



**September 13**

**2021**

## **REPORT OF THE POLICY AND EQUITY COMMITTEE**

The Policy and Equity Committee met on Thursday, August 26, 2021, at 9:00 AM in the Banquet Room at the Cincinnati Public Schools Education Center, 2651 Burnet Avenue, 45219.

The public viewed the meeting via Video Conference.

### **ATTENDEES**

#### Policy Committee Members

Chairperson Mike Moroski, Eve Bolton, Ben Lindy

#### Administration

Susan Bunte, Assistant Superintendent; Daniel Hoying, General Counsel; Lauren Roberts, Director of Internal Audit, Stephanie Scott, Assistant General Counsel; Ross Turpeau, Director, Talent Acquisition and Staff, Human Resources

### **Review of Board Bylaws – Committee of the Whole**

The Committee reviewed and agreed with the Administration's revisions to the following sections in *Bylaw 0155 – Committees*:

- Committees
- Responsibilities of the Committee of the Whole

**ACTION:** Committee member Bolton advised General Counsel Hoying to do an additional review of the section: *Responsibilities of the Full Board* in order to align them with Ohio Revised Code to include additional responsibilities for Board members.

**ACTION:** The Policy and Equity Committee will review the updated revisions at their meeting on September 30, 2021.

### **Internal Auditor – Change of Job Title**

Lauren Roberts, Director of Internal Audit, updated the Committee on her change of job title to *Chief Audit Executive*. The title change was discussed at the Budget, Finance and Growth Committee on August 19, 2021. The Audit Committee discussed the change at their Committee meeting on August 25, 2021.

The Budget, Finance and Growth Committee recommended *Policy 6836 – Internal Audit Charter* to the Policy and Equity Committee for review in order to update the language from *Internal Auditor* to *Chief Audit Executive* and to revise language not pertinent to the new title.

The Budget, Finance and Growth Committee and the Audit Committee both agreed with the change.

**ACTION:** The Policy and Equity Committee agreed with the change of the job title and will recommend approval of the policy at the Regular Business meeting on September 13, 2021.

**Review of Policies 3111 and 4111 – Creating a Position**

Dan Hoying, General Counsel, reported he worked with Assistant Superintendent Bunte and Ross Turpeau, Director of Talent Acquisition and Staff, regarding the language.

Committee member Bolton advised the Administration to reinsert the word “*shall*” reserve the right to.

The Committee agreed to eliminate the list of variables in order to keep situations that arise open.

**ACTION:** The Policy and Equity Committee agreed with the changes and will recommend approval of the policy at the Regular Business meeting on September 13, 2021,

**Review of Policy 3111.1 – Selection of Principals**

Mr. Hoying updated the Committee with revisions to the document.

Ms. Bunte and Dr. Turpeau reported they reviewed and agreed with the updates to the policy and that appropriate language has been captured within the document.

The Committee advised Mr. Hoying to add the acronym OPES (Ohio Principal Evaluation System) to item number 5 of the policy.

**ACTION:** The Policy and Equity Committee agreed with the recommend changes and will recommend approval of the policy at the Regular Business meeting on September 13, 2021.

**Review of Policies 3112 and 4112 – Board Employee Communications**

Chairperson Moroski reported that communication with Board members has increased during the past and current years. He stated the current Employee Communications policy is antiquated and needs updating.

Committee member Bolton advised the Administration to define the roles, limits to those roles, and procedures and protocols regarding maintaining the hierarchy of authority.

She stated that the Board needs to be informed which would require talking with individuals within the organization.

Ms. Bolton recommended to limit what the Board-to-Employee can do, more so than Employee-to-Board.

She also advised to cite the Whistle Blower policy within the Board Employee Communications policy.

Mr. Moroski stated if the goal of item A and B in the policy is to manage communications, then there would need to be a channel to hear back from the community, as they impact the Board’s decisions.

**ACTION:** Mr. Hoying will reflect the Committee members’ comments in revising the policy and present the document at the Policy and Equity Committee meeting on September 30, 2021.

