

ROCHESTER BOARD OF EDUCATION
Policy Review and Development Committee Meeting

October 16, 2018

Attending:

Commissioners – Commissioner LeBron (Acting Chair); Commissioners Powell, Sheppard, and White

District Staff – Karl Kristoff, General Counsel; Superintendent Deane-Williams; Dr. Cecilia Golden, Deputy Superintendent of Teaching & Learning; Dr. Beth Mascitti-Miller, Deputy Superintendent for Administration; Dr. Ray Giamartino, Chief of Accountability

Board Staff – Kallia Wade; Debra Flanagan

Commissioner LeBron convened the Policy Committee meeting at 7:32PM.

I. Review Minutes of the September 19, 2018 Policy Committee Meeting

Motion by Commissioner Powell to approve the minutes of the September 19, 2018 Policy Committee meeting. Seconded by Commissioner White. **Adopted 3-0.**

II. Follow-Up Items:

A. Summary of School Climate Advisory Committee Recommendations regarding the *Code of Conduct* (1400)

Kallia Wade explained that she is attending this evening's Policy Committee meeting to represent the views and recommendations of the School Climate Advisory Committee. She noted that the School Climate Advisory Committee conducted many meetings over the last year to examine District practices, policies, and processes related to school climate, student discipline and support. Ms. Wade reported that the primary policy reviewed by the Advisory Committee was the *Code of Conduct*, and recommendations were put forth for revising: 1) Appendix C, regarding due process and long-term suspension; and 2) the matrix containing guidelines for responding to various types of violations of the *Code*.

The preliminary policy recommendations of the School Climate Advisory Committee were reviewed by the Advancement Project, which provided legal support and advice. The Advancement Project is a national advocacy organization that conducts research and analysis to support innovative approaches toward attaining racial and social justice.

Ms. Wade pointed out that the most substantial recommendation is to reduce the maximum length of long-term suspension that can be imposed on students to 20 school days, unless the suspension is for a violent offense. She explained that the intent of the School Climate Advisory Committee (SCAC) was to reduce the amount of time that a student is out of school

and missing instruction. Ms. Wade noted that the District has not had a limit on the length of time that a student could be suspended.

Commissioner LeBron inquired whether the 20-day limit applies to the total amount of time that a student is suspended during the school year, or for each long-term suspension. Ms. Wade replied that the limit applies to each long-term suspension, but other SCAC recommendations address the use of consecutive long-term suspensions of a student. She stated that the 20-day limit is based on the *Safe and Supportive Schools Act*, which establishes a 45-day maximum for long-term suspension. She explained that the SCAC chose a shorter time limit because of concerns about student attendance and academic achievement in the District.

Commissioner Powell observed that a 20-day maximum limit for long-term suspension does not coincide with the 30 calendar days allowed for appeal of long-term suspension. She stated that appeals would primarily serve to expunge students' records after their term of suspension has been served, rather than expediting their return to school.

Ms. Wade replied that the Advisory Committee retained the 30-day period to ensure ample time and opportunity for students to file for appeal. She pointed out that students who are currently suspended for shorter periods of time (i.e. between 6-30 days) return to school before their appeal has been processed.

Commissioner LeBron asked whether students are informed of their right to appeal when they have been suspended. Mr. Kristoff replied that the District is legally required to inform students and their parents/guardian of these rights, and this information is provided in a letter sent to the student's home.

Commissioner White clarified that school principals can only impose short-term suspension, and only the Superintendent is authorized by law to impose long-term suspension.

Ms. Wade noted that the current *Code of Conduct* states that a decision regarding appeal of long-term suspension will be rendered by the Board of Education within 15 school days. However, appeals decisions have not been rendered within this timeframe because of the volume of appeals received. Ms. Wade asserted that the policy should reflect actual practice, so that parents and students know what to expect. She proposed amending the policy to state that appeals decisions will be made within 30 school days. She added that this is the timeframe used by most school districts.

Commissioner White inquired about the average length of long-term suspension in the District. Ms. Wade responded that long-term suspensions averaged approximately 45 days in the 2017-18 school year, and a somewhat shorter period of time in the current year.

Commissioner White commented that the 20-day limit represents a dramatic change from an average of 45 days. He asked about plans for professional development and preparations for staff to effect these changes. Commissioner White recalled that a former superintendent decided not to allow out-of-school suspension, and the arrest rate for RCSD students skyrocketed as a result. He expressed concern that insufficient preparation and/or

professional development could lead to unintended consequences that could be detrimental to students. More specifically, Commissioner White discussed the possibility of manipulating facts or inflating the severity of an incident to obtain an exception to the 20-day limit, which is allowed for violent offenses.

