

ROCHESTER BOARD OF EDUCATION
Policy Committee Meeting
November 10, 2011
5:30PM

Attending: Commissioner Cruz (Chair); Commissioners Powell and Campos. Parent Representative: Victoria Robertson. District staff: Charles Johnson, General Counsel; Cara Briggs, Associate Counsel. Board staff: Debra Flanagan.

Commissioner Cruz convened the meeting at 5:30PM.

I. Review and Approve Minutes of October 20, 2011 Policy Committee Meeting

Motion by Commissioner Powell to approve the minutes of the October 20, 2011 Policy Committee meeting. Seconded by Commissioner Campos. **Adopted 3-0, with concurrence of parent representative.**

II. Draft Policies to Address Special Education Mandates

Chuck Johnson introduced Cara Briggs, Associate Counsel with the Law Department with expertise in Special Education. Ms. Briggs stated that the draft policies were developed using guidelines provided by Ms. Flanagan and to reflect legal requirements. She noted that considerable cross-referencing will be needed between these policies because they are contained in different sections of the Policy Manual (e.g. District-wide, Schools, Students). Ms. Briggs also emphasized the need for regulations and written procedures to implement the policies and to ensure that a consistent approach is utilized throughout the District.

Commissioner Campos asked about areas in which the District can exercise discretion in Special Education. Ms. Briggs replied that Special Education is heavily regulated, and the bulk of the policies reflect federal and NYS requirements.

A brief summary of each of the proposed policies is presented in the bulleted list below:

- **Special Education: District Plan** – a description of the types of programs and services the District provides to students with disabilities, the age range and total number of students with disabilities, and the evaluation methods to be used to indicate the effectiveness of Special Education programs and services, Board policies, and budget allocations to support these programs.
- **Parent Involvement for Children with Disabilities** – describes parents' rights; requirements for the District to obtain parental consent and to provide prior notice of meetings or actions to be taken regarding their child; and actions that may be taken by the District if parental consent is revoked.

Victoria Robertson questioned the provision regarding revoking parental consent and terminating services for a student with disabilities. She expressed concern that the student with disabilities

would essentially be “abandoned” in terms of services to meet their needs, and returning this student to the general education classroom could have a significant disruptive impact on the other students. Ms. Briggs replied that this would be an unusual situation, and staff would work with parents to address concerns to prevent this situation from arising.

Commissioner Powell stated that the list of actions that the District may not take when parental consent is revoked is confusing, and she asked whether this would prevent seeking a PINS petition. Ms. Briggs responded that application for a PINS petition is a separate process, and would not be affected by this proposed policy. She stated that these provisions in the proposed policy simply reflect the requirements in the law.

Debra Flanagan asked about the language in the proposed policy regarding the District conducting a meeting if “unable to convince the parents that they should attend”, rather than stipulating that these actions will be taken if the parents refuse to attend or participate. Ms. Briggs replied that this language is intended to address situations in which a parent has simply not responded, rather than actually refused to attend or participate.

Commissioner Powell expressed concern regarding the potential ramifications of actions that may be taken by the Committee on Special Education (CSE) if the parents do not participate or respond. She pointed out that the CSE may make placement decisions which affect not only the student with disabilities, but the entire family. Commissioner Powell emphasized the importance of keeping the student within their zone so that they are not placed at too great a distance from their residence, and of providing parents with information as to all of the options available regarding schools and placement. She explained that prior to the adoption of the School Choice policy in 2001, Special Education students had been transported great distances for placement and services at considerable inconvenience to them and cost to the District. Commissioner Powell pointed out that cross-zone transportation is currently costing the District approximately \$10m per year, and urged that transportation for students with disabilities be addressed in the proposed policies.

Commissioner Campos suggested that the transportation issue be addressed by the Zone Directors for Special Education.

Ms. Briggs stated that potential unintended consequences should be considered in developing regulations and procedures.

