

Concord School District
Board of Education
Regular monthly meeting
October 7, 2019

Board members present: Tom Croteau, Chuck Crush, Barb Higgins, Jim Richards, Pam Wicks, Liza Poinier, Danielle Smith, Nancy Kane, Jennifer Patterson, *President*

Administration: Donna Palley, *Acting Superintendent*, Jack Dunn, *Business Administrator*, Matt Cashman, *Director of Facilities*, Larry Prince, *Director of Human Resources*

Agenda Item 1. Call to Order

Board President Jennifer Patterson opened the meeting at 7:00 p.m.

Agenda Item 2. Approval of agenda

Ms. Patterson moved to add a non-public session at the end of the meeting.

The Board voted 9-0 to approve the agenda, with the addition of a non-public session at the end of the meeting (moved by Ms. Patterson, seconded by Jim Richards).

Agenda Item 3. Recognitions and reports

The next agenda item was recognitions and reports, but Ms. Patterson explained that the high school students slated to speak would attend the next monthly meeting.

Agenda Item 4. Update on investigation/student safety actions

Ms. Patterson provided an update on the ongoing investigative process and the District's student safety actions, explaining that these ongoing actions have three primary goals: to effectively operate the District, to ensure students both feel safe and are safe, and to begin to regain the trust of the community. She explained that the Board had received the first of the two-part report from independent investigator Attorney Djuna Perkins, based on interviews conducted over the summer with approximately 60 employees, a dozen students, several parents and family members regarding what actions were taken or not taken by the District regarding Primo Leung while he was employed here. She noted that while the report was detailed and meticulous, the Board could not release it publicly in compliance with legal considerations. She added that the second part of the report would

be completed soon, and that the Board's plan was for it to be released to the public.

Ms. Patterson delineated some of the District's current and ongoing work to create and foster a culture of safety and accountability, which included updates to reporting guidelines and requirements; the installation of "tip boxes" at Concord High School (CHS) and Rundlett Middle School (RMS); the development of an online reporting portal; and ongoing work with the Concord Police Department (CPD) and the Division for Children, Youth and Families (DCYF) to improve and streamline reporting. She stated that another area of focus was District leadership, noting that the Board was in the process of seeking an interim Superintendent, as this position was critically important for effective school leadership. She said the Board understood the importance of proper credentialing and certification and assured the community that the Board would ensure all current and future staff met the certifications for their positions as set forth by the New Hampshire Department of Education (DOE).

Attorney Stephen Bennett, hired as liaison between the Board and the independent investigator, provided an update on the report:

The School Board has requested that I explain the District's response to requests for access to the report prepared on behalf of the District examining the misconduct of Mr. Leung, a former teacher. The purpose of the report was, first, to identify what could have been done to prevent Mr. Leung's sexual misconduct. That entailed determining what information was known by District employees, and when. The investigator also looked at which District policies and procedures should have been followed and whether the policies were, in fact, followed by school personnel. The investigator spoke with nearly 60 District employees, approximately a dozen students, parents of students, and state and local officials.

Reports detailing investigations of employee conduct and compliance with employment policies are exempt from the disclosure requirements of the state's right-to-know law as "records of internal personnel practices." The US Supreme Court has explained that personnel practices include such matters as hiring and firing, work rules and discipline, compensation and benefits. The personnel practices must be in the context of an employment relationship to be an internal personnel practice. The Supreme Court requires that an investigation into employee misconduct be undertaken by or on behalf of an employer to constitute an internal personnel practice, and has repeatedly stated that records of investigation into public employee misconduct are quintessential examples of internal personnel practices. The District's decision to maintain the confidentiality of this report is consistent with the right-to-know law and court decisions on that law.

A policy consideration supporting the exemption is the negative impact which publishing personnel investigation results may have on the willingness of employees to report future misconduct. Public disclosures of personnel reports may result in public embarrassment, humiliation and even retaliation to individuals who were merely witnesses, not wrongdoers. Stifling the reporting of misconduct in the workplace hurts the victims of misconduct, employers and the public.

Public policy considerations also protect the names and other identifying information of

students. The right-to-know law exempts student records from disclosure. The federal Family Education Rights and Privacy Act (FERPA) also prohibits school districts from disclosing identifying information of students – that means information that could be used to identify a particular student or help confirm a student’s identity.

It is the Board’s opinion that even if the names of individuals were removed from the report, other information contained in the report would allow for the identification of District employees and students who were involved in the investigation as well as their individual roles in the events being investigated. The Board believes that such a result would be inconsistent with the purposes of the right-to-know law and that such disclosures could be harmful to individuals who have done nothing wrong.

