

County Council of Howard County, Maryland

2016 Legislative Session

Legislative day # 17

RESOLUTION NO. 179-2016

Introduced by: Calvin Ball and Jennifer Terrasa

A RESOLUTION calling on the Maryland State Department of Education to contract for a performance audit of the Howard County Public School System and specifying the issues requested to be studied.

Introduced and read first time on _____, 2016.

By order _____
Jessica Feldmark, Administrator to the County Council

Read for a second time and a public hearing held on _____, 2016.

By order _____
Jessica Feldmark, Administrator to the County Council

This Resolution was read the third time and was Adopted __, Adopted with amendments __, Failed __, Withdrawn __ by the County Council on _____, 2016.

Certified by _____
Jessica Feldmark, Administrator to the County Council

Approved by the County Executive on _____, 2016.

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing language; TEXT IN ALL CAPITALS indicates additions to existing language. ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **WHEREAS**, Section 5-110 of the Education Article of the Maryland Code provides that the County
2 governing body may request that the Maryland State Department of Education contract for a
3 performance audit of the county public school system; and

4 **WHEREAS**, the County Council believes that an assessment of the practices of the Howard County
5 Public School System is needed to determine whether the School System is operating
6 economically and efficiently and to determine whether corrective actions for improving its
7 performance are appropriate; and

8 **WHEREAS**, the County Executive joins the County Council in requesting the performance audit, as
9 indicated by his signature approving this Resolution.

10 **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County, Maryland this
11 _____ day of _____, 2016, that the County Council requests that the Maryland
12 State Department of Education contract for a performance audit of the Howard County Public
13 School System to study the following issues:

- 14 1. legal fees and use of outside legal counsel;
- 15 2. the procurement process; and
- 16 3. special education staffing and services, including out of school placement.

17 **AND BE IT FURTHER RESOLVED** that the Administrator to the County Council shall send a copy
18 of this Resolution to the:

19 Maryland State Department of Education
20 200 West Baltimore Street
21 Baltimore, MD 21201
22

Amendment 1 to Council Resolution No. 179-2016

BY: Jennifer Terrasa

Legislative Day No. 19
Date: 12/5/16

Amendment No. 1

*(This amendment adds to the list of issues to be studied as part of a performance audit of the
Howard County Public School System.)*

- 1 On page 1, in line 15, strike “and”.
- 2 Also on page 1, at the end of line 16 before the period, insert:
- 3 “; and
- 4 4. the control of water intrusion, mold, and indoor air quality.”.
- 5

The Frederick News-Post

Frederick County school board questions firm that wrote controversial special education report

By JEREMY BAUER-WOLF jbauerwolf@newspost.com Nov 4, 2015 4

The contractor that wrote a controversial analysis and list of recommendations to improve the school district's special education program has not appeared before the school board since that report's public release — until Wednesday.

The Frederick County Board of Education and parents have both questioned and disparaged the report generated by the District Management Council, which the school district will pay \$225,000 over a three-year period.

Criticisms from stakeholders are wide-ranging and focus on how DMC gathered the data that appears in the report. Some have questioned too whether the recommendations are individualistic enough to address the school district's needs — sentiments echoed at a Wednesday school board worksession, in which DMC representatives presented their findings.

Board of Education member April Miller was particularly adamant that DMC should include more Frederick County-specific data in the report. No one, including the school board, has been provided with the report, only an executive summary, with DMC citing the need to gather more information before a full release.

During the presentation, DMC President Nathan Levenson said the first step in the process was for the school system to establish a set of non-negotiables — a term parroted by FCPS leadership — which means that the school district should establish goals and practices that every school in the county should follow.

Levenson outlined what his organization considers best practices, some of which include placing a child with disabilities in a "rigorous" general education classroom, as well as an emphasis on extra time for learning the material and a focus on learning to read. Levenson commended the school district for already using some best practices.

When Levenson started to explain a mock schedule for a middle or high school student who might require extra help in math, Miller interrupted, saying that the school district does not follow a six-period model like the one Levenson was presenting.

"I need to know what we're already doing, at what level, where, and how's it working," Miller said later.

DMC's work targets students with mild or moderate disabilities in the school district. At the session, Levenson said that school districts that DMC works with adapt DMC's suggestions to suit their own needs.

Not enough educators on the ground level, those working directly with children, were appointed to a steering committee studying special education, said board member Colleen Cusimano said at the session.

DMC did not "hit a home run," when it came to parent engagement, Levenson said, but added that the consultant will continue to involve stakeholders, including parents.

Some parents recruited for initial focus groups have derided DMC for how its staff conducted the sessions. No feedback was included in the public executive summary, parents said. The school district has said staff will schedule focus groups not run by DMC.

