



Meeting Minutes Duval County Public Schools

September 28, 2021, Emergency Meeting

Ms. Elizabeth Andersen, Chair
Mr. Darryl Willie, Vice-Chairman
Dr. Kelly Coker
Ms. Lori Hershey
Mr. Warren A. Jones
Ms. Charlotte D. Joyce
Ms. Cindy Pearson
Dr. Diana Greene, Superintendent

ATTENDANCE AT THIS MEETING OF THE DUVAL COUNTY SCHOOL BOARD: All Board Members were present. Dr. Diana Greene, Superintendent, and Ms. Rita Mairs, Office of General Counsel, were also present.

Call Meeting to Order

The meeting was called to order at 10:02 a.m.

Approval of Agenda

1. APPROVAL OF THE SEPTEMBER 28, 2021, AGENDA

Motion:

That the Duval County School Board approve the September 28, 2021, agenda as submitted on September 27, 2021.

Vote Results:

Motion: Darryl Willie

Second: Warren A. Jones

PASSED 7-0

Aye:

Lori Hershey
Warren A. Jones
Charlotte Joyce

Elizabeth Andersen
Darryl Willie
Kelly Coker
Cynthia Pearson

Nay:
None

Public Comment

State Senator Audrey Gibson - for mask mandate
Martha Fraley (Not available. Had mask mandate on the speaker card.)
Dr. Jeffrey Goldhagen - for mask mandate

The following comments were made against a mask mandate:

- Jean MacDonald
- Becky More
- Matt Cox
- Miranda Cox
- Scott Whatley
- Melissa Bernhardt - no mask mandate, LGBTQ posters hanging up in schools, and would like to see posters about unity
- Chaille Hovinga
- Grace DeLaRosa
- Jordan Wells
- Tammy Bacmeister
- Melissa Duncan
- Ryan Dyer
- Sandra Ingersoll (Not available. Had no mask mandate on the speaker card.)
- Mara Macie
- Tina York
- William Tucker
- Ed Williams
- Tabi Nettles
- Tracy Soo
- Lidiya Savitskiy
- Regina Clark
- Theresa Watson
- Jay Patel (Not available. Had no mask mandate on the speaker card.)
- Kimberly Norris
- Alex Norris (Not available. Had no mask mandate on the speaker card.)
- Mirtha Rust
- Sarah Tyler
- Aaron Montgomery

- Debbie DeSipio
- David Willis
- Magdalena Butler (Not available. Had no mask mandate on the speaker card.)
- Corey Allen (Not available. Had no mask mandate on the speaker card.)
- Nicole Wulf
- Maria Pollard
- Natalie Dreyer
- Scott Beasley

Recessed at 11:26 a.m.

Reconvened at 11:37 a.m.

Office of General Counsel, Rita Mairs explained the rights of the people. She also briefly mentioned Board Policy 2.25, specifically the section on audience protocol.

Chair Andersen mentioned that it was the Board's desire to have the public's input, participate and engage with the public schools. It is not the preference to have an empty auditorium or to have deliberation with the community that comes to express their desires and wishes. At every meeting, the public is asked to do this in a respectful way and, unfortunately, that was not done at this meeting. Chair Andersen stated that individuals would be called in three at a time to make their public comment until the end of the public comment session.

The following comments were made against a mask mandate:

- Marnie King
- Barbara Duff
- Gail Rood
- Swandy Beasley (Not available. Had "We do not coparent w/the government" on the speaker card.)
- Marjan Massoudi
- Mark DeGange
- Dr. Carmen Martinez, MD
- Mary Ellison
- Alieria Peterson
- Leslie Smith
- Katie McNeal
- Maleana Gay

Cynthia Youngs spoke about deceptive practices.

Teresita Montgomery (Not available. Had parent choice on the speaker card.)

Recessed at 12:20 p.m.

Discussion

1. DEPARTMENT OF HEALTH RULE 64DER21-15

Reconvened at 12:33 p.m.

