

January 10, 2026



SB2 Moderators' Workshop:

Issues for Experienced Moderators

C. Christine Johnston,
NHMA Legal Services Counsel



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ZOOM INSTRUCTIONS

1. Click the "CC" (Show Captions) button at the bottom of your Zoom screen.
 - a. If you don't see it, click "More (...)" and then select "Show Captions."
2. Captions will appear at the bottom of your Zoom window.
3. To change the font size, click the arrow (^) next to the CC button, then choose "Caption Settings," then change Font Size on scale to either Small or Large.



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AGENDA

Authority and Duties
Preparation
Public Meeting/Speech Issues
Meeting Mechanics
Warrant Articles and Amendments
Disturbances
Election Issues



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**TOWN MEETING &
SCHOOL MEETING
Handbook**
— 2026–2027 —



New Hampshire Municipal Association

TOWN MEETING AND SCHOOL MEETING HANDBOOK 2026-2027

- Explanation of Town and School District Meetings
- The Moderator and Their Role
- Covers Traditional and SB2 Meetings
- Information about Rules of Procedure
- Updated with Recent Changes to Election and Other Laws



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AUTHORITY AND DUTIES



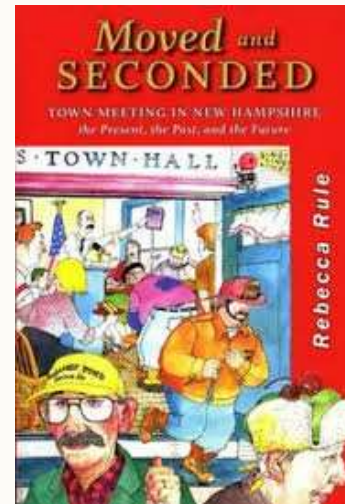
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TRADITION!

You are part of a venerable and extremely “New England” tradition.

Moderators have existed in New England since at least 1641 and were made official across New Hampshire in 1718.

A 1795 ruling allowed the moderator to have a constable eject troublemakers.



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Authority and Duties

The moderator is an elected official responsible for presiding over town meeting and overseeing elections

- Presides over town, village, and school district meetings
- Oversees elections
- Maintains order
- Declares all votes
- Ensures compliance with state laws

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Passing the Gavel

- Moderator must be present – but what if they aren't?
- Town meeting/election: Supervisors of the Checklist appoint a Moderator Pro Tempore
- School District meeting/election: school district Clerk appoints School Moderator Pro Tempore
- Moderator may appoint an assistant to cover temporary situations (conflict of interest, personal break); that person could also be the designated person to be appointed by the Supervisors in case of unexpected absence of the Moderator
- State election: Moderator appoints their own Moderator Pro Tempore, RSA 658:19.



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Rules of Procedure

- Moderator may prescribe rules of proceeding, RSA 40:4.
- Such rules “may be altered by the town” – i.e., the meeting may overrule the moderator by simple majority vote.
- With all due respect to General Henry M. Robert, simpler rules may be more appropriate for town and school district meetings.
- The goal is meaningful participation in an orderly way, and the best rules are the ones that everyone can understand.

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Levelheaded Impartiality

- Prepare to act with:
 - Neutrality
 - Calm and organized demeanor
 - Willingness to react immediately to the unexpected
- Town meeting can get heated
- Does the moderator vote?
- Can the moderator speak personally to an article?

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PREPARATION



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Meeting Place Preparation

- What is the facility plan?
 - Layout of the meeting and the polling place
 - The public and non-public spaces
 - Coordinate with election officials and whomever owns the building about layout, food and drink, technology
 - Include police and fire chiefs in the conversation to plan for unruly participants, evacuation plans, traffic, parking

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Meeting Place Preparation

- Service Animals: Any dog individually trained to do work or perform tasks to benefit an individual with a disability.
 - Emotional support animal is NOT a service animal and does not have to be accommodated.
- Deliberative session and election day must accommodate service animals.
- Moderator may ask two questions:
 - Is the animal required because of a disability?
 - What work or task has the animal been trained to perform?