Cusimano also questioned the veracity of one aspect of the report. DMC had stated no clear exit criteria have been established for exiting speech-language therapy, which is completely inaccurate, Cusimano said.

She noted in one area of DMC's Wednesday presentation, that DMC had cited its own internal analysis as proof that other jurisdictions had improved under the best practices Levenson had touted.

"If I were to assess myself, and to rank my own success, that's not a study," Cusimano said.

For an October article in The Frederick News-Post, no one from the Massachusetts-based consulting firm responded to repeated requests for comment.

Levenson said after the meeting that DMC prefers to present to the district first. No one from DMC appeared at a September school board worksession when board members first publicly delved into the report's findings.

FCPS administration has previously said that no timeline exists for implementing the DMC recommendations or changes to the special education program, though the DMC presentation stated that priorities will be implemented sometime throughout 2016-17.

In the coming months, Levenson said DMC staff will continue to engage parents and other stakeholders, though did not identify specifics how they will do so.

Shawna Capotosto, a member of the Special Education Citizens Advisory Committee, which advises the school board on matters related to special education, said she hopes that the school district moves slowly with the DMC report and involves parents.

"I'm still digesting everything, there's a lot there," she said.

MONTGOMERY COUNTY BOARD OF EDUCATION
Rockville, Maryland

October 22, 2012

MEMORANDUM

To: Members of the Board of Education

From: Philip Kauffman, Chair, Fiscal Management Committee



Subject: Recommendation for Legal Services

In a February 14, 2012, memorandum to the Board of Education, Board President Shirley Brandman outlined her thoughts on the current structure of Montgomery County Public Schools (MCPS) legal services, as well as the level and content of legal services to the Board and to the system as a whole. To ensure that resources are put to maximum advantage, the Fiscal Management Committee was charged to undertake a comprehensive review of the current legal services structure, to review possible alternative structures, and to present to the full Board a recommended approach for the provision of legal services (Attachment A). At the May 14, 2012, Fiscal Management Committee meeting, the committee asked administration and board staff to conduct a comprehensive review of the current MCPS legal services model, to benchmark with other districts, and to provide an informal analysis of the advantages and disadvantages of different models.

Background

At the July 22, 2012, Fiscal Management Committee meeting, committee members were provided a thorough description of the "as is" state of legal services in MCPS, as well as the results of the informal research and analysis of alternative models (Attachment B). The committee heard that the long standing MCPS legal services, including those of the general counsel, have been centered around the use of contract attorneys. In the early 1990's, MCPS moved to an internal general counsel model. However, after three years, because of the complexity and volume of issues, the general counsel role reverted to a contract attorney. However, in-house legal services was maintained specifically for special education-related issues and cases, with the goal of containing costs and avoiding litigation in that area.

In addition to the history of MCPS contracting for legal services, the committee also heard that there are a number of senior staff who are attorneys and/or have a legal background and are able to provide legal support, advice, and knowledge. Inquiries which may have legal implications are often handled by these staff without the need to consult contract attorneys. The Legal Oversight and Decision (LOAD) team oversees legal services from a systemwide perspective, while the

Legal Management Team reviews specific cases, mainly in the personnel area. Additionally, the Principal Handbook is a valuable resource for up-to-date legal information for issues that frequently arise at the school or departmental level.

The committee was also provided a synopsis of the structure, functions, budget/staffing, and organizational impacts of five other school systems with in-house legal services. Several key themes emerged in all five systems. First, reliance on in-house legal services appears to contain costs and provide efficiencies. Second, in-house legal services provide increased opportunities to anticipate legal issues as an integrated element of the school system's governing structure, more consistent recommendations, and the ability for each situation to be evaluated within the context of existing policies and procedures. Third, it was reported that in-house counsel allows for timely availability of advice both formal and informal. However, with streamlined access come other challenges. Processes must be in place to manage access (by the staff as well as the Board), as well as to deflect questions about non-legal or unrelated issues. Finally, there was feedback that the in-house counsel must be sensitive to the relationship between a superintendent of schools and the Board of Education. The position requires sensitivity to the inherent tension, the possibility of competing interests, and requires developing and nurturing strong relationships of trust.

Next Steps

It became clear to committee members that factors such as access, efficiency, complexity of needs, organizational structure, functions, budget, past experiences, and future expectations must be considered when determining what model would best meet the interests of the Board and the system as a whole. After thorough discussion and carefully weighing these factors for MCPS, the committee unanimously agreed to recommend that the Board direct the superintendent to create an in-house general counsel as part of his FY 2014 recommended operating budget.

