

New Milford Board of Education
Policy Sub-Committee Special Meeting Minutes
November 5, 2024
Sarah Noble Intermediate School Library Media Center

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TOWN CLERK 

2024 NOV -7 2:30pm
NEW MILFORD, CT

Present:	Mrs. Leslie Sarich, Chairperson Mrs. Tammy McInerney Mr. Dean Barile Mr. Randall Scofield
Absent:	

Also Present:	Dr. Janet Parlato, Superintendent of Schools Mr. Zachary Schurin, Attorney (arrived at 6:17)
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1.		Call to Order The New Milford Board of Education Policy Sub-Committee was called to order at 6:15 pm by Mrs. Leslie Sarich, Chairperson.	Call to Order
2.		Public Comment None	Public Comment None
3.		Discussion and Possible Action A. Bylaws Recommended for Initial Review 1. 9000 Role of Board and Members 2. 9001 Officers 3. 9002 Official Duties—Chairperson 4. 9003 Official Duties—Vice Chairperson 5. 9004 Official Duties—Secretary 6. 9006 Removal of Board Officers 7. 9007 Code of Conduct for Board Members 8. 9008 Reimbursement of Board Members' Expenses 9. 9009 Oath of Office 10. 9010 Formulation, Adoption, Amendment or Deletion of Bylaws 11. 9011 Formulation, Adoption, Amendment or Deletion of Policies	Discussion and Possible Action A. Bylaws Recommended for Initial Review 1. 9000 Role of Board and Members 2. 9001 Officers 3. 9002 Official Duties—Chairperson 4. 9003 Official Duties—Vice Chairperson 5. 9004 Official Duties—Secretary 6. 9006 Removal of Board Officers 7. 9007 Code of Conduct for Board Members 8. 9008 Reimbursement of Board Members' Expenses 9. 9009 Oath of Office

