Merrimack School Board Meeting
Merrimack School District, SAU #26
Merrimack Town Hall – Matthew Thornton Room
February 3, 2020

Present: Chair Barnes, Vice Chair Guagliumi, Board Members Schoenfeld, Nunez, and Schneider. Also in attendance were Superintendent McLaughlin, Assistant Superintendent of Curriculum and Instruction Fabrizio, Assistant Superintendent for Business Shevenell, and Student Representative Koroma

1. Call to Order/Pledge of Allegiance

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

Chair Barnes led the Pledge of Allegiance.

2. Public Participation

Mr. Rick Foote, 129 Indian Rock Road, addressed the School Board and said he felt there should be no further money spent on the Brentwood building and if the plan were to knock it down then that was what should happen.

Mr. Foote also commented since there were such low numbers of students in the kindergarten classes that he felt having kindergarten assistants was a waste of money.

3. Understanding FERPA (Family Educational Rights and Privacy Act) Requirements in Relation to School and District Operations

Superintendent McLaughlin commented that on any given day there could be cases of student bullying, harassment or a variety of situations categorized as reportable acts that required administrators to investigate.

Superintendent McLaughlin stated in every case administrators had to follow certain guidelines, regulations, and rules which were legally mandated by the Family Educational Rights and Privacy Act (FERPA) which was a federal law.

Superintendent McLaughlin confirmed that instances of alleged bullying, physical or sexual harassment, or other potential violations of the Safe School Zones Act set procedures which were followed. He added the District had to abide by the law in terms of disclosures of what they could and could not disclose and always acted in the best interest of all

students, which included students who were identified as the bullies and the students who were identified as the victims.

Assistant Superintendent of Curriculum and Instruction Fabrizio explained he had taken part in Family Educational Rights and Privacy Act (FERPA) training, particularly when they approached the world of Student Services to protect the rights of information for each child.

In summary, Assistant Superintendent of Curriculum and Instruction Fabrizio said FERPA was a federal law that required telling the schools what information they may share, and when and who they could share the information with. He said it also provided parents with the right to disclose a student's personal identifiable information which included things like name, address, date of birth, social security numbers, parent's name, and any other information that would identify a student.

Assistant Superintendent of Curriculum and Instruction Fabrizio said it all came down to a student's educational record and the record was directly related to the student and was maintained by the school, noting there were times a third-party was used to maintain the record, for example, PowerSchool. He said directory information was a part of the educational record and could be publicly released, with the permission of the parent(s) such as age, address, and grade level. He further said often they would get permission at the elementary level for things such as birthday parties. Assistant Superintendent of Curriculum and Instruction Fabrizio said non-directory information was also part of the educational record that they did not typically release without a court order. He said it contained information such as disciplinary records, social security numbers, identification badges that were not released.

Assistant Superintendent of Curriculum and Instruction Fabrizio said an example of being able to disclose information would be if a student switched schools because that was pertinent to their educational record.

Vice Chair Guagliumi asked why the School District kept the student's social security numbers. Assistant Superintendent of Curriculum and Instruction Fabrizio replied they typically did not keep them but for example, they may have it relative to Medicare or Medicaid. He added it was a rare case that the School District would have student's social security numbers.

Board Member Schoenfeld recited the following situation:

"If we had two students who had difficulty between them and one was the perpetrator and one was the victim and the victim's family wanted to know something about the perpetrating student and the District told them, then the District would have violated federal law."

Assistant Superintendent of Curriculum and Instruction Fabrizio replied that was correct.

Superintendent McLaughlin said cases of alleged bullying or bullying was a very emotional thing for everyone involved. Superintendent McLaughlin provided an example of how some emotional reactions could be:

"My kid would never do that, never, ever."
"That kid instigated."
"Who accused who?"
"I want to know what you are going to do about this situation, I want to know."

Superintendent McLaughlin noted one could certainly not blame people for having those emotions but what often happened was when an administrator said "I can't tell you," too often, that gets translated into "well, you would tell me if you wanted to" or "you are protecting the bully." He reiterated it was a federal law and the information could not be disclosed. He said, however, just because the matter could not be discussed did not mean nothing was being done about the situation but administration could not share that with anyone.