Ms. Wade responded that the SCAC included RCSD administrators, who considered the 20-day limit to be a feasible approach.

Superintendent Deane-Williams stated that the SCAC recommendations are controversial among District administrators and opinions vary greatly. She cautioned that there will be resistance among some District administrators and staff members, noting that the underlying issue involves basic values and beliefs.

The Superintendent asserted that continued support for school counselors and restorative practices will require additional funding for staff supports and professional development. She stated that an analysis and report will be presented to the Board by November 30, 2018. The report will examine the feasibility, need for modification, and availability of funding for implementing each SCAC recommendation. Superintendent Deane-Williams commented that restorative practices, racial equity, and anti-racism training are extremely controversial within the District.

Commissioner LeBron observed that the Superintendent has tended to respond that additional funding will be needed when discussing implementation of measures to address issues in the District. In these situations, Commissioner LeBron asserted that she would like additional detail from the Superintendent about the proposed source(s) of funding for implementation.

Commissioner LeBron discussed her experience in the District when the *Code of Conduct* was initially implemented. She reported that many schools struggled to maintain order and manage student behavior when unable to impose suspension to the extent that was allowed in the past. She emphasized the need for principals and teachers to be aware of alternatives, resources and supports available for responding to students who disrupt instruction. She noted that despite her support for establishing limits on suspension and for using restorative practices, consideration must also be given to the impact of disruption on other students in the classroom.

Commissioner LeBron pointed out that District deputy superintendents should have been included in the School Climate Advisory Committee (SCAC) because of their ability to provide input regarding the feasibility of various options.

Superintendent Deane-Williams replied that the members of her team that have served on the SCAC are: Fatimat Reid, Chief of Staff; Idonia Owens, Chief of Equity; and Ruth Turner, Chief of Student Support Services and Social/Emotional Learning. She reported that these three administrators are currently working with members of the senior team to discuss the SCAC recommendations. The Superintendent pointed out that a number of the recommendations require a change in District culture, staff support and training. She expressed concern about the quality of alternative instruction provided to students when unable to attend school (e.g. due to illness, suspension, or to address social/emotional needs).

Superintendent Deane-Williams noted that the cost-benefit results of District alternative instruction programs are questionable, even when a variety of measures are used (e.g. attendance, repeat offenses, academic performance). She emphasized the inextricable link between suspension and alternative instruction, noting that failure to provide quality alternative instruction during suspension leads students to fall behind academically. Superintendent Deane-Williams explained that such academic delays create substantial barriers for students to successfully re-integrate into school, leading to decreased graduation rates and increased dropout rates.

Commissioner Sheppard expressed concern about the disparity between the 20-day limit for long-term suspension and the 30-day calendar limit for appealing long-term suspension. She proposed establishing different timeframes for long-term suspension appeals for violent and non-violent offenses. Ms. Wade replied that the Board has other options available besides approving or rejecting the SCAC recommendations. She pointed out that the Board can also request the SCAC to consider other options.

Commissioner LeBron discussed the length of time involved in the appeal process and in the Board rendering appeal decisions, asserting that the Board must examine ways to improve the process to create faster turnaround for students.

Commissioner White pointed out that appeal of long-term suspension is a state-mandated function that the Board of Education neglected for years. He noted that one Board staff member currently processes the many appeals received, amongst other responsibilities. As a result, appeal decisions are often made toward the end of the term of suspension or after the student has returned to school. In any case, the student's record can be expunged if the appeal is upheld.

Commissioner Sheppard stated that she would find the delay in processing appeals of long-term suspension more tolerable if the District had quality alternative instruction programs to offer students who have been suspended.

Commissioner White commented that state law only authorizes the Board of Education to process appeals of long-term suspension decisions, so that these responsibilities cannot be delegated. For this reason, the appeals process cannot be aligned with the 20-day long-term suspension limit unless additional staff are hired to handle the workload.

Karl Kristoff stated that he has reviewed the *Code of Conduct* and SCAC recommendations, which raise a number of serious legal issues that need to be addressed. He offered to discuss these issues with Board members in Executive Session because of the implications for increasing the District's liability. He added that other options were suggested by Executive Cabinet that are not mentioned in the SCAC report, such as offering students a "contract" in lieu of suspension. After the student has met the requirements under the "contract", their record would be expunged. Mr. Kristoff contended that the SCAC report continues to focus on the "punishment", rather than changing the basic approach to student discipline.

