

ROCHESTER BOARD OF EDUCATION
Policy Review and Development Committee Meeting

May 16, 2018

MINUTES

Attending:

Commissioners – Commissioners Funchess, LeBron, Hallmark, Sheppard (arrived 5:40PM), and Powell (arrived 5:46PM)

District Staff – Steve Carling, Associate Counsel

Board Staff – Debra Flanagan

Commissioner Funchess called the meeting to order at 5:36PM.

I. Review Minutes of the March 13, 2018 Policy Committee Meeting

Motion by Commissioner LeBron to approve the minutes of the March 13, 2018 Policy Committee meeting. Seconded by Commissioner Hallmark. **Adopted 2-0.**

II. Discuss Policy Proposals based on New York State School Boards Association (NYSSBA) Updates

Debra Flanagan discussed the proposed revisions drafted to each of the following policies, based on recommended policy updates from the New York State School Boards Association:

1. Proposed Revision of *School District Records Policy* (1120)

Ms. Flanagan pointed out that the existing policy does not refer to New York State regulations regarding records retention schedules. She explained that the changes proposed to the *School District Records Policy* include this reference and the legal requirement to match records to these schedules, based on their description, content, and function. The proposed policy revision also clarifies that the records retention schedule applies to all types of records (e.g., paper, electronic, CD, etc.). Ms. Flanagan added that the proposed policy directs the Superintendent to develop regulations for disposing records and establishes a requirement to maintain a record of the number, date, and type of records that have been disposed.

Commissioner Funchess inquired whether regulations are currently in effect to accompany the *School District Records Policy*.

Commissioner Hallmark asked about the length of time that District records are required to be kept. Mr. Carling replied that records may be required to be retained for up to 21 years, which is when students reach the age of majority. Ms. Flanagan reported that the length of time that a record is required to be retained depends on the type of record, noting that some records can never be disposed of because the State has determined that they are of historical value.

Mr. Carling related that a Superintendent regulation is currently in place to accompany the *School District Records Policy*, but it was created under the previous administration. He stated that the regulation will be reviewed and updated as needed.

Ms. Flanagan reported that the existing regulation refers to maintaining records and protecting confidentiality, but does not address record retention or disposal.

2. Proposed Revision of *Security Breach and Notification Policy* (1300)

Ms. Flanagan stated that she met with Annmarie Lehner and Mark Cassella in the Information Management & Technology Department to discuss the changes proposed to the *Security Breach & Notification Policy*. Ms. Lehner and Mr. Cassella commented on the timeliness of updates to the policy, particularly in light of a recent audit by the NYS Comptroller in which a school district was cited for failing to have an adequate policy in place.

Rather than focus exclusively on information breaches, Ms. Flanagan stated the proposed policy revision also describes mechanisms currently used in the District to protect these systems.

The existing policy omits some information that is considered private and confidential:

- Home address
- Telephone number
- Personal email address
- User IDs and passwords to personal electronic accounts
- Any other information that would allow access to an employee's or student's personal information, employment or academic record.

Ms. Flanagan explained that some of these data elements are not considered private for students, since Title I requires sharing of student directory information with colleges, employers, and military recruiters. Student directory information includes a student's home address and telephone number. For this reason, further explanation was needed in the proposed policy about these exceptions and about parents' rights to deny access to their child's information (i.e. "opt out").

The proposed policy also directs the Superintendent to establish regulations regarding identifying security breaches; providing ongoing information technology safety training to

District employees; and the protocol for notifying all individuals affected by a security breach.

Commissioner Funchess voiced concern about parents' awareness of their right to "opt out" of sharing their child's personal information with recruiters, particularly those affiliated with the military services. Ms. Flanagan explained that the choice for parents to "opt out" is contained in the policy, *Recruiting by Organizations with Restrictive Membership or Employment Practices* (1240.1).

Commissioner Hallmark recalled that parents were able to "opt in" in the past, so that their child's personal information would not be shared unless parents gave their consent. Ms. Flanagan noted that this had been the policy, but the "opt in" approach was deemed in violation of federal law. For this reason, the policy was changed to require parents to "opt out" to deny access to their child's information.

