

April 2019  
Report of the Distinguished Educator  
Hempstead Public Schools  
John E. Bierwirth

May 5, 2019

Dear Commissioner,

As we approach the end of the 2018-2019 school year, I am pleased to report continuing progress in all of the most critical areas except one. Progress has been slower than ideal in some areas, but the progress is real and it is substantial. There is much to celebrate. When we know the final academic results (high school graduation, Grades 3-8 ELA and Math results, etc.), we will know more about how far we have come but the signs are good.

The one critical area which has not seen the necessary progress is governance. I have great and growing concerns about the problems with the governance of the District, problems which I believe threaten the long term sustainability of the progress in other areas.

Before I address the issues with governance I would like to note some of the continuing progress in other areas:

- The current High School senior cohort appears to be on track to graduate at a substantially higher rate than prior cohorts. The best estimate at this point would be 60-65%, perhaps higher. This is not where the District needs to be long term by any means but it is well above prior years which were around or below 50%.
- Future cohorts in the high school are on track to graduate at even higher rates.
- Very few students “opted-out” of State Grades 3-8 assessments in ELA and Math. Informal reports indicate that students were even better prepared this year than in prior years. As you know, the percentage of students scoring at level 1 has dropped dramatically over the last three years and the percentage of students scoring at level 3 or 4 increased significantly (see attached chart). Given the absolute level of these scores, this improvement needs to be sustained if Hempstead students are to reach fully competitive levels but there has been substantial progress.
- Three more elementary were removed from State lists. The Middle and High Schools met their demonstrable indicators (DI’s).
- Hempstead is committed to getting off all lists and successfully completing corrective action plans. While this may not seem like progress I believe that it is important. For as long as there have been NYSED lists of schools or districts with problems or deficiencies, Hempstead and/or one or more

Hempstead schools have probably been on them. This is a distinction that Hempstead seems seriously committed to ending permanently.

- Problems with student data--some of which are longstanding—have been largely corrected. NYSED staff, Nassau BOCES and Hempstead staff have worked collaboratively to make this happen. There are some loose ends still to be addressed but most or all should be completed fully by June 30.
- AP courses have been expanded.
- AIS support services and an expanded music program being implemented with the 2018-19 budget
- The first full year of candidacy for the IB Primary and Middle Years programs continues on track.
- The Rhodes Elementary School will be demolished over the next two months. The plans for the new elementary school to take its place were submitted and are on track. Please remember that the school was closed over 17 years ago and condemned over 10 years ago. Inability to address this situation has been a constant reminder of the District's failure to fix its facilities. Completion of this building will also allow the District to begin to remove modular classrooms, many of which are decades beyond their useful lives.
- The District's first energy performance contract (\$11.1 million) will be submitted to the Board and community this week. This includes new boilers at several schools and a major overhaul of the 50 year old AC at the High School which almost failed last spring and fall. As with all energy performance contracts, this work will be done at no net cost (guaranteed by the contractor by law) to Hempstead taxpayers with energy savings paying for the work.
- The proposal for the second half of the Smart Schools bond allocation should be submitted shortly. As you know, none of Hempstead's over \$9 million in Smart Schools funds had previously been touched depriving Hempstead students and staff of access to improved technology.
- The elementary school (Prospect), which suffered a catastrophic fire as a result of a lightning strike last August, will be completely renovated before Memorial Day, ready for students for the 2019-20 school year.
- Despite charter school tuition reimbursement bills that have risen from \$25 million last year to a projected \$43 million next year, the District prepared a balanced, detailed budget on time. Deep cuts in staff were required but the District did what it had to do.
- Several cases of potential illegality were referred to the Nassau DA's Office.
- The forensic audit was completed and referred to the appropriate parties. Corruption and inappropriate behavior are being taken seriously.
- Audit functions are being addressed in a more normal manner with the full Board taking responsibility in a manner that was not the case previously. A review by the Internal Control Auditor at year end will review the degree of implementation of previous recommendations by the three audit firms and the Office of the State Comptroller. Most of those recommendations from prior years had not been addressed prior to 15 months ago.
- Business operations continue to improve.

- Maintenance of buildings and grounds is being performed on a more regular basis. While there is an enormous accumulated backlog, that is slowly being whittled down.
- Last August the week before Labor Day, schools did not have new certificates of occupancy. Schools would not have been able to open on time. Annual fire inspections are being done now and the schools should be cleared for new CO's on a timely basis.

I could list a great many others. As I have noted in prior reports, progress is not the same as success. More needs to be done across all areas to reach success but the progress is real and there are paths forward in all areas for continued improvement. Progress must continue to be monitored and supported.