Action Item: Ms. Briggs will consider incorporating language into the draft policies to state that students with disabilities will be placed within their zone to the maximum extent possible and parents will be given information as to all placement options and the specific programs and services available at each school.

Ms. Flanagan inquired about conducting a due process hearing “to override the refusal to provide consent” when parents have refused consent for an evaluation. Ms. Briggs stated that this should be a rare situation because the staff will have been working with the parents to inform them of concerns regarding their child’s progress and development, and this provision in the policy would simply allow the District to pursue an evaluation if staff thought it necessary.

Ms. Flanagan asked whether a forthcoming Superintendent regulation would establish criteria for “reasonable measures” taken by District staff to obtain parental consent. Ms. Briggs stated that this is planned to be defined further in the regulation.

- Students with Disabilities – provides definition of disability; Board appointment of a Committee on Special Education (CSE) and of a Committee on Preschool Special Education (CPSE); requirements of the District for conducting evaluations and providing services to meet the needs of students with disabilities; defining responsibilities for students with disabilities placed by their parents in a non-public school.
- Preschool Special Education Program – requirements of the District for conducting evaluations and providing services to meet the needs of preschool students with disabilities.

With regard to the draft Preschool Special Education Program policy, Ms. Flanagan inquired about the three outcome areas which would be assessed for students suspected of having a disability. Ms. Briggs replied that she would look into this and report back.

Action Item: Ms. Briggs will report to the members of the Policy Committee about the three outcome areas to be assessed for preschool students suspected of having a disability.

- Pre-Referral Intervention Strategies in General Education – describes the types of services or interventions used by the District to remediate a student’s performance **before** referral for Special Education.

Ms. Briggs noted that the draft Pre-Referral Strategies policy will need to be cross-referenced with other policies intended to prevent or limit referral of students for Special Education.

Commissioner Powell questioned whether this policy could be incorporated into the draft District Plan policy because the District’s intent is to limit referrals for Special Education. Ms. Briggs replied that the provisions in the policy regarding the District Plan are specified by law and must be reviewed every two years.

Ms. Flanagan requested clarification of the difference between “Educational Related Support Services” and “Academic Intervention Services”. Ms. Briggs responded that Academic Intervention Services are for students who have fallen behind for any number of reasons and are in need of additional instruction. She stated that Educational Related Support Services are supports or modifications in the classroom or adjunct services, such as speech and language services.

Commissioner Powell asked whether information of these types of services will be provided to parents in plain English, so that they will be aware of the efforts that have been made to meet their child’s needs prior to referral for Special Education. Ms. Briggs replied that this would be addressed in the regulations or written procedures implementing the policies.

Commissioner Cruz requested that Ms. Briggs provide an overview of each policy proposal, and that Committee members take time to review the proposed policies to develop questions to discuss in the December Policy Committee meeting.

- Response to Intervention (RTI) – describes the minimum requirements of the RTI program, and notification of parents.
- Appointment of the Committee on Special Education (CSE) Members – describes the composition of the CSE and of any subcommittees, as well as training of these committee members.
- Appointment of the Committee on Preschool Special Education (CPSE) Members – describes the composition of the CPSE and of any subcommittees, as well as training for these committee members.
- Student Individualized Education Program (IEP): Development and Provision – describes requirements of evaluations to determine whether a student has or continues to have a disability, their level of academic achievement and developmental needs, and additions or modifications needed to the student’s IEP. In addition, this policy proposal describes notification requirements to ensure that every teacher and service provider is aware of the student’s IEP in advance to ensure adequate and cohesive implementation.
- Implementation of Individualized Education Program (IEP) – describes requirements regarding providing supports and services specified in the IEP within a certain timeframe to ensure implementation in a timely manner.
- Least Restrictive Environment – describes requirements that students with disabilities be placed outside the general educational curriculum **only** when the nature or severity of the disability cannot be adequately addressed with supplemental aids or services.

Commissioner Powell pointed out that the proposed Least Restrictive Environment policy would be the most appropriate place to incorporate provisions stating that effort will be made to offer a choice of schools within the student’s zone to the maximum extent possible.