Board Member Nunez in the scenario where there was a perpetrator and a victim, based on the verbiage in the policy, while administration was not able to share the details about the outcome for the other party, what was administration able to share to ensure the safety of the victim. She said from a parental perspective before she would send her child to a building where something negative had happened to her child, she would want to ensure their safety and she would want to know that there was a plan in place so the two children would not be together again or in a situation that could erupt into something more than what it would need to be. She asked what the limitations were relative to sharing a plan for moving forward for both parties without both parties knowing the plan for the other.

Chair Barnes stated when referring to educational records there would be no third-party who would ever get any student's records for any reason. Superintendent McLaughlin replied that was correct.

Chair Barnes pointed out they also had to make sure that something a child did in the 2nd grade should not define them for the rest of his/her educational career.

Superintendent McLaughlin pointed out the School District hired educators and if there was a criminal act then the police would deal with that.

4. Information Regarding School and District Responsibilities Relative to Reportable Acts

Superintendent McLaughlin said he wanted to discuss bullying because bullying was one of the things that fell most directly under the Safe School Zone's Act.

Superintendent McLaughlin stated the definition of bullying that the Merrimack School District adopted from the state regulations was hereby defined as "a single significant incident or a pattern of incidents." Superintendent McLaughlin commented the state added "a single significant incident" as bullying. He noted in the days prior to that addition one would have to have looked for a pattern of behavior over time which would have constituted as bullying. Furthermore, he said that addition exponentially increased the number of possibilities of bullying that did not exist in the past which included the following:

1. Written, verbal, or electronic communication, physical act or gesture or any combination thereof, directed at another pupil.

2. Causes emotional distress to a pupil, interferes with a pupil's education opportunities, creates a hostile educational environment or substantially disrupts the orderly operations of the school.

Superintendent McLaughlin mentioned the above was often difficult to prove or to disprove to the parties involved, therefore, there had to be a significant investigation.

Superintendent McLaughlin pointed out the District was also provided with some guidance in that bullying also included actions motivated by an imbalance of power based on a pupil's actual or perceived personal characteristics, behaviors, beliefs, associations, etc. He provided the following example:

"The captain of the football team and a freshman would indicate an imbalance of power based on a lot of things." He said, however, it could be a lot more subtle which would require the investigator to spend a considerable amount of time figuring out the distinctions.

Superintendent McLaughlin stated a person who was engaged in bullying or harassment was called the "perpetrator" which was a definition that the state and now the School District had adopted. He further stated the "victim" was defined as a pupil against whom bullying or cyber-bullying had been perpetrated.
Superintendent McLaughlin said frequently administrators received calls from folks saying "I didn't raise a victim" or "my child is not a victim" but it was terminology they were required to use during a formal investigation.

Superintendent McLaughlin, addressing the page on Bullying Requirements, said false reporting was a significant thing and they did not look lightly or kindly on a person who reported something as bullying that was not. He said the regulations stated, "a student found to have wrongfully and intentionally accused another student may face discipline or other consequences ranging from positive behavioral interventions, up to and including suspension or expulsion."

Superintendent McLaughlin explained he highlighted the words "positive behavioral interventions" because that was language directly out of the Bullying Policy and positive behavioral interventions means exactly that – that even in the case of a student who was found to have made up a case of bullying, it's not that they do not apply a punitive measure, but remember who and what they were, educators. He said positive behavioral interventions were the educator's way of educating a child about the consequences of what they did. He also pointed out that "if a school employee who was found to have wrongfully and intentionally accused a student of bullying would face discipline in accordance with applicable laws, District policies, procedures and, collective bargaining agreements."

Superintendent McLaughlin, referring to the Process, provided the following example:

"If the alleged victim or any witness expresses to the principal or staff that he or she believes they may have been retaliated against, the principal shall develop a process or plan to protect that student from possible retaliation"

Superintendent McLaughlin said in the previous example the law and the policy were very clear in that if someone had the courage to say something had happened, no student, administrator, or teacher was allowed to retaliate and in any way hold that against somebody.

