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## **NHSBA Training Document – School Board Roles and Responsibilities**

### **I. Introduction**

School boards have numerous responsibilities, have to answer to a variety of constituent interests and must navigate through a myriad of federal laws, state statutes and administrative regulations, all while focusing on the primary objective of enhancing and supporting student achievement.

This document is not intended to be an all-inclusive listing of every legal requirement school boards must fulfill. Rather, NHSBA provides this document with the goal of informing its members and the public of what some of the legal requirements are and how established best practices within those roles and responsibilities and can augment effective school board governance.

### **II. Key Roles and Responsibilities of School Boards**

#### **(1) Set and establish school board policy.**

As noted above, school boards are required to abide by and implement numerous statutes, rules and regulations. Many state statutes and NHDOE regulations require school boards to adopt policies. NHSBA advocates that the development of clear, sound and legal policies is critical to the successful operation of any school district and that adopting policy is among the most fundamental responsibilities of any board of education. Policy is the tool that provides the board power to allow or require action. It is through policy that lay citizens can govern effectively. The board is a policy-making body and the policies that it enacts are the local law of the school district. Policies are broad guidelines, philosophical statements set by the school board to chart the district's course of action.

In addition to putting policy-making at the forefront of your school board's responsibilities, there is sufficient legal basis to indicate that school boards are primarily policy-making bodies. For example, many of the NHDOE regulations relative to the duties of school boards indicate that the board has numerous policy-making responsibilities. The following NHDOE regulations are pertinent to this position:

NHDOE Rule Ed 303 – Duties of School Boards.

Ed 303.01 Substantive Duties. Each school board shall:

- Ed 303.01(a) – Adopt policies necessary and desirable to control and effectuate the recruitment, employment, evaluation and dismissal of teachers and other employees
- Ed 303.01(b) – Adopt policies necessary and desirable to control and effectuate the purchase of equipment, supplies, or services.
- Ed 303.01(i) – Adopt a rule to ensure that there shall be no unlawful discrimination on the basis of sex, race, age, creed, color, marital status, national origin, or disability.
- Ed 303.01(j) – Establish a policy on sexual harassment

NHSBA cites these particular NHDOE rules to highlight that the initial duties of school boards, as determined by the NHDOE, is to adopt policy.

In addition to the Duties of School Boards listed in NHDOE Rule Ed 303, the NHDOE also has rules that speak to the school board's responsibilities with respect to the "Minimum Standards for Public School Approval" found in NHDOE Rule Ed 306.

NHDOE Rule Ed 306 begins by stating that "In order to be an approved school, public schools, and public academies shall meet the applicable criteria established in these standards..." Among those standards are a list of more than two-dozen policies local school boards must adopt in order to meet the requirements of school approval. The full list of those policies is found in NHDOE Rule 306.04(a). They relate to various subjects such as absenteeism, promoting school safety, homework, awarding of credit, graduation requirements, competency-based learning, and many others relating to student achievement and school district governance and operations..

Again, NHSBA cites this Rule in the conversation of school board roles and responsibilities to highlight the importance of school board policies within the larger context of managing New Hampshire's schools.

### Various NH Statutes (RSAs) Require School Board Policies.

In addition to the NHDOE Rules, numerous New Hampshire statutes (known as RSAs) also require school boards to adopt a variety of policies on a multitude of topics. It is important to note that this list seems to grow longer each year. Whenever there is discussion at the New Hampshire Legislature relative to school board governance, a common outcome is for school boards to adopt a new policy on a particular subject or to revise existing policies.

Examples of policies required by New Hampshire include:

- Bullying (RSA 193-F)
- Concussions (RSA 200:49)
- Use of restraints (RSA 126-U)
- Truancy/absenteeism (RSA 189:34)
- Background checks (RSA 189:13-a)
- Objectionable course material (RSA 186:11)
- School lunch payments (RSA 189:11-a)
- Health and sex education (RSA 186:11)
- Non-academic surveys (RSA 186:11)
- Manifest educational hardship (RSA 193:3)

#### **(2) Establish the school district's budget and provide budget oversight.**

While budget approval is ultimately left to the voters (or, in more legal terms, the “legislative body”) one of the most vital aspects of school board roles and responsibilities is the development of a budget that serves the needs to students while simultaneously respecting the ability of tax payers to fund such a system. Additionally, as state-aid to public education remains either stagnant or is eliminated, the burden on local property tax payers continues to rise. And co-extensive with the development of the school district's budget is that the board exercise proper oversight during the school year of the district's budget.

