

**NHMA**  
NEW HAMPSHIRE MUNICIPAL ASSOCIATION  
EST. 1941

**VIRTUAL**

# WORKSHOP

*The Academy for Good Governance*

## Class 1: Governance and Governing Body Authority

Presented by:

- ▶ Margaret Byrnes, Executive Director, NHMA
- ▶ Barrett Christina, Executive Director, NHSBA

June 3, 2020

1

## How to Participate Today

- Open and close your panel
- Submit text questions
- Q&A addressed during the webinar session

File View Help

Audio

Audio Mode:  Use Telephone  Use Mic & Speakers

MUTED

Audio Setup

Questions

[Enter a question for staff]

Send

Start Holding your Own Web Events with  
GoToWebinar  
Webinar ID: 977-124-241  
GoToWebinar™

[nhmainfo@nhmunicipal.org](mailto:nhmainfo@nhmunicipal.org) / 800.852.3358 / [www.nhmunicipal.org](http://www.nhmunicipal.org)

2

## Welcome to “The Academy,” Class of 2020!

### Academy Goals & Purpose

- Learn the law
- Learn best practices
- Understand your roles and responsibilities and others’ roles and responsibilities



3

## THE 2020 ACADEMY



4



## Part One: Governance in towns, cities, and village districts

5



## Types of Governmental Entities

Cities	Towns	Village Districts
School Districts	Counties	

6

## Authority of Political Subdivisions

-  No home rule Home rule v. local control
-  Authority comes from the state RSAs  
Case law  
Admin rules  
Preemption

7



## Separation of Powers: Governing Body & Legislative Body

8



## Town Meeting is Legislative Body

Voters = Legislators

Traditional v. "SB2"



9



## Town Meeting Authority

- ▶ Elects town officials
- ▶ Adopts most ordinances, the budget, and approves appropriations
- ▶ Petitioned warrant articles



10

## Select Board Essential Authority

Executive, managerial, administrative body	Calls annual meeting and posts warrant, RSA Chapter 39	Manages prudential affairs, RSA 41:8
Has financial responsibilities/duties <ul style="list-style-type: none"><li>• Presents budget, RSA 32:5</li><li>• Expenditures, RSA 41:9</li><li>• Financial duties, RSA 41:9</li></ul>	Manages public property, RSA 41:11-a/41:14-a	Regulates town highways, RSA 41:11
Manages employment		

11

## Governing Body Action

-  Must act as a Board
-  No "individual" authority
-  Towns: Select board (most common) or town council
-  Cities: City Council or Board of Aldermen
-  Village District: Board of Commissioners

12



**Town  
Administrator**

v.

**Town  
Manager, RSA  
Chapter 37**



13

**Governing Body Relationship with  
Other Elected Officials, Generally**



- ▶ No Interference
- ▶ Cooperation
- ▶ Statutory Term and Duties

14

## Are cities different from towns?



- ▶ Yes, cities have some authority towns don't have!
- ▶ A city has a charter; charter must still comply with law and does not override state law



15

## What is a “City”?

A specific form of municipal government in New Hampshire

Many charters were legislative acts

Now, all charters are adopted and amended by RSA 49-B, 49-C & 49-D



16

# Charter Authority: The Law





RSA 49-B GRANTS ONLY THE POWER TO AMEND THE CHARTER FORM OF GOVERNMENT



RSA 49-C ESTABLISHES THE FRAMEWORK FOR CHARTERS IN CITIES



49-D ESTABLISHES THE FRAMEWORK FOR VALID REVISIONS AND AMENDMENTS FOR TOWNS

17

# Cities: Two Forms of “Elected Body”





Elected body is both the legislative and governing body of the city



**Mayor-aldermen plan (“strong mayor”)**

Mayor and board together are elected body  
Mayor elected at large, full-time salaried



**Council-manager plan (Claremont)**

City council is elected body  
Mayor either elected at large or chosen from council  
Mayor not to serve full-time

18



19

The slide features a decorative sidebar on the left with a dark red background and a white outline of the state of New Hampshire at the bottom. The main content area is white and contains the following text:

**Agenda**

- 1. Introduction**
  - *Barrett M. Christina, Executive Director*
  - *William J. Phillips, Staff Attorney*
- 2. Key School Board Responsibilities**
- 3. The Learning Curve for School Board Members**
- 4. Direct School Board Action for Successful School Districts**
- 5. Other Recommended Practices for Good School Board Governance**
- 6. Contact Information**

