

**Oyster River Cooperative School District
REGULAR MEETING**

April 17, 2019

OR High School - Library

7:00 PM

0. CALL TO ORDER (7:00 PM)

- I. 6:30 – 7:00 PM MANIFEST REVIEW AT EACH SCHOOL BOARD MEETING.
7:00 – 7:45 PM Strategic Plan Workshop**

II. APPROVAL OF AGENDA

III. PUBLIC COMMENTS

IV. APPROVAL OF MINUTES

- Motion to approve 04/03/19 regular meeting minutes.

V. ANNOUNCEMENTS, COMMENDATIONS AND COMMENTS

- A. District**
- B. Board**

VI. DISTRICT REPORTS

- A. Assistant Superintendent/Curriculum & Instruction Report(s)**
- B. Superintendent's Report**
 - Communications – Middle School
- C. Business Administrator**
- D. Student Senate Report**
- E. Other:**

VII. DISCUSSION ITEM

- Update on ConVal case
- Support Staff Retirement Incentive
- Strategic Plan First Read

VIII. ACTIONS

- A. Superintendent Actions**
- B. Board Action Item**
 - Motion to approve Support Staff Retirement Incentive.
 - Motion to approve List of Policies for first read: JLIE – Student Automobile Use, JIHB – Searches of Student Automobiles on School Property, EEAG – Use of Private Vehicles to Transport Students, JICC – Student Conduct on School Buses, JFCB – Care of School Property by Students. For Deletion -GDBAA -Support – Reward for Outstanding Performance.

IX. SCHOOL BOARD COMMITTEE UPDATES

- A. Manifest Reviewed and Approved by Manifest Subcommittee.**

X. PUBLIC COMMENTS

XI. CLOSING ACTIONS

- A. Future meeting dates:** 05/01/19 – Regular Meeting – 7:00 PM – **ORHS**
05/15/19 – Regular Meeting – 7:00 PM – **ORMS**
05/29/19 – Manifest Review – 3:30 PM – SAU Conference Room

XII. NON-PUBLIC SESSION: RSA 91-A:3 II {If Needed}

NON-MEETING SESSION: RSA 91-A:2 I (a) {If Needed}

XIII. ADJOURNMENT:

The School Board reserves the right to take action on any item on the agenda.

**Respectfully submitted,
Superintendent**

**If you require special
communication aids,
please notify us 48
hours in advance.**

**Oyster River Cooperative School District
SAU #5**

Welcome to the School Board meeting. If you wish to be heard by the Board, please note "Public Comment" at the beginning of the agenda (reverse side). During the comment section of the agenda each speaker may have up to three (3) minutes within the time frame allowed. Board Chair may limit time allotment as deemed necessary. Occasionally, the Board may "suspend its rules" to allow visitor participation at the time an issue of specific interest is being addressed. A speaker will not be recognized for a second time on a particular topic.

Visitors should not expect a Board response to their comments or questions under the above since the Board may not have discussed or taken a position on the matter. The Superintendent, without speaking for the Board, may offer clarification as appropriate.

Agendas and background information are available on the district website prior to meetings. Agendas and additional information are generally available at the entrance to the meeting room or distributed at the time the item is introduced for discussion.

The ORCSD School Board will meet in regular session on the first and third Wednesdays of the month with special meetings when necessary. The School Board appreciates your attendance at these meetings and invites your continued interest in its work on behalf of the children and residents of the District.

Oyster River Cooperative School District Members:

- | | |
|--------------------|----------------------------|
| • Brian Cisneros | Term on Board: 2018 –2021 |
| • Thomas Newkirk | Term on Board: 2019 - 2022 |
| • Kenneth Rotner | Term on Board: 2019 - 2022 |
| • Denise Day | Term on Board: 2017 - 2020 |
| • Michael Williams | Term on Board: 2017 - 2020 |
| • Allan Howland | Term on Board: 2018 - 2021 |
| • Daniel Klein | Term on Board: 2018 - 2021 |

Information Regarding Nonpublic Session

On occasion, the Board agenda may include (or be adjusted to include) a Nonpublic Session. When a motion is made to do so, it will be done under the provisions of the NH State Law RSA 91-A:3 II, and one or more of the following reasons will be claimed for entering Nonpublic Session:

- a. The dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request will be granted.
- b. The hiring of any person as a public employee.
- c. Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting.
- d. Consideration of the acquisition, sale or lease of real property or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.
- e. Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the body or agency of any sub-division thereof, or against any member thereof because of his membership in such body or agency, until the claim or litigation has been fully adjudicated or otherwise settled.

