



Roles & Responsibilities for New Hampshire School Boards

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NHSBA – New Board Member Orientation
May 2022

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Roles and Responsibilities for New Hampshire School Boards

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 enhancing and supporting student achievement.

A fundamental rule is that individual board members have NO AUTHORITY beyond that exercised by the school board in a board meeting conforming to the requirements of RSA 91-A, the New Hampshire Right to Know law. When the meeting is called to order each member is empowered with the right to vote on each issue. When the meeting is adjourned, that power is gone. Only a majority of the board has the ability to set policy, propose budgets, negotiate contracts or make requests of the superintendent. The only employee over whom the board has supervision is the superintendent. The board may empower a single member, the chair or subcommittee to take action outside of the board meeting. But such power is only given by the full board.

Under the legal framework, the school board governs the district, while the Superintendent manages it. A useful refrain capturing the board's function is that *the role of a school board is not to run the schools, but to see that they are run well.*

The board and superintendent form the school district leadership team. The effective functioning of this team requires trust. It does NOT mean everyone agrees on the issues. In fact, a well-functioning team with a high level of trust will have vigorous discussions over issues they care greatly about. Trust also means that board decisions will be respected by all board members. To do otherwise reduces team effectiveness.

Key elements of a well-functioning relationship between the two dominions:

- Maintaining the welfare of students and student achievement as the driving force to decision making and actions;
- Strong two-way communication and respect;
- Maintaining the difference between policy and administrative procedure, except when specificity is needed/required; and
- Maintaining the balance between oversight and intrusion.

These materials provide an overview of the general responsibilities of school boards under New Hampshire statutes and regulations, a glimpse of how those responsibilities relate to legal

responsibilities and functions of superintendents, and some best practice guidelines for effective school district governance. It 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 – State Statutes, NHDOE Rules

A. Provide an Education to Resident Children.

- **RSA 189:1-a, I:**

It shall be the duty of the school board to provide, at district expense, elementary and secondary education to all pupils who reside in the district until such time as the pupil has acquired a high school diploma or has reached age 21...

How is this accomplished? Through the other key roles and responsibilities outlined through the remainder of this document, and:

- Educational programming and resources;
- Health and Safety;
- Extra/Co-curricular opportunities; and
- Family communication.

B. Set and Establish School Board Policy.

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 boards can govern effectively. The idea of local control of education means that the policies governing the operation of schools are to be formulated in response to local needs and desires. Policy means actions of the board that set goals and objectives for the schools.

Board Policies –

- Allow the board to direct/authorize employees to act.
- Establish board processes/priorities.
- Communicate expectations

- Provide information.
- Provide district wide, and institutional stability.

1. Legal Requirements Pertaining to School Board Policy.

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.

- (a) NHDOE Rule Ed 303 – Duties of School Boards. Ed 303.01, Substantive Duties. Each school board shall: (*Compare to Superintendent's duties – page 10*)
- 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.
 - NHDOE Rule Ed 306.04(a) – Minimum Standards for Public School Approval: “In accordance with Ed 303.01, the local school board shall adopt and implement written policies and procedures relative to...”. ED 306.04 lists 26 policies that are required by law.
- (b) 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.

2. Examples of policies required by New Hampshire law:

- Bullying (RSA 193-F) *NHSBA sample JICK*
- Concussions (RSA 200:49) *NHSBA sample JLCJ*
- Use of restraints and seclusion (RSA 126-U) *NHSBA sample JKAA*
- Truancy/absenteeism (RSA 189:34) *NHSBA samples JH, and JHB*
- Background checks (RSA 189:13-a) *NHSBA samples GBCD & IJOC*
- Objectionable course material (RSA 186:11) *NHSBA samples IGE & IHAM*
- School lunch payments (RSA 189:11-a) *NHSBA sample EFAA*

- Health and sex education (RSA 186:11) *NHSBA sample IHAM*
- Non-academic surveys (RSA 186:11) *NHSBA sample ILD*
- Manifest educational hardship (RSA 193:3) *NHSBA sample JCA*

C. Establish the School District's Budget and Provide Budget Oversight.

The school district annual budget is a predictive document containing *estimates* of revenue and expenses based on both expectations and history. 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 proposed budget that expresses the Board’s visions and priorities for student achievement, while simultaneously respecting the ability of tax payers to fund such a system. As state-aid to public education remains either stagnant or is eliminated, the burden on local property taxpayers continues to rise.

Key Statutes re Budget Preparation and Implementation & NHSBA sample policies:

- RSA 32:5 – Budget Preparation *NHSBA samples DB & DBC*
- RSA 32:8 – Limitation on Expenditures
- RSA 32:10 – Transfer of Appropriations *NHSBA sample DBJ*
- RSA 197:23-a – Treasurer’s Duties; board authorized to make payments *NHSBA samples DG, DGA, DH & DK*
- RSA 197:25 – Auditors *NHSBA samples DIE & DIH*
- RSA 40:13, IX(b) – Default Budget
- NHDOE Rule Ed 303.01(e) – Prepare an annual budget
- NH Dept. of Revenue Administration Rule Rev 1100 – Financial Source Coding for Local Educational Agencies

Once a budget is adopted, the Board’s fiscal responsibility is to provide oversight to the administration through monitoring, *policy controls*, and review / approval of the manifest and transfers of appropriations. Boards should request and receive regular reports and projections (compared to budget) regarding such things as:

- estimated/actual revenues
- expenditures to date
- fund balances
- transfers and adjustments
- outstanding encumbrances
- cash flow

Review the kind and frequency of actual or requested adjustments reflected in those periodic reports, as well as the annual account audit required under RSA 197:25. Are variances in the budget, projections and reports consistent with the reality that budgets are estimates, or do they point to problem in the district's systems, processes and internal controls?

D. Hire and Evaluate the Superintendent.

1. Hiring:

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.

2. When faced with the need to hire a superintendent, the first priority of the Board is to assess the amount of resources – effort, time and money – the board is ready to expend for a long term solution. This information will inform the board relative to planning the search process.

3. Evaluation:

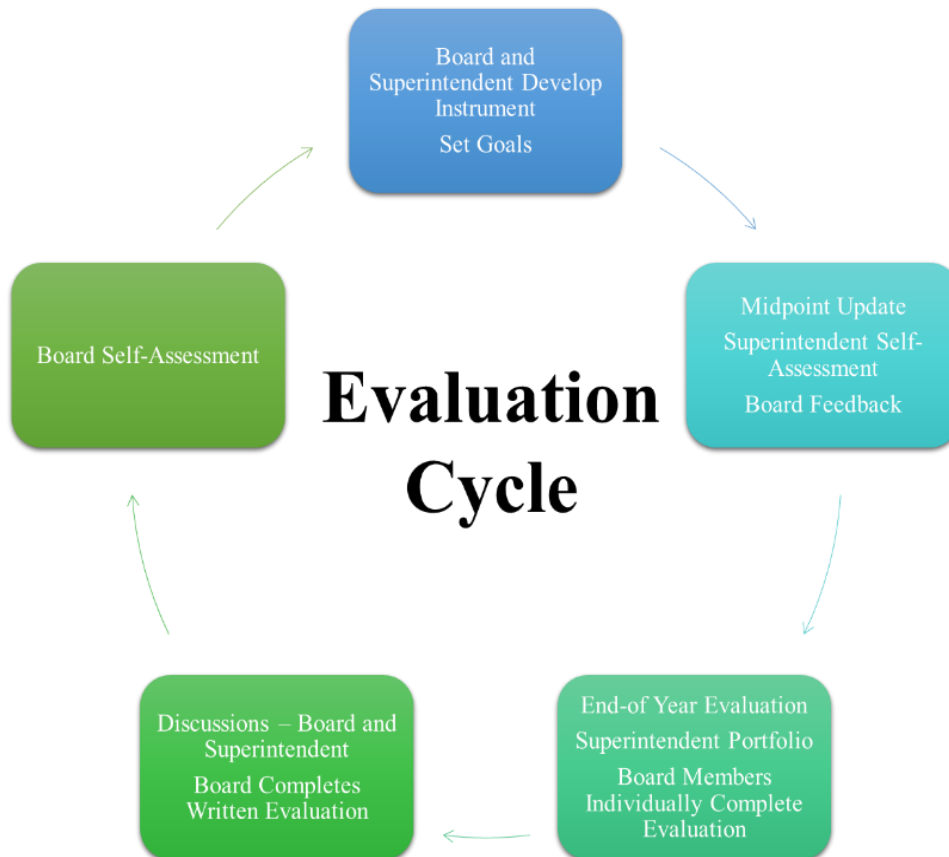
School boards have a legal obligation to conduct an annual evaluation of the superintendent. Not only is an annual evaluation a best practice, it is also legally required. There are generally three sources of law that obligate the school board to evaluate the superintendent:

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

Practical and compelling reasons to conduct annual superintendent evaluations include:

- A means to ensure accountability;
- An opportunity to strengthen the board/superintendent relationship;

- A structured way for the board to affect superintendent professional development; and
- A tool in determining salary and contract considerations.



E. Conduct Hearings and Serve as an Adjudicative Body (Various statutes/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. Also, local collective bargaining agreements and/or school board policies may grant students or staff a right to a hearing.

Examples 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)
- Labor/Grievances (local collective bargaining agreements)

Be Mindful of Your Role as a School Board Member – *Quasi Judicial Function.*

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 Board 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.

F. Collective Bargaining - (RSA 273-A).

Most districts have staff who belong to a “collective bargaining unit” (i.e., union), with some districts having as many as 5 unions (teachers, support staff, custodians, etc.). 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).

G. 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.

Pertinent provisions of the Right to Know law:

- RSA 91-A:1-a, VI – definition of “public body”
- RSA 91-A:2 – Meetings Open to Public
- RSA 91-A:3 – Nonpublic Sessions
- RSA 91-A:4 – Minutes and Records Available for Public Inspection

H. Strategic Planning – Long and Short-Term Goals, Plans and Objectives

NHSBA advocates that strategic planning is a vital component of school board governance. NHDOE Rule 303.01(g) imposes upon boards the duty to "develop long-range plans and identify measurable and attainable short-term objectives". 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 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 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 purposes.

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.
- See the pertinent NHSBA Sample Policies (attached):
 - BBAA – School Board Member Authority
 - BBAB – Roles and Duties of the Board Chairperson
 - BCA – School Board Member Ethics
 - BEAB – Board Member Use of Electronic Communication Devices During School Board Meetings
 - BHC – Board-Employee Communications
 - KE – Public Complaints
 - KEB – Public Complaints About School Personnel

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.

A. Implement School Board Policy.

The pertinent NHDOE Rules relative to the duties of the 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(b) - Direct and supervise the work of all employees of the district or districts within the school administrative unit and shall have all powers necessary to make such direction effective, as outlined in RSA 194-C:4. While the superintendent has ultimate responsibility, he/she may delegate powers and duties to other personnel.
- 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.

B. Supervise, Nominate and Evaluate Staff.

- 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.
 - Nominate, in this manner, means to recommend to the school board that the person be hired. The school board then acts on that recommendation.
 - “Teacher” in this context means that the position requires NHDOE certification for teaching, media specialist, school counselor, principal or higher position.

- RSA 189:14-a – Renewal of professional staff. The respective roles for renewing teacher contracts is the same as for original hire: the superintendent “re-nominates” and the board “re-elects” the contract for teachers
- 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.
- Ed 302.02(b) - Direct and supervise the work of all employees of the district or districts.
- RSA 194-C:4, II(b) –Recruitment, supervision, and evaluation of staff...

C. Provide Superintendent Services - RSA 194-C:4.

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, RSA 194-C:4 provides a comprehensive list of the areas of school district operations that are the responsibility of the superintendent. NHSBA has sample policies that school boards have policies that address most of these subject areas.

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

- 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.*
- (r) *Identification of consultants to be used for various services.*

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.

Roles & Responsibilities of School Boards and Superintendents



<u>Roles/Responsibilities</u>	<u>School Board</u>	<u>Superintendent</u>
1. General	Governs the District	Advises the Board – Manages the District
2. Policy	Adopts	Suggests and Implements
3. Board Meetings	In charge of	Serves as resource
4. Budget/Finance/Audits	Adopts and monitors	Prepares, administers, monitors, details
5. Instruction/Curriculum	Establishes criteria, approves, and monitors	Recommends, oversees staffs' efforts
6. Personnel	Establishes criteria, approves, or rejects	Interviews, recommends, hires, evaluates, promotes, trains
7. Community Relations	Creates a positive image for district	Creates a positive image for district, directs communications
8. Labor Relations	Provides guidelines, ratifies contracts	Monitors process within guidelines
9. Student Services	Adopts policies for care and control	Recommends, implements, directs
10. Facilities/Food Service /Transportation	Develops policy on use of	Implements policy, writes procedures, makes recommendations

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N.H. Law (RSA) Enumerating Required Superintendent Services

194-C:4 Superintendent Services. –

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.
 - (r) Identification of consultants to be used for various services.