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Using School Property

- **Firearms:** People may carry firearms into the meeting place. Act only with the assistance of local police if someone brandishes a firearm. Discuss with police beforehand.
- **Registered Sex Offenders:** People who are registered voters are not prohibited from entering school grounds.
 - Some boards have written policies that result in “no trespass” orders. However, the policy must state that these orders do not apply to attendance at public or open meetings, including town/school district meetings. Determine if your school has a policy.
- **Tobacco Products:** The use of any tobacco product, e-cigarette, or liquid nicotine in or on the grounds of any public educational facility is prohibited, including at town/district meeting.

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Informational Tables

- **No First Amendment right for groups to have tables or booths in the deliberative session space**
 - However, once tables or booths are allowed, you will create a public forum for private speech
 - If you allow the Scouts to have a table, you must let other groups have one to avoid viewpoint or content-based discrimination
- **Best practice:** have tables available on first-come, first-served basis, with a maximum number allowed based upon space and a deadline for requesting one
- Groups cannot be disruptive or interfere with the business of the deliberative session in any way
- Moderator may forbid altogether, but if you’ve traditionally allowed it that may change things

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Pre-Meeting Meetings

- Coordinate with governing body and budget committee on logistics, warrant articles, hot local issues, potential amendments, who will speak to which issues/articles
- Attend the budget hearings and keep current on issues
- Take note of voters who may be a challenge and those who are knowledgeable and respected
- Will town counsel be present? Have they been consulted?
- Warrant articles that may be legally defective or questionable, likely amendments which raise legal issues?
- Contact author(s) of petitioned articles

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Anticipate

- How will you run the meeting?
 - Create and refine rules of procedure, have copies ready
- Be prepared to explain issues in an unbiased manner
- Guide the boards and the voters so the intent of the voters is clearly understood, especially the contingent articles
- If town counsel is not present, highlight and bring applicable laws and other guides

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PUBLIC MEETINGS and FREE SPEECH



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Who Can Speak?

- Registered voters have the right to speak, and when they do, it is in their capacity as **legislators**.
- Non-voters are not legislators
- Non-legislators have no First Amendment right to address sessions of legislative bodies
- The moderator and (ultimately) the voters decide whether a nonvoter may speak at town/school meeting.

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The Right to Know Law

- RSA 91-A applies to the deliberative session, which is a “governmental proceeding”
- Deliberative session is open and any member of the public can attend (nonresidents, media, etc.)
- Audio and video recording is allowed
 - Anyone may do this
 - Devices include but are not limited to tape recorders, cameras, and video equipment
 - No one must be told or grant permission
- Legal exception in RSA 91-A:2, II allows secret ballot votes

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Disruptive Photography

- Citizen who was a professional photographer attended town deliberative session taking photos for Coalition of NH Taxpayers. Moderator ordered the photographer to stop.
- After citizen objected, Moderator accused him of disrupting the meeting, threatened to eject him, and called for a public vote banning further photography. Citizen stated he felt threatened and humiliated and declined to participate in the debate on warrant articles.
- During a break, Moderator and select board member demanded all photos be deleted but citizen refused.
- Later in the meeting, newspaper photographer was permitted to take photos without issue.

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MEETING MECHANICS



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Postponing Deliberative Session

- Moderator may decide 2 – 48 hours prior to the scheduled deliberative session to postpone due to a weather event warning.
 - Must consult with governing body and clerk, and as appropriate with police chief, fire chief, emergency management director
 - Postpone to another reasonable date, place, and time certain
 - Notice to residents must be provided by “whatever means are available”
- Moderator may also postpone at any time prior to the session due to a disaster or other emergency that renders the meeting place unsafe, same process.
- In both cases, the postponement shall not delay the deliberative session more than 72 hours.