In my initial assessment in fall 2017 I noted that the class that entered Kindergarten in 2004 when a team of 40 from NYSED produced a comprehensive set of recommendations for improvement had just graduated and that the education of that class would have been very different had the recommendations been implemented. They were not. Recommended changes are now being implemented and they are making a difference.

Continued progress is, however, at serious risk not because of lack of will or lack of adequate plans but because of vulnerability to issues with governance, many of which are the same governance issues that have negatively affected the District for the past 20 years. These problems in one form or another were a barrier or hindrance to the permanent implementation of the changes recommended in 2004 SED report as well as to recommendations made subsequently by SED and/or the Office of the State Comptroller. Problems with governance were and still are the most critical issue in the District.

In my initial assessment and recommendations (an excerpt from the initial assessment and recommendations is attached as Appendix A) I noted:

**“Overall, my assessment and evaluation of the District’s operations and practices reveals that **governance is the single most significant barrier to the District focusing its efforts and resources on the education of its students, which should be of paramount concern**”**

**“When meeting as a group, this Board has proven completely unable to meet the critical challenges facing the District as detailed in this report. “**

In your Commissioner's Decision in the fall of 2017 (No. 17,263) you set clear expectations for the Hempstead Board of Education:

**I again admonish the district and the board, as I have in previous appeals, to take all steps necessary to ensure that such controversy does not continue and that the district's leadership and resources are focused on the paramount goal of providing successful outcomes for students.**

These expectations were further underscored in the meetings that the Chancellor and you held in January 2018 with individual Board members and then you held again this school year. You offered encouragement and assistance but the expectations of the Board were very clear.

At no time since I arrived at the beginning of October 2017 has the Board risen to the standard you set. Board majorities have changed and the composition of the Board has changed but the performance has not. While I had hoped that governance would improve substantially and permanently, it has not. What I see of the current Board, particularly over the past several months, is behavior that is largely consistent with the behavior of prior boards over the past 20 years.

Based on the workshop conducted by NYSSBA officials it was clear that the current members of the Board understand both what needs to be done and how to do it. My understanding is that there have been two other occasions this school year (at school board conferences) when current Board members had similarly constructive conversations. Whether it is unwillingness or an inability to put this into practice is unclear. What is clear is that it is not happening.

When I first met with individual Board members in fall 2017 I learned that there were no significant differences on issues of substance as outlined in the District's goals. However, Board members were largely unable to discuss them as a group due to the fact that adult issues took precedence. I noted that in my initial assessment. Although the membership of the Board changed after July 2018 the behavior did not. Despite your urging at various times, minimal attention has been paid to issues such as student achievement and initiatives to improve the quality of instruction such as the implementation of the Primary Years and Middle Years International Baccalaureate programs. Adult issues, not student issues, take precedence.

In my initial report I quoted a staff member who described the 18-24 month changes in direction in instruction as "consistent inconsistency". I heard about the same pattern from many staff members. I noted similar issues in other areas. For example, I was told that the District had had 19 different business officials in the previous 20 years.

In my quarterly and monthly reports to you since January 2018 I have noted significant issues that the Board needed to address. Most of these with the exception of the demolition of Rhodes School and the construction of a new elementary school have remained the same from one report to the next. Most remain today.

*From the first quarter report covering October to December 2018:*

*The members of the current Board have shown a willingness to devote a great deal of time and attention to the challenges facing the District. In fact, they held 33 meetings between July 1 and mid-December. A dozen were held in the first two months of this quarter (October and November). The vast majority of these meetings have not ended until just before or even after midnight.*

*As noted in the special note at the beginning of this report, much of this time has been devoted to several legal matters. These matters have imposed a heavy financial burden on the District as well as consumed a considerable portion of the Board and administration's time and attention. As you noted to various Board members in your meetings with them in December, it was your hope and theirs that attention and resources could be shifted to other pressing areas even as these legal matters proceed. Many of the challenges I have listed in prior reports are still outstanding:*

