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## How to Participate

- To close or reopen your panel.
- To download today's presentation or any additional documents.
- Submit text questions.
- If time permits, we will have a brief Q&A session at the end of this presentation.



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## Policy Basics

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## Policy Basics

- Adopting policy is among the most fundamental responsibilities of any board of education.
- At the core, school board policies are statements of principles which prescribe in general terms, the organization and programs of the school system, as well as parameters and/or course of action pertaining to different subject areas.
- Policies communicate to students, staff, parents, the general community, and boards themselves, various legal requirements, with the local parameters as determined by the board.

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## Policy Basics

- Policies create a framework within which the Superintendent and his/her staff can discharge duties with positive direction. By establishing known frameworks, policies help;
  - eliminate the need to make a decision in recurring or emergency situations;
  - communicate frameworks for problem resolution;
  - assure consistency in the decisions of the district building staff – *INSTITUTIONAL KNOWLEDGE*;
  - assure accountability;
  - maintain stability of the various school community relationships (e.g., family – staff; community organizations – district; staff – administration; administration – board).

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## Policy Basics

- Very little guidance under state laws or regulations regarding the establishment of board policy.
- “Policy” generally means legislative action/expression by majority of the *governing body*.
- Some laws, etc. use “rules” or “regulations” to mean the same thing.
- Policy = small “p”, big “p”, resolutions, budget.
- Administrative “procedures,” “rules,” or “regulations” generally refer to directives of the Superintendent or Principal implementing board policies.

## Policy Basics

- NHSBA’s policies are classified as “Priority/Required by Law”, “Recommended”, or “Optional”.
  - Priority policies reflect specific mandates by statute or regulation (state and/or federal) directing local boards to have a policy.
    - In some instances, the mandate is just to have a policy, with little direction as to substance;
    - Other mandates are very specific relative to substance, and the NHSBA policies in those instances tend to be much longer and specific.
    - Boards/policy committees should review the NHSBA revisions notes and legal references, and/or consult with NHSBA or local counsel.

## Policy v. Procedure

- School board policies prescribe in general terms, the organization and programs of the school system.
- Administrative procedures (a/k/a rules, or regulations), guide implementation of the policies.
- Administrative procedures are not developed by the board.
- Procedures:
  - Establish mechanics for implementing policy;
  - List steps to be followed;
  - Contain important do's and don'ts; and
  - Developed and established by administration, reviewed by board as needed.

*Policy v. Procedure*

*www.nhsba.org*

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## Policy v. Procedure

- Procedures are most often found in NHSBA policies:
  - To reflect legal mandates requiring specific procedures:
    - Federal statutes and regulations most often (DAF, ACAC, JLCF);
    - Fewer state laws (JICK).
  - To reflect mandates requiring “written procedures”, with no distinction between policy / rule, and without specific content requirements (GBEAB).
  - As samples to implement required policy mandates.
- Policy should be clear enough to give general direction, but flexible enough to allow staff options to develop most appropriate response either through rule or circumstance.

*Policy Basics*

*www.nhsba.org*

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# Legal Policy Requirements

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## Legal Policy Requirements

- School boards and districts are required to abide by and implement numerous substantive statutes, rules and regulations.
- Many statutes and regulations require school boards to adopt policies, with or without simultaneously requiring specific substantive provisions. There are more than 75 separate policies required by state or federal law/regulation, with more than 200 required policy components.

Legal Policy Requirements [www.nhsba.org](http://www.nhsba.org) Slide 11

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## Legal Policy Requirements - State

- Examples of legal provisions requiring policies:
  - STATE –
    - State statutory examples (“RSA’s”):
      - Bullying (RSA 193-F)
      - Criminal background checks (RSA 189:13-a)
      - Objectionable course material (RSA 186:11)
      - Non-academic surveys (RSA 186:11)
      - Manifest educational hardship (RSA 193:3)

## Legal Policy Requirements - State

- State Regulatory examples (“Ed” rules):
  - 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.\* [But see SB263];

## Legal Policy Requirements - State

- State Regulatory examples (“Ed” rules):
  - ED 306.04 lists 26 policies that are required by law, on a wide variety of topics, including, such things as “discipline”, “meeting the needs of each individual student”, “pupil transportation”, “promotion and retention...”. **[Attachment] Note:** *many of the listed 26 topics, have additional requirements specified in other rules or statutes (e.g., bullying, for which 193-F includes required elements, or student due process for which both RSA 193:13 and Ed. Rule 317 have additional requirements).*

## Legal Policy Requirements - Federal

- FEDERAL –
  - Generally, federal requirements, both statutory and regulatory, are indirect and/or conditional based upon receipt by either the state or local district of federal moneys.
    - McKinney-Vento Homeless Assistance Act;
    - ESSA – Prohibition (Prohibition against giving “aiding and abetting of sexual abuse by way of job references”, etc.);
    - IDEA – Procedural Safeguards Notice;



## Legal Policy Requirements - Federal

- Uniform Grant Guidance (“UGG”)(2 C.F.R. , imposes standards on recipients and sub-recipients of Federal Funds, including requirements for educational institutions that LEA’s have multiple policies, including management of funds (procurement, time and effort, inventory, etc.), and non-fiscal (e.g., Drug-Free Workplace; Gun-Free Schools; Record Retention; FERPA).