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Postponing Official Ballot Voting Day

- Decision to postpone based on weather event warning applicable to a town on the date of the official ballot vote/election must be made on the day immediately prior to the scheduled official ballot voting day at any time before 6:00 p.m.
- Document the decision and notify the Secretary of State within 2 hours of making the decision.
 - Recommend documenting with an email to the SoS and later reprint the email in the town/district report
- Election must be rescheduled to the Tuesday 2 weeks following the original date

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Introduction of Articles

- Except for the caption, the entire warrant article does not have to be read (but of course you can).
- The article may be moved for discussion, debate and possible amendment “as printed in the warrant.”
- Someone may move the article worded differently than the way it is printed in the article, but:
 - There may not be an illegal change to the subject matter
 - Only if permitted by the Moderator’s rules or by a ruling from the podium
- Best practice is to move the article as printed in the warrant and then make a motion to amend it
 - DRA may disallow an article that wasn’t moved as written and didn’t get formally amended

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Petitioned Articles

- **NEW:** The primary petitioner of a petitioned article must be given at least 10 minutes to introduce their article and speak on it.
- The submitted petitioned may identify one of the registered voters on the petition as the primary petitioner.
- The primary petitioner may provide written notice to the moderator to designate any registered voter to speak as the primary petitioner.
- If there is no primary petitioner identified with the petition, then the first registered voter listed on the article's signatures is deemed to be the primary petitioner.
- RSA 39:3; RSA 40:7 (effective Sept. 13, 2025)

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Ordinance Adoption or Amendment

- Ordinances proposed for adoption or amendment can usually be modified at the deliberative session (except zoning/land use ordinances and amendments), but the subject matter cannot be eliminated.
- A topical description of the substance of the ordinance or amendment, neutral in its language, may be presented on the warrant and the official ballot instead of the full text
- If using a topical description, be sure official full copies of the ordinance or amendment are available at the deliberative session

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Action on Warrant Articles

- The first session of the meeting consists of an explanation, debate, and vote on any amendments to, and final form of, each article.
- Petitioned articles are no different from those placed on the warrant by the governing body in this respect.
- No article may be deleted; all must go on the ballot in some form.
- Amendments are restricted (more on that later)
- The dollar amounts may be amended up, down, or to zero.
- The deliberative session may vote to deal with articles out of order, but must address each article in some fashion.
- The ballot uses the warrant article language as amended.

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Voting During Deliberative Session

- Options:
 - Voice vote
 - Hands/voting cards
 - Division (standing vote)
- Secret Ballot:
 - Moderator may call for secret ballot vote
 - Required when 5+ voters present request in writing, RSA 40:4-a
 - Required when 7+ voters present immediately request one after a non-secret ballot vote (oral or written), RSA 40:4-b

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Restricting Reconsideration

- General rule: any vote can be reconsidered until the deliberative session adjourns, unless reconsideration has been restricted by a vote of the meeting.
- For a deliberative session, a vote to restrict reconsideration prevents any further action on that article; it goes to the ballot as the session last left it.
- The meeting cannot move to reconsider a vote to restrict reconsideration.
- Restricting an article can be a double-edged sword:
 - Keeps an article intact that has been attacked; but also
 - Locks in language that is unenforceable or imprudent

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Concluding the Session

- You do not need a motion to move warrant articles to the official ballot for vote at the second session.
- The moderator need only announce the end of debate and direct the clerk to place the article as read (or as it was amended) on the ballot.
- Once the last article is done, announce the meeting has ended and tell people that the next session of the meeting will be official ballot voting day.
- Reminder:
 - A recess is a temporary delay, such as to count votes or to take a break, and the deliberative session will resume that day.
 - When you are “finally” adjourning the session, that is it.