- *Contract negotiations---Many contracts expired years ago. Little progress has been achieved in settling new ones.*
- *Building a strong leadership team at the District level—The District has not yet hired a full time permanent assistant superintendent for business or an instructional leader to replace the Acting Superintendent. In addition, the District depends in part on retirees who may not be available long-term.*
- *Holding a retreat to be facilitated by NYSSBA---The Board has talked about the importance of a retreat since July and Board members affirmed this in December. To date, no date has been set. Working out appropriate protocols within the Board and between Board members and staff is a high priority. Board members have shown an admirable willingness to reach out to parents, students, community members and staff. There are, however, insufficient protocols within the Board on how problems surfaced will be handled.*
- *Goals and who will do what when—In October, at the time of my reappointment, there was an excellent discussion about the District goals, what Board members individually and collectively would do to realize these, what the Acting Superintendent would do to realize these and what I would do specifically to assist both Board members and the Acting Superintendent. That conversation has not been completed.*
- *Putting District priorities into practice—The current Board has made clear from the beginning of July its intent to make "Students First". Putting this into practice has been challenging, particularly given the burden of legal issues noted at the beginning of this report. The Board has tried to offset this by meeting more frequently. What they have been less successful in doing is using*

*Board meetings to focus on in-depth presentations and discussions of priority areas. This is not a negative but a case of missed opportunities.*

- *Auditors---The Board followed through on their commitment to meet with all three audit firms. These meetings were lengthy with the auditors reviewing the status of prior recommendations and discussing what needs to be done now. The Board now needs to meet with the internal control auditors to set the targets for this year's risk audit and schedule year-end meetings with all three firms.*
- *100 Main—The District has explored the possibility of renting additional space at 100 Main since last summer. This is still up in the air.*

*Due to vacant positions within the leadership team and the demanding nature of some of the challenges facing the District the Acting Superintendent has not been able to get out to the buildings to meet face to face with parents and staff as frequently as would be desirable. In fact, this has happened relatively infrequently during this quarter. While this kind of interaction is important but difficult in any district, it is particularly important in Hempstead which has seen so many changes in leadership over past decades.*

*From the second quarter report covering January to March 2019:*

- *The vast majority of the challenges facing the Board remain the same as in previous reports. I will not reiterate them here. Part of the reason they remain from one quarter to the next is that many are longstanding and very significant. That is understandable. Part is due, however, to the difficulty of the Board and Acting Superintendent coming together and functioning as an effective governance team. Time and time again—most recently, at a weekend March retreat facilitated by NYSSBA---the Board demonstrates that it understands both what needs to be done and how it needs to be done. Time and time again, implementation does not live up to plans. Much progress is being made across many areas as I have noted in this and prior reports. The Board and Acting Superintendent should be acknowledged and applauded for this but sustaining and accelerating this improvement requires more effective leadership.*
- *I remain concerned about the lack of a full experienced and highly expert team of administrators. Positions remain unfilled and the District is still too dependent on retirees who may not be available long term. In light of the challenges facing the District, Hempstead needs a solid team with the individual and collective experience and expertise to sustain improvement efforts for the next 5-10 years.*

- *As indicated above, there is currently insufficient recognition of the severity of the financial challenges facing the District or the steps which will have to be taken to meet them. Bringing the District and the community through this successfully, particularly if it is in the context of a Board election as divisive as last year's, is a significant challenge and a threat to the academic progress underway.*

To the credit of the Board currently in place much progress has taken place during their tenure. It would be incorrect to say that the progress has taken place despite them but even with numerous lengthy meetings since July 1 2018 they have not ensured that **“that the district’s leadership and resources are focused on the paramount goal of providing successful outcomes for students.”** Disagreements between Board members, private meetings of subsections of the Board with attorneys, maneuvering for the next Board election, involvement with staff members outside of normal operations, intervention in disciplinary actions, lengthy executive sessions with members of the public waiting etc. take precedence for Board member time. This is a pattern which you noted in Commissioner’s Decisions as well as in various personal meetings and communications with the Board. The pattern has not changed substantially to date. I see no reason to believe that it will going forward.

In addition to the issues which have been outstanding for many months, the Board faces two new challenges. The first is to make cuts in the budget sufficient to cover the cost of charter school tuition reimbursement which has risen from \$25 million a year ago to a projected total of over \$43 million next year. While administration has made specific recommendations, these have not been acted upon as of this date. The second challenge is related to the first. The District needs to present a positive alternative for parents considering whether to enroll their children in charter schools. While there are a lot of good things happening, that is not the face of the District as currently presented publicly.

The District needs stability, focus and discipline in order to sustain the improvement under way. Improvement should be accelerating now that the District has achieved more “normal” operations in so many areas.

The appointment of the DE was designed to assist the District in making significant and permanent change for the benefit of students. That is happening in every major area except governance. The progress is real but it is vulnerable.