Source. 1996, 298:3, eff. Aug. 9, 1996. 2010, 5:2, eff. June 18, 2010

N.H. Department of Education Rules Pertaining to Superintendent as Executive Officer of District

PART Ed 302 DUTIES OF SCHOOL SUPERINTENDENTS

Ed 302.01 Executive Officer.

(a) The superintendent shall:

- (1) Serve as the executive officer of the local school district or districts within the school administrative unit (SAU);
- (2) Be responsible for the overall administrative and leadership services of the SAU; and
- (3) Perform the duties specified in the section.

(b) The superintendent shall be responsible for planning and managing the administrative and leadership services of the local school district or districts within the school administrative unit subject to statutory requirements, these rules, and the policies of the local districts

(c) The administrative and leadership services shall be defined and directed by the governing body employing the superintendent.

(d) Such local district services shall include but not be limited to the following areas:

- (1) Personnel;
- (2) Finance;
- (3) Communication/community relations;
- (4) Student service;
- (5) Maintenance/capital improvement;
- (6) Curriculum;
- (7) Instruction;
- (8) Assessment;
- (9) Short and long range planning;
- (10) Governance for student achievement;
- (11) Policy research;
- (12) Implementation, and review; and
- (13) Overall leadership on educational issues.

(e) The superintendent shall develop and maintain a system of public schools, staffed by certified educators, qualified professionals, and persons providing support services, subject to statutory requirements, these rules, and the policies of the local districts (s).

(f) The superintendent shall provide, develop and implement procedures to achieve educational objectives within the local school district or districts with the school administrative unit.

(g) The superintendent shall be directly responsible to the local school district or districts within the school administrative unit board.

(h) The superintendent may nominate for school administrative unit board appointment one or more assistants, including assistant superintendents, and business administrators. The superintendent may assign duties for the efficient management of the school administrative unit.

N.H. Department of Education Rules Pertaining to Core Duties of Superintendent and Board

<p>PART Ed 302 DUTIES OF SCHOOL SUPERINTENDENTS</p> <p>Ed 302.02 <u>Substantive Duties.</u> The superintendent shall in addition to those duties outlined in Ed 302.01:</p> <p>(a) Nominate all certified staff and appoint other employees in accordance with state law, the rules of the state board and school board policies;</p> <p>(b) Direct and supervise the work of all employees of the district or districts within the school administrative unit and shall have all powers necessary to make such direction effective, as outlined in RSA 194-C:4. While the superintendent has ultimate responsibility, he/she may delegate powers and duties to other personnel.</p> <p>(c) Be responsible for the selection and purchase of textbooks and all other supplemental materials and supplies in accordance with the policies of the school board and the state board and see that the same are distributed to the school, accurately accounted for and economically used;</p> <p>(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;</p> <p>(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;</p> <p>(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</p>	<p>PART Ed 303 DUTIES OF SCHOOL BOARDS</p> <p>Ed 303.01 <u>Substantive Duties.</u> Each school board shall:</p> <p>(a) Adopt policies necessary and desirable to control and effectuate the recruitment, employment, evaluation and dismissal of teachers and other employees and may delegate authority to the superintendent of schools to carry out the provisions of such policies provided that no teacher shall be employed who is not certified or who has not been nominated by the superintendent of schools and elected by the school board;</p> <p>(b) Adopt policies necessary and desirable to control and effectuate the purchase of equipment, supplies, or services and may delegate to the superintendent of schools the authority to make financial commitments in accordance with such policy;</p> <p>(c) Provide, through documented planning and public meetings and quorum votes, accommodation for all pupils in approved schools or other facilities in accordance with state law;</p> <p>(d) Provide required transportation of students consistent with these rules and provide that all school buildings and other learning environments be maintained in a manner consistent with standards of health and safety as required by these rules;</p> <p>(e) Prepare an annual budget in accordance with RSA 32 and comply with all federal and state laws and rules;</p> <p>(f) Hold meetings for the transaction of business at least once in 2 months and require the attendance of the superintendent or designee. The board shall cause a written record to be kept of each meeting in accordance with RSA 91-A;</p>
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N.H. Department of Education Rules Pertaining to Core Duties of Superintendent and Board

<p><i>Ed 302.02 Substantive Duties - continued</i></p> <p>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;</p> <p>(g) Remove a teacher or other employee of the district in accordance with RSA 189:31;</p> <p>(h) Recommend the dismissal of certified staff to the board, which has the authority to dismiss in accordance with RSA 189:13;</p> <p>(i) Provide for temporary staff to fill vacancies and provide supplies immediately needed for the operation of the schools;</p> <p>(j) Be responsible for maintaining records and filing reports as required by the state board of education and the local school boards;</p> <p>(k) Admit pupils to the resident school district in accordance with the laws of the state and the rules of the state board and policies of the local board;</p> <p>(l) Direct pupils to assigned classes and grades, consistent with local school board policies;</p> <p>(m) Maintain a safe environment for pupils free of hazardous conditions;</p> <p>(n) Be responsible for the evaluation of personnel and programs in accordance with local school board policies;</p> <p>(o) Be responsible for implementation of state board rules, which apply in the area of the superintendent’s jurisdiction;</p> <p>(p) Be responsible for developing and recommending to the school board or boards within the school administrative unit an annual maintenance program and long-term capital improvement plan</p>	<p><i>Ed 303.01 Substantive Duties. - continued</i></p> <p>(g) In consultation with the superintendent and in accordance with statutes and rules of the state board of education, determine the educational goals of the district, develop long-range plans and identify measurable and attainable short-term objectives. The school board shall require the implementation of educational programs designed to reflect the goals and objectives and, further, the school board shall review such programs and make public the results of such investigation;</p> <p>(h) Exercise all powers and perform all duties vested in and imposed upon the school board by law or rules of the state board;</p> <p>(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 in educational programs or activities consistent with local standards which may be stricter in specific areas than the broader statewide standards;</p> <p>(j) Establish a policy on sexual harassment, written in age appropriate language and published and available in written form to all those who must comply, which includes, at a minimum, the elements specified below:</p> <ol style="list-style-type: none"> (1) A statement that sexual harassment is against the law and against school district policy; (2) A definition of sexual harassment with examples of actions that might constitute sexual harassment; (3) The names and roles of all persons involved in implementing the procedures; (4) A description of the process so all parties know what to expect, including time frames and deadlines for investigation and resolution of complaints;
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N.H. Department of Education Rules Pertaining to Core Duties of Superintendent and Board

<p>(q) Be responsible for the implementation and recommendation to the school boards or boards within the school administrative unit a community relations and communications program; and</p> <p>(r) Be responsible for the implementation and review of school district policies.</p>	<p>(5) A prohibition against retaliation toward anyone involved in a complaint;</p> <p>(6) A description of possible penalties including termination;</p> <p>(7) A requirement that a written factual report be produced regardless of the outcome of the investigation;</p> <p>(8) At least one level of appeal of the investigators recommendation; and</p> <p>(9) A clear statement that someone can bypass the internal process and proceed directly to the New Hampshire commission on human rights, with address and phone number, or office of civil rights, with address and phone number; and</p> <p>(k) Annually evaluate the superintendent based on written criteria established by the school board (s)/SAU board.</p> <p>(l) Adopt a teacher performance evaluation system, with the involvement of teachers and principals, for use in the school district, pursuant to RSA 189:1-a,III.</p>
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New Hampshire School Boards Association
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Effective School Board-Superintendent Relationships

Introduction:

NHSBA provides roles and responsibilities training to hundreds of school board members and dozens of administrators each year. Within that training, NHSBA compares and contrasts the statutory and regulatory framework that delineates the legally prescribed roles of school boards and administrators. We focus on the school board's governance, policy and fiscal responsibilities and the day-to-day responsibilities held by administrators.

This presentation is developed and presented to provide a deeper look at school board and superintendent relationships. Within this presentation and discussion, we aim to provide school boards and administrators with guidance and recommendations when the respective lines of responsibility get blurred, conflict arises – but most importantly, how to avoid these challenges in the first place.

I. What are School Boards and Superintendents Saying About Each Other?

**Information borrowed from “Education Writers Association – Special Report: Effective Superintendents, Effective Boards – Finding the Right Fit.” Copyright 2003 by the Education Writers Association. All rights reserved.*

Findings of a survey of 175 superintendents judged nationally by their peers to be outstanding:

- 93 percent say they have a collaborative relationship with the school board
- 88 percent feel their board is effective

- 37 percent report that insignificant, time-consuming demands limits their effectiveness.
- 35.1 percent say they would be more aggressive in pursuing school reform initiatives if given six-year contracts.
- 29 percent feel they were hired because of their ability to be an instructional leader.

Findings of a survey of 2,096 school board presidents from across the country:
(Education Commission of the States survey of school board presidents, conducted by Thomas Glass, University of Memphis)

- 64.2 percent reported turnover of three or more superintendents in the past 10 years.
- Boards were dissatisfied with the performance of the previous superintendent 42.7 percent of the time.
- 73 percent said that at least half of the applicants were “well-qualified.”
- One-third claimed their board works well together “all” of the time
- 60 percent believe their board works well together “most” of the time.
- 30 percent said they would not run again for a board position.
- Nearly 75 percent say there is no need to change the present model of school board governance.

II. Why Do People Run for School Board?

- Kids in school
- Civic engagement
- “Better communication”
- Single-issue board member – new building, full-day kindergarten, etc.
- Watchdog – budget, Right to Know, etc.

- “To help out”
- What can we do to help school board members feel these goals and concerns are being addressed? What can the board do? What can individual board members do? What can administrators do?

III. Typical Areas of Conflict Between Board Members and Superintendents:

- Agenda-setting
- Personnel Decisions
- Budget
- Roles and responsibilities
- Access to information
- “Not being heard”

IV. Beyond Roles and Responsibilities – Current Trends and Considerations:

**Excerpts from “Effective Board and Superintendent Collaboration”, © 2014 Hanover Research.*

- “Traditional conceptions of these two governing bodies hold that a board’s domain lies in policy creation, while the responsibility of the superintendent and his or her administrative team is strictly policy implementation.”
- “However, these roles have grown increasingly amorphous and disparate across districts in recent years. Superintendents are no longer simply tasked with school management; their duties have expanded into areas of specialization and accountability, including student learning outcomes.”
- “Simultaneously, school boards nationwide are venturing outside of their state- and district-defined roles of strategy, leadership, and policy development, with many members delving into administrative and day-to-day specifics, as well as advancing political motivations.”

- Think back to why people run for their school board...and how their concerns play into traditional roles and responsibilities, while being mindful of the current trends discussed above.

V. How to Make it Work – Beyond Traditional Roles and Responsibilities

General tips to establish positive school board-superintendent relationships:

- The district should have clearly defined goals, vision statement and mission statement.
- Spend less time on operational issues and more time on policies and practices aimed at improving student achievement.
- Engage in routine team development and training.
- Board members can help the superintendent anticipate problems by virtue of their connection with the community, parents, constituents, etc.
- Clarify roles and expectations for board members and superintendent. This requires something more than training or a policy – it needs to be an open board discussion.
- Evaluate the whole team – how are “we” working together.
- Use a strategic plan to keep all parties on the same page. Use the plan as a focus of board meetings, board decisions, administrative proposals, and administrative actions.
- Full disclosure: The cornerstone of a strong board-superintendent partnership is the frank disclosure of school problems to the board members.
- Frequent two-way communication: The superintendent should provide timely oral and written communications of pending or emergency items. Board members should reciprocate, immediately informing the superintendent of citizen’s concerns.
- Careful planning: No one enjoys surprises, and careful planning will avoid most of them. The superintendent and the board should plan together. Planning begins with the board adopting yearly objectives for itself and the district, by which the board provides direction for the superintendent.

Strategic planning will foster this. Informal interaction: The superintendent must interact regularly with board members. Attend workshops, conferences and school activities together.