The second purpose for conducting the investigation was to identify any failures or weaknesses in current District policies and practices that may have contributed to a delay in discovering and stopping Mr. Leung’s misconduct. The Board will receive a second report from the investigator which will identify policy and practice weaknesses and make recommendations to strengthen them to ensure a safer school environment. That report will be released to the public once the Board has reviewed it.

Ms. Patterson explained that while the Board understood the high public interest in this report, they were obligated to comply with the law. Chuck Crush emphasized that the highest priority through these ongoing processes was strengthening and ensuring student safety.

Agenda Item 5. Public Comment

Ms. Patterson opened the meeting to public comment, reminding those wishing to speak that this first session was intended for comment on agenda items only, adding that each speaker was limited to five minutes.

Concord resident and 58-year taxpayer Betty Hoadley strongly requested that, at the bond vote scheduled for October 28, the Board vote in favor of the elementary school bond refinancing to ensure the lowest rate and least impact on Concord taxpayers.

Concord resident and parent Max Schultz noted that he was running for a District B School Board seat. He asked that the Board consider hiring an outside agency to perform a third-party audit of administrator qualifications and performance and of the District’s hiring practices. He emphasized the importance of following policies and procedures and that all staff should be properly qualified and certified.

Concord resident Deb Harris asked about a plan for the District to hire a Chief Compliance Officer and who that person would have reported to. Ms. Patterson responded that the District does not and has not had any plans to hire a Chief Compliance Officer and that perhaps Ms. Harris was referencing the Personnel Director conducting a staff audit. Ms. Harris suggested such an audit be performed biannually in order to ensure ongoing proper staff certification.

Hopkinton resident Darlene Gildersleeve expressed concerns about student safety. She stated that the investigator's report was taxpayer-funded and was therefore a public document that should be immediately turned over to the Concord Police and the Attorney General, with a redacted version to protect innocent individuals and students issued to the public. She expressed concern with special education issues, including due process claims against the District dating to 2011 and earlier. She requested that an investigation of the special education department be conducted to reform the system. She suggested the formation of a District and parent "special education partnership" and called for the resignation or termination of any administrators and staff without proper and current credentials.

Hooksett resident Andrea Golen noted that she sent an email to Board members and a letter to the *Concord Monitor* editor. She addressed Donna Palley directly and stated that taxpayers should not be paying her salary when she was not properly credentialed, and asked her to resign.

Concord resident Elizabeth Girard expressed anger at the version of comments she made in a previous meeting that were published in the minutes, adding that her name was also misspelled. She stated that an arrest was recently made on the CHS campus and that parents were not informed of this. She said that the Board should immediately terminate all uncredentialed staff and did not understand why the Director of Human Resources did not know about these credentialing issues. She insisted that the unredacted report be released publicly and that a judge had ordered its release.

Concord resident David Parker stated that he believed the Board would ultimately "do the right thing" and that Board members and District staff are public servants who do genuinely care about children's well-being. He said he felt the Board and District administration had tended to be insular and not as transparent and communicative as they should be, and that the District and Concord community were "better than this."

Agenda Item 6. Approval of Board minutes

Ms. Patterson noted that the Board needed to vote to approve the minutes from meetings on September 3, September 11 and September 30. Jim Richards proposed an amendment to the minutes from September 3 which would correct the spelling of Tom Madson's and Elizabeth Girard's names.

The Board voted 9-0 to approve the minutes of the September 3, 2019 Board meeting with the spelling corrections as noted (moved by Mr. Richards, seconded by Barb Higgins).

Mr. Richards moved to approve the minutes from the September 11 meeting.

The Board voted 9-0 to approve the minutes of the September 11, 2019 Board meeting on the loan resolution (moved by Mr. Richards, seconded by Tom Croteau).

Mr. Crush moved to approve the minutes from the September 30 meeting

The Board voted 9-0 to approve the minutes of the September 30, 2019 Board meeting (moved by Mr. Crush, seconded by Mr. Croteau).

Agenda Item 7. Personnel

Larry Prince presented several coach nominations; four as fall mid-season coaches and one winter coach.

