

The

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It's Them Hoover Days Again!



Inside:

President's Message: Watch Your Back! pg. 2

Rumors From Albany pg 4

The Sky Is Falling! pg 10

President's Message:

Now More Than Ever: Watch Your Back!



John Sullivan

Dear Colleagues,

As the American economy teeters like a wobbling aerialist on the high wire hundreds of feet above the ground without a safety net, the entire world helplessly watches this real life drama unfold. Lehman Brothers receives a thumbs down, AIG receives the thumbs up, some homeowners face eviction, and others receive *mortgage adjustments* - oops there goes the auto industry, or no, it's the airlines, or is it mass transit?

Who's in charge here? With all the finger pointing going on, and with each decision proving to be dumber than the one that preceded it, it's not too surprising that few leaders are willing to step up to the plate. Why can't *the faceless they* just find a nice resort, play a little golf, have a few drinks, have a meeting in the hot tub, figure it all out, and send the bill to Uncle Sam? Did I mention that they should bring their families along with them?

What I find interesting is that I no longer hear critics of public education saying that school systems should all be run like corporate America. I guess they are finding it difficult to enunciate with their shoes in their mouths. One thing is for sure: there is plenty of blame to go around, though none of it should be directed towards the public school system which has managed to do an incredible job of educating American youth with limited and often greatly reduced resources.

It's unfortunate that when our detractors in Washington and Albany declared the public educational system a failure, no *multibillion dollar bail out plan* was offered to bolster it up. Instead, *they* talked charter schools, vouchers, the elimination of tenure, and the recertification of teachers etc. etc. as corporate America's solution to what *they* perceived to be an educational system beyond repair.

And now, we in Education wait for the other shoes to drop: voting down education budgets, cutting back government funding, staff reductions, budget freezes, etc. etc. We all know the drill; we've been through it before, and a few decades from now, we will go through it again, and the cycle will repeat itself again and again until Americans finally realize that public education is not a luxury item to be cut during hard times and expanded when times are good; it is a necessity *all the time*. Investing in it is not an option; it is and always has been America's salvation.

Already, we are being asked to sacrifice. Dade County, Florida, for example, will be voting soon on whether to cancel the health care policies of its teachers and administrators. They will tell the school employees they hate doing it, but it's for the good of the local economy. And in NYC Randi Weingarten is already saying she will consider changes to the tenure procedures in upcoming negotiations.

That's Florida and NYC, you say, but don't be surprised if similar "sacrifices" aren't proposed in the rest of the state.

Before you agree to any concessions, however, financial or otherwise, you must demand full financial disclosure. Track all of the budget monies in your district, and insist on knowing where the money is hidden. There is always something tucked away in complex areas (debt service, transportation, salaries etc) in case of "emergencies." It is time to find out how much is hidden in your district's budget before you make any agreements.

Terms and conditions of employment are items of mandatory bargaining and should be collectively negotiated in accordance with the Taylor Law. **Boards should not get labor concessions out of you that they could not have gotten otherwise at the bargaining table.** Do not agree to *anything* until you have spoken to your ESSAA attorneys. Threats of massive layoffs, and accusations that hanging tough on contracts is somehow "hurting the children" are the standard mantras of districts in financial distress. The Boards will first look for the easy way out. You may fall for it, but I can assure you, our attorneys will not. They are the experts who will steer you to a safe harbor.

Above all, now more than ever, cool heads must prevail.

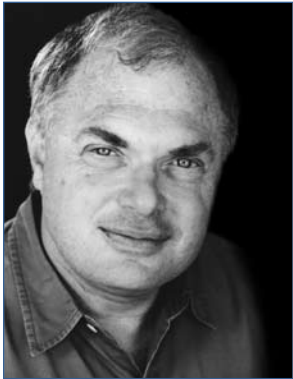
John F. Sullivan

Contents

President's Message	2	Archiving Administrative Emails.....	6
It's Them Hoover Days Again	3	ESSAA Regional News	7
Notes and Rumors Up, Down and All Over Albany ...	4	School Safety Workshop for CAS	8
Up In Smoke, or: Do Your Homework	4	CAS Begins Regional Meetings	9
Legal Quandaries.....	5	The Sky Is Falling.....	10
		NASBE Newbriefs	12-15

It's Them Hoover Days Again

By Bob Liftig



I never thought I'd be old enough to pass on the oral history of the Depression to a new generation under economic stress, but, as my Kentucky mother-in-law used to say, "It's them Hoover Days again."

The teachers who took me under their wing when I started my career in the

late 1960's said that during the Great Depression, their jobs in Education were among the most treasured in the nation. I have no idea whether this was true or not, because we soon went into the Sour 70's when, in addition to gas boycotts, meat and sugar shortages, Leisure Suits, Disco music, and American cars that couldn't go more than 35,000 miles without collapsing, teachers were considered "a dime a dozen." Then the old guys retired, having finally gotten what they dreamt of: security in their old age and fixed pensions.

I am now the geezer who passes on their stories. In New York City, for example, the few teachers who gave up their jobs often did so in exchange for cash from those who wanted to replace them. And, though the City lowered teachers' salaries by 10%, a job in teaching or administration was considered well worth the investment. A lot of money changed hands "under the table" back then, as Americans realized the stability of public employment: a job relatively immune from layoffs which provided a "steady income."