*Slide 20*

20



## Key School Board Responsibilities

*Slide 21*

21

### Establish the School District Budget & Provide Budget Oversight

- While budget approval is ultimately left to the voters, one of the most vital aspects of school board roles and responsibilities is the development of a budget that serves the needs of students while simultaneously respecting the ability of taxpayers to fund such a system. As state-aid to public education remains either stagnant or is eliminated, the burden on local property taxpayers continues to rise.
- Key statutes: RSA 32:5; RSA 32:8; RSA 32:10; RSA 197:23-a; RSA 40:13, IX

Key School Board Responsibilities
[www.nhsba.org](http://www.nhsba.org)
Slide 22

22

## Set & Establish School Board Policy

- NHSBA advocates that the development of clear, sound and legal policies is critical to the successful operation of any school district and that adopting policy is among the most fundamental responsibilities of any board of education. Policy is the tool that provides the Board power to allow or require action. It is through policy that boards can govern effectively. The board is a policy-making body and its policies are the local law of the district.
- Key legal citations: NHDOE Rule Ed 306.04(a)

23

## Engage in Long-term Strategic Planning

Strategic planning benefits both the school district and the community at-large. It helps clarify the school board's goals and the district's goals. Strategic planning helps identify areas of improvement. And strategic planning helps address facility's needs, budgetary projections and forecasts, and long-term sustainability for the board, the district and the community.



24

## Transparency & Community Engagement

- Transparency comes in different forms. Obviously, there is RSA 91-A, the Right to Know law, which sets certain requirements for open public meetings, access to public records, and so forth.
- But transparency can also be enhanced through community engagement: periodic board letters/communications to the public, social media presence, inviting other community-minded groups to present at school board meetings, etc.
- Bringing various stakeholders to the table and engaging them in conversation as a normal course of business can help school boards gain public support and trust.

25

## The Learning Curve for School Board Members



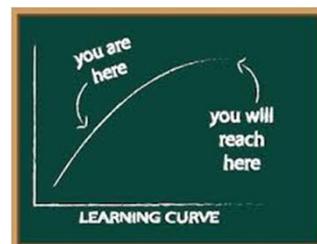
26

- Learn to acknowledge publicly that individual Board members have no power or authority to act on behalf of the Board or the District. Only the Board, as a whole and at a properly noticed meeting, can make decisions or take action for the school district.
- Recognize the difference between setting policy (the school boards responsibility) and administering the school district (the superintendent's responsibility).
- Board members must represent students, first. Board members have numerous constituencies: parents, staff, taxpayers, and so forth. And at times, the interests or desires of those constituencies may be divergent. However, the first consideration of all Board decisions should consider what is in the best interest of students. The primary focus of all Board decisions must be student achievement.

*The Learning Curve**www.nhsba.org**Slide 27*

27

- Learn how to respond to the complaints and concerns of citizens, school administrators, and district staff. Most school boards have policies that a “reporting” structure when members of the community have complaints or grievances. Be sure to follow that policy.
- Individual board members can't solve problems by themselves: it takes the work of the entire board to reach consensus and achieve solutions.

*The Learning Curve**www.nhsba.org**Slide 28*

28



## Direct School Board Action for Successful School Districts

*Slide 29*

29

### Strategic Focus

1. Having a governance mindset means having a strategic focus. School board members with a governance mindset understand that governance is a strategic job, not an administrative job. The secret to effective governance is working together, in a coherent way, to adopt strategic goals.
  - What should those goals focus on? Remember the key roles and responsibilities of school boards listed above: budget, policy, strategic planning, and transparency.

*Direct School Board Action*

*www.nhsba.org*

*Slide 30*

30

**Use School Board Policy to:**

- Clarify roles and expectations for the board and superintendent.
- Establish and implement a clear process for communication between board members and administration.
- Develop community-engagement processes and protocols and develop direct dialogue with other stakeholders.

31

**Other Recommended  
Practices for Good School  
Board Governance**



32

## Recommended Practices

- Share a strong vision and clearly define goals for their school district.
- Keep the community informed about their actions, as well as the school district's challenges and progress.
- Monitor the fiscal health of the schools.
- Focus policies on student achievement and implement policies that support student success.

*Other Recommended Practices*

*www.nhsba.org*

*Slide 33*

33

## Recommended Practices

- Effective school boards are accountability driven, spending less time on operational issues and more time focused on policies to improve student achievement.
- Effective boards are data savvy. They embrace and monitor data, even when the information is negative, and use it to drive continuous improvement.
- Effective school boards take part in team development and training, sometimes with their superintendents, to build shared knowledge, values and commitments for their improvement efforts.