Ms. Mairs reviewed the following information:

- A brief explanation of the background around the topic which got the District to the point of rule.
- Explanation of the differences between the Department of Health Emergency Rule (DOH) 64DER21-15 and the previous DOH Emergency Rule.
- The written correspondence between Commissioner Corcoran and the Board.
- Suggested the Board to challenge the new DOH Rule.
- Brief summary about what a few other school districts were doing legally.
- OGC, Ms. Laura Boeckman explained the Department of Administrative Hearing (DOAH) and the arguments that could be used with regards to the DOH's rule-making process.

Dr. Greene addressed the criteria that the Board approved that would immediately stop the mask mandate and where the District stood at present. She reiterated that the DOH manages and directs the quarantine contact tracing process. Dr. Greene also spoke about how the new rule affects the DOH because they are the entity that does the contact tracing and notifies the parents if their child has been exposed.

DOH Director, Mr. Ernesto Rubio stated that due to the new rule, DOH had changed the letter that they send to parents and explained the processes that were being taken regarding the new rule.

Discussion involved:

- DOH's rolling 7-day average and cases per day.
- Explanation of the percent positive decrease.
- How the new rule affects the DOH being able to handle contact tracing.
- DOH communicating with parents in a timely manner.
- The responsibility of the District if parents choose to quarantine their students.
- The numbers of cases required for closing a classroom.
- The grounds for challenging DOH.
- What the governor had authority to do and not do.
- Explanation about home rule and a request to look further into the subject.
- Compare and contrast opt-out in board policy and what is being practiced. Request for parent opt-out to be in compliance with the Commissioner of Education.
- Brief mention of a current litigation case in federal court.
- Medical opt-out forms by specific doctors are rejected.
- If the decline in positivity rate is for Duval County or Duval County Schools and if other districts are experiencing a decline in their rates.
- Parents make decisions for their children and support the new rule.
- Airing on the side of caution.

Chair Andersen inquired about the Board Members thoughts on challenging the new rule or not:

- Board Member Hershey - against challenging the new rule

- Board Member Joyce - against challenging the new rule
- Vice Chairman Willie - challenge the new rule
- Board Member Jones - challenge the new rule
- Board Member Pearson - challenge the new rule
- Board Member Dr. Coker - challenge the new rule

Chair Andersen mentioned the following:

- Being able to get teachers to continue teaching and children to feel safe.
- Executive overreach and challenge the new rule.
- Continuing with the emergency rule.
- DOH managing quarantine.

Mr. Rubio explained the following:

- Communicating with parents if children are asymptomatic or have symptoms of COVID or any type of illness.
- DOH communicates with the School District by providing a line list of completed cases.
- Criteria for providing a return to school letter.

Dr. Greene stated that the District would be requesting DOH to provide the information on the line list if parents would be quarantining their students or not so that the District could notify the appropriate personnel about a parents' decision. She also added that if a parent chooses to quarantine, students will get their work through Teams or whatever the best way may be.

Chair Andersen inquired about testing being a part of the puzzle. Dr. Greene explained the process.

Ms. Mairs read a section of the new rule with regards to students being tested with parental consent. Ms. Boeckman shared the possibility of the District being sued by parents who feel that their children would not be able to attend school safely due to no mask mandate.

Ms. Mairs mentioned there already being an existing policy, and presented the options of changing the policy or leaving the policy as it is. She needed to know what the Board wanted to do.

2. RESPONSE TO SEPTEMBER 23 LETTER FROM COMMISSIONER CORCORAN

Board Member Hershey stated that the purpose of the meeting was to determine a response to Commissioner Corcoran's letter and, since the meeting was called, a vote is required for the record. She also expressed that she was uncomfortable with individual Board Members having conversations with Legal Counsel to pursue litigation against the state even though there is a majority of members when all bear the weight whether voted for or not. The discussions need to be done in the Sunshine, through conversation, whether people voted for it or not. It needs to be done in a Workshop, not individually. At this meeting, it needs to be determined if the Emergency Rule is going to be upheld and if so, then Legal Counsel needs to be directed on how to direct the letter and the vote could be a part of the record.

