



The Helena Public Schools educate, engage, and empower each student to maximize his or her individual potential with the knowledge, skills and character essential to being a responsible citizen and life-long learner.

Board of Trustees – Policy Committee Meeting

Tuesday, September 1, 2020

MINUTES

Attendees

Committee:

Libby Goldes, Committee Chair
John McEwen, Committee Member
Jennifer McKee, Committee Member

Others:

Tyler Ream, Superintendent
Josh McKay, Assistant Superintendent
Barb Ridgway, Chief of Staff
Janelle Mickelson, Business Services Administrator
Stacy Collette, Human Resources Director
Tim McMahon, Activities Director
Elizabeth Kaleva, District Attorney

I. CALL TO ORDER / INTRODUCTIONS

The meeting was called to order at 12:06pm by Committee Chair, Libby Goldes, and introductions were made.

II. REVIEW OF AGENDA

There were no requested changes to the agenda.

III. GENERAL PUBLIC COMMENT

There was no public comment.

IV. REVIEW OF 08.04.2020 POLICY COMMITTEE MINUTES

Ms. Ridgway provided clarification that the committee typically reviews a policy twice before asking for approval from the board, but Policies 9035 and 9050 had been approved at the board's discretion.

V. PRESENTATION OF POLICIES FOR FIRST REVIEW

A. Background Information on the U.S. Department of Education Changes Related to Sexual Harassment

Ms. Kaleva provided a brief background on the required changes to both Policy 3000 and Policy

3005 stemming from the changes at the federal level to Title IX. Ms. Kaleva explained that Title IX encompasses sexual violence, sexual harassment, and sexual discrimination. In May 2020, new rules were issued that substantially changed the way sexual harassment is addressed in public schools – K-12 and universities – and became effective August 14, 2020. Because of these changes, policies must be in place – encompassing both students and staff – by the end of the first quarter. She added the actual definition of sexual harassment had changed under the new rules to include unwelcome conduct of a sexual nature that is severe, persistent, and pervasive. Ms. Kaleva noted this change did not mean the district wouldn't address bad behavior; it just meant that behavior may not be categorized as sexual harassment and become a Title IX issue.

Mr. McEwen asked for clarification on Title IX. Ms. Kaleva replied Title IX prohibited discrimination based on sex in any institutional organization. She provided examples of sexual violence, sexual harassment, and sexual discrimination. Ms. Ridgway added it also encompassed quid pro quo behavior.

Mr. McEwen referenced the word “severe” used in the policy and asked if it need be included. Ms. Kaleva responded it must be included per federal law. Ms. Ridgway added then the district must choose which standard of evidence to use. Ms. Kaleva provided additional details that the standards were preponderance of evidence or clear and convincing evidence. The district would use preponderance of evidence because that was the standard used in court.

Mr. McEwen asked if there was an equivalent to BFOQ (Bonified Occupational Qualification) in education. Ms. Kaleva answered the closest comparison was gender-based sports. Dr. Ream added there must be a match to or additional programs for girls.

Ms. Ridgway asked Ms. Kaleva to provide an outline on how the new rules changed the investigation process. Ms. Kaleva responded the new rules separate out each position of the Title IX grievance procedure. The Fact Finder could not be the Coordinator, the Coordinator could not be the Decision Maker, etc. She added all positions also must complete training.

Ms. Kaleva outlined next steps as:

1. Identify Title IX Coordinators
2. Separate the Coordinators for staff and students.
3. Appoint and train specific Investigators.
4. Train Fact Finders separately.
5. Establish and train an individual at the Appellate level.
6. All training needed to be certified by the district and the training entity.
7. Training had to be posted on the website.

Ms. Ridgway confirmed for the committee that the Appellate level decision was final; no board decision was necessary.

B. Policy 3000: Equal Educational Opportunities

Ms. Kaleva described changes to this policy resulting in language and citation changes to make it clear the district had a separate Title IX sexual harassment grievance procedures in place. These language and citation changes complied with federal law.

Mr. McEwen asked who the Title IX Coordinator was. Ms. Collette answered three Coordinators had been identified – the two high school administrators would serve Eastside/Westside at the student level, and Mr. McKay would serve as Title IX Coordinator for staff, visitors, volunteers, and contractors.

Mr. McEwen asked if the Coordinator was a new function. Ms. Kaleva replied the district always had a timeline Coordinator, but the responsibilities would now be split between a Coordinator for students and a Coordinator for staff.

Ms. Goldes asked the committee if they would like to forward the policy to the board as an Item for Action. The committee agreed.

C. Policy 3005: Bullying, Intimidation, Harassment, Hazing Prevention, and Reporting

Ms. Kaleva told the committee Policy 3005 required additional language to detail the procedure to be followed by the district when students think they think they are the victims of sexual harassment. Additional required language included stating any adult school employee who has notice of sexual harassment or allegations of sexual harassment must report it to the applicable Title IX Coordinator. Ms. Kaleva said this information needed to be included in building handbooks along with the specific Title IX Coordinator.

Ms. Ridgway referenced Line 110 and asked if it should read, “Formal complaints alleging sexual discrimination should be addressed through the grievance procedure.” Ms. Kaleva recommended, “Formal complaints alleging harassment should be addressed through the Title IX procedures. All other discrimination complaints are handled through the district’s uniform complaint procedure.”

Ms. Kaleva noted Line 116 outlines what needs to take place when a complaint is filed: taking prompt action to investigate, notifying the complaint and respondent along with their parents/guardians, taking supporting or remedial measures to ensure continued access to the district’s programs or activities while the grievance is pending. She added the supportive or remedial measures could not be punitive in nature.

Ms. Kaleva referenced existing language regarding when DPHHS needed to become involved. If the alleged harassment, intimidation, or bullying did not take place in school or during a school-related activity or did not materially or substantially disrupt the order or operations of the district, the matter would be referred to DPHHS.

Ms. Kaleva described how this policy applied to electronic communications. If the instance occurs during operational hours, the district has jurisdiction over those students. If a student is using

district technology for educational purposes and involved in bullying, intimidation, harassment, or hazing on that device, the district likely has jurisdiction. Since the school environment now includes living rooms, and the school day doesn't have defined hours, school districts across the country will have to adapt to this change. Ms. Kaleva added that if a student is on Teams, chatting after school, the district still has jurisdiction.

Ms. Kaleva added legal referenced had been updated.

Potential edits to the policy were offered by the committee. Ms. Ridgway agreed to make all changes excluding language that paralleled statute.

Ms. Kaleva offered clarification that sexual harassment was the only form of harassment that did not go to the board, but this policy included all forms of harassment.

Ms. Goldes asked if the committee was ready to advance the policy to the board for a first reading. Ms. Kaleva added the procedures already were in place and advised matching policies to be adopted as soon as possible. Ms. Goldes confirmed both Policy 3000 and Policy 3005 would be sent to the board. The committee concurred.

VI. SUPERINTENDENT'S REPORT / BOARD COMMENTS

There was neither a Superintendent's report nor additional board comments.

VII. ADJOURNMENT

Committee Chair, Ms. Goldes, adjourned the meeting at 1:01pm.