**Review of Policy 1100 – District Organization**

Mr. Hoying reviewed the policy with the Committee and stated that the document is current and accurate.

Committee member Bolton advised that the policy needs more clarification and language included about the Board adopting the District's Organizational Chart.

She also stated that other school boards approve their districts' organizational charts and that the CPS policy needs to reflect the Board's Mission and Vision statements.

She inquired about the Board approving the Organizational Chart.

**ACTION:** At the Policy and Equity Meeting on September 30, 2021, the Administration will provide the Committee with a copy of the current CPS Organizational Chart that is being drafted, and Mr. Hoying will present a revised policy for discussion.

Mr. Hoying will look into what the Board's role is in the Organizational Chart.

### **Transgender Students/Title IX Update**

General Counsel Hoying updated the Committee on the U.S. Department of Education's (DOE) summary to the new interpretation to [Title IX](#). Title IX protects students from discrimination based on sexual orientation and gender identity.

Mr. Hoying stated that basically Title IX prohibits educational institutions that receive Federal financial assistance (like CPS) from discriminating against students or persons on the basis of sex. And DOE's statement of interpretation confirms that it considers "discrimination on the basis of sex" to include discrimination on the basis of sexual orientation and gender identity. In other words, schools that receive Federal financial aid should be prohibiting discrimination on these bases too.

Mr. Hoying presented the following memo to the Committee and has provided this document to principals, as it describes the District's position in accommodating transgender students.

The Board of Education has repeatedly reaffirmed board policies directing that Cincinnati Public Schools shall be free of discrimination on the basis of sex, sexual orientation, and gender identity and expression. This memorandum summarizes some recommendations from the Office of General Counsel relating to transgender students.

While this memorandum provides general considerations, it is critical for schools to respond to the needs of transgender students individually and on a case-by-case basis. Schools are advised to listen carefully to transgender students and their families, to engage in open and ongoing dialogue with them, and to avoid making assumptions about transgender students' needs or preferences.

The recommendations in this memorandum are based, in part, on best practices suggested by the Gay, Lesbian & Straight Education Network ("GLSEN"); National Center for Transgender Equality; American Civil Liberties Union ("ACLU"); Gender Spectrum; Human Rights Campaign Foundation; National Center for Lesbian Rights; and National Educational Association. Many more resources are available online from these organizations if you need further information.

### **Access to Gender-Segregated Facilities / Restrooms**

While there are an increasing number of school facilities designed with gender-neutral facilities, most CPS schools maintain sex-separated restrooms, locker rooms, and changing facilities. Students should be allowed to use the restroom according to the students' gender identity. Students should not be required to use gender-segregated facilities that correspond only to their sex/gender as determined at birth or that are inconsistent with their gender identity. Students, whether transgender or not, who are uncomfortable using shared facilities shall, upon request, be allowed to use gender-neutral facilities in the school as available (i.e., staff or visitor restrooms).

### **Dress Codes**

Schools may enforce a dress code pursuant to Board policy. To the extent practicable, schools should avoid gendered differences in dress codes. Students should be allowed to dress in accordance with their gender identity within the constraints of the dress code.

### **Names and Pronouns**

Upon request, schools should address a student by the student's preferred name and pronoun reference that corresponds with the student's gender identity regardless of whether the student has legally changed the student's name or started transgender medical treatment.

### **Physical Education, Intramural Athletics, and Interscholastic Athletics**

All students shall be permitted to participate in physical education and intramural sports in accordance with the students' gender identity. All students shall be permitted to participate in a manner consistent with their gender identity in interscholastic sports, under the guidelines established by the state interscholastic athletic association.<sup>1</sup>

### **School Records**

Upon request, schools should update educational records in accordance with a student's gender identity. Records of a student's birth name and gender should be kept separate to the extent practicable.

### **Privacy of Student Information**

Students' personal records and medical records are confidential under the Family Educational Rights and Privacy Act ("FERP A"). A student's transgender status, sex at birth, and legal name are all confidential records.