Fall coaches: Michele Bartlett, Assistant Cross Country Coach, Rundlett Middle School, \$1,285, Step 3, Group 14, 3.0%. Michelle replaces Jeffrey Litchfield

Katherine Ferrari, Field Hockey A Coach, Rundlett Middle School, \$2,356, Step 2, Group 11, 5.0%. Katherine replaces Tonya Pursell

Kara Gilson, Field Hockey B Coach, Rundlett Middle School, \$2,142, Step 1, Group 11, 5.0%. Kara replaces Katherine Ferrari

Kevin Parsons, Girls Soccer A Coach, Rundlett Middle School, \$2,356, Step 2, Group 11, 5.5%. Kevin replaces Amy Sherr/Sarah Grant

Winter coach: William MacDougall, Boys Varsity Hockey Assistant Coach, Concord High School, \$4,070, Step 3, Group 6, 9.5%. William replaces Philip Lacasse

In response to a question from Mr. Crush whether these candidates have appropriate certifications or credentials, Mr. Prince explained that there are no required certifications for these positions; however, background checks were performed before hire. Mr. Crush moved to approve these coach nominations.

The Board voted 9-0 to approve the coach nominations (moved by Mr. Crush, seconded by Nancy Kane).

Agenda Item 8. Communications and Policy

Ms. Patterson reported that the Communications and Policy Committee met on September 9 and September 16. She noted an issue relative to Policy #432/537 Reporting Child Abuse and Neglect with double or redundant reporting, and reviewed proposed language changes which would reduce and prevent such redundancy. This language would direct anyone reporting suspected child abuse or neglect to DCYF unless there was an emergency or imminent danger to a child, in which case law enforcement should be contacted immediately.

Mr. Crush asked that it be noted that he had expressed to the Committee his concern and disappointment that [proposed] Policy #437 Employee – Student Relations had not yet been clarified or updated. [This draft policy had been proposed but not brought before the full Board for a first reading.] Ms. Patterson noted that the Board would seek more input from both employees and students before this policy would be brought to the full

Board for a first reading, to ensure the language was as comprehensive as possible.

Mr. Croteau noted that, after the District-wide training on mandatory reporting, a significant influx in reporting was to be expected. He stated that DCYF had been getting many more calls, but that there were many redundancies and issues with double reporting. The updated language in Policy #432/537 was suggested by DCYF and CPD, removing the requirement that a Principal be notified before school staff file a report.

Ms. Patterson moved to approve the proposed language changes to Policy #432/537. Ms. Higgins asked if there was a way someone wanting to file a report could know whether a Principal or person in authority had already made a report. Ms. Patterson explained that the goal was to make this policy language as clear as possible while remaining consistent with the law.

The Board voted 9-0 to approve Policy #432/537 with revised language as presented (moved by Ms. Patterson, seconded by Mr. Crush).

Ms. Patterson noted that all District employees had been trained in large groups on mandatory reporting, including District volunteers. She noted that the training would be offered to all employees and volunteers on a regular basis throughout each year. She described a lengthy meeting with DCYF and CPD Chief Osgood to solicit feedback, noting that administrators will have a follow-up meeting with Chief Osgood and two Police Officers to discuss safety issues and collaborative processes on best practices for student safety and reporting. She described the “See Something, Say Something” online reporting mechanism and physical “tip boxes” recently installed at CHS and RMS. She added that curriculum had been developed to help inform and empower CHS students, and that CHS faculty have participated in trainings and meetings, and brainstormed ways students could have a greater voice. The CHS administrative team coined the term “Your CHS Voice” to help focus and activate students regarding safety, harassment, bullying and teacher–student relations. She said that information about the tip boxes, located in Commons A, B and D and at CRTC, would be shared in an online video for students, about reporting. She added that RMS would feature information stations at their tip boxes and that guidance counselors were developing lesson plans for safety and reporting. Information about student curriculum and resources would also be shared with parents, so they could continue these important discussions at home.

Mr. Crush commented that a great deal of work had been done in a short period of time. He asked if the District had records of who had attended training; Mr. Prince noted that attendance had been tracked.

Mr. Crush asked if there was a way to ensure students had received information/training on access to resources so that they did not “fall through the cracks.” Ms. Palley explained that school attendance records would show which students were present. Mr. Richards remarked that this sounded like good year-round programming; he thanked the Crisis Center and other community resources which were so active and participatory through the summer, and expressed appreciation to the community for its feedback and participation.

Agenda Item 9. Finance

Mr. Croteau reviewed the minutes from the Finance Committee meeting on September 30. He explained that the agenda was to finalize the FY 2020 budget and review the FY 2019 budget. Mr. Croteau reviewed Jack Dunn's FY 2020 overview from the meeting and a motion recommending approval to the full Board. He added that the Board would not actually vote on the budget until the local tax rates were announced near the end of the month. Mr. Dunn recommended that the Board add a meeting on October 23 to review the state tax rates and best options, before the vote on October 28.

