

**Policy Committee Meeting  
March 16, 2010  
5:30 p.m.**

**MINUTES**

**Attendance:** Commissioner Cruz (Chair); Commissioners Campos and Powell

District Staff: Chuck Johnson, Jerome Underwood, Tom Keysa, Mary Doyle

Board Staff: Shanai Lee and Debra Flanagan

Commissioner Cruz convened the meeting at 5:40 p.m.

**I. Review and Approval of Minutes from February 16, 2010 Policy Committee Meeting**

**Motion** by Commissioner Powell to approve the minutes of the February 16, 2010 Policy Committee meeting. Seconded by Commissioner Campos. **Adopted 3-0.**

**II. Report on Proposed Amendment to Responsible Bidder Policy**

Shanai Lee explained the proposed amendment before the Committee and the reasons for not pursuing the policy option of establishing an internal qualified bidders list. She stated that the current proposal would strengthen the criteria for determining whether a bidder is considered qualified, provide grounds for disqualifying bidders, and create an appeals process. Ms. Lee asserted that these provisions would address concerns regarding increasing the level of M/WBE participation in District contracts. She stated that this approach would be less cumbersome and involve less administrative time and effort than establishing an internal qualified bidders list.

Chuck Johnson added that RCSD can use performance evaluations of contractors as a basis for deciding whether a contractor continues to be qualified; performance evaluations are conducted by the District with each pay application. Mr. Johnson stated that one or more negative performance evaluations can result in disqualification.

Mr. Johnson explained that current Responsible Bidders policy utilizes a determination by the NYS Human Rights Division or EEOC as the basis for disqualifying contractors or bidders, but these are often interim determinations made while the case continues to move through the judicial process. He clarified that a final determination from these agencies would be required as the basis for making disqualification decisions.

Mr. Johnson noted that this amendment would also establish an impartial appeals process in which an arbitrator will make the final decision through a hearing process in which the bidder has the opportunity to present witnesses and evidence to support their qualifications.

Commissioner Powell commented that she would like to have Commissioner White review the proposed policy changes because he has expressed concerns about increasing the level of M/WBE participation in District contracts.

**Motion** by Commissioner Powell to advance proposed amendment to Responsible Bidder policy to the full Board in the March 23, 2010 Board Business meeting. Seconded by Commissioner Campos. **Adopted 3-0.**

### **III. Change Order Policy Proposal**

Commissioner Cruz referred to a report prepared by Board staff member Debra Flanagan regarding management of change orders in other school districts. Ms. Flanagan reported that only Syracuse and Yonkers responded to several requests for information as to the way in which change orders are managed in their districts, specifically regarding cost thresholds and the point at which the Board of Education reviews and approves change orders. She stated that the Yonkers School District is currently in the process of developing a policy and written procedures regarding change orders, with a proposed threshold of \$35,000. The report received from Yonkers stated that their Board of Education currently has to approve all change orders by resolution, regardless of the dollar amount.

In contrast, Ms. Flanagan noted that the Assistant to the Superintendent for Facilities Planning in the Syracuse School District reported that their Board of Education does not review change orders at all and there is no policy or requirement for the Board to approve them.

From review of the last five years of audit reports posted on the State Comptroller's website, Ms. Flanagan stated that there was only one instance in which fiscal management of capital projects was included in the audit. This was a 2006 audit of the Joint Schools Construction Program in Buffalo, which is supervised by an independent body and therefore does not pertain to Board oversight of capital improvement projects. She reported that the Syracuse School District and Yonkers School District were audited for financial management during this five-year period, but capital projects and change orders were not examined.

Ms. Flanagan also noted that there are no policies currently regarding change orders in the Big Five or local districts in Monroe County.

Commissioner Cruz emphasized the wide variability among districts in Board oversight of the change order process, and inquired as to options for providing oversight without creating an undue administrative burden.

Jerome Underwood discussed the use of the existing quarterly Change Order Report, which provides information as to the total number and dollar amount of change orders, rationale for each change order, project budget, and total estimated project cost for each project. He noted that this report is already provided to Board members, who would otherwise only know about the

extent of change orders and additional project costs when the final payment is presented, which could be up to a year or more after the fact.

Mr. Underwood explained that a 10% contingency amount is budgeted for each project in the event of additional work or costs involved. Tom Keysa, Director of Educational Facilities, is authorized to approve all change orders up to the 10% contingency threshold. Beyond this threshold and for all discretionary change orders, approval is required by Mr. Underwood as Supervising Director of Operations. Mr. Underwood emphasized that the review and approval process is already in place, but perhaps a mechanism for further examination by Board members is needed.

Commissioner Powell inquired whether Mr. Underwood was suggesting closer examination by the Finance Committee or by the full Board in monthly Business meetings. Mr. Underwood replied that he was suggesting additional review by the Finance Committee.