John E. Bierwirth  
Distinguished Educator  
Hempstead Public Schools

## APPENDIX A

**DISTINGUISHED EDUCATOR ACTION PLAN Distinguished Educator:** Jack Bierwirth, Ed.D.

**District:** Hempstead Union Free School District

In late 2004, shortly after the graduating class of 2017 entered kindergarten, a team of 40 professionals from the New York State Education Department (“NYSED”) visited the Hempstead Union Free School District (“HUFSD” or “District”) to assess the District and make recommendations for improvement. Had the issues identified in the 2004 NYSED report been addressed promptly and thoroughly, the educational journey of the students in the class of 2017 might have been very different.

Further, in 2014, the Office of the New York State Comptroller (“OSC”) conducted an audit of the District and made recommendations. Had the serious issues identified in the 2014 OSC report been properly addressed, the District’s expenditures in 2014-2015 would not have exceeded the taxpayer approved budget by \$8.6 million.

To a large degree, the concerns expressed and resulting recommendations in both the aforementioned prior reports are consistent with the issues the Hempstead community brought to my attention in my role of Distinguished Educator. Accordingly, both reports are referred to in the proceeding action plan to illustrate that many issues facing the District are longstanding and systemic, and that past Corrective Action Plans have been inadequately implemented, if at all.

I cannot overstate the extraordinary candor demonstrated by members of the Board of Education, Superintendent, school administrators, educators, staff, parents, students, and community members during the development of this report and plan. Their assessments of the state of affairs in the District were often painful to hear. However, their suggestions for improvement proved helpful and reflected genuine optimism that what should be done could be done.

I share the community’s optimism and commitment to making immediate and sustainable change that will ensure that current and future Hempstead students receive the educational opportunities they deserve.

### **I. FINDINGS**

#### **1. GOVERNANCE**

Concerns regarding the Board of Education’s practices were at or near the top of issues identified by most parents, community members, and HUFSD staff. Stakeholders spoke about deep divisions, long and rancorous Board meetings, an inability to collaborate even on commonly shared concerns, a failure to prioritize student needs, an inability to attract and retain administrative talent, a lack of consistency, a lack of follow-through on agreed upon plans, and a lack of transparency.

Overall, my assessment and evaluation of the District's operations and practices reveals that **governance is the single most significant barrier to the District focusing its efforts and resources on the education of its students, which should be of paramount concern.** A review of recent legal proceedings before the Commissioner clearly illustrates the inordinate amount of the District's attention and resources that have been expended on Board issues. Since 2014, several appeals and/or applications for removal have been filed with the Commissioner of Education regarding the District. These proceedings include challenges to the District's May 2014, 2015, and 2016 election results; the Board's alleged violations of the Open Meetings Law; challenges to the Board's contracting and procurement practices; and challenges to the Board's removal of one of its members. Most of these challenges have been mounted by the Board itself or by various groups of Board members.

Based on the record in these appeals, the Commissioner has been compelled to overturn the results of the May 2014 Board of Education election and order that the District cooperate fully with election monitors (Decision No. 16,660), and annul the Board's action in removing one of its members (Decision No. 17,263). Indeed, in such decisions, the Commissioner has routinely commented on the pervasive governance issues plaguing the District. For example, in her recent Decision No. 17,263, she stated: Finally, I am compelled to comment on the controversy surrounding respondent board in recent years which continues to plague this district, as evidenced by the record in this and several other cases involving the district (see e.g. Appeal of Watson, et al., 56 Ed Dept Rep, Decision No. 17,082; Appeal of the Bd. of Educ. of the Hempstead Union Free School Dist., 55 id., Decision No. 16,878; Appeal of Touré, et al., 54 id., Decision No. 16,660). Due to the significant academic and school governance issues the district continues to experience, effective October 6, 2017, I appointed a Distinguished Educator to the district in accordance with Education Law §211-c. In light of the above, **I again admonish the district and the board, as I have in previous appeals, to take all steps necessary to ensure that such controversy does not continue and that the district's leadership and resources are focused on the paramount goal of providing successful outcomes for students. To this end, I am directing Dr. Jack Bierwirth, the appointed Distinguished Educator, to provide guidance and technical assistance to the district to ensure that this occurs** (emphasis added).

During my assessment as well as in the six months prior, many of the practices that were of express concern in the 2014 report by the Office of State Comptroller continued to be exhibited by the Hempstead Board of Education. In 2014, OSC noted that the Board exhibited a lack of transparency and a failure to adhere to Open Meetings Laws. OSC also expressed serious concerns about the Board's improper employment practices, including an admonishment for retaining two superintendents at the same time. The Board had appointed administrators, changed administrators, and entered into as well as amended agreements with no documented plan, reason, or clear benefit to the District.