During the economic mess of the 1970's, on the other hand, strikes sprung up everywhere, especially in New York State. Teachers battled salary freezes, tried to stop proposals to remove caps on class sizes, and fought administrative and teaching cutbacks. Our school buildings were wrecks, our school budgets were voted down, and any renovations and new building projects were beyond consideration. Some years we were given barely enough money to requisition writing paper. We had to tell our students to buy notebooks and tear pages out

of them for testing purposes. I begged for a stapler for two years, and when I finally got one I was told to keep it for the rest of my career.

If memory serves me right, our budgets and salaries began suffering sometime *after* the overall economy went into decline, but we lagged behind during the first years of national recovery.

It remains to be seen whether the present situation is more Sour 70's or Dirty Thirties, but either way we can expect some buffeting. This will probably include increased attacks on tenure, weird two-tier salary proposals (incoming employees would be placed on a lower scale than those already working), and cutbacks in staffing. There will also be jealousies: people who once scorned a career in education will suddenly think it's not a bad job for them until the economy gets better, and because "it's so easy, anybody can do it." When they find out they can't just pull a few local strings and become principal, they will storm the Board meetings to complain about "outrageous" salaries and those legendary summer vacations.

The message should be clear. We may have to play defensive ball for a while, but we have to stay in the game. To sit back now and rely on the goodwill of the troubled public would be suicidal. Now, more than ever, ESSAA's members must contribute to PAC; NYSUT members must contribute more to the wildly successful VOTE/ COPE, and all employees, Civil Service, SRPs, and others, must become more visible to their representatives in Albany and in Washington so that the progress we have made together in the last 30 years will not be reversed along with the rest of the economy.

Don't expect any bail outs for Education. If we want to preserve our positions, we will have to fight for them. ❖

Notes And Rumors Up, Down, and All Over Albany

With all legislators having been up for election this November, all bills are taken off the table up in Albany, as usual. In January, “new” bills are presented, which includes the “old” bills that were sent up in the last session. Among them will be the ESSAA legislation regarding retirement credit for summer work, health insurance into retirement, and retirement credit for private school teaching.

Of course, the Big News is that Chancellor Richard Mills has resigned, effective June 2009. While there has been no public discussion regarding his replacement, some aficionados are placing their bets on Rudy Crews. Mills’ letter of resignation promised a “solid transition” and detailed his accomplishments while in office ... blah... blah...blah.

The Board of Regents is considering an amendment “relating to the employment of retired persons in public school districts and BOCES.” Briefly, the school district must show that they have attempted to fill the position with active employees, but have been unsuccessful.

Districts across the State are already braced for the usual hard times scenario of layoffs, cutbacks, and funding crises. In New York City thus far, 110 Livingston St. has been effected (mostly CSEA employees), but not teachers or administrators.

The usual rumors abound about State sponsored early retirement incentives, and an establishment of a new retirement tier.

IMPORTANT! The IRS expects individual bargaining units to file with the government this year. Your unit must request an EIN number. It is described as a “simple process” just to “let the government know you exist.” There are short forms and long forms, of course, and CPAs could be required. Much depends on the income of the unit after dues are considered (\$25,000 seems to be the break point). Contact your ESSAA attorney for further information if you have not already done so. ❖

Up In Smoke, or: Do Your Homework

The impact of the calamitous fall in the stock market may be closer than you think. Those of you in 403(b) plans, or any other type of investment programs provided through an employer sponsored investment plan, may very well have had your investments substantially impaired or even wiped out. Typically, school districts in conjunction with their employee unions will provide such plans through a Plan Administrator who then places your money in various investment vehicles. In the Elmira Teachers’ Association –v- Elmira City School District (37 NDLR 129) the teachers’ union sought to hold the district liable for the losses sustained by teachers who invested a portion of their salaries in a failed retirement savings plan. The teachers association sued the district for breach of contract and other claims, alleging that it was liable for the employees’ losses because, inter alia, it did not properly monitor the investment company’s activities.

The Appellate Division threw out the claim finding that the agreement between the district and the employees contained a “hold harmless” agreement which insulated the district from liability.

The hold harmless agreement said: “The employee agrees that the employer shall have no liability whatsoever for any loss suffered by the employee with regard to his selection of an insurance company or mutual fund, or the solvency of, operation of, or benefits provided by said insurance company or mutual fund company.”

Because there was nothing to indicate that the employee’s losses were attributable to the district’s failure to somehow monitor the company’s activities, the hold-harmless provision precluded the suit from going forward.

The [expensive] lesson to be learned? Do not blindly turn your money over to an investing entity without exercising your own “due diligence” about the performance history, fiscal stability, and credit worthiness of the investments your plan administrator will make on your behalf. ❖

Legal Quandries

By Paul Derkasch
ESSAA Attorney

Literary Lynching



It was a teachers' union newsletter and not the National Enquirer that ran the story about an administrator who was said to have "been pocketing illegal per session money in violation of a Chancellor's Regulation", and that after being told to stop working on Saturdays, the administrator "continued to punch in and collect money...[b]ecause an important person in the Superintendent's Office has conspired with

[him] to take money that is designated for the instruction of our children and funnel it into [his] bank account".

The foregoing was just one of several allegations that challenged the administrator's professional competence and honesty. The article had been authored by a teacher and union representative in the administrator's school.

