

**EAST STROUDSBURG AREA SCHOOL DISTRICT
BOARD OF EDUCATION
POLICY REVIEW COMMITTEE MEETING
FEBRUARY 28, 2022
CARL T. SECOR ADMINISTRATION CENTER & VIA ZOOM—4:30 P.M.
MINUTES**

- I. Meeting was called to order at 4:31 p.m. by Debbie Kulick.
- II. **Policy Committee Members Present were:** George Andrews, Debbie Kulick, Wayne Rohner and Lisa VanWhy
- III. **School Personnel Present were:** Brian Baddick, Brian Borosh, Eric Forsyth, Dr. William Riker, Dr. William Vitulli, Debra Wisotsky and Stephen Zall. Christopher Brown, Solicitor.
- IV. **Members of the Public Present were:** Stephanie Negron (Zoom)
- V. **APPROVAL OF AGENDA**

RECOMMENDATION OF THE COMMITTEE: Motion was made by George Andrews to approve this agenda for February 28, 2022 (page 1), with members of the Committee reserving the right to add to the agenda and take further action as the Committee deems appropriate. Motion was seconded by Lisa VanWhy and carried unanimously, 4-0.

VI. **APPROVAL OF MINUTES**

RECOMMENDATION OF THE COMMITTEE: Motion was made by Lisa VanWhy to approve the minutes for January 24, 2022 (pages 1-6). Motion was seconded by George Andrews and carried unanimously 4-0.

VII. **POLICIES FOR DISCUSSION:**

Policies presented by administration-

- a. Policy 204 Attendance—Ms. Kulick announced that that there was only one change in the policy at the bottom of page 1 of 9 for the definition of compulsory school age and that the age to enter school shall be not later than 6 years of age (changed from 8 years) until the student reaches eighteen years of age (changed from 17 years) or graduation, whichever occurs sooner. Mr. Rohner asked isn't there something about 21. Mr. Forsyth noted students may attend school until age 21; however, they are only compulsory or mandated through age 18.
- b. Policy 109 Resource Materials—Ms. Kulick noted we have some suggestions for revision made by committee member, Mr. Andrews. As we know, this particular policy has been around for quite a while and served us during that time; however, I would first like to ask administration if they have any input.

Dr. Riker began by stating that he shared some comments in his Board Brief this past weekend. I specifically would look to the committee to rethink the wording under Delegation of Responsibility, whether as written here with Mr. Andrew's suggestions or as related to the policy as it currently exists, which states that no adoption or change of

materials shall be made without his/her recommendation (referencing the position of the Superintendent), except by a two-thirds vote of the Board. In my opinion, for twenty plus years this policy has served the school district in a way that the person in the position of Superintendent, has been given the authority to make decisions regarding the adoption of resource materials for classrooms, libraries and such. No adoption or change would be made without the recommendation of the Superintendent, except by a two-third vote of the Board. So fast forward to today and our current circumstance, clearly the recommendation of resource materials, in and of itself, that language suggests that there is some application of process, procedure or basis related to how a Superintendent would make that recommendation. I believe that recommendation for approval also implies disapproval, meaning the person in the position of Superintendent has the authority to not only recommend but decide what not to recommend. What is going to happen is that as decisions are made about resource materials, whatever that may be, a classroom resource, video, presentation, performance, now there's question as to whether the decision by the Superintendent is agreeable to all members of the Board or by the community. There is no language in the policy that suggests the process whereby if the Superintendent were to not approve something; that it has to come before the Board for a two-thirds vote. The language, in and of itself, simply gives that authority to the Superintendent.

What the committee needs to decide, if you should do so, is what language you are going to use for the full Board when the Superintendent does not recommend something. Disapproval may result in whoever is being denied what they want to purchase, potentially coming to a member(s) of the Board to file their complaint or dissatisfaction. If the Board member(s) choose to respond to that, there has to be a process whereby either that information has to come before the full Board for a two-thirds vote to make a decision to adopt a resource regardless of the Superintendent's position on it or the committee/Board needs to provide criteria that the Board expects the Superintendent to apply when making those decisions. Neither of which exist in the policy as it stands, so it becomes a controversial issue any time I disapprove something, which has already occurred. They are going to ask why. My answer is simply going to be because the policy as written gives me the authority to do so and that would be the end of my answer. So the real question for the policy committee and the Board is, are you okay with that and, if not, you need to come up with a procedure whereby you as a Board or whether you're going to provide that authority to some other individual(s) in the district. I will remind you of Chris Brown's recent recommendation that the Board doesn't want to get into the business of approving or denying individual resource materials, including books that may or may not be in the library. That is what his guidance has been to the Board; however, if not, then who will make that decision. I see two things: 1) Either the committee is going to continue to support the policy as written and allow the Superintendent that discretion with or without some sort of criteria that the Board as a whole wants the Superintendent to apply when making that decision, or 2) the Board as a whole and this committee are going to make a recommendation that someone else is going to make that decision on behalf of the district again, with or without criteria provided by the Board to do so; otherwise, it is going to be subjective to anyone's individual opinion as to whether something should or should not be approved.