Chair Andersen explained the purpose of the meeting.

Ms. Mairs explained that with regards to litigation, that it is not a violation of Sunshine for Board Members to meet with Legal Counsel individually.

Board Member Jones inquired about the best way to draft the letter to the Commissioner of Education so as to explain the District's reason for their decision. Ms. Mairs explained what would be in the letter.

Board Member Hershey mentioned about litigation and the costs that come along with it.

Chair Andersen inquired if a vote was needed, does it require a motion, and if the appropriate language was available. Ms. Mairs provided the necessary language:

A motion to provide the Office of General Counsel with the authority to explore and/or move forward with litigation challenging the new Department of Health rule that was issued on 9/22.

Ms. Mairs explained why she used the word explore.

Motioned: Warren A. Jones

Second: Darryl Willie

Discussion:

Board Member Pearson reiterated what Board Member Hershey stated about funds. She suggested if they could vote to explore, get the results of the exploration and vote at another time to pursue, which would be the point of committing funds. She was not comfortable with committing funds at this time.

Chair Andersen stated Board Member Pearson was speaking about making an amendment.

Ms. Mairs explained the importance of moving forward right away.

Board Member Pearson withdrew her request for an amendment.

Ms. Mairs reread the original motion.

Board Member Joyce inquired how much funding had already been dispersed and how much would be spent if the Board decided to challenge. She then mentioned that the rule was issued by a State Surgeon General who has a Doctorate degree from Harvard University and the Board is going to challenge this when no one has a medical degree. She added that there are children who can't read on grade level and to use tax payer dollars to challenge the rule is embarrassing.

Vice Chairman Willie mentioned about rules from the state and governor, and inquired what about the local politicians being able to have control.

Board Member Dr. Coker expressed her agreement with Vice Chairman Willie with regards to belief in the local politicians.

Board Member Hershey expressed agreement with Board Member Joyce's comments. She also wanted to caution the Board about challenging the State and that it comes with consequences.

Board Member Joyce responded to Board Member Dr. Coker's comments that not all her constituents agree with her. She also mentioned about the oath which each Board Member took with regards to upholding the constitution and the laws of the state of Florida. By taking this action, they were not upholding the laws.

Board Member Jones stated this is an issue of protecting the children and reiterated what the attorney mentioned about being sued one way or another. He also added that freedom means the ability to do whatever you want to do, as long as you don't impose on somebody else's right to be free. If a child enters a school and is asymptomatic, they are carrying the virus, then they are imposing that on somebody else's child.

Chair Andersen expressed that it is because of her constitutional appreciation that she has concern about this particular rule and the process for rule-making and that it is dangerous to set this precedent. The next thing is retaliation from Tallahassee, which sounds like politics. She is trying to put in place safeguards for the community and kids and make sure not to set dangerous unconstitutional executive overreaches boards, state leaders. This is not to allow the students to be used as political pawns. It is her understanding that there may be possibilities to join in with other districts which would help keep the costs a little lower.

3. EXPLORE/MOVE FORWARD WITH A RULE CHALLENGE

Motion: A motion to provide the Office of General Counsel with the authority to explore and/or move forward with litigation challenging the new Department of Health rule that was issued on 9/22.

Vote Results:

Motion: Warren A. Jones

Second: Darryl Willie

PASSED 4-3

Aye:

Warren A. Jones

Elizabeth Andersen

Darryl Willie

Kelly Coker

Nay:

Lori Hershey

Charlotte Joyce
Cynthia Pearson

Adjournment

1. ADJOURNMENT

Motion:

That the Duval County School Board move to adjourn the meeting at 2:43 p.m.

Vote Results:

Motion: Darryl Willie

Second: Kelly Coker

PASSED 7-0

Aye:

Lori Hershey
Warren A. Jones
Charlotte Joyce
Elizabeth Andersen
Darryl Willie
Kelly Coker
Cynthia Pearson

Nay:

None

GC

Superintendent

Chairman