



Phone: (603) 228-2061
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<http://www.nhsba.org>

Board of Directors

Dr. Anthony Pastelis
President, Rochester

John Falconer
1st Vice-President, Colebrook

Don Austin
2nd Vice-President, Somersworth

Jack Widmer
Immediate Past President, Gov. Wentworth

To: NHSBA Member School Board Chairs
From: Ted Comstock, Executive Director and General Counsel
Date: November 21, 2014
RE: NHSBA Resolutions for 2015

I am pleased to enclose copies of the newly Proposed Resolutions for 2015, the Proposed Continuing Resolutions, and the NHSBA Policies, Resolutions, and Statements of Belief Manual. Here's a preview of the role that each will play in the 2015 Delegate Assembly.

2015 NHSBA Delegate Assembly

The Proposed Resolutions include Continuing Resolutions of the Association, which have been previously adopted, as well as newly proposed resolutions for 2015 submitted by member school boards. Please include these Proposed Resolutions as an item on your school board agenda to help your board's delegate identify how to represent your school board at the NHSBA Delegate Assembly. This year's Delegate Assembly will be held on Saturday, January 10, 2015, from 9:45a – 3:00p at the Center at Triangle Park (formerly the LGC) in Concord. The NHSBA Resolutions will instruct our efforts as we work with the Legislature in the upcoming Session.

The Policies, Resolutions and Statements of Belief Manual contains standing resolutions of the Association that have been adopted for at least three continuous years. This Manual has previously been sent to you when the "Call for Resolutions" went out in August. We encourage you to review the Manual prior to the Delegate Assembly. The Manual can be accessed on the NHSBA website, www.nhsba.org, and will be available at the Delegate Assembly. There will be no action on any of the standing resolutions contained in the Manual, unless specifically brought to the floor by action of the Assembly.

Registration information for the NHSBA 2015 Delegate Assembly is enclosed and is also posted on the NHSBA Web site (www.nhsba.org/calendar.asp). Also enclosed is the schedule for the day, which includes great morning sessions on the most critical and timely issues facing school boards in our State. Please register your Delegate early to attend this most important conference. I look forward to seeing you there!

cc: School District Superintendents

Executive Director
Dr. Theodore E. Comstock
sklesq@aol.com
NH School Boards Association
25 Triangle Park Drive, Suite 101
Concord, NH 03301



2015 NHSBA DELEGATE ASSEMBLY

It is time for the 2015 NHSBA Delegate Assembly. This meeting informs the NHSBA legislative efforts for the next year, and allows your Board an opportunity to vote on statewide issues. We need at least one delegate from each NHSBA member board to attend the Delegate Assembly. Alternate delegates are welcome and encouraged to attend as well. There is **NO** cost to attend this event!

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Date: Saturday, January 10, 2015*
Hot Topics: 9:45 am – 12:15 pm
Lunch: 12:15 – 1:15 pm
Delegate Assembly: 1:30 – 3:00 pm
Place: Center At Triangle Park (formerly the LGC)
25 Triangle Park Drive
Concord, NH 03301

You can register online @ www.nhsba.org/calendar.asp

Or complete the registration below and fax it to NHSBA, Attn: Terry by Monday, January 5th, 2015. The fax number is: 603-228-2351.

**Delegate Name:

District:
SAU:

Address:
City/State/Zip:

Phone:

Email:

**Alternate Delegate Name:

Phone:

Email:

The proposed resolutions were mailed to member boards and SAU offices on 11/21/14. We ask that each delegate review the resolutions prior to the Assembly.

Call 603-228-2061 with any questions.

We look forward to seeing you on January 10th!

*In case of weather emergency or cancellation the NHSBA Delegate Assembly will take place on Saturday, January 24, 2015 at the Center At Triangle Park (formerly the LGC).