Ms. Wade explained that the thinking and values underlying the SCAC recommendation was to reduce the number of days that students miss out on instruction.

Commissioner LeBron noted that members of the Executive Cabinet have been serving on the SCAC for the last year, and should have a sense of the extent to which the options considered by the Advisory Committee would be aligned with the Administration's priorities and plans. She asserted that the Cabinet representatives should have informed the SCAC of ideas, options and recommendations that would not be considered feasible by the Administration. As members of the SCAC, these Cabinet members also should have been informing their peers and addressing internal disagreements throughout the year.

Mr. Kristoff countered that the Executive Cabinet does not function in lockstep, and its members are professionals with varying backgrounds, experience, and perspectives.

Commissioner LeBron pointed out that the Administration's appointment of representatives and the Board's authorization implicitly recognized the SCAC as having the capacity to generate recommendations for addressing school climate and student discipline issues. She asked why a special committee has been constituted to examine these issues and provide recommendations, only to question and parse each recommendation to the point where it bears little resemblance to the committee's intent, values or thought process.

Mr. Kristoff replied that the Board has the option of adopting the SCAC recommendations without the Administration's input. He asserted that any set of recommendations presented by an external entity should be vetted by those responsible for implementation.

Commissioner LeBron proposed that the Board learn of the legal concerns raised by General Counsel before directing the SCAC to reconsider or amend some of their recommendations.

Mr. Kristoff contended that the Board should not take any action regarding the *Code of Conduct* or the SCAC recommendations until the Administration has presented their analysis and report on November 30, 2018. At that point, the Board can decide whether to refer any of the recommendations to SCAC for reconsideration.

Commissioner LeBron requested that the Cabinet present their feedback regarding the SCAC recommendations within the next 15 days. She explained that the Cabinet's feedback is needed to make necessary changes to the recommendations before being presented to the public. Commissioner LeBron announced that a public hearing regarding the SCAC recommendations will be held on November 5, 2018.

Mr. Kristoff replied that the Cabinet has to examine the SCAC recommendations within the context of the entire *Code of Conduct*, which consists of almost 100 pages and cannot be reviewed in 15 days.

Ms. Flanagan pointed out that the *Code of Conduct* is already in effect, and the SCAC recommendations pertain to the changes that have been proposed. She questioned the rationale for the Cabinet having to review the entire policy, rather than focusing on the proposed changes.

Commissioner Sheppard asserted that the proposed changes may have implications for other sections of the *Code of Conduct*. She requested that the General Counsel present his legal

concerns within the next two weeks.

Commissioner LeBron concluded that the public hearing regarding the SCAC recommendations and the proposed changes to the *Code of Conduct* will have to be postponed, in light of the difficulties in obtaining feedback from the Administration for consideration by the Policy Committee by November 5, 2018.

ACTION ITEM: Members of the Policy Committee decided that the public hearing scheduled for November 5th regarding the recommendations of the School Climate Advisory Committee and proposed changes to the *Code of Conduct* should be postponed until after the Superintendent presents the findings of her analysis of the feasibility and cost of implementation on November 30th.

Commissioner LeBron observed that the District website needs to provide additional information about the *Dignity for All Students Act*. Ms. Wade responded that these suggestions were also made by the Advisory Committee. She stated that references to the *Dignity for All Students Act* have also been included in the matrix to remind staff to file a report with the state for each incident of harassment or bullying. She noted that this has not been the practice in the District.

B. Feedback from Teachers about Proposed Changes to the *Visitors to Schools Policy* (1240)

Commissioner LeBron reported that Commissioner Funchess has not yet had an opportunity to meet with teachers to discuss the proposed changes to the *Visitors to Schools Policy*.

ACTION ITEM: Ms. Flanagan will include feedback from teachers regarding the proposed *Visitors to Schools Policy* on the agenda for the November Policy Committee meeting.

III. Discuss Plans for the October 20th Community Forum

A. Feedback regarding the proposed revision of *Parent & Family Engagement Policy* (1900)

Ms. Flanagan reported that she has been collaborating with her colleague, Kallia Wade, to prepare for the Community Forum. She stated that she is developing a Powerpoint presentation with an overview of the *Parent & Family Engagement Policy*, and of the changes that have been proposed.