Commissioner Funchess questioned the extent to which parents have been informed of the policy change, particularly since their preference had been for an "opt in" approach. Ms. Flanagan explained that the policy itself requires the District to send a letter to parents/guardians of all 11th and 12th grade students and to all students over the age of 17 to notify them of their right to "opt out" and the process for doing so. Principals of secondary schools are also required under the policy to inform students of the letters being sent to their parents, and to provide similar "opt out" forms to students at school.

Commissioner LeBron concurred with the concern about ensuring that parents are aware of their right to "opt out" of sharing their child's information with recruiters, noting that the corresponding letter may be sent to parents along with a great deal of other information at the beginning of the school year.

ACTION ITEM: Mr. Carling will check with the Communications Department about the timing and method for notifying District parents of their right to "opt out" of sharing their child's personal information with college, employer and military service recruiters.

With respect to the *Security Breach & Notification Policy*, Ms. Flanagan noted that the existing Superintendent regulation pertains to maintaining an inventory and record of computer equipment.

ACTION ITEM: General Counsel Karl Kristoff will review and update the regulation accompanying the *Security Breach & Notification Policy* (1300-R).

3. NYSSBA Update of *Public Use of School Facilities Policy* (1500)

After reviewing the New York State School Boards Association (NYSSBA) sample policy, Ms. Flanagan stated that she would not recommend revising the District's current *Public Use of School Facilities Policy*. She pointed out that the NYSSBA sample policy attempts to enumerate all of the acceptable uses of public school buildings, which does not allow

flexibility and does not seem necessary. Ms. Flanagan noted that the existing Board policy stipulates that any community use of school facilities should be for the “general welfare of the school and/or community”, and cannot interfere with the educational process.

Mr. Carling observed that most of the provisions in the NYSSBA sample policy are included in the Superintendent regulation accompanying the *Public Use of School Facilities Policy*.

Commissioner Funchess stated that as each policy is reviewed by the Policy Committee, she would like to have the accompanying regulation reviewed to ensure alignment and consistency.

ACTION ITEM: With each policy reviewed by the members of the Policy Committee, the accompanying regulation will also be reviewed to ensure consistency. As regulations are reviewed, the Superintendent’s signature is needed to indicate her awareness of the provisions in the regulation and her support for them – regardless of whether the regulation has been updated.

Commissioner Powell recalled that an issue arose a couple of years ago because the Board of Elections was experiencing problems with using schools as polling places, since schools are open on election days. She stated that this issue related more to suburban districts because no instances arose in which an RCSD principal denied use of a school as a polling site. Commissioner Powell asked whether the regulation associated with the *Public Use of School Facilities Policy* addresses this issue directly. Mr. Carling replied that he did not see this issue addressed directly in the existing regulation.

Commissioner Hallmark inquired whether school principals are able to deny use of schools for elections, or create obstacles to use of schools for this purpose.

Commissioner Powell commented that principals are able to create obstacles to using schools as polling sites, and this was the source of the issue that arose.

Commissioner Hallmark asked whether the District is legally required to allow use of schools as polling places. Commissioner Powell responded that this is not a legal requirement of school districts, but is the responsibility of the Board of Elections in finding polling sites within each electoral district.

Commissioner Hallmark noted that parents expressed concern last year about allowing strangers to enter their child’s school, and called for protections to be provided. Commissioner Powell stated that these are the primary concerns of parents in suburban districts, but schools have been used as polling sites throughout history. She observed that principals reflect this anxiety when they create obstacles for the Board of Elections in using schools for polling places.

Mr. Carling pointed out that use of schools as polling sites is not addressed in the *Public Use of Schools Policy* or regulation because it is addressed in the *Electioneering in Schools Policy* (2120.1).

Commissioner Powell asked whether the *Electioneering in Schools Policy* explicitly states that RCSD schools will be made available for elections. Mr. Carling replied that the policy does not make this declaration, but establishes guidelines to be followed if schools are made available for this purpose. He inquired whether the Board intends to require schools to be made available as polling sites, or to allow discretion in making this decision.