As you might expect, such allegations are defamatory with a capital "D," and the administrator went to court to seek justice because he had been defamed by it.

Alas, the case was dismissed at the trial court level and then again at the appellate level. Students of this column's several commentaries on defamation in the educational setting already know that no matter how hurtful, disrespectful, or outrageous an expression of opinion may be, such expressions are not actionable because of the Fourth Amendment's free speech protection. Among the difficulties in defamation cases is trying to ascertain when someone is expressing an opinion, as opposed to intentionally misrepresenting (or wholly fabricating) facts dressed up as opinions. Defamatory opinions are not actionable, but opinions premised upon phony facts

may be. The nuance to this case, and the reason we mention it here, is because the courts have carved out a "safe haven" for speech that would otherwise be fertile ground for litigation.

The safe haven is for publications that are presented in contexts that clearly alert the reader that what is being said is intended as opinion. Articles in the OP ED section of newspapers are an example. The negative charges against a political opponent during elections that appear in a candidate's flyers is another.

In Manuel Santiago –v– UFT, et ano, ___AD2d___, [1st Dept] the court reminds us of a 3rd safe haven. This case held that statements made by a union representative criticizing the plaintiff's professional competence and honesty fall within the broad definition of a "labor dispute" under federal law, and therefore are not subject to state law defamation claims in the absence of a showing of actual malice (i.e., that the author published the statements while highly aware that they were probably false).

The teacher and the union representative, who wrote the offending article, while not having first hand knowledge of some of the incidents alluded to in the article, did speak to the teachers involved and had no reason to doubt the credibility of their complaints, or the numerous other complaints she received about the administrator's conduct toward teachers and his disregard of school rules. She also found some corroborating information about his "illegal" Saturday work. While ultimately these facts might have turned out to be false, the court noted that at the time she wrote the article, there was no basis to conclude that she had any reason to believe they were false! Case dismissed! ❖

Let The Wedding Bells Ring!

The collective bargaining agreement between the teachers' union and the Cazenovia Central School District provides health insurance for its current employees and retirees. As is typical, the health insurance plan is available on an individual and/or family basis and current employees can opt to move back and forth "between the coverages."

In Bower v. Cazanovia C.S.D. N.Y. App Div., # 504224, when Mr. Bower retired he was receiving individual health insurance coverage. Two years later he married and asked the district to add his wife to his policy and change it to family coverage. The district refused; it contended that allowing retirees to opt for family coverage once they had retired would subject the district to significant cost

increases. Furthermore, the district said that the collective bargaining agreement did not permit an employee to change his health coverage after retirement.

The court held the parties' agreement up to the light asking, "Where does it say retirees cannot switch coverages?!" What the judge saw was a section entitled "enrollment changes" that recognized that changes in family status may make it necessary for enrollees to change their coverage. Because the agreement did not limit the right to change coverages to active employees, the court reasoned that retirees had the same right, and ordered the district to add his wife to the policy. ❖

Archiving Administrative Emails

By Joanna Keeler
ESSAA Website Coordinator

I attended an interesting RIC conference on the requirements of ED-1 pertaining to archiving email messages and other electronic documents.

The law is difficult to understand and most districts are struggling with interpreting this part of it.

Questions included at this session were:

- What emails are we required by law to retain?
- How long are we required to retain e-mail messages?
- Who will be responsible for saving these emails?
- How will it work?
- Can we save all emails indefinitely to be on the safe side? (Note: This was not recommended by the lawyers present at the conference.)

Please see the attached DRAFT of my notes that provides some of the answers to these questions.

Notes

What Email messages are we required to retain?

The Attorney at this conference indicated that we already know the answer to this question. Review documents the District is currently retaining and use these as a guideline when archiving email documents. Therefore, districts should retain an e-mail message based on **content**. (eg. Sending an email to a teacher about his or her absenteeism).

Other documents include:

- Policies and directives
- Correspondence or memoranda related to official business
- Work schedules and assignments
- Agenda and minutes of meetings
- Documents that initiate, authorize, or complete a business transaction
- Final Reports or Recommendations.

What Email Messages are we *not* Required to Save?

Districts are not required to retain transitory emails. (Personal Email, spam email, duplicate copies of emails, drafts of documents, Announcements of social events, phone messages.)

Why not just save all emails?

- Because there are different rules governing how long you must keep a document, you may not want to keep a document longer than the law requires (statute of limitations) if it may come back to haunt you later. You don't want to turn something over to the "other side" unless you are required to do so.

- It may be costly to retain all email forever. Since you would not know which emails had to be saved for 4 years, 7 years, or indefinitely, you would be required to save all emails indefinitely.
- If you need them in a hurry, it would be a time consuming process to go through many email documents.
- Since there is no device that will store data indefinitely, you need to re-record data every 10 years.

Deleting Documents

The attorneys stressed that it is just as important to delete documents when the timeline ran out as it is to save the documents initially.

What are the alternatives to saving every e-mail ?

- Educate personnel on which emails to retain and which ones can be deleted. The second problem is how long to save each of the email messages?
- There are programs available such as GWava that might be able to assist in some compacity. It will still be a time-consuming process because each e-mail is required to be coded in order for the timeline requirement to work successfully.