Executive Director
Dr. Theodore E. Comstock
sklesq@aol.com
NH School Boards Association
25 Triangle Park Drive, Suite 101
Concord, NH 03301

**SCHEDULE FOR THE 2015 NHSBA
DELEGATE ASSEMBLY AND “HOT TOPICS” SESSIONS**

Saturday – January 10, 2015

Center At Triangle Park (formerly the LGC)

Concord, NH

9:45a-10:00a

Welcome/Overview of the Day

Dr. Anthony Pastelis, NHSBA President

Theodore Comstock, Esq., NHSBA Executive
Director

10:00a – 12:15p

“Hot Topics” Sessions:

Session 1- 10a-10:45a

Effective School Board Meetings:

This session will address various legal issues and best practices for conducting an effective school board meeting, including setting the appropriate agenda, techniques to ensure that your meeting is run smoothly, the role played by the board chair, how to address controversial topics in an even-handed manner, and how to manage public comments in a way that is both fair to the public and sensitive to the board’s agenda.

Barrett Christina, NHSBA Staff Attorney

Session 2- 10:45a-11:30a

Best Practices In School Board Leadership:

Learn what the Berlin School Board, the 2014 NHSBA School Board of Excellence, does to focus a bright light on community engagement and effective board governance.

Berlin School Board Members

(over)

Session 3- 11:30a-12:15p

Goal-Setting/Strategic Planning:

Does your board set annual goals? Are those goals consistent with a long range plan?

This session is designed to guide you through the process of goal-setting, and how that should synch with a strategic plan. You will learn what effective goal-setting looks like, as well as discover what an effective strategic plan process incorporates.

Mark Dolan, NHSBA Strategic Planning Specialist

12:15p-12:30p

Break

12:30p – 1:15p

Working Lunch

A Preview of the 2015 NH Legislative Session

The 2015 NH Legislative Session has begun, with the state budget taking center stage. This session will provide you key insights about budget issues, with a focus on education funding programs. You will also get an insider look at other key legislative issues that will likely emerge during the 2015 Session.

Dean Michener, NHSBA Director of Governmental Affairs

1:15p-1:30p

Break

1:30p – 2:00p

NHSBA Business Meeting

2:00p -3:00p

2015 NHSBA Resolutions Review/Adoption

3:00p

Adjourn

New Hampshire School Boards Association

Proposed Continuing Resolutions for 2015

For consideration by the 2015 NHSBA Delegate Assembly – January 10, 2015

√ Re-adoption Recommended by NHSBA Board of Directors

Education Funding:

1. NHSBA supports the state funding of a percentage of adequacy aid for home education students who attend public schools in New Hampshire. The funding percentage should be prorated based on the percentage of the day that home education students are attending classes in public schools. (2014)

Local Control and School District Autonomy:

2. NHSBA supports state and federal legislation that affirms the responsibility for education resides with the states, which have delegated to local school boards the power and authority to adopt policies, establish priorities, and provide accountability to direct the operation of the schools, including the school system's mission and goals, organization, budget, program, curriculum and services, all essential to the daily operation of schools, consistent with state laws and regulations. (2014)
3. NHSBA supports local boards and their responsibility for establishing the structure, accountability, advocacy and delivery of instruction within their local district. This includes statutory changes that affirm this managerial policy confided exclusively to public employers. Specifically, governing bodies have the right to determine standards for evaluation, compensation, selection, layoff and retention, discipline, assignment and transfer, and other traditionally accepted managerial rights so as to continue public control of governmental functions. (2013)
4. NHSBA supports legislative affirmation of the management right associated with teacher evaluation that is an integral component of the requirement that school boards adopt a teacher evaluation policy. Further, NHSBA supports involving teachers and principals by allowing a reasonable opportunity to comment on draft school board evaluation policy, understanding that the school board has the sole prerogative to adopt a local policy it deems appropriate. (2014)

Accountability:

5. NHSBA supports legislation to amend the State Common Core Testing that will begin in the school year 2014-2015 to allow special education students be tested at their grade level ability rather than their placement of their current school grade. (2013)

New Hampshire School Boards Association

Proposed Resolutions for 2015

For Consideration by the 2015 NHSBA Delegate Assembly – January 10, 2015

Proposed Resolutions Submitted by Member School Boards

**Proposals include NHSBA Board of Directors
Recommendations To the NHSBA Delegate Assembly**

Each proposed resolution submitted by a member school board shows:

- The proposed resolution as submitted by the member school board;
- The rationale as submitted by the member school board;
- A brief description by NHSBA of the current situation;
- A brief statement by NHSBA on the impact of the proposed resolution;
- A brief review and analysis by NHSBA of the proposed resolution;
- A recommendation by the NHSBA Board of Directors. Possible Board of Directors recommendations are: Adopt the proposal as submitted, Not Adopt the proposal, or Adopt Alternative Amended Language as proposed by the NHSBA Board of Directors.

