

Board & Administrator

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Editor: Jeff Stratton

Oversee Confederate flag issue on "most solid legal footing"

Two recent incidents in school districts show that the Confederate Flag issue is alive and well and has the potential to arrive one morning in the parking lot of your high school.

At the Vinton-Shellsburg, Iowa, High School, a single student was told to leave school for the day after he refused to remove a Confederate flag from the back of his pickup truck. He returned the next day with more than 10 other students in vehicles joining him in their protest, *kcrg.com* reported.

The Hastings, Mich., Area schools received a petition with 304 student signatures asking that the school district allow them to display the Confederate flag on school grounds, *mlive.com* reported. Students presented their petitions at a Sept. 21 board meeting, with the board taking no action at that time.

Brad Banasik, legal counsel/director of labor relations for the Michigan Association of School Boards said the Confederate flag issue has reared its head in schools going back to the 1970s. It's back in districts now, because of the tension in Charleston, S.C., where the flag was removed from the state capitol.

"A district will be on the most solid legal footing if it is able to show there have been some racial tensions at school and the flag is the cause of altercations and disruptions to the learning environment," Banasik said. If the district can show this, based on case law in the 6th U.S. Circuit Court of Appeals, it can limit displays of the flag, he said.

If facing the Confederate flag issue, keep in mind that student speech is protected by the First Amendment, and this flag is speech, Banasik said.

"This goes all the way back to *Tinker v. Des Moines Independent Community School District*," Banasik said. This case determined that students do have free speech rights, but they can be somewhat regulated if

the district can forecast a disruption to the learning environment, he said.

When considering what a district considers a disruption, it should be able to point to examples such as graffiti, inappropriate comments that are racist, altercations based on race, and even students just acting inappropriately, Banasik said. "That is what a court would look at," he said. "Document that and show why the student speech needs to be regulated — that you are fearful that the display of the Confederate flag would disrupt the learning environment."

In some cases, the district may encounter tensions caused by comments about a student's race on school property, but in others, it may occur at a restaurant across the street from the school, he said.

If a group of students show up and want to display the Confederate flag, the first move by the superintendent is to review the board's policy manual. If the problem is related to clothing, review the dress code. "Some types of dress codes prohibit any type of logo or offensive design," Banasik said.

If the incident is not covered by the dress code, you may need a separate policy. "What we have been seeing is kids display the Confederate flag on their cars, and that falls outside dress code," he said. In this instance, you need a separate policy to cover the display of items on a vehicle on school property, he said.

When creating policy to address this subject, keep in mind that courts will look to see if the policy is overreaching or does not put students on notice as to whether the flag is prohibited from being displayed, Banasik said. "If the district regulates student speech, it must be pursuant to policy," Banasik said.

For information, reach Banasik at (517) 327-5929. ■

Run board committees better with these tips

Betsy Miller-Jones, executive director, Oregon School Boards Association, offers these tips to help the board run its committee structure successfully.

1. Work with the superintendent to determine what will best fit the needs of the district. “In other words, what work can be most effectively delegated to a committee?” Jones said.

That means the full board must have enough trust in the committee that they will approve its recommendations and not insist on re-discussing the issues, she said.

In addition, consider whether the committee is even necessary in the public’s eye, Jones said. “That committee work also needs to be work that the citizens believe does not require the attention of the full board, and they do not have to see the full board engaged in,” she said.

Finally, be sure the committee’s work is “governance-level,” and not staff work, Jones said.

2. Set very clear boundaries. The superintendent and board president should clarify issues, such as:

- Is it a standing committee or just for a set period of time, and if so what time frame?
- What is the committee’s authority to act?
- What are the boundaries of the committee’s work? “There is nothing worse than nominating a

committee and then having members go off and do work the board has no intention of supporting and had no idea they would do,” Jones said.

3. Set very clear timelines for the committee to act. Build in regular check points for reporting committee progress on board meeting agendas, Jones said.

4. Prepare yourself to make the commitment. The board should also be aware that a committee structure requires board commitment, Jones said.

“Committees should save the board time, and provide for more effective work and in-depth knowledge by the full board,” she said. “If that doesn’t happen, either because the full board insists on rehashing everything or because the board won’t read the committee reports and follow the recommendations, or committee members aren’t willing to put in the time or some other permutation or combination, then the board should not commit to a committee structure.”

A final tip when setting up the committee structure: “It is also important that if there is a diversity of board opinions on topics that the board believes they will be represented on the committee, and that the committee isn’t just a work around to not have to listen to minority opinions,” Jones said.

For information, www.osba.org. ■

The board works at a high level

A school board’s major function is to set policy for the school district (and delegate implementation to its superintendent). In addition to establishing policy for the district, the board has several responsibilities that are critical to the successful operation of the school district.

1. Meet the needs of students and the community. The board does this by adherence to the district’s mission and vision in the policies it makes. The board must also interpret the community’s needs to the school district, while communicating the district’s vision and successes to the community.

2. Develop and monitor strategic plans. A school board works with its superintendent to identify the district’s strategic goals. This is a matter of the board setting the district’s priorities, while considering the community’s wishes, available resources, and sound educational practice.

The superintendent develops annual plans to achieve the board’s long-term objectives for the

district. The superintendent reports regularly on progress toward the district’s strategic goals. The board should evaluate progress toward goal accomplishment by evaluating the superintendent’s progress on goal attainment in her annual performance review.

3. Monitor finances. The school board approves the district’s annual budget. The budget should reflect the district’s current vision. The board will also approve contracts, property purchases, building projects, call elections on bond proposals, and negotiate with employee associations to determine salaries and benefits.

4. Practice active teamwork. Without a commitment to teamwork, boards accomplish very little — they tend to bog down because of in-fighting or lack the ability to work effectively. To be effective, board members must work cooperatively with their colleagues on the board, and with their superintendent. ■