Recommendations

- Meet with your ESSAA Attorney
- This is not an IT problem – A committee should meet and develop a plan
- Hire a consultant funded by a grant
- Develop a policy
- Educate faculty/staff

Additional Documents

Administrators used to make telephone calls, but they are not legal documents. Now, instead of making calls, we send each other email messages. Therefore, we now have more official documents than ever before. We create records that did not exist before. Therefore, new rules apply.

What about other types of electronic data?

All of it counts – USB – thumb drives – PDA's, etc. etc.

No one should be copying any sensitive data (school tool information) onto these devices

Does it have to stay electronic?

Instead of saving email messages, Districts can opt to make hard copies of the mail.

Who should save the email?

Probably the Sender ❖

ESSAA Regional News

MHAA

The Mid- Hudson Administrators' Association (MHAA) Region 4; comprised of Ulster, Dutchess, Orange and Sullivan counties has completed the final steps in formalizing its organization. Officers for the region are; President - Raymond Palmer, Rondout; Vice President - Roy Paisley, Red Hook; Secretary - Michael Rheume, Florida; Treasurer - Robert Rutigliano, Rondout Valley.

The first regional meeting was held Wednesday October 29, 6:30 PM at the Homewood Suites in Newburgh.

CAS



Anthony Laurino, ESSAA Executive Vice President, President C.A.S.

Dear Colleagues,

It is already three months into the school year and the holiday season is upon us. CAS began the school year settling a number of contracts, running a well attended and well received workshop for new administrators; and sponsoring an excellent school safety workshop by the highly respected Chuck Mitchell.

CAS was very pleased to being able secure Mr. Mitchell's services for the second time. On both occasions the attendees have been pleased with pertinent information to disseminate to their districts.

With impending cuts in school aid, negotiations on the Island are moving slowly in most districts. The pundits are predicting a continuance of this trend into late 2009 and even 2010. Some units are opting for a rollover until the dust settles. In many cases, school boards are unwilling to make any movement until the state aid picture becomes clearer.

In terms of legislation, once again we are in for a difficult legislation session. Every two years the entire legislative body, Assembly and Senate, is up for re-election. All previous bills must be reintroduced in the new year in order for them to be considered. With the economy in very poor straights, legislation with financial costs attached are going to face a difficult and uncertain future. Much of our time in Albany this coming year will be devoted to meetings with Assembly people and Senators to protect the state aid we are currently receiving. Additional information will be forthcoming in late February and March when new bills are processed.



Executive Vice President Tony Laurino (in red power tie) meets and greets at the recent Newburgh meeting.



President John Sullivan (in red power tie) congratulates North County News reporters and presents them with a plaque of appreciation.



President Sullivan (that red power tie again) outlines ESSAA's plans for the future, with Treasurer Chuck Smith by his side.



ESSAA Attorney Bob Saperstein (the same red tie) gives a legal brief to ESSAA VP Bill Evans.

School Safety Workshop for CAS *given by Chuck Mitchell*



Chuck Mitchell Presenting Workshop



School Safety Workshop



*Anthony C. Laurino, CAS President and
Chuck Mitchell*



Chuck Mitchell takes questions from audience

CAS Begins Regional Meetings

In an effort to reach out to over 1400 members in almost 80 units on Long Island CAS will sponsor regional meetings this year.

This will give members an opportunity to discuss both common problems shared by administrators and unique situations in individual districts, meet the CAS Executive Board, and receive the latest information on negotiations, legislation and legal issues. Pictured below is the Northeastern meeting cocktail party held at Michael Anthony's Restaurant in Wading River.



CAS Members get together for a group photo



Anthony C. Laurino, CAS President addresses Eastern Suffolk County Districts

In addition to the sectional meetings
CAS will sponsor the following:

Nassau Regional Meeting
January 7, 2009

Negotiation Workshop
January 14, 2009

Delegate Assembly
February 4, 2009

Legal Workshop
February 26, 2009

Nassau Regional Meeting
March 5, 2009

Delegate Assembly
May 6, 2009



Anthony C. Laurino, CAS President and CAS members having a good time

Humor (Maybe)

The Sky Is Falling! Where's My Tax Shelter?

By Bob Liftig

What I Am Thinking

In the last two months, one of my Tax Shelter Annuities has lost almost 40% - and this was in something called The Super-Safe End of Life Cycle Fund For Old Geezers.

And that's not all: my house has lost almost 25% of its value. This was the childhood home of our daughters and we never missed a mortgage payment. Plan "A" was to make it our House For Life: maybe even pass it on to our children. Plan "B" was to make it our fallback in case of disaster - in case we had to "cash in our chips" and put any money left over into our tax shelters.

Oh, My! What a difference two months makes! It seems by trying to "do everything right" all those years, we did everything wrong. The talking heads on the Wall Street Channel - the same ones who got me into this mess - say not to worry: it will all come back in two years. No! Wait! Five years! NO. Wait! Twelve! NO WAIT! TWENTY!

My tax shelter representative says now's the time to dump EVERYTHING I HAVE into the Geezer Fund. "Think of what you'll be worth in a couple of years."

I thought.

I resisted.

All of the old formulae for financial stability seem no longer to apply.

There are now only two things I am sure of: first, that my New York State pension is guaranteed under the state constitution which says: "no public retirement allowance will be reduced once it is implemented" and second, that my Social Security is still waiting despite the efforts of the Bush administration to "privatize" it. (Remember?) Suppose they had succeeded in forcing me to invest it in the stock market? Any safety net I could have expected would have been turned into my burial shroud.