6. **RESOLUTION SUBMITTED BY SAU #83: FREMONT SCHOOL DISTRICT**

Proposed Resolution:

“Any education or SAU policy or procedure required by legislation of the NH Legislature will expire in 5 years and cannot be renewed without full public hearings, debate and re-enactment by said legislature. And all Rules and Regulations stipulated by the NH Dept. of Education must first be submitted to the NH Legislature for final approval and will also expire in 5 years and cannot be renewed without the consent of the NH Legislature.”

Stated Rationale:

“The NH Legislature and NH State Board of Education continue to promulgate new legislation, rules and regulation requiring additional policy making and expense to local SAUs often completely irrespective to previous legislation, rules and regulations enacted by the NH Legislature and/or promulgated by the NH Board of Education. Implementing and monitoring these new policies and procedures distracts from the SAUs’ main function, and that is to educate our children.”

NHSBA Response

Current Situation:

NH RSA 541-A, Administrative Procedure Act, governs the rulemaking process, providing procedures for notice of proposed rules, public hearing and comment, legislative review by the Joint Legislative Committee on Administrative Rules (JLCAR), and ultimately final adoption. No rule may currently be effective for a period of longer than 10 years (541-A:17). Provision is made for extension and re-adoption of existing rules. The rulemaking process requires a proposal to identify the federal or state statute being addressed (541-A:3-a), a fiscal impact statement (541-A:5) and assurance the rule does not violate NH’s constitutional prohibition on unfunded mandates in part I article 28-a (541-A:6). Specific allowance is also provided to allow, “Any interested person may petition an agency to adopt, amend, or repeal a rule.” (541-A:4)

Resolution Impact:

The proposed resolution would change the duration of any rule, decreasing it from 10 to 5 years. Current law (541-A) already provides for notice, public hearings and debate, and review by JLCAR when an agency proposes to re-adopt, or amend, any current rule. The current process requires the state agency (Department of Education) to give notice of any proposed rule or re-adoption, followed by a public hearing and comment period. The final wording of the proposal then goes to the legislature (JLCAR) for review. JLCAR can approve or file an objection, which must then be addressed by the agency prior to final adoption.

Review and Analysis:

Rulemaking authority is granted to the agencies to provide needed specificity and detail for implementation of statutes. The process was undertaken recently to revise our Minimum Standards for Public School Approval, which became effective this past August. These new standards required various technical

changes to local board policy in such areas as attendance, school safety, student records, harassment and bullying, distance education, alternative means of earning credits, air quality and graduation competencies. Shortening the current 10-year time period seems appropriate, allowing for more timely review of policy decisions.

√ **Alternative Adoption Recommended by NHSBA Board of Directors**

NHSBA supports the adoption of statutory language requiring that any statute or New Hampshire Department of Education rule, which mandates the adoption of local school board policies, will expire after five years; and that such statute or rule cannot be renewed without full public hearings, debate and re-authorization by the New Hampshire Legislature. All rules and regulations stipulated by the New Hampshire Department of Education must be submitted to the full New Hampshire Legislature for final consent and approval.

7. **RESOLUTION SUBMITTED BY SAU #83: FREMONT SCHOOL DISTRICT**

Proposed Resolution:

"IDEA requires the Federal Government to pay 40% of the average daily tuition for students meeting the conditions of services under IDEA. Since that time the maximum reimbursement on average has been less than 40% and in recent years has averaged as little as 17%. Be it resolved that members of the National School Board Association enjoin in a class action suit against the Federal Government and its appropriate agencies as well as the US Congress to require full reimbursement to all member SAUs for the entire shortfall of reimbursement since the enactment of IDEA."

