

**ROCHESTER BOARD OF EDUCATION**  
**Policy Review and Development Committee Meeting**

**April 6, 2017**

**MINUTES**

**Attendance**

Commissioners – Commissioner Powell (Chair); Commissioners Hallmark, Adams, and White. Commissioner Cruz absent.

District Staff – Karl Kristoff, General Counsel; Dr. Robin Hooper, Executive Director of Early Childhood Education; Andrew MacGowan, Project Administrator

Board Staff – Debra Flanagan

Commissioner Powell called the meeting to order at 6:04PM.

**I. Review of Model Resolutions and Policy Recommendations related to Protecting Immigrant/Refugee Students**

Commissioner Powell stated that she would like to give General Counsel Karl Kristoff an opportunity to review the materials regarding immigration, so that he can prepare recommendations for modifying existing policies affecting immigrant students and their families.

Karl Kristoff noted that the NYS Attorney General and Education Commissioner have established clear guidance regarding immigrant students, and these guidelines are consistent with state law and Education Department policies. He suggested that some provisions of the guidelines could be incorporated into an administrative regulation to offer reassurance to District families and the larger Rochester community. If members of the Policy Committee prefer to create a policy to address these concerns, Mr. Kristoff recommended that the policy replicate the State guidelines. He added that a number of the recommendations suggested by Legal Aid could also be included in the regulation to address local circumstances.

Commissioner Hallmark requested a summary of the guidance that has been provided by the NYS Education Department and Attorney General. Mr. Kristoff replied that the guidelines were contained in a letter, which was widely circulated within the District and published in the weekly *Leadership Link* newsletter. He reported discussing immigration issues recently at a conference with Tom Wheeler, Assistant Attorney General in charge of civil rights. Mr. Kristoff stated that Mr. Wheeler reported that no major changes have been made regarding immigration enforcement in schools. He asserted that he does not see a need for further action beyond the guidance that has already been issued by the NYS Attorney General and Education Commissioner.

Commissioner Powell contended that despite the assurances that have been offered, significant concerns remain. She discussed the possibility of a child returning home from school to an

empty house because their parents have been detained, noting that this situation is not addressed in any of the guidance/conversations. Mr. Kristoff replied that these types of situations are not necessarily within the purview of the District.

Commissioner Powell pointed out that members of the school community are obligated to contact social services in these situations to prevent children from being completely abandoned. She also expressed concern about the possibility of immigration officials using children as “bait” to capture their parents or other family members, under the presumption that they are “illegal aliens”. Commissioner Powell stated that any undocumented person in the U.S. could have children. Mr. Kristoff declared that immigration status is irrelevant in school systems because of the charge to educate all children.

Commissioner Powell noted that the school system’s ability to disregard immigration status is precisely the reason that children could potentially be used as “bait” by federal immigration enforcement officers. She questioned whether these officers would be willing to ignore the option of tracking down “illegal aliens” by targeting their children attending school.

Commissioner Adams explained that the recommendations provided by Legal Aid are not in *response* to the State guidelines, but to address potential *gaps* in these guidelines. She stated that model policies from the National Immigration Law Center and the National Education Association were also shared with Legal Aid. Commissioner Adams noted that Commissioner Cruz’s email correspondence with Legal Aid included questions from a local perspective, specifically of provisions that need to be addressed by the Board of Education. She stated that issues regarding potential family separation, information and recordkeeping are addressed in the materials and recommendations that have been presented to the Policy Committee. Commissioner Adams requested that General Counsel review and consider the recommendations provided by Legal Aid.

**Action Item: General Counsel Karl Kristoff will review the recommendations provided by the local Legal Aid Office regarding protections for immigrant students and their families; draft a policy proposal for review by the Executive Cabinet; and present the final proposed policy to members of the Policy Committee at an upcoming meeting.**

Mr. Kristoff cautioned against implementing a policy or regulation that goes beyond the guidelines of the NYS Attorney General and Education Commissioner because this would create conflicting expectations for District staff responsible for implementation.