What NYSUT Is Saying

There are assurances coming into my mailbox every week. The October issue of New York Teacher carries a question and answer section: "How badly has the market upheaval hurt the pension system?" some imaginary person asks. And the answer is: "While the various pension funds that serve NYSUT members have been affected by the ongoing turmoil, none of them report significant holdings in any of the companies at the heart of the crisis."

That must be good news, and it is delivered with more enthusiasm than the report from the Directors of my Tax Shelter For Geezers that goes something like: "We assure you

that the directors are doing everything possible to insure that the security of your trust fund is being vigilantly monitored by the same corrupt and incompetent money managers who continue to drain exorbitant management fees from your account at the same time it is dissolving like an Alka Seltzer tablet."

Back to our pension. The New York State Teachers Retirement System, as of October 9, was worth \$105 billion to eventually pay for the needs of its 403,000 members. There are other retirement systems in our state as well, such as the one covering non-teaching public employees outside of New York City. This one tops all the others with \$153.9 billion in assets, and both of these make the City of New York pension system, at a mere \$53.5 billion, look puny by comparison.

God only knows what our pension's worth now, as we enter the Holiday Season (Governor Patterson put the losses at 20% as The Journal went to press).

I console myself that these are just numbers on a page, and I shouldn't be devastated by them. "Sticks and stones," and all that.

Last June, at the end of the Second Quarter, the numbers made me feel secure and prosperous. I remember how impressed with myself I was when my Quarterly Statement arrived and I tucked it into my filing cabinet with a certain panache and swagger, then inhaled deeply the warm earth of the coming summer, and thanked my sound and conservative judgment that I had always contributed the "maximum," and that I had married a frugal Scot who always dressed our kids in modest clothing from places named "Murray's Discount" and kept the rest of the family from indulging in all sorts of short term wasteful pleasures - so that ... so that ... some day ... the numbers would add up to the handsome total I saw in that June Statement!

Twenty years ago I listened in disbelief as a nameless guy in a pressed suit emerged from the shadows of our Teacher's Room and first told me how Tax Shelters could make me RICH. You bet I signed up, but I lost his card ten years ago - someone said he was dead anyway, after retiring to a big house in Florida.

When the kids were little, the talking heads on TV used to snarl into our living room: "Americans save less than anyone else on the planet." I'd just embrace my little ragamuffins as we huddled around our little black and white TV and smile like the cat who swallowed the canary. "Bermuda?" I'd say. "Who needs it? Lillian August? Who's she? Color TV? Bad for the eyeballs! We're busy saving for our futures!"

And the kids would glare at me.

continued on next page

In the last few weeks, the Cable anchors have been lecturing me again: “We’re all going to have to start cutting back. We’re all going to have to work a little longer. We’ve lived too high off the hog these last few years, expanding our McMansions, traveling all over the planet, and spending our salaries on designer jeans and Gucci bags. Isn’t it time we put off retirement and GOT BACK TO BASICS?”

Our daughters, older now, were visiting last weekend, and asked me how our tax shelter was doing.

This time, I glared at them.

I thought about stopping payment on my life insurance policy – the only inheritance my kids will probably ever get. It was sold to me by another shadowy figure in the Teacher’s Room, and, while the premium seemed reasonable then, because of the downturn, I’m feeling pinched, and was thinking about dropping it.

But The New York Teacher reminds me that keeping my life insurance policy is more important now that I am older than it was when I signed up for it twenty years ago. First, NYSUT reminds me, I may never pass the physical for it again, and second: I should remember why I bought it in the first place, which was for:

- Final medical expenses not covered by medical insurance
- Funeral and burial costs
- Day to day expenses (for my survivors) for rent, food, and utilities
- Mortgage and property taxes
- Outstanding debts, charge accounts, and car payments

I had always figured that’s what my fat TSA would cover – after the belated cruises to Bermuda, after dressing ourselves to the nines in retirement, and after finally buying that color TV, or – the 21st Century be praised!- a 40” flat screen HDTV!

But now, with my retirement savings in the crapper, I, like Willy Loman, will have to trust Joe’s Life Insurance Company to make good on its promises and reward my children with our many years of self-denial.

What George Orwell Is Telling Us

This all reminds me of a character from George Orwell’s “Animal Farm” – Old Major – the ancient work horse who was a symbol of exploitation by the Old Government and who was promised by the leaders of the New Government that, if he gave 110% to The Cause, The Cause would someday retire him to a beautiful pasture.

I hope you know the story. Instead of fulfilling their promises, the leaders got fat on Old Major’s labor, and kept working the old stallion until he keeled over mid-haul into the barnyard. Then they stripped his body for hide and made glue out of him.

I don’t like the sound of this.

Do you? ❖

ESSAA Writers Are Out There!

The next issue of The Journal will include a list of ESSAA authors and the books they have written ... as well as how to purchase them. If you have written a book you would like to recommend to our members, or if you know someone who has, please email boblif@aol.com, or boblif@gmail.com. Include book title, author, and purchase information. Please do this before January 1, 2009.



Journal Editor Bob Liftig and Assistant Editor Inez Liftig eagerly promote Bob’s new book “The Baby Bomber Chronicles” available at amazon.com. If you have a book you’d like to pitch in the next Journal, please send all particulars to Bob at boblif@gmail.com.