Stated Rationale:

"Since the provision of Special Education is required by law, SAUs are required to fund the requirements of the program often at the cost of providing other services and programs or raising taxes. An increasingly untenable position in the current economic situation. Not only that, but the Rule of Law is a founding principal of our Republic, and it is unconscionable that our government willfully ignores the statutory requirements that it makes for itself. A lawsuit would not only possibly provide remedy to a long standing injustice, it would also serve notice to the US Congress and the Federal government that it can no longer ignore the statutory requirements of funding all laws and regulations for which such reimbursements are required."

NHSBA Response

Current Situation:

The Individuals with Disabilities Education Act (IDEA) is the nation's federal special education law that ensures public schools serve the educational needs of students with disabilities. IDEA requires that schools provide special education services to eligible students as outlined in a student's Individualized Education Program (IEP). IDEA requires every state to issue regulations that guide the implementation of the federal law within the state. At a minimum, state regulations must provide all of the protections contained in IDEA. Some states, including NH, have additional requirements that go beyond the federal law. While the debate at the time referred to funding 40%, IDEA is not "fully funded."

In the IDEA legislation, Congress set a maximum target for the federal contribution to special education spending equal to 40 percent of the estimated excess cost of educating children with disabilities. Thus, if the program were "fully funded," states would receive their maximum grants, calculated at 40 percent of the national average per pupil expenditure times the number of children with disabilities. Under the act, the count of children with disabilities cannot exceed 12 percent of the state's total school population.

Resolution Impact:

Given the language of the IDEA statute (see bolded above), the proposed legal action would likely not be successful. Both national and state advocacy efforts have focused on this issue for a long time. NHSBA Perennial Resolution **IX:A**, dating back to 1990, calls for Congress to appropriate funds to pay 40% of the cost of implementing IDEA. Of equal importance is Perennial Resolution **IX:B**,

also calling for full funding of IDEA, but moving it from the discretionary side of the budget to being mandatory.

Review and Analysis:

Despite long-standing efforts to increase the level of funding, neither political party has been willing to realistically address this issue. Past efforts included a proposal to increase the funding amount gradually over 10 years to reach full funding. Similar efforts to move the issue to mandatory funding within the federal budget have not been successful with either party. Both NSBA and NHSBA continue to annually advocate on behalf of this issue.

√ **Adoption Not Recommended by NHSBA Board of Directors**

8. **RESOLUTION SUBMITTED BY SAU #49: GOVERNOR WENTWORTH REGIONAL SCHOOL DISTRICT**

Proposed Resolution:

“NHSBA urges Congress and the State legislature to pass legislation that establishes a positive and safe media environment for children, resulting in less accessibility to children and youth to the violent content in video games, movies, and television, and provides new sources of revenue and/or initiates programs to educate parents and children on the negative effects of violent media content.”

Stated Rationale:

“Extensive research dating back to the early 1970s indicates that media violence can contribute to aggressive behavior, desensitization to violence, nightmares, and fear on the part of children and youth. The National Institute of Mental Health, American Academy of Pediatrics, American Medical Association, American Academy of Child and Adolescent Psychiatry and the American Psychological Association issued a joint statement on the negative impact of media violence on children. The Federal Bureau of Investigation submitted a report on shootings in schools that stated that violence is a risk factor. The Federal Communications Commission released a report on violent television programming and its effect on children stating there is strong evidence that exposure to media violence can increase aggressive behavior in children. In recent years the research on this topic has provided more compelling scientific evidence that media violence impacts children’s aggression. Certainly schools are in the position of dealing with the negative effects of aggression in the education environment. From a public policy point of view it is time for school boards to take a stand to reverse this alarming trend.”

NHSBA Response

Current Situation:

Most local school boards currently address this issue through local policy and efforts to inform parents. Avoiding the use of violent media sources during the school day can be accomplished by local board policy and/or administrative action by the superintendent or principal. NHSBA currently provides model policies in such areas as pupil safety and violence prevention, school district social media websites, public information programs, wellness policies, and school district internet access for students.

Resolution Impact:

NHSBA is sympathetic to this issue and while it has historically been left to local school district policy and parental involvement, legislative action may be appropriate. While most violent media (games and television) are accessed after school, efforts to inform parents and reduce this exposure will benefit our youth.

