

Thursday, January 31, 2019

MINUTES OF THE AD HOC COMMITTEE TO REVIEW AND/OR REVISE POLICY 5166 AND 5166.1 OF THE BRIDGEPORT BOARD OF EDUCATION, held January 31, 2019, at Bridgeport City Hall, 45 Lyon Terrace, Bridgeport, Connecticut.

The meeting was called to order at 6:09 p.m. Present were members Chair Joseph Sokolovic, Maria Pereira and Hernan Illingworth.

John DiDonato, chief of specialized instructional reform, was in attendance.

The first agenda item was a discussion and possible action on a legal opinion dated November 14, 2018.

Mr. Sokolovic said the legal opinion indicated the Fourth Amendment applies to student searches, although given the need to protect the students, the protections of the law are diminished. The Supreme Court has ruled that searches are permissible in the context of extracurricular activities. In the context, however, it appears absent a specific threat or credible evidence of an imminent threat, it is a violation of the Fourth Amendment if the search involves belongings of a person and a student. The leading case is *Doe vs. Little Rock*, District 380, Fed. 3rd (2004). While not binding because it is not from the Connecticut federal district court, it is persuasive and has been followed in at least one lower federal district court. Use of metal detectors and drug-sniffing dogs have been upheld. The legal opinion recommended moving away from this practice in favor of metal detectors or hand-held wands.

Mr. Sokolovic said the opinion raised more questions. Mr. DiDonato said it would be interesting to talk about how the court defines reasonableness.

Mr. Sokolovic noted the Little Rock case involved a random search of a classroom where marijuana was found in one of the students' bags.

Ms. Pereira said she understood that wandering and the use of metal detectors was not intrusive and would not be a problem. She said she felt uncomfortable with her purse being searched by male security guards. She added that at one point pat-downs were taking place in schools. She said high school girls particularly could be offended by such searches.

Mr. DiDonato said the law indicated searches needed to be governed by appropriateness of age and sex.

Mr. Illingworth said he believed each high school had at least one female security officer.

Mr. Sokolovic went through some things he highlighted in the Little Rock case. He said the case indicated there were reasonable invasions of privacy that would be permissible. He said the case applied to items that were already inside the school, not something found upon entry.

Mr. Sokolovic said the decision indicated there were no special circumstances that would warrant the search that was carried out.

Mr. DiDonato noted the law supports random searches, which is what the district does.

Ms. Pereira said the idea of the committee began because of complaints of security throwing out beverages and food upon entry to school. Mr. DiDonato said he was not aware of any law prohibiting random searches of anyone entering a school.

Mr. DiDonato said five Central High students have been shot this school year outside of school, which he said was serious. He said a kid brought a gun into Blackham; another student brought a BB gun to Central last week. He said attended an expulsion hearing of a twelve-year-old student who was charged with criminally negligent homicide.

Mr. DiDonato said he believed water bottles coming into school were a different degree of concern.

Ms. Pereira said we shouldn't do anything that violates the Constitution. She said the opinion indicated that children do not have a choice; they're required to go to school.

Mr. Illingworth said when someone enters a court a person's belongings goes through a scanner where the items can be seen.

Mr. Sokolovic said the Little Rock decision indicated public school students have traditionally been treated as presumptively persons entitled to a modicum of privacy in their personal belongings, at least to the extent such private interests do not unduly burden the maintenance of security and order in schools. It indicates the Fourth Amendment allows school officials some flexibility in these issues.

Mr. Sokolovic said we need to get back to the lawyer about the flexibility the board has.

Mr. DiDonato said he believed the term reasonableness in this area is almost common sense and non-technical. He said it was not science. He said the random searches at schools or after-school events are preventive. The question is how you balance the rights of students and the need to create a safe environment.

Mr. Sokolovic noted attendance at sporting events is voluntary, so that creates a different situation.

Mr. DiDonato said based on his conversations with security officers the environment is such that kids in the community have access to guns at a great level. He said there are YouTube videos of kids holding guns up and showing their faces.

Ms. Pereira said any kid who wanted drugs or guns are going to figure out how to get them. Mr. DiDonato said there was a recent shooting near Claytor School where someone was killed and children came out and took the gun out of a car after the shooter accidentally killed himself. Ms. Pereira said the incident was at P.T. Barnum.

Mr. Sokolovic noted the Columbine high school still doesn't have metal detectors or random searches.

Mr. Sokolovic said the decision indicated a sliding scale is used in evaluating the reasonableness of a search. More serious intrusions of expectations of privacy are permissible as the governmental interests served by the intrusions become more compelling.

Mr. Sokolovic said Bridgeport had a more compelling problem with guns and violence than Little Rock, Arkansas.

He said he would like to ask the lawyer if this could be used in support of what we're doing.

Ms. Pereira noted the lawyer's communication was not a formal legal opinion.

Mr. Sokolovic said the decision indicated that the school district in Little Rock conceded that there was nothing in the record regarding the magnitude of any problems of drugs or weapons that it has actually experienced. He said the Bridgeport district can document the presence of weapons and drugs in schools. Ms. Pereira said that may consist of one or two incidents over 180 days and a thousand students.