## **II. Review Minutes of February 2, 2017 Policy Committee Meeting**

**Motion** by Commissioner Hallmark to approve the minutes of the February 2, 2017 Policy Committee Meeting. Seconded by Commissioner Adams. **Adopted 3-0.**

## **III. Update regarding Survey of Students in the Young Mothers’ Program**

Robin Hooper announced that a draft survey has been developed, and will be examined by the Institutional Review Board next week (April 13<sup>th</sup>). Andrew MacGowan explained that the survey will be conducted with students in the Young Mothers’ program in 2015-16 and 2016-17,

and with teen mothers who did not enroll in the program. Conducting the survey with a wider range of students will expand the sample size and increase reliability of the data, as well as offer comparisons between program participants and other students.

Mr. MacGowan noted that the survey will consist of about 20 questions, and highlighted some of the information to be obtained:

- The student's knowledge of the number of credits and Regents exams required to graduate
- The number of credits earned
- The number of Regents exams passed
- The student's planned course of study and/or plans to obtain a GED
- The student's plans for child care
- Whether the student has received a child care subsidy from Monroe County
- Whether the student has had a caseworker with the County Department of Social Services
- Whether the student is aware of available resources and the extent to which these have been accessed/utilized (e.g. WIC)
- Whether the student has a primary care physician
- Extent to which students' plans have been successfully realized; barriers encountered

Mr. MacGowan also reported that the Executive Director of Rochester's Child, Nancy Kaplan, is very supportive of this initiative.

Commissioner Hallmark asked about the organizational affiliation of the Institutional Review Board (IRB). Mr. MacGowan replied that the IRB is an internal District group that reviews research proposals, and includes staff members from the Office of Accountability, Law Department, and administrators from a variety of other departments.

Dr. Hooper stated that she consulted with several former program administrators to obtain more information about the Young Mothers' program and child care available to teen mothers. She reported that child care subsidies are abruptly terminated when the County runs out of funding, leaving families scrambling to find other arrangements. Dr. Hooper noted that the County does **not** give priority to teen mothers for child care subsidies. She stated that it would be useful to know how many teen mothers receiving subsidies were suddenly cut off, leading them to drop out of school.

Dr. Hooper pointed out that teen mothers are not eligible for a child care subsidy if they live with their family, and their family is receiving assistance through the Department of Social Services. Dr. Hooper noted that these practices require teen mothers to move out on their own with no family support, provide for themselves and their child, and attempt to continue their education. The result is to substantially restrict future prospects for teen mothers and their children, increasing the likelihood of dropping out of school and perpetuating the cycle of poverty.

Commissioner Powell pointed out that young mothers often attend alternative high school settings after their child is born to enable them to take classes around their work schedule. She expressed concern that work is required to be the primary priority for young mothers, rather than

focusing on their education and caring for their child. Commissioner Powell declared that expecting an adolescent to suddenly assume all of the responsibilities of adulthood by obtaining a job, providing for themselves and their child, and parenting is to ignore the responsibilities of larger society for assisting these young mothers to first become adults with a proper education.

Commissioner Adams sought clarification that the main focus of the survey is on child care. Dr. Hooper confirmed that this is the primary focus of the survey, noting that questions are included about other resources and supports (e.g. WIC) because this affects their opportunities and future prospects.

Commissioner Adams suggested involving community organizations in this survey (e.g. Perinatal Network).

Commissioner Powell asked about the possibility of following up with survey respondents to determine the extent to which their plans have come to fruition. Mr. MacGowan replied that information is on file of all teen mothers in the District, including those not enrolled in the Young Mothers program. He stated that the Nursing Director, Erin Graupman, has been instrumental in this effort and will be included in discussions with community organizations. Mr. MacGowan added that Ms. Graupman is quite knowledgeable about the data available regarding young mothers. Dr. Hooper noted that analysis of the data may enable attrition rates to be calculated for young mothers (i.e. those who did not return to school). Mr. MacGowan discussed the importance of obtaining information from teen mothers who have been able to pursue their goals to understand the specific factors/supports that have been instrumental to their success.