Mrs. VanWhy asked why would the Board not support administration's decision for these resource materials? I ask it as a rhetorical question. It is the responsibility of the Superintendent, the librarians and whoever else picks the resources to be appropriate for our students. I defer to Chris Brown if I'm using the correct term. Mr. Brown stated

you're talking about something broader, as it is not just limited to content that meets the definition of obscene. Mrs. VanWhy stated that with just that little portion we've had enough to deal with. Mr. Andrews noted he has no problem with the Superintendent making the decision but we have to get the community involved in the process. Mrs. VanWhy asked, are you saying on every individual resource? Mr. Andrews replied, no, only certain resources.

Mr. Rohner added, here's my position on what's occurring. As an elected official, these decisions impact elected officials. I do not want the administration/Superintendent making those decisions that impact elected officials. Obviously, these books have done just that. I believe, the intent was for the staff and Superintendent to put a list together to use that highlights those resources that have the potential of becoming a public relations nightmare. Obviously "Gender Queer" was a public relations nightmare.

Ms. Kulick asked do we need to have criteria that can be utilized or know the resources or the sources. The librarians have used lists of award winners, where you can purchase your spot on a list for a monetary figure when your name appears on some of those lists. That perhaps is not the criteria that we should be looking at to purchase books, particularly in the library. If books are available by other sources, say the public library, do we need to have them here? We look at two different things. Resources that are specifically related to curriculum and resources that are incidental or auxiliary/ancillary. Library books might be a separate thing. 109 as it stands may work perfectly for all curriculum-related resources. That may not require any change. We already do get information on what programs and textbooks the district is purchasing. Mr. Andrew's added, up until recent changes in society, this policy worked just fine for 20 years. Mrs. VanWhy said in some circumstances it still works if we support administration and the Superintendent. Why are we not doing that? Dr. Riker made that decision but he also counseled with our solicitor to pull back those particular books. Mr. Andrews repeated I still feel we need more people involved to get more viewpoints. Mr. Rohner said, actually the continuing education highlights the fact that the community should be vested into resource materials that we are looking to purchase. So you are starting to see language entered in the PSBA literature.

Dr. Riker asked what happens when we witness as a district, community members on opposite ends of that discussion. Someone still has to be given the final responsibility to make the decision because you are not going to get agreement. That really is the decision that is currently written of the Superintendent or a procedure whereby I think the change over time has been, trust in the process whereby if the Superintendent does not approve something, the policy may articulate a procedure by which the administration is being requested by the Board to follow in order to bring that material before the Board for a final decision. It says that, except by a two-thirds vote of the Board but there is no procedure that articulates that. Another important piece to remember is that no policy gives the Board the authority to approve any resource materials. There is no policy, whether that's curricular, whether that's library materials, there is no language in any policy that does that. There is a textbook policy, so when it comes to the textbook that is being used as part of a course, that has to come before the Board for approval. A book that is an ancillary resource in a classroom does not require the Board's approval. Mr. Rohner stated, well that is not how I interpret 109. Dr. Riker added, if you can explain to me where in 109 that it says that, I'm listening. Mr. Rohner said by a two-thirds vote of the Board. That means we have to have some kind of communication going on with the purchase of resource materials. That's my interpretation of the sentence. Mrs. VanWhy noted we do give the final approval through the budget. Mr. Rohner said, for the record, Michal Petersen can

testify that when she was on the Board, they approved the purchase of resource materials. So at some point we got away from that. Mrs. VanWhy said we do approve the purchase or final payment. Mr. Rohner added that administration is not going to impact my ability to be reelected because of decisions they make. Dr. Riker, stated no, your decisions will impact that.