The following resolution is provided for consideration:

WHEREAS, The Fiscal Management Committee was charged to undertake a comprehensive review of the current legal services structure in the Montgomery County Public Schools (MCPS), as well as possible alternative models; and

WHEREAS, The Fiscal Management Committee was committed to exploring a variety of legal services models that would provide MCPS with a general counsel who could serve in the fullest sense as a legal advisor to the school system as a whole; and

WHEREAS, The Fiscal Management Committee further considered legal service models that would provide MCPS with the best ability to proactively anticipate legal issues relevant to decision making; now therefore be it

Resolved, That the superintendent include in the FY 2014 recommended operating budget to the Board of Education monies for an in-house general counsel with adequate supports and organizational structure; and be it further

Members of the Board of Education

October 22, 2012

Resolved, That the superintendent, in consultation with the Board, creates an in-house general counsel job description and identifies a reporting arrangement that ensures a legal advisor role to both the superintendent and the Board, as appropriate; and be it further

Resolved, That the Board of Education would participate in the hiring and evaluating of the in-house general counsel.

The Fiscal Management Committee appreciates staff time and effort spent on this critically important issue. We look forward to a full and robust conversation at the Board table.

PK:ls

Attachments

<http://www.montgomeryschoolsmd.org/boe/meetings/agenda/2011-12/2012-1022/7.0%20Recommendation%20for%20Legal%20Services.pdf>

Reply all | Delete Junk |

FILE COPY

written testimony, CR 179-2016

VC Vicky Cutroneo <svc67@yahoo.com>
Tue 11/22, 3:16 PM
CouncilMail

Reply all |

Legislative Public Hearing, 11/21/16, CR 179-2016
Vicky Cutroneo

Good evening Dr. Ball and members of County Council. My name is Vicky Cutroneo, I live at 15005 Scottswood Court in Woodbine. The Howard County Public School System has undergone various audits over the past 18 months in response to increasing and unresolved concerns over transparency and communication. All of the audits have one thing in common: the school system's lack of cooperation in providing requested documents and access to staff for interviews. Every single audit. It is becoming obvious that we cannot assume the HCPSS is interested in acknowledging weaknesses or mistakes or working towards correcting them. We cannot assume they are providing all of the documents requested or that they are acting in the best interest of stakeholders. Rather, it has become clear that they are acting in the best interest of their public image and unfortunately, that precludes open and honest dialogue with auditors.

In my own experiences advocating on behalf of students and staff regarding mold and air quality, I have witnessed emails forged to explain a mold outbreak. I have been told that documents requested via public information request didn't exist when they did because they show the superintendent knew about health issues. I witnessed moldy items cleaned prior to submission to lab for testing. Risk management staff was even instructed to remove the word mold from annual reports when workman's comp lawsuits were filed. I have 2 binders of emails between staff and central office detailing the health issues and pleading for the community to be told. Their duplicity was intentional and they refuse to acknowledge this. Even results from the independent investigation commissioned via an MOU with the County Executive's office were minimized immediately by the HCPSS. I questioned the integrity of the investigation when I learned that HCPSS building and maintenance staff were instructed to change stained ceiling tiles at several schools just prior to their inspections and that rooms to be tested were dictated to the contractor in at least one of the schools. If the HCPSS were truly interested in improving the air quality in our schools, they would not have interfered with the integrity of an independent investigation.

In the past year, HCPSS has not been cooperative with the Citizens Audit Committee, the County Auditor, the Office of Legislative Audits and the Environmental Sustainability Board. HCPSS has provided excuses and blame in the place of satisfactory answers to County Council and the community at large. This has led to this legislation for a performance audit by MSDE. Given the continuing lack of transparency, I believe this performance audit is necessary.

If the leadership of our school system is ok with intentionally hiding health issues and interfering with investigations that could improve the air quality in our schools, we must ask, what else are they hiding? After all, what is more important than health? Auditors must begin to assume that they are not being presented with complete and accurate information in all facets, whether it is a financial or performance audit. For this reason, I ask that you support this legislation but that the language of the resolution does not assume honesty and cooperation or that the HCPSS is providing auditors with all relevant information. The County Council should be notified immediately by the MSDE if there is lack of cooperation from HCPSS and I also ask that language of the resolution provide for this.

I have learned with my own experiences that what is missing or denied to exist says much more than what is willingly provided by the HCPSS.

Regards,
Vicky Cutroneo

Reply all | Delete Junk |

Resolution 179-2016

FILE COPY

HK

Heather Kelso <hkhuey@msn.com>

Wed 11/9, 10:20 AM

CouncilMail

Reply all |

Good Morning,

As a mom of a two special education elementary school students, I am in favor of Resolution 179-2016 (request of MSDE performance audit of special education).

One of my children was suspended in the 2014-2015 school year. Both my husband and I are grateful that recently the County Council openly inquired about suspensions with HCPSS. We hope you continue to pursue questions and shine a light on Special Education in HCPSS.

Thank you for your consideration.

Heather Kelso