

**Merrimack School District/SAU 26  
School Board Meeting  
Preliminary Agenda  
August 23, 2021  
Merrimack Town Hall – Matthew Thornton Room**

**PUBLIC MEETING**

7:00 p.m. **1. CALL TO ORDER and PLEDGE OF ALLEGIANCE**

**2. PUBLIC PARTICIPATION**

**3. RECOGNITIONS**

**4. INFORMATIONAL UPDATES**

1. Superintendent Update
2. Assistant Superintendent for Curriculum Update
3. Assistant Superintendent for Business Update
4. School Board Update
5. Student Representative Update

7:30 p.m. **5. OLD BUSINESS**

1. Health and Safety Task Force Update
2. Second Review of Title IX Sexual Harassment Policy and Grievance Process

Everett Olsen  
Everett Olsen

9:00 p.m. **6. NEW BUSINESS**

1. Reopening of School Frequently Asked Questions (FAQ)
2. September Meeting Date
3. Request for One Additional Sixth Grade Teaching Position

Everett Olsen  
Laurie Rothhaus  
Everett Olsen

9:20 p.m. **7. APPROVAL REQUESTS**

1. August 9, 2021 Public and Non-Public Minutes
2. June 29, 2021 Non-Public Minutes
3. Educator/Administrator Nominations

Laurie Rothhaus  
Laurie Rothhaus  
Kimberly Yarlott

9:30 p.m. **8. OTHER**

1. Committee Reports
2. Correspondence
3. Comments

9:40 p.m. **9. PUBLIC COMMENTS ON AGENDA ITEMS**

10:00 p.m. **10. ADJOURN**

Laurie Rothhaus

\* These times are estimates and may vary depending on discussion.

**MERRIMACK SCHOOL DISTRICT**  
School Administrative Unit #26  
36 McElwain Street  
Merrimack, New Hampshire 03054  
Tel. (603) 424-6200 Fax (603) 424-6229

**KIMBERLY YARLOTT**  
*Assistant Superintendent for Curriculum*

**EVERETT V. OLSEN, Jr.**  
Interim Chief Educational Officer

**MATTHEW D. SHEVENELL**  
*Assistant Superintendent for Business*

**To:** Cinda Guagliumi  
Laurie Rothhaus  
Shannon Barnes

Jenna Hardy  
Lori Peters  
Kaitlyn Vadney

**From:** Everett V. Olsen Jr.

**Date:** August 18, 2021

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**Subject: COVID Mitigation Recommendation**

I am forwarding a slide presentation that addresses the major mitigation issue associated with the COVID-19 pandemic – masking. This issue has become the most contentious of all mitigation strategies and I expect it to be on Monday night.

This report has been developed via collaboration with the Health and Safety Task Force, Leadership Team, Merrimack Public Safety and Health Officer, and pediatricians along with recommendations from the New Hampshire Division of Public Health Service.

It is my recommendation to you that we begin this school year with everyone masked and revisit this on a monthly basis. The decision on masking should be made on an assessment of the health risk under current conditions and how Merrimack's COVID data align with the New Hampshire Division of Public Health Service's indoor face mask decision matrix. I believe it is most important to begin the year cautiously to maximize the safety of our students and staff.

A number of school systems across the country that have opened with either no masking required or optional masking have now had to quickly reverse their decision and require full masking due to rapid transmission of the virus within their respective school system.

This will not be an easy discussion or decision and I will make every effort to answer as many questions as possible.



# Health and Safety School Board Presentation

...

Monday August 23, 2021





# Good News!

...

Students and Staff will be returning  
to in-person learning!  
Re-establishing connections with  
each other



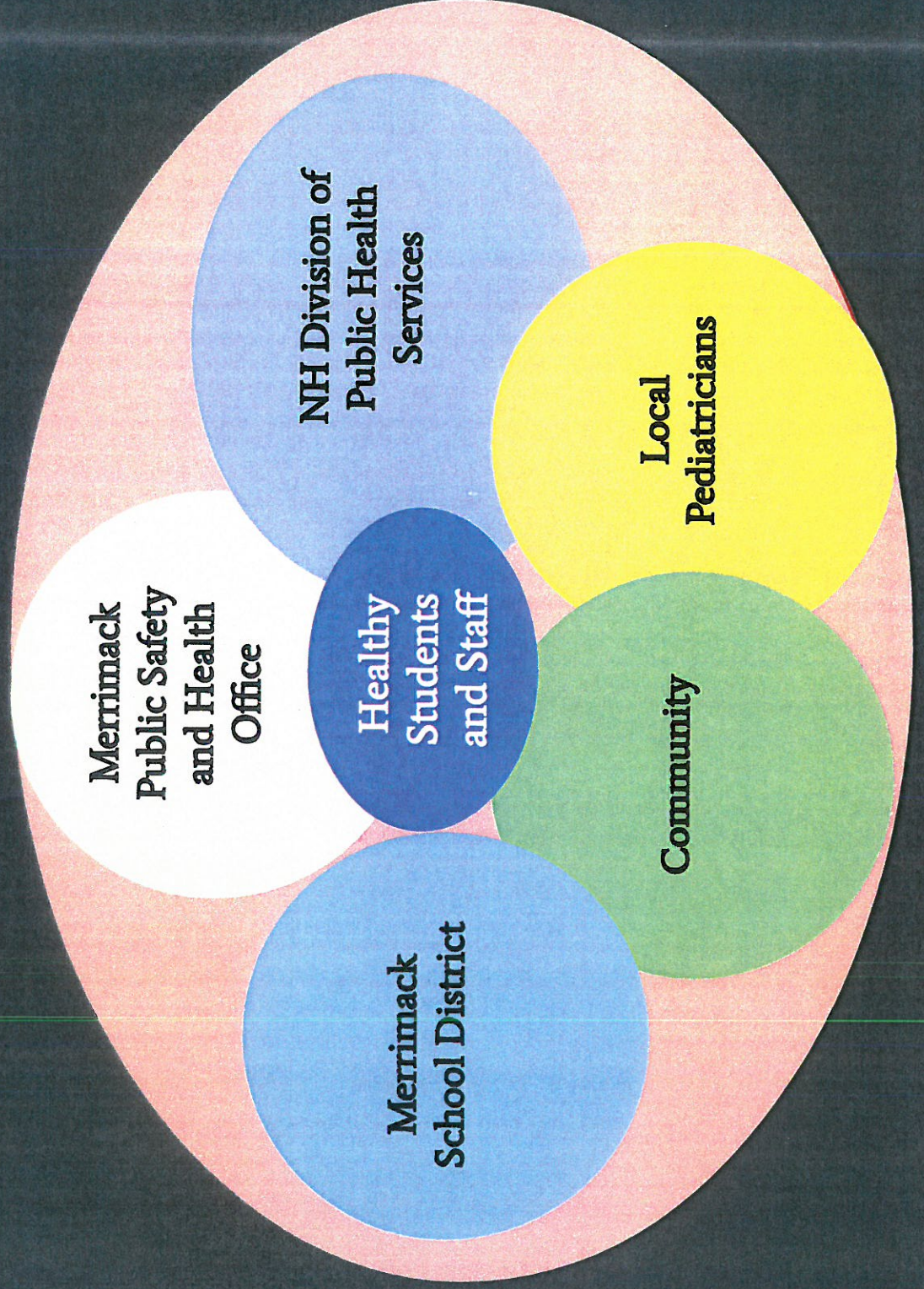
CDC: Students benefit from in-person learning, and safely returning to in-person instruction in the fall 2021 is a priority

**Goal: Have all students physically in school**

American Pediatrics:  
Strongly advocates that all policy considerations for school COVID-19 plans should start with a goal of keeping students safe and physically present in school.



# Community Partnership







# Important Considerations from NH DPHS



Follow NH DPHS guidance and Merrimack data

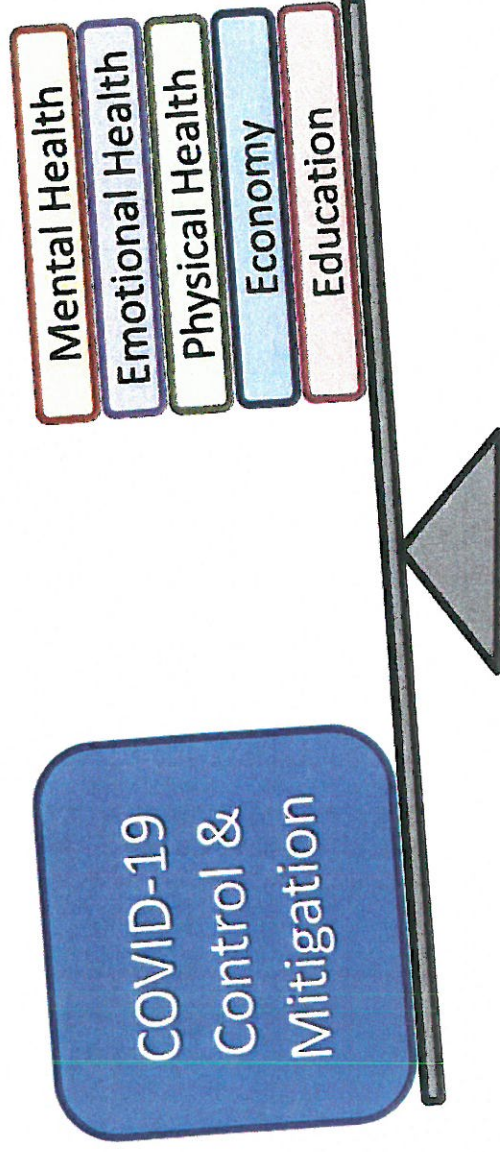
School plans should start with the goal of keeping students safe and physically present in school.