*Other Recommended Practices*

*www.nhsba.org*

*Slide 34*

34

Roles & Responsibilities	School Board	Superintendent
1. General	Governs the District	Administers day-to-day operations; advises the Board
2. Policy	Adopts	Suggests & implements
3. Public Meetings	In charge of; conducts its work for the district	Prepares, administers, & advises
4. Curriculum, Instruction & Assessment	Establishes criteria & monitors results/progress	Recommends, oversees staff, adjusts as needed, responds to state initiatives
5. Budget/Finance	Adopts & monitors	Prepares, administers & monitors
6. Personnel	Establishes criteria; elects to hire, renew or non-renew	Interviews, recommends, hires, evaluates, trains, & promotes
7. Community Relations	Finds ways to engage with the public	Assists the Board in its efforts
8. Labor Relations	Negotiates & ratifies	Assists the Board in its efforts
9. Student Services	Adopts budget & policies that support student needs	Recommends, implements, directs & oversees
10. Other: facilities, food, services, bidding, transportation	Develops policies	Implements policies, develops administrative regulations, & makes recommendations
<p><i>Other Recommended Practices</i> <a href="http://www.nhsba.org">www.nhsba.org</a> <i>Slide 35</i></p>		

35



## Contact Information

*Slide 36*

36

**Barrett Christina**  
Executive Director  
[bchristina@nhsba.org](mailto:bchristina@nhsba.org)

**William Phillips**  
Staff Attorney  
& Director of Policy Services  
[wphillips@nhsba.org](mailto:wphillips@nhsba.org)

**NHSBA**  
25 Triangle Park Drive, Suite 101  
Concord, NH 03301  
(603) 228-2061

DISCLAIMER: The above information is copyrighted to the New Hampshire School Boards Association and is intended for the sole and exclusive use of NHSBA members. The information is provided for general information only and as a resource to assist member districts. School districts and boards of education should consult with legal counsel to address local facts and circumstances.

NHSBA © 2020

Contact Information

[www.nhsba.org](http://www.nhsba.org)

Slide 37

37



The slide features a green and white background with abstract geometric shapes. On the left, there is a green icon of a person in a suit with a cloud-like head and a speech bubble. On the right, the text 'Part Three: Ethics & Conflicts of Interest' is displayed in a large, green, sans-serif font. In the top right corner, the NHMA logo is visible, which includes the text 'NHMA' and 'New Hampshire Middle Management Association'.

38

# What are “ethics”?

Conflicts of Interest

v.

Incompatibility



The slide features a white background with a decorative green geometric pattern on the right side. The NHMA logo, which includes the text 'NHMA', 'NEW HAMPSHIRE MUNICIPAL ASSOCIATION', and 'EST. 1941' along with a map of New Hampshire, is positioned in the upper right corner.

39

# Incompatibility of Offices

- ▶ RSA 669:7 Incompatibility of Offices (Towns)
- ▶ RSA 31:39-A, Local Conflicts Ordinances
- ▶ RSA 48:1, Disqualification for Employment (Cities)
- ▶ RSA 673:7, Land Use Boards
- ▶ RSA 32:15, Budget Committees
- ▶ A municipal charter, if applicable



The slide features a white background with a decorative green geometric pattern on the right side. The NHMA logo, which includes the text 'NHMA', 'NEW HAMPSHIRE MUNICIPAL ASSOCIATION', and 'EST. 1941' along with a map of New Hampshire, is positioned in the upper right corner.

40

# Conflicts of Interest

**General Standard**

- Policy making; must act in interest of public, but don't need to be indifferent
- Cannot have personal or financial interest in the outcome
  - Immediate & definite

**When acting in judicial capacity (often land use boards):**

- Making decisions that affect rights of specific individuals; must be indifferent
- General standard OR
- Juror disqualification
  - RSA 673:14, I

41

## Common Reasons for Disqualifying Conflicts

- ✓ Prejudgment
- ✗ Abutters
- 🏠 Financial Interest in the Outcome
- 👤 Employment
- 👨‍👩‍👧 Family & Other Relationships
- 🧠 Independent Knowledge

42

## AVOIDING CONFLICTS

- Recusal, not abstention
- Advisory Vote, RSA 673:14, II
- Alternates, RSA 673:14
- Proceeding without a full board
- Disclosure to parties
- Local conflicts of interest ordinance, RSA 31:39-a



43



*for completing your first course at The Academy for Good Governance!*



### NHMA'S MISSION

Through the collective power of cities and towns, NHMA promotes effective municipal government by providing education, training, advocacy and legal services.



[nhmainfo@nhmunicipal.org](mailto:nhmainfo@nhmunicipal.org) / 800.852.3358 / [www.nhmunicipal.org](http://www.nhmunicipal.org)

44