Review and Analysis:

NHSBA supports local districts in their efforts to accomplish these goals along with appropriate legislation that reduces such violent content.

√ **Adoption Recommended by NHSBA Board of Directors**

9. **RESOLUTION SUBMITTED BY SAU #15: HOOKSETT SCHOOL DISTRICT**

Proposed Resolution:

“NHSBA supports new legislation which will allow the amendment of RSA 91-A, to allow tuition contract negotiations to be covered under what can be discussed in non-public session.”

Stated Rationale:

“This modification would allow a school board the ability to discuss and develop tuition contract negotiation strategies in a non-public session, preserving the strategies within minutes to be shared after a contract has been signed and negotiated.”

NHSBA Response

Current Situation:

RSA 91-A, Access to Governmental Records and Meetings, stipulates that, “Public bodies shall not meet in nonpublic session, except for one of the purposes set out in paragraph II.” (91-A:3, I) Those purposes identified are: (a) dismissal, promotion, or compensation of any employee or the discipline of any employee; (b) hiring of any employee; (c) matters that would likely affect adversely the reputation of any person, other than a board member; (d) consideration of the acquisition, sale or lease of property; (e) consideration of pending claims or litigation; (f) consideration of applications by the adult parole board; (g) consideration of security related issues; (h) consideration of applications by the business finance authority; (i) consideration of matters related to emergency functions; and (j) consideration of confidential information exempt from public disclosure in an adjudicative proceeding.

Resolution Impact:

The proposed addition to law would allow school boards to discuss and develop strategies for negotiating tuition contracts between sending/receiving districts. Such practice is already allowed for contract negotiations with employee unions. Board discussion of strategy or negotiations with respect to collective bargaining is not considered a “meeting” (91-A:2, I (a)).

Review and Analysis:

This is particularly timely given the change in enrollment patterns among districts and competition to establish tuition agreements. NHSBA understands the unique and confidential nature of negotiations, whether it is to establish the terms of an employee contract or the terms of agreement and cost for tuitioning students to another school district. Strategies involved, and the associated proposals, should have the same protections and confidentiality. Full disclosure will occur once the tuition contract receives agreement.

✓ **Alternative Adoption Recommended by NHSBA Board of Directors**

NHSBA supports legislation amending RSA 91-A to allow school boards to consider, discuss, strategize and negotiate student tuition contracts confidentially, consistent with applicable provisions of RSA 91-A.

10. **RESOLUTION SUBMITTED BY SAU #55: TIMBERLANE REGIONAL SCHOOL DISTRICT**

Proposed Resolution:

“NHSBA supports the concept of retirement plans for public employees. NHSBA specifically supports the idea of NH Legislature revamping the NH public pension system to make it a defined contribution plan instead of the current defined benefit type plan in order to ensure its long-term stability to the taxpayers.”

Stated Rationale:

“Defined benefit plans across the USA are underfunded by over \$1 trillion and increasingly are financially unsustainable by the taxpayers. In NH alone, underfunded public employee retirement liabilities have risen year-on-end to almost \$3,500 per capita in 2011. A defined contribution plan offers taxpayers some long-term relief and offers public employees the ability to own their retirement funds immediately and to direct their own retirement investments to meet their own goals. Under such plan, the state’s liabilities end once the employer contributions are deposited into the employee’s accounts. Thus, there can be no unfunded liability to the system. This gives the state, counties, cities and towns budget certainty because there is a set amount that goes into the employee’s accounts and that figure does not change based on what happens in the market. Such certainty is critical for local and state government to be able to hire more teachers, police officers and firefighters. An added benefit is that the funds would travel with the employees when they change jobs. Defined contribution plans have been adopted in several other states across the country (Michigan 1996 and Rhode Island 2011). What this shows is that not only is it possible to create and implement a defined contribution plan for government employees, but that it works and can be done well.”

NHSBA Response

Current Situation:

The New Hampshire Retirement System (NHRS) is a contributory public employee defined benefit pension plan funded by investment returns and both employee and employer contributions. NHRS provides benefits to its eligible members and their beneficiaries upon retirement, disability, or death. NHRS retired members receive a lifetime pension. Although benefits are funded by member contributions, employer contributions and trust fund assets, NHRS computes benefits on the basis of members’ Average Final Compensation and years of Creditable Service. Unlike a defined contribution plan, NHRS benefits provided to members are not dependent upon the amount of contributions paid into NHRS or the investment return on trust fund assets.

