

Policy Review Committee Meeting Minutes
December 8, 2022
King's Fork Middle School
350 King's Fork Road, Suffolk, VA 23434
3:00 PM

Present:

Members

- ✓ Dr. Judith Brooks-Buck, ***Chair School Board Member***
- ✓ Mrs. Phyllis Byrum, ***Vice-Chair Board Member (Virtual Attendee)***
- ✓ Dr. John B. Gordon III, ***School Superintendent***

Participants

- ✓ Wendell M. Waller, ***School Board Attorney***
- ✓ Renée Davenport, ***Administrative Assistant***

➤ **Call meeting called to order.**

➤ **Virtual Attendance Statement**

- Board Chair Dr. Brooks-Buck read a statement regarding Mrs. Byrum attending the meeting virtually due to a medical allowance as follows:

“Vice-Chair Phyllis Byrum, who is also a member of the Policy Review Committee, is attending today’s meeting virtually. She suffers from a disability that substantially affects a major life activity. Under the Americans with Disabilities Act and Rehabilitation Act any board member, who suffers from a disability, should be given an opportunity to fully participate in meetings open to the public by being provided a reasonable accommodation. This could include an option to participate virtually. Vice-Chair Byrum has requested this reasonable accommodation under federal law and is being allowed to participate virtually in today’s meeting. Thank you.”

➤ **Review of the minutes for the meeting of October 13, 2022.**

Mrs. Byrum and Dr. Buck through unanimous consent approved the minutes.

➤ **Unfinished Business**

- **Review of the Section 8-24.5** – sexual content policy. We had the Board look at this policy because it had to be done and in place by January 2023 and they discussed any concerns of this policy.
- Mrs. Byrum asked Attorney Waller to review where we stand with this item and the history of where we have come with this policy.
- Attorney Waller gave an overview of the policy that is currently being proposed as it compares to the model policy that has been presented by the Virginia Department of Education (VDOE). Each local school system has been instructed to adopt policies that are consistent with but may be more comprehensive than the model policy of VDOE regarding sexually explicit content in instructional materials. On August 4, 2022 a model policy was presented by VDOE and Attorney Waller read the requirements/guiding principles that should be used in the development of the policy for school divisions.
 - The policy presented has been reviewed by Dr. Gordon, Dr. Branch and Dr. Lawson-Davenport and their input was instrumental in the development of the proposed policy is consistent with but more comprehensive than the proposed policy of VDOE and takes into account the guiding principals referenced in that policy. The proposed policy adds language that Suffolk Public Schools (SPS) will take reasonable steps in identifying any instructional material with sexually explicit content.
 - The model policy places an affirmative duty on local school divisions. If a school division acts in good faith but fails to identify instructional material with sexually explicit content, the school division would have violated the model policy. If SPS can demonstrate that their efforts were reasonable to identify sexually explicit content, there would be no violation even if sexually explicit content was later found in instructional material.
 - The model policy refers to all instructional material. In the proposed policy the word “all” has been replaced with “any”. The word “all” is broad and refers to all instructional material even those not used for direct instruction. The word “any” refers to a particular subset. The model policy would also place an undue burden on school personnel to review every book in its media centers to determine if it has sexually explicit material. In the proposed policy, the superintendent is required to establish guidelines to assist schools in identifying instructional materials with sexually explicit content.
 - The proposed language added the words “among other things” when considering whether sexually explicit content exists in instructional materials. This will allow SPS to have greater flexibility and will allow SPS to consider whether the materials have scientific, political, educational or social value.
 - The proposed policy inserts the words, “whether a reasonable parent” might consider instructional material harmful to their child. This creates an objective standard rather than a subjective standard for this review. When instructional materials are placed on a sexually explicit list, this list is made available to all parents in SPS. The proposed language eliminates the possibility that instructional materials are being placed on a sexually explicit content list

because a parent has a heightened sensitivity regarding certain materials and it also guards against censorship. It is important to keep in mind that a parent can request alternative instructional materials.