COVID-19 policies are intended to mitigate and not eliminate risks



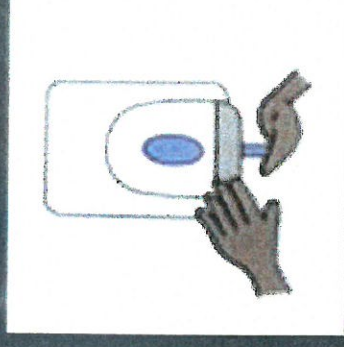
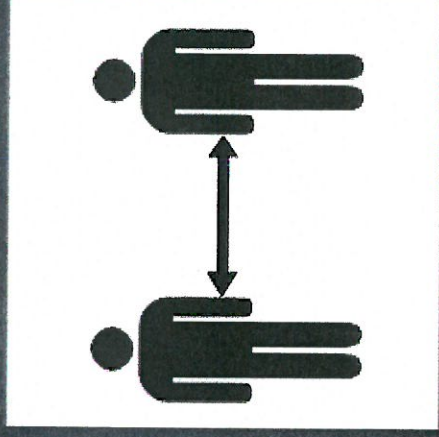
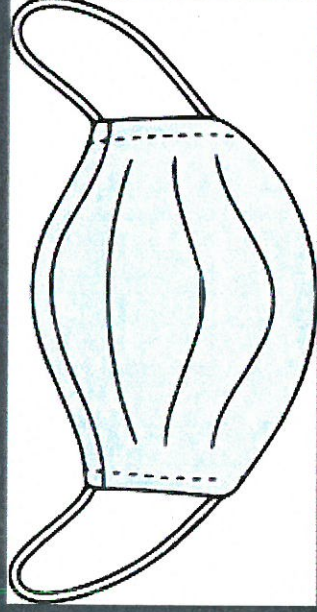
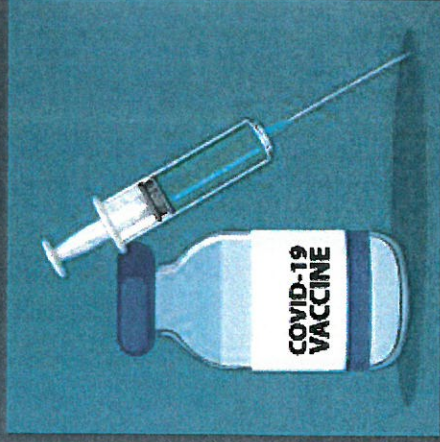
# Balancing Competing Priorities

- Minimize risks of COVID-19 to children, students and staff
- Maximize the in-person educational experience
- Continue to provide important community social support services while addressing educational, financial and overall health needs





# Major Mitigation Strategies



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Vaccinations (Community Partnership)

Masking

Distancing

Handwashing



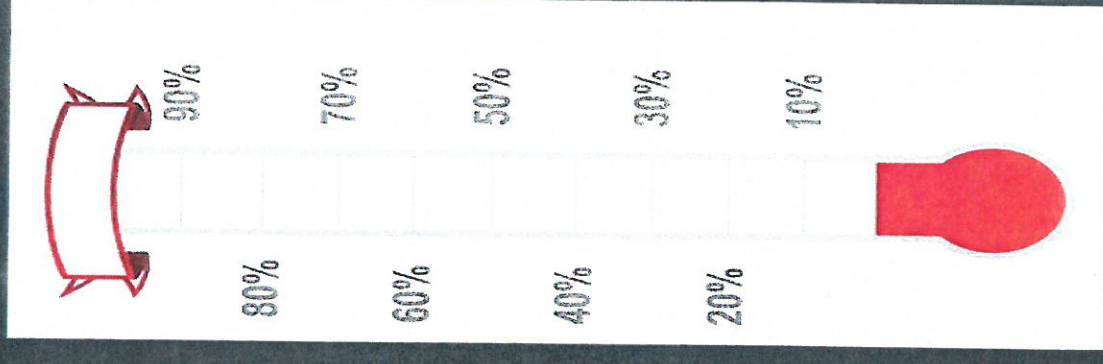
# Vaccination Data in Merrimack

From DPHS: Achieving a high level of COVID-19 vaccination among eligible children, students, staff, and families (and communities) is the most important action that people can take to protect their own health and end this pandemic (and end the need for mitigation measures)

DPHS Vaccination Goal 80%

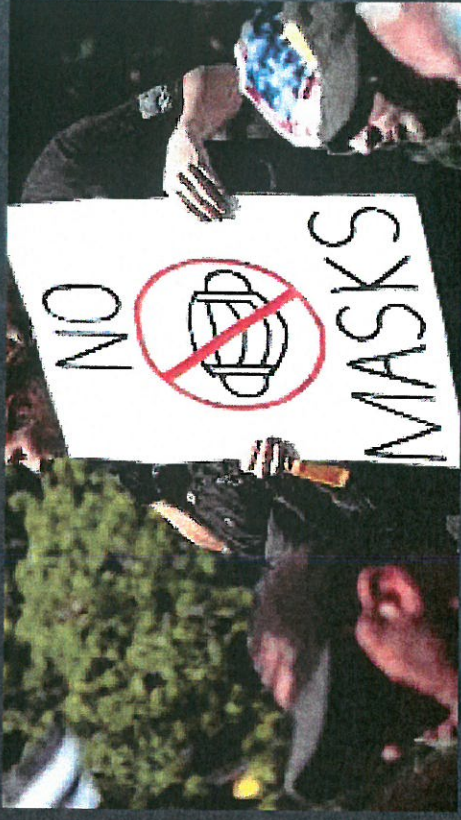
In Merrimack:

56.7% residents are fully vaccinated





# The Politics of COVID Mask Debate



Our Collective Responsibility is:

Provide excellent education

Protect the health and safety of staff and students



# Decision on Masking

Should be based on an assessment of the health risk to students, staff, community, and operations given current medical information

|  |   |
|--|---|
| Everyone masked to start the school year (begin with caution)<br><br>Recommended by Health and Safety Task Force and Leadership Team | <ul style="list-style-type: none"><li>• Negligible/Minimal Transmission within schools</li></ul>  |
| Optional masking   | <ul style="list-style-type: none"><li>• Increased possibility of transmission within schools</li><li>• Increased quarantine numbers</li><li>• Potential impact on in person instruction</li></ul> |
| No masks   | <ul style="list-style-type: none"><li>• Greatest chance for transmission within schools and community</li><li>• Potential impact on in person instruction</li></ul>                               |



# NH DPHS Indoor Face Mask Recommendation

|                       |  | Level of Community Transmission |            |             |
|-----------------------|--|---------------------------------|------------|-------------|
|                       |  | Minimal                         | Moderate   | Substantial |
| Cases Within Facility | Sporadic cases without evidence of facility transmission | Optional*                       | Optional*  | Universal†  |
|                       | Single Cluster   | Targeted                        | Targeted   | Universal†  |
|                       | Multiple clusters or a larger outbreak                   | Universal†                      | Universal† | Universal†  |

\* Face masks still recommended for people who want maximal protection for themselves or others (e.g., a household member who is unvaccinated or medically vulnerable)

† Exceptions can be made for classrooms/schools that have achieved a high vaccination rate (e.g., high-school), or where other prevention measures can be strictly implemented (e.g., 6 feet of physical distancing)





# NHDPHS Criteria for Levels of Community Transmission

## Minimal community transmission

- Number of new cases per 100k over 14 days is **less than 50**
- AND
- Percent positivity rate is **below 5%**

## Moderate community transmission

- Number of new cases per 100k **exceeds 50**

## Substantial community transmission

- Number of new cases per 100k is 100 or greater
- OR
- Percent positivity rate **exceeds 5%**



# Merrimack COVID-19 Data

| Date            | Merrimack # of New Cases (Last 14 days) | Merrimack Rate of New Cases per 100K population (Last 14 days) | Merrimack PCR Test Positivity Rate (Last 7 Days) | % Merrimack Individuals with at Least One Vaccine Dose | % Merrimack Individuals Fully Vaccinated |
|-----------------|---|--|--|--|--|
| August 16, 2021 | 46                                      | 174  | 7.0%   | 61.9%  | 56.7%                                    |
| August 17, 2021 | 46                                      | 174  | 6.8%   | 62.0%  | 56.7%                                    |
| August 18, 2021 | 40                                      | 151  | 6.6%   | 62.1%  | 56.7%                                    |

Source: New Hampshire Division of Public Health Services (Dashboard)



As of 8/17 the community of Merrimack is in Substantial Transmission therefore Universal Masking while indoors is the proposal to the School Board for all students, staff, and visitors in September.