Commissioner Adams asked whether the survey will contain questions about whether students in the Young Mothers' program would remain in the program if child care was to be offered. Mr. MacGowan confirmed that the survey will include this question.

Commissioner Hallmark asked whether students are able to remain in the Young Mothers' program for as long as they choose.

Commissioner Powell clarified that the issue of students being able to choose to remain in the program has depended on the Superintendent. She noted that Dr. Vargas had stated that he would allow students this choice, but it is uncertain as to whether this was carried out in actual practice. Dr. Hooper added that frequent changes in administrators of the Young Mothers' program may have also interfered with dissemination of information to students.

Mr. Kristoff expressed concern about the small number of students involved in the study in terms of reliability, and noted that disaggregating the data could lead to identifying individual students and thereby violating their privacy.

Commissioner Powell acknowledged that the need to protect student privacy may lead to only the aggregated survey results being available for review. She explained that the impetus for the survey arises from the fact that a Day Care policy exists that has not been enforced for years, even where the greatest potential need exists (i.e. the Young Mothers' program). Commissioner Powell stated that the members of the Policy Committee want to determine whether there is a

place in the District in which day care would be appropriate and justifiable before abandoning the policy altogether. She reported that Superintendent Deane-Williams has been understanding, but has also exercised caution because of limited funding and the need to prioritize the District's use of resources.

Dr. Hooper noted that further investigation could be done of opportunities to collaborate with community advocates and organizations that support early childhood education.

#### **IV. Review of Preschool Education Programs Policy (4320.5)**

Mr. Kristoff announced that the draft policy revisions presented in this evening's meeting are based on the recommendations of the Early Childhood Education Department, and he discussed some concerns from a legal standpoint:

- Question that has been highlighted in the proposed policy regarding references to affirmative action, which needs to be addressed.

Commissioner Powell commented that a determination needs to be made about whether the affirmative action reference in the policy is a legacy from another time or continues to be relevant. Dr. Hooper responded that this appears to be a legacy from 1966, when preschool began to be funded. She noted that the movement to fund preschool at that time was considered part of affirmative action.

- The proposed requirement for an annual evaluation report to be provided to the Board has not been discussed with Executive Cabinet to examine the implications for implementation.

Commissioner Adams noted that this policy requirement is simply codifying the current practice of Board members reviewing and discussing the annual Rochester Early Childhood Assessment Partnership (RECAP) evaluation report.

- Risk of liability on the part of the District from aspirational statements in the proposed policy, such as:

The Board reaffirms its commitment to educate all students to their highest levels of performance *by seeking to provide* quality programs for all 4-year-old preschoolers and for 3-year-old children, *as funding allows*. [emphasis added]

- The draft policy refers to the Universal PreK Program Plan dated February 5, 1998, which should be attached.

Commissioner Powell inquired whether the original plan from 1998 has ever been revised or rewritten. Dr. Hooper confirmed that the original plan remains in effect, and includes the RECAP evaluation report.

- The Expanded PreKindergarten Plan dated August 10, 2015 should also be attached to the proposed policy.

- The following reference in the policy is unclear:

Adherence to Learning Standard Guidelines: the *New York State Foundation for Prekindergarten Common Core Standards* (for four-year-old children); the *New York State Early Learning Guidelines* (for three-year-old children).

Dr. Hooper noted that these specific standards and guidelines are in the NYS regulations.

Mr. Kristoff suggested that the drafters of the proposed policy revision incorporate the above recommendations. After these changes have been made, he stated that he will present the draft to the Executive Cabinet for review.