- The proposed policy incorporates school board policy 10-17.1 and regulations promulgated by the school superintendent. Regulation 2-3.8 provides an alternative assignment when a parent files a complaint challenging instructional material for reasons other than sexually explicit content. In the proposed policy, SPS will provide a division wide list by grade level, subject and school on the divisions website. This is in addition to the websites found on individual schools. It will ensure that parents have greater access to instructional materials. In the alternative list, there will not be instructional materials which contain sexually explicit content that the parent will find objectionable. The word “shall” has been replaced with the word “will” in the policy.
- Mrs. Byrum thanked Attorney Waller for the explanation and interpretation and her questions were answered. Dr. Brooks-Buck also thanked Attorney Waller that our policy went a little further than the State did with regards to helping people understand what this is all about. Parents still have the right to choose alternative materials, so we are not invading parents’ rights. They just need to follow the process for an alternative assignment and children are not penalized for that either. Attorney Waller indicated that we made it a point to incorporate the school board’s existing policy into this policy. Both Mrs. Byrum and Dr. Buck agreed that this policy needed to be moved on to the Board for the second reading.

➤ **New Business**

- **SECTION 1-5.1 Discrimination based on disability prohibited; protecting substantive rights**
Prohibits discrimination based on a disability. The creation of an impartial review process for complaints alleging disability discrimination. The goal of these procedures is to protect substantive rights of individuals, meet due process protections, and assure compliance with Section 504 of the Rehabilitation Act of 1973. Dr. Brooks-Buck highlighted the minor changes. No questions were proposed.
- **SECTION 1-5.8. Compliance Officer designated under 504.**
The designation of a Compliance Officer to impartially and equitably resolve compliance and ensure compliance with Section 504 of the Rehabilitation Act of 1973. The Compliance Officer receives complaints, conducts investigations, assess training needs, and arranges training. No questions were proposed.
- **SECTION 1-5.9 Filing a Formal Complaint of Discrimination; Investigation; Action by superintendent; Appeal**
This is the formal process for filing a complaint of disability discrimination. The written complaint is filed on the Complaint of Discrimination form. However, oral complaints are also accepted. The complaint is filed with the principal, other school division staff who then forwards the complaint to the Compliance Officer. Within three days after receiving the complaint, the Compliance Officer notifies the complainant that the complaint has been received. The Compliance Officer undertakes an investigation. The investigation must be completed no later than 15 school days. The Compliance

Officer issues a report to the superintendent. Within 10 school days, the superintendent issues a decision indicating whether discrimination based on disability occurred and if so, what action will be taken. This decision is then issued to the complainant. If no discrimination occurred, the complainant may appeal this determination to the School Board within five calendar days of receiving the decision. If the superintendent determines that discrimination occurred and discipline is imposed against an employee, the employee may appeal that determination in accordance with existing policies of the School Board. No questions were proposed.

- **SECTION 1-5.9:1 Informal complaint procedure; retaliation; false charges**

Complaints alleging disability discrimination may be resolved informally. Retaliation against those filing a report is prohibited. Anyone making a false charge can be subject to disciplinary action.

Attorney Waller commented that each local school board is required to have in place policies and procedures so that complaints of harassment or discrimination can be addressed through a grievance procedure. These policies outline that grievance procedure that will be used by SPS in terms of evaluating those complaints and allowing due process for those who file such complaints. No questions were proposed.

Attorney Waller relayed that Section **1-5.7, 1-5.8, 1-5.9, 1-5.9:1**, all of those policies pertain to the compliance officer and resolving complaints brought under Section 504 of the Rehabilitation Act of 1973. Mrs. Byrum and Dr. Brooks-Buck had no further questions regarding these policies. No questions were proposed.

- **SECTION 1-6.1 Statement of Policy; Harassment prohibited; school personnel defined; prompt investigations required.**

This policy will primarily expand the number of protected groups. Harassment based on sexual orientation, gender identity, pregnancy, childbirth or related medical conditions, and military status is prohibited because they are considered part of a protected group. No questions were proposed.