Commissioner Powell stated that she does not know the Board's intent regarding this issue, and is uncertain as to whether there would be consensus among Board members on this topic.

Commissioner Funchess asserted that if this topic has not arisen as an issue in the District, it does not need to be addressed at this time.

4. Proposed Revision of *Smoking on School Premises Policy (1530)*

Ms. Flanagan explained that the existing policy does not include changes in NYS law prohibiting the use of electronic cigarettes, as well as tobacco use. The current policy also does not specify that tobacco and electronic cigarette use is prohibited in all District buildings, on school grounds, and in any vehicle used to transport children or staff. More specifically, use of these products is prohibited within 100 feet of all District building exits, entrances, and outdoor areas to protect the health of students and staff. The proposed policy revision also expands the requirement to post signs regarding these prohibitions in additional areas (e.g. District vehicles and locations outdoors on school grounds).

Commissioner Powell expressed concern about the final statement in the policy: "The District shall be liable to the Monroe County Health Department and to the federal government for fines upon findings of violations of state and federal regulations." She asked whether this would subject the District to lawsuits. Ms. Flanagan noted that this provision is contained in the existing policy, acknowledging that she did not know the legal basis and was reluctant to remove it. Mr. Carling stated that there is no legal basis for this provision in the policy regarding District liability.

ACTION ITEM: In addition to the revisions already proposed to the *Smoking on School Premises Policy (1530)*, Ms. Flanagan will delete the final statement regarding District liability for policy violations. The updated revisions will be advanced to the Board as an Information Item in the May 24, 2018 Business Meeting.

5. Proposed Revision of *Gifts to District Officers or Employees Policy (1810)*

The NYSSBA sample policy merges two related policies into one: 1) Gifts to District Employees; and 2) Donations/Gifts to the District or to a School.

Ms. Flanagan reported discussing the draft policy changes with Shanai Lee, Board Clerk, and Karl Kristoff, General Counsel. The new section regarding donations to the District or to a particular school would allow the Superintendent to accept a gift/donation on behalf of the Board of Education that is less than \$1500 in value.

Ms. Flanagan noted that the revised policy establishes specific criteria for the Board to consider in determining whether to accept a gift, only allowing gifts to be accepted that would benefit the entire District or at least one particular school. The only exception to this provision is scholarships or awards granted to individual students for merit, and all students must have an equal opportunity to qualify.

Commissioner Sheppard pointed out that awards have been given to particular students without all students being given an opportunity to qualify.

Commissioner Funchess concurred, stating that gifts have been given to a student for a particular act. She cited an example of an award given to a 2nd grade student for calling 911 when his mother fell, which did not involve an equal opportunity for all students to receive the award. Commissioner Funchess stated that the proposed policy change would prohibit the District from being able to give these types of awards to students. She suggested adding language stating that exceptions can be made in allowing awards to be given to students based on extraordinary circumstances.

Commissioner Powell suggested not making the proposed changes to the policy because the current system involves Board authorization for gifts to the District or to a particular school. She questioned whether the Board would like to become involved in making decisions about awards to individual students. Commissioner Powell noted that the proposed policy revision would require the Board to be notified of every gift given to a student and to follow certain rules in accepting gifts.

Commissioner Sheppard declared that she does not want Good Samaritans to be turned away from helping one of the students in the District only because this opportunity was not offered to all students.

Commissioner LeBron opposed restricting school administrators and staff from honoring or recognizing their own students by requiring Board approval.

Ms. Flanagan pointed out that the proposed policy establishes a \$1500 threshold, so that gifts below this dollar value would not require Board approval. She acknowledged that the Superintendent would have to be notified, however.

Commissioner Powell also expressed concern about the restrictions in the proposed policy that would not allow the Board to accept a gift, particularly if the gift is not for a purpose for which the District could legally expend its own funds. Mr. Carling noted that this particular provision seems overly restrictive, citing an example of donating food for a day-long training session. He stated that this type of donation would be prohibited under the proposed policy because the District is only allowed to purchase food for a meeting that is held during dinner time.