**Action Item: The proposed Preschool Education Programs policy (4320.5) will incorporate the above recommendations from General Counsel. The final draft policy will be submitted to General Counsel, who will present it for review by Executive Cabinet. Following the Executive Cabinet review, the proposed policy will be presented to the Policy Committee for consideration.**

#### **V. Discuss Proposed Revisions to Board Bylaws (2300)**

Mr. Kristoff reported that additional work is needed to prepare the proposed revisions to the Board Bylaws, and requested that this item be considered at a future date.

#### **VI. Review and Discuss Recommended Revisions to the Wellness Policy (5405)**

Mr. Kristoff noted receipt of the minutes of the September 2016 and October 2016 Wellness Committee meetings, as well as a draft “Family Life/Sexual Health Education” policy. He stated that the minutes of the October 2016 meeting contain a number of recommendations that have not been addressed. Mr. Kristoff pointed out that work is needed on a number of action items before considering any policy changes:

- Explore best practices regarding marketing of food to children;
- Check with the RCSD Food Services Director to ensure that consistent information is disseminated throughout the District regarding healthy snacks;
- Obtain recommendations regarding regulations to accompany the proposed Family Life/Sexual Health policy

Mr. Kristoff reported that he has not seen any of these recommendations in policy form, and asked about the staff person responsible for drafting the proposed policy.

Commissioner Adams explained that past practice has been to identify a member of Executive Cabinet responsible for advancing recommendations for each policy to General Counsel, who would also notify the Policy Committee of changes in regulations. She stated that the Wellness policy changes have not been advanced because of the transition to a new administration and executive team. Commissioner Adams pointed out that the Director and Assistant Director of Athletics, Health and Physical Education and the Director of Nursing have been very involved in providing input regarding necessary changes to the Wellness policy, but none of these staff

members are part of the Executive Cabinet. She stated that the former Deputy Superintendent of Teaching & Learning (Dr. Otuwa) and Acting General Counsel (Steve Carling) were supposed to bring the Wellness Committee recommendations to the Executive Cabinet for review.

Mr. Kristoff stated that he will check with Mr. Carling about the current status of the Wellness policy. If the draft revisions have not yet been developed, he will have his team prepare a draft.

Commissioner Adams asked whether the current administration is still operating within the framework of having a key Cabinet member responsible for review of each policy. Mr. Kristoff confirmed that this approach is still being used. He stated that he will discuss with Executive Cabinet the specific point person responsible for reviewing the Wellness policy recommendations. Mr. Kristoff added that he will collaborate with the point person to create a draft policy for the Policy Committee to consider.

Commissioner Adams noted that the Board Clerk should speak with Mr. Kristoff about the transition of the Wellness Committee to the purview of the Administration, which is supported by recent changes to NYS law.

Mr. Kristoff also offered comments regarding the draft “Family Life/Sexual Health Education” policy. He stated that the first consideration is whether the members of the Policy Committee would prefer to have this as a separate, standalone policy, or incorporated into the Wellness policy. Mr. Kristoff added that the draft policy appears to be quite comprehensive, and he assumed that the intent is to replace the existing Family Life Education policy (4312.1).

Debra Flanagan explained that a number of separate policies related to wellness had been in effect in the past, but it was considered more useful to have all related information in one place, reduce the number of policy updates needed, and emphasize the importance of all aspects of wellness. She noted that the Family Life Education policy (4312.1) was incorporated into the Wellness policy.

Mr. Kristoff observed that arguments could be made either way in terms of having the draft “Family Life/Sexual Health Education” policy as a separate, standalone policy or incorporated into the Wellness policy. He expressed a preference for creating this as a separate, standalone policy.

Mr. Kristoff questioned the provision in the draft policy about the District’s authority to withhold information from parents about a student’s “transgender and gender nonconforming” status. He cautioned against the District withholding information from parents about their child, noting that this creates opportunity for considerable litigation.

Commissioner Powell noted that this provision is intended to protect student privacy and confidentiality, particularly in light of discrimination against transgender students. She acknowledged that there may be a more circumspect way of stating that discretion and protection of the student’s privacy must be of primary consideration.