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Disturbances

- Moderator may command any law enforcement officer and legal voter to remove any person who is disrupting the meeting. RSA 40:8. Police are guilty of a “violation” for not obeying the commands of the moderator to preserve order. RSA 40:9.
- No one may speak during the meeting without permission of the moderator or speak when anyone else is already speaking in order. RSA 40:7.
- **Practice Pointer:** give disruptive person multiple chances to correct behavior. Explain rules, remind of rules, be sure law enforcement witnesses at least some of the behavior. Try a brief recess. Removal should be the LAST RESORT.
- Ask yourself: is this actually preventing the business of the meeting from being conducted? Or is it just uncomfortable?

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Disturbances

- **WILLIAM BAER V. JAMES LEACH (2015):** Mr. Baer was arrested for disorderly conduct after he violated several rules of the school board's public comment session
- A police officer observed Baer disregarding the rules that public comment was not a “Question and Answer” session and interrupting after his allotted time had ended
- The chair tried to regain order multiple times, but Baer continued to interrupt, mocking them and stating, “Why don't you arrest me?”
- These facts demonstrated to the officer that Baer was disrupting the meeting
- The court held that the police officer had qualified immunity for arresting an individual at a school board meeting, as well as for Mr. Baer's arrest for failure “to comply with a lawful order of a peace officer” based on Baer's course of conduct and his persistent refusal to respect the chair's orders.

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WARRANT ARTICLES AND AMENDMENTS



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“Illegal” Warrant Articles

- There are “enforceable” and “unenforceable” articles. The meeting can vote on anything it likes.
- Article will either be legally ineffective or advisory.
- What can be done?
 - No explanation can be included on the warrant or ballot (statutes explain what may be included, and they do not permit explanations like this)
 - Provide detailed explanation in a voter guide
 - Correct the issue by amending the article (if possible)
 - Do not remove from warrant or ballot unless the Superior Court issues an order allowing it

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“Illegal” Amendments

- An amendment may make an article unenforceable:
 - Adds a new purpose
 - “Eliminates” the subject matter of the article
 - Adds an appropriation to an article (putting money in where there wasn’t any or for a completely new purpose) – but the meeting may change dollar amounts, all the way to zero
 - Changes wording prescribed by law
 - Results in language that directly or indirectly violates an applicable statute or federal law (ex. - increase select board to 7 members)

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What if an Amendment Changes Effect?

- *Harriet Cady v. Town of Deerfield*, 169 N.H. 575 (2017).
- Two petitioned articles proposed changing Welfare Director and Chief of Police to elected positions with stipulated annual salaries
- Deliberative session amended both articles to state an advisory view that both positions should remain appointed, with nothing stated about salaries
- Plaintiff argued the changes were contrary to RSA 40:13, IV(a)-(c) regarding the substance of warrant articles
- Court determined the statute prohibits articles from being amended in a way that eliminates the subject matter entirely
- These amendments substantially changed the effect of the original articles but did not change the subject matter (welfare and police chief positions)

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Articles with Prescribed Wording

- Be sure you know ahead of time which articles have wording prescribed by law because those should not be amended.
 - Best practice is to encourage governing body to have counsel or NHMA review the article before it is posted
 - Highlight the language that cannot be changed on your copy of the warrant on the podium
- Examples:
 - Adoption of Town Manager form of government
 - Changing size of Select Board
 - Rescinding Official Ballot Referendum (SB2)

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Conditional Articles

- Articles may be contingent on other articles, but in an SB2 meeting there is no way to know the result of an earlier question before voting on the later one.
- Example:
 - Article 3 is a bond issue for a new transfer station, Article 7 calls for expanding the current transfer station, a question that will be moot if Article 3 is approved.
 - Article 7 could be phrased as, "If Article 3 is defeated, shall the Town raise and appropriate the sum of \$____ for the expansion of the current transfer station?"