Ms. Kulick asked would it be advisable to have a Policy 109A which says all items that are part of curriculum are to be determined at the Superintendent's level. Mr. Andrews said my issue is that I'd like to see everything approved on the library side. Mrs. VanWhy asked are we going to take on the responsibility of checking into every single book that they are ordering. How will you distinguish them? Mr. Rohner stated, I guess those considered obscene. Mrs. VanWhy stated you don't know that till after the fact, so how are you going to pre-determine. Mr. Rohner replied, if you have a book and you're going to purchase Gender Queer, you do a quick research on it and two-thirds of this Board will make an appropriate decision. Mrs. VanWhy added you can't tell by the title or by the references what is in any book. Mr. Andrews agreed if you read the write ups or reviews, you would never get the content. Ms. Kulick suggested if we were to develop some criteria or guidance, and we may not solve this this evening, that would seemingly be the best answer. It gives everyone a level playing field. It can't meet the legal definition of obscene. Mr. Andrews noted the subject should not be banned but the content should not meet the threshold of obscene. Mrs. VanWhy added it's the picture that are visually explicit. Mr. Rohner said take Gender Queer, if you pass it to all 9 members to vote you will have an idea of what we are looking for. Mrs. VanWhy stated we already did that and you were okay with all that. Mr. Rohner noted we bought the book, I'm not interested in banning books. Ms. Kulick said we are not going back; we are talking about moving forward. Dr. Riker said we are looking for direction pre-purchase.

Dr. Riker stated you do have the authority as a district and Chris, correct me if I'm wrong, to decide which books you wish to purchase and which you do not. We are not talking about books that are already in our libraries and circulation, we are talking about criteria/procedures which the Board wishes the administration and staff to apply when determining the new purchase of books. You are not misrepresenting your authority as a Board by saying we are not purchasing a book. You have no obligation to purchase a book. You can say we as a district, are not purchasing books that contain x, y, z. You get to do that. You're not censoring, you're not banning it, you're making an educated decision as to what you are agreeable to purchase as a school district. Mr. Andrews said, I'm talking about sexuality, racism, white supremacy books, all things to decide as a school district. Dr. Riker replied, great point the challenge is there could be people making decisions that would say no, we are not going to purchase those books and that is where the Board as a majority has to provide that direction and guidance to say we are fine with purchasing those books or we're not. It doesn't have to be a specific book; it can be a general criterion. I think it does, right now and clearly that can be viewed as subjective on my part as a Superintendent, or any Superintendent who sits in that seat, and will be by people and that's the language in the policy that exists. So I can't make a decision on what nine Board members would agree or not agree to when purchasing a resource. Mr. Andrews stated that's why I tried to change the policy so it wouldn't do that, maybe I didn't do a good job on it. Ms. Kulick noted once you have a committee, you pretty much slow down everything. Coming up with criteria, topics we would entertain books to have, what is the reference for content, balanced purchases north/south, if a book is available in one elementary it's available in all or rotated. It's a broader list of things we need to

consider than just one set of criteria. Ms. Kulick said I don't believe in the implementation of a committee. Mr. Andrews expressed concern with the age of the kids, you can have six year's difference at the high school level. The content for a 12-year old is not as acceptable as it is for an 18-year old. Mr. Rohner noted, if a 12-year old is a freshman, that's a very intelligent human being. At the end of the day, this book we keep referencing had an age recommendation of 14-18, to me that's high school. That is the book that brought us to this point, so I am going to keep referencing that. Mr. Andrews stated I have no problem with the subject matter of the book, I have a problem with it being on a regular shelf and not a special shelf because of the difference in the maturity level of the kids. Mrs. VanWhy noted that the book is already here. Do we want to create criteria for new books or not, or just give free reign? Mr. Rohner asked how do you want to define content. Mr. Andrews asked Mr. Rohner, have you not read this book. Mr. Rohner replied, no I have not read it but I saw the graphics. Mrs. VanWhy added the story is fine; the graphics are not necessary. Mr. Rohner asked what is the content you are referencing in this book you have a problem with. The English language allows you to say that professionally. Mrs. VanWhy said, the fact that I don't want to repeat it in public, the content visually is nothing more than what you would see in Playboy or worse than that. Mr. Rohner said, so you are referencing the graphics. Mrs. VanWhy said yes, that's what I have said a million times. Mr. Rohner asked how are you going to define content, by the definition of obscene? Dr. Riker stated that is your role/task as an elected official. Mrs. VanWhy added, you take those images out, the storyline was okay, but when you get mid-cycle through a book and it is showing you graphics that are truly in addition and are not necessary for the storyline, in my opinion that is unacceptable. Mr. Rohner stated, I bet this Board would not have purchase this book. Dr. Riker said the librarians were the ones who recommended the purchase of that book and they didn't know that was in there. I'm not expecting that they are reading every book that they are asking us to purchase, but as we pay attention to that now, moving forward, we become aware of books by their title or by reference to the ALA's List of Banned or Challenged Books, we can pay better attention to whether or not we want those books to be purchased and placed in our schools.