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		12. 9012 Formulation, Adoption, Amendment or Deletion of Administrative Regulations 13. 9013 Suspension of Policies, Bylaws or Administrative Regulations 14. 9014 Board Committees 9000: Mr. Barile asked about parliamentary inquiry and if our council has insured us with the town charter with any changes. Dr. Parlato stated yes. Mr. Barile asked about where it mentions “Robert’s Rules, in lieu of...” Mrs. McInerney stated Robert’s Rules is a format for the board to run their meetings. The charter is what we follow, which is superseded by the state. Mrs. McInerney stated the bylaws being voted on cleaned up what was old and outdated. Mr. Scofield stated he would have liked to have gotten a side-by-side comparison of what was changed. It would be helpful for new members. Mrs. McInerney stated that it has been done in the past, but these are almost brand new, with some completely rewritten. Dr. Parlato also noted these are a second read. Mr. Scofield clarified he was not a board member when they were first read. Dr. Parlato mentioned the policy review process has been long and there are only about 10 policies left to revise. Mr. Barile asked about item 2B and the term “to elect.” Mrs. Sarich answered that it is something the board votes on. 9001: No discussion. 9002: Mr. Scofield asked to add to the bylaws that the board receives agendas and notes 7 days in advance of the meeting. Mrs. Sarich stated that would be a regulation. Dr. Parlato replied that she would take it under advisement. For a lot of years the Friday before Tuesday has been	10. 9010 Formulation, Adoption, Amendment or Deletion of Bylaws 11. 9011 Formulation, Adoption, Amendment or Deletion of Policies 12. 9012 Formulation, Adoption, Amendment or Deletion of Administrative Regulations 13. 9013 Suspension of Policies, Bylaws or Administrative Regulations 14. 9014 Board Committees
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		standard practice. If there are changes that come up, they are communicated to the board. 9003: Mrs. McInerney stated a Vice Chairman policy is not necessary, but good practice to have it. The Vice Chair takes over if the Chair is unavailable. 9004: Mrs. McInerney suggested adding duties for the Vice Secretary and utilizing the same verbiage as Vice Chair. 9006: Mr. Barile asked why they are being asked to change it from a $\frac{2}{3}$ vote to a majority vote. Mrs. McInerney added that the board is currently not political, but if it becomes one, removing people could be a simple majority. Keeping it $\frac{2}{3}$ makes it harder. Mr. Barile stated the $\frac{2}{3}$ has been in place since 2001 and doesn't see the need to change to a majority vote. Mr. Barile stated, under Removal of Board Officers, it reads "'Cause,' which means a reasonable ground for removal, includes but not limited to, any conduct that: 1. Specifically relates to and affects the administration of the office in a manner deemed to be deleterious to Board operations." Mr. Barile asked for the definition of deleterious, and asked who decides it. Noting, it should be more specific. Mrs. McInerney stated only the board can opt to remove a board member. The board of education would have to make that determination. Mr. Barile stated number 2 reads "negatively and directly affects the rights and interests of the public." Mr. Barile stated interests can be subjective. Dr. Parlato answered that that would be the board's determination. Mr. Scofield asked why it is being changed from $\frac{2}{3}$ to a majority vote. Mrs. McInerney answered that it is recommended by Shipman &	
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	Goodman. Mr. Barile stated he thinks it deviates from town charter. Attorney Shurin stepped up to the podium and answered it is a matter of individual board prerogative. There is flexibility. The board can remove officers but cannot remove members. Mrs. McInerney suggested moving it to the full board for discussion. Mr. Barile suggested having a public hearing. Dr. Parlato replied, that is why there is public comment. 9007: Mrs. McInerney asked what happens when a board member is censured. Attorney Shurin replied that it the board member has to make a public admission of doing something wrong. 9008: No discussion. 9009: No discussion. 9010: Mr. Barile asked why it was included since it is brand new. Mrs. McInerney stated it is so the public understands the board cannot just get rid of a policy and demonstrates how we govern our district. 9011: Mr. Barile asked about number 8, and if it means we have to have a vote by the second time it comes to the full board. Dr. Parlato stated it can go to 3 reads if it is significantly changed, but typically it is 2 reads. Mrs. McInerney added policies can be passed with a single read if need be. Mrs. McInerney noted climate policy as an example, stating it has gone back and forth. Unless there is a certain time line, there is also a month between meetings to read the information. 9012: No discussion. 9013: No discussion.	
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		9014:No discussion. <i>Mrs. McInerney moved to bring the above Bylaws listed in 3.A to the full board for second review. Seconded by Mr. Scofield</i> <i>Board began discussion of item 3E. Then resumed order of agenda.</i>	Motion made and passed unanimously to bring the Bylaws listed in 3.A to the full board for second review.
	B.	Bylaws Not Required, but the Board May Wish to Retain Them after Review for Compliance: 1. 9005 Role of the Board and Its Members (Integrity) 2. 9115 Annual Organizational Meeting of the Board 3. 9125 Attorney 4. 9132 Standing Committees 5. 9150 Board Consultants 6. 9160 Student Involvement in Decision Making 7. 9230 Orientation of New Board Members 8. 9240 Board Member Development 9. 9271 Code of Ethics 10. 9325.2 Order of Business 11. 9400 Monitoring Products and Processes (Self-Evaluation) 12. 9410 Public Announcements and Accomplishments 13. 9420 Recognition of Accomplishments by Citizens, Students, Staff Members or the Board <i>No motion. Item was tabled for the 12/03/24 Policy meeting.</i>	B. Bylaws Not Required, but the Board May Wish to Retain Them after Review for Compliance: 1. 9005 Role of the Board and Its Members (Integrity) 2. 9115 Annual Organizational Meeting of the Board 3. 9125 Attorney 4. 9132 Standing Committees 5. 9150 Board Consultants 6. 9160 Student Involvement in Decision Making 7. 9230 Orientation of New Board Members 8. 9240 Board Member Development 9. 9271 Code of Ethics 10. 9325.2 Order of Business 11. 9400 Monitoring Products and Processes (Self-Evaluation) 12. 9410 Public Announcements and Accomplishments 13. 9420 Recognition of Accomplishments by Citizens, Students, Staff Members or the Board
	C.	Bylaws Recommended for Deletion Upon Approval of Bylaws in Item A.	C. Bylaws Recommended for Deletion Upon Approval of Bylaws in Item A.

