



NOT FINAL UNTIL APPROVED BY BOARD

**BURLINGTON BOARD OF SCHOOL COMMISSIONERS
DIVERSITY & EQUITY COMMITTEE MINUTES
Ira Allen Board Room
February 7, 2017
7 PM**

Attending Board Members: Miriam Stoll (acting chair); Mark Porter (board chair); Kat Kleman

Other Board: Susanmarie Harrington, Kathy Olwell, Jake Bucci (student)

Administration: Yaw Obeng (Superintendent), Miriam Ehtesham-Cating (Director of English Learners); Henri Sparks (Director of Equity); Laura Nugent (Director of Student Support Services)

Guests: Justin St. James (Assistant City Attorney)

1. The Chair called the meeting to order at 7:10 p.m.
2. Approval of Agenda
 - A. *Motion to approve agenda (Stoll / Porter) approved*
3. Public Comment:
 - A. Comments and Questions from the Public
4. Discussion of Motion for BSD to Become Sanctuary School District

Miriam Stoll introduced the topic. School districts and institutions of higher learning are making statements in support of refugees, immigrants, and other populations who may feel vulnerable in the current climate. Discussion should identify what questions people have, what information we may want to have from the district, what issues we need to consider as we move forward.

Yaw Obeng noted that the district is always supportive of an inclusive approach in terms of welcoming students. District reviewed its policies and practices several months ago and determined that it was already welcoming students. Current legislation already prevents sharing of information with, say, police or ICE regarding immigration status. The superintendent asked Miriam Ehtesham-Cating to describe our current approach.

Superintendent requests that we not use “sanctuary city” as a term because it means many things to many people and there is not a clear, accepted definition.

Miriam Ehtesham-Cating noted that the district currently collects the minimum information required to verify identify (place of birth, spelling of name, date of entry into the United States) and proof of residency and vaccination. What we ask for to verify identity does not connect to students’ documented status as refugee, immigrant, or citizen. The district neither collects nor requests documentation that would show students’ legal status in the US. And if it did have such information, there is a federal law prohibiting the sharing of that information. This protection is a comfort. Ms. Ehtesham-Cating noted that the simple statements that the district has already offered have meant a great deal to students and families. There is value in communicating our present practice. Keep our message simple: we already welcome all our students; we are already determined to teach them with all our hearts and ability; we promise to do everything we can to keep them safe in our schools.

Justin St. James presented on what the City of Burlington has already done. It has looked at the sanctuary city possibility and whether there is any potential liability with federal funds. He clarified terms and issues:

- Federal government only has the powers attributed to it. All else reserved to the states.
- Communication between government agencies and ICE is regulated by a federal law that says no person or agency may prohibit sending information regarding immigration status to, or requesting it from, ICE
- Burlington receives a federal justice assistance grant (\$40,000), the terms of which require compliance with the federal law regarding sharing immigration status, and this amount of money is potentially at risk as a result of the City’s resolution.
- City of Burlington, not including district and BED, received over \$9 million in federal funds; these funds do not appear to be at risk but there is no assurance of this.
- Supreme Court precedent suggests that it is not constitutional to withhold all federal funding from localities, although withholding some proportion of federal funds is permissible. The legal theories around what the federal government might wish to do, and what it might be possible to do, are many.

When the city passed its resolution stating it is a welcoming and inviting community for refugees, it led to conversation about whether it is a sanctuary city. Are we a sanctuary city because of our actions or because of a resolution that is passed? Some cities have passed very bold statements to assert themselves a sanctuary city, generally relating to not sharing immigration status. On the state level, fair policing policies address equivalent issues. Other localities have noted that they are already welcoming in practice and do need to

make additional resolutions. He serves on the Attorney General's immigration task force and state legislation may be forthcoming.

In terms of schools, Justin St. James continued, there is a continuum of responses. Oakland CA's board of education recently reaffirmed its policies publicly, noting that ICE agents would need a warrant to get information the district has, and that schools would work with families and lawyers to prevent ICE from raiding campus (he noted that ICE issued a statement saying it had no interest in such raids). Portland OR also put out a very strong statement requiring ICE to provide advance notice to the superintendent in order to allow for protection of students' physical and emotional safety. UVM's statements reiterated that the Family Education Rights and Privacy Act (FERPA) already prevents sharing of information about immigration status. It is an example of an institution making a statement about its current practice without using the phrase *sanctuary campus*.

There is no legal definition of *sanctuary city* or *sanctuary district*.

To his knowledge, it is highly unlikely that any federal grant to the district requires explicit compliance with the federal law he referenced above.

Miriam Stoll requested that the superintendent review grants to see whether there are any federal dollars potentially at risk depending on district action. The superintendent agreed to do so. Justin St. James is not aware that the Vermont AOE has looked at this question yet.

Discussion ensued about the benefits of making a formal public statement of BSD district practice.