- **SECTION 1-6.3 Investigation of complaints; what investigation consists of; factors to be considered; written report required; employees required to cooperate fully.**

The Compliance Officer also investigates complaints of harassment referred by the Title IX Coordinator. In determining whether harassment occurred, the Compliance Officer must consider a list of factors. They include: surrounding circumstances; the nature of the behavior; past incidents or continuing patterns; how often the conduct occurred; the identity of the alleged perpetrator in relation to the alleged victim; location; age of the parties; and context in which the alleged harassment occurred.

- **SECTION 1-6.5 Appeal to School Board; decision within 30 days; grievance procedure.**

If the superintendent determines that prohibited harassment occurred and the employee is disciplined, the employee may appeal the disciplinary sanction through the grievance procedure.

- **SECTION 1-6.6 Compliance Officer and Alternative Compliance Officer; duties of compliance officer.**
 This section of School Board Policy is being deleted and replaced by new Sections 1-5.8 and 1-5.9.
- **SECTION 1-6.7 Informal Procedure.**
 The word “complainant” is being replaced with “person allegedly harassed” in the informal procedure. Compliance Officer has been inserted as the person to be contacted if a decision is made to abandon the informal procedure. Added supervisor, along with a principal or principal’s designee, who can notify the person harassed and the person accused of harassment that the complaint has been resolved.
- **SECTION 1-6.12 Abusive work environments prohibited; retaliation against employees who make allegations also prohibited.**
 Provides a definition for the following terms: abusive conduct, abusive work environment, physical harm and psychological harm. Conduct is considered abusive when it is severe and causes physical or psychological harm. It can be either physical or verbal. An abusive work environment is one in which abusive conduct occurs. Physical harm is harm that materially impairs an employee’s health or body integrity. And psychological harm is harm that materially impairs an employee’s mental health. Dr. Buck noted that the definition of the word “conduct” seems to be the biggest change. Attorney Waller elaborated on the definitions. Dr. Buck asked how do we determine when it’s psychological harm, what do we do. Dr. Gordon replied that the employee will most likely be referred to the Employee Assistance Program (EAP). Then EAP would make a recommendation. The employee also has the right to seek any outside counseling services and if they have SPS insurance that would be covered. No questions were proposed.
- **SECTION 1-8.3 Evaluation of the Superintendent.**
 Adds language that the superintendent’s evaluation will be consistent with Guidelines for Uniform Performance Standards and Evaluation Criteria for Superintendents. Mrs. Byrum verified that those guidelines are recommended by VDOE. Dr. Buck commented that she attended the superintendent’s workshop and the only addition made is the one that was done last March but the scores are still the same. No questions were proposed.
- **SECTION 1-8.5 Evaluation of other staff generally.**
 Adds language that teacher and principal evaluations will be consistent with the performance standards included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers and Principals. Also, includes language that evaluations will include cultural competency. No questions were proposed.
- **SECTION 2-1.3 Policy and Regulation Defined. Administration in absence of policy.**
 Clearly lays out the difference between policy and regulations. The authority to adopt School Board policy rests solely with the School Board. Regulations are subject to revision by the school superintendent. No questions were proposed.