**Oyster River Cooperative School District
Regular Meeting**

April 3, 2019

High School

DRAFT

**SCHOOL BOARD: Brian Cisneros, Dan Klein, Michael Williams, Al Howland,
Denise Day, Kenny Rotner Not Present: Tom Newkirk
Student Representative: Yasmeen Gunandar**

**ADMINISTRATORS: Todd Allen, Sue Caswell, Jay Richard, Suzanne Filippone,
Carrie Vaich, David Goldsmith**

There was one member of the public present.

I. CALL TO ORDER:

By Vice Chair Denise Day

II. APPROVAL OF AGENDA:

Nomination of a High School Counselor.

Brian Cisneros moved to approve the agenda with the above addition, 2nd by Dan Klein. Motion passed 6-0 with the Student Representative voting in the affirmative.

III. PUBLIC COMMENTS: None

IV. APPROVAL OF MINUTES:

Motion to approve 03/20/19 regular meeting minutes:

Revision Page 2: Board Comments section Denise Day's first sentence of comments should read: Denise Day attended a performance at the Johnson Theatre with the high school orchestra, middle school jazz band and performer Will Todd.

Al Howland moved to approve the minutes with the above revision, 2nd by Dan Klein. Motion passed 6-0 with the Student Representative voting in the affirmative.

ORMS Architect Report: Ron Lamarre and Anne Ketterer

Ron Lamarre reviewed the new proposed Middle School layout with the Board. He also talked about solar panels with the Board and they are looking at some creative ways to use them and to see how many can fit onto the site. Ron also gave details on the proposed parking lot.

The bleachers seat approximately 200 people. There is a proposed Adaptive PE Space and changing area in the gymnasium. There is a music area with instrument storage to allow students to drop off instruments at the beginning of their day. The Recital Hall will not have a stage area and will seat between 950 – 1000. Ron also detailed the proposed dining commons/learning commons/server area and added that there isn't any academic space on the first floor. This will make the first floor a community space without allowing access to the classrooms.

The second floor will have music, world language, art, stem, and the SAU office suite. The third and fourth floors are where the teams are located. The next step is to bring these proposed plans back to the faculty. They will be meeting with the committee next Friday. Michael Williams asked how much room for growth is being built into the middle school for office space. Ron replied that this school is built so that as things change, the space can change as well. He will find out if a fifth floor expansion could be feasible if necessary. The Board had an in depth discussion with Ron and thanked him for all his work on this.

V. ANNOUNCEMENTS, COMMENDATIONS AND COMMENTS:

A. District: David Goldsmith of Moharimet reported that the pancake breakfast was last weekend and that a tremendous amount of people attended. There were a lot of community tables and booths set up included one giving information about the proposed middle school project. The construction project began on Monday. The new entrance to the school through the west wing is working out well during this project and the student and staff have been great. On April 10, there will be a spaghetti dinner from 5:15 – 6:00PM, then from 6:00 – 6:45PM a Middle School presentation, followed by a PTO meeting from 6:45 – 7:30PM. Childcare will be provided.

Jay Richard of the Middle School announced that the Jazz Band has been doing a great job at Disney. The 8th Grade Washington DC trip will be during April vacation.

Lisa Huppe of the Transportation Department attended the Transportation Safety Banquet where 7 of their drivers received awards.