ACTION ITEM: General Counsel Karl Kristoff will examine the legal basis for the provision in the proposed policy and the NYSSBA sample policy that would prohibit

gifts/donations unless for a purpose for which the District could legally expend its own funds.

6. Proposed Revision of *Visitors to Schools Policy* (1240)

In the process of revising this policy, Ms. Flanagan stated that she met with the District's Director of Safety and Security, Lori Baldwin. Ms. Baldwin reported that some of the most frequent calls received by security staff arise when parents visit their child's classroom without any advance notice.

Ms. Flanagan explained that this was the reason for including a provision in the revised policy that would require parents to coordinate classroom visits with school staff at least 24 hours in advance. She added that this requirement would not pertain to meetings or discussions with school staff outside of the classroom. In addition, each school would be required to notify parents of the procedures for arranging classroom visits.

Commissioner Funchess expressed concern about the imbalance in expectations between school staff and parents. She noted that school staff expect parents to arrive immediately when contacted about a concern with their child, but the proposed policy would require parents to plan and make arrangements in advance. Commissioner Funchess discussed the value of parents being able to observe their child in the classroom in a realistic way. Notifying staff in advance of a parent's visit alters their behavior, the classroom environment, and their child's behavior/response. She contended that requiring advance notice of a parent's visit to the classroom reflects the lack of relationship between District teachers and parents. If these relationships were positive and firmly established, a parent's visit would not lead to disruption in the classroom.

Commissioner Sheppard agreed that parents/guardians should have open access to any site in which their child is located, but also acknowledged the perspective of school staff in wanting to avoid disruptions in the classroom. She suggested changing the language in the proposed policy to state that parents are encouraged to coordinate classroom visits with school staff at least 24 hours in advance, if possible. Mr. Carling responded that inserting clauses such as "if possible" or "unless there are emergency circumstances" introduces a level of subjectivity in making these determinations, and tends to lead to litigation. He stated that his understanding is that each Building Committee establishes visitation rules for their school.

Commissioner LeBron pointed out that New York State regulations for child care centers require open access at all times for parents, and questioned the rationale for the District not adopting this same policy. She stated that no one should be able to stop a parent from seeing their child, and noted that these types of situations lead to the involvement of security staff.

Commissioner Funchess remarked that the way that security staff interact with parents at that point tends to create problems and escalate the situation. She contended that if the District wants parents to be involved in their child's education, access to their child and/or the classroom cannot be restricted. Commissioner Funchess stated that she does not want classroom disruptions, but imposing technical solutions and requirements are not the way to

address fundamental problems due to the lack of relationship between school staff and parents.

Commissioner LeBron reported that District parents have actually been arrested for trespassing when visiting their child's school, leading parents to have to take time off from work to fight a nonsensical charge from being denied access to their child. She suggested stipulating in the policy that parents are to sign in at the school office and ask office staff to notify the teacher that they will be visiting their child's classroom.

Commissioner Powell proposed changing the policy to state that schools are to develop procedures for welcoming parents and escorting them to their child's classroom.

Commissioner Hallmark observed that the previous paragraph in the proposed policy states that the Board "encourages supportive visits from parents, family members and others to collaboratively enhance school communities." She stated that the policy can mandate School-Based Planning Teams to create a welcoming approach with parents.

Commissioner Funchess expressed appreciation for the suggestions that were offered, but pointed out that the result would be different rules/procedures in each school and this would be confusing for parents with children in multiple RCSD schools. She emphasized the importance of striking a balance between minimizing disruption/interruptions in the classroom and allowing parents to have access to their child.

Ms. Flanagan proposed changing the policy to encourage parents to coordinate classroom visits with school staff in advance, check in with staff in the school office, notify office staff of their intent to visit their child's classroom, and have the office staff notify the teacher. She pointed out that this approach would also prevent the situation from escalating to the point where security staff are called in to intervene.

Commissioner Funchess observed that many teachers are uncomfortable with parents of color, and tend to involve security staff even in ordinary, legal, mundane situations. She asserted that she does not want to codify or normalize this practice.