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“No Means No” – RSA 32:10, I(e)

- If the meeting:
 - (a) deletes a purpose, or
 - (b) reduces a proposed appropriation to zero, or
 - (c) rejects a proposed appropriation contained in a separate warrant article,
 - Then no money may be spent or transferred to that purpose for that budget year (removes governing body's ability to move money into that purpose).
- If separate article with appropriation fails, governing body cannot use capital reserve fund held for that purpose or a revolving fund, or any other fund.

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Line-Item Budget Amendments

- Voters may vote on specific lines in the budget.
 - These votes are effectively advisory (except for the impact they have on the bottom line of the budget) because they do not affect the governing body's ability to make transfers unless the line is deleted or reduced to zero.
- If even one dollar remains in the line and is approved, then the governing body may transfer funds from other areas of the budget into that line.
- Governing body still may not overspend the bottom line of the budget.

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Collective Bargaining Agreements

- Collective bargaining cost items must be submitted to voters for approval and cannot be modified by the meeting. RSA 273-A:3, II(b).
- Voters cannot vote on the rest of the contract language
- Multi-year contracts require voter approval
- Contingent article may be placed on the warrant by petition or by the governing body authorizing a special meeting to address the CBA if it is defeated. RSA 31:5, III.
- Board/union renegotiate, then special meeting may be held without Superior Court permission.

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Capital Reserve Funds – RSA 35

- Creation requires clearly defined purpose, an appropriation, and a simple majority vote.
- Discontinuation of CRF requires simple majority vote.
- Changing the purpose requires a 2/3 vote.
- Deliberative session may not amend article to add agents to expend. DRA considers this a change of subject matter (going from saving to spending).
- Cannot transfer funds from one CRF to another CRF.

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Special Revenue Funds – RSA 31:95-c

- These funds hold revenue from user fees.
 - They are not capital reserve funds or revolving funds
 - No agents to expend are allowed
- An appropriation is necessary each time to spend any of the money.
- Cannot be transferred to other restricted funds.
- Any change to the purpose or the fractional portion of the revenues that goes into the funds must be approved by a 2/3 vote of the meeting.

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Revolving Funds – RSA 31:95-h(III)

- Six allowable purposes: recycling, ambulance, special police details, affordable housing, cable access, energy conservation.
 - Other purposes, such as recreation, have different statutes authorizing them and different rules
- Agent to expend is a board or official selected by meeting
- Special limits on expenditures are possible
- “No means no” applies if an appropriation fails
- May be unenforceable if the proposed purpose is not allowed, such as Highway Block Grant.

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Official Budget Committee 10% Limit

- Total amount appropriated, including budget and separate warrant articles, cannot exceed the budget committee's recommendation by more than 10%.
 - If deliberative session amends an article, budget committee and governing body may change their recommendations but it doesn't affect the 10% limit.
 - Excludes appropriations for principal and interest payments on bonds/notes and mandatory assessments imposed on town by other county, state or federal governments.
 - If budget committee doesn't recommend CBA, it is excluded from calculation of the 10%.
 - If budget committee doesn't recommend a bond issue, governing body can still place on warrant with note and meeting can override the limit.

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ELECTION ISSUES



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Voter Registration – RSA 654:12

- CITIZENSHIP:
 - birth certificate
 - passport
 - naturalization papers if a naturalized citizen
 - proof of previous or current registration to vote in another NH town
 - Any other “reasonable” documentation indicating applicant is a US citizen
- AGE: any “reasonable” documentation indicating application will be at least 18 years old at next election

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Voter Registration – RSA 654:12

- DOMICILE: NH driver’s license or ID card, NH resident vehicle registration, US picture ID with current address, government-issued check, benefit statement, or tax document, or other “reasonable” documentation that establishes it is more likely than not the applicant is domiciled at the address in the town/ward in which they wish to vote
- IDENTITY: state or federal driver’s license, passport, military ID, photo ID from federal or state government, or other evidence that “reasonably establishes” it is more likely than not that the person is who they claim to be, **including verification of identity by the moderator or another election official**