B. Board: Al Howland talked about the Human Book Project that happened last Saturday where there was the opportunity to have a conversation with people that are very different from you. He also mentioned that Lou Ferrell hosted Safe Zone Training and gender identity at the Multicultural center at UNH. He feels that it would be an excellent opportunity for both staff and students. Kenny Rotner thanked Al Howland for discussing this and agrees that it would be a great experience.

Kenny Rotner is amazingly disappointed by the NHSBA on their rulings. The Board's efforts of writing the letter were great but maybe it is time to engage the Governor and the Commissioner of Education to take this a step further.

VI. DISTRICT REPORTS:

A. Assistant Superintendent Curriculum and Instruction Reports:

Todd Allen reported that at last night's Barrington school board meeting they voted in favor of hiring two world language teachers for the Middle school to begin a program in the fall. Barrington has started a cooperative meeting with Dover, Coe-Brown and Oyster River to discuss and share with each other. It was a great learning experience that will be ongoing.

The REACH Catalog will be going out tomorrow morning. It is an amazing program with an incredible range of activities.

Kenny Rotner asked if Oyster River should be marketing themselves with Barrington. Todd agreed that they need to maintain that contact with Barrington and to provide them with any information that they need.

B. Superintendent's Report:

Enrollment Update:

Kindergarten continues to grow. At registration, 96 had enrolled and one month later it stands at 114 students. They need to consider the possibility of needing a seventh Kindergarten for the fall.

Barrington tuition enrollment continues to fluctuate. We estimated 50 Barrington students, and as of today we are at 41 students. The impact is a loss of revenue of $\$16,792 \times 9$ or $\$151,128$.

Creating a combination grade 3 and 4 classroom at Moharimet: This will allow the District to invite families whose children were placed at either Moharimet or Mast Way due to enrollment last summer, the opportunity to return to the school closer to their home.

Upper elementary enrollment is already pushing 22:1 ratio in some areas.

Related Issues:

Health insurance came in at 1% lower than guaranteed maximum price saving \$55,000.

The teacher retirement incentive resulted in three senior staff expressing interest in retiring. He is anticipating a \$70,000 savings. The support staff members have asked that they be considered for a retirement incentive. The premise of an incentive is to have the highest paid staff retire so the District can hire a replacement for less salary. Support staff do not make the salary of teachers. He would like to offer support staff an incentive of \$8,000 or 20% to two staff members from each union or non-union. Denise Day is suggesting that we approve one from each instead of two. Al Howland would like to table this until the next meeting.

Superintendent Morse also added that should it be necessary, we can use approximately \$25,000 of our Title II Grant to offset staffing costs.

General Assurances FY2020: Kenny Rotner moved to allow Tom Newkirk to sign the General Assurances Form, 2nd by Brian Cisneros. Motion passed 6-0 with the Student Representative voting in the affirmative.

Last day of School Wednesday, June 19th: Kenny Rotner moved to approve and accept Wednesday, June 19th as the last day of school, 2nd by Michael Williams. Motion passed 6-0 with the Student Representative voting in the affirmative.

Superintendent Morse discussed that Heather Machanoff has asked to return to a high school counselor position relinquishing her duties as K-12 Director of Counseling.

Kenny Rotner moved to approve Heather Machanoff's return to her role as high school counselor, 2nd by Dan Klein. Motion passed 6-0 with the Student Representative voting in the affirmative.

C. Business Administrator:

Bus Bid:

Sue Caswell detailed that Lisa Huppe is recommending a lease purchase agreement for five years at \$18,460.91 per bus for two 77 passenger buses. She also recommended the replacement of the wheelchair bus with a five year lease purchase agreement of \$14,347.60. She has examined each of the bids and is recommending we award the bid to W C Cressey and Son Inc.

We are in the process of preparing a bid for the vans and will be back to the Board at a future meeting for approval.

Brian Cisneros moved to approve the bus bid as presented above, 2nd by Dan Klein. Motion passed 6-0 with the Student Representative voting in the affirmative.