The legal bases for a school board's budget and fiscal responsibilities are found in the following New Hampshire statutes and NHDOE Rules.

- RSA 32:5 – Budget Preparation
- RSA 32:8 – Limitation on Expenditures
- RSA 32:10 – Transfer of Appropriations
- RSA 197:23-a – Treasurer's Duties; board authorized to make payments
- RSA 40:13, IX(b) – Default Budget
- NHDOE Rule Ed 303.01(e) – Prepare an annual budget
- NH Department of Revenue Administration Rule Rev 1100 - Financial Source Coding For Local Educational Agencies

**(3) Hire a Superintendent. (RSA 194-C)**

The superintendent is the school district's educational leader and is charged with the oversight of all aspects of the district's daily functions. The responsibility of hiring the superintendent rests with the SAU board, per RSA 194-C:4.

- RSA 194-C:4. Each school administrative unit or single school district shall provide the following superintendent services...

Nothing in New Hampshire law addresses how school boards must hire a superintendent or what process must be used. Processes for hiring a new superintendent vary greatly from school district to school district, with each school board employing its own unique method. Some boards use community-wide committees while others use a sub-committee of the board and engage public input through other means such as forums, electronic surveys, and meeting with various constituency groups.

**(4) Evaluate the Superintendent. (Ed 303; contract)**

Co-extensive with the responsibility of hiring a superintendent is the legal obligation that school boards conduct an annual evaluation of the superintendent. Not only is an annual evaluation a best practice, it is also legally required. There are generally three sources of law that obligate the school board to evaluate the superintendent:

- (1) NHSBA Rule Ed 303.01(k). School boards shall annually evaluate the superintendent based on written criteria established by the school board(s)/SAU board.
- (2) School board policy. (See NHSBA Sample Policy CBI)
- (3) An obligation to conduct an annual evaluation is almost always found in most superintendent contracts.

**(5) Conduct hearings and serve as an adjudicative body. (Various statutes and rules)**

From time to time, school boards must conduct adjudicative hearings relative to the rights of students or employees. The source of these rights varies – some are established via state or federal statute while others are the product of NHDOE Rules. Others have their roots in Constitutional due process requirements. Further, local collective bargaining agreements and/or school board policies may grant students or staff a right to a hearing.

Some examples may include:

Parents & Students

- Manifest Educational Hardship (RSA 193:3)
- Long-term Suspensions and Expulsions (RSA 193:13; NHDOE Rule 317)
- Discrimination/Sexual Harassment Policy
- Transportation/Bus Removal (local board policy)
- Bullying (RSA 193-F)
- Residency (RSA 193:12)
- Early Admission to First Grade (local board policy)
- Curriculum (local board policy)

Employees

- Dismissals (RSA 189:13)
- Non-renewals (RSA 189:14-a)
- Free Speech, Academic Freedom, etc. (Constitutional considerations)
- Labor/Grievances (local collective bargaining agreements)

Because the school board may need to sit as “judge and jury” for these hearings, it is important that individual board members, as well as the boards as a whole, not be privy to specific information prior to the hearing. This is a very difficult position for board members, who, as stewards of the school district, feel an obligation and responsibility to the public to be informed about such matters. If and when such a situation does arise, NHSBA recommends that school boards consult fully with their local legal counsel for a full analysis and legal opinion as to the board’s course of action and dissemination of information.

**(6) Collective bargaining. (RSA 273-A)**

In most school districts, the teachers are part of a local bargaining unit (union.) Many districts have multiple bargaining units – teachers, support staff, custodians, food service workers, and so forth. RSA 273-A:3, I states “It is the obligation of the public employer (school

board) and the employee organization (teachers' union/other union) certified by the board as the exclusive representative of the bargaining unit to negotiate in good faith.”