Commissioner Sheppard stated that she does not see a major issue with encouraging parents to arrange classroom visits at least 24 hours in advance because the District has schools with a large number of students, and visits by a large number of parents at once could certainly create disruptions. She stated that parents' visits should be encouraged, but the process should be streamlined. Commissioner Sheppard advocated for encouraging advance scheduling of classroom visits, rather than imposing this as a restriction.

Commissioner Powell suggested changing the policy to begin with visitors who are most removed from the school community, and address each group to show that the same restrictions do not apply to parents/guardians.

ACTION ITEM: Ms. Flanagan will revise the proposed *Visitors to Schools Policy (1240)* to incorporate the suggestions presented in this evening's Policy Committee meeting.

Commissioner LeBron stated that she remains concerned about the parents being expected to notify office staff when they want to visit their child's classroom. She noted that if an office staff member has a particular problem with a parent, they could use this opportunity to block the parent's access to their child's classroom. Commissioner LeBron emphasized the importance of further discussion, and of obtaining feedback about the proposed policy from parents, staff, and community members.

ACTION ITEM: A Public Forum will be held in lieu of the June Policy Committee meeting to gather input from parents, staff, and community members on the proposed changes to the *Visitors to Schools Policy*.

III. Feedback and Recommendations from the School Climate Advisory Committee regarding Cyberbullying Provisions in Proposed *Student Harassment and Bullying Prevention and Intervention Policy (0115)*

Ms. Flanagan reported that additional revisions have been drafted to the *Student Harassment and Bullying Prevention and Intervention Policy* to address cyberbullying. Although the revised draft has been submitted to the School Climate Advisory Committee, Committee members need more time to review and consider the latest changes. Their response is expected in time for the June Policy Committee meeting.

IV. Policy Status Update

Ms. Flanagan identified the following policy proposals that have been drafted and are currently in process:

- *Student Harassment and Bullying Prevention and Intervention Policy (0115)*
- *Code of Conduct (1400)* – changes based on NYSSBA recommendations; additional revisions expected based on input from the School Climate Advisory Committee
- *School District Records Policy (1120)*
- *Security Breach and Notification Policy (1300)*
- *Smoking on School Premises Policy (1530)*
- *Gifts from the Public Policy (1810)*
- *Visitors to Schools Policy (1240)*

Ms. Flanagan reported that the following policies have been identified as priorities for updating:

- *Academic Intervention Services (Compensatory Education Policy – 4325)*
- *Parent & Family Engagement (1900)*: Ms. Flanagan stated that she has drafted the necessary updates to this policy, and submitted it to the RCSD Parent Advisory Council, Bilingual Education Council, and Office of Parent Engagement for review and comment.
- *School Safety Policy (8135)*

- *Health & Safety Program Policy* (8100)
- *Students' Right to Alternative Instruction while on Medical Leave* (No RCSD policy)
- *Instructional Goals* (4000)
- *Promotion & Retention of Students* (No RCSD policy)
- *Programs for Students with Disabilities* (4202)
- *Diplomas & Credential Options for Students with Disabilities* (4222)
- *Student Assignment to Schools & Classes (Parent Preference/Managed Choice Policy* 5153)
- *Purchasing Policy* (6700)
- *Transportation Policy* (8400)
- *Staff Development Policy* (No RCSD policy)
- *De-Escalation of Crisis Situations* (8200)

Commissioner LeBron pointed out that a public forum should be held to obtain input from parents regarding the revisions proposed to the *Parent & Family Engagement Policy* (1900).

Commissioner Funchess noted that the public forum on this policy may have to be held in September, when a greater number of parents are available to attend. She added that parents have to be informed of the existing policy, the changes being considered, and implications so that they are able to provide informed input.

Commissioner LeBron announced that she will be conducting a summit in August for parents regarding bilingual education, and she can request their feedback on the changes being considered for the *Parent & Family Engagement Policy* at that time.

Commissioner Powell recalled a recent discussion by the Superintendent regarding attendance issues, including an example of a student who was refusing to attend school. She stated that the Superintendent was concerned that the focus in the District was on insisting that the student attend school, rather than on finding ways to make instruction available to them (e.g. through online classes or home instruction). Commissioner Powell pointed out that this could be addressed in the *Student's Right to Alternative Instruction Policy*.