FY18 Audit:

Sue Caswell reviewed the Management Letter from Melanson Heath with the Board. The current year recommendation is to prepare for GASB Statements 84 and 87. They are recommending that the District prepare for these accounting changes by ensuring that they are aware of the pending changes. The District should also consider updating its lease accounting policy to ensure all material leases are properly identified.

D. Student Senate Report:

Student Representative Yasmeen Gunandar reported that the scholar athlete ceremony was yesterday. Next week is the PSAT and SATs and also college financial night at the high school. Tomorrow the Diverse Students Union is going to Dover High to attend Dream which is a training opportunity on conversations around diversity.

E. Other: Sustainability Report: Sustainability Coordinators Maggie Morrison and Jacqueline Bruhn updated the Board.

Educating for Sustainability:

After School Programming:

Created and implemented elementary level after school sustainability programming. Targeted 4th graders and created EFS curriculum centered around "personal action".

Recommendation for 2019/2020 SY implement model of using UNH Interns to provide EFS modules in 4th grade classrooms across a 6-week time period.

Re-established and grew Middle School STEC: Save the Earth Club which undertook a variety of activities including building a compost bin, recycling markets, hosting Earth Week events and raising awareness of environmental issues and more.

Recommendation: Provide 5th grade teacher Sara O'Brien a stipend for continuing to run this club.

Administration:

Continue to support efforts by facilities department to manage three stream waste at all schools.

Continued to support School Nutrition Program as requested by School Nutrition Director.

Continued to support Transportation Director as well as address questions on electric vehicles including buses with support from regional working groups and utilizing UNH resources.

Kenny Rotner feels that the school gardens are a perfect opportunity for the students to participate in active learning. They responded that the teachers are using the gardens as ongoing teaching tools.

Al Howland mentioned that the High School and the Middle School now have smoothie machines which is generating more plastic. It is a conundrum to figure out how to get rid of plastic and now we are using more with plastic cups, straws and lids.

VII. DISCUSSION ITEMS:

School Board Committee Assignments:

Policy Committee: Brian Cisneros, Kenny Rotner, Denise Day

Negotiations Committee: Tom Newkirk, Al Howland, Dan Klein

District Tech. Committee: Al Howland

NHSBA Delegate: Tom Newkirk

Wellness Committee: Al Howland

Sustainability Committee: Brian Cisneros

Long Range Planning Committee: Denise Day

Middle School Planning Committee: Brian Cisneros, Tom Newkirk

Strategic Plan First Reading:

Superintendent Morse has gone through one more phase of editing with the Administrators and made all the changes that the Board had requested. They will come back to this again at the next School Board meeting.

Kenny would like to see the Transportation needs addressed. He feels by not looking outside the box, we are really missing something with Transportation. He also feels that we should be aggressively moving on the World Language Program.

Michael Williams thinks that an update of the World Language Strategic Plan yearly goals would be a good idea. He recommends adding a Communication Goal around making sure we are using appropriate methods to reach both the school and non-school community. An upward looking group that is tasked with an assessment of what's new and looking outward would also be beneficial. He supports the Safe Zone training. Michael Williams would like to see the budget updated to capture the future Administration overlap of the Superintendent and Business Administrator.

Denise Day mentioned concern at this time about adding any new positions to the budget.

VIII. ACTIONS:

A. Superintendent Actions: None

B. Board Action Items:

Motion to nominate and approve non-tenured Professional Staff Members as submitted by the Superintendent: Al Howland moved to nominate and approve non-tenured Professional Staff Members as submitted by the Superintendent, 2nd by Dan Klein. Motion passed 6-0.

Motion to approve ORMS 2019/2020 Leave of Absence from 8/26/19 – 1/1/2020: Brian Cisneros moved to approve the ORMS leave of absence, 2nd by Al Howland. Motion passed 6-0.

Motion to approve ORHS Spring Coaches and Volunteers:

Paid Position:

Bobbie Burgess Assistant Girls Track \$3,407

Volunteer Position:

Chad Pomeroy Assistant Varsity Baseball

Motion by Al Howland to approve the ORHS Coaches and Volunteer list, 2nd by Brian Cisneros. Motion passed 6-0.