Mr. DiDonato said he could obtain data on incidents of weapons and drugs in schools.

Mr. Sokolovic said the decision indicated the incident in Little Rock reduced the students' expectation of privacy to nothing.

Ms. Pereira said she did not believe many guns had ever been found at Fairchild Wheeler since it opened in 2014 or at Bridgeport Military Academy. She said you're taking the actions of very few people and then treating all the high school students like criminals. Mr. Sokolovic said that is the balance we have to address.

Mr. Sokolovic said the decision indicated if the search was justified because of the school's weaponry concerns or merely incidentally detected drugs, there would be no Fourth Amendment issue.

Mr. Sokolovic said he would like to see a balance between students' rights and their safety. He said the children grew

up in a post 9/11 society and we see what we have to go through. He said minority persons walking on the street or an Islamic person see what you have to go through. He said he could see why nobody's touched the policy in years, but it has to be done.

Ms. Pereira said there was nothing in the current policy that allows searches of bags, but it is being done. Mr. Sokolovic said he believed more legal advice was needed. Ms. Pereira said the legal expenditure would have to be approved by the full board. She said the board needs a lawyer who was an expert in constitutional law.

Mr. Illingworth said he wanted to see the data that Mr. DiDonato can provide. He said he would also like to hear from the police department and security officers.

Ms. Pereira said she did not know of a single mass school shooting that happened in an urban school.

Mr. Illingworth asked if Mr. DiDonato could obtain the data from the last two school years at least.

Mr. Sokolovic said he believed students found with marijuana are treated more harshly in Bridgeport than in other Fairfield County communities, which leads to the school-to-prison pipeline. He said, except for gangs, urban and suburban kids make the same kind of mistakes.

Ms. Pereira said this had been an ongoing fight for years since the Bridgeport Police have been involved in the schools after the merger, especially with Lieutenant Grech. She said the board asked Sgt Collazo to come back to the board with a proposal on security, but he never did so

Mr. DiDonato said Lt. Grech and Sgt. Collazo were still both involved in school security now.

There was a discussion of soliciting the opinions of students and what sample of students to use. Inviting opinions from principals, teachers, parents, students, security officers and the police was also discussed. Ms. Pereira said this might be a six-month process. Mr. Illingworth suggested the committee members visit schools and randomly ask students their opinions. There was a discussion of logistically how that would be done and how a representative group of students could be interviewed.

Ms. Pereira noted the Aquaculture School did not have a metal detector, which she said was very discriminatory.

There was a discussion of the motion to bring forward at the February 11th board meeting.

Mr. DiDonato suggested the committee wanted to know the legal parameters around preventive searches and seizures.

Ms. Pereira said security in the past were patting down girls at one school and touching boys in the crotch area.

Mr. Illingworth said he had a problem with random searches such as every fifth student; if it was done, all students should be searched.

Mr. Sokolovic said he would ask Mr. Weldon to put it under committee reports on the agenda. Ms. Pereira recommended the two policies be put into the board packets for the other members. Mr. DiDonato noted there would have to be multiple scanners at each school if that suggestion was adopted.

Mr. DiDonato said he could contact Lt. Grech or Scott Appleby for information on the price of scanners. Ms. Pereira said the scanners would be quicker for students than physical searches and less intrusive, however, they probably could not be funded out of the operational budget.

Ms. Pereira said if she was an African-American student who had to go through searches every day without a single kid at Aquaculture undergoing them she would feel discriminated against.

Ms. Pereira moved *“to request the full board to authorize an attorney from Berchem & Moses with expertise in constitutional law attend the next ad hoc committee reviewing search and seizure and metal detector policies at the next regular meeting of the Bridgeport Board of Education.”* The motion was seconded by Mr. Illingworth and unanimously approved.

Regarding beverages coming into schools, Mr. Illingworth said we need find out what is the current practice. Mr. Sokolovic noted the board passed a motion to stop the practice of seizing open liquid containers. Ms. Pereira said Lt. Grech thinks he has the authority to create policies and protocols for the schools, but he does not have that authority.

There was a discussion of asking visitors to schools for identification. Mr. Sokolovic said he didn't see problems because now there is a municipal I.D. for undocumented immigrants. Mr. Illingworth said there should be a parent ID provided by schools.

Ms. Pereira said there was great opposition in the past to the proposed creation of an identification system to enter schools. She said opponents such as Ernie Newton said there would be an issue with convicted felons visiting a school with uniformed personnel. She said there are tons and tons of undocumented parents in the district. She noted the mayor and City Council refused to make Bridgeport a sanctuary city.

Mr. Illingworth said he agreed, but it was also important to know who's walking into our schools.

Ms. Pereira asked what the problem is we're trying to fix. She said there had not been a big problem with adults in schools.

Mr. Sokolovic said he was uncomfortable with schools where any person can walk in by saying they're a parent.

Ms. Pereira moved the meeting be adjourned. The motion was seconded by Mr. Illingworth and unanimously approved.

The meeting was adjourned at 7:22 p.m.

Respectfully submitted,

John McLeod