

Special ed committee faces ultimatum

RCSD is likely to be sued by Empire Justice Center

Justin Murphy

Rochester Democrat and Chronicle USA TODAY NETWORK

The Rochester school board's committee on special education is well underway in its work — and what it produces will likely be the district's last chance to address its problems without the involvement of the courts.

In addition to being a communitybased effort at finding solutions to the district's most entrenched special education shortcomings, the committee is also acting in response to an unobvious ultimatum from the Empire Justice Center, which has successfully sued RCSD over special education in the past and has threatened in the last few years to do so again.

The understanding is that the committee by May 1 will come up with a series of action steps for the school board to approve, each with specific timelines and benchmarks. If the board doesn't approve them or the administration doesn't achieve them, EJC chief counsel Bryan Hetherington said, it will face legal action.

"We want everyone to come to work every day saying, 'We don't want that to happen, so let's fix things,'" Hetherington said.

Slow-moving work RCSD chief counsel Karl Kristoff confirmed Hetherington's framing of the issue, writing in an email that he and the school board "did discuss EJC's willingness to permit the committee the opportunity to complete its ... charge."

"Bryan made it clear that if the EJC was not satisfied with the progress being made, a lawsuit would likely result," he wrote.

"Thus, the district is taking the work of the committee as being very significant."

The committee is headed by board member Melanie Funchess, herself the mother of children with disabilities and an expert in mental health. It features not just district staff and RCSD parents, but also outside special education and disability authorities.

It will also run its proposals by other parent groups, including the Special Education Parent Advisory Council, Funchess said.

"We have a great cross-section of people from across the disability community and we're making great progress doing a deep dive on how we can make special education an environment that will promote the best interests of children," she said.

The effort comes as the district's special education department is in even greater flux than usual. Kisha Morgan was appointed Tuesday as interim Executive Director of Specialized Services, filling one of two top-level vacancies.

Funchess said she has absolute confidence that her fellow board members will approve whatever recommendations the committee develops, and that the district will act upon them.

"I wouldn't do this if I didn't," she said.

"At the end of the day, I as a school board member am charged with the care and concern of the children in this city. I take that incredibly seriously as I know my colleagues do. We want to see our children do well."

Hetherington, who belongs to the committee, said the work has been slow-moving, as they continue to find new obstacles. For instance, he said, there's no good way to tally the number of children with whom the district is out of compliance, making it difficult to know the scope of the problem.

He warned that the ultimate solution in special education will not be budgetneutral.

"It will be interesting, when push comes to shove, whether they'll be (willing) or not," he said. "If it turns out to be a bust, all this energy will have been useful as groundwork for what would be a series of lawsuits. And then the district will have another chance to come to the table and agree to fix it."

JMURPHY7@Gannett.com



Melanie Funchess PROVIDED PHOTO



Bryan Hetherington GREG FRANCIS