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		1. 9000 Role of the Board and Member (Powers, Purposes, Duties) 2. 9010 Limits of Authority 3. 9012 Legal Responsibilities of Boards of Education 4. 9020 Public Statements 5. 9030 Commitment to Democratic Principles in Relation to Community, Staff, Students 6. 9040 Board-Related Responsibilities 7. 9110 Number of Members Terms of Office, Oath of Office 8. 9120 Term of Office for Board Officers 9. 9121 Role of the Chairperson 10. 9122 Office of the Vice Chairperson 11. 9123 Role of the Secretary 12. 9131 Committee of the Whole 13. 9140 Board Representatives 14. 9221 Filling Vacancies on the Board 15. 9222 Resignation/Removal from Office/Censure 16. 9250 Remuneration and Reimbursement 17. 9260 Board Member Protection 18. 9311 Policies 19. 9313 Formulation/Adoption/Amendment of Administrative Regulations 20. 9314 Suspension of Policies, Bylaws, and Regulations Dr. Parlato noted these must go to the full board since the bylaws in item 3A are going to the full board.	1. 9000 Role of the Board and Member (Powers, Purposes, Duties) 2. 9010 Limits of Authority 3. 9012 Legal Responsibilities of Boards of Education 4. 9020 Public Statements 5. 9030 Commitment to Democratic Principles in Relation to Community, Staff, Students 6. 9040 Board-Related Responsibilities 7. 9110 Number of Members Terms of Office, Oath of Office 8. 9120 Term of Office for Board Officers 9. 9121 Role of the Chairperson 10. 9122 Office of the Vice Chairperson 11. 9123 Role of the Secretary 12. 9131 Committee of the Whole 13. 9140 Board Representatives 14. 9221 Filling Vacancies on the Board 15. 9222 Resignation/Removal from Office/Censure 16. 9250 Remuneration and Reimbursement 17. 9260 Board Member Protection 18. 9311 Policies
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		<i>Mr. Barile moved to delete the Bylaws Recommended for Deletion listed in 3.C, upon the approval of Bylaws in item 3A. Seconded by Mrs. McInerney.</i>	19. 9313 Formulation/ Adoption/ Amendment of Administrative Regulations 20. 9314 Suspension of Policies, Bylaws, and Regulations
	D. Policy Revisions Recommended for First Read: 1. 5118.1 Homeless Children and Youth 2. 5141.5 Suicide Prevention and Intervention 3. 5158 Policy to Improve the Completion Rates of the Free Application for Federal Financial Aid (FAFSA) 5118.1: Dr. Parlato stated this policy explains procedures around existing legislation for students experiencing homelessness. 5141.5 and 5158: No discussion. <i>Mr. Scofield moved to bring the following policies to the board for first review. Policy 5118.1, 5141.5 and 5158. Seconded by Mr. Barile.</i>	D. Policy Revisions Recommended for First Read: 1. 5118.1 Homeless Children and Youth 2. 5141.5 Suicide Prevention and Intervention 3. 5158 Policy to Improve the Completion Rates of the Free Application for Federal Financial Aid (FAFSA)	Motion made and passed unanimously to delete the Bylaws Recommended for Deletion listed in 3C to be deleted upon the approval of Bylaws in item 3A. Motion made and passed unanimously to bring the following policies to the board for first review. Policy 5118.1, 5141.5 and 5158.
	E. Policy for Review 1. 5131.91 Connecticut School Climate Policy Mr. Barile asked, if the board adopted the school climate policy verbatim, what protection does	E. Policy for Review 1. 5131.91 Connecticut School Climate Policy	