Motion to approve Policy for second read/adoption: GCBD – Sabbatical Leave: Kenny Rotner moved to approve Policy GCBD for adoption, 2nd by Brian Cisneros. Motion passed 6-0.

IX. SCHOOL BOARD COMMITTEE UPDATES:

Manifest Reviewed and Approved by Manifest Subcommittee:

Payroll Manifest \$19: \$1,347,307.18

Vendor Manifest #22: \$699,937.93

X. PUBLIC COMMENTS: None

XI. CLOSING ACTIONS:

A. Future Meeting Dates:

April 17th Regular Meeting – 7:00 PM ORHS Library

May 1st – Regular Meeting – 7:00 PM ORMS Library

May 15th Regular Meeting – 7:00 PM – ORHS Library

XII. NON-PUBLIC SESSION: RSA 91-A:3 II (if needed)

NON-MEETING SESSION: RSA 91-A:2 I (a) (if needed)

XIII. ADJOURNMENT:

**Al Howland moved to adjourn the meeting at 9:30 p.m., 2nd by Michael Williams.
Motion passed 6-0.**

Respectfully yours,

Laura Grasso Dobson
Recording Secretary

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

CHESHIRE, SS.

SUPERIOR COURT

Contoocook Valley School District,
Myron Steere III, Richard Cahoon, Richard Dunning,
and Winchester School District

v.

State of New Hampshire, New Hampshire Department of Education,
Christopher T. Sununu, Individually and as Governor, and
Frank Edelblut, Individually and as Commissioner¹

No. 213-2019-CV-00069

ORDER ON PLAINTIFFS' MOTIONS FOR PRELIMINARY INJUNCTION

Contoocook Valley School District ("ConVal"), Myron Steere III, Richard Cahoon, and Richard Dunning filed this petition for declaratory judgment and injunctive relief on March 13, 2019; the Winchester School District ("Winchester") was added by assent as a petitioning party (collectively, "the Plaintiffs"). (Am. Compl.) The Plaintiffs' Amended Complaint alleges the State is violating the constitutional mandate to adequately fund education, resulting in increased tax burdens on municipalities. The Plaintiffs have moved for a preliminary injunction and request for this Court to order the State to pay \$16,961,843.75 to ConVal and \$4,515,702.69 to Winchester in education base adequacy aid funds that the Plaintiffs assert are owed by April 1, 2019. (ConVal Mot. Prelim. Inj. 4; Winchester Mot. Prelim. Inj. 5.) The State objects. A hearing on this matter was held on March 29, 2019. For the following reasons, the Plaintiffs' motions for preliminary injunction are DENIED.

¹ Collectively referred to as "the State."

FACTS

The parties essentially agree to the following “facts,” which are contained in the Plaintiffs’ Amended Complaint and incorporated in the Plaintiffs’ Motion for Preliminary Injunction as well as the State’s Objection. ConVal and Winchester both provide education to the pupils in their districts; ConVal to the nine towns it contains, and Winchester solely to the Town of Winchester. (Am. Compl. ¶¶ 14–15.) Both ConVal and Winchester receive funds from the State to provide a constitutionally adequate education. (*Id.* at ¶¶ 20–21.) These funds, called base adequacy aid, are dispersed as a function of a statutory scheme enacted following a New Hampshire Supreme Court determination that a State-funded constitutionally adequate public education was a fundamental right. See *Claremont Sch. Dist. v. Governor (Claremont II)*, 142 N.H. 462, 473 (1997); *Londonderry Sch. Dist. SAU 12, et al. v. State of New Hampshire*, 154 N.H. 152, 160–63 (2006); RSA 193-E:1. Because Winchester does not have its own public high school, Winchester pays tuition of \$14,023 for its high school students to attend Keene High School.² (Am. Compl. ¶¶ 100–01.) This tuition agreement was approved by the State Board of Education and is on par with other agreements the Board has approved. (*Id.* at ¶¶ 103–04.)