Commissioner Powell noted that examination of the quarterly Change Order Report by the Finance Committee would address the State Comptroller's concerns regarding oversight of change orders, as cited in their audit. She pointed out that the Board was not receiving these quarterly Change Order reports at the time of the audit.

Commissioner Campos recommended establishing written procedures regarding the process for approving change orders and for reporting.

**Motion** by Commissioner Powell to report recommendations of Policy Committee regarding change orders to the full Board, specifically: 1) review of quarterly Change Order Reports by all Board members; 2) creating a standard practice of including quarterly Change Order Reports in the agenda for the Finance Committee to allow further examination of change orders on a more timely basis and to incorporate the Report into the record; 3) establishing written procedures as to the process for approving and reporting on change orders. Seconded by Commissioner Campos. **Adopted 3-0.**

#### **IV. School Naming Policy**

Mr. Johnson explained that the current School Naming policy (7500) consists of staff selecting a name to present to the Board for approval, and an issue arose last year with the Board objecting to the name that was selected. This prompted development of a proposed policy amendment which would allow the Board to have input into the names considered. However, due to the number of new schools being presented to the Board for approval in the March Business meeting, Mr. Johnson requested that the Policy Committee wait to consider this proposal in a future meeting.

Mary Doyle noted that naming of a school should be driven by the school community, and that certain aspects of the school and/or academic model may be important to include in the name itself, such as World of Inquiry and School of the Arts.

**Motion** by Commissioner Powell to table proposed amendment to School Naming policy. Seconded by Commissioner Campos. **Adopted 3-0.**

## **V. Mechanisms to Ensure Implementation of Board Policies**

Commissioner Cruz asked Board staff to report on this agenda item. Ms. Flanagan noted that in the February 16, 2010 meeting, the Policy Committee had decided that every policy should contain standard language as to whether the Superintendent is to promulgate regulations to implement the policy.

Commissioner Cruz inquired as to the possibility of the Law Department developing a template to provide this standard language in policies. Mr. Johnson replied that the Policy Committee or full Board can certainly stipulate that the Superintendent establish regulations to implement each policy as it is reviewed in updating the Policy Manual.

Commissioner Campos reported that the Policy Committee had also requested General Counsel to provide copies of new Superintendent regulations to Board staff to ensure that Commissioners are apprised of changes to regulations.

## **VI. Status of Review of Mandated Policies & Updating Policy Manual**

Commissioner Cruz requested that Board staff member Debra Flanagan provide a status report regarding review of legally mandated policies as part of the process of updating the Policy Manual.

Ms. Flanagan reported that four required policies are in the process of being developed or revised: School Safety Plans, Safety of Students (fingerprinting), Student Attendance, and Safe Public School Choice Option. She noted that the fingerprinting policy is expected to be ready to present in the April Policy Committee meeting because attorneys in the Law Department are planning to use the suggested language provided by Erie 1 BOCES. Ms. Flanagan stated that Ms. Rashondra Jackson is currently collaborating with District staff to develop all four policies, reviewing drafts and providing recommendations throughout March. Ms. Flanagan stated that a draft regulation is due from the Office of Student Placement to Ms. Jackson by March 10<sup>th</sup>, and a draft of the Student Attendance policy amendment is due to the Superintendent by March 31<sup>st</sup>. With regard to the School Safety Plan policy, Ms. Flanagan indicated that this process has been delayed due to the transition in leadership in the Office of Safety and Security.

Ms. Flanagan noted that the majority of the remaining required policies in need of development or revision pertain to special education. She stated that she has contacted Kirsten Barclay as to the status and/or plans for developing policies and regulations in special education, but has not yet received a reply.

Commissioner Campos pointed out that a Code of Ethics pertaining to Board members was presented to the Excellence in Student Achievement Committee, but she was uncertain as to the status of this policy at this time.

Mr. Johnson stated that regulations have been drafted to expound on the Code of Ethics for District employees and if these regulations are acceptable to the Board, the same language could be used for Board policy or the Board's own regulation.

Commissioner Cruz directed that a timeline be established for approval of each policy and regulation to ensure that the entire Policy Manual is updated over the next year. He also instructed Board staff to place these status reports and policy reviews first on the agenda for all future Policy Committee meetings.

**Action Item:** Board staff will collaborate with Mr. Johnson, General Counsel, to establish timelines for development and approval of each policy and regulation.

Ms. Flanagan stated that she would defer to General Counsel regarding the time involved in policy development since the attorneys in the Law Department are assuming these responsibilities.

Commissioner Powell noted that the Law Department is addressing mandated policies, and inquired as to whether Board staff could be developing policies which are not mandated.

**Action Item:** Board staff will prioritize among policies which are not legally mandated, and begin developing or revising them.

**Motion** to adjourn by Commissioner Powell. Seconded by Commissioner Campos.  
**Adopted 3-0.**

Meeting adjourned at 6:27PM.

**Next Meeting:**           **April 20<sup>th</sup> at 5:30PM**