In a direct example of a lack of follow-through on prior recommendations, in the spring of 2017, the Board employed a new superintendent one month before the end of the prior superintendent's contract, resulting in the District needlessly paying two superintendents simultaneously. In October 2017, the same Board majority approved the appointment of legal counsel for special investigations retroactive to August 1, an action contrary to the most basic of appropriate business practices and contrary to the expectations delineated by the Comptroller.

In late November 2017, the new majority resulting from the Commissioner's aforementioned reversal of the Board's action to remove a sitting member (Decision No. 17,263) immediately called an emergency meeting. The meeting was broadcast to the

community as a discussion meeting, but resolutions dismissing the sitting counsel for special investigations and appointing a firm that had been previously employed by the District were hand carried into the meeting and approved. Neither the substance of the action to be considered nor the rationale were shared with the public in advance. One week later, at a regularly scheduled Board of Education “work” session, additional resolutions were hand carried into the meeting and approved. These resolutions removed another law firm employed by the District effective immediately and transferred that firm’s work to a different firm that had previously done work for the District. Both successor firms that had previously worked for the District charge notably high fees (see Appendix A). Reverting to these firms’ services during the school year on short notice with pending cases demonstrates questionable priorities and judgment. Additionally, shortly after hiring the new superintendent to begin in June 2017, the same Board majority hired four “master teachers,” approved a consulting contract of just under half a million dollars, and employed a deputy superintendent. In total, these additions represent annual expenditures of roughly \$1.5 million that were not in the budget approved by the taxpayers in May 2017.

Questions have been raised about the manner of these new appointments given the apparently close connections between the new superintendent, the individuals selected as master teachers, the organization employed for consulting, and the deputy superintendent. The master teachers do not have job descriptions, their role is unclear to other school staff and parents, and they are not part of any bargaining unit. Furthermore, there has been no formal reorganization of administrative responsibilities to justify these roles. Whether the responsibility for defining these jobs rests with the Board or the superintendent is less important than the fact that they remain undefined while putting undue strain on the District’s budget.

In addition to the specific issues resulting from the Board’s decisions to date, their actions suggest that they lack a commitment to the level of transparency in the school budget development process mandated in State Education Law. This was illustrated by the District’s planned purchase of new school buses through vaguely worded language in its 2017-18 budget. Before the purchase could occur, SED discovered that the District lacked the budget propositions and State approvals required by the property tax levy limit and State aid statutes. Due to the Board’s failure to follow protocol, if the District had made the purchases, it would have risked being ineligible for State aid. In addition, the resulting payments would not have been appropriately treated as capital expenditures under the tax levy limit and therefore could have depleted the funds available for instruction. This example raises a red flag that the Board of Education lacks a basic understanding of the requirements of lawful and responsible school district budgeting.

While members of the Board of Education made assurances during the Distinguished Educator’s assessment that they would put aside differences to address critical issues such as school safety, facilities management, and high school instruction – all of which Board members indicated they agreed on – those aspirations have not been realized. In fact, little or no time has been spent on these high-priority issues other than answering concerns raised by members of the public at Board meetings. **When meeting as a group, this Board has proven completely unable to meet the critical challenges facing the District as detailed in this report.**

It is noteworthy that this behavior was consistent during the leadership of two different Board majorities. Further, it is evident that the superintendent has been drawn into the clear divisions among the current Board majority and minority. The overwhelming perception of parents and the staff is that the superintendent was allied with the majority

that was in leadership from June until the Commissioner's November decision that altered the balance of power. It is doubtful whether any leader could have successfully straddled the entrenched divide within the Board, but these political issues complicate the superintendent's capacity to lead the District.

APPENDIX B

SCHOOL	LEVEL 3 & 4 %						LEVEL 1					
	2015-2016		2016-2017		2017-2018		2015-2016		2016-2017		2017-2018	
	ELA	MATH	ELA	MATH	ELA	MATH	ELA	MATH	ELA	MATH	ELA	MATH
Barack Obama	12	20	24	36	33	40	48	47	45	40	28	35
Jackson Main	22	39	34	43	34	47	41	37	32	34	20	25
Jackson Annex	9	13	20	25	27	28	58	46	47	44	36	43
David Paterson	12	15	21	27	39	25	51	56	44	40	28	48
Joseph McNeil	9	5	17	10	17	15	60	69	51	63	48	63
Front	23	37	23	25	21	32	42	30	49	45	35	35
ABGS MS	7	4	10	6	20	10	61	74	58	76	53	71

Prepared By: Dr. Jack Bierwirth