NASBE Newsbriefs

(National Association of School Boards)

WEEK ENDING OCTOBER 24, 2008

MAINE CUTS WRITING TESTS — Education officials in Maine announced the state will eliminate its 5th and 8th grade writing tests scheduled for next spring in an attempt to control costs. Writing tests are particularly expensive because they are scored by specialists rather than by computer. Maine is also considering joining the New England Common Assessment Program (NECAP), which could save the state an additional \$2 million a year. NECAP states (New Hampshire, Rhode Island, and Vermont) share assessments in reading, writing, math, and science. “We are looking for savings that will have the least impact on the classroom,” a spokesman for the Maine Department of Education said. “Here’s a case where we can consolidate one of our functions by sharing with other states.” Source: *Kennebec Journal* (10/22/08)

MASSACHUSETTS BOARD OPPOSES REPEAL OF STATE INCOME TAX — Facing an upcoming November 4 referendum to repeal the state’s income tax, the state Board of Elementary and Secondary Education unanimously approved a motion to oppose the measure that would repeal the state income tax. The referendum would cut the tax rate from 5.3 percent to 2.65 percent in 2009 and eliminate it in 2010. According to a Massachusetts Taxpayers Foundation report, the state would lose an estimated \$12.5 billion, return about \$3,700 to individual taxpayers each year, and result in a 70 percent cut in state programs. “The large cuts in education and non-education aid would have a devastating impact on cities and towns that already are facing serious fiscal problems,” said board member Ruth Kaplan. A similar referendum to abolish the income tax immediately failed in 2002, but received 45 percent of the vote. Educators fear that the referendum, sponsored by the Committee for Small Government, will pass this time because it is more gradual than the 2002 measure and comes before voters at a time of tremendous concern over finances. If passed, Massachusetts would join nine other states that do not tax income. Sources: *Boston Globe* (10/22/08); *Inside Higher Ed* (10/13/08)

NEW JERSEY ANNOUNCES GRADUATION CAMPAIGN — New Jersey aims to cut the state’s dropout rate with the launch of the year-long “New Jersey High School Graduation Campaign.” The program is designed to reduce dropouts by promoting student and family supports, cultivating leadership, supporting teachers, and establishing high expectations. Meanwhile, the State Board of Education was deliberating over Gov. Jon Corzine’s plan to increase the rigor of high schools. The proposed plan would be phased in during the next eight years and includes adding academic requirements and testing for high school students, including biology and advanced algebra. Many state officials are concerned that the new requirements would cause additional students to drop out since so many are struggling to meet current requirements. Another concern is whether teachers will be prepared for the new requirements and ready to provide the additional support students may need. Source: Associated Press, *Star-Ledger* (10/15/08)

WYOMING SUPREME COURT HEARS DISPUTE OVER SCHOOL FUNDS — Five local Wyoming school districts and the state government are presenting arguments in Wyoming Supreme Court over whether the districts must give the state \$97 million in local property tax revenue. Although a 2006 amendment to the state constitution required local districts to give the state all local property tax revenue so state can redistribute it equally among all districts, the five districts in the suit maintain the amendment (which closed a loophole that allowed some wealthier districts to keep some of their money) simply gives the legislature the power to take the money if lawmakers see fit. Since the legislature didn’t officially act on the issue until later in 2007, the districts claim they should be able to keep the revenue collected in the meantime. They also report having spent the funds and said giving them back would cause extreme financial hardship. Source: *Billings Gazette* (10/23/2008)

STATE BOARD UNANIMOUSLY ELECTS DEBORAH DELISLE AS OHIO SCHOOLS SUPERINTENDENT — The Ohio State Board of Education voted unanimously to hire Cleveland Heights-University Heights schools chief Deborah S. Delisle as state superintendent to replace Susan Tave Zelman, who departs Oct. 31. “She just oozes energy and enthusiasm and passion for this work,” Board President Jennifer Sheets said. “We feel comfortable that she’s going to...unite all the various stakeholder groups and help us all cooperate in moving Ohio forward.” Gov. Ted Strickland, who had previously expressed his dissatisfaction with Zelman and the current state education governance structure, also gave Delisle a nod of approval. Source: *Education Week/AP* (10/14/08); *Columbus Dispatch* (10/15/08)

UTAH BOARD MOVES ON ELECTRONIC DEVICE POLICIES — A Utah State Board of Education subcommittee has proposed that all school districts be required to establish policies governing the student use of cell phones and other electronic devices by next spring. Also under consideration by the state board are recommendations that cell phones be prohibited during state testing and the question of whether or not teachers can view the text messages contained on confiscated student phones. Source: *Salt Lake Tribune* (10/6/08)