The next review date of this data will be at the end of September



## Health and Safety Task Force Recommendations:

The District will follow the up to date NH DPHS guidelines and current Merrimack data to determine mask usage.

The District will review weekly data with the Merrimack Health Office. We will use this data to inform possible changes in mask usage on a monthly basis.

|                                    |  |
|------------------------------------|--|
| Minimal community transmission     | Face masks recommended for people who want maximal protection for themselves or others while indoors |
| Moderate community transmission    | Recommended for all while indoors  |
| Substantial community transmission | Universal masking is required while indoors  |



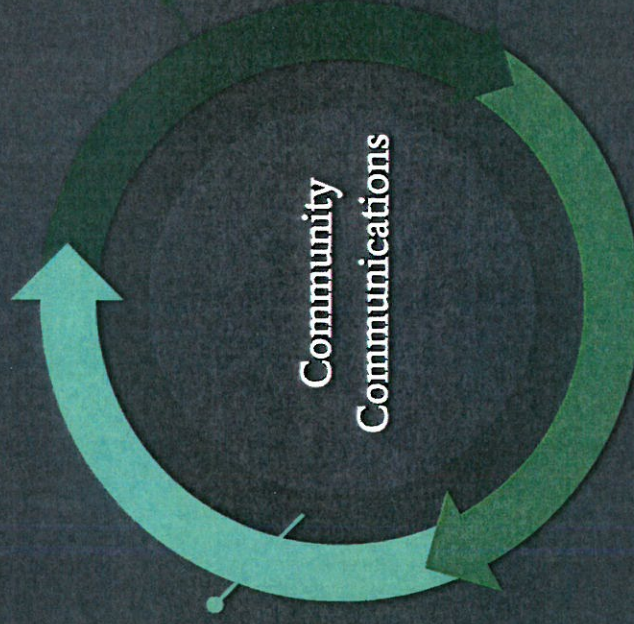
# Communication to Expect

## Opening Plan

Located on District  
Website

[https://www.sau26.org/Page/](https://www.sau26.org/Page/7352)

7352



## Data

Weekly updates to  
be shared on  
District Website

## Protocols

Updates on District  
health and safety  
procedures



# Questions & Comments ...



## TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

The definition of “Sexual Harassment” is found in Section II.B of this Policy. Instructions for making a report or complaint of sexual harassment are found in Section II.J.1. The “Title IX Grievance Process” is Section III, and the procedure for filing a formal complaint to initiate the grievance process is found in Section III.A

### I. RESTATEMENT OF POLICY PROHIBITING DISCRIMINATION ON THE BASIS OF SEX.

Per Board policy AC, Title IX of the Education Amendments Act of 1972 (“Title IX”), as well as RSA 193:38, among others, the District does not discriminate on the basis of sex in its educational programs and activities, including employment and admissions. All forms of sex-based discrimination, including sexual harassment are prohibited in the District.

### II. TITLE IX SEXUAL HARASSMENT POLICY.

#### A. Application of This Policy

While all forms of sex-based discrimination are prohibited in the district, the purpose of this policy is to address, and only to address, *sexual harassment as defined in Title IX and Sec. II.B*, below, that occurs within the educational programs and activities of the district, and to provide a grievance process for investigating and reaching a final determination of responsibility for a formal complaint of sexual harassment. The “Title IX Grievance Process” is set out in Sec. III below. While the District must respond to all “reports” it receives of sexual harassment, the Title IX Grievance Process is initiated only with the filing of a formal complaint.

The purpose of this Policy, however, is to address, and only to address, sexual harassment as defined in Title IX that occurs within the educational programs and activities of the district. For harassing conduct which does not meet the definition of sexual harassment under Title IX and this Policy, the District’s response will be governed under other applicable laws and policies per Board policy AC, and policies referenced therein.

This Policy shall apply to all students, employees, and any third party who contracts with the District to provide services to District students or employees, upon District property or during any school program or activity.

Nothing in this policy will be construed to confer on any third party a right to due process or other proceedings to which student and employee respondents are entitled under this policy unless such right exists under law. Volunteers and visitors who engage in sexual harassment will be directed to leave school property and/or be reported to law enforcement, the NH Division of Children, Youth and Families (DCYF), as appropriate. A third party under the supervision and control of the school system will be subject to termination of contracts/agreements, restricted from access to school property, and/or subject to other consequences, as appropriate.

The Superintendent shall have overall responsibility for implementing this Policy and shall annually appoint a District Title IX Coordinator as that position is described in Section II.C, below.



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS****B. Definitions.**

As used in this Policy and the Title IX Grievance Process, the terms below shall have the meaning ascribed.

**“Actual knowledge”** occurs when the District’s Title IX Coordinator or **ANY** employee of one of the District’s schools (other than a “respondent” or alleged harasser) receives a notice, report or information or becomes aware of sexual harassment or allegations of sexual harassment.

**“Complainant”** is an individual who is alleged to be the victim of conduct that could constitute sexual harassment, whether or not that person files a report or formal complaint.

**“Days”** shall mean calendar days, but shall exclude non-weekend days on which the SAU office is closed (e.g., holidays, office-wide vacations), or any weekday during the school year on which school is closed (e.g., snow days).

**“Decision Maker”** means persons tasked with: the responsibility of making initial determinations of responsibility (at times referred to as “initial decision maker”); or the responsibility to decide any appeal (at times “appeals decision maker”) with respect to formal complaints of sexual harassment in accordance with the Title IX Grievance Process.

**“Determination of Responsibility”** is the formal finding by the decision-maker on each allegation of Sexual Harassment contained in a Formal Complaint that the Respondent did or did not engage in conduct constituting Sexual Harassment Under Title IX.

**“Formal Complaint”** means a document filed by a complainant, the complainant’s parent/guardian, or the Title IX Coordinator, alleging sexual harassment against a respondent, and requesting that the district investigate the allegation of sexual harassment.

**“Respondent”** is an individual who is reported to be the individual accused of conduct that could constitute sexual harassment.

**“Sexual harassment”** prohibited under Title IX and by this policy *is conduct on the basis of sex* (including, without limitation, gender, sexual orientation, and/or gender identity), occurring in a school system education program or activity that satisfies one or more of the following:

1. A school district employee conditioning an aid, benefit, or service of an education program or activity on an individual’s participation or refusal to participate in sexual conduct irrespective of whether the conduct is welcomed by the student or other employee;
2. Unwelcome sex-based/related conduct determined by a reasonable person to be so severe, pervasive, **AND** objectively offensive that it effectively denies a person equal access to the education program or activity (this standard requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and victim and the number of individuals involved and their authority; **OR**
3. Sexual assault, dating violence, domestic violence, or stalking as defined in state or federal law.



## TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

Behaviors that constitute sexual harassment may include, but are not limited to:

- i. Sexually suggestive remarks or jokes;
- ii. Verbal harassment or abuse;
- iii. Displaying or distributing sexually suggestive pictures, in whatever form (e.g., drawings, photographs, videos, irrespective of format);
- iv. Sexually suggestive gesturing, including touching oneself in a sexually suggestive manner in front of others;
- v. Harassing or sexually suggestive or offensive messages that are written or electronic;
- vi. Subtle or direct propositions for sexual favors or activities;
- vii. Touching of a sexual nature or groping; and
- viii. Teasing or name-calling related to sexual characteristics or the belief or perception that an individual is not conforming to expected gender roles or conduct.

**Note: incidents of the above conduct would still need to satisfy one or more of the criteria in paragraphs 1-3 of this definition.**

Sexual harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex.

The context of behavior can make a difference between conduct falling within the technical definition of Sexual Harassment Under Title IX, and conduct of a sexual nature that is offensive or hostile in itself, but which does not arise to the level within that definition. **District policies prohibit both, but for purposes of its Title IX obligations the District must address reports or complaints of conduct which may constitute sexual harassment as defined above, under this specific, limited scope Policy and Title IX Grievance Process.** Except as used in other laws (e.g., Title VII) or policies (e.g., Board policy JICK) pertaining to harassment, including of a sexual nature, other than Title IX sexual harassment, all references to “sexual harassment” in this policy mean sexual harassment that meets the above definition.

Conduct that satisfies this definition is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the school system did not have substantial control over both the harasser/respondent and the context in which the harassment occurred.

