



The

Challenge



April 2004

Mezzatesta ethics probe moves ahead

Diverting education grant money tops the list of the recently uncovered charges

Ethics problems mounted against House of Delegates Education Committee Chairman Jerry Mezzatesta (D-Hampshire Co.) this month, as the West Virginia Ethics Commission began independent investigations into multiple misconduct allegations.

Since the March issue of *The Challenge*, even more questionable conduct on the part of Mezzatesta has come to light.

The most outrageous of the

newly-exposed situations involves the usurpation of legislative power by Mezzatesta.

Joe Panetta, executive director of the West Virginia Department of Education Office of School Finance, told *The Charleston Gazette* that Mezzatesta ordered him to ignore a statute which would have provided extra state funding to 17 county boards of education, and instead divert all of the funding to only six counties, including Hampshire

County.

Mezzatesta is employed as a "community specialist" for the Hampshire County Board of Education.

Under West Virginia's school funding law, as approved by the entire Legislature, counties with increased enrollments are entitled to extra funding equally.

Panetta says that Mezzatesta,

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Ex-State BOE president released early from prison

Morris rewarded for 'substantial assistance' in undisclosed investigation

A former president of the West Virginia Board of Education has been granted an early release from federal prison.

After serving 14 months of an 18-month sentence for embezzlement, Jimmy "JD" Morris was released from a federal prison in mid-April by U.S. District Judge David A. Faber.

Morris' discharge came about after federal prosecutors filed a "rule 35 motion" for a reduction of the previously imposed sentence.

The rule 35 motion is most commonly used to reward federal convicts for providing "substantial assistance" to the U.S. Attorney's

office in relation to prosecutions of other criminal defendants.

On Feb. 3, 2002, U.S. District Judge Charles Haden sentenced Morris to an 18-month term of imprisonment. Morris' conviction was the result of a plea agreement with the U.S. Attorney's office.

Haden accepted Morris' plea in Nov. 2002. Federal prosecutors say that Morris embezzled more than \$100,000 from his private sector employer, the Clay County Bank. Morris had been employed by the bank for 50 years before his resignation. Morris' bank salary has been reported to be greater than \$200,000 per year.

Morris was the bank's president when auditors discovered that money was missing. Auditors found that money had been taken from various customer bank accounts, student loan accounts and fraudulent expense reimbursements.

In addition to the criminal charges, Morris was caught up in the pay scandal with several other members of the State BOE. It was discovered that Morris had actually charged the State of West Virginia his per diem State BOE salary for attending funerals and the state boy's

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This 'n that from around the state

- Approximately 70 protesters showed-up for the groundbreaking ceremony at the site of the new consolidated high school in Lincoln County. In all, nearly 300 people were in attendance, however, the vast majority of attendees were Lincoln County school students who were specially bused to the ceremony from their daily classes. The West Virginia Board of Education seized control of Lincoln County schools in 2000. Since the seizure, the State Department of Education — over the objection of members of the Lincoln County Board of Education — has devised a plan to consolidate all four of the county's high schools into one. Students in the Harts area of Lincoln County will be allowed to cross the border and attend a new school in the Chapmanville area of Logan County. Cost estimates for the Lincoln County school top \$30 million, while the estimate for the new Chapmanville School is near \$20 million. Two lawsuits, pending in Kanawha County Circuit Court, seek to stop the state's plans. Circuit Judge Charles King had set the cases for hearing this month, but they have now been continued until June.



examinations. According to reports in *The Logan Banner*, the investigation centers on an improbably large number of children who received perfect scores on the examination. As a result of the accusations, the students have all been re-tested, but no results have been made public. The State Department of Education and the Logan County Board of Education are conducting the investigation. There has been no estimate given on when the results of the investigation will be made available.

- Governor Bob Wise vetoed a section of the fiscal year 2004-2005 budget, which allocated \$300,000 to Wyoming County schools and \$100,000 to Greenbrier County schools as reimbursements for flood-related expenditures. A spokesman for the Governor's Office said the allocations were stricken because no one from the Legislature had ever informed the Governor's Office of their purposes. The spokesman said the veto had nothing to do with the flood furniture scandal in Wyoming County that was uncovered by *The Charleston Gazette* in late 2002. According to *The Gazette's* investigation, former State Superintendent of Schools G.A. McClung arranged an exclusive contract with long-time friend Phillip "Pork Chop" Booth, for the replacement of school furnishings damaged by the devastating floods of the summer of 2001. The investigation found that Booth's company had overcharged the state between two and four times the actual market value of the furnishings. It also found that many items were replaced even though they had never been touched by flood water. Federal investigations into the affair are reportedly continuing.