GEORGIA BOARD ACCEPTS PLAN FOR STATE TAKEOVER OF TROUBLED DISTRICTS — The Georgia State Board of Education unanimously accepted a proposal to give the state the power to take over distressed local districts. The Commission for School Board Excellence plan was devised by a group of education experts and business leaders at the state board’s request in the wake of problems that led to the loss of accreditation of the Clayton County school district. The commission recommended changes that included no longer paying local board members, prohibiting educators from sitting on school boards, and legislation that would allow the state board to take over local districts and remove board members. Source: *Atlanta Journal-Constitution* (10/9/08)

continued on next page

NASB Newsbriefs...continued from previous page

HAWAII BOARD APPROVES \$46 MILLION IN BUDGET CUTS TO MEET GOVERNOR'S DEADLINE — The Hawaii State Board of Education, caught between public discontent and Gov. Linda Lingle's Friday deadline for massive budget cuts, approved budget cuts of about \$46.5 million late Thursday night. The cuts amount to approximately 15 percent of the education department's discretionary budget, but the total falls well short of the \$69 million worst-case scenario of proposed cuts. These cuts follow \$20 million in previous reductions, including a \$10 million budget reduction by the legislature. While most school-level jobs were saved, 244 state-level jobs were pared, as well as \$800,000 for athletics, among other programs. Sources: *Honolulu Advertiser*, *Honolulu Star-Bulletin* (10/10/08)

WISCONSIN CHIEF WON'T RUN AGAIN — Wisconsin Superintendent of Public Instruction Elizabeth Burmaster announced this week that she will not seek a third term as the state's top schools chief. The election takes place next April, and Burmaster would have been strongly favored had she chosen to run. "I want some new challenges," Burmaster said, and indicated she would like to be "even more hands-on" in working to improve achievement results for disadvantaged students. Tony Evers, who has been Burmaster's deputy since she first took office in 2001, said he would run for the job, and Burmaster gave him her support. Source: *Milwaukee Journal Sentinel* (10/7/08)

IOWA PUBLIC SCHOOLS BARRED FROM CHARGING FEES FOR FIELD TRIPS — Iowa public schools will no longer be permitted to charge parents fees for field trips following a state Department of Education order forbidding such practices. According to Iowa law, costs incurred for field trips tied to class instruction fall under the category of tuition and therefore should not be supplemented with funds received directly from parents. The department issued its directive after the Ames School District asked in February about the legality of its own fees. Schools can, however, raise funds for field trips through various organizations such as the PTA. Sources: *Burlington Hawk Eye* (10/4/2008); *Quad-City Times* (10/6/08)

NEW JERSEY BILL TO BAN DIPLOMA MILL DEGREES MOVES FORWARD — New Jersey's Senate Education Committee advanced a bill that would bar educators from obtaining a master's or doctorate degree from a non-accredited university. The problem was discovered this summer when three top school administrators, including the superintendent of the Freehold Regional School District, received diplomas from so-called "diploma mills" and received pay raises as a result. Currently, diploma mill degrees are legal under the contract signed with administrators in the Freehold Regional School District. The education committee approved the bill unanimously; it is now headed to the full Senate for a vote. Source: Associated Press (10/02/08)

WEEK ENDING OCTOBER 30, 2008

RHODE ISLAND LAW REQUIRES ALL SECONDARY SCHOOL STUDENTS TO LEARN ABOUT DATING VIOLENCE — Students in Rhode Island middle and high school health classes will learn about dating violence with the passage of the Lindsay Ann Burke Act, which mandates the subject be added to health class curricula. The initiative for lessons about dating violence was led by Ann and Chris Burke, parents of Lindsay Burke, a young woman murdered by an abusive ex-boyfriend. School districts are expected to implement the new law immediately, and policymakers are working on a plan to handle reports of dating violence. Source: *USA Today* (10/6/2008)

ST. LOUIS HIGH SCHOOL HIV THREAT LARGER THAN INITIALLY SUSPECTED — As many as 50 students at Normandy High School in St. Louis may have contracted HIV, according to St. Louis County Health Department officials. The health department called for wide-scale testing and hopes to open an on-campus clinic with free services as soon as possible. The announcement of the problem's scale was in response to an HIV-positive diagnosis of someone who either works or attends the school (officials will not identify which), who may have put a number of students at risk. Source: *St. Louis Post-Dispatch* (10/22/2008)

CERVICAL CANCER VACCINATIONS ARE INCREASING AMONG U.S. TEENS — A report from the Centers for Disease Control and Prevention (CDC) found that 25 percent of U.S. teenage girls have been vaccinated against cervical cancer. Gardasil, the cervical cancer vaccine, protects against the human papillomavirus that causes 70 percent of cervical cancers. Lance Rodewald, director of the Division of Immunization Services at the CDC said, "For a new vaccine, 25 percent is really very good." He added that the CDC's goal is having 90 percent of teenagers vaccinated. Source: *Los Angeles Times* (10/10/08)

ALASKAN HIGH SCHOOL AND COLLEGE STUDENTS JOIN TO PUSH FOR COMPREHENSIVE SEX EDUCATION — Students from the University of Alaska Anchorage and local high schools want the state to institute mandatory, comprehensive sex education standards rather than continue to leave curricula to local districts. The student activists — who said their high schools did not teach them what they need to know about sexually transmitted diseases and contraception — are organizing to tell parents and school administrators of the need for new, statewide standards, and they plan to petition the state legislature to make the change. Students have complained that sex education should be taught when they are high school juniors and seniors rather than as freshmen because it is more relevant when they are older. Further, many districts support abstinence-plus models, which are heavy on reproductive health and biology but stress abstinence rather than contraception, students said. Opponents have said the school day is already too laden with academic requirements to accommodate any more mandatory classes. Source: *Anchorage Daily News* (10/1/08)

continued on next page

NASB Newsbriefs...continued from previous page

*** STUDIES & REPORTS ***

CDC STUDY FINDS HPV VACCINE SAFE — A two-year study conducted by the Centers for Disease Control and Prevention (CDC) of the human papillomavirus vaccine Gardasil has concluded that the vaccine is safe. The study did not find a heightened risk for blood clots or other serious medical conditions, and the CDC continues to assert its recommendation of the vaccine for girls as young as 11 and 12. The study had a sample size of 190,000 young women and girls who received at least one dose of the vaccine. A total of 370,000 doses of the three-dose vaccine were documented in this study. Sources: Centers for Disease Control and Prevention; *Washington Post* (10/22/08)

