

BOARD OF EDUCATION
COMMUNITY CONSOLIDATED SCHOOL DISTRICT 64

Minutes of the Committee-of-the-Whole on Policy
held at 6:30 p.m. January 11, 2010
Hendee Educational Service Center
164 S. Prospect Ave., Park Ridge, IL 60068

President John Heyde convened the Committee-of-the-Whole on Policy meeting at 6:30 p.m. Other Board members present were Genie Taddeo, Eric Uhlig, Pat Fioretto, Russell J. Gentile, Sharon Lawson and Ted Smart. Also present were Superintendent Sally Pryor, Business Manager Becky Allard, Director of EIS / RtI Lynne Farmer, Director of Technology Planning & Assessments Larry Sorensen, Public Information Coordinator Bernadette Tramm, and three members of the public.

Mr. Heyde said the purpose of the meeting was to review current Board Policy 8:25 *Advertising and Distributing Materials in Schools Provided by Non-District Organizations and Related Entities*. Dr. Pryor said the current policy was adopted in 2006, following a formal challenge to distribution restrictions. The policy limits regular access to the District's school newsletters (formerly known as Take Homes) to four groups meeting distinct criteria. Dr. Pryor stated that the intent at this time is to help familiarize the Board with the policy and provide background information to evaluate options. Dr. Pryor asked the District's legal counsel, Terry Hodges of Hodges, Loizzi, Eisenhammer, Rodick & Kohn, to offer additional perspectives. Mr. Heyde stated the Board had been asked recently about the policy and it is worthwhile at this time to understand the legal ramifications of opening access further.

Ms. Hodges stated that a school district has the legal right to control the use of its facilities by non-school parties and to control access to the use of electronic or paper newsletters to send materials home. This is technically viewed as a "closed" forum. She stated that districts usually have separate policies for the use of facilities and distribution of material within them by outside third parties (not students). She stated that most boards of education have chosen to open up to selected entities by creating a "limited" forum as District 64 has done. This allows a district to describe who to open its facilities and material distribution to and in what capacity. She noted that many districts use the Illinois PRESS policy, which uses generally broad terms, but that her law firm has been asked in recent years to narrow policies due to the quantity of information districts are being asked to distribute.

Ms. Hodges distributed copies of Policy 8:25 of Gower School District 62, and noted that she had formerly served on its board. She noted this policy had been recently revised and that it keeps access very narrow. The policy begins by stating it is closed to the distribution of materials, and then opens it up in a fairly limited way to use by PTO and its foundation; district-related youth organizations with a 90% criteria for membership of its students; community youth organizations and sports teams with a 50% criteria; state, federal and local units of government; and educational institutions. Ms. Hodges further noted that legally a district is able to define what is distributed and in what format, ranging from flyers up to inclusion in electronic newsletters, and can also have a range of advance approval requirements by the superintendent.

Ms. Hodges cautioned, however, that once a district describes a group, then it cannot make a determination about the content of what it allows the group to distribute, as this would be illegal viewpoint discrimination. If you describe a category of not for profits broadly, a district could not then discriminate and prohibit that organization on the basis of the content of its message. The district would have to let everyone who falls in that category have access once it defines the category.

Dr. Pryor pointed out that District 64 in the past typically had 10-15 requests for items to be distributed with the newsletters for each issue, which was a huge task when the newsletters were being photocopied. The PTOs also had expressed concern that their message was being lost with the profusion of extra materials. She noted that with the shift to electronic distribution and the District's limited policy, the production is simpler although the approval burden for the Superintendent continues to be of concern. Ms. Hodges concurred and stated that districts have come to her firm seeking to modify their policies, because of the volume of requests and inconsistencies within a district on what was permitted for distribution.

Ms. Hodges then answered Board member questions. She noted that if District 64 removed the \$20,000 threshold for non-profits in its current policy, it would be obliged to include all non-profit organizations. She suggested the District could then define the category in other ways to limit access. She noted that districts are often creative about defining criteria in such a way to do this. Dr. Pryor noted that the current District 64 policy allows access three times per year to non-profits. In response to concerns about disclaimers, Dr. Pryor noted that the policy currently requires a disclaimer statement. Ms. Hodges also affirmed for the Board that the District already had protection from obscene and vulgar materials in its current policy.

Discussion and questioning of Ms. Hodges and Dr. Pryor continued, with Board members seeking to clarify the current procedure, identifying potential changes, and offering suggestions for consideration. Board members expressed concern about not adding to the length of the school newsletters and not using them as an advertising mechanism. Members stated it would be helpful to continue managing materials electronically and offer parents alternatives so they could select what they would like to view.

Dr. Pryor stated that the current policy caused consternation among the groups who were limited when it was first announced, but that the District now sends letters annually to remind these groups about the policy and providing the three publication dates. She noted that a change in leadership of an organization often prompts a new round of questions about the restrictions.

Ms. Hodges confirmed that districts usually start with the premise of keeping the forum "closed," and then allow certain exceptions. Usually this is done in terms of categories, although specific organizations or groups are sometimes named. The District's current policy, for example, defines the category for non-profits and also gives the Elementary Learning Foundation as an example. Dr. Pryor added that the category was defined as raising \$20,000 annually to discourage anyone from establishing a small non-profit for the sole purpose of gaining access.

Dr. Pryor stated that whatever the policy, the Superintendent would still be obliged to make a judgment on the materials being submitted for the newsletters, which are published typically 17 times per school year. Board members discussed how other organizations currently excluded could be added. Ms. Hodges stated that the descriptions in the policy could be re-worded creatively to do so. She also noted that it would be possible to add wording in the policy that would allow the Superintendent or a principal to recommend an event to parents that he or she believes would be helpful for parents to attend, as long as it was clearly stated as being their opinion on the publicity flyer. Dr. Pryor cautioned the Board that the organizations that currently enjoy special status might feel that their message is being diluted if the Board substantially broadens the policy.

The Board then discussed how best to move forward. Dr. Pryor agreed that administration would collect sample policies from other districts and compile a list of requests from organizations that have been excluded recently under the current District 64 policy for the full Board's review at an upcoming meeting. Mr. Heyde suggested that after this review, it would then be easier to give a mandate to the Board Policy Committee on how to amend the policy.

Mr. Heyde thanked Ms. Hodges for her helpful presentation and comments. He then concluded the Committee-of-the-Whole meeting at 7:22 p.m., which was followed by a brief break before resuming the regular Board of Education meeting.

President

Secretary