Superintendent McLaughlin stated all allegations were taken on a case-by-case basis and they looked at the entire situation and oftentimes, it included things that did not happen on school grounds. He further stated the suggestions included but were not limited to, rearranging class schedules to minimize student contact, stern warnings to alleged perpetrators, temporary removal of privileges or other means necessary to protect against possible retaliation. He pointed out that in all cases a plan was developed and the plan was shared with the parent(s) of the victim. He said there were other times when suspension or time with a behavior specialist, lunch with the principal, etc. and those types of things would not be disclosed.

Superintendent McLaughlin, read aloud from the Disciplinary Consequences for Violation Policy “in addition to imposing discipline under such circumstances, the Board encourages the administration and School District staff to seek alternatives to traditional discipline, including but not limited to early intervention measures, alternative dispute resolution, conflict resolution and, other similar measures.”

Superintendent McLaughlin commented that it was often difficult to convince people that sometimes the best way to avoid future conflict was to bring two parties together and work it out because oftentimes the thought was to keep them apart and let them never see each other again. He pointed out; however, they could only keep the students apart in the confines of the school day and not at a neighborhood park, etc. He said they were trying to create conditions so the bullying did not happen again and the best way to do that was to teach students about what it feels like when that happened and hep students have empathy. He said there was punishment in the punitive sense but they also needed to help the students learn and move forward as better people.

Superintendent McLaughlin referred next to the Bullying Procedural Requirements where he highlighted RSA-193F:4-2(d) (Revised Statutes Annotated) which was state law. He said the procedures for internal reporting, the notification of parents of alleged bullying, the waiver of notification rights were the things the District were obliged to do by statute in addition to the School Board’s policy.

Superintendent McLaughlin stated when they were required to tell a parent about an incident of alleged bullying and their child may have been a victim, the very next question is who did it and they were not allowed, in most instances, to disclose that information. He further stated that an educational record and FERPA (Family Educational Rights and Privacy Act) related to educational records and therefore, anything related to a disciplinary record, is protected under FERPA.

Referring to Bullying Investigative Procedures, Superintendent McLaughlin pointed out that upon receipt of a report of bullying the principal must respond within five school days, the investigation may include documented interviews with the alleged victim, alleged perpetrator, and any witnesses. He added that all interviews shall be conducted privately, separately, and shall be confidential. He said a maximum of ten school days was the limit for the completion of the investigative procedural steps.

Superintendent McLaughlin commented the School Districts were filled with educators. He said life as it currently was meant that teachers had to be trained in restraint. He further commented that in support of the policy the School Board promoted preventative educational measures to create greater awareness of aggressive behavior, including bullying and the Board encouraged the Superintendent to work collaboratively with all staff

members to develop responses other than traditional discipline as a way to remediate substantiated instances of bullying.

Superintendent McLaughlin said the Safe School Zones Act - RSA-193(d) stated the following:

The Safe School Zones Act imposes mandatory reporting obligations on School Districts and requires School Districts to enter into a memorandum of understanding with their local police departments which articulated agreements about how they coordinated and worked around those kinds of issues. Superintendent McLaughlin commended the partnership that the School District had with the Merrimack Police Department.

Superintendent McLaughlin said School Zones referred to any school property or school bus and was applicable to any offense enumerated under RSA-189:13-A(V) and reportable acts included first and second-degree murder, manslaughter, felonious sexual assault, sexual assault, incest, distribution of sexual images, computer pornography, firs or second-degree assault, any simple assault, criminal mischief, burglary, robbery, theft, illegal sale or possession of a controlled drug, and criminal threatening.

In conclusion, Superintendent McLaughlin stated schools and School District's were severely limited in their ability to disclose discipline or personnel matters to the general public. Student discipline for confirmed infractions of the Safe School Zones Act, unless criminal, as determined by the local police, must focus on remediation, mitigation, or further acts and alternative strategies to achieve the goal of behavior cessation. He said there could be a legitimate difference of opinion about what would cease behaviors but what may have been traditional punishment in the past equaling a sure result was no longer the case.