Resolution Impact:

The proposed resolution would change the current defined benefit program to a defined contribution plan. This would shift much of the risk associated with funding retirements from the employer to the employee. Public employer obligation would cease when the employee retires, and the employee’s benefit would consist of the funds existing in their retirement account. Depending upon the plan adopted, administration and management of those funds could remain

with NHRS (or some similar organization), or provide more/less discretionary control to the employee (owner of the account).

Review and Analysis:

While there has been much discussion of shifting from defined benefit to defined contribution plans, relatively few governments have actually done so. Post-2008 changes have been to establish either hybrid plans or cash balance plans, rather than stand-alone defined contribution plans. Changes are driven by a desire to avoid future unfunded liabilities and transfer risk to participants. In NH, several legal questions remain unresolved, such as which employees can have the plan changed: only new hires, new hires and those not vested, all employees?

Assuming some current employees remain in the defined benefit program, there is a transition cost associated with closing the plan. Previous NH legislative efforts to change the plan were stalled when actuaries identified a transition cost of \$1.2 billion in increased unfunded liability. The state's actuary noted that keeping a significant flow of new employees into the defined benefit plan will eliminate the increase in unfunded liability because the pool of assets in the plan would remain sufficient for the assumed rate of return to continue.

It is also important to note that the unfunded liability accounts for more than half of the total cost, exceeding the 'normal' cost of the current benefit. Employers are paying down the unfunded liability over a 30-year period; 24 years remain for it to be paid in full by 2039. This cost will continue to exist and must be paid regardless of any change in the plan. The current 'normal cost' alone is less than most defined contribution plan scenarios.

√ **Alternative Adoption Recommended by NHSBA Board of Directors**

NHSBA supports legislation to strengthen the financial health and stability of NHRS, including any potential transition to a cost-saving plan such as hybrid or cash balance plans, based on sound actuary analysis.

11. RESOLUTION SUBMITTED BY NHSBA BOARD OF DIRECTORS

Proposed Resolution:

“NHSBA supports the efforts of the National School Boards Association to provide more local governance and flexibility by working with federal officials to ensure passage of all federal legislation and regulations consistent with this goal.”

Stated Rationale:

“Increasingly, the U.S. Department of Education has encroached on local school board governance. NSBA is seeking passage of federal legislation that will ensure that greater flexibility and governance be restored to local school boards during the ESEA reauthorization. This Resolution seeks to support those efforts.”

Current Situation:

Historically, the primary responsibility for public education has properly resided with the states which, in turn, have delegated substantial authority to local educational agencies, which are governed by locally elected school boards. As the school district's governing body, local school boards establish the district's mission and goals, organization and structure, budget and priorities, program, curriculum, extracurricular activities, and other services relating to student health and safety, allowing for the essential day-to-day operations of schools. However, in recent years, many new regulations, rules, grant conditions, or directive guidance materials, have been promulgated by the U.S. Department of Education and State Education Departments. These regulations and rules have negatively impacted the flexibility and control that school boards have traditionally implemented at the local level.

As an example, NH statutes required local boards to adopt a teacher evaluation policy, giving boards the sole and exclusive authority. In 2013, the Department of Education asserted that a statutory revision (HB 142), implementing inclusive language requiring “involvement” of teachers and principals, was necessary for the State to be granted a federal waiver from NCLB requirements.

Resolution Impact:

The resolution seeks to affirm the managerial role of school boards as the policy-maker of the district.

Review and Analysis:

NHSBA has a long history of supporting local control and school board oversight and responsibility for the structure and accountability of education within their district. The proposal is focused on providing the House and Senate committees that oversee education with better information regarding the local impact of the U.S. Department of Education's activities. It will also underscore the role of Congress as the federal policy-maker in education and through its representative function, to ensure that the decisions that are made at the federal level will best support the needs and goals of local school systems and the communities they serve as they meet the federal interest and goals in education.

√ Adoption Recommended by NHSBA Board of Directors