***NOTE Regarding Concurrent Enrollment and Dual Enrollment, Extended Learning Opportunities, 3<sup>rd</sup> Party Distance Learning and Other Alternative Instructional Programs:*** Under federal regulations, in order for the District to have jurisdiction over conduct that would otherwise meet the definition above of sexual harassment, the District must have substantial control over both the respondent and the context in which the harassment occurred. In general, this will mean that unless such learning program is occurring upon district property, conduct otherwise meeting the definition of sexual harassment within that program, may not be subject to this policy.



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS**

**“Supportive Measures”** are free, non-disciplinary, non-punitive, individualized services and shall be offered to the complainant, and may be offered to the respondent, as appropriate. These measures may include, but are not limited to, the following:

1. Counseling;
2. Course modifications;
3. Schedule changes; and
4. Increased monitoring or supervision
5. School Resource Officer (in accordance with the Merrimack School District Memorandum of Understanding (MOU))
6. Social Emotional Learning Measures
7. System of Care and Learning Supports

Such measures shall be designed to restore or preserve equal access to the District’s education programs and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District’s educational environment and/or deter sexual harassment. Supportive measures shall remain confidential with exclusive exceptions stated required in Sec. II.E, below.

**C. Title IX Coordinator.**

The Title IX Coordinator shall respond promptly to all general reports as well as formal complaints of sexual harassment. the Title IX Coordinator shall receive general and specific reports of sexual harassment and coordinate the District’s responses to both reports and formal complaints of sexual harassment so that the same are prompt and equitable. In addition to any other specific responsibilities assigned under this Policy, or as assigned by the Superintendent, the Title IX Coordinator will be responsible for:

1. meeting with a complainant, and informing the parent/guardian once the Title IX Coordinator becomes aware of allegations of conduct that could constitute sexual harassment as defined in this Policy;
2. identification and implementation of supportive measures;
3. signing or receiving formal complaints of sexual harassment;
4. engaging with the parents/guardians of parties to any formal complaint of sexual harassment;
5. coordinating with District and school-level personnel to facilitate and assure implementation of investigations, and remedies, and helping to assure that the District otherwise meets its obligations associated with reports and complaints of sexual harassment;
6. coordinating with the Superintendent with respect to assignment of persons to fulfill the District’s obligations, both general and case specific, relative to this Policy (e.g., investigator, decision makers, etc.; this may involve the retention of third party personnel.);
7. coordinating with District and school-level personnel to assure appropriate training and professional development of employees and others in accordance with Sec. II.D of this Policy; and
8. helping to assure that appropriate systems are identified and maintained to centralize sexual harassment records and data.



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS**

In cases where the Title IX Coordinator is unavailable, including unavailability due to a conflict of interest or other disqualifying reason (see Sec. II.G, below), the Superintendent shall assure that another person with the appropriate training and qualifications is appointed as acting Title IX Coordinator for that case, in such instances "Title IX Coordinator" shall include the acting Title IX Coordinators.

**D. Training.**

All District employees shall receive regular training relative to mandatory reporting obligations, and any other responsibilities they may have relative to this Policy.

Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must receive training on the definition of sexual harassment, this Policy, the scope of the District's education program or activity, and how to conduct an investigation (including the requirements of the reporting and the Title IX Grievance Process, including hearings, appeals, and information resolution processes). The training must also include avoiding prejudgment of the facts, conflicts of interest and bias.

Decision-makers must also receive training on issues of relevance of questions and evidence, including when questions about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes, must promote impartial investigations and adjudications of formal complaints of sexual harassment, and must be made available to the public as provided in Sec. II.H of this Policy.

**E. Confidentiality.**

The District will respect the confidentiality of the complainant and the respondent as much as possible, however, some information may need to be disclosed to appropriate individuals or authorities. All disclosures shall be consistent with the District's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action. Examples of required disclosure include:

1. information to either party to the extent necessary to provide the parties due process during the Title IX Grievance Process;
2. information to individuals who are responsible for handling the District's investigation and determination of responsibility to the extent necessary to complete the District's grievance process;
3. mandatory reports of child abuse or neglect to DCYF or local law enforcement (per Board policy JLF);
4. information to the complainant's and the respondent's parent/guardian as required under this Policy and or the Family Educational Rights and Privacy Act ("FERPA"); and
5. reports to the New Hampshire Department of Education as required under N.H. Code of Administrative Rules Ed 510 regarding violations of the NH Code of Conduct for Education Professionals.



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS**

Additionally, any supportive measures offered to the complainant or the respondent shall remain confidential to the extent that maintaining such confidentiality would not impair the ability of the school district to provide the supportive measures.

Except as specified above, the District shall keep confidential the identity of:

1. Any individual who has made a report or complaint of sex discrimination;
2. Any individual who has made a report or filed a formal complaint of sexual harassment;
3. Any complainant;
4. Any individual who has been reported to be the perpetrator of sex discrimination<sup>1</sup>;
5. Any respondent; and
6. Any witness.

Any supportive measures provided to the complainant or respondent shall be kept confidential to the extent that maintaining such confidentiality does not impair the ability of the District to provide the supportive measures.

**F. Retaliation Prohibited.**

Retaliation against any person who makes a report or complaint, or against any person who assists, participates, or refuses to participate<sup>2</sup> in any investigation of an act alleged in this Policy is prohibited. Actions taken in response to **materially** false statements made in bad faith, or to submitting **materially** false information in bad faith, as part of a report or during the Title IX Grievance Process do not constitute retaliation. A finding of responsibility alone is insufficient to conclude that a person made a materially false statement in bad faith. Complaints of retaliation with respect to reports or formal complaints of sexual harassment shall be filed under the District's general grievance process.

**G. Conflict of Interest.**

No person designated as a Title IX Coordinator, investigator, decision-maker, nor any person designated by the District to facilitate an informal resolution process, may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

**H. Dissemination and Notice.**

The District shall include in all student and employee handbooks, and shall make *publicly available on the district's website* the following information:

1. The District's policy of non-discrimination on the basis of sex (included in Board policy AC).
2. the title, name, office address, email address, and telephone number of the Title IX Coordinator (to be provided pursuant to Board policy AC and its addendum, updated annually, ACE);
3. the complaint process;

<sup>1</sup> 34 CFR 106.71 (a).

<sup>2</sup> 34 CFR 106.71 (a).



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS**

4. how to file a complaint of sex discrimination or sexual harassment;
5. how the District will respond to such a complaint; and
6. a statement that Title IX inquiries may be referred to the Title IX Coordinator or to the Assistant Secretary for Civil Rights.

The same information shall be provided to all persons seeking employment with the District, or seeking to roll or participate in the District's educational programs or activities.

Additionally, the District will make this Policy, as well as any materials used to train personnel as required under Sec. II.D *publicly available on the district's website*.

**I. Records and Record Keeping.**

1. For each report or formal complaint of sexual harassment, the District, through the Title IX Coordinator, must create, and maintain for seven (7) years, record of:
  - a. Any actions, including any supportive measures,
  - b. The basis for the District's conclusion that its response was not deliberately indifferent; and
  - c. Documentation which:
    - If supportive measures were provided to the complainant, a description of the supportive measures taken designed to restore or preserve equal access to the District's education program or activity; or
    - If no supportive measures were provided to a complainant, explains the reasons why such a response was not clearly unreasonable in light of the known circumstances.
2. In addition, the District shall maintain the following records for a minimum of seven (7) years:
  - a. Records for each formal complaint of sexual harassment, including:
    - Any determination regarding responsibility, including dismissals;
    - Any disciplinary sanctions imposed on the respondent;
    - Any remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity;
    - Any appeal and the result therefrom;
    - Any informal resolution process and the result therefrom;
  - b. All materials used to train Title IX Coordinators, investigators, and decision-makers.

**J. Reports of Sexual Harassment, Formal Complaints and District Responses.****1. Report of Sexual Harassment.**

**NOTE:** *A report does not initiate the formal Title IX Grievance Process. That process is begun only upon the filing of a formal complaint under the procedures set out in II.J.3, and III.A, below.*



## TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

Any person may report sexual harassment whether relating to her/himself or another person. **However, if any District employee – other than the employee harasser, or the Title IX Coordinator – receives information of conduct which may constitute sexual harassment under this Policy, s/he shall, without delay, inform the Title IX Coordinator** of the alleged sexual harassment. Failure to report will subject the employee to discipline up to and including dismissal.

A report of sexual harassment may be made at any time, in person, by mail, by telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Additionally, while the District strongly encourages reports of sexual harassment to be made directly to the Title IX Coordinator, the report may be made to **any** District staff member, including, for instance, a counselor, teacher or principal.

If the Title IX Coordinator is the alleged respondent, the report or formal complaint may be made directly to the Superintendent, who shall thereafter fulfill the functions of the Title IX Coordinator regarding that report/complaint, or delegate the function to another person.