Board Member Nunez said she felt it was important for everyone to be heard in a bullying situation. Board Member Nunez asked what could be done for the children who were silently walking the hallways nervous to say "so and so" was doing something to him/her. Superintendent McLaughlin replied he would like the conversation to continue and would invite some of the principals to join them in further discussions.

Assistant Superintendent of Curriculum and Instruction Fabrizio stated they were teaching the Second Step Program from pre-school through 5th grade and were exploring adding it to grades 6, 7, and 8 the following year. He said the goal was to teach the kids' resiliency skills and the skills to speak up for themselves as well as for their neighbors not to be bystanders but to be proactive.

Board Member Nunez stated that she felt the District needed to stay on top of the policy and continuously look at it and modify it based on what they currently saw.

Board Member Schneider agreed that it was a good idea to have the principals join the School Board for a meeting. He said as a parent of a victim, one of the things he struggled with was that your child needed to make an accommodation such as being moved out of a classroom because then it made the child feel like "well, I reported something that happened to me and now I have to make a change, what's wrong with me?" He said many times it could cause the student to not want to report future incidents. He further said he was sure there was a rationale behind that decision but it would be good to understand what that rationale was.

Chair Barnes asked how some of the skills that were being introduced by Universal Design for Learning Program (UDL) helped address some of the environments of which they dealt with the bullying dynamic. Assistant Superintendent of Curriculum and Instruction Fabrizio replied it addressed barriers and sometimes behavior was a barrier. Further, he said every case was individual and Universal Design for Learning Program (UDL) was about the individual learner and student as was the RTI (Response to Intervention) process.

Vice Chair Guagliumi stated she was interested in how the Second Step Program and further, the CASEL framework was impacting the incidents and the data surrounding the bullying instances occurring at the lower grades.

5. Approval of January 7, 2020; January 14, 2020; January 16, 2020; and January 21, 2020, School Board Meeting Minutes

- **January 7, 2020**

Vice Chair Guagliumi moved (seconded by Board Member Schneider) to approve the meeting minutes from January 7, 2020.

The motion passed 5 – 0 – 0.

- **January 14, 2020**

Vice Chair Guagliumi moved (seconded by Board Member Schoenfeld) to approve the meeting minutes from January 14, 2020, as amended.

Discussion:

Page 2, Line #69 – "one of the reasons why Vice Chair Guagliumi had that preference was because it would move those costs closer to when the District was slated to have paid its bonded debt" was added. – Guagliumi

Page 4, Line #138 – “Vice Chair Guagliumi asked if the proposed campus redesign was run by the Planning and Building Committee” was changed to “Vice Chair Guagliumi asked if the proposed campus redesign was reviewed by the Planning and Building Committee” – Guagliumi

Page 10 – Line #378 – “Vice Chair Guagliumi was changed to Chair Barnes”. – Guagliumi

Page 12 – Line #477– “Vice Chair Guagliumi noted she was also in favor of removing the vocational transportation” was changed to “Vice Chair Guagliumi noted she was also in favor of reducing the vocational transportation in the amount of $25,000”

The motion passed 4 – 0 – 1. (Abstained – Nunez)

- **January 16, 2020**

Board Member Schneider moved (seconded by Board Member Schoenfeld) to approve the meeting minutes from January 16, 2020, as amended.

Discussion:

Page 2 – Line #64 – “Vice Chair Guagliumi commented she did not support removing the furniture from the budget and she said she felt it was important to be replaced” was added – Guagliumi

Page 2 – “Vice Chair Guagliumi said she had also made a statement “that she understood that some of the furniture was greater than 40 years old” – Guagliumi

Page 9 – Line #336 – “an operating budget in the amount of $80,11,563 for 2020 – 2021” was changed to “an operating budget in the amount of $80,111,563 for 2020 – 2021.” – Guagliumi

The motion passed 5 – 0 – 0.

- **January 21, 2020**

Board Member Schoenfeld moved (seconded by Board Member Schneider) to approve the meeting minutes from January 21, 2020.

The motion passed 4 – 0 – 1. (Abstained – Nunez)

6. Consent Agenda

Educator Resignation

- Mr. Matthew Davis, Math Teacher, Merrimack High School

Board Member Schneider moved (seconded by Board Member Nunez) to accept the Consent Agenda as presented.

