

**ROCHESTER BOARD OF EDUCATION**  
**Policy Committee Meeting**  
**February 7, 2013**

Attending: Commissioner Cruz (Chair) and Commissioners Powell and Campos (arrived 5:47PM). Parent Representative: Ranika Brown (arrived 5:42PM). District staff: Ed Lopez-Soto, Chief Counsel; Chip Partner, Communications Chief. Board staff: Debra Flanagan.

Community Members: Reverend Davis; Howard Eagle, John Norris, Ronald Hall and Carla Williams of the Community Issues Consortium.

Commissioner Cruz convened the meeting at 5:37PM.

**I. Review and Approve Minutes of January 17, 2013 Policy Committee Meeting**

**Motion** by Commissioner Powell to approve the minutes of the January 17, 2013 Policy Committee meeting. **Adopted 2-0.**

**II. Review and Discuss Proposed Revision to Safe Schools Policy (8135)**

Commissioner Cruz noted that there have been recent concerns about District employees' conduct jeopardizing student safety, and the need to have a policy regarding how to manage these situations and notify parents. He invited community members to speak about their concerns and provide input in developing a policy to address these issues.

Mr. John Norris of the Community Issues Consortium thanked the Committee for the opportunity to speak and provide input, asserting that the proposed policy addresses his concern to ensure that our children are protected.

Ms. Carla Williams of the Community Issues Consortium referred to the provision in the proposed policy that requires parents to be notified in "a timely manner" when a District employee's behavior may have harmed a student. She stated that this provision is subject to interpretation, and advocated for parents to be notified within 48 hours. Ms. Williams also emphasized the importance of monitoring to ensure that the proposed policy is implemented and enforced.

Mr. Howard Eagle reported that the Community Issues Consortium met with parents and administrators at School No. 19 to obtain further information about a recent situation involving a District teacher. He urged the members of the Policy Committee to address these issues immediately because of the potential harm to students. Mr. Eagle acknowledged that individual rights have to be protected, but asserted that parents also have to be informed to enable them to address the potential harm to their child. He stated that at the point that a teacher has been removed from the classroom or an employee from their position, there is reasonable cause to suspect that there has been a threat to students' safety and parents should then be notified within 48 hours.

Mr. Ronald Hall pointed out that similar policies have been enacted in other school districts in Monroe County, so there is a precedent for notifying parents in these situations. He contended that it would be unconscionable for the Board to delay in adopting similar policies, particularly since this is not the first time that such an incident has occurred in the Rochester City School District.

Mr. Ed Lopez-Soto replied that he appreciates the gravity of this issue, but the District is also bound by legal proceedings and protections. He pointed out that as soon as there is a report of an employee's misconduct, they are removed from their position and placed on administrative leave while the District conducts an investigation. Mr. Lopez-Soto also noted that the District is not legally authorized to release information while an investigation is ongoing. He discussed problems with providing parental notification by certified mail because certified mail often is not accepted due to concern that it may be for bill collection or some other type of negative legal action. Mr. Lopez-Soto agreed with the need to notify parents within 48 hours of receiving a report of employee misconduct affecting children, but stated that a more effective means of communication must be used.

Mr. Chip Partner stated that there are legal issues with providing notification to parents during an ongoing investigation. He explained that a report of an employee's misconduct at School No. 19 was received in April 2012, but referred to incidents that occurred in 2006 and affected one child at the school at that time. Mr. Partner stated that law enforcement authorities were contacted and there was discussion of notifying all parents at the school. He stated that the law enforcement authorities advised against this general notification because there was no reason to suspect that any other children had been involved and the events occurred six years ago.

While acknowledging parents' right to information, Mr. Partner cautioned against creating undue alarm for parents and students who could not possibly be affected (i.e. in a different school, at a different time), and noted that parental notification at this point would create suspicion of the current staff at School No. 19 - even though this employee had not been at the school for some time. He noted that he was more concerned about students at School No. 54 because this was the most recent school at which this employee had been teaching, approximately nine months ago. Mr. Partner stated that the media ran the story about School No. 19, but did not mention School No. 54, thereby creating a misleading impression about the relative safety of the students at each of these schools. He expressed concern about exacerbating the harm to students from having these situations reported by the media.

Commissioner Cruz stated that he appreciates the urgency in dealing with this issue, but there isn't sufficient time to develop and adopt an effective policy for the February 14<sup>th</sup> Board meeting. He explained that Board staff (Ms. Flanagan) has researched similar policies in other districts in New York, as well as the provisions of the law by which the District must abide.