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Documentation to Vote

- RSA 659:13 no longer permits use of affidavits for voter who does not present proof of identity at polls.
- Must provide valid photo identification showing:
 - Name which “substantially conforms” to that on the voter’s registration record
 - Either current or not expired for more than 5 years
 - Exception – voter 65+ years of age may use expired ID regardless of expiration date

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Documentation to Vote

- Specific acceptable forms of ID in the statute:
 - Driver’s license issued by any state or federal govt
 - Non-driver ID issued by any state
 - US military ID
 - US passport
 - Valid student ID issued by NH college or career school, NH public or accredited private high school, Dartmouth, NH university/community college system school.
 - Must be current or not more than 5 years expired

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Delivery of Absentee Ballots

- “Delivery agents” may now deliver completed ballots to the clerk. RSA 657:17.
- Delivery agent must complete a form provided by SoS, present government-issued ID (or have identity verified by the clerk).
- Can include family members (spouse, parent, sibling, child, grandchild, in-law, stepparent, stepchild)
- If voter resides in nursing home or residential care facility, agent may be facility administrator or a staff member designated in writing by administrator

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Moderators' Listserv

- Established to provide a simple way for New Hampshire moderators to communicate with each other.
- Each member may send email to this list and Google Groups distributes the email to all group members.
- The purpose of the group is to allow moderators to discuss issues, ask questions, and share information about any aspect of the moderator position.
- Messages should be relevant to that topic only, not include obscenity or advertisements, and be free of personal attacks and partisan political postings.
- To be added, send an email to: info@nhmunicipal.org

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THANK YOU!



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Our Vision

NHMA is known as the premier source of information and support needed for town and city officials to effectively serve the public.

Our Mission

NHMA supports effective municipal government by leveraging the collaborative strengths of New Hampshire cities and towns through education, training, advocacy, and legal services.

Our History

The New Hampshire Municipal Association, Inc. (NHMA) is a nonprofit, non-partisan membership organization of municipalities. Founded in 1941 for the purpose of exchanging information to facilitate more efficient and effective local government, NHMA was reorganized in July 2003 under the umbrella of the New Hampshire Local Government Center (LGC). At that time all services provided to municipalities by NHMA were assumed by LGC except legislative advocacy, which remained in NHMA LLC, a separate subsidiary of LGC. In the fall of 2012 all "traditional municipal league services" including legislative advocacy, legal advisory services, training programs, and educational publications, were consolidated under NHMA with oversight by the NHMA Board of Directors. Currently, NHMA, Inc. operates as a totally separate, independent organization from the former LGC risk pools (HealthTrust, Inc. and Property Liability Trust, Inc.) with a board comprising only elected and appointed municipal officials elected by NHMA members.

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NHMA's staff includes two attorneys who are available to answer inquiries and provide general legal assistance by e-mail and telephone to elected and appointed officials from member towns, cities, and village districts.

In addition to their day-to-day legal advisory services, our attorneys write numerous handbooks and other publications and give presentations on a wide array of topics at our offices, at various locations around the state, and virtually. Please refer our [Calendar of Events](#) and [Member Services Plan](#) for more information. The attorneys are also available to provide customized [On Demand training](#) for our members.

NHMA attorneys submit amicus curiae ("friend of the court") briefs to the New Hampshire Supreme Court on behalf of member municipalities in cases that involve issues of general municipal significance. If your municipality is involved in such a case and it reaches the Supreme Court, please let us know.



**JONATHAN
COWAL**

Legal Services
Counsel



**C. CHRISTINE
JOHNSTON**

Legal Services
Counsel

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CONTACT US

Phone: 603.224.7447

Email: legalinquiries@nhmunicipal.org

Address: 25 Triangle Park Drive, Concord, New Hampshire 03301

Please refer to NHMA's [Legal Services FAQ](#) for details about how our service works.



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