Ms. Kulick asked can we go back to something previously discussed, that might instill some guidance here, if the ALA's list is at least made available to parents. I think we said no last time, we don't want to have that available. Do I think it's a tool that parents should have access to, I don't see why not? Mrs. VanWhy said it was offered in the rollout of the opt out form, which I supported and then was slapped down by the rest of the Board. The parents getting that letter or opt form have no idea what we are talking about. Some do, but if the list was provided to them, then they might say okay, let me take a look at the list and do my own research. If you just give an opt out to parents, they have no idea of the thousands of books we have. Dr. Riker said that the Board voted not to include that list. What did it hurt to provide that list and that was the part, in my opinion, of not being transparent? We should have been transparent when we rolled out the opt out form. We talk about transparency all the time, and yet the Board said no. Dr. Riker said to clarify, the list was the 2021 ALA's List of Banned or Challenged Books and the one we put together with the help of our librarians was to review which books on that list actually exist in our current collection so that families in our district would know. Whatever the reasons these books landed on that list were not significant because everyone will have a different viewpoint on whether the book should be banned or not. It was simply an opportunity to provide our families with a place to go based on that list, what we currently have in our library circulation to give them a starting point for using the opt out form if they so choose. Lisa is correct, the majority of the Board had indicated that they did not

wish to have that list made available to the community. Ms. Kulick stated I would like to bring that back, if we can all agree, this evening as an addition to the agenda to say we should offer this as a tool for our parents and shouldn't have to expect them to read every single book title in the library resource list on the website. That will be our first step and then come back to 109 again with an idea for a list of criteria. Mr. Andrews said, I don't think the way ALA gives their reviews is the best way for us or our librarians to judge when they look at the books because they all have beautiful reviews. Dr. Riker said yes, there are a lot of awards given for a lot of books. My own suspicion is, over my 32 years in public education, that there was once a time when a Newberry Award winning book was widely accepted as an appropriate book for within a school. I am learning there are so many awards now, we know the range of content has expanded significantly that now we are at where before Boards in districts didn't have to think about or have these conversations and now we are in that position. I think it is difficult to come up with that criteria. It's not going to be an easy path but the challenge even more so is that we want to make the decision that represents what the majority of the Board wants to do for the East Stroudsburg School District. Without guidance and direction from the Board as to what that is, we're left to make that decision on our own. We are fine to do that but there are people that would disagree with those decisions. Mrs. VanWhy asked do we know what gets a book on the banned or challenged list? Dr. Riker replied, I don't know if it is one person that has complained or how difficult it is to get a book on that list. Clearly it does not mean that everyone would agree with the book being on the list. We felt it gives our community and our families the opportunity to make that decision on their own and then utilize the opt out form as they see fit based on the books in our circulation that appear on that list without getting into the reason why. We are not asking the families to give us a rationale as to why they choose to opt out, it's irrelevant. Ms. Kulick ended the discussion, stating she would like to add to the Board agenda that the district offers the 2021 or current ALA List of Banned or Challenged Books on our website in conjunction with the opt out form. The committee were all in agreement.

Public Participation: None

VIII. ADVISORY RECOMMENDATIONS

RECOMMENDATION OF THE COMMITTEE: Motion was made by Lisa VanWhy to authorize and direct the administration to post the following item(s) with noted revisions for PUBLIC REVIEW during the month of February and subsequent Board action in March: Policy 204. The committee will table Policy 109; however, add to the regular school board agenda that the district offers in conjunction with the opt out form the 2021 or current ALA List of Banned or Challenge Books. Motion was seconded by George Andrews and carried unanimously 4-0.

IX. **ADJOURNMENT:** 5:23 p.m.

RECOMMENDATION OF THE COMMITTEE: Motion to adjourn was made by Lisa VanWhy. Motion was seconded by George Andrews and carried unanimously, 4-0.

Next meeting: March 21, 2022 at 4:30 p.m. in the Carl T. Secor Administration Board Room & via Zoom.

Respectively submitted by,
Debra Wisotsky