- Periodic evaluation: The superintendent and the board should evaluate the work of the school district at sessions scheduled throughout the year. Periodic evaluations, in addition to the regularly scheduled formal annual evaluation, keeps the board apprised of the progress on district goals. At these meetings the board should evaluate the superintendent, discuss the relationship between the board and the superintendent and agree to any modifications necessary.
- Mutual support: Both parties need support from the other. A strong partnership is strengthened when board members support the superintendent from unjust criticism and the superintendent, in turn, defends board members from unwarranted accusations.
- Let's remember that school board members are volunteers. As stated above, they run for school board for a variety of reasons. Board members often enter their terms with limited knowledge of the exact nature of the superintendent's administrative role, leading to role confusion and preconceived notions. At a basic level, they want to feel important, want to feel heard, and like to control what they can control. It's a shared responsibility among the board and the administration find ways to navigate these factors.



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School Board Strategic Planning and Goal-Setting Workshop

I. Introduction to strategic planning:

1. What is strategic planning?
 - General definition: A plan to reach specific goals or outcomes that outlines benchmarks towards achieving those goals or outcomes.
 - Strategic planning is a process by which a group gathers information in order to ensure that initiatives and priorities are established and carried out.

2. Initial questions for the board to consider:
 - What does the district already have in place to facilitate the initial steps of strategic planning?
 - Who will be involved in the strategic planning process?

3. Strategic planning must include or create a sense of agreement regarding the goals of the school district with respect to the various elements and constituencies involved.
 - This does not mean that all people have to be in complete agreement about every goal.
 - Rather, the process must involve reaching common ground on the district's most pressing needs.

II. School Board Self-Evaluation

1. Has the board conducted a self-evaluation?
 - If so, have goals in relation to the evaluation been established?
 - Has the board identified areas of strength and areas in need of improvement?
 - What can the board learn from its areas of strength? What does the board do effectively and how can those practices translate to a strategic planning initiative?

2. Primary purposes of school board self-evaluation:
 - To assist in clarifying board and district goals and direction.
 - To identify effective aspects of board performance.
 - To effectively plan for the learning opportunities for students.
 - To address areas of board operations that are in need of improvement.
 - To work towards the achieving the goals that were established through a goal-setting process.

3. Evaluation as A Planning Tool:
 - Treat the board's evaluation as an extension of the district planning process.
 - Attaching the board's/district's goals to the strategic plan or goal-setting ensures that the main emphasis is achieving those goals.
 - Have the goals been achieved? If not, how did the board's performance affect progress on the goal? If so, what led to those successes?
 - Was the board's effort on the goal satisfactory? Did the board complete all the tasks assigned to it during the goal-setting process? If not, why?

4. Process for Beginning School Board Evaluation:

(A) What does the board want to achieve? What are the Board's key responsibilities, per policy, DOE Rules, statute, and the district's goal-setting and strategic planning?

(B) How to Identify of Areas for Assessment:

- Preliminary deliberations provide the basis for an informed decision by the board as to what aspects of its performance should be assessed.
- Has the board done goal-setting? Does the board have comprehensive goals in place? Has the board, through goal-setting, determined what its tasks and responsibilities are?
- The decision as to what to assess should be guided by a careful analysis of the needs of the board, but it should also be influenced by the time available for the board to do an adequate job. The tendency to undertake too much is to be avoided.
- Just as with goal-setting, the board may identify certain areas of its self-assessment that it believes warrants initial discussion and review.

(C) Board discussion and interpretation:

- Major strengths of the board within each area of discussion.
- Priorities for board improvement.
- What is a school board's primary function? What general topics do those functions relate to? What has the board identified as its primary tasks in relation to its goal-setting?

5. What Areas Does the School Board Need to Address?

- Relationship with the Superintendent
- Community Relationships
- Board Meetings
- Staff and Personnel Relationships
- Relationship to Instructional Program
- Relationship to Financial Management of Schools

- Policy Development
- Risk Management

III. Strategic Planning and Goal Setting

1. Key Questions:

- Where are we today? What is the current state of our school?
- Where do we want to be tomorrow? What is our strategy for moving forward?
- How does the board identify goals?

2. Determine the goals to be addressed:

- This can only occur after a thorough evaluation of the issues listed above and an analysis of the current state of the school district.
- What is the strategy to achieve that goal?
- Who is responsible for working towards that specific goal? The board? Administration? Teachers?
- Be sure to differentiate between school board goals and school district goals!
- Board goals should relate to board operations and objectives that rest solely with the school board.
- School district goals should be more encompassing and relate to the district in a broader sense.
- There may be some overlap.

3. What does the school district already have in place to facilitate the initial steps of strategic planning?

- Mission statement?
- School board policies?
- District-wide surveys?
- Other data? Test scores, academic assessment results, demographics, economic factors, etc.

- Use of this information will assist the school board in identifying where the board currently is and where the board wants to be or what it wants to achieve.

4. Who will be involved in the strategic planning process?

- The school board
- Administration
- Teachers
- Parents/community members
- Other stakeholders?

IV. Sample Concept for Goal Setting – SMART Goals

1. Very common technique/practice used in a variety of settings – schools, corporations, non-profit organizations, etc.

2. SMART =
 - Strategic/specific
 - Measurable
 - Achievable
 - Relevant
 - Timeline

3. Explanation:
 - (1) Strategic Goals
 - The school board’s goal should have its expected outcome stated as simply, concisely and explicitly as possible.
 - Goals should be straightforward and emphasize what you want to happen
 - This answers questions such as: how much, for whom, for what?
 - What does the board hope to accomplish by setting this goal? What is the board going to do to accomplish this goal?

 - (2) Measurable Goals
 - Tangible evidence that you have accomplished the goal. Usually, the entire goal statement is a measure for the project, but there are usually several short-term or smaller measurements built into the goal. A measurable goal has an outcome that can be assessed and/or measured in some way.
 - If you can’t measure it, you can’t manage it!

- Example: The district wants to improve its math scores by 10% within two years.
- As opposed to: The districts wants to students to be better at math.
- Establish concrete criteria for measuring progress toward the attainment of each goal you set.

(3) Achievable/Attainable Goals

- An attainable goal has an outcome that is realistic given the current situation, resources and time available.
- Goal achievement may be more of a “stretch” if the outcome is tough or there is a weak starting position.

(4) Relevant and Realistic Goals

- Will this goal lead to the desired results of the organization?
- Your goal should fall in line with the School Board Mission, and focus on outcomes.

(5) Timeline

- A time-bound goal includes realistic timeframes. Sometimes timeframes are imposed. When that is the case, carefully consider what is attainable within the imposed timeframe.

4. Prioritizing Goals within the Strategic Plan

- Considerations of time, effort, finances, staff availability, etc.
- Which goals relate to requirements in state or federal law?
- Which goals need immediate addressing?
- Which goals does the district have the financial capabilities to address?
- What are reasonable benchmarks for implementation of each goal?

- Which goals or priorities have the most consensus or agreement among the board or strategic planning committee?
- Start small or address the biggest needs first?

New Hampshire School Board Association
Sample Policy BA
SCHOOL BOARD SELF-EVALUATION AND GOAL SETTING

Category: Recommended

The Board will attempt to conduct an annual self-evaluation. Co-extensive with the Board’s self-evaluation, the Board will attempt to establish annual goals and objectives. The Board believes that establishing annual goals and objectives will serve as a benchmark and criteria for the annual self-evaluation.

The following areas of Board operations and relationships are representative of those in which objectives may be set and progress appraised:

1. Relationship with the Superintendent
2. Community relations
3. Board meetings
4. Staff and Personnel Relationships
5. Relationship to Instructional Program
6. Financial Management of Schools
7. Policy development
8. Risk management
9. Other areas the Board determines should be evaluated

While the board may decide to do so, it is not expected that every area listed above will necessarily be annually reviewed.

The Board desires that the annual self-evaluation and goal setting will clarify the Board’s role within the school community, address areas for the Board to improve, and address areas for which the Board should be commended.

Legal References:

NH Code of Administrative Rules, Section ED. 303.01 (g), Substantive Duties of School Boards

Appendix: BA-R1; BA-R2

Revised: September 2012

Revised: February 2005

THE 7 HABITS OF HIGHLY EFFECTIVE BOARD MEMBERS

By Susan Rountree Salter, Director of Leadership Development

Chances are, when you decided you wanted to join your local school board, you had a pretty good idea what that would entail: going to meetings once or twice a month, spending some time learning the jargon educators use and the laws that govern schools, and doing things to help kids. If only it were that simple.

With the intense public and media scrutiny on the school boards today, not to mention the complexity of the job they're asked to do, school board service has become time-intensive and one of the most demanding forms of community service.

Overnight, the newly initiated are expected to transform into skilled interpreters of school law, expert personnel managers and vigilant overseers of taxpayer's money. What's more, they are expected to function with the other board members as part of a united team, despite differences in backgrounds, political philosophies, interests, knowledge levels and expertise.

But even the most experienced board members never stop learning the technical details of the job, and those that are successful learn early that being effective requires more than knowing the tenure law or how to interpret state budgets. It requires certain behaviors that allow the board to function like a well-coached team.

How many of the following need to be added to your list of New Year's resolutions?



1. Focus on “we,” not “me.”

For your board to function effectively, each member must see the board as a team and respect the varying skills and perspectives his or her teammates bring to the arena. Effective board members operate from the belief that their peers have the best interests of students, parents, system and community at heart – even when they have radically differing opinions about how to address a problem. “Every board member has his or her own strengths they bring to the board, whether it’s finance or public relations or relations with teachers, whatever,” said former Vestavia Hills board member George Elliot. “You’ve got to take all that, put it in the pot, mix it and use it. Board members need to recognize the talents of other board members collectively.”

For members who come on board determined to “fix” specific problems they’ve already identified, it can be tempting to see themselves as catalysts for change and to believe that without their work to improve schools, the board would languish. However, such attitudes usually destroy whatever spirit of cooperation exists at the outset.

One former Alabama school board member, for example, frequently complained to the news media about the board’s “old guard,” portraying veteran members as only wanting to preserve the status quo. Her tactics angered colleagues, triggered hostile confrontations during board meetings and ultimately destroyed the board’s ability to work together as a cohesive group. Although she had sound ideas and strong backing from her constituents, she quit in mid-term, complaining that she couldn’t work with her fellow board members. Rather than engaging in dialogues with them about her proposals, debating the merits and seeking mutually agreeable solutions, the board member had spent her term continually on the attack and left office having accomplished little.

2. Treat staff and faculty with respect.

Like good bosses in the corporate world, effective school board members support the superintendent’s efforts to ensure staff members are accountable for doing their jobs well. That means setting high performance standards, making certain administrators are well trained in using the state’s personnel evaluation system, and giving thoughtful consideration on those occasions the superintendent recommends dismissing an employee, even if the employee is a friend.

However, effective board members understand that holding staff members accountable does not mean treating them with suspicion or as incompetents. Instead, they respect staffers’ expertise in their field and treat them accordingly. When they have complaints about an employee’s performance, they alert the superintendent, whose job it is to investigate. The board member who uses board meetings to call employees on the carpet publically for infractions destroys morale and turns meetings into battlegrounds.

3. Do your homework.

One of the most difficult concepts for the public to grasp about the board’s operation is that (work sessions notwithstanding) the regular board meeting is not a time for fact finding. Instead, it is the time designated for conducting the school board’s business in public. Effective board members ask most of their questions about proposals, budgets or plans before the meeting. They meet with the superintendent or relevant staff member to ensure they understand what is being proposed and why the administration considers it the best option. While they may still ask questions in the regular meeting, they come with a solid grasp of the issue.

Those who open their information packet for the first time when they sit down at the board table are not fully prepared to have a thoughtful discussion about the issues at hand and to listen to others’ concerns. Their lack of preparation requires colleagues to put board business on hold in order to bring them up to speed.

4. Listen.

Another challenging aspect of school board service is learning to listen with an open mind to those with differing views. Effective school board members know that by listening to different points of view, they can gain new insights into issues.

“Board members should remember they have two ears and one mouth and listen twice as much as they talk,” advises AASB Director of Leadership Development Susan Salter. “When you are talking, you are only hearing your own ideas.”

Likewise, effective board members know there is rarely only one side to a story. Ineffective board members, on the other hand, rush judgment. One such Alabama board member severely damaged his credibility with his colleagues and the public shortly after he joined the school board when it became apparent he would believe the first version he heard of almost any episode. No matter what information subsequently came to light, he would continue to be an ardent – and often immovable – supporter of the position espoused by the person who initially brought the issue to his attention. With experience, he learned to wait until he had more facts before making judgments, but the damage to his reputation took much longer to repair.