Mr. Eagle contended that Mr. Partner's account of events at School No. 19 were untrue. He stated that at the time of the teacher's arrest, the Administration told the press that the District may or may not notify parents in these situations. Mr. Eagle asserted that this indicates that the District does not have an established policy or practice for managing situations in which an employee's actions have jeopardized children's safety.

Commissioner Cruz responded that there are many considerations involved in developing a policy to address these situations, particularly in terms of timing and the way in which parents are notified. He offered to continue the conversation in upcoming Policy Committee meetings. He urged parents and community members to report to the District Attorney if they receive information about a threat to student safety, and assured community members that collaboration will yield a more effective policy.

### **III. Review and Discuss Revision of Medicaid Compliance Policy (8600)**

Mr. Lopez-Soto reported that the proposed revisions to the Medicaid Compliance policy result from specific issues cited in an audit by the Medicaid Inspector General, particularly for the Board to obtain an annual report from the Medicaid Compliance Officer.

Ms. Flanagan recalled that the proposed revision arose from a suggestion by the Auditor General to remove the requirement for that office to conduct a formal audit on an annual basis, and for the Board to obtain an annual report from the Medicaid Compliance Officer. She stated that the Auditor General had apparently reached an agreement to examine specific data elements on a regular basis, so that there is no need for a formal audit to be conducted every year.

Mr. Lopez-Soto noted that this policy proposal will need to be expedited for Board approval in this month's Business meeting to meet the March 14<sup>th</sup> deadline established by the Medicaid Inspector General.

Ms. Flanagan contended that the deadline applies to the proposed revisions to the District Policy Against Harassment of Students and Employees (1510), rather than to the Medicaid Compliance policy (8600). She stated that the revisions to the District Policy Against Harassment of Students and Employees resulted from the issues cited by the Medicaid Inspector General, and therefore are subject to the March 14<sup>th</sup> deadline.

**Action Item: Mr. Lopez-Soto will look into the need to expedite the proposed revision of the Medicaid Compliance policy (8600) and of the District Policy Against Harassment of Students and Employees (1510) in the February 14<sup>th</sup> Board meeting.**

### **IV. Feedback regarding Implementation of Values Education Policy (4311.2)**

Mr. Lopez-Soto reported that he has contacted each of the Cabinet members to request their feedback about ways in which the Values Education policy is currently implemented in the District.

Commissioner Cruz recommended adding this item to the agenda for the March 21<sup>st</sup> Policy Committee meeting.

**Action Item: Ms. Flanagan will add review of implementation of the Values Education policy to the agenda for the March 19<sup>th</sup> Policy Committee meeting.**

## **V. Legal Requirements regarding Superintendent Reporting to the Board on the Implementation and Efficacy of the Child Abuse and Maltreatment Policy (5460)**

Mr. Lopez-Soto reported that the Superintendent regulation accompanying this policy is changed whenever there are changes in law or regulation, so he did not think that a report by the Superintendent to the Board is necessary. He recommended eliminating this reporting requirement from the policy.

**Action Item: Mr. Lopez-Soto will draft a revision to the Child Abuse and Maltreatment Policy (5460) to remove the requirement that the Superintendent to provide a report to the Board on this policy every two years.**

## **VI. Review and Discuss Proposed School Uniform Policy**

Mr. Lopez-Soto noted that the Policy Committee recommended additional changes to the School Uniform policy in last month's meeting, specifically to add considerations for which a student would be exempt from a school uniform requirement. He stated that the revised policy indicates that financial circumstances or religious objections are legitimate reasons for non-compliance. He pointed out that the policy clarifies that students cannot be suspended or removed from the classroom for failure to wear a school uniform.

Commissioner Powell inquired whether the law prohibits school boards specifically or any school authority from imposing a school uniform requirement. Mr. Lopez-Soto replied that the law prohibits the District from requiring school uniforms for all students, but individual schools may choose to establish such a requirement. He noted that even with a school uniform requirement, students cannot be prohibited from attending school for failure to comply. Mr. Lopez-Soto stated that parents can ultimately choose whether or not to have their child wear a school uniform.

Commissioner Powell suggested modifying the existing policy proposal to clarify that the Board recognizes that the law does not allow school uniforms to be required throughout the District, and that parents may apply for an exemption to a school uniform requirement.