Special consideration should be given by schools about disclosing a student's gender identity to parents. Parents may or may not be supportive of the student's gender identity. This information should not be shared with parents if disclosing the information to parents could put the student at risk of harm at home. In that case, the administrator should also consider whether there is a mandatory duty to report child abuse to 241-KIDS.

### **School Dances / Graduation Attire**

Schools are encouraged to avoid sex-separated school traditions and to adapt to gender-neutral practices. Schools shall allow transgender students to participate in all school traditions, including sex-separated traditions, in the gender category that matches the student's gender identity. For example, schools that have different graduation attire for male and female students should allow students to wear the attire that matches a student's gender identity.

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<sup>1</sup> The Ohio High School Athletic Association (OHSAA) currently allows a transgender male to participate on boys interscholastic athletics teams. However, if the student is taking medically prescribed testosterone treatment, he must submit medical evidence that certifies that (1) the muscle mass developed as a result of this testosterone treatment does not exceed the muscle mass that is typical of an adolescent genetic boy; (2) that he has not started any hormone treatment (or that the testosterone treatment does not cause hormone levels to exceed normal levels); and (3) his hormone levels are monitored by a licensed physician every three to six months. A transgender female may participate on boys' team. However, before a transgender female can participate in a girl's sport or on a girls' team she must either (1) have completed a minimum of one year of hormone treatment related to gender transition or (2) demonstrate that she does not possess physical or physiological advantages over genetic females of the same age group. In any case where a transgender student athlete is taking hormone treatment related to gender transition, that treatment must be monitored by a physician, and the athlete must submit regular reports about the athlete's eligibility according to OHSAA guidelines.

### **Review of Policy 5321 - Requirement to Wear Masks to Prevent the Spread of COVID**

Mr. Hoving informed the Committee about the following minor changes updated within the policy.

~~When six foot social distancing cannot be maintained, masks~~ Masks may be required for all indoor activities during outside school buildings and on field trips or and during other off-campus school activities. Masks shall be required for visitors, including spectators at indoor extra-curricular events and outdoor activities when social distancing cannot be maintained.

ACTION: The Committee agreed with the recommended changes and will recommend the policy to the Board for approval at the Regular Business meeting on September 13, 2021.

**Review DRAFT of New Proposed Policy for COVID-19 Vaccine Requirement for Employees**

Committee members had extensive conversation about the policy and were in agreement with recommending the policy for approval.

The Committee discussed if there were any legalities to administering the Pfizer vaccine since it is now approved by the Food and Drug Administration (FDA) in order to avoid not limiting or insisting on the Pfizer vaccine.

General Counsel Hoying reported that legislation in Ohio does permit requiring employees to become vaccinated since the vaccine has been approved by the FDA.

Stephanie Scott, Assistant General Counsel, made the Committee aware that pending House Bill 248 – Vaccine Choice and Anti-Discrimination Act, could possibly surface in the future.

The Bill prohibits mandatory vaccinations, vaccination status disclosures, and certain other actions regarding vaccinations.

The Committee asked the Administration to provide their feedback on the right thing to do in relation to making the vaccination mandatory and what other large organizations have passed vaccine mandates.

The Committee also would like to hear from CPS partners the Cincinnati Federation of Teachers and mental health providers.

The Committee learned that Delta Airlines increases its employee's insurance payments if they do not take the vaccine.

ACTION: The Policy and Equity Committee will recommend that the Board discuss non-compliance of the vaccine policy at a Regular Business Meeting. The group will also have Mr. Hoying and Ms. Scott look into particulars about increasing employees' insurance due to non-compliance.

ACTION: The Policy and Equity Committee will continue discussion of the proposed vaccine requirement policy during Board Matters at the Regular Business meeting on September 13, 2021.

ACTION: The Administration will cross reference vaccine policies around the country.