“Good faith” bargaining, at its most basic, means “meeting at reasonable times and places in an effort to reach agreement on the terms of employment, and to cooperate in mediation and fact-finding required by this chapter, but the obligation to negotiate in good faith shall not compel either party to agree to a proposal or to make a concession.” (RSA 273-A:3, I).

**(7) Communicate with the public – keep the public informed of board actions.**

Both the New Hampshire Constitution and RSA 91-A, the Right to Know law, demand Openness in the conduct of public business is essential to a democratic society. As most board members know, the Right to Know law has numerous provisions outlining various requirements for posting notice of public meetings, making meetings open to the public, and providing the public with access to minutes and other public records in a timely manner.

In addition to the Right to Know law requirements, many boards and administrators undertake efforts to keep the public informed of school board action and school district events.

**(8) Strategic Planning – long and short-term goals, plans and objectives.**

NHSBA advocates that strategic planning is a vital component of school board governance. A comprehensive strategic plan will help the school board and the district:

- Clarify the board’s and the district’s goals and direction.
- Identify effective aspects of board performance.
- Effectively plan for the learning opportunities for students.
- Address areas that are in need of improvement.
- Help address budgetary needs.
- Help address facilities needs.
- Provide long-term sustainability for the board, staff and community.

### **III. The Learning Curve for New School Board Members:**

Individuals run for their local school board for many reasons – some because they have children in school, others because they have a background in education. Some people run for office out of a desire to give back to their community, while others run for office for more specific or pointed purposes.

Regardless, the learning curve for new school board members can be steep. NHSBA offers the following recommended best practices.

- Learn to acknowledge publicly that individual board members have no power or authority to act on behalf of the board or the district. Only the board, as a whole and at a properly noticed meeting, can make decisions or take action for the school district.
- Determine what your function is on the school board and how to accomplish it effectively.
- Even though you may have attended numerous board meetings as a private citizen, there is still a lot to learn once you're elected to the school board.
- Recognize the difference between setting policy (the board's job) and administering the schools (the superintendent's job).
- Board members must represent students, first. Board members have numerous constituencies – parents, staff, taxpayers, and so forth. And at times, the interests or desires of those constituencies may be divergent. However, the first consideration of all board decisions should consider what is in the best interest of students. The primary focus of all board decisions must be student achievement.
- Learn how to respond to the complaints and concerns of citizens, school administrators, and other staff. Most school boards have local policies that establish a “reporting” structure when members of the community have complaints or grievances. Be sure to follow that policy.
- Remember and respect that change comes slowly.
- Individual board members can't solve problems by themselves – it takes the work of the entire board to reach consensus and achieve solutions.
- Effective board service means being able to hold the minority viewpoint when voting on a given issue; then openly supporting the majority vote of the board in your community.

#### **IV. NHSBA Sample Policies Relative to Board Governance:**

1. BBAA – School Board Member Authority
2. BBAB – Roles and Duties of the Board Chairperson
3. BCA – School Board Member Ethics
4. BCB – School Board Member Conflict of Interest
5. BEAB – Board Member Use of Electronic Communication
6. BEDH – Public Participation at School Board Meetings
7. BHC – Board-Employee Communications
8. KE – Public Complaints
9. KEB – Public Complaints about School Personnel, Employees, Students or Administration

#### **IV. The Superintendent's Role:**

Just as various statutes and administrative rules establish what a school board's role and responsibility is, there is a co-extensive, yet distinct, series of statutes and rules that guide what the roles and responsibilities of school superintendents.

##### **(1) Implement School Board Policy**

The pertinent NHDOE Rules relative to the duties of superintendent indicate that the superintendent is responsible for implementing school board policy. A few examples follow.

##### **NHDOE Rule Ed 302.02 – Substantive Duties of Superintendents.**

- Ed 302.02(a) – Nominate all certified staff and appoint other employees in accordance with state law, the rules of the state board and school board policies.
- Ed 302.02(d) – Be responsible for developing and recommending to the school board or boards within the school administrative unit the annual budget for the support of the educational program and for the operation and maintenance of schools within the district or districts and the school administrative unit in accordance with school board policy.
- Ed 302.02(e) – Be responsible for developing and maintaining an accounting system and financial reporting procedures for all funds in accordance with local school board policy, and local and state laws.
- Ed 302.02(f) – Be responsible for the development of an educational plan including curriculum, instruction, and assessment programs for the district or districts and for recommending a program of studies suitable to the needs of the pupils and the community in accordance with local school board policies, state statutes and state board rules.
- Ed 302.02(r) – Be responsible for the implementation and review of school district policies.