5. Be Courageous.

As parents become more sophisticated consumers of government services, their demands on school boards are mounting. Effective board members stick by their principles and make the decisions they believe best for the students and the school system – even when faced with pressure from special interest groups to do otherwise.

Montgomery County school board members learned that firsthand years ago when a small but vocal group of parents opposed to the federal Goals 2000 program waged a bitter battle to stop the board from pursuing a federal magnet

school grant. The parent group made outrageous allegations about the board's plans, even charging the grant would result in teaching kindergartners about homosexuality. The majority of the board, once satisfied the allegations were untrue, backed the grant proposal, however, and won a multi-million dollar grant to create the new programs and give students more educational options.

Effective board members also have the courage to follow existing board policies and apply the rules equally despite strong political or parental pressure. Whether disciplining the straight-A student who claims the rifle in his car was left there accidentally after a hunting trip or the honor students caught drinking on an out-of-town field trip, effective school board members understand that bowing to pressure from influential parents puts the board on shaky legal ground when similar legal cases arise in the future. Worse, it's unfair to students without such effective advocates.

6. Support the school system and board decisions.

No board member should blindly believe his or her school system can do no wrong or that the board always makes the right decision. Humans aren't infallible. However, effective school board members are optimistic about the system's future and are committed to resolving problems without losing sight of the successes.

Ineffective board members, on the other hand, focus almost exclusively on the shortcomings. Weak administrators. Inept teachers. Ill-equipped classrooms. Deteriorating buildings. Whatever the proposal, the ineffective board member will argue it isn't the right solution or doesn't do far enough. A few such board members have even gone so far as to oppose efforts to pass tax referenda for their system. Referenda rarely pass when that happens.

While individual independence and freedom to dissent are important, effective board members are committed to the concept of majority rule. They argue their positions without attacking those with opposing views, and they support board decisions even when they are on the losing side.

But, the board member who continues to argue his point of view – whether its opposition to buying out the superintendent's contract or support for dismissing a losing coach – long after the issue has been settled by majority vote, undermines the entire board in the community. Continuing to fan the flames of unrest in the news media and among parents rarely leads to decisions being overturned but often creates doubts about the school board's effectiveness that linger long after the immediate issue has been resolved.

7. Know your role.

Accepting the difference between the roles of the board and the superintendent can be tough. Admittedly, the public expects the school board members to be able to solve their problems. But board members intent on micromanaging can be highly disruptive to a school system. When school board members make surprise visits to schools to evaluate teachers themselves, breeze past secretaries to barge into administrators' offices unannounced or sit in on job applicants' interviews, they throw the system into chaos.

Instead of trying to run the day-to-day operation of the schools, the effective board member knows the board's role is to make policy and the administration's is to enforce it. As one board member put it, the board's job is to decide *what* should be done, while the superintendent is responsible for determining *how* it gets done.

Helpful Hints To Remember:

Though they didn't make the list of the top seven habits, school board members also can improve their effectiveness by remembering the following:

- **Keep your eyes on the big picture.**

When school board members are elected or appointed to represent a specific portion of the community, they can be tempted to focus on the needs of their own constituents, rather than the system as a whole. But effective board members balance their districts' needs with those of their systems to ensure that the board's broader goals are met.

- **Be honest.**

Effective board members are honest with others and themselves. They base decisions on principles and are straightforward about their beliefs. Likewise, they don't mislead colleagues or the public by omitting pertinent details about the impact of a plan or their support for it. Those that do tank the community's faith in them as individuals and the board as a whole, said the Rev. Clifford Jones, a former member of the Auburn school board. "If they know you're not going to vacillate on your principles, they'll accept what you say," he said.

- **Keep children first in your thoughts.**

Often boards become so involved in hiring personnel, approving bus routes and cafeteria service, monitoring finances, handling community and staff complaints, and coping with personality conflicts that they forget the real reason they were elected or appointed: to serve schoolchildren. The basis of every board decision should be whether or not your position is in students' best interest.

Helpful Hints To Remember Continued:

- **Remember you have no authority individually.**

This can be difficult for board members and the community. Board members often promise to fire an incompetent teacher or vow that the board won't take an unpopular action. However, individually, you have no authority to make such promises into realities. Only when the board makes decisions as a body can actions be taken. Individually, you cannot act alone unless the board as a whole specifically delegates a task to you.

- **Stay out of personnel problems.**

Effective board members remember the superintendent and staff are responsible for resolving personnel issues. The board only should become involved when the superintendent recommends action. This is particularly important in cases that could lead to the dismissal of an employee. One Alabama board learned the hard way when a board member's public criticism of an employee and vows to see her dismissed torpedoed efforts by the superintendent to fire the woman. Because the board sits in a quasi-judicial capacity on dismissals, the member's comments were viewed by the board's own attorney as prejudicial, and the board was warned the board could lose if the woman challenged her dismissal in a lawsuit.

- **Quickly learn how to disagree agreeably.**

Effective board members share their ideas and opinions and listen to the opinions of others. Just because someone else's opinion is different than yours doesn't make it wrong.

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Choosing Good School Governance

By Linda J. Dawson and Randy Quinn

Does your board find itself so caught up with day-to-day issues that you can't see beyond the current crisis? That's precisely when you should stop the machinery and figure out just what keeps you from dealing with true board work and from providing effective leadership.

Here are a few questions for school boards to ponder -- and some possible solutions for you to consider.

Question 1: Why do boards do what they do?

Some school boards do things without considering why. We have observed boards spending time approving the payment of bills, mostly for goods or services that already have been purchased or delivered, and sometimes even after the bills themselves have been paid. Why?

We also have seen board meetings taken over by dominant outside groups and individuals to pursue their own agendas. They prevent the board from doing its work and add hours to the crowded personal schedules of individual members. Why?

We've observed board members showing up for meetings with no real understanding or knowledge of why certain items are on the agenda, or what the board is expected to do with them. Why?

And finally, we have seen board members trying valiantly to make sense of staff reports on topics that have little or no relevance to the board's main job: governing the district. Why?

Our answer: The board has not taken responsibility for its own agenda.

Boards have become accustomed to dealing with whatever their agendas ask them to consider, whether it makes sense to them or not. Typically, the responsibility for developing agendas falls on the superintendent's shoulders, along with some input from the board president. If this is your board's routine, you are not deciding what your job is and how you should do it; you are doing the job the superintendent has decided you should do.

We do not mean to criticize the superintendent, who probably is doing his or her best to design an agenda that reflects what the board wants. But the result of this method is that the board has deferred the determination and execution of its job to its chief employee, making itself captive to an administrative agenda.

Our solution: Create an annual calendar of board work. Outline in advance the issues you believe the board should spend meeting time on during the next 12 months. Expect the calendar to drive the development of monthly or semi-monthly agendas. You won't become entangled in the continuing challenge to put together monthly meeting agendas, if you have created an annual work plan.

Be diligent in deciding what other matters to place on the agenda as it is finalized. A well-defined purpose should exist for every item the board is being asked to consider. Board members should leave every meeting believing their time was well spent.

Another solution: Tie every item on the agenda to an existing governing policy. If there is no relevant policy, the issue may not be the responsibility of the board. If every item on the agenda is based on board governing policy, the conversation is framed up and placed in context for meaningful board-level discussion.

Question 2: Why do boards do what they do the way they do it?

All boards have their customs and habits, but some of them just don't make sense.

These customs include board presidents routinely recognizing each individual member for comments on every item on the agenda. If an agenda has 10 items for the board to discuss, and if every member of a seven-member board feels obliged to speak on each one of them for three minutes, the time

required would be 3.5 hours. Why?

Frequently, we see boards being held captive by one of their own members who has free rein to consume unlimited time by demanding extraordinary attention for their own personal gratification. Members are at the mercy of one who marches to a very different drummer. The majority go home angry and frustrated, while the dominant member goes home satisfied and sleeps very well. Why?

Our answer: Decide what you want your governing culture to be and institute the rules necessary to achieve it.

Nothing prevents boards from imposing whatever type of discipline they choose to help get their work done effectively and efficiently. Other public bodies do this, including Congress, provincial governments, state legislatures, and city and county governing bodies. Yet school boards, for whatever reason, sometimes allow themselves to be dominated by behaviors that other public bodies would never tolerate.

If a board permits these customs, practices, and unhelpful behaviors to sidetrack and prohibit it from getting meaningful work done, it has only itself to blame.

Our solution: Back away from your current concept of how your board operates and ask a few questions:

- If we were meeting here as the very first board ever seated to govern this district, how would we choose to organize ourselves to get our work done?
- How would we build an agenda for our meetings?
- What rules would we impose on ourselves?
- How would we self-discipline poor practices or behaviors?

Would your answers result in a board that looks the same as your board now looks?

Question 3: What is your job as a board and as a member?

Boards carefully define the superintendent's job when they negotiate a contract, and they expect the superintendent to communicate clear job expectations for every employee. But who decides what the board's job is? The superintendent?

We aren't necessarily talking here about the legal duties assigned to school boards by states. Rather, consider the real jobs school boards create for themselves that transcend their legal responsibilities.

During all of our combined 60 years of working with school boards, one constant has been our challenge to help boards define their jobs. Role definition generally has been a seat-of-the-pants decision, depending on the crisis of the moment.

Our answer: Boards must deliberately craft their own job description and performance expectations.

You and your colleagues must decide: What do you expect of your board and how will you do your job? What is the relationship and clear accountability you will establish with your superintendent?

As school boards recognize the wisdom of adopting more formal governance operating systems, they also adopt the understanding that their own job is not merely an extension of the superintendent's job. Their job is entirely different. The superintendent's job is to lead, manage, and execute, while the board's job is to lead, direct, and govern. They are fundamentally different, but complementary, roles.

Our solution: Sit down as a board, perhaps with professional coaching, and thoughtfully and clearly define your job.

Some job-related questions include:

- Is it the board's job to determine the vision and expected student outcomes for the district? Or does the board hire a superintendent to develop a vision?
- Should the board deliberate and approve the superintendent's "how to" strategies? Or should the board decide "what" the district is expected to achieve, and then hold the professionals accountable for making it happen?
- Who decides the non-negotiable standards for all district operations and determines successful performance?

Question 4: How do you evaluate your superintendent?

Many boards struggle with superintendent evaluation. Some years ago, we wrote an article on superintendent evaluation. It was based on our experiences with boards dealing with this issue.

We have worked with boards that rated their superintendents on superficial elements such as their choice of automobile or where they lived. Others dinged their superintendents for out-of-district professional travel. One superintendent, incredibly, was faulted for spending too much time dealing with underperforming students.

Our answer: Superintendents need to know and understand their boards' expectations. They are entitled to clear information on what they are accountable for before any evaluation is made. Otherwise, there are no standards against which the evaluation will be relevant.

Make the district's performance and the superintendent's performance the same. That's a different concept from the norm, we understand, but let's step back and think this one through.

We believe the superintendent is hired to do two things: to ensure that students learn to the standard the board defines; and to make sure that the district meets the board's standards of operation in all functional areas. If that is a comfortable concept, then two crucial steps must be taken to make it work:

1. The board must deliberately define its expected student achievement outcomes and agree on the metrics that are acceptable for monitoring reasonable performance progress; and
2. The board must define the standards for all operational areas of the district and agree on the monitoring measures and resulting data that prove whether the district is meeting those standards.

If these two steps are taken in advance -- with the participation and support of the superintendent -- both student performance and the district's operational performance are formatively monitored throughout the year.

At the end of the annual monitoring cycle, the superintendent is credited with the summative judgments of the board, based on agreed upon data points. In this way, the district's performance becomes the superintendent's performance, and the latter now becomes meaningful.

Make a choice

We believe that, if boards have the vision and the will, they can elevate their governance performance to levels they rarely even dream of. They merely need to exercise the choice that is theirs to govern better, more effectively, and more powerfully.

We consider the linkage between the boardroom and the classroom to be critical to the overall success of the districts for which boards are responsible.

All of us have seen the results of boards that are truly outstanding, that have led the charge for improvement, and that are setting the standard of governance excellence and district performance for others to follow.

We also have observed the consequences when boards have set a different kind of example. Those boards have allowed a lack of role clarity, focus, self-discipline, or preoccupation with management to break down morale, trust, and progress.

Both kinds of boards made conscious choices. In fact, not making a choice in itself is a choice.

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The [Iowa School Board Standards](#) are designed for use by local school boards as a common framework for excellence in school board governance. Based on best practice and research, the standards encourage boards to focus on student achievement as their primary responsibility. The framework includes six standards, along with competencies and key indicators that help clarify the work of high-performing school boards.