In 2008, the New Hampshire Legislature created a Joint Legislative Oversight Committee on Costing an Adequate Education (“the Joint Committee”).³ (Am. Compl. ¶¶ 22–24; see Final Report.) The Joint Committee was charged with studying “the cost

² Winchester’s Motion for Preliminary Injunction notes that this amount is the general education tuition rate, while Winchester must pay \$31,000 of tuition to Keene High School for students who receive special education services. (Winchester Mot. Prelim. Inj. ¶ 7, n. 1.) The Motion also notes that transportation costs are not included in tuition. (*Id.* at ¶ 9.)

³ The Joint Committee’s Final Report and Findings, attached to the State’s Objection as Exhibit A, is hereinafter referred to and cited as the “Final Report.”

of providing the opportunity for an adequate education and the educational needs and resources necessary to ensure its delivery to the public school children of the State.” (Final Report 3.) The Joint Committee reported that it held eighteen meetings that totaled more than fifty hours of testimony and deliberations in which it considered state and national education policy, finance professionals’ methodologies, policy considerations, briefings from New Hampshire Department of Education (“DOE”) staff, and other materials on education finance. (Id.) As a result, the Joint Committee determined the universal cost per pupil was \$3,456. (Id. at 4.) This cost included amounts for teacher salary and benefits; principal and principal assistant salary and benefits; guidance counselors; library media specialists; technology coordinators; custodians; instructional materials; technology (e.g. computers); teacher professional development; facilities operation and maintenance; and transportation. (Id.; Am. Compl., Ex. A.)⁴ The Joint Committee’s conclusions and findings are contained in its Final Report, and the Legislature went on to establish the statutory scheme in place today, codified in RSA chapters 193-E and 198. (Final Report 3.) The Joint Committee’s price per pupil is the current basis for the base adequacy aid determination, and the amount is adjusted every biennium based on the average change in the Consumer Price Index (“CPI”). RSA 198:40-d; (Am. Compl. ¶¶ 21–23.) The current base adequacy aid amount for the 2019 Fiscal Year is \$3,636.06 per pupil. (Id. at ¶ 25.) The Plaintiffs assert that the State’s calculation suffers from several flaws, and specifically challenges five areas of the Joint Committee’s Final Report. (Id. at ¶ 26; 2008 Spreadsheet.)

⁴ The Plaintiffs’ Exhibit A contains solely Appendix A of the Final Report. This exhibit is hereinafter referred to as the “2008 Spreadsheet.”

The Plaintiffs first challenge the 2008 Spreadsheet's funding to cover transportation costs. (Am. Compl. ¶¶ 27–34.) The 2008 Spreadsheet incorporates a base universal transportation cost of \$315 per pupil and includes it in the total per pupil amount to provide the base adequacy aid of \$3,456. (Id. at ¶ 28; 2008 Spreadsheet.) In its Final Report, the Joint Committee “recognized that neither the statutory definition of adequacy nor the school approval standards directly identify transportation as part of adequacy.” (Final Report 23.) However, the Joint Committee also stated, “Nevertheless, the Committee determined that transportation to school for students who reside far from school is an important consideration for students to have the opportunity for an adequate education.” (Id.) The Joint Committee further noted that the principle that transportation costs were an important consideration was reflected in State law RSA 189:6,⁵ which requires school districts to provide transportation to all pupils grades 1 through 8 who live more than two miles from the school to which they are assigned. (Id.) Thus, “[t]he Committee decided to include transportation costs in the universal cost calculation,” but noted that its calculation only included “the costs for elementary and middle school students as high school students are not entitled to transportation services” and that it “reduced the statewide total of transportation costs for those students by subtracting any costs not attributable to transporting students.” (Id.)