- In Logan County, five fourth grade teachers have been suspended while an investigation is being conducted into possible irregularities on the state writing assessment

- The Lincoln County Board of Education has settled a sexual harassment lawsuit brought against it by a student. The settlement — \$4.5 million — will be paid by the Lincoln County BOE's insurer. The lawsuit alleged that Phillip A. Duvall, 47, of Huntington, a teacher at Duval High School, sexually abused the plaintiff-student and a number of others. The suit also alleged that five different female students filed similar complaints about Duvall, but Lincoln County school administrators ignored their claims. Duvall is facing a 14-count indictment in U.S. District Court, charging him with producing, receiving, transporting and possessing child pornography. If found guilty, Duvall could face more than 20 years in federal prison.

- A public-relations official with the U.S. Department of Education visited West Virginia in mid-April to promote the *No Child Left Behind Act*. The official did not address allegations from state officials that the Act places unreasonable financial burdens on the states, by expecting them to do big things with small amounts of money. The West Virginia Attorney General is considering the pursuit of a lawsuit to challenge the funding, or lack thereof, from the federal government to the State of West Virginia. The W.Va. Board of Education has announced that they do not support the attorney general's proposal.

- The West Virginia School Building Authority has approved more construction and renovation grants over the past month. The winning counties — Berkeley, Cabell, Fayette, Hancock, Jackson, Lewis, Marion, Mercer and Wirt — will share in a total of nearly \$4.2 million. The money will be used for major renovations to at least one school in each county. The projects range from additions of classroom space to replacements of HVAC systems. State law limits the amount these Major Improvement Program Grants to \$500,000 per county, per year.

The West Virginia Governmental Ethics Act

In 1989, the Legislature enacted the West Virginia Governmental Ethics Act (*West Virginia Code* §6B-1-1 et seq.) as a response to years of ethics scandals created by dishonest politicians.

The Act is applicable to virtually every public official and employee in the state.

Among the long list of those governed by the Ethics Act are legislators, members of county boards of education, members of the State Board of Education, officials in the State Department of Education and county officeholders, to name a few.

The Act prescribes numerous

Ethics contact info

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www.wvethicscommission.org

ethical standards by which public officials are expected to abide.

The main activity prohibited by the Ethics Act is the use of public office for private gain.

The State Ethics Commission does not police the entire field of public officials and can only act when a citizen files a complaint.

A citizen who wishes to report unethical activities on the part of their public officials can do so by using the contact information to the left.

Complaints can result in the imposition of criminal and civil penalties.

DELEGATE

without any legislative authorization, ordered him to change the distribution system so that counties would have to have enrollment increases in “three of the past five years,” before they could get the money. For the past 30 years, the money has been distributed after enrollment increases one year prior to the funding year.

Panetta says Mezzatesta ordered Panetta’s staff to make reports on a number of different funding scenarios before making up his mind. In the end, Mezzatesta chose the only funding scenario that would give money to Hampshire County Schools. In fact, nearly all of the funding went to counties near Hampshire County in the Eastern Panhandle.

After Mezzatesta’s unilateral changes, Putnam County lost more than \$46,000 and Mercer County lost nearly \$137,000. The change also caused Monroe County to lose \$112,000. That loss nearly pushed Monroe County into a budget deficit.

In contrast, Berkeley County’s budget was padded with an extra \$608,000, leaving that board of education with a \$1.5 million surplus last year.

The purpose of the appropriations is to assist county boards of education in funding enrollment increases in the year in which they occur. The majority of state aid to schools is based on enrollment figures from the previous year.

Public records reveal that Governor Bob Wise and State Superintendent of Schools David Stewart were both made aware of Mezzatesta’s change, but neither protested.

Another of Mezzatesta’s newly-discovered activities involves the diversion of a \$70,000 West Virginia Department of Education grant. The grant, which Mezzatesta obtained, was intended for use in helping special needs children in the Hampshire County school system. Instead, Mezzatesta diverted the funds to volunteer fire departments in the county.

This is the second publicized instance of Mezzatesta seeking state grant money for Hampshire County schools. Mezzatesta previously secured a state grant for the school system to help pay the costs of a financial audit.

When he took the “community specialist/grant writer” job in 1999, Mezzatesta and Hampshire County school officials promised the West Virginia Ethics Commission that he would not seek state grant money on behalf of the Hampshire County Board of Education.

It has also been reported that Mezzatesta collected both his regular \$60,000-a-year salary from the Hampshire County Board of Education and his \$15,000 base legislative salary during the 60-day annual legislative session — an act which many believed is illegal.

There is no word on when the West Virginia Ethics Commission investigation will be finished.

MORRIS

high school basketball tournament.

Once the charges were filed, Morris resigned from the State Board of Education. He quit the

bank job nearly six months prior to the filing of the criminal charges.

Morris’ plea agreement required his cooperation in investigations into other crimes — a provision with

which he complied. The exact nature of his assistance has not been publicly disclosed. Under the sentencing guidelines, Morris could have gotten more than 2 years in prison.

The Challenge

The Challenge is published monthly by Challenge West Virginia, a statewide organization, committed to maintaining and improving small community schools.

Challenge West Virginia's goal is to reform education in the Mountain State so that citizens have a voice in policy decisions and every child has the opportunity to receive a first-class education and the promise of a bright future.



Challenge West Virginia

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