NOTE: For any allegation of sexual assault on a student under the age of 18, such conduct shall be reported immediately to the DCYF per Board policy *JLF*. If the alleged respondent is a person holding a license or credential from the New Hampshire Department of Education (i.e., "credential holder"), then a report shall also be made pursuant to the requirements of Ed 510 (Code of Conduct).

### 2. District Response to Report of Sexual Harassment.

The district will promptly respond when there is actual knowledge of sexual harassment, even if a formal complaint has not been filed. The district shall treat complainants and respondents equitably by providing supportive measures to the complainant and by following the Title IX Grievance Process prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX Coordinator may also offer supportive measures to the respondent.

As soon as reasonably possible after receiving a report of alleged sexual harassment from another District employee or after receiving a report directly through any means, the Title IX Coordinator shall contact the complainant to:

- i. discuss the availability of and offer supportive measures;
- ii. consider the complainant's wishes with respect to supportive measures;
- iii. inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
- iv. explain to the complainant the process for filing a formal complaint.



## TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS

### 3. Formal Complaints.

Pursuant to federal regulations, and this Policy, a formal complaint that contains an allegation of sexual harassment and a request that the District investigate the allegations is required before the District may conduct a formal investigation of sexual harassment or take any action (other than supportive measures) against a person accused of sexual harassment. **Once a formal complaint of sexual harassment is received by the Title IX Coordinator, s/he shall commence the Title IX Grievance Process set out in Sec. III below. The process for filing a formal complaint is set forth in Sec. III.A.**

### 4. Limitation on Disciplinary Action.

In no case shall the District impose disciplinary consequences or sanctions against a respondent who has been accused of conduct which may constitute sexual harassment, until the Title IX Grievance Process has been completed.

### 5. Emergency Removal and Administrative Leave.

At any point after receiving a report or formal complaint of sexual harassment, the Title IX Coordinator (or other District official charged with a specific function under this Policy or the Title IX Process: e.g., investigator, decision maker, etc.) may request the Superintendent to direct that an individualized safety and risk analysis be performed to determine whether a respondent student is an immediate threat to the physical health or safety of any person. In the event that the safety and risk analysis determines that the respondent student does present an immediate threat to the physical health and safety of any person, the District may remove that student, provided that such removal is in full compliance with the IDEA, a student's IEP and or 504 plan if applicable. Such emergency removal shall not be disciplinary. However, the District must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal and shall continue to offer educational programming until a final determination is made pursuant to the Title IX Grievance Process.

The Title IX Coordinator shall keep the Superintendent of Schools informed of any employee respondents so that he/she can make any necessary reports to New Hampshire Department of Education in compliance with applicable administrative rules and the New Hampshire Code of Conduct for Educational Professionals. In appropriate cases, the Superintendent may place an employee respondent on non-disciplinary administrative leave pursuant to RSA 189:31.

## III. TITLE IX GRIEVANCE PROCESS.

The Title IX Grievance Process is used only upon the filing of a formal complaint of sexual harassment as described in Sec. III.A, below. The provisions of Section I of the Policy are incorporated as part of the Title IX Grievance Process. Upon receipt of a formal complaint of sexual harassment, the Title IX Coordinator will coordinate the District's efforts to comply with its responsibilities related to the Title IX Grievance Process.



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS****A. Process for Filing a Formal Complaint of Sexual Harassment.**

The Title IX Grievance Process is initiated by way of a formal complaint (“complaint” or “formal complaint”) filed by the complainant, the complainant’s parent/guardian, or the Title IX Coordinator. The complainant may file a complaint or choose not to file a complaint and simply receive the supportive measures. If the Complainant does not file a complaint, the Title IX Coordinator may sign a formal complaint, but only if initiating the grievance process against the respondent is not clearly unreasonable in light of the known circumstances, and in other cases where, in the exercise of good judgment and in consultation with the District’s attorney as appropriate, the Title IX Coordinator determines that a grievance process is necessary to comply with the obligation not to be deliberately indifferent to known allegations of sexual harassment (e.g., reports of sexual assault, employee on student harassment, repeat reports, or the conduct in the complainant’s report has not been adequately resolved through the provision of supportive measures). If the complaint is filed by the Title IX Coordinator, he/she is not a party to the action, and the District must comply with all of the provisions of the Title IX Grievance Process relative to respondents and complainants.

If no formal complaint is filed by the complainant or the Title IX Coordinator no disciplinary action may be taken against the respondent based upon conduct that would constitute sexual harassment under this policy.

Although there is no time limit per se to filing a formal complaint, for complaints initiated by the complainant or his/her parent/guardian, the complainant must be employed by the District or participating in or attempting to participate in the education program or activities of the District at the time of filing. Additionally, although the District will initiate the Title IX Grievance Process regardless of when the formal complaint is submitted, delays in reporting may significantly impair the ability of school officials to investigate and respond to the allegations.

At a minimum, a formal complaint must:

1. contain the name and address of the complainant and the student’s parent or guardian if the complainant is a minor student;
2. describe the alleged sexual harassment,
3. request an investigation of the matter, and
4. be signed by the complainant or otherwise indicate that the complainant is the person filing the complaint.

The complaint may be filed with the Title IX coordinator in person, by mail, or by email. Complaint forms may be obtained from the Title IX Coordinator *or on the District and school websites.*



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS****B. Initial Steps and Notice of Formal Complaint.**

1. The Title IX Coordinator will provide notice to the complainant and the complainant's parent/guardian (if the complainant is a non-eligible student under FERPA), and to the respondent (if known) and the respondent's parent/guardian (if the respondent is a non-eligible student under FERPA), as well as to any other known parties, of the following:
  - a. this Title IX Grievance Process, including any informal resolution process;
  - b. the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview; "sufficient details" shall include to the extent known identities of persons involved, the conduct allegedly constituting sexual harassment, and the date and location of the incident;
  - c. a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
  - d. that each party may have an advisor of their choice, who may be, but is not required to be, an attorney (the advisor must be at least 18 years of age);
  - e. that each party is entitled to inspect and review evidence; and
  - f. a reference to any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
2. The Title IX Coordinator will contact the complainant to discuss and offer supportive measures.
3. The Title IX Coordinator may contact the respondent to discuss, and or impose, non-disciplinary supportive measures.
4. The Title IX Coordinator will examine the allegations in the formal complaint, to determine whether even if assumed true, the allegations are sufficient to sustain a finding of sexual harassment under this Policy. If the Title IX Coordinator was not involved with preparing the formal complaint, the Title IX Coordinator will contact the complainant to discuss the complaint and whether amendment is appropriate, in which case the process of Sec. III.C.4 will apply.
5. If the formal complaint fails to satisfy the definition of sexual harassment in this Policy, the complaint shall be dismissed as provided in Sec. III.G, below.
6. If the complaint is not dismissed, then Title IX Coordinator will consult with the Superintendent as to whether the Title IX Coordinator should act as the investigator or whether a different District or other employee shall act in that capacity. At the same time, the Title IX Coordinator and the Superintendent shall appoint the person who shall make the initial determination of responsibility (initial decision maker). In all cases, the investigator and the initial decision maker must be properly trained and otherwise qualified (see Sec. II.D "Training", and Section II.G "Conflict of Interest").



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS**

7. If the report alleges sexual harassment by the Superintendent, the Title IX Coordinator will inform the School Board Chair and Human Resources *Manager*, the latter of whom shall have authority to seek guidance from the District's general counsel, but shall not delay the District's response to the report as outlined in this Policy.

**C. General Provisions and Additional Definitions Relative to Title IX Grievance Process.**

1. Copies and Notices. Except as specifically stated elsewhere in this Policy, for any document, information or material required to be delivered to a party or to a person assigned with responsibility under the Title IX Grievance Process, the manner of transmittal may be by electronic mail, regular mail or such other manner reasonably calculated to assure prompt delivery with evidence thereof (such as a commercial carrier or other receipted delivery). Hand delivery will only be permitted if made to the District official charged with the specific function under this Policy (e.g., Title IX Coordinator, Superintendent, investigator, decision maker(s), etc.). Any document required to be delivered to a minor or other non-eligible student, must also be delivered to the minor's parent/guardian. Copies should also be sent to a party's advisor if the information for the advisor has been previously communicated to the sending party. (Under federal regulations, copies of the investigative evidence, as well as the investigative report, must be forwarded to a party's advisor. See Sections III.E.3, and III.E.4).
2. Risk Analysis and Emergency Removal. At any point during the Title IX Grievance Process, the Title IX Coordinator may arrange for an individualized safety and risk analysis as described in Sec. II.J.5, following which a student may be removed.
3. Administrative Leave. At any point during the Title IX Grievance Process, the Superintendent, and at his/her own discretion, and with or without consulting the Title IX Coordinator, may place an employee on administrative leave pursuant to RSA 189:31.
4. Additional Allegations. If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that were not included in the previous notice, the District shall simultaneously provide notice of the additional allegations to the parties whose identities are known.
5. No Interference with Legal Privileges. At no point in process will the Title IX Coordinator, the investigator, any decision maker, or any other person participating on behalf of the District, require, allow, rely upon, or otherwise use questions or evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege (e.g., doctor/patient, attorney/client, clergy, etc.), unless the person holding such privilege (parent/guardian for minor student) has waived the privilege in writing to use the information with respect to the Title IX Grievance Process.
6. Consolidation of Complaints. The District may consolidate formal complaints of allegations of sexual harassment where the allegations of sexual harassment arise out of the same facts or circumstances and the formal complaints are against more than one respondent; or by more than one complainant against one or more respondents; or by one party against the other party. When the District has consolidated formal complaints so that the grievance process involves more than one complainant or more than one respondent, references to the singular "party", "complainant", or "respondent" include the plural, as applicable.