- **SECTION 2-1.4 Policy effective date; changes in policy and regulation.**
 Adds language clarifying that policies are effective upon adoption. Regulations are developed by the superintendent and presented to the School Board as information items, unless the School Board informs the superintendent that it wants to act on a specified regulation. Dr. Buck commented that this policy certainly delineates between what we do and what the superintendent does. No questions were proposed.
- **SECTION 2-2.7 School Board standing committees; foundations; special committees.**
 Adds language that special committees may be appointed by the chairman or created by the School Board. Special committees are appointed or created for a specific purpose and will expire when the task assigned has been completed, unless the School Board authorizes a temporary continuance of its work. Dr. Buck said the language is under legislative committees. No questions were proposed.
- **SECTION 2-3.3 Closed meetings; motions therefore; attendance by non-members; etc.**
 Adds the discussion of medical and mental health records as a basis for going into a closed meeting. Also, any committee of the School Board may permit non-members to attend a closed meeting if the non-member attendance is deemed necessary or will reasonably aid the committee in its consideration of the topic for discussion. No questions were proposed.
- **SECTION 2-4.2 Meeting participation by electronic communication; etc.**
 Adds language provided for in the State Code that a member may participate in a public meeting from a remote location when having to provide care for a family member and this prevents the member's physical attendance at the meeting. No questions were proposed.
- **SECTION 2-6.1 Vote required.**
 Adds language that no votes are taken by secret or written ballot. No questions were proposed.
- **SECTION 2-10.3 Professional development activities; FOIA Training required; funding requirement; Conflict of Interest Training required; clerk to maintain records.**
 Adds language that school board members participate annually in high-quality professional development. Each member completes FOIA training. Each member completes training relative to the Conflict of Interests Act. And then finally, the clerk maintains records of the required training.
- **SECTION 3-1.6 The responsibilities of the building principal; budget preparation; implementation of severe weather plans; make up days; waivers by Board of Education.**
 Adds language regarding make-up days in the event of severe weather or other emergency. For five or fewer days, teaching days are added to the school calendar or extend the length of the school day. Six days or more, the first five days plus one

day for each two days missed by adding teaching days to the school calendar or extending the length of the school day. If unable to meet the 180-teaching day requirement, may make up lost instructional time by meeting the 990-teaching hour requirement. If severe weather conditions or other emergencies result in closing school for in-person instruction, unscheduled remote learning is allowed consistent with guidelines established by the VDOE. When there is a declared state of emergency, VDOE may waive the requirement for providing additional teaching days. And then finally, when there is a state of emergency declared by the Governor, VDOE may waive up to five teaching days. No questions were proposed.

- **SECTION 3-1.12 Employment of principals and assistant principals, etc.**

Adds language to clarify that principals are to manage their schools in accordance with policies of the School Board and regulations of Suffolk Public Schools. No questions were proposed.

- **SECTION 5-2.1:2 General statement of policy; duties of teachers and administrative staff; assessment of suicide risk by qualified professionals; duties of qualified professionals.**

Adds language that the superintendent is responsible for developing procedures that will assist school psychologists, school counselor, school nurse, or school social worker for assessing students that are in imminent risk of committing suicide. The procedures are to be in accordance with guidelines developed by the Board of Education in cooperation with the Department of Behavioral Health and Developmental Services and the Department of Health. No questions were proposed.

- **SECTION 5-2.5 Fire drills required; lock-down drills; school bus emergency drills; tornado drills.**

The number of lockdown drills during the first 20 days of school is being reduced from at least twice to once. No questions were proposed.

- **SECTION 5-4.5 Special Use of school buses.**

Adds language that permits use of school buses for extracurricular activities. No questions were proposed.

- **SECTION 5-6.3 Computer system provided; privilege not a right; superintendent to develop regulations; etc.**

Clarifies anyone using the division's computer system must adhere to Technology Use Guidelines established by the superintendent. The superintendent is responsible for reviewing those guidelines every two years. The School Board will review this policy every two years. No questions were proposed.

- **Section 1-6.2:2 Definitions and Examples of certain prohibited conduct; Additional prohibited conduct; Complaint procedure.**

Attorney Waller asked Chair Brooks-Buck to consider a policy that was missed on the agenda. Dr. Buck read all the changes in the policy No questions were proposed.

- Dr. Brooks-Buck commented that the sexually explicit policy, Section 8-24.5, will be a second reading at our meeting tonight. We must vote on that tonight. The other policies that were reviewed today will be presented as a first reading. They are available on our division website and the ESB link for school board meetings.

➤ **Business by Committee Meetings.**

- Dr. Brooks-Buck and Chair Byrum had no other business to discuss. Attorney Waller corrected that the policies will appear as a first reading in the January 2023 school board meeting. There will also be other policies that will be reviewed at meeting on December 14th which will be added to those first reading policies.

➤ **Next meeting to be determined. Adjournment.**

- Next meeting will be December 14, 2023.