The motion passed 5 – 0 – 0.

7. Acceptance of Gifts/Grants under $5,000

- Guild of New Hampshire Woodworkers to Merrimack High School for $600.00

Assistant Superintendent for Business Shevenell commented the gift was to provide compensation to nationally recognized woodturner Donna Zils Banfield to present woodworking techniques and embellishments. The goal was to bridge objective woodworking skills with student creativity with the course curriculum.

Vice Chair Guagliumi moved (seconded by Board Member Nunez) to accept the gift with the School Board's gratitude and appreciation.

The motion passed 5 – 0 – 0.

8. Other

a. Correspondence

Superintendent McLaughlin commented there had been quite a few requests for information since December, but particularly within the past week. He said they received requests for staff information relative to salary, length of service, class size, assignments, special education expenditures, and questions around contracts over a certain amount of money. He also said he had received requests to see bids, current and historical trends in the budget, and enrollment.

Superintendent McLaughlin said he was more than happy to answer any questions the public had and a lot of the questions were a matter of public record. He further said, however, they were not required, by state law, to create special documents if they did not already exist. He reiterated he was happy to provide any information that was a matter of public record but noted in some cases pulling the information together could take a

significant amount of time. He pointed out approximately 40 and 50 hours had been spent on collecting the information.

Vice Chair Guagliumi asked how many requests for information had been received. Superintendent McLaughlin replied approximately fifteen requests since December.

Vice Chair Guagliumi asked if there were overtime hours needed. Superintendent McLaughlin replied in the negative.

Board Member Schneider commented that he received an e-mail from a constituent who was distressed over the presentation that was given by the School Board regarding potential dramatic cuts at the last meeting and more importantly, called his lack of response in question and he said he would handle it offline.

Chair Barnes stated the School Board received an e-mail regarding what a $5 million cut would look like. She also stated the Board received correspondence regarding teachers and salaries and what constituted an election hearing and the correspondence was referred to administration.

b. Comments

Board Member Nunez commented she was glad the public was taking an interest in the budget but encouraged them to not just look at the dollar figures but there were also things of which you could not put a price tag on. She suggested that perhaps the public could visit the schools and see what occurred during the course of a school day.

9. New Business

There was no new business.

10. Committee Reports

Board Member Schneider stated the Budget Committee had two meetings where they reviewed all of the school budgets and then there was a meeting the previous week where they reviewed all of the remaining budgets. He further stated the following evening the Budget Committee would meet to discuss the Warrant Articles the School Board proposed and drafted.

Chair Barnes stated the Parks & Recreation Committee had met on January 22nd and the first thing they reviewed was the budget presentation to the Town Council and one of the items that was slotted for the 2020 – 2021 budget was the resurfacing of the tennis courts at Wasserman Park because that was where they had to send the tennis player's to have

home matches and instead of waiting until 2021 they were going to pay for the tennis court repairs using the savings/surplus accounts and do it in this years' budget. She also stated in the budget they were planning on razing three buildings at Wasserman Park because they were beyond repair but ironically a tree fell on one of the buildings and hence, had an insurance claim so they might only have to raze two buildings instead of three.

Chair Barnes noted the following community events:

- Murder Mystery Fundraiser Dinner – February 8th
- Winter Carnival at Wasserman Park – February 22nd
- Ice Rink – Currently closed due to warm weather
- Summer Camp Registration – Opened on January 2nd and as of January 22nd, they already had over 200 registrations. She also noted they were hiring for summer positions.

Chair Barnes commented on January 28th the Grater Woods Sub-committee did not have a quorum so they did not actually have a meeting but they did have a public session. She shared as a public service announcement, there were rules regarding having dogs in open space locations. She said the other thing they discussed was there was a Town Ordinance which required people walking dogs to pick-up dog waste.

11. Public Comment on Agenda Items

There was none.

12. Manifest

The Board signed the manifest.

At 8:55 p.m. Board Member Schoenfeld moved (seconded by Board Member Nunez) to adjourn the public session.

The motion passed 5 – 0 – 0.