Commissioner Adams pointed out that transgender youth face substantial burdens in terms of discrimination, exclusionary practices, and risk of homelessness. She noted that the language in

the draft policy contains an exception to withholding information: if “legally required to do so or unless the student has authorized such disclosure”.

Commissioner Powell contended that there may be more circumspect ways of phrasing the need to protect student confidentiality in these situations.

Commissioner Adams acknowledged that she has not heard reports of discriminatory practices in the District toward these students.

Commissioner Powell pointed out that young people will not confide in an adult without a high level of trust, particularly in such sensitive circumstances.

Mr. Kristoff also suggested eliminating the references to the Rules of the Board of Regents and all of the case law citations, as these references are outdated. He asked the members of the Policy Committee about their preferences in terms of having a separate, standalone “Family Life/Sexual Health Education” policy or incorporating these provisions into the existing Wellness policy.

Commissioner Powell noted that the Wellness policy also needs to be amended to correct the legal references, so these amendments could also incorporate the provisions of the proposed Family Life/Sexual Health Education policy.

## **VII. Discuss General Counsel Recommendations for Revising Series 3000 Policies**

1. Superintendent of Schools (3100)
2. Recruitment of the Superintendent (3111)
3. Duties of the Superintendent (3120)
4. Superintendent’s Contract (3130)
5. Superintendent’s Compensation and Benefits (3131)
6. Administrative Organization (3200)
7. Administrative Councils, Cabinets, Committees (3220)
8. Organization Chart (3230)
9. Development of Regulations (3310)

Mr. Kristoff observed that many of the provisions in the series 3000 policies do not apply to large urban school districts such as Rochester. He cited an example of the Superintendent of Schools policy (3100), which states that the superintendent serves for a five-year term. Mr. Kristoff pointed out that NYS statute only allows superintendents of large urban districts to serve for a four-year term.

Mr. Kristoff reported that the policy regarding Recruitment of the Superintendent (3111) contains a reference to NYS Education Law §1711 that only applies to union-free school districts.

With respect to the Duties of the Superintendent policy (3120), Mr. Kristoff noted that the policy does not reflect the fact that the superintendent is also an ex officio member of the Board of



Education. He added that the references to law and regulation also are not applicable, and the Superintendent regulations required by the policy have not been developed.

Mr. Kristoff stated that the Administrative Organization policy (3200) stipulates that the Board will designate the Deputy Superintendent for Operations as the Acting Superintendent if the current Superintendent cannot be available, but the position of Deputy Superintendent for Operations does not exist in the District. He recommended that the policy allow the Superintendent to designate one of their deputies as Acting Superintendent in these types of circumstances.

Mr. Kristoff stated that the policy regarding Development of Regulations (3310) needs to be revised, particularly with respect to the role of staff in this process.

Commissioner Powell asked about the possibility of preparing routine updates to policies outside of the Committee meetings to expedite the review process. She noted that Committee meeting time does not have to be spent discussing each necessary update, but could be used to review final policy drafts. Mr. Kristoff replied that he will bring policy drafts to the members of the Policy Committee, with the changes tracked to ensure that there are no substantive implications.

Mr. Kristoff questioned whether review and update of the series 3000 policies are the most critical items for the Policy Committee to address. He stated that he would like to consider priorities for policy review when discussing new business this evening, if the Committee members are amenable to adding this item to the agenda.