ACTION ITEM: In preparing policy updates for review and consideration by the Policy Committee, Ms. Flanagan will prioritize the *Student's Right to Alternative Instruction Policy*. A draft policy will be submitted to the Superintendent and General Counsel for review and comment, and presented in the next Policy Committee meeting.

V. Update on New Policy Proposals and Superintendent Regulations

1. New Proposed *Wandering and Elopement Policy*

Mr. Carling presented a new proposed *Wandering and Elopement Policy* to prevent and address recent situations in which students have wandered off of school grounds and suffered the most extreme consequences (i.e. Trevyan Rowe). The proposed policy would establish a requirement for all schools to include procedures regarding wandering and elopement in their safety plan, and to create an Individualized Behavior Plan or Crisis Management Plan when a student exhibits wandering/elopement behaviors more than once during the current or previous school year.

Each school's wandering and elopement plan must include:

- Description of physical changes to the school building to discourage student wandering/elopement and/or facilitate notification of staff when this occurs;
- Protocol for notifying school staff of individual students who have a history of wandering/elopement, including recent photos and a description of conditions that may trigger the student to wander or flee.
- Procedures and staff to be assigned to notify 911, the student's parent and family, and Central Office in the event that a student wanders off of school property.
- Protocol for communicating and responding to the police, accessing and distributing video footage, floor plans, and maps of the school grounds and immediate surroundings.
- School-wide communication and alert system
- Explicit staff assignments for searching the building and school grounds, focusing on specific areas with the highest risk (e.g. nearby water sources and major intersections).
- Protocol for ensuring that students who have a history of wandering/elopement carry basic identification at all times

School administrators are expected to assign staff members around the school building during transition times (e.g. arrival, dismissal, lunch, recess) to minimize the opportunity for student wandering/elopement.

The new policy would also require training to be provided to all building-based staff each year, prior to October 1st.

Members of the Policy Committee objected to the timeframe in the proposed policy, emphasizing the need for all school-based staff to have annual training on wandering and elopement procedures by the first day that students arrive at school for each school year.

ACTION ITEM: Ms. Flanagan will draft a memo to the School Chiefs to request their suggestions/recommendations regarding ways to ensure that wandering and elopement training is provided to all school staff by the first day that students arrive on campus at the beginning of each school year.

2. New Proposed *Indemnification under Public Officers Law Policy*

Mr. Carling introduced a new *Indemnification Policy*, which would protect District employees, officers, the Superintendent, and volunteers from personal liability for actions performed in accordance with their official responsibilities. He explained that NYS Public Officers Law is more comprehensive in providing these protections than Education Law.

Policy Committee members raised concerns about the ways in which this policy could potentially be applied, particularly in protecting employees in the event of misconduct and/or discrimination.

ACTION ITEM: General Counsel Karl Kristoff will investigate the implications of the proposed policy further, and discuss this issue in the next Policy Committee meeting.

3. *New Sexual Harassment Regulation (0110-R)*

To implement the new *Sexual Harassment Policy (0110)*, Mr. Carling noted that a corresponding Superintendent regulation has been established. The regulation clarifies the definition of sexual harassment and gender-based harassment, which is based on actual or perceived gender, gender identity or expression, or sexual orientation. The regulation also lists specific behaviors that are prohibited and that may constitute sexual or gender-based harassment, and establishes guidelines for reporting and conducting investigations. Potential penalties are also delineated for those found to have violated the *Sexual Harassment Policy*, and training is to be provided at new employee orientation and to secondary school student body officers at the beginning of the school year. Current employees are to be notified of the policy provisions at least once per year, and District staff responsible for investigating complaints of sexual or gender-based harassment will receive annual training.

4. *New Teaching Controversial Subjects Policy and Regulation:* Mr. Carling reported that this policy and regulation are not yet ready to present to the Policy Committee.

5. *New Threat Assessment Regulation (1400-1-R):* Mr. Carling stated that this new regulation has not yet been signed off by the Superintendent.

Meeting adjourned at 7:36PM.