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS**

7. Remedies: Range of Disciplinary Sanctions and Remedial Actions Upon Final Determination of Responsibility.
- a. "Disciplinary sanctions" are consequences imposed on a respondent when s/he is found responsible for sexual harassment under this Policy. Remedial actions are actions intended to restore or preserve a complainant's equal access to the educational programs and activities of the District.
  - b. "Disciplinary sanctions" against an employee respondent may include any available sanction available for the discipline of employees, up to and including dismissal or non-renewal for any other violation of Board policy, NH Code of Conduct for Educational Professionals, applicable individual or collective bargaining contract, or state or federal laws or regulations.
  - c. "Disciplinary sanctions" against a student may include any available discipline or sanction, up to and including expulsion, under the policies, rules and procedures that establish the district's comprehensive student code of conduct.
  - d. "Remedial actions" as to a respondent after a final finding of responsibility, whether employee or student, may include the imposition upon a responsible respondent of any additional non-disciplinary measures appropriate to effecting a remedy for sexual harassment, and may include such measures as no-contact requirements, scheduling adjustments, removal or exclusion from extracurricular activities, class reassignments, limits on future class registrations, restrictions on access to various spaces in the school buildings, reassignment of attendance, and similar measures fine-tuned to respond appropriately to the circumstances surrounding a successful complainant's right to access the district's program and activity.

Additional remedial actions may include recommendations that a school-wide or system-wide response is needed in order to respond to the sexual harassment in a way that is not clearly unreasonable under the circumstances. In such cases, the Superintendent shall provide additional staff training, harassment prevention programs, or such other measures as determined appropriate to protect the safety of the educational environment and/or to deter sexual harassment.

**D. Timeframe of Grievance Process.**

The District shall make a good faith effort to conduct a fair, impartial grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is expected that in most cases, the grievance process will be concluded through at least the determination of responsibility decision within 80 days after filing the formal complaint. In more complex cases, the time necessary to complete a fair and thorough investigation or other circumstances mean that a determination of responsibility cannot reasonably be made within that timeframe.



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS****1. Summary of Grievance Process Timeline.**

- a. Investigation 20 +/- days as the complexity of the case demands (Sec. III.E.1)
- b. 10 days for reviewing information prior to conclusion of investigation
- c. 10 days after receiving report to respond to report
- d. 10 days for decision maker to allow initial questions
- e. 10 days for responses to questions
- f. 10 days for questions and responses to follow-up questions.
- g. 10 days for determination of responsibility decision
- h. 10 days for appeal (6 additional days for administrative steps)
- i. 10 days for argument/statement challenging or supporting determination
- j. 10 days for decision on appeal

2. **Delays and Extensions of Time.** At any stage of the grievance process, the District (through the Superintendent, or if the Superintendent is the respondent, the Title IX Coordinator or designee) may for good cause allow for temporary delays or extensions of time upon request of either party, or on his/her own initiative. Examples of good cause may include such things as availability of parties or witnesses, school or school administrative office holidays or vacations, referral back to an earlier stage of the grievance process, concurrent law enforcement or other agency activity, or need to obtain interpreters or accommodation of disabilities. For any such delay or extension of time, the Superintendent or the Title IX Coordinator will provide written notice to the parties of the delay/extension and the reason(s).

**E. Investigation.**

The Title IX Coordinator will coordinate the investigation. The investigator shall be as appointed pursuant to Sec. III.B.5.

1. The Title IX Coordinator may conduct the investigation, or, in consultation with the Superintendent, designate another qualified person to investigate. The investigation and investigator must:
  - a. Include objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence. (Evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such evidence about the complainant's prior sexual behavior is offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the evidence concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and is offered to prove consent.)



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS**

- b. Ensure that the burden of proof (and the burden of gathering evidence sufficient to reach a determination) regarding responsibility rests on the District and not on either of the parties;
  - c. Provide an equal opportunity for the parties to present witnesses, and other inculpatory and exculpatory evidence;
  - d. Not restrict the ability of either party to discuss the allegations under investigation or together and present relevant evidence;
  - e. Provide the parties with the same opportunities to have others present during any interview or other part of the investigation, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice. The investigator may restrict any others from participating, as long as the restrictions apply equally to both parties;
  - f. Provide, to a party (e.g., respondent or complainant – and parent/guardian as appropriate) whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate within the timeframes established in Sec. IIID, below.
  - g. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint;
2. Prior to completion of the investigative report, the District, through the Title IX Coordinator, must send to each party and party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report;
3. The investigator must prepare a written investigative report that summarizes without bias, relevant evidence, including, without limitation, witness credibility, discrepancies, inculpatory and exculpatory information, and relevant District policies, rules and regulations, and the manner in which the same were made known to the pertinent school populations or specific parties. The investigative report shall include a description of the procedural steps taken, starting with the receipt of the formal complaint, and continuing through the preparation of the investigative report, including any notifications to the parties, interview with parties and witnesses, site visit, and methods used to gather evidence.
4. The investigator shall provide the investigative report in hard copy or electronic format to the Title IX Coordinator, to each party and each party's advisor, if any. Each party will have 10 days from receipt to provide the Title IX Coordinator a written response to the investigative report.
5. It serves all parties when investigations proceed diligently and conclude within a reasonable time, which may vary case by case. In most cases, it is expected that the investigator will conclude the initial investigation and provide the parties the evidence and other information required under Sec. III.E.2. Not more frequently than every other week, any party may request the Title IX Coordinator to obtain and provide the parties with a basic status report on the investigator's progress toward completion (the status report may be given orally or in writing). In most cases, the investigator should conclude the investigation within 10-20 days after receiving a Formal Complaint.



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS****F. Determination of Responsibility and Initial Decision Maker.**

The determination of responsibility of the respondent shall be made by the initial decision maker as appointed pursuant to Section III.B.5.

1. Prior to making a determination of responsibility, the initial decision maker will afford each party 10 days to submit written, relevant questions to the initial decision maker that the party wants asked of any party or witness.
2. The initial decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the question and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The initial decision maker may not make any credibility determinations based on the person's status as a complainant, respondent or witness.
3. The initial decision maker will provide the questions to the party/witness, with copies to each party, and provide no less than 10 days for written responses, likewise to be provided to each party.
4. The initial decision maker will provide 5 days each for supplementary, limited follow-up questions and 5 days for answers, and may provide for additional rounds of follow-up questions, as long as the provision is extended to both parties equally.
5. The respondent must be deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
6. The initial decision maker may impose disciplinary sanctions and remedies as described in Section III.C.7, above.
7. The standard to be used for formal complaints in determining whether a violation has occurred and/or that the respondent is responsible is the preponderance of the evidence standard, which is only met when the party with the burden convinces the fact finder (the initial decision maker) that there is a greater than 50% chance that the claim is true (i.e., more likely than not).
8. The initial decision-maker must issue a written determination/decision within 10 days after the close of the period for responses to the last round of follow-up questions. The written "Initial Determination of Responsibility" must include:
  - a. Identification of the allegations potentially constituting sexual harassment;
  - b. A description of the procedural steps taken from the receipt of the formal complaint through the Initial Determination of Responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
  - c. Findings of fact supporting the determination;



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS**

- d. Conclusions regarding the application of the District's applicable codes of conduct, policies, administrative regulations or rules to the facts;
  - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether or not the respondent is responsible for sexual harassment), and any disciplinary sanctions or remedies; and
  - f. The District's procedures and permissible bases for the complainant and respondent to appeal (as set forth in Section III.H, below).
9. The decision maker shall provide the Initial Determination of Responsibility to the Title IX Coordinator, the Superintendent and the parties simultaneously.