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	the board have from lawsuits arising from this policy. Attorney Schurin stated the board would have governmental immunity. In essence, if the board members are making discretionary judgments within the confines of the law, there is discretionary act immunity from those decisions. It is different from sovereign immunity. Sovereign immunity applies to the state and often, boards of education are both agencies of the town and the state of Connecticut. In certain circumstances there can be sovereign immunity, but in this case, it would be governmental immunity. Assuming the board of education member is acting in good faith within the parameters of protocols. Mr. Barile asked if governmental immunity is the state/government. Attorney Shurin stated they are recognized as separate legal doctrines. Sovereign immunity dates back to the crown. Governmental immunity is a common law where municipalities and other entities, such as boards of education are recognized. Mr. Barile asked if Attorney Shurin was familiar with Palosz vs. Greenwich, and stated it specifically states sovereign immunity does not apply when it pertains to school climate policy. Mr. Barile read from the case ruling and pointed out that in this particular ruling it states that even if the district complies with the school climate policy, and enforces it, they are not acting as an agent of the state, but acting as an agent of a municipality. In this particular case, the town of Greenwich had to pay \$5,000,000. Mr. Barile stated he does not want New Milford on the hook because we're not covered by sovereign immunity. If the district is sued, the state does not protect it, and the town will have to foot the bill. Attorney Schurin stated, sovereign immunity, pursuant to this decision, would not apply. It does not apply to school climate statutes. However, for governmental immunity, it applies when a board of education, or employee of the board of education is exercising good faith discretion when applying a statutory obligation. Attorney	
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	Schurin added, by not adopting this policy, the board is inviting itself into potential liability. Mr. Barile continued by stating, with this policy, we will be obligated to write and define broad terms such as “emotional safety” and “challenging behavior.” There were several issues with this including compelled speech issues and survey issues. Attorney Schurin stated, the way I would frame the issue has to do with how I read Public Act No. 23-167. The language is clear that the policy that has been developed is mandatory and that the board of education needs to adopt it by the force of law. If you do not adopt it, or if you modify it, the concern would be that governmental immunity does not apply when a statute says “you need to do x specifically or you don’t have discretion.” For example, if there is a severe bullying issue and a student self harms/suicide. If there is not an not adopted policy in accordance with the law, the estate of the victim could file a lawsuit and governmental immunity does not apply because there was a clear statutory policy. Mr. Barile clarified he is not suggesting to not have a policy, but he is suggesting changes. Mr. Scofield asked to clarify that this is a mandatory policy, given to the board, from the state, and it needs to be adopted without modification. Attorney Schurin stated yes. Mr. Barile stated, local boards have the authority to determine, within their districts, to vote on specific actions, while ensuring compliance with state law. Attorney Schurin stated there are many statutes out there that say things in a very definitive way. The New Milford Board of Education can not decide they just don’t like Title IX. If you did do that, there is now a Title IX violation. If sued, the district would lose. It is the same with the School Expulsion Statute. The board could decide they don’t like the procedures, but if they take the procedures away and there is a lawsuit, the district would lose and	
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		have to pay damages because there is a statutory requirement. Mr. Barile argued that there are laws that are wrong. People used to not be able to drink out of the same water fountains. Attorney Schurin stated, the board can make the election not to go along. If you make that election, you're making a judgment call and you will not have the protection you may otherwise have had. When you can show that you're complying with the law, that is when you can have immunity. If you're doing it alone, and saying "we know this isn't constitutional," you could make that judgment, but the consequences if you're wrong would be worse from a liability perspective, than if you directly comply with the legislature. Mr. Barile stated, if you read the school climate, it states it "reflects the norms and values of the school community." Mr. Barile stated, it would be the greater likelihood to be sued if other people put this plan together other than the elected body of the town. Mr. Barile stated the fear is we might be sued if we don't comply with the norms and values of the town versus what the state requires. Mr. Barile stated, in Public Act No. 23-167, it mentions numerous times "bullying," "teen dating" or "teen violence." There is no mention of "challenging behavior." Attorney Schurin stated that is an astute observation. The law has not been written to address "challenging behavior" and that's why we go back to governmental immunity. Without language in the statute, what you have at your disposal is governmental immunity. Once again, that applies when the board of education is using discretion in applying statutory provisions. If you are not complying with the legally mandated provision, that is where the liability concern lies. Dr. Parlato added that it also falls under the existing discipline policy.	