Agenda Item 10. Instructional

Committee chair Pam Wicks reviewed the meeting on October 2, noting that presentations were made by staff from the Family Center, developmental preschool and kindergarten programs and demonstrated exciting and encouraging data, particularly in test results after the transition from half-day to full-day kindergarten. Ms. Higgins shared her own children's positive experience in both the developmental preschool and regular education program, stating that it was important for the community to notice what was going right in the District. Mr. Croteau acknowledged there was no question that the District had ongoing work to do but encouraged members of the public to attend future Instructional Committee meetings as these were informational and uplifting, and highlight the great things the District is doing.

Agenda Item 12. Calendar of meetings

Ms. Patterson reviewed the proposed calendar of upcoming meetings, noting the addition of an October 23 Finance meeting as suggested by Mr. Dunn, with no additional changes.

Agenda Item 12. Public comment

Ms. Patterson opened the meeting for additional public comment.

Concord resident and parent Dan Habib expressed appreciation for the Board's hard work and acknowledgement of the work still to be done. He asked if there was a timeline for the second report from the independent investigator; Ms. Patterson replied that the Board would announce when it had a timeframe. Mr. Habib emphasized that he wanted to ensure the second report was clear and robust so the public could understand what, how and why this happened. He asked if the Board had determined if the report would first be turned over to CPD or DCYF. Ms. Patterson stated that Attorney Bennett would speak to that question, but that the Board's understanding was that any record released to those agencies automatically became public. Mr. Habib asked if there was a timeline

for staff-related decisions; Ms. Patterson explained that those details could not be shared at that time. Mr. Habib asked whether any Board members were aware of issues or complaints related to Primo Leung back in December 2018, when he was still employed, and suggested that if so, those Board members should recuse themselves from decisions about whether to release the report. He added that the trainings and resources being made available at the high school and middle school came as news to him and that he was surprised that he had not heard anything about these resources.

Concord resident Jessica Thompson noted that she has two children in the District, and asked why the Board was discussing and approving coaches for fall sports when the fall sports season was almost over. Ms. Patterson clarified that winter sports coaches would be presented for approval at the next meeting; Mr. Prince added that the fall coaches were mid-season needs. Ms. Thompson said that the District's preschool programs were vastly underfunded and understaffed and that this should be addressed, as this particularly affects children with 1:1 support written in their IEPs.

Concord resident, taxpayer, parent and former Concord School District student Tony Schinella said he had reviewed the internal personnel provision of the right-to-know law and expressed concern that provisions like this would allow officials to hide content from the public and press. He said he felt that the report did not qualify for the internal personnel exemption, and that it should be released with the names of innocent parties and students redacted. He emphasized taking swift action with these matters because bad teachers often move on to other districts and become repeat offenders.

Hopkinton resident Darlene Gildersleeve stated that taxpayers own the investigative report and that it must be released to the Attorney General, CPD or the public, or the District would be sued. She stated that the District needed to hire a compliance officer in order to be proactive and protect students.

Hooksett resident Andrea Golen addressed Jack Dunn directly and expressed concern about the nature of his hire, calling it a "backdoor deal" and wondering why he was hired at a higher salary than the person who previously held the position for seven years. She called for his resignation or termination by the Board.

Concord resident Karen Knowle stated that the District was a major part of the Concord community and that she understood that not all answers would be available at that meeting. She stated that she felt the District's attorney was providing information that served the District best, rather than the community. She said she believed it was common to get several versions of a report rather than just one, and that some version of the report should be released to the public.

Concord resident John Cassidy stated that community was a democracy. He commended both the Board and press for all the heat it takes from the public. He said he felt the District and community would get to the bottom of the issues, and encouraged the Board to continue to seek fairness and transparency.

Concord resident and parent Brian Harlow emphasized that everything done by the

Board and District related to this issue was to ensure the safety of students. He said he felt it was much harder to “get right with kids” with special education needs or who need extra assistance, as predators often exploit these more vulnerable populations. He added that no parent wanted to hear from their adult child about abuse that had happened to them as children. He emphasized that some children could not report or did not understand inappropriate behavior, that the Board, District, and community needed to not forget these kids, and that the work to correct issues needed to be done right.

Concord resident and parent Elizabeth Young stated that parents have a right to know what happened. She added that she was concerned the community would not be satisfied until this information was released.

Ms. Patterson reminded the Board that an earlier motion was passed to add a non-public session following the adjournment of the meeting, and that the Board would break for 15 minutes before resuming this non-public session.

The Board voted 9-0 to adjourn (moved by Ms. Patterson, seconded by Mr. Croteau).

The meeting adjourned at 9:03 p.m.

Respectfully submitted,

Jim Richards, *Secretary*
Lauren Hynds, *Recorder*