**G. Dismissal of a Formal Complaint.**

1. The District must dismiss a formal complaint with regard to Title IX sexual harassment if the alleged conduct:
  - a. Would not constitute sexual harassment, even if proved;
  - b. Did not occur in the District's education program or District sponsored activity; or
  - c. Did not occur against a person in the United States.
2. The District may dismiss a formal complaint with regard to Title IX sexual harassment if at any time during the investigation or determination of responsibility stage(s):
  - a. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
  - b. The respondent is no longer enrolled or employed by the District; or
  - c. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
3. Prior to dismissal of a complaint, the person responsible at that stage shall consult with the Superintendent.
4. Upon dismissal of a formal complaint, the District must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

**The dismissal of a formal complaint under Title IX does not preclude the District from continuing any investigation or taking action under other District policies, code of conduct or administrative rules/regulations. In some cases, the District may have an obligation to continue an investigation and proceed under a different policy or mandated process.**



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS****H. Appeals Process.**

1. Either party may appeal the Initial Determination of Responsibility or the dismissal of a formal complaint or any allegation in a formal complaint by notifying the Superintendent in writing ("written appeal"), with a copy to the Title IX Coordinator. If there are multiple determinations of responsibility, the written appeal shall specify which ones are included in the appeal. The written appeal must be received by the Superintendent within 10 days of the Initial Determination of Responsibility or written notice of dismissal being communicated to the parties.
2. An appeal under this Policy may only be based upon one or more of the following bases, which must be stated specifically in the party's written appeal:
  - i. Procedural irregularity that affected the outcome of the matter;
  - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
  - iii. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Appeals for any other reason or upon any determination of responsibility not included in the written appeal will not be heard.

Appeals pertain only to the determination of responsibility and non-disciplinary remedies. Once a determination of responsibility is final per Sec. III.I, below, appeals of disciplinary sanctions may be made pursuant to the District's ordinary review process for discipline, or, to the extent applicable, any statutory or other processes provided under collective bargaining agreements or individual contracts.

3. Within 3 days of receipt of the written appeal, the Superintendent shall appoint a decision maker for appeal ("appeals decision maker"),<sup>3</sup> who must have adequate training as provided in Section II.D, be free from conflict of interest as provided in Section II.G, and may not be the same person as the initial decision maker, the person who ordered dismissal, the investigator(s), or the Title IX Coordinator. Upon the appointment of the appeals decision maker, the Superintendent shall provide a Notice of Appeal to each party and to the Title IX Coordinator, with a copy of the written appeal. The Notice of Appeal must include information about all deadlines and time frames in the appeal stage.
4. Each party shall have 10 days from the date the Notice of Appeal is delivered to the parties to submit to the appeals decision maker a written statement, with copies to the Superintendent, Title IX Coordinator, and other party a statement ("appeal statement") in support of, or challenging, the determination of responsibility or dismissal.

<sup>3</sup> Although the school board is not precluded from serving as a decision maker with respect to appeals, before it may do so, each member of the board must meet both the training and conflict of interest requirements described in Sections II.D and II.G. Such training may be provided on an as-needed basis, but because of necessary timelines, the framework will need to be in place long before a case is appealed.



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS**

5. Each party shall provide copies of the appeal statement to the other party, the Superintendent, and the Title IX Coordinator at the same time the appeal statement is given to the appeals decision maker. If the basis of the appeal is newly available evidence affecting the outcome, the party shall submit such evidence or a summary of such evidence along with the party's appeal statement.
6. The appeals decision maker may refer an appealed issue back to a prior point in the grievance process, with written notice to the parties, the Superintendent and the Title IX Coordinator.
7. The appeals decision maker shall provide a written appeals decision after considering the record and the parties' appeal statements. The appeals decision maker will only overturn the Initial Determination of Responsibility upon a conclusion that it was clearly erroneous (i.e., either made on unreasonable grounds, or without any proper consideration of the circumstances). If the basis or one of the bases for the appeal was new evidence, the appeals decision maker may either make a determination of responsibility regarding that evidence, or refer it back to the appropriate stage of the Title IX Grievance Process. The written appeals decision will describe the result(s) of the appeal and the rationale, with copies provided to the parties, Superintendent and Title IX Coordinator, no more than 10 days after receiving the last of the parties' written statements per Section III.H.5.

- I. Finality of Determination of Responsibility.** The determination regarding responsibility becomes final either on the date that the recipient, through the Superintendent, provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal of the Initial Determination of Responsibility would no longer be considered timely. The final determination shall be identified as the Title IX Decision.

Once the Title IX Decision is final, the District may implement remedies and disciplinary sanctions. The Title IX Coordinator is responsible for effective implementation of any non-disciplinary remedies, with the assistance of building and District administrative personnel, while disciplinary sanctions will be imposed by persons charged with such responsibilities under other Board policies, regulations or administrative procedures. The District may also proceed against the respondent or complainant pursuant to the District's applicable code of conduct or other Board policies, collective bargaining agreement, individual contract or administrative rules/regulations/procedures. The issue of responsibility for the conduct at issue shall not be subject to further review or appeal within the District.

**J. Informal Resolution.**

At any time prior to reaching a determination regarding responsibility (but only after the filing of a formal complaint), the District may offer an optional informal resolution process (e.g., mediation, arbitration), provided that the District:

1. Provides written notice to the parties disclosing:
  - a. The allegations of the formal complaint;



**TITLE IX SEXUAL HARASSMENT POLICY AND GRIEVANCE PROCESS**

- b. The requirements of the information resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to an informal final resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
  - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
2. Obtains the parties' voluntary written consent to the informal resolution process; and

**In no event may the District offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.**

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**Legal References:**

*Title IX of the Education Amendments of 1972, 20 U.S.C 1681, et seq 20 U.S.C. §1232g, Family Educational Rights and Privacy Act*  
*34 CFR. Part 99, Family Educational Rights and Privacy Act Regulations*  
*34 CFR 106.8, Designation of responsible employee and adoption of grievance procedures.*  
*34 CFR 106.30, Definitions*  
*34 CFR 106.44, Recipient's response to sexual harassment*  
*34 CFR 106.4, Grievance process for formal complaints of sexual harassment*  
*34 CFR 106.71, Retaliation*  
*RSA 193:38, Discrimination in Public Schools*  
*NH Dept of Ed. Rules Ed 303.01 (i), School Board Substantive Duties*  
*Ed 303.01(j), Substantive Duties of School Boards; Sexual Harassment Policy*

*Policy Reference: Memorandum of Understanding: Safe School Zones*

***Legal References Disclaimer:*** *These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*

1<sup>st</sup> Reading: August 9, 2021  
2<sup>nd</sup> Review: August 23, 2021  
Adoption:



**MERRIMACK SCHOOL DISTRICT**  
School Administrative Unit #26  
36 McElwain Street  
Merrimack, New Hampshire 03054  
Tel. (603) 424-6200 Fax (603) 424-6229

**KIMBERLY YARLOTT**  
*Assistant Superintendent for Curriculum*

**EVERETT V. OLSEN, Jr.**  
Interim Chief Educational Officer

**MATTHEW D. SHEVENELL**  
*Assistant Superintendent for Business*

**To:** Cinda Guagliumi  
Laurie Rothhaus  
Shannon Barnes

Jenna Hardy  
Lori Peters  
Kaitlyn Vadney

**From:** Everett V. Olsen Jr.

**Date:** August 18, 2021



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**Subject: One Additional Grade 6 Teacher at JMUES**

At the School Board meeting on August 9<sup>th</sup>, I presented elementary enrollments (as of that date) for the upcoming school year. I expressed concern over the high class size in grade 6 at the James Mastricola Upper Elementary School.

We knew that last year was a very difficult year for many students and there will in all likelihood be a need for increased time devoted to all students in a class. I will be hiring one additional teacher for grade 6 at James Mastricola Upper Elementary School. Earlier in the summer you unanimously passed a motion to "authorize the Superintendent's office to hire at will for the months of July and August". I am grateful that you proposed and passed this motion as it represents the best interest of our students. I will be glad to answer any questions you may have on Monday night.



TO: Everett Olsen, Merrimack School District CEO

FROM: Marsha McGill, JMUES Principal & Dr. Nicole Rheault, JMUES Asst. Principal

DATE: August 13, 2021

RE: Additional grade six teacher

JMUES currently has 26 students in 5 classrooms, and 25 students in 6 classrooms, registered for the 2021-2022 school year. These numbers do not reflect any projections for new enrollees.

Per Ed 306.17, A2 Class Size, The NH state DOE suggests that "...each school shall strive to achieve the class size of 25 students or fewer per educator."

Furthermore, the state stipulates, "In the interest of safety, the maximum number of students in laboratory classes in such areas as science...shall be determined by the number of workstations and the size and design of the area. In no case shall the number of students in laboratory classes exceed 24" (ED. 306.17, C Class Size).

Students at the upper elementary participate in science classes, conducted in science laboratory spaces apart from the classroom. They engage in activities using microscopes, glass apparatus, pan balances and weights, etc.

Last year, JMUES was able to secure two additional educators to reduce class sizes during the pandemic. Our data suggests that this reduction in class sizes resulted in...