Statements of relevance to this discussion:

- Oakland CA school district: <http://www.ousd.org/Page/15870>
- University of Vermont statements
 - on DACA:
<https://www.uvm.edu/president/?Page=news&&storyID=23961&category=pres>
 - On "sanctuary campus":
<https://www.uvm.edu/president/?Page=news&&storyID=23960&category=pres>
- News item on Portland schools resolution:
<http://www.opb.org/news/article/portland-public-schools-immigration-officers-students-hurdles/>
 - Portland schools' resolution:
<http://www.pps.net/cms/lib8/OR01913224/Centricity/Domain/219/VERY%20FINAL%20Immigration%20Resolution%205.pdf>

- New York City schools statement: (which is available in multiple languages on the NYC schools website):
<http://schools.nyc.gov/AboutUs/schools/ChancellorLetteronImmigration.htm>

During the discussion all board members present expressed interest in creating a public statement of some sort that reaffirms the District's current practices regarding inclusion and equity for all students regardless of immigration status (and other personal characteristics identified in anti-discrimination laws). In addition there was consensus that there is a need to let the public know about some District policies and practices and Federal laws that they might not currently be aware of -- for example that the District does not collect any information regarding immigration status and that it is prohibited by Federal law from sharing information that is collected regarding city of birth, addresses, etc. The discussion primarily centered on what form the statement should take -- how much detail to include, tone, etc. -- and the committee considered approaches taken by a range of different k-12 Districts and Universities. Chair Porter indicated support for a statement but also noted that the District regularly makes public statements that cover some of this information. There was general consensus for support of an approach similar to that of the New York City schools (see link above). Justin St. James noted that education funding is a little different from other funding, in that the Supreme Court has ruled (*Plyer v. Doe*, 1982) that immigration status is irrelevant for education funding, which means that all children including those who are undocumented are entitled to a public education at taxpayer expense.

Committee and Superintendent agreed to suggestion made by Chair Stoll that the superintendent work with D&E to draft something similar to the NYC statement, and that at its next meeting, the D&E committee would review this statement and determine next steps, which could include bringing a motion to the full board such that the statement would be made in conjunction with a board resolution. Chair Stoll stated that she believes that it is important that this statement is made in the form of a Board resolution in order to ensure that all students and their families feel supported and are made fully aware that the Board and the District have an unwavering commitment to all students regardless of immigration status.

5. Discussion of Suspension Data

Data posted on board docs. Superintendent noted that the real issue is not the suspension rates but on district response. Henri Sparks, Director of Equity, reported that the district has introduced a discipline referral form that will help schools to intervene before suspension (it will ask for what other interventions have already happened; it will have a restorative intent). They are looking at reasons students are put out of the classroom and trying to intervene and reduce the reasons students might be removed from the classroom. Also want to look at the academic impact of suspension. Every building will have a suspension review team, 3-5 people in every building to work with the principal before

they get to the point of considering a suspension. If a student needs to be suspended for multiple days, they will be sent home, and the team will immediately review why the suspension is happening and make a recommendation to the principal. More in-depth conversations with the parents will also help identify factors that may be impeding student success in the classroom. The review team will include a neutral person who can work with the building administrator. District is looking to make systemic change and reduce suspensions while supporting teachers.

6. Special Education Update

Superintendent Obeng noted that district is restructuring staffing and practices, and that last month's meeting had a good exchange with special education advocates. District has committed to doing an update each meeting. Laura Nugent, Director of Student Services, described that SOAR and ESY programs will likely be merged. Students will have access to a richer program and it should be possible to provide flexibility for students who want a shorter day program. There are also unexpected cost savings from food services and transportation.

Some of the changes in special education services that may come next year are included in strategic planning initiatives. Laura Nugent noted that the less we silo special education, the more robust and well-resourced our offerings can be. Right now strategic planning processes are looking at ways to resources used to support English language learners and special education can be merged to some extent in a manner that will lead to more effective learning outcomes for both groups.

Susanmarie Harrington recognized the participation of many EMS and BHS staff and students in last Saturday's Penguin Plunge, which helps support Vermont Special Olympics and its Unified Sports program.

7. Black History Month Recognition

Superintendent Obeng noted he was wearing his Ghanaian kente cloth (which came from his great grand aunt), typically worn on special occasions. He marked Black History Month with conversations around the district regarding the need for Black History Month. His approach is inclusive: we recognize everyone's contributions. Someday, we may not need Black History Month, but right now, we do. We have not had a systematic approach to integrating Black History Month into the curriculum. That will be changing as the Diversity and Equity team carries its work forward.

Miriam Stoll reflected on the fact that she only recently learned that people of African descent in Europe during the Holocaust were persecuted and mistreated by the Nazis; she

thanked the superintendent for bringing forth this agenda item as it gave her the opportunity to learn more about the experience of individuals of African descent.

8. Adjournment

A. *Motion (Porter /Stoll) to adjourn at 8:45 p.m.*

Respectfully submitted,

Susanmarie Harrington
Miriam Stoll