The Standards for Effective School Boards

In pursuit of world-class education that results in high achievement for all Iowa students, effective school boards:

1. VISIONARY TEAM: Operate as a visionary governance team in partnership with the superintendent.

- **Vision and Planning** – Develops a shared vision and plans for student achievement that reflects common values and core beliefs of the school community.
- **Operating Practices** – Uses productive practices for its own operations and development.
- **Decision-Making** – Ensures board decisions are based on data and deliberation.
- **Board/Superintendent Relations** – Cultivates a strong relationship and partnership with the superintendent, based on clear expectations and accountability.

2. STUDENT LEARNING: Provide effective leadership for quality instruction and high, equitable student learning.

- **Clear Expectations** – Sets and communicates high expectations for student learning with clear goals and a focus on strengthening instruction.

- **Conditions for Success** – Supports conditions for success through board actions and decisions.
- **Accountability** – Holds the system accountable to reach student learning goals.
- **Collective Commitment** – Builds the collective commitment of community and staff to achieve the student learning goals.
- **Team Learning** – Learns together as a whole team to inform decision-making around the student learning goals.

3. DISTRICT CULTURE: Foster a culture that enables excellence and innovation.

- **High Quality Staff** – Empowers the superintendent in hiring and developing the best employees available to meet the district’s goals.
- **Shared Leadership** – Supports structures that develop instructional leadership and collaboration.
- **Staff Learning** – Supports research-based staff professional development aligned with district goals.
- **Environment** – Fosters a safe and secure environment for all students, staff, and visitors.

4. POLICY & LEGAL: Lead through sound policy, ensuring transparent, ethical, legal operations.

- **Policy Leadership** – Develops sound, written policy to clarify the board's intent for district direction.
- **Legal** – Ensures that board and district actions are in compliance with state and federal laws, appropriately addressing legal issues when they arise.
- **Ethics** – Models ethical and legal behaviors which enable the board to stay focused on district goals.
- **Transparency** – Establishes policies and ensures processes that are open and accountable.

5. FISCAL RESPONSIBILITY: Sustain and enhance district resources through planning and fiduciary oversight.

- **Financial Health** – Monitors and evaluates the financial health of the district, ensuring accountability and transparency in board decision making.
- **Financial Forecasting** – Ensures strong financial planning for the district.
- **Budgeting** – Ensures the district budget aligns with district goals and multi-year plans.

Risk Oversight – Ensures sufficient risk management is in place to protect district resources.

Facilities –Ensures school facilities enhance and enrich student and staff learning.

6. ADVOCACY: Advocate for public education and the needs of Iowa students.

Championing Local Governance & Public Education – Clearly articulates and advocates for the value of public education and the important role of local school governance.

Legislative Advocacy – Develops and strengthens on-going relationships with policymakers around improving student achievement and the needs of public education.

Community Engagement – Fosters engagement and collaboration with all stakeholders to ensure high and equitable student learning.



0

How to Participate

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



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Slide Index

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2

Core Principles

Governance Not Management & Collective Authority Not Individual



3

Governance – Not Management

School Board

- It is not the Board's job to run the schools, but to see that they are run well!
- The Board sets the policies, vision and goals of the district, and helps fulfill them through oversight of the administration.

Superintendent

- Implements the visions and goals of the board.
- Manages operations of the district and its schools.
- Advises the board re legal obligations, practical considerations re policy, budget, etc.

4

Examples of Difference and Interplay Between the Two Dominions

(demonstrated in the rules of the NH Department of Education)

FISCAL

Ed. 303.01 Boards

(b) Adopt policies necessary and desirable to control and effectuate the purchase of equipment, supplies, or services and may delegate to the superintendent of schools the authority to make financial commitments in accordance with such policy;

&

(e) Prepare an annual budget in accordance with RSA 32 and comply with all federal and state laws and rules;

Ed. 302.02 Superintendents

(c) Be responsible for the selection and purchase of textbooks and all other supplemental materials in accordance with the policies of the school board and the state board ...

&

(d) Be responsible for developing and recommending to the school board or boards within the school administrative unit the annual budget ... in accordance with school board policy;

5

Examples of Difference and Interplay Between the Two Dominions
(demonstrated in the rules of the NH Department of Education)

EDUCATIONAL PROGRAMMING

Ed. 303.01 Boards

*(g) In consultation with the superintendent and in accordance with statutes and rules of the state board of education, **determine the educational goals of the district, ...** The school board shall require the implementation of educational programs designed to reflect the goals and objectives...*

Ed. 302.02 Superintendents

*(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;***

Examples of Difference and Interplay Between the Two Dominions
(demonstrated in the rules of the NH Department of Education)

PERSONNEL

Ed. 303.01 Boards

*(a) **Adopt policies** necessary and desirable to control and effectuate the recruitment, employment, evaluation and dismissal of teachers and other employees...*

Ed. 302.02 Superintendents

*(a) **Nominate** all certified staff and **appoint** other employees **in accordance with state law, the rules of the state board and school board policies;***
&
*(b) **Direct and supervise the work of all employees** of the district or districts within the SAU and shall have all powers necessary to make such direction effective..*

Compare language of duties of board under 303.01 relative to policy, and those of duties of superintendent under 302.02 (pages 4 and 11 of handout).

Examples of Difference and Interplay Between the Two Dominions

(demonstrated in the rules of the NH Department of Education)

PERSONNEL CONTINUED

Nominate Professional Staff, Appoint Other Staff

- Superintendent “nominates” and “renominates” professional staff while Board “elects” and “re-elects” (*RSA 189:39; RSA 189:14-a; Ed 302*)
- Applies to teachers, principals, librarians, and guidance counselors.
- Under this framework, the superintendent’s nomination is a requirement before the board can employ/elect.
- Superintendent also has authority to “appoint” other staff. Board policies may use processes similar to the nominate/elect process for professionals, but may also extend direct hiring authority to the superintendent.

Governance – Not Management

www.nhsba.org

Slide 8

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Examples of Difference and Interplay Between the Two Dominions

(demonstrated in the rules of the NH Department of Education)

PERSONNEL CONTINUED

Direct Staff

- Direct staff – Per DOE rule 302.02(b), duty and authority to direct staff is stated more broadly than most.
- Although supervision is direct, Board’s still retain policy making authority regarding employment, evaluation and dismissal. DOE rule 303.01(a)

Governance – Not Management

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Slide 9

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Collective Authority of a School Board

A school board acts only as a collective body, acting upon the will of a majority of its members

A board can delegate some of its authority to an individual member.

The only inherent authority an individual board member has is to deliberate and vote on matters at duly called meetings

Collective Authority Not Individual www.nhsba.org *Slide 10*

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Key Roles & Responsibilities of School Boards

Slide 11

11

RSA 189:1-a **Overriding Responsibility of School Boards**

“It shall be the duty of the school board to provide, at district expense, elementary and secondary education to all pupils who reside in the district...”

Key Roles & Responsibilities of School Boards www.nhsba.org *Slide 12*

12

Set & Establish Policy

Express the guidelines and philosophical statements which chart the district’s course of action.

Policies

Adopt policies to advise staff and the school community of legal requirements.

Boards

Policies

Create the framework within which the superintendent manages the district and the staff discharge their assigned duties.

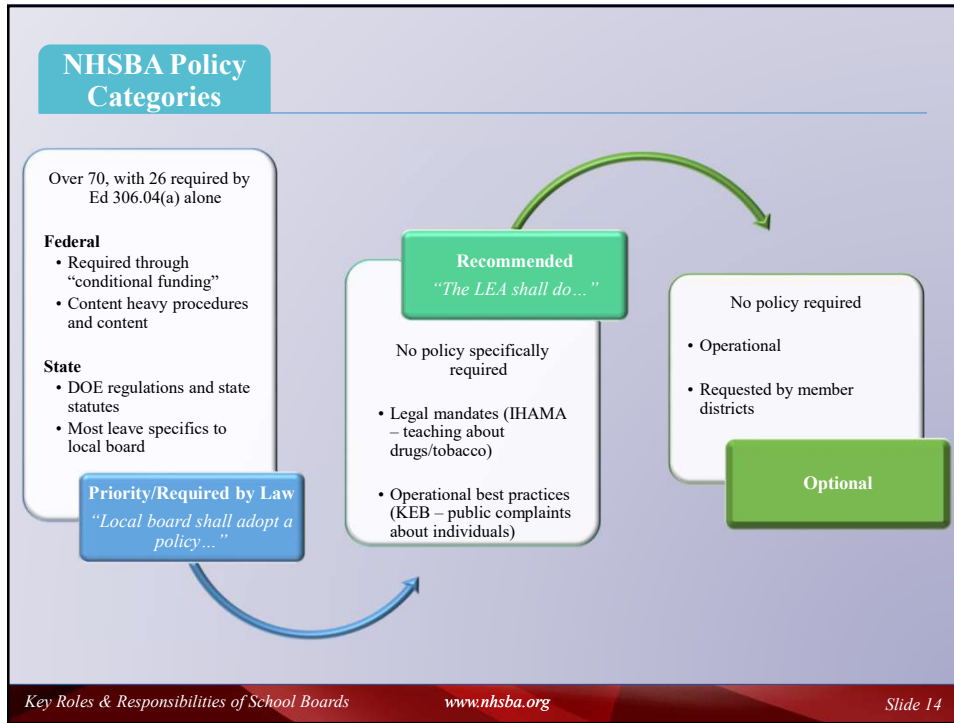
Policies

Many policies or policy subjects are specifically mandated by state or federal law or regulations.

Big “P” & Little “p”

Key Roles & Responsibilities of School Boards www.nhsba.org *Slide 13*

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RSA 32 & DOE Rule 303.01 (e) Set/Establish Budget & Provide Budget Oversight

Voters (legislative body) ultimately approve a budget, but NH laws and regulations require the school board to propose an operating budget.

The proposed budget and the ongoing oversight is the fiscal expression of board policy.

Even in districts with municipal/cooperative budget committees, the board must prepare a budget.

Once a budget is passed, the board provides oversight, and approvals for prioritization of spending through:

- manifest review;
- line item transfers;
- requests for reports and information

Pertinent Budgetary Definitions www.nhsba.org Slide 15

15

Hire & Evaluate the Superintendent

- Perhaps the most important aspect of “seeing that the district is run well”
- The superintendent is charged with the management and day-to-day operations of the school district.
- Under RSA 194-C, the school board (or SAU board in a multi-district SAU) is charged with hiring the superintendent. There is no prescribed process.
- The board’s oversight of a superintendent comes through constant communication, and annual evaluation.
- Under Ed 303.01(k), the school board is required to evaluate the superintendent annually. Again, there is no proscribed tool, and the process will differ greatly in multi-district SAUs.

Evaluation Cycle

Key Roles & Responsibilities of School Boards www.nhsba.org Slide 16

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Conduct Various Hearings

In most of its activities, the school board acts in a “legislative” capacity (*not the same as the Legislative Body which is the voters at annual meeting*).

Under various statutes, contracts and/or a board’s own policies, the board will at times act in a “quasi-judicial” capacity.

Students

- Expulsion/Long Term Suspension
- Manifest Hardship

Employees

- Dismissal
- Non-Renewal
- Labor Grievances


In these instances, board acts as judge and jury of the matter.

Key Roles & Responsibilities of School Boards www.nhsba.org Slide 17


17

Conduct Various Hearings


Due process requires fair and impartial judge and ability to hear/challenge evidence and testimony.




Members must be free from bias and prejudice.



These principles of due process underscore the need to remain separated from investigations and fact gathering relating to individual students and staff. (Policy KEB)



That separation does not require that board members be completely in the dark, but more information makes it harder to assure the case is decided upon the information at the hearing; and easier for attorneys to create expensive, and winnable appeals.



Key Roles & Responsibilities of School Boards
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Slide 18

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RSA 273-A

Collective Bargaining

The board as the district's governing body is the party and signatory for collective bargaining agreements.

The board designates a representative negotiating team, usually, but not always, consisting at least one board member.

Bargaining Teams

Negotiate Terms
*Subject to approval
by the whole board*

Support the
Tentative Agreement



Key Roles & Responsibilities of School Boards
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Slide 19

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Communication

Effective Communication Necessary for:

- Student Achievement
- Administrative Success
- District & Board Credibility
- Crisis Management

Various Legal Requirements Communications:

- Annual Report
- Various Policies, Parent or Pupil Rights
- Meeting Notices & Minutes Under the Right to Know Law

Important for Boards to Work with Administration to Develop Comprehensive Communication Plans that Address:

- School Groups (parents, students, etc.)
- General Public
- Who speaks on behalf of the District?
- Who speaks on behalf of the Board? – Majority Expression
- Who’s responsible for communication in a crisis?
- Resources
- Community Engagement – listening?