**Motion** by Commissioner Campos to approve proposed School Uniform policy on the condition that the changes suggested by Commissioner Powell are incorporated. Seconded by Commissioner Powell. **Adopted 3-0, with concurrence of parent representative.**

## **VII. Review and Discuss Proposed Revision of Student Attendance and Withdrawal Policy (5100)**

Mr. Lopez-Soto stated that the provisions contained in the Kindergarten Attendance policy presented in last month's Policy Committee meeting have been included in the Student Attendance and Withdrawal Policy. He recalled that the Policy Committee suggested modifying the Student Attendance and Withdrawal Policy to clarify that students at all grade levels are expected to attend school once enrolled, rather than to establish a separate policy regarding kindergarten attendance.

Mr. Lopez-Soto reported that the most important provision states, “Once a child has enrolled in school at any grade level from kindergarten through 12<sup>th</sup> grade, the provisions of this policy take effect. All students at all grade levels from kindergarten through 12<sup>th</sup> grade, including students with disabilities, must maintain a satisfactory level of attendance in each marking period in order to be eligible to receive a passing grade.”

**Motion** by Commissioner Powell to approve proposed revision of Student Attendance and Withdrawal policy (5100). Seconded by Commissioner Campos. **Adopted 3-0, with concurrence of parent representative.**

### **VIII. Review Remaining Policies for Updating Policy Manual**

Ms. Flanagan reported that the process of updating the Policy Manual is drawing to a close, and that all policies remaining for review have been listed for the Committee’s consideration. She explained that these policies have been organized into categories according to their priority:

- Policies containing at least some legal requirements and which have not been reviewed recently
- Policies not legally required and which have not been reviewed recently
- Policies which could be consolidated (i.e. contain overlapping provisions)
- Additional policies needed due to recent legislation

Commissioner Powell noted that one of the items listed is to develop a policy regarding options for students with disabilities to earn a high school diploma. Ms. Flanagan replied that 22 different policies were developed to meet legal requirements regarding students with disabilities, but this policy was not included because the Special Education Department was undergoing restructuring at the time. She stated that this policy is required by law.

Mr. Lopez-Soto reported that he is working with the new Interim Director of Special Education, and will collaborate to develop a policy governing ways that students with disabilities can earn a high school diploma. He offered to report on the status of this policy development in the next meeting.

**Action Item: Mr. Lopez-Soto will report in the March 19<sup>th</sup> Policy Committee meeting on the status of developing a policy which delineates options for students with disabilities to obtain a high school diploma.**

Commissioner Cruz suggested addressing sections of the list of remaining policies in upcoming meetings, with review of policies 0320 through 2265 in the March Policy Committee meeting.

**Action Item: Ms. Flanagan will include review of a section of the remaining policies (i.e. 0320 through 2265) on the agenda for the March Policy Committee meeting.**

## **IX. Review and Discuss Proposed Revision of the Code of Conduct (5300)**

Reverend Davis read a statement describing a recent incident in which the spouse of a Board member disrupted a community meeting and threatened the participants. She described this individual's behavior as rude and vulgar and so intimidating that the community members feared for their safety. As a result of this incident, Reverend Davis proposed modifications to the Code of Ethics to establish clear standards for Board members' behavior and of the consequences of misconduct.

Ms. Flanagan stated that Reverend Davis's concerns would more appropriately be addressed in the Code of Conduct (5300), so she crafted amendments to that policy.

Reverend Davis stated that the proposed revision to the Code of Conduct prepared by Ms. Flanagan addresses her concerns. She noted that she wants to ensure that Board members are held to the same standards as for students and staff.

Mr. Lopez-Soto stated that he has not seen the proposed revisions, and Ms. Flanagan apologized for not providing this to him for review prior to the meeting.

Commissioner Cruz stated that while he has no problem with the proposed policy changes, he wants to have counsel review them to ensure that there are no legal issues.

Commissioner Powell objected to the use of the word "sanctions" in terms of consequences that may be imposed on a Board member by their colleagues for misconduct. She stated that Board members do not have legal authority to sanction their colleagues. Commissioner Powell reported that the legal avenues available to Board members are: to request the NYS Commissioner of Education to remove a Board member; or a vote by the majority of Board members to remove one of their colleagues.

**Action Item: Mr. Lopez-Soto will revise the proposed changes to the Code of Conduct to remove the word "sanction" and substitute "action" in terms of consequences that may be imposed on a Board member for misconduct.**

Mr. Eagle pointed out the severity of this issue in that children might be present at a community meeting, and this individual's misconduct would have presented a threat to their safety.

Commissioner Cruz emphasized the importance of engaging in a dialog to consider different viewpoints and thereby strengthen the resulting policies.

**Motion by Commissioner Powell to adjourn. Adopted 3-0, with concurrence of parent representative.**

Meeting adjourned at 6:56PM.