## **VIII. New Business**

Mr. Kristoff recommended changing the priorities for review and update of policies. He pointed out that updates to existing policies are provided each quarter by the New York State School Boards Association (NYSSBA), and some policies have not been reviewed since 1998. Mr. Kristoff cautioned that failure to examine these policies exposes the District to a certain degree of liability. For these reasons, he suggested prioritizing review of the updates recommended by NYSSBA. He pointed to a number of examples:

- Equal Employment Opportunity policy – failure to update this policy since 1998 to reflect changes in the law/regulation poses a risk to the District in terms of litigation or an audit.
- Lack of a policy governing Field Trips and International Travel – only a Superintendent regulation exists, and Mr. Kristoff noted that there should be a statement in policy from the Board. He added that there have also been recent developments regarding international travel that should be addressed, and the existing administrative regulation will need to be revised.
- Purchasing policy – the existing policy stipulates that any time the Purchasing Officer determines that a bid is unresponsive or irresponsible, a hearing must be conducted. Mr.

Kristoff noted that this policy requirement is quite costly, and suggested offering a hearing upon request from the bidder.

- Proposed new De-Escalation policy – a draft policy has been developed to provide guidelines for staff in de-escalating crisis situations, but the draft has not been advanced. Mr. Kristoff stated that he will submit the draft policy to the Empire Justice Center to obtain their input, particularly as it relates to students with disabilities. He reported that the draft policy will then be presented to the Policy Committee.

Commissioner Adams noted that a De-Escalation policy would seem to be consistent with the new Code of Conduct. Mr. Kristoff replied that this policy would support the new Code of Conduct and the use of restorative practices in the District.

Commissioner Adams observed that there may be opportunities to consolidate the proposed De-Escalation policy with the Code of Conduct. She stated that other existing related policies should also be examined in this context.

Mr. Kristoff noted that updating policies based on the recommendations provided by NYSSBA would reduce the District's legal liability and compliance issues. He suggested that the remaining policies could be addressed after completing these updates.

Commissioner Powell acknowledged the importance of updating policies based on NYSSBA's recommendations. She added that she anticipates this being her last year as Chair of the Policy Committee because of the expected departure of several of her colleagues and her significant experience with the Finance Committee. Commissioner Powell stated that she would like to leave a legacy of her tenure as Policy Committee Chair, expressing the hope that the review of the entire Policy Manual could be completed by the end of the year. She suggested first completing routine updates and reaffirming existing policies that do not need revision, then focusing on more substantive policies for review.

Commissioner Powell discussed the evaluations and reports required under existing policies (i.e. policy "deliverables"), and requested Mr. Kristoff's recommendations of deliverables that can be eliminated as duplicative, onerous, or irrelevant to improving policy or practice. She added that she would also like Mr. Kristoff to provide "boilerplate" language for policies that require deliverables.

Commissioner Powell pointed out that evaluations and reports should not be submitted to the Policy Committee unless policy changes are recommended. She stated that the evaluations/reports should be submitted to the Board committee that addresses the subject/content of the policy. Ms. Flanagan noted that the evaluations and reports required by policies are to be submitted to the full Board to ensure that all Board members are aware of potential issues/concerns.

Commissioner Hallmark inquired about the number of policies typically included in each quarterly NYSSBA policy update. Mr. Kristoff responded that the number of policies in each update depends on legislative and regulatory changes that have been made during the quarter.

Commissioner Hallmark referred to a certain school of thought about establishing a cap on the number of policies in a school district, and she requested Mr. Kristoff's input about this approach. Mr. Kristoff stated that he is not a proponent of creating policies, unless they are legally required. He noted that the provisions contained in policies are often covered by the law, and tend to limit the Board's ability to act. Mr. Kristoff added that the Rochester City School District is a large organization with many staff members who need guidance regarding the direction/approach the District is to follow. He pointed out that a balance must be struck between these considerations. Mr. Kristoff suggested that the main question regarding policy development should be whether a pronouncement is needed in a specific area.

Commissioner Powell commented that policies are developed for a variety of reasons: to reassure the public, or to share responsibility with the Superintendent when difficult decisions have to be made.

Mr. Kristoff noted that some issues are transitory and a pronouncement from the Board is not necessarily needed on a permanent basis. He stated that the question in these situations is whether another option is available for making the pronouncement without establishing it as the Board's permanent position.

Meeting adjourned at 7:45PM.