

Monument Academy School Board, Jan. 5 and 11

Board discusses the financial risk of parental rights policy

By Jackie Burhans

Monument Academy (MA) held its regular meeting on Jan. 11 where it discussed a second attempt at its parental rights policy regarding transgender students, including the risk of being sued. MA also heard a presentation on a possible homeschool enrichment program and an executive director succession plan.

The MA school board held a special meeting on Jan. 5 to pass a time-sensitive policy on enrollment and board elections. The meeting ended in an executive session for legal advice on matters related to policy adoption and implementation and for discussions related to Title IX processes, employee performance, and student issues. No action was taken upon return from executive session.

Financial risks of parental rights policy

Board President Ryan Graham noted that the MA board heard an initial read of its Parental Rights Policy, provided feedback, and asked for a revised draft at a previous meeting. MA requested and received community input, which included approval, disapproval, and concerns. He took it upon himself to write a new draft to incorporate that feedback. The crux of the issue, he said, is that parents have the right to the control, care, and custody of a minor child wanting to transition to a gender that does not align with that assigned at birth. The new policy, he said, tries to support that position while following the laws that govern MA. Graham then proceeded to read aloud the new policy draft, which can be found in its entirety as part of the meeting highlights at <https://www.monumentacademy.net/wp-content/uploads/2024/01/January-11-2024-Board-Highlights.pdf>.

A parent spoke during public comment to support the policy creation and the previous resolution regarding parental rights and transgender students. Board Vice President Lindsay Clinton and board member Craig Carle expressed support for the policy.

Board Treasurer Joe Buczkowski asked that the legal opinion be read aloud. After reaching out to MA's lawyer, Brad Miller, Graham read Miller's email verbatim. After advising MA to remove the gender verbiage from the original policy title, Miller said that conventional wisdom would be to adopt the original (milder) version of the policy or no policy at all, which current political winds would support, noting that current courts would probably uphold individual students' rights over that of parents and peers. Like Susan approaching Aslan the Lion, said Miller, a decision to adopt the new policy would not be safe, but the question is whether, like Aslan, the policy is good. Miller went on to say that, like public officials who supported masks, quarantines, distance learning, and vaccines, public officials who blithely dismissed parental rights may be seen to be wrong in future years.

Miller affirmed that there is a level of risk accompanying the new policy. There are viable legal arguments, he said, that the governing party adopted enforceable laws that mandate a charter school to acquiesce to expressions of dysphoria on the part of students, and it will be that the law will be found to be consistent with the Constitution. Just as there have been arguments about other challenging topics such as abortion, same-sex marriage, slavery, the age of consent, and women in the military, it also may be true that courts may disagree, and it may take years to resolve. He said that the recent dialogue on financial risk was well-timed but outside of his scope, and MA may wish to continue that discussion.

Miller said that now is the time for each board member to step forward and stand as representatives rather than a democracy and decide.

Buczkowski presented some concerns he has with the current draft language. These items can impact the finances of the school, he said, and the board and community need to be aware of it. The policy, he said, tries to be many things: It has elements of the proclamation, the resolution, and a sports, bathroom, and discipline policy. A policy serves as instructions to staff on what to do, but this policy does not provide clarity and confidence in those actions. This policy, he said, perhaps unintentionally, prohibits girls from being on boys' sports teams, which has been accepted for decades. Board member Emily Belisle noted that MA currently has girls who play on the football team.

Secondly, the policy refers to the resolution saying that parents are encouraged to seek legal counsel, which, Buczkowski said, is not quite accurate. He noted that for other disciplinary actions such as bullying, verbal abuse, vandalism, or theft, there is no such language, and that could be seen as prejudice since the threat of legal action only applies to transgender students.

Thirdly, Buczkowski said the policy could be seen as a threat or intimidation. The process of transitioning at the school involves contact with the principal and ends with the paperwork requirement, which is immediately preceded by the threat of legal action. In any other case of needing a form for such things as a prearranged absence, an application for a sports team, an approved driver, or a parking permit, the process must be frictionless. MA cannot tell parents there could be legal recourse against them when the student hasn't done anything. He noted that getting your name changed legally at the courthouse does not include the court saying that others may view your actions as a violation of their privacy and encourage those who do to seek legal counsel.

Buczkowski said he was trying to make sure not to expose the school to legal action but that, as written, a female student could sue the school for the right to play on a boys' team, parents and students could sue because transgender students are treated differently from other students on disciplinary matters, and MA might be sued on issues of students' vs. parents' rights. Finally, he said, MA needed to develop its bathroom monitoring policy carefully or risk a lawsuit. He asked the board to consider and discuss whether these are really the battles and opponents they imagined with this policy. He said this policy was battling MA students and parents rather than state and national laws, which were the real opponents. He suggested breaking the policies apart and making the gender transition policy as frictionless as possible. If the board adopts this draft, it will expose the school to a lot of unnecessary financial liability, he said.

Clinton, noting that the policy had been reviewed by legal counsel, asked Buczkowski if he had brought his concerns to Miller and wanted to see what Miller thought. Graham said he didn't see this as a sports policy, and striking through the one line was easy. He also said he was fine with removing the threat of legal action since it was covered in the resolution. The "hill he would die on," Graham said, was the requirement for principals to notify parents of a student who expressed an interest in transitioning. Though it might not be legally OK, and he had been told MA might be sued, he hadn't

yet seen a lawsuit. If MA is sued, Graham said, he would bring it back to the community as the voice of the district to dictate MA's direction. Board member Matt Ross said the goal of avoiding all lawsuits was different from the goal of protecting kids and expressed support for the changes.

Clinton confirmed she wanted to see a vote at the Feb. 8 meeting, given upcoming field trips and leadership changes. She noted that Buczkowski had voted on the resolution in June. Buczkowski replied that all board members signed the resolution, which also said the board affirms that MA shall support the privacy and dignity of each student and shall not discriminate against individuals based on sex, gender expression, and identity. He said he would love to hear more from legal on the student vs. parent rights issue and what body of law supports this policy. Graham said he would revise the draft policy and ask legal counsel to join the Feb. 8 meeting.

The draft policy can be seen in the Jan. 11 board highlights linked above, and the entire discussion can be seen online at <https://www.youtube.com/watch?v=M8-CCdmpyY0&t=28s>.

Audit presentation

Tom Sistare of Hoelting & Company Inc., MA's audit firm, joined the meeting via Zoom to present MA's annual audit report. Noting that Hoelting's team was out last July for internal control testing and had designed the audit based on those tests, Sistare reported an unmodified or clean opinion on the financial statements. He said there were no internal control findings.

Homeschool

Partnership program

Interim Chief Operating Officer Kim McClelland presented a potential homeschool enrichment program for MA to offer to families who choose homeschooling over enrollment at MA. She worked with Janyse Skalla, who had done some distance learning work for MA during the pandemic, to make sure that MA's program stands out by offering personalized learning. A lot of families start homeschooling and get overwhelmed and wish they had support, she said.

McClelland recommended MA focus on kindergarten and first grade to start and hire one program manager/consultant to oversee administrative



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