ACTION: The Administration will invite medical experts Dr. Mussman and Dr. Amin to update the Board on the benefit of staff being vaccinated, the tradeoffs, vaccine versions, use of masks, once a week testing, and information about the Delta variant in children at a Regular Business Meeting.

**ACTION:** The Administration will provide the Committee with their strategy on vaccinating teenage students in the District.

**ACTION:** The Policy and Equity Committee will recommend passage of the policy to the Board at the September 13, 2021 Regular Business Meeting.

Assistant Superintendent Bunte reported that the Cincinnati Health Department can administer booster and vaccine shots as early as September 20, 2021. If needed, there will be special sessions at the Duke Energy Center.

### **Transportation Policies**

Mr. Hoying provided the Committee with Policy 8600.01 – Supervision of Transported Students and Policy 8600.02 – Transportation of Students for discussion.

Committee member Bolton stated that the current Metro plan that the District is engaged in is against the Board's will, judgment and that resolution is out of compliance with transportation policies 8600.01 and 8600.02. She stated that the Board has been forced by a tax-supported monopoly.

She advised the Administration to review these policies in an Adhoc Committee meeting to avoid waiting for next month's Policy Committee meeting. The review will be to determine how Metro's plan is outside of the District's policies.

It also needs to be determined if the changes will reflect the District's demands or Metro's demands, or have Metro meet CPS' demands. New policies may need to be crafted to meet these new demands.

Committee Chair Moroski stated that the District needs to know if Metro's current plan will be ongoing or if they will reinstate the extra routes.

Ms. Bolton asked if CPS or Metro is responsible for the District's transportation policies.

**ACTION:** Ms. Bolton advised that a workplan is needed to get the policies updated. She advised Mr. Hoying to discuss the policies with the Board at the Committee of the Whole meeting on September 1, 2021.

### **Continued Review of Policies**

The Administration will continue its timeline review of policies at the Policy and Equity Committee meeting on September 30, 2021.

### **Other Business**

Committee Chair Moroski reported that three CPS students tested positive for COVID-19 antigens. The students were tested at Children's Hospital and the results were negative and not being allowed back into school due to CPS's quarantine policy.

According to Mr. Moroski, this begged the question as to whether or not we were following our own policies which seem to indicate the children could be let back in school.

The District's policy states that CDC guidelines around quarantining and isolation will be followed.

ACTION: Assistant Superintendent Bunte reported the tests were reviewed by a supervisor epidemiologist at the Health Department and the Medical Director at the Cincinnati Health Department. Both of those entities spoke with the family. Ms. Bunte will provide Board Member Melanie Bates with the follow-up information.

ACTION: Mr. Lindy advised the Internal Auditor to audit if District policies are being followed. He recommended to audit four to eight sets of policies and present the data to the Policy and Equity Committee at the end of the year.

ACTION: Committee members Bolton and Moroski will present policies to be studied at the Committee meeting on September 30, 2021.

**Hearing the Public**

The following persons addressed the Board regarding the topic indicated:

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|------------------------|---|
| Beth VanWassenove      | Agrees with DRAFT Vaccine Policy and Mask Policy for CPS Employees.   |
| Megan Jones            | Pleasant Ridge parent concerned about child not being permitted back into school after another child tested positive and negative.<br><br>The Administration will follow-up with Ms. Jones.           |
| Tom Gelehrter          | Pleasant Ridge parent concerned child tested positive from a rapid test then tested negative. Child should be in school and not at home.<br><br>The Administration will follow-up with Mr. Gelehrter. |
| Julie Sellers          | CFT Releases Findings on the SORTA/Metro Extra Service Routes Contract.   |
| Sandra Monroe Williams | Clark Montessori Parent expressed concern about early start time resulting in her child being at the bus stop alone.  |

The meeting adjourned at 11:05 a.m.

**Policy Committee**  
Mike Moroski, Chair  
Eve Bolton  
Ben Lindy

**Staff Liaisons**  
Dan Hoying, General Counsel  
Krista Boyle, Chief Communications + Engagement  
Officer