government Article*.
 6. Discussed matters of an executive function outside the purview of the Open Meetings Act (Section 10-503(a) of the *State Government Article*).

In attendance at the closed sessions were: Steve Abrams, Aggie Alvez, Larry Bowers, Sharon Cox, Brian Edwards, Valerie Ervin, Charles Haughey, Richard Hawes, Roland Ikheloa, Sebastian Johnson, Don Kress, Frieda Lacey, George Margolies, Nancy Navarro, Patricia O'Neill, Brian Porter, John Q. Porter, Lori Rogovin, Gabe Romero, Glenda Rose, Matt Tronzano, Jerry Weast, and Carey Wright.

RESOLUTION NO. 529-05 Re: **APPEAL**

On motion of Dr. Haughey and seconded by Ms. Cox, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education adopt its Decision and Order in Appeal 2005-26, complaint from the public, reflective of the following vote: Ms. Cox and Mr. Romero voting to affirm; Mr. Abrams, Ms. Ervin, Dr. Haughey, Mrs. Navarro, and Mrs. O'Neill voting to dismiss; Mr. Johnson was absent when this case was adjudicated.

RESOLUTION NO. 530-05 Re: **APPEAL**

On motion of Dr. Haughey and seconded by Mr. Romero, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education adopt its Decision and Order in Appeal 2005-31, admission to a gifted center, reflective of the following vote: Mr. Abrams, Ms. Cox, Ms. Ervin, Dr. Haughey, Mrs. Navarro, Mrs. O'Neill, and Mr. Romero voting to affirm; Mr. Johnson was absent when this case was adjudicated.

RESOLUTION NO. 531-05 Re: **APPEAL**

On motion of Dr. Haughey and seconded by Ms. Cox, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education adopt its Decision and Order in Appeal 2005-32, early admission into kindergarten, reflective of the following vote: Mr. Abrams, Ms. Cox, Ms. Ervin, Dr. Haughey, Mrs. Navarro, Mrs. O'Neill, and Mr. Romero voting to affirm; Mr. Johnson was absent when this case was adjudicated.

RESOLUTION NO. 532-05 Re: **APPEAL**

On motion of Dr. Haughey and seconded by Ms. Cox, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education adopt its Order in Appeal T-2005-51, student transfer, reflective of the following vote: Mr. Abrams, Ms. Cox, Dr. Haughey, Mr. Johnson, Mrs. O'Neill, and Mr. Romero voting to affirm; Ms. Ervin and Mrs. Navarro were absent when this case was adjudicated.

Re: **NEW BUSINESS**

There was no new business.

RESOLUTION NO. 533-05 Re: **ADJOURNMENT**

On recommendation of the Superintendent and on motion of Ms. Cox and seconded by Mrs. Navarro, the following resolution was adopted unanimously by members present:

Resolved, That the Board of Education adjourn its meeting of September 26, 2005, at 11:30 p.m.

PRESIDENT

SECRETARY

JDW:gr

**MONTGOMERY COUNTY BOARD OF EDUCATION
SUMMARY SHEET**

September 26, 2005

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