Key Roles & Responsibilities of School Boards
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Ed. 303.01(g) Strategic Planning

Imposes a duty upon boards to "develop long-range plans and identify measurable and attainable short-term objectives".

Strategic planning is vital to effective and efficient school board governance.


Such Plans Assist Boards With

```

    graph TD
      Personnel[Personnel] --- Instructional[Instructional]
      Instructional --- OtherResource[Other Resource Needs  
(e.g. capital, maintenance, etc.)]
      OtherResource --- Paths[Paths to Accomplish Board Priorities]
      Paths --- EfficientMeetings[Efficient Meetings]
      EfficientMeetings --- Personnel
  
```

Key Roles & Responsibilities of School Boards
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Additional Responsibilities of Superintendent

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Implement & Review Board Policies

- Implement and review school board policies - Ed. 302.02(r).
- Note the similarities, but different active verbs, between a school board's policy requirements (budget, staff, curriculum, etc.) and the superintendent's duties. *Compare pages 8 and 15 of handout.*
- There is a clear link between school board policies and the day-to-day obligations of the superintendent.
- The board and superintendent's functions relative to policy, like many other functions, are two part: the superintendent not only implements policy, but also advises the board relative to policy needs.

The Superintendent's Roles www.nhsba.org Slide 23

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Superintendent Services

- Under RSA 194-C, and Ed 302 and 303, school districts are required to employ a qualified person to provide “superintendent services”.
- The statutory duties include such operational items as:
 - Fiscal management - 194-C:4, II (a), Ed 302.02(d)&(e);
 - Staff - 194-C:4, II (b)&(c), Ed 302.02(a)&(b);
 - Curriculum & instruction – RSA194-C:4, II (c)-(f), Ed 302.02(f).
- Between RSA 194-C and applicable Department of Education rules, superintendents are assigned all aspects of management of a school district.

The Learning Curve for New School Board Members



Learning Curve & Practice Tips for New Board Members

- Recognize that only the board as a whole can make policies and decisions for the school district.
- Learn to acknowledge publicly that an individual member has no power or authority.
- Recognize the difference between setting policy (the board's job) and administering the schools (the superintendent's job).


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Learning Curve & Practice Tips for New Board Members

- Recognize that even the board is limited in how it interacts with employees other than the superintendent.
- Learn how to respond to the complaints and concerns of citizens, school administrators, and other staff.
- Be prepared to be caught off guard with questions from constituents or the press. Have “ready answers” to appropriate redirect.

See, e.g., policies BHC (Board-Employee Communications), KE (Public Complaints), and KEB (Public Complaints re School Personnel, Employees, Students or Administration)

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Contact Information

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Right to Know Law and Efficient Meetings

AGENDA/TOPICS

1. Overview of RSA 91-A, New Hampshire’s Right to Know Law
2. Meetings, Non-meetings, and Non-Public Sessions

MATERIALS

A. At Your Fingertips – Right to Know Law Overview.....	2
B. 91-A Excerpts for School Districts	4
C. Right to Know Law: Meeting and Communication Flow Chart.....	14
D. Non-Public Sessions Checklist	15



NEW HAMPSHIRE SCHOOL BOARDS ASSOCIATION

AT YOUR FINGERTIPS

New Hampshire's Right to Know Law – RSA 91-A

Summary only, refer to statute or contact NHSBA or district counsel for specifics

I. General Provisions (meetings and records):

- The purpose of the law “is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people,” (91-A:1) a right established under N.H. Const. pt.1 Art. 8.
- RSA 91-A describes the exclusive “reasonable restrictions” restrictions to public access to meetings and records.
- The provisions of the Right to Know Law apply equally to boards and their sub- or advisory committees.
- The meetings requirements apply to communications in whatever form: person-to-person, telephonic, digital, etc. Likewise, the records provisions pertain to information in any physical form – hard copy, digital, electronic, etc.
- Statute only distinguishes between meeting and emergency meetings. Absent an emergency (see discussions in sections IV and V), all meetings are subject to same requirements relative to notice, minutes, location, etc.

II. Meetings Open to the Public: RSA 91-A:2, I

- A "meeting" means the convening of a quorum of a board/board committee to discuss or act upon matters over which the board has supervision, control, or jurisdiction. A meeting does NOT include:
 - (1) Chance social encounters not intended for discussing or acting upon official matters (provided no decisions are made);
 - (2) Strategy or negotiations with respect to collective bargaining; or
 - (3) Consultation with legal counsel.
- Any person may record (video and/or audio) and publish any portion of a public meeting, without prior notice, subject only to limitations regarding meeting disturbances.

III. Minutes of Public Meetings: RSA 91-A:2, II

- Minutes shall be recorded and open to public inspection within 5 business days of the meeting (3 days for non-public).
- Minutes should include the names of board members, persons appearing before the board, a brief description of the subject matter discussed, all final decisions made, and the identities of persons who first or seconded any motion.
- The district's website must either include meeting minutes, or indicate when/where minutes may be inspected.

IV. Notice of Public Meetings – Regular, Special & Emergency: RSA 91-A:2, II

- Absent an emergency (see next bullet), notice of the time and place of each meeting shall be posted in 2 places (one of which may be district's website), or a local newspaper, at least 24 hours in advance (excluding Sundays and holidays).
- 24-hour notice may be waived only if the chair determines that “immediate un-delayed action is imperative (i.e., an “emergency”). In such instance, notice must be posted as soon as practicable with additional notice by other means that are available. *See section V for “emergency” for purposes of waiving physical location for meeting.*

V. Public Location & Quorum Required – Special Circumstance Remote Participation: RSA 91-A:2, III

- All public meetings require a physical location at which the public may attend and see/hear all parts of the meeting.
- A quorum of the public body must be in physical attendance at the meeting location absent a determination by chair that “immediate action is imperative and physical presence of quorum is not practicable” (i.e., an emergency).
- If a quorum is present, the board may allow additional members participate remotely if his/her/their physical attendance is not reasonably practicable. Such members will be deemed present for all purposes, including voting.
- In the instance of remote participation by any board member (1 or more), (a) all votes must be roll call; (b) public and members must be able to hear/see all parts of meeting; (c) members must disclose others present in remote location; and (d) minutes must include the nature of the emergency or the reason a member's attendance is not reasonably practicable.

VI. Non-Public Sessions: RSA 91-A:3, I and II

- Boards may only enter non-public session pursuant to majority vote, roll-call, upon motion first and seconded.
- The vote to enter non-public session shall state the statutory reference for entering non-public session.
- Non-public sessions may only include matters permitted under 91-A:3, II; Only the following matters may be discussed in non-public session (the statute includes others which do not pertain to schools):
 - (1) The dismissal, promotion, compensation, disciplining, or investigation of changes of a public employee;
 - (2) The hiring of any person as a public employee;

- (3) Matters that would adversely affect the reputation of any person, other than a member of the board;
- (4) Consideration of the acquisition, sale, or lease of real estate or personal property;
- (5) Consideration of pending claims or litigation against the school district;
- (6) Consideration of entering a tuition agreement to the extent necessary to maintain competitive position;
- (7) Consideration of legal advice (even when counsel is not present);
- (8) Consideration of matters relating to the preparation for any carrying out of emergency functions;
- (9) Consideration of whether to unseal minutes due to change in circumstances (vote must be in public).
- Discussions and decisions shall be confined to the matters set out in the motion to enter non-public session.

VII. Minutes of Non-Public Sessions: RSA 91-A:3, III

- Minutes and decisions made in non-public session must be available within 72 hours of the meeting, unless sealed.
- Boards may seal minutes of non-public session only if 2/3 majority roll call vote in public that divulgence would:
 - (1) Adversely affect the reputation of a person, other than a member of the board;
 - (2) Render a proposed action ineffective; or
 - (3) Relate to carrying out emergency functions.
- Sealed minutes re: sale/lease/purchase of property must be disclosed when transaction complete/suspended.
- District must keep a log of all sealed non-public minutes (see last sentence of 91-A:3, III for required information).

VIII. Minutes and Records Available for Public Inspection: RSA 91-A:4

- Every citizen has the right to inspect all public records, including the minutes of meetings, notes, materials, tapes or sources used for compiling minutes of public meetings.
- Citizens have the right to make memoranda, abstracts and photographic copies of the records or minutes.
- If records are not available for immediate release, the school district must:
 - (1) Make the records available within 5 business days;
 - (2) Deny the request in writing with the specific exemption authorizing the withholding and a brief explanation of how the exemption applies to the record withheld; or
 - (3) Provide a written acknowledgement of the request and a statement of the time necessary to determine whether the request shall be granted or denied.
- No fees are permitted for assembling, producing or allowing inspection. The district may, however, charge the “actual” cost of physical reproduction (e.g., per page copies, flash drive).

IX. Records Exempt from Public Disclosure: RSA 91-A:5 (other exemptions may be found in other laws)

- Personal school records of students (RSA 91-A:5, III)
- Records pertaining to internal personnel practices, or other records whose disclosure would constitute an invasion of privacy (RSA 91-A:5, IV) (balancing test required);
- Teacher certification records from the Department of Education (RSA 91-A:5, V);
- Records pertaining to the preparation for and carrying out of emergency functions (RSA 91-A:VI);
- Unique pupil identification information collected in accordance with applicable law (RSA 91-A:5, VII);
- Personal notes without official purpose, made before, during, or after public proceedings (RSA 91-A:5, VIII);
- Preliminary drafts, notes, etc. not in final form & not circulated or made available to a quorum (RSA 91-A:5, IX).

X. Remedies, Violations, Breaches of Confidentiality

- RSA 91-A:8, I. The district will be liable for attorney fees and costs incurred in a lawsuit if the court finds the lawsuit was necessary to make public documents available.
- RSA 91-A:8, I. The court may award fees personally against school officials if the board officer or district employee acted in bad faith in refusing to allow access to a public meeting or to provide a public record.
- RSA 91-A:8, II. The court may invalidate board action taken at a meeting held in violation of the Right to Know Law.
- RSA 42:1-a, II. A board member or district officer may be removed from office if he/she divulges information that:
 - (1) The school board voted to withhold from the public pursuant to RSA 91-A:3, III; or
 - (2) The board member knew/should have known information was exempt from disclosure, divulgence is an invasion of privacy, would adversely affect reputation of non-board member, OR render board action ineffective.



RSA 91-A – NH’s RIGHT TO KNOW LAW

Excerpts Pertinent to School Districts and SAUs

As of October 2021

[Parts not pertinent to School Districts or School Administrative Units Removed]

*New language from 2021 Legislative Session bold and italicized. **New language highlighted.***

91-A:1 Preamble. – Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people.

Source. 1967, 251:1. 1971, 327:1. 1977, 540:1, eff. Sept. 13, 1977.

91-A:1-a Definitions. – In this chapter:

- I. "Advisory committee" means any committee, council, commission, or other like body whose primary purpose is to consider an issue or issues designated by the appointing authority so as to provide such authority with advice or recommendations concerning the formulation of any public policy or legislation that may be promoted, modified, or opposed by such authority.
- II. "Governmental proceedings" means the transaction of any functions affecting any or all citizens of the state by a public body.
- III. "Governmental records" means any information created, accepted, or obtained by, or on behalf of, any public body, or a quorum or majority thereof, or any public agency in furtherance of its official function. Without limiting the foregoing, the term "governmental records" includes any written communication or other information, whether in paper, electronic, or other physical form, received by a quorum or majority of a public body in furtherance of its official function, whether at a meeting or outside a meeting of the body. The term "governmental records" shall also include the term "public records."
- IV. "Information" means knowledge, opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic, or other physical form.
- V. "Public agency" means any agency, authority, department, or office of the state or of any county, town, municipal corporation, school district, school administrative unit, chartered public school, or other political subdivision.
- VI. "Public body" means any of the following:
 - (a)
 - (d) Any legislative body, governing body, board, commission, committee, agency, or authority of any county, town, municipal corporation, school district, school administrative unit, chartered public school, or other political subdivision, or any committee, subcommittee, or subordinate body thereof, or advisory committee thereto.
 - (e) Any corporation that has as its sole member the state of New Hampshire, any county, town, municipal corporation, school district, school administrative unit, village district, or other

political subdivision, and that is determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code.