B. Feedback regarding School Climate Advisory Committee recommendations for revising the *Code of Conduct*

Ms. Flanagan reported that an overview of the *Code of Conduct* will be presented in the Community Forum, rather than a discussion of the SCAC recommendations and proposed policy changes.

IV. Finalize Outstanding Policy Proposals:

A. Additional Revisions needed to the *Sexual Harassment Policy (0110)* based on NYS Guidelines issued October 1, 2018

Ms. Flanagan explained that the state issued guidelines on October 1, 2018, requiring some additional changes to the proposed *Sexual Harassment* policy. She noted that the proposed policy was advanced to the full Board in the September 2018 Business meeting as an Information Item.

The new state guidelines stipulate that the District is not required to provide sexual harassment training to third parties (e.g. individuals who are not students or employees), but may simply direct them to review the policy. The training provided to students and employees must meet minimum state standards, cover all of the elements required by law, and include interactive activities (e.g. quiz, question and answer period, etc.). The training may be provided by the District or by an approved contractor.

Motion by Commissioner Powell to approve the proposed *Sexual Harassment Policy* as amended. Seconded by Commissioner White. **Adopted 3-0.**

B. Proposed *Alternative and Homebound Instruction Policy (4327)*

Mr. Kristoff suggested modifying the statement, “School principals and program administrators will make every effort to arrange alternative instruction for students immediately upon referral for homebound instruction, removal of a student from the classroom, or referral for suspension.” To clarify “immediately” arranging for alternative instruction, he proposed changing this language to “at the earliest time possible” or “within 24 hours of _____ [a defined event/action]”. Mr. Kristoff recommended using “at the earliest time possible” because circumstances could arise that would prevent a staff member from being able to arrange alternative instruction within 24 hours.

Commissioner LeBron expressed concern about the phrase “at the earliest time possible” because it is subject to interpretation. She pointed out that school principals may base this interpretation on their schedules or convenience, leading students to miss additional instruction time. Mr. Kristoff noted that the policy could state that alternative instruction is to be arranged “at the earliest possible time and no more than 72 hours after referral...”

The Superintendent objected to the accumulation of missed instructional time with each suspension or classroom removal, stating that the policy should not allow a window of opportunity to delay providing alternative instruction to students.

Members of the Policy Committee decided to amend the proposed policy to state that alternative instruction will be arranged for students “at the earliest possible time and within 24 hours of referral.....”

Ms. Flanagan noted that the Policy Committee had discussed incorporating reporting requirements into the proposed policy in a previous meeting. She explained that the reporting requirements were suggested to ensure that the policy is actually being implemented. Ms.

Flanagan recalled that Policy Committee members identified the following data elements to include in reports: reasons for alternative instruction referral, specific alternative instruction programs in which students have been placed, length of time between referral and placement, and student outcomes from alternative instruction.

ACTION ITEM: Ms. Flanagan will draft reporting requirements to include in the proposed *Alternative and Homebound Instruction Policy (4327)* to present in the November Policy Committee meeting.

C. Additional Revision to *Teaching of Controversial Issues Policy (4360)*

Mr. Kristoff noted that members of the Policy Committee had requested guidelines regarding the use of resource/external speakers in teaching students about controversial issues. He proposed that the policy state: “The use of resource speakers in teaching controversial issues is permitted if coordinated with the immediate supervisor of the individual arranging for the speaker.”

Motion by Commissioner Powell to approve the proposed *Teaching of Controversial Issues Policy* as amended. Seconded by Commissioner LeBron. **Adopted 3-0.**

V. Draft Policy regarding Admitting Non-Resident and Foreign Students and Payment of Tuition

Mr. Kristoff presented three new proposed policies for the Committee’s consideration:

- *Admission of Non-Resident Students (5152)*
- *Admission of Foreign Students (5152.1)*
- *Non-Resident Tuition (6254)*

Mr. Kristoff reported that all three policies are based on sample policies from the NYS School Boards Association, with some minor adjustments to tailor the proposed policy for the District.

Motion by Commissioner Powell to approve the above policies regarding admission of non-resident and foreign students and payment of non-resident tuition. Seconded by Commissioner LeBron. **Adopted 3-0.**

VI. Current Status of Policies

Due to the late hour, Ms. Flanagan referred members of the Policy Committee to the policy status updates sent to them previously and available on BoardDocs.

Meeting adjourned at 9:03PM.