STUDY FINDS BMI TESTING NOT LINKED TO MORE BULLYING — A study by the University of Arkansas for Medical Sciences has found that overweight children have not seen an increase in teasing or taunting since implementing mandatory BMI testing in Arkansas public schools. Potential increases in bullying behavior against overweight children have been an argument against mandatory BMI testing. The study also found that the percentage of parents recognizing their children as being overweight has increased, the number of parents promoting healthier lifestyles has increased, and students are reporting fewer vending machine purchases. Sources: *Arkansas News Bureau* (10/8/08); *Archives of Pediatric and Adolescent Medicine* (October 2008)

WEEK ENDING NOVEMBER 14, 2008

OREGON FOUND GUILTY IN ONLINE TESTING SUIT — The Oregon Department of Education was found guilty of breach of contract with Vantage Learning and now must pay \$3.5 million to the online testing company. The state education agency originally sued the vendor for the same charge last year after Oregon schools had to resort to paper-and-pencil tests because of problems with the computerized versions. The jury sided with Vantage based on the company's countersuit, which cited unpaid bills and unanswered invitations about price renegotiations for the extra tests used by the state as the reason for terminated services. Oregon, the first state to have all students take state reading and math tests via computer, now works with the American Institutes for Research for computerized testing and has not decided whether it will appeal the verdict. Sources: *Oregonian*, (Salem) *Statesman-Journal*, *Oregon Public Broadcasting* (11/11/08)

AMERICAN CIVIL LIBERTIES UNION CHALLENGES SINGLE-SEX CLASSES IN ALABAMA — The ACLU is looking to test the constitutionality of single-sex classes by challenging an Alabama middle school for its gender groupings. In a letter to the Mobile County Public School System, the ACLU challenged Hankins Middle School for violating Title IX, the federal law that prohibits gender discrimination in public schools, and enacting policy without definitive research on the benefit of placing boys and girls in separate classes. Mobile County schools Superintendent Roy Nichols said each school typically decides how to distribute students among classes, and in recent years other schools in Mobile and Baldwin counties have experimented with single-gender classes. The National Association for Single Sex Public Education lists 442 schools across the country offering single-sex classes. Source: (Mobile) *Press-Register* (11/13/08)

NEW JERSEY RULING ALLOWS SCHOOL OFFICIALS TO SEARCH ON-CAMPUS CARS — A New Jersey state appellate court ruled that school officials can search cars permitted to be parked on school grounds without a warrant. The court specified that school officials need only reasonable suspicion to search a student's car. The decision follows a 2006 incident involving an Atlantic County student whose car was searched by an assistant principal after the student was found with what school officials believed were illegal drugs. After recovering items from the car, the student was arrested and charged with possession of steroids and diazepam. Source: *Asbury Park Press* (11/11/08)

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NASB Newsbriefs...continued from previous page

UTAH BOARD MOVES FORWARD WITH RULE FOR MORE SCHOOL COUNSELORS — A Utah State Board of Education committee approved a new rule that would require local school districts and charter schools to have at least one counselor for every 350 students in grades 7 through 12. The rule will likely be decided by the full board in December. Currently, state high schools have one counselor per every 378 students, but some counselors are assigned 500 students each. Local superintendents and districts initially opposed the measure because of budget constraints, but reversed course because the new rule would permit them to submit plans that show how they will eventually meet the mandate. Source: Salt Lake Tribune (11/08/08)

VERMONT NAMES EDUCATION COMMISSIONER FINALISTS — The Vermont State Board of Education has narrowed its search for a new commissioner to three candidates; two of the three are Vermont local school administrators and one is a former Connecticut education commissioner. A national search started last summer when Richard Cate left the post to join the University of Vermont administration. According to State Board Chairman Tom James, more than 20 candidates applied for the job, and “the state Board of Education is very pleased with the response to our request.” The three candidates were invited to a public forum next week, which will include parents, principals, teachers, and state education and business leaders. The groups will then have the opportunity to provide feedback to the State Board before it makes a recommendation to Gov. Jim Douglas. It is anticipated that Douglas will make a choice later this month. Source: Burlington Free Press (11/8/08)

ONLINE CLASSES BECOME OPTION FOR FLORIDA K-8 STUDENTS — A new Florida law calls for the creation of an online K-8 school in 2009. Unlike the online high school offerings available there for the last 10 years, the new school’s students will not be able to pick and choose the classes they take online and in a brick-and-mortar school. Rather, students in the K-8 school will have to take all of their classes online. The new law is designed to give parents more choice in how their elementary- and middle-school children are educated. The state will provide districts with \$6,000 per student, the same amount that the state would pay for students who came to a regular school. Students who do not have computers will get them for free, along with free online service. The state expects savings in transportation and school construction. Source: Orlando Sentinel (11/10/08)



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