Source. 1977, 540:2. 1986, 83:2. 1989, 274:1. 1995, 260:4. 2001, 223:1. 2008, 278:3, eff. July 1, 2008 at 12:01 a.m.; 303:3, eff. July 1, 2008; 303:8, eff. Sept. 5, 2008 at 12:01 a.m.; 354:1, eff. Sept. 5, 2008.

91-A:2 Meetings Open to Public. –

- I. For the purpose of this chapter, a "meeting" means the convening of a quorum of the membership of a public body, as defined in RSA 91-A:1-a, VI, or the majority of the members of such public body if the rules of that body define "quorum" as more than a majority of its members, whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously, subject to the provisions set forth in RSA 91-A:2, III, for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power. A chance, social, or other encounter not convened for the purpose of discussing or acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters. "Meeting" shall also not include:
 - (a) Strategy or negotiations with respect to collective bargaining;
 - (b) Consultation with legal counsel;
 - (c) A caucus consisting of elected members of a public body of the same political party who were elected on a partisan basis at a state general election or elected on a partisan basis by a town or city which has adopted a partisan ballot system pursuant to RSA 669:12 or RSA 44:2; or
 - (d) Circulation of draft documents which, when finalized, are intended only to formalize decisions previously made in a meeting; provided, that nothing in this subparagraph shall be construed to alter or affect the application of any other section of RSA 91-A to such documents or related communications.

- II. Subject to the provisions of RSA 91-A:3, all meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to the public. Except for town meetings, school district meetings, and elections, no vote while in open session may be taken by secret ballot. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras, and videotape equipment, at such meetings. Minutes of all such meetings, including nonpublic sessions, shall include the names of members, persons appearing before the public bodies, and a brief description of the subject matter discussed and final decisions. The names of the member who made or seconded each motion shall be recorded in the minutes. Subject to the provisions of RSA 91-A:3, minutes shall be promptly recorded and open to public inspection not more than 5 business days after the meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any public body, or any subordinate body thereof, without exception. Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places one of which may be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. An emergency shall mean a situation where immediate undelayed action is deemed to be imperative by the chairman or presiding officer of the public body, who shall post a notice of the time and place of such meeting as soon as practicable, and shall employ whatever further means are reasonably available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting. When a meeting of a legislative committee

is held, publication made pursuant to the rules of the house of representatives or the senate, whichever rules are appropriate, shall be sufficient notice. If the charter of any city or town or guidelines or rules of order of any public body require a broader public access to official meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter. For the purposes of this paragraph, a business day means the hours of 8 a.m. to 5 p.m. on Monday through Friday, excluding national and state holidays.

- II-a. If a member of the public body believes that any discussion in a meeting of the body, including in a nonpublic session, violates this chapter, the member may object to the discussion. If the public body continues the discussion despite the objection, the objecting member may request that his or her objection be recorded in the minutes and may then continue to participate in the discussion without being subject to the penalties of RSA 91-A:8, IV or V. Upon such a request, the public body shall record the member's objection in its minutes of the meeting. If the objection is to a discussion in nonpublic session, the objection shall also be recorded in the public minutes, but the notation in the public minutes shall include only the member's name, a statement that he or she objected to the discussion in nonpublic session, and a reference to the provision of RSA 91-A:3, II, that was the basis for the discussion.
- II-b. (a) If a public body maintains an Internet website or contracts with a third party to maintain an Internet website on its behalf, it shall either post its approved minutes in a consistent and reasonably accessible location on the website or post and maintain a notice on the website stating where the minutes may be reviewed and copies requested.
- (b) If a public body chooses to post meeting notices on the body's Internet website, it shall do so in a consistent and reasonably accessible location on the website. If it does not post notices on the website, it shall post and maintain a notice on the website stating where meeting notices are posted.
- III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.
 - (a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.
 - (b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an "emergency" means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.
 - (c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is

participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

- (d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.
- (e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

Source. 1967, 251:1. 1969, 482:1. 1971, 327:2. 1975, 383:1. 1977, 540:3. 1983, 279:1. 1986, 83:3. 1991, 217:2. 2003, 287:7. 2007, 59:2. 2008, 278:2, eff. July 1, 2008 at 12:01 a.m.; 303:4, eff. July 1, 2008. 2016, 29:1, eff. Jan. 1, 2017. 2017, 165:1, eff. Jan. 1, 2018; 234:1, eff. Jan. 1, 2018. 2018, 244:1, eff. Jan. 1, 2019.

91-A:2-a Communications Outside Meetings. –

- I. Unless exempted from the definition of "meeting" under RSA 91-A:2, I, public bodies shall deliberate on matters over which they have supervision, control, jurisdiction, or advisory power only in meetings held pursuant to and in compliance with the provisions of RSA 91-A:2, II or III.
- II. Communications outside a meeting, including, but not limited to, sequential communications among members of a public body, shall not be used to circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

Source. 2008, 303:4, eff. July 1, 2008.

91-A:3 Nonpublic Sessions. –

- I.
 - (a) Public bodies shall not meet in nonpublic session, except for one of the purposes set out in paragraph II. No session at which evidence, information, or testimony in any form is received shall be closed to the public, except as provided in paragraph II. No public body may enter nonpublic session, except pursuant to a motion properly made and seconded.
 - (b) Any motion to enter nonpublic session shall state on its face the specific exemption under paragraph II which is relied upon as foundation for the nonpublic session. The vote on any such motion shall be by roll call, and shall require the affirmative vote of the majority of members present.
 - (c) All discussions held and decisions made during nonpublic session shall be confined to the matters set out in the motion.
- II. Only the following matters shall be considered or acted upon in nonpublic session:
 - (a) The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted.

- (b) The hiring of any person as a public employee.
- (c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.
- (d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.
- (e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed by or against the public body or any subdivision thereof, or by or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph.
- (f) Consideration of applications by the adult parole board under RSA 651-A.
- (g) Consideration of security-related issues bearing on the immediate safety of security personnel or inmates at the county or state correctional facilities by county correctional superintendents or the commissioner of the department of corrections, or their designees.
- (h) Consideration of applications by the business finance authority under RSA 162-A:7-10 and 162-A:13, where consideration of an application in public session would cause harm to the applicant or would inhibit full discussion of the application.
- (i) Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.
- (j) Consideration of confidential, commercial, or financial information that is exempt from public disclosure under RSA 91-A:5, IV in an adjudicative proceeding pursuant to RSA 541 or RSA 541-A.
- (k) Consideration by a school board of entering into a student or pupil tuition contract authorized by RSA 194 or RSA 195-A, which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general public or the school district that is considering a contract, including any meeting between the school boards, or committees thereof, involved in the negotiations. A contract negotiated by a school board shall be made public prior to its consideration for approval by a school district, together with minutes of all meetings held in nonpublic session, any proposals or records related to the contract, and any proposal or records involving a school district that did not become a party to the contract, shall be made public. Approval of a contract by a school district shall occur only at a meeting open to the public at which, or after which, the public has had an opportunity to participate.
- (l) Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.

(m) Consideration of whether to disclose minutes of a nonpublic session due to a change in circumstances under paragraph III. However, any vote on whether to disclose minutes shall take place in public session.

III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes of such sessions shall record all actions in such a manner that the vote of each member is ascertained and recorded. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply. **For all meetings held in nonpublic session, where the minutes or decisions were determined to not be subject to full public disclosure, a list of such minutes or decisions shall be kept and this list shall be made available as soon as practicable for public disclosure. This list shall identify the public body and include the date and time of the meeting in nonpublic session, the specific exemption under paragraph II on its face which is relied upon as foundation for the nonpublic session, the date of the decision to withhold the minutes or decisions from public disclosure, and the date of any subsequent decision, if any, to make the minutes or decisions available for public disclosure. Minutes related to a discussion held in nonpublic session under subparagraph II(d) shall be made available to the public as soon as practicable after the transaction has closed or the public body has decided not to proceed with the transaction.**

Source. 1967, 251:1. 1969, 482:2. 1971, 327:3. 1977, 540:4. 1983, 184:1. 1986, 83:4. 1991, 217:3. 1992, 34:1, 2. 1993, 46:1; 335:16. 2002, 222:2, 3. 2004, 42:1. 2008, 303:4. 2010, 206:1, eff. June 22, 2010. 2015, 19:1; 49:1; 105:1, eff. Jan. 1, 2016; 270:2, eff. Sept. 1, 2015. 2016, 30:1, eff. Jan. 1, 2017; 280:1, eff. June 21, 2016. 2021, 163:1. 2021, 172:1.

91-A:4 Minutes and Records Available for Public Inspection. –

- I. Every citizen during the regular or business hours of all public bodies or agencies, and on the regular business premises of such public bodies or agencies, has the right to inspect all governmental records in the possession, custody, or control of such public bodies or agencies, including minutes of meetings of the public bodies, and to copy and make memoranda or abstracts of the records or minutes so inspected, except as otherwise prohibited by statute or RSA 91-A:5. In this section, "to copy" means the reproduction of original records by whatever method, including but not limited to photography, photostatic copy, printing, or electronic or tape recording.
 - I-a. Records of any payment made to an employee of any public body or agency listed in RSA 91-A:1-a, VI(a)-(d), or to the employee's agent or designee, upon the resignation, discharge, or retirement of the employee, paid in addition to regular salary and accrued vacation, sick, or other leave, shall immediately be made available without alteration for public inspection. All records of payments shall be available for public inspection notwithstanding that the matter may have been considered or acted upon in nonpublic session pursuant to RSA 91-A:3.
- II. After the completion of a meeting of a public body, every citizen, during the regular or business hours of such public body, and on the regular business premises of such public body, has the right to

inspect all notes, materials, tapes, or other sources used for compiling the minutes of such meetings, and to make memoranda or abstracts or to copy such notes, materials, tapes, or sources inspected, except as otherwise prohibited by statute or RSA 91-A:5.

- III. Each public body or agency shall keep and maintain all governmental records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the governmental records pertaining to such public body or agency shall be kept in an office of the political subdivision in which such public body or agency is located or, in the case of a state agency, in an office designated by the secretary of state.
- III-a. Governmental records created or maintained in electronic form shall be kept and maintained for the same retention or archival periods as their paper counterparts. Governmental records in electronic form kept and maintained beyond the applicable retention or archival period shall remain accessible and available in accordance with RSA 91-A:4, III. Methods that may be used to keep and maintain governmental records in electronic form may include, but are not limited to, copying to microfilm or paper or to durable electronic media using standard or common file formats.
- III-b. A governmental record in electronic form shall no longer be subject to disclosure pursuant to this section after it has been initially and legally deleted. For purposes of this paragraph, a record in electronic form shall be considered to have been deleted only if it is no longer readily accessible to the public body or agency itself. The mere transfer of an electronic record to a readily accessible "deleted items" folder or similar location on a computer shall not constitute deletion of the record.
- IV.
 - (a) Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are immediately available for such release.
 - (b) If a public body or agency is unable to make a governmental record available for immediate inspection and copying the public body or agency shall, within 5 business days of a request:
 - (1) Make such record available;
 - (2) Deny the request; or
 - (3) Provide a written statement of the time reasonably necessary to determine whether the request shall be granted or denied and the reason for the delay.
 - (c) A public body or agency denying, in whole or part, inspection or copying of any record shall provide a written statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.
 - (d) If a computer, photocopying machine, or other device maintained for use by a public body or agency is used by the public body or agency to copy the governmental record requested, the person requesting the copy may be charged the actual cost of providing the copy, which cost may be collected by the public body or agency. No cost or fee shall be charged for the inspection or delivery, without copying, of governmental records, whether in paper, electronic, or other form. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of governmental records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.
- V. In the same manner as set forth in RSA 91-A:4, IV, any public body or agency which maintains governmental records in electronic format may, in lieu of providing original records, copy

governmental records requested to electronic media using standard or common file formats in a manner that does not reveal information which is confidential under this chapter or any other law. If copying to electronic media is not reasonably practicable, or if the person or entity requesting access requests a different method, the public body or agency may provide a printout of governmental records requested, or may use any other means reasonably calculated to comply with the request in light of the purpose of this chapter as expressed in RSA 91-A:1. Access to work papers, personnel data, and other confidential information under RSA 91-A:5, IV shall not be provided.

- VI. Every agreement to settle a lawsuit against a governmental unit, threatened lawsuit, or other claim, entered into by any political subdivision or its insurer, shall be kept on file at the municipal clerk's office and made available for public inspection for a period of no less than 10 years from the date of settlement.
- VII. Nothing in this chapter shall be construed to require a public body or agency to compile, cross-reference, or assemble information into a form in which it is not already kept or reported by that body or agency.

