

Experts agree: SB search should be public

By Ken Stickney
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Questions posed last week in executive session to the four finalists for the position of Monroe City school superintendent were probably not permitted under exceptions to the state's Open Meetings Law, experts for open government in Louisiana said.

Louisiana law seems clear, too, that resumes for top

On the Web

See a complete list of questions asked of candidates, along with more coverage of the Monroe City School Board's search for a superintendent at www.thenewsstar.com.

positions, like school superintendents, should be open to the public and that school boards — such as Monroe's did last week — should not make final decisions in private by voting in any form behind closed doors.

School Board members

said last week that in interviewing four finalists for Monroe school superintendent, they closely followed a script with 25 questions created by Ray and Associates of Cedar Rapids, Iowa, paid consultants for the search. In fact, each of the questions,

which were read to the finalists by individual board members, bore next to them the initials of the individual board member who was scripted to ask it.

For example, School Board President Jessie Handy was scripted to open the closed-

door sessions with the invitation, "Please tell us about yourself."

School Board member Brenda Shelling was scripted to follow that response with the question, "Describe your management style. Please give examples."

But those questions should have been asked in public session, and not in a private, or executive session, Jim

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Public

■ The two finalists are Julia Earl and James Dupree.

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Brandt, president of the Public Affairs Research Council of Louisiana, or PAR, said. PAR is a 50-year-old private, non-profit research organization that seeks more efficient government in this state.

"On the face of it, the script itself, I don't see (the questions) as following under the exceptions," Brandt said Friday.

Louisiana governments operate under an Open Meetings Law that not only encourages but usually mandates government openness and public disclosure. Government bodies such as the Monroe School Board must meet in public to discuss and conduct the public's business, with three exceptions: discussions of an individual's good name and character, professional competency and his or her health or mental health.

Two finalists — Julia Earl of the Klein, Texas, schools and James Dupree of Newburgh, N.Y., public schools — remain in the running for the Monroe job after last week's interviews.

In shaping their list of four finalists and in interviewing the finalists for the school superintendent's position, board members at virtually every step met in closed session, citing the above exceptions to the Open Meetings Law.

But in reviewing the School Board's prepared questions for the private meetings — the questions were released Thursday and *The News-Star* faxed them to PAR in Baton Rouge — Brandt said all of them pertained to "information the public should be interested in." For example, they pertained to management styles, ways of resolving conflict and the candidates' successes in other systems. And the public should have heard the questions and the answers, he said.

"Nothing in those questions by any measure relates to the exceptions" to the Open Meetings Law, Brandt said.

David Marcello, executive director of the Loyola-Tulane Public Law Center in New Orleans, said some judges, using a wide interpretation of "professional competence," might say that some of the questions would be permitted in private. It depends on the judge, he said, and some advocates for closed meetings might make a "fair argument" to use at least some of the questions in private.

Marcello and Brandt both serve on the Louisiana Freedom of Information Coalition.

But Marcello said the Monroe

board would likely fail the Open Meetings Law test under another legal standard. Boards are not permitted to vote or otherwise make final decisions in private, he said. Board votes, he said, must be done in public.

By trimming their list from the original 22 applicants to two in private meetings, the Monroe board had to make decisions in private that should have been made in public, he said.

"They seem to be on terribly shaky ground when they say they didn't make any binding decisions in executive session," Marcello said.

Last Thursday, School Board members disclosed that the private consultants, Ray and Associates, had selected the final eight candidates. Board members also said they had in an executive session on Aug. 3 used a formula devised by Ray and Associates to rank the final eight candidates, trimming the field to the final four, who were interviewed Monday and Tuesday. But a court ruling in a 1980 case involving the East Baton Rouge School Board — that board was also choosing a superintendent — said that any such means of polling or making choices to eliminate some candidates represented a "selection process"; in effect, it was a private vote by the board, which is not permitted under the state law.

Ray and Associates and the School Board have maintained that the board interviewed candidates in private — the Iowa search firm promised them some anonymity — and refused to release their resumes to the public in order to attract quality candidates who might not have interviewed for the job had their bosses known.

PAR attorney Charlotte Bergeron said Louisiana law prohibits such anonymity. The more lofty the position, she said, the less a candidate for public employment can expect anonymity. The state Supreme Court said so concisely in 1997: "... Under existing Louisiana law, the applicants for public employment have no right of privacy in their resumes." And, "expectations of privacy diminish the higher one progresses or aspires in the hierarchy of government."

While the search firm and the board suggested good candidates might not want their present employers to know they were seeking the Monroe job, both finalists listed school board members from their home districts as references. Earl told her superintendent, and Dupree told select people in Newburgh.

James Kemp of Kentucky — he was the first candidate interviewed — told his board he was seeking the Monroe job, and the fourth candidate, John Cooper, is not employed by a school system.