- Grouping by Similarity of Needs – establishes guidelines for grouping students with disabilities according to their needs to ensure that the physical, social, academic and behavioral development needs of each individual student are met.
- Extended School Year Services and/or Programs – describes responsibilities of the District to provide special services or programs to students with disabilities to prevent substantial regression over the course of the summer.
- Declassification of Students with Disabilities – describes the District’s responsibilities for re-evaluation, declassification determination, and provision of support services when a student with disabilities has been declassified from Special Education.

- Transition Services – describes services to be provided to meet the needs of students with disabilities in preparation for graduation or aging out of the public school system.

Ms. Robertson asked whether the proposed Transition Services policy pertains only to students who are graduating or aging out of school, or whether these services would also be provided to pre-K students about to enter elementary school. Ms. Briggs stated that transition services are specified in law for students who are graduating or aging out of school. She stated that services may be provided to pre-K students to prevent referral to Special Education.

- Transfer Students with Disabilities – describes the responsibilities of the District with regard to students with disabilities transferring into or out of the District.
- Identification and Registration of Children with Disabilities (Child Find) – describes the requirements of the District to locate and identify all students with disabilities residing in the District, including those attending private, parochial, or charter schools or who are homeless.

With regard to Child Find, Commissioner Powell questioned what is involved in locating all of the children in the District who may have a disability. She also asked whether the District bears all of the responsibility, or whether this is also shared by agencies serving children. Ms. Briggs replied that Child Find involves an extensive effort to identify all children in the District who might have a disability, and the law stipulates that this is exclusively the District's responsibility.

- Independent Educational Evaluations – describes the right of parents to obtain an independent educational evaluation for their child.

In terms of the proposed Independent Educational Evaluation policy, Ms. Briggs emphasized the importance of detailed regulations and procedures to ensure adequate and accurate evaluation of students suspected of having a disability.

- Special Education Mediation – establishes guidelines for mediating disputes arising between District staff and parents of a child suspected or found to have a disability.
- Impartial Hearings – provides guidelines regarding the hearing process, including selection of impartial hearing officers.

Ms. Briggs pointed out that parents can choose between mediation and an impartial hearing if there is disagreement with the CSE determination about their child.

- Discipline of Students with Disabilities – describes the rights of students with disabilities and the responsibilities of the District in determining whether a disciplinary matter is due to the student's disability.
- Students Presumed to Have a Disability for Disciplinary Purposes – describes the rights of students who have **not** been identified as having a disability at the time the disciplinary

issue arose; the basis for making these types of disability determinations; and the actions that may result from the presumptive disability determination.

Action Item: Members of the Policy Committee will submit questions regarding the proposed Special Education policies to Ms. Flanagan, who will prepare them for discussion in the December Policy Committee meeting.

III. Arts Education

Ms. Robertson pointed out that RCSD has an Arts Education policy, but no Superintendent regulation to implement the policy. She stated that during the budget cycle, parental and community support for the arts has been evident.

Ms. Robertson suggested establishing a regulation to establish minimum standards or levels of arts education, staffing in schools, and scheduling of arts classes to ensure accessibility to all students. She stated that she is on a district-wide Music Steering Committee, and they have been discussing this issue.

Commissioner Cruz stated that this issue has to be addressed by the Administration in terms of the level of commitment to art education.

Commissioner Campos informed the Committee that she has met with music teachers, who are in the process of gathering data to present in the January Excellence in Student Achievement Committee meeting. She also encouraged the members of the Policy Committee to consider enrollment and national standards or formulas for art education.

Commissioner Powell noted that the Arts Education policy has no requirements regarding the minimum level of arts education and funding for the arts is not “locked” into the budget allocations for each school. She emphasized the importance of ensuring equity among schools in the District in providing arts education.

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

Meeting adjourned at 6:34PM.

**Next Policy Committee Meeting: November 15th at 6:00PM (Meeting of the Whole)
December 8th at 5:30PM**