Source. 1967, 251:1. 1983, 279:2. 1986, 83:5. 1997, 90:2. 2001, 223:2. 2004, 246:2. 2008, 303:4. 2009, 299:1, eff. Sept. 29, 2009. 2016, 283:1, eff. June 21, 2016. 2019, 163:2.

91-A:5 Exemptions. – The following governmental records are exempted from the provisions of this chapter:

- I. Records of grand and petit juries.
 - I-a. The master jury list as defined in RSA 500-A:1, IV.
- II. Records of parole and pardon boards.
- III. Personal school records of pupils.
- IV. Records pertaining to internal personnel practices; confidential, commercial, or financial information; test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations; and personnel, medical, welfare, library user, videotape sale or rental, and other files whose disclosure would constitute invasion of privacy. Without otherwise compromising the confidentiality of the files, nothing in this paragraph shall prohibit a public body or agency from releasing information relative to health or safety from investigative files on a limited basis to persons whose health or safety may be affected.
- V. Teacher certification records in the department of education, provided that the department shall make available teacher certification status information.
- VI. Records pertaining to matters relating to the preparation for and the carrying out of all emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.
- VII. Unique pupil identification information collected in accordance with RSA 193-E:5.
- VIII. Any notes or other materials made for personal use that do not have an official purpose, including but not limited to, notes and materials made prior to, during, or after a governmental proceeding.

- IX. Preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to a quorum or a majority of the members of a public body.
- X. Video and audio recordings made by a law enforcement officer using a body-worn camera pursuant to RSA 105-D except where such recordings depict any of the following:
 - (a) Any restraint or use of force by a law enforcement officer; provided, however, that this exemption shall not include those portions of recordings which constitute an invasion of privacy of any person or which are otherwise exempt from disclosure.
 - (b) The discharge of a firearm, provided that this exemption shall not include those portions of recordings which constitute an invasion of privacy of any person or which are otherwise exempt from disclosure.
 - (c) An encounter that results in an arrest for a felony-level offense, provided, however, that this exemption shall not apply to recordings or portions thereof that constitute an invasion of privacy or which are otherwise exempt from disclosure.
- XI. Records pertaining to information technology systems, including cyber security plans, vulnerability testing and assessments materials, detailed network diagrams, or other materials, the release of which would make public security details that would aid an attempted security breach or circumvention of law as to the items assessed.

XII. Records protected under the attorney-client privilege or the attorney work product doctrine.

Source. 1967, 251:1. 1986, 83:6. 1989, 184:2. 1990, 134:1. 1993, 79:1. 2002, 222:4. 2004, 147:5; 246:3, 4. 2008, 303:4, eff. July 1, 2008. 2013, 261:9, eff. July 1, 2013. 2016, 322:3, eff. Jan. 1, 2017. 2019, 54:1. 2021, 163:2.

91-A:5-a Limited Purpose Release. – Records from non-public sessions under RSA 91-A:3, II(i) or that are exempt under RSA 91-A:5, VI may be released to local or state safety officials. Records released under this section shall be marked "limited purpose release" and shall not be redisclosed by the recipient.

Source. 2002, 222:5, eff. Jan. 1, 2003.

91-A:6 Employment Security. –

91-A:7 Violation. – Any person aggrieved by a violation of this chapter may petition the superior court for injunctive relief. In order to satisfy the purposes of this chapter, the courts shall give proceedings under this chapter high priority on the court calendar. Such a petitioner may appear with or without counsel. The petition shall be deemed sufficient if it states facts constituting a violation of this chapter, and may be filed by the petitioner or his or her counsel with the clerk of court or any justice thereof. Thereupon the clerk of court or any justice shall order service by copy of the petition on the person or persons charged. When any justice shall find that time probably is of the essence, he or she may order notice by any reasonable means, and he or she shall have authority to issue an order ex parte when he or she shall reasonably deem such an order necessary to insure compliance with the provisions of this chapter.

Source. 1967, 251:1. 1977, 540:5. 2008, 303:5, eff. July 1, 2008.

91-A:8 Remedies. –

- I. If any public body or public agency or officer, employee, or other official thereof, violates any provisions of this chapter, such public body or public agency shall be liable for reasonable attorney's fees and costs incurred in a lawsuit under this chapter, provided that the court finds that such lawsuit was necessary in order to enforce compliance with the provisions of this chapter or to address a purposeful violation of this chapter. Fees shall not be awarded unless the court finds that the public body, public agency, or person knew or should have known that the conduct engaged in was in violation of this chapter or if the parties, by agreement, provide that no such fees shall be paid.
- II. The court may award attorney's fees to a public body or public agency or employee or member thereof, for having to defend against a lawsuit under the provisions of this chapter, when the court finds that the lawsuit is in bad faith, frivolous, unjust, vexatious, wanton, or oppressive.
- III. The court may invalidate an action of a public body or public agency taken at a meeting held in violation of the provisions of this chapter, if the circumstances justify such invalidation.
- IV. If the court finds that an officer, employee, or other official of a public body or public agency has violated any provision of this chapter in bad faith, the court shall impose against such person a civil penalty of not less than \$250 and not more than \$2,000. Upon such finding, such person or persons may also be required to reimburse the public body or public agency for any attorney's fees or costs it paid pursuant to paragraph I. If the person is an officer, employee, or official of the state or of an agency or body of the state, the penalty shall be deposited in the general fund. If the person is an officer, employee, or official of a political subdivision of the state or of an agency or body of a political subdivision of the state, the penalty shall be payable to the political subdivision.
- V. The court may also enjoin future violations of this chapter, and may require any officer, employee, or other official of a public body or public agency found to have violated the provisions of this chapter to undergo appropriate remedial training, at such person or person's expense.

Source. 1973, 113:1. 1977, 540:6. 1986, 83:7. 2001, 289:3. 2008, 303:6. 2012, 206:1, eff. Jan. 1, 2013.

91-A:9 Destruction of Certain Information Prohibited. – A person is guilty of a misdemeanor who knowingly destroys any information with the purpose to prevent such information from being inspected or disclosed in response to a request under this chapter. If a request for inspection is denied on the grounds that the information is exempt under this chapter, the requested material shall be preserved for 90 days or while any lawsuit pursuant to RSA 91-A:7-8 is pending.

Source. 2002, 175:1, eff. Jan. 1, 2003.

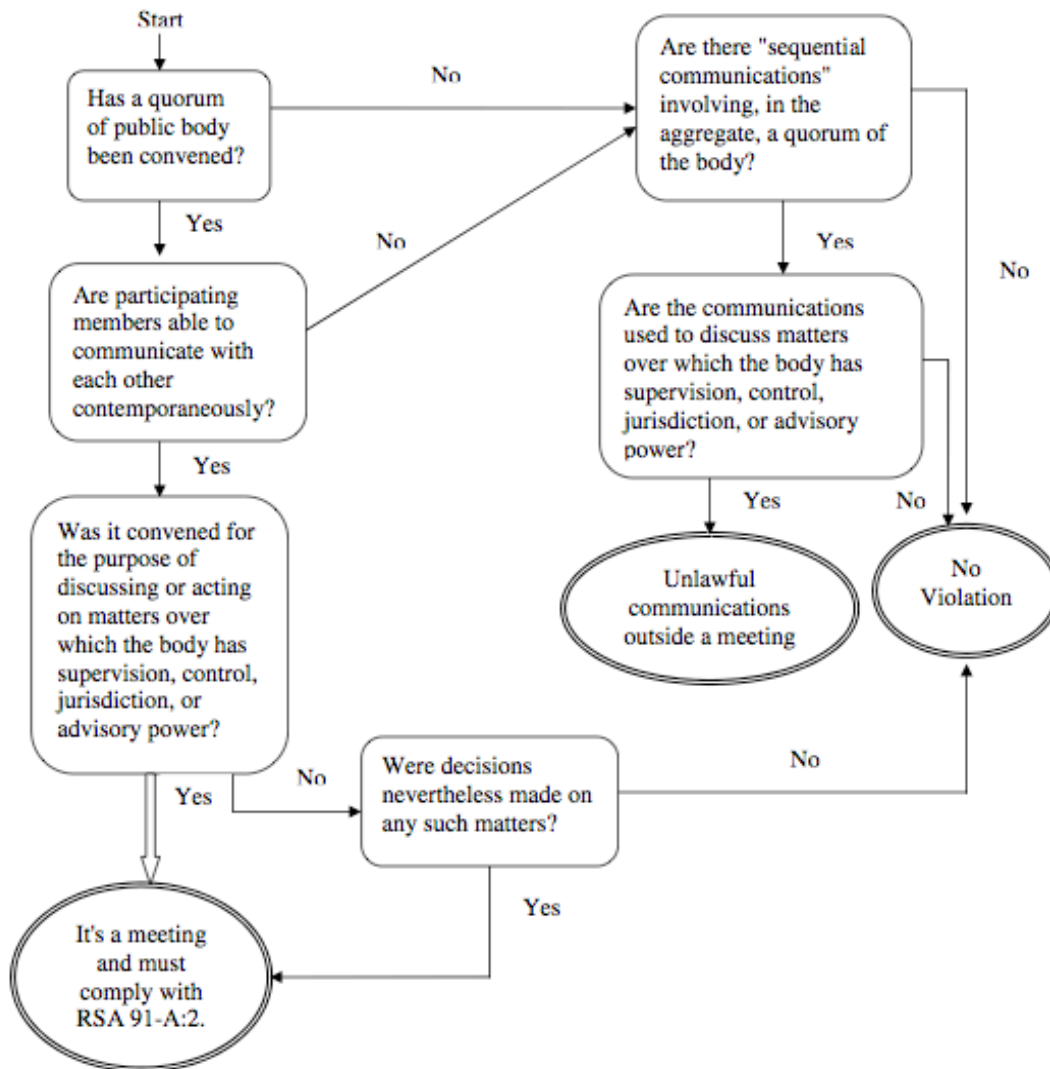
91-A:10 Release of Statistical Tables and Limited Data Sets for Research. –

wjp/quick/RSA 91-A as of 2021-10- Excerpts for School Districts

MEETING AND COMMUNICATION FLOWCHART

Is It a Meeting?

Use this flow chart to determine whether communications among members of a public body constitute a meeting subject to the Right to Know Law, or, if they do not constitute a meeting, whether they are unlawful communications outside a meeting.



THE _____ SCHOOL BOARD
[And if applicable] _____ COMMITTEE

MINUTES OF NON-PUBLIC SESSION

DATE: _____

Issue # _____ (If more than one issue to be discussed in same non-public)

Members Present: (Name each) _____

Motion to enter Nonpublic Session made by _____ seconded by _____

Specific Statutory Reason cited as foundation for the nonpublic session:

___ 91-A:3, II (a): *The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, **unless** the employee affected (1) has a right to a public meeting, and (2) requests that the meeting be open, in which case the request shall be granted.*

___ 91-A:3, II(b): *The hiring of any person as a public employee.*

___ 91-A:3, II(c): *Matters which, if discussed in public, would likely affect adversely the reputation of any person, **other than a member of this board**, unless such person requests an open meeting. This exemption shall extend to include any application for assistance or tax abatement or waiver of a fee, fine or other levy, if based on inability to pay or poverty of the applicant.*

___ 91-A:3, II(d): *Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.*

___ 91-A:3, II(e): *Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed by or against this board or any subdivision thereof, or by or against any member thereof because of his or her membership therein, until the claim or litigation has been fully adjudicated or otherwise settled.*

___ 91-A:3, II(i): *Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.*

___ 91-A:3,II (k): *Consideration by school board of entering into a student or pupil tuition contract authorized by RSA 194 or RSA 195-A, **which, if discussed in public, would likely benefit** a party or parties whose interests are adverse to those of the general public or of district that is considering a contract, including any meeting between the school boards, or committees thereof, involved in the negotiations. (Additional language in statute for final votes.)*

___ 91-A:3,II (l): *Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.*

___ 91-A:3,II (m): *Consideration of whether to disclose minutes of a nonpublic session due to a change in circumstances under paragraph III. However, any vote on whether to disclose minutes shall take place in public session.*

Roll Call vote to enter nonpublic session: _____ Y N
_____ Y N
_____ Y N
_____ Y N

Pause public meeting recording (if applicable).

Entered nonpublic session @ _____ am/pm Discussion regarding Issue # began @ _____ am/pm.