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## Superintendent's Roles Relative to School Board Policy



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## Superintendent's Policy Roles

- NHDOE rules relative to the duties of the Superintendent make clear that the Superintendent is responsible for implementing and advising boards relative to school board policy. A few examples follow:
  - Ed 302.02(r) – Be responsible for the implementation and review of school district policies.
  - 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.

## Superintendent's Policy Roles

- 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.
- The regulatory requirements are consistent with various responsibilities assigned to the Superintendent under state law. Among several other items, RSA 194-C:4, II imposes the following:
  - (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. *194-C:4, II (c)*

## Superintendent's Policy Roles

*194-C:4, II continued...*

- (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. *194-C:4, II (d)*
- Development of procedures which provide the management details and specific processes necessary and desirable to effectuate the board's policies.
- The same principles regarding sound policies and policy development, apply to administrative procedures as well.

*Superintendent's Roles*

*www.nhsba.org*

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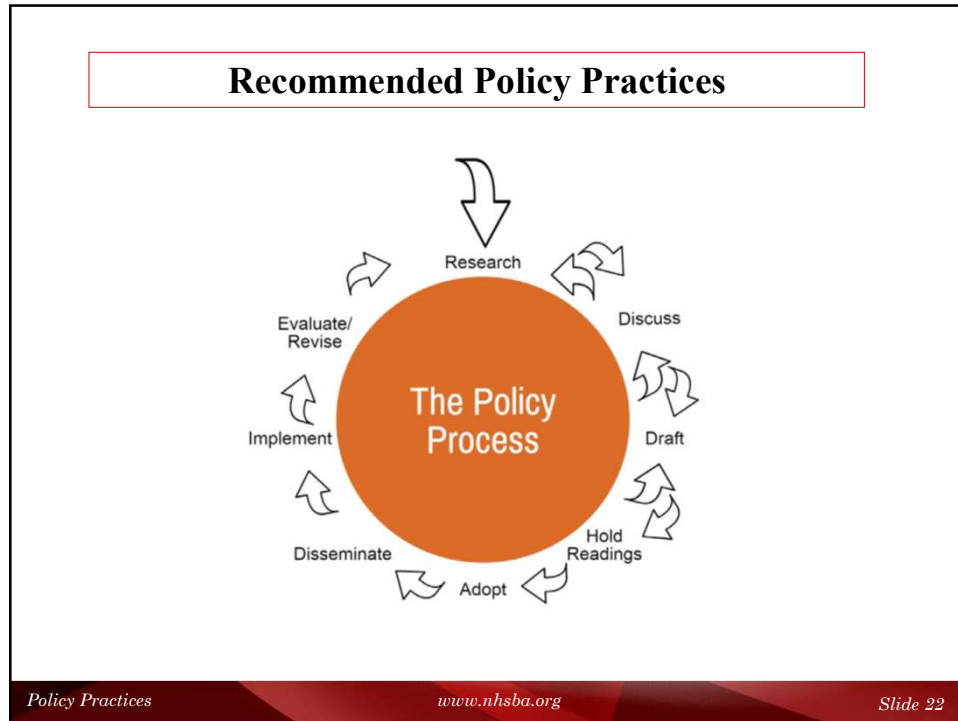
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## Considerations and Recommended Practices for Board Policies



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## Recommended Policy Practices

*Continued ...*

- A specific numbering or coding system (if using something other than NEPN/NHSBA codes, include a cross reference);
- A method of receiving notices and information regarding new mandated policy requirements (e.g., NHSBA Policy Updates);
- The board policy committee must adhere to Right-to-Know law (e.g., posted notices, minutes, etc.);
- Committed policy committee members;
- Specific provisions about maintaining the policies as “records” of the district, and keeping manuals updated.

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## Recommended Policy Practices

- A schedule for reviewing existing policies -
    - Need to assure that old policies are consistent with current practices (and law);
    - For discretionary policies, the philosophies of a board as constituted 15 years ago may not be the same as the current board;
  - Annual approval/review of some policies –
    - NOT “the board at its annual organizational meeting shall approve and affirm the District’s policy manual.” This leaves the district in a situation where required policies are not in place if the vote does not occur, or, worse still, is rejected.
- See At Your Fingertips – *Policy Development Primer* – **Attached.**

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