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	Mr. Barile wondered if the board has a say in the “climate plan” that is written by the coordinator. In an article by Stephen Sedor, it mentions that one of the things the board will be able to do is have a say in the development of the plan. Dr. Parlato stated she executes the policies of the board and directs the work of the employees to also execute the policies of the board. Best practice would be to present the climate plan to the board and take suggestions under advisement. That would be part of the fundamental operations of the school. Mr. Barile asked, what if the Superintendent changes. Dr. Parlato replied, that that would be a time to revisit it, but speculating what might happen slows things down. Mr. Barile replied by stating, that’s why we have contracts, to anticipate worst case scenarios and other possibilities. This calls for more discussion by the board in having a say in that plan. Dr. Parlato stated the people who are hired by the board have the necessary levels of expertise. Mr. Barile replied that that may be the case when it is written, but when we’re defining words and things are changing: Title IX, gender ideology and preferred pronouns being examples, that is a line that cannot be crossed. Just look at the American Council Association and look at their conference agenda, it is their right and obligation to teach about transgender and LGBTQ. With all due respect, if those are the people who are going to be involved with writing the climate plan, then yes, I think that other people should have a say. If it reflects the will of the town and the values of the town, then it should be town directed officials that have a say. Dr. Parlato stated the board has a say when it is presented to them. Dr. Parlato asked Mr. Barile if he thinks gender ideology is contained in this policy. Mr. Barile stated no, but he is afraid that it leaves the door open for it. It is a big concern, and he is not alone. It requires more discussion.	
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	Mr. Barile added that if the climate policy goes through, he wants it noted that he stated this is a potential for litigation that New Milford will lose. Mrs. McInerney asked Mr. Barile if he was stating this as an individual or a member of the board. Mr. Barile stated, it is in general. We're doing something that is leaving the door open. There is a case in Virginia where a French teacher was fired because he didn't use a certain pronoun. The French teacher filed a lawsuit, and won. This policy, as it is written, leaves the door open for someone to write a climate plan that can put us in harm's way. Mrs. McInerney stated, our policies go through a cycle, and we review them constantly. For instance, technology had to be looked at because it still used terms like "cassette tapes." So we will be looking at school climate policy again in the future. We have to be careful, our role as board members is oversight. We have very specific things we are in charge of and we cannot step outside of that role. This is mandated by the state. If someone sues us, we did our due diligence and followed our legal counsel. Mr. Barile stated Greenwich listened to legal counsel, was sued, and lost \$5,000,000. Mr. Barile stated he would like the board to consider getting a second legal opinion. Dr. Parlato stated, on my first day of employment and first board meeting, there were large concerns raised about school climate. There has not been an audience like that since. Dr. Parlato asked the board to consider the fact that school climate is extremely important. Dr. Parlato stated she understands the nature of what Mr. Barile is suggesting, but believes the implementation is the important part. Mrs. Sarich stated she sat at a town council meeting regarding budget last year, and the only topic discussed was school climate change and the middle school. All she was asked in the meeting was for the board to put policies in place.	
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		Dr. Parlato stated this is a policy that is helpful to the classroom teachers. Even more so than the current one. This allows us to think more clearly about challenging behavior in the classroom, and how we support teachers when there is challenging behaviors. Mr. Barile stated, this was an anti-bullying policy. Now it has been changed. Instead of writing another policy on these issues, we stuck it into an anti-bullying policy. It's a big deal. Keep the anti-bullying mandate. That doesn't need to be part of the discussion. We're discussing changes that bring in vagueness and subjectivity that can leave us open for problems in the future. <i>Mrs. McInerney moved to bring the policy, 5131.91 to the full board for review. Seconded by Mrs. Sarich. Vote passed 3-0-1. Mr. Barile Abstained.</i> F. Items of Information 1. 5118.1 R Administrative Regulations Regarding Homeless Children and Youth 2. 5141.5 R Administrative Regulations Regarding Suicide Prevention Intervention 3. 5158 Administrative Regulations to Improve the Completion Rates of the Free Application for Federal Financial Aid (FAFSA) No discussion.	Motion made and passed 3-0-1 to bring policy 5131.91 to the full board for review. F. Items of Information 1. 5118.1 R Administrative Regulations Regarding Homeless Children and Youth 2. 5141.5 R Administrative Regulations Regarding Suicide Prevention Intervention 3. 5158 Administrative Regulations to Improve the Completion Rates of the Free Application for Federal Financial Aid (FAFSA)
4.		Public Comment None	Public Comment

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5.		Adjourn <i>Mr. Scofield moved to adjourn the meeting at 7:18 pm, seconded by Mr. Barile and passed unanimously.</i>	Adjourn Motion made and passed unanimously to adjourn the meeting at 7:18 pm.
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Respectfully Submitted,



Mrs. Leslie Sarich, Chairperson

Regularly Scheduled Meeting – November 6, 2024

Members in Attendance: Michael Bird, Howard Russock, Lynn Webster, Lennie Lillis

The meeting was called to order at 7:00 PM

- The meeting was adjourned at 7:30 PM by unanimous consent.
Respectfully submitted,

Howard I. Russock, Ph.D.
Recording Secretary