- Stronger student, teacher, and parental relationships
- Fewer behavior interruptions resulting in more time for instruction
- Increased time for small group and one-one instruction
- Greater opportunities for differentiation of instruction and learning
- Enhanced student engagement





**Merrimack School Board Meeting  
Merrimack School District, SAU #26  
Merrimack Town Hall – Matthew Thornton Room  
August 9, 2021**

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**6:00 p.m. – Non-public Session pursuant to RSA 91-A:3, II (a) & (c)  
Matthew Thornton Training Classroom**

• **Staff Welfare**

**Present:** Chair Guagliumi, Vice Chair Rothhaus, and Board Member Barnes. Also present were Assistant Superintendent for Business Shevenell, Assistant Superintendent of Curriculum, Instruction, and Assessment Yarlott, and Interim Chief Educational Officer Olsen.

**Not Present:** Board Member Hardy and Board Member Peters – Excused

**1. Call to Order/Pledge of Allegiance**

Chair Guagliumi called the meeting to order at approximately 7:00 p.m.

Vice Chair Rothhaus led the Pledge of Allegiance.

**2. Public Participation**

Dr. Jennifer Page, 3 Nichols Lane, suggested that the Board revisit the Mask Policy. She said she did not think it was a good idea to put children under the age of twelve, who did not have the opportunity to be fully vaccinated at risk. She said she felt having no masks and no social distancing in the schools was irresponsible.

**3. Recognitions**

Chair Guagliumi thanked both Assistant Superintendent for Business Shevenell and Ms. Melissa Gage, Director of Human Resources, for their help and support.

**4. Informational Updates**

a. Superintendent Update

Interim Chief Educational Officer Olsen explained the reason his title was that of Interim Chief Educational Office instead of Interim Superintendent had to do with some technicalities regarding degrees that a person possessed. He said he was a Superintendent for 16-years in a very highly successful school system in Massachusetts and was licensed as a Superintendent in



Massachusetts for many years. He added his objective was to succeed at his job and he was not concerned about the "title."

Interim Chief Educational Officer Olsen said he had a remote meeting with the elementary and secondary staff as well as with some parents, adding he would have additional meetings to allow an opportunity for as many parents as possible to attend, whether it be in-person or remotely.

Interim Chief Educational Officer Olsen shared that he met with the Police Chief and the Deputy Police Chief and had a very productive meeting and said he would be meeting with the Fire Chief early the following week. Additionally, Interim Chief Educational Officer Olsen said he had a very good conversation with State Representative Bill Boyd.

Interim Chief Educational Officer Olsen said he and Assistant Superintendent for Curriculum Yarlott met with area Superintendent's on a weekly basis to discuss strategies surrounding the reopening of schools and would participate in the New Hampshire Department of Public Health Services webinar to see where the state was in relation to the most recent CDC's guidelines.

Interim Chief Educational Officer Olsen pointed out that there would be a "Back to School Immunization Clinic" held on Wednesday, August 11<sup>th</sup> from 1:00 p.m. to 3:00 p.m. at Merrimack High School.

b. Assistant Superintendent for Curriculum Update

Assistant Superintendent for Curriculum Yarlott said the leadership team had been working very hard on the reopening of school. She added they attended a two-day retreat where they reviewed the recommendations from various task forces.

Assistant Superintendent for Curriculum Yarlott said they were also preparing for the August Academy where they would hold four days of professional development for the professional staff and three days of professional development for the paraeducators.

c. Assistant Superintendent for Business

Assistant Superintendent for Business Shevenell said the ventilation project was moving along and the first priority would be in the English wing at the Merrimack High School.

Assistant Superintendent for Business Shevenell shared that the Trustees of Trust Funds donated approximately \$350,000 from the James Masticola Fund for the replacement of the non-ADA compliant bleachers in the Smith Gym. He said they were ADA accessible and had railings.

Assistant Superintendent for Business Shevenell said the floor in the James Masticola Upper Elementary School All Purpose Room had been redone and new bleachers would be installed.

Assistant Superintendent for Business Shevenell said he was grateful to the Trustees for allowing them to be able to pick away at a few items on the Capital Improvement Plan without having to use taxpayer's funds.



d. School Board Update

Chair Guagliumi stated the Board had authorized an expenditure of \$1,500 to send the Policy Manual to the New Hampshire School Board's Association for review. She informed the Board that they may not receive input until September of 2022.

e. Student Representative Update

There was no update to report.

**5. Old Business**

a. Terms to Accept the \$34,848.32 Grant

Assistant Superintendent for Business Shevenell explained the monies would be used for the care and keeping of the water filtration system as well as to offset the cost for lead testing.

**MOTION:** Board Member Barnes made a motion to encumber the \$34,848.32 grant for the purpose of water safety operations for the District for the upcoming year. Vice Chair Rothhaus seconded the motion.

**The motion passed 3 – 0 – 0.**

b. Health and Safety Task Force Update

Interim Chief Educational Officer Olsen said the Health and Safety Task Force would convene the following Friday where they would hear from the New Hampshire Department of Public Health Services. He said he was hopeful that Ms. Erin Olson, Health Officer would be in attendance. He said they would review the latest information from the CDC (Center for Disease Control), the American Academy of Pediatrics, and the latest statistics from the State of New Hampshire as of August 5<sup>th</sup>.

Interim Chief Educational Officer Olsen said transportation was subject to a CDC order in that all students and drivers of schools buses and vans were required to wear a mask.

Board Member Barnes said she felt the Board needed to stay on top of the data and wanted to provide parents with up-to-date information so they could advocate appropriately for their children. Interim Chief Educational Officer Olsen said he intended to provide a Health and Safety update at every School Board meeting.

Chair Guagliumi suggested there be a specific e-mail address created for COVID, and health and safety questions/issues.

**6. New Business**

a. First Reading of Title IX Sexual Harassment Policy and Grievance Process  
(ACAC)



Ms. Melissa Gagne, Director of Human Resources, provided an overview of the Title IX Sexual Harassment Policy and Grievance Process. She said the policy would be posted on the website for review prior to the second reading which would be addressed at the next School Board meeting.

Ms. Gagne informed the Board that forty people, including administrators, school counselors, and special education coordinators attend a training seminar held by Legal Counsel in January.

b. K-6 Enrollments

Interim Chief Educational Officer Olsen said he was pleased to inform the Board that class sizes at the elementary level were quite good but would keep an eye on grade 6 at the James Mastricola Upper Elementary School as he would not want to see the total amount of students per class go above 26.

c. House Bill 2 – Prohibitive Practice

Interim Chief Educational Officer Olsen said Governor Sununu had signed House Bill 2 into law. He said the law essentially codified what they were committed to in public education: respecting the civil and human rights and dignity of all students, staff, and citizens. He said he had drafted a memo, with the assistance of Attorney Kathleen Peahl, (Labor Counsel) which outlined the law and also included the provisions of the law.

**7. Approval Requests**

a. July 26, 2021 Minutes

**MOTION:** Vice Chair Rothhaus made a motion to accept the minutes of the July 26, 2021, meeting as presented. Board Member Barnes seconded the motion.

**The motion passed 2 – 0 – 1. (Abstained – Chair Guagliumi)**

b. Educator/Administrator Resignations

Ms. Alicia Dionne, Science Teacher, Merrimack High School  
Ms. Emily Hartmann, Social Studies Teacher, Merrimack High School  
Ms. Melissa Gagne, Director of Human Resources, Merrimack School District

c. Educator/Administrator Nominations

Ms. Christine Dambach, Special Ed. Reading Teacher, Thorntons Ferry Elementary School  
Ms. Emeline Imbody, 3<sup>rd</sup> Grade Teacher, Thorntons Ferry Elementary School  
Ms. Emily Sousa, Art Teacher, Merrimack High School  
Ms. Andrea Inamorati, One-year, 1<sup>st</sup> Grade Teacher, Reeds Ferry Elementary School  
Ms. Amanda Chasse, 6<sup>th</sup> Grade Teacher, James Mastricola Upper Elementary School  
Ms. Eva Quill, Language Arts Teacher, Merrimack Middle School

Mr. Steven Claire, Principal, Merrimack High School



**MOTION:** Vice Chair Rothhaus made a motion to accept the Resignations and Nominations as presented. Board Member Barnes seconded the motion.

**The motion passed 3 – 0 – 0.**

**8. Other**

a. Committee Reports

Vice Chair Rothhaus asked Assistant Superintendent for Business Shevenell if he could try to schedule School Building and Planning Committee meetings on nights other than Mondays she would be grateful.

b. Correspondence

Chair Guagliumi shared that the Board had received several emails regarding the health and safety protocols, specifically the use of masks upon the fall reopening.

Board Member Barnes shared she also received one email surrounding the use of masks and one who requested a better understanding of the use of facilities process.

c. Comments

There were no comments from Board members.

**9. Public Comments on Agenda Items**

There were no public comments.

**10. Adjournment**

**MOTION:** At approximately 7:52 p.m. Board Member Barnes made a motion to adjourn. Vice Chair Rothhaus seconded the motion.

**The motion passed 3 – 0 – 0.**