As these Rules listed above indicate, and in conjunction with the Rules relative to school board duties and responsibilities covered in earlier pages, the school board adopts policy and the superintendent implements board policy.

**(2) Nominate professional staff. (RSA 189:39; RSA 189:14-a; NHDOE Rule Ed 302)**

- RSA 189:39 - Superintendents shall nominate and school boards elect all teachers employed in the schools in their school administrative unit, providing such teachers hold a valid educational credential issued by the state board of education.
- Ed 302.02(a) – The superintendent shall...Nominate all certified staff and appoint other employees in accordance with state law, the rules of the state board and school board policies.

**(3) RSA 194-C:4, Superintendent Services**

Each NHDOE Rule has a corresponding statute that give rise to the authorization for the administrative rule itself. In addition to the NHDOE Rules relative to superintendent duties, the following statute provides a comprehensive list of the areas of school district operations that are the responsibility of the superintendent. NHSBA believes it likely that school boards have policies that address most of these subject areas.

RSA 194-C:4, in its entirety, is as follows:

Each school administrative unit or single school district shall provide the following superintendent services:

- I. An educational mission which indicates how the interests of pupils will be served under the administrative structure.
- II. Governance, organizational structure, and implementation of administrative services including, but not limited to:
  - (a) Payroll, cash flow, bills, records and files, accounts, reporting requirements, funds management, audits, and coordination with the treasurer, and advisory boards on policies necessary for compliance with all state and federal laws regarding purchasing.
  - (b) Recruitment, supervision, and evaluation of staff; labor contract negotiation support and the processing of grievances; arrangement for mediation, fact finding, or arbitration; and management of all employee benefits and procedural requirements.
  - (c) Development, review, and evaluation of curriculum, coordination of the implementation of various curricula, provisions of staff training and professional development, and development and recommendation of policies and practices necessary for compliance relating to curriculum and instruction.

- (d) Compliance with laws, regulations, and rules regarding special education, Title IX, the Americans with Disabilities Act, home education, minimum standards, student records, sexual harassment, and other matters as may from time to time occur.
- (e) Pupil achievement assessment through grading and state and national assessment procedures and the methods of assessment to be used.
- (f) The on-going assessment of district needs relating to student population, program facilities and regulations.
- (g) Writing, receiving, disbursement, and the meeting of all federal, state, and local compliance requirements.
- (h) Oversight of the provision of insurance, appropriate hearings, litigation, and court issues.
- (i) School board operations and the relationship between the board and the district administration.
- (j) The daily administration and provision of educational services to students at the school facility including, but not limited to, fiscal affairs; staff, student, and parent safety and building issues; and dealing with citizens at large.
- (k) Assignment, usage, and maintenance of administrative and school facilities.
- (l) Designation of number, grade or age levels and, as applicable, other information about students to be served.
- (m) Pupil governance and discipline, including age-appropriate due process procedures.
- (n) Administrative staffing.
- (o) Pupil transportation.
- (p) Annual budget, inclusive of all sources of funding.
- (q) School calendar arrangements and the number and duration of days pupils are to be served pursuant to RSA 189:1.

**NHSBA Practice Pointer:** Note the similarities between a school board's policy requirements (budget, staff, curriculum, etc.) and the superintendent's duties. There is a clear link between school board policies and the day-to-day obligations of the superintendent.

Remember – the board adopts policies and the superintendent implements those policies. The board holds the superintendent responsible via the superintendent's evaluation.

Questions from parents/public as to the implementation of a policy should be directed to the administration. Questions about the contents or language of a policy are within the board's purview.

**(4) Other duties and responsibilities determined by statute or local board policy.**

- Notably, all the areas and topics listed under RSA 194-C:4 relate to school board policy. Your board likely has policies covering all those areas and topics.