The Plaintiffs have submitted a DOE document, titled “General Fund Transportation Expenditures,” which reflects each municipality in the State and its actual transportation costs. (Am. Compl., Ex. B.) The Plaintiffs highlight that not one of the municipalities with ten or more pupils has transportation costs less than \$400 per pupil,

⁵ The Joint Committee mistakenly identified this statute as RSA 198:6 in its Final Report. (Final Report 23.)

according to the DOE document. (Am. Compl. ¶ 28; id., Ex. B.) The DOE document depicts that ConVal’s transportation cost is \$914.60 per pupil; Winchester’s is \$962.73; and the average actual transportation cost for all districts is \$827.56 per pupil. (Id. at ¶¶ 31–33; id., Ex. B.) The Amended Complaint states that it costs substantially more to transport pupils to school in large rural districts as compared to compact urban districts.⁶ (Id. at ¶ 30.) The Plaintiffs assert that providing transportation for pupils to attend school is part of the State’s obligation to fully fund an adequate education pursuant to Part II, Section 83 of the New Hampshire Constitution. (Id. at ¶ 34.)

The Plaintiffs next challenge the 2008 Spreadsheet’s teacher-student ratio. (Id. at ¶¶ 35–51.) In explaining its “Universal Cost Calculation,” or how it reached its figure for the base adequacy aid, the Joint Committee made a specific finding that “the student teacher ratio necessary to provide the opportunity for an adequate education in New Hampshire is 25 students to 1 teacher in kindergarten through grade two; and 30 students to 1 teacher in grades three through twelve.” (Final Report 14.) Its basis for this decision, the Final Report states, was that “the New Hampshire minimum standards for public school approval,” contained in Board of Education regulation Ed 306.17(a), “reflect the student-teacher ratios that are adequate in the state.” (Id.)

The Plaintiffs state that these ratios are not based on actual teacher-student ratios but rather on maximum classroom size as established in Ed 306.17(a)(1).⁷ (Am. Compl. ¶ 38.) Teacher-student ratios are not the equivalent of classroom size, the Amended Complaint states, and the ratios are thus not accurate. (Id. at ¶¶ 37, 39.) The

⁶ At the hearing on the Motions for Preliminary Injunction, counsel for the Plaintiffs stated that ConVal buses cover about 3,000 miles each day as an illustration of ConVal’s high transportation costs in contrast with more urban municipalities.

⁷ The Court notes that Ed 306.17 does contain these ratios, but provision (a)(1) is limited to kindergarten; the other figures are contained in Ed 306.01(a)(2) and (3).

Amended Complaint provides the example that in a school of thirty-one students, the regulation would require two teachers, thus creating a ratio of 1:15.5, not 1:30. (Id. at ¶ 40.) The Amended Complaint also highlights that teachers are given time during the school day to plan their classes such that a teacher may not teach all four blocks in a four-block day and that teachers would usually teach five out of eight periods in other schools. (Id. at ¶ 41.) Further, State regulations require teachers to be certified in the subjects that they teach, thereby precluding the complete maximization of class sizes. (Id. at ¶ 42.) The Amended Complaint asserts that no school district in the State has teacher-student ratios of 1:25 or 1:30, and that the State is able to, and has in fact, computed the average teacher-student ratio for each year for the past ten years, citing to a DOE publication of statewide teacher-student ratios for 2007 to 2017. (Id. at ¶¶ 43–45; id., Ex. C.) The DOE document computes teacher-student ratios by dividing the total number of students in the State by the total number of teachers, and the data for the most recent year available, 2015, indicates a ratio of 1:9.96. (Id. at ¶ 45; id., Ex. C.) The Amended Complaint cites to another DOE document from the DOE’s Division of Education Analytics and Resources that analyzed teacher-student ratios for grades 1–12 and determined the statewide average for the 2017–2018 school year was 1:12.6, excluding preschool and kindergarten. (Id. at ¶ 47; id., Ex. D.) No school district in the State has a teacher-student ratio higher than 1:17.5; and, in the past ten years, the statewide average teacher-student ratio never exceeded 1:12.6, according to the Amended Complaint. (Id. at ¶¶ 48–49; id., Ex. D.) Their point, as the Court interprets it, is that the ratio used by the Legislature in deriving the adequacy base rate shares no logical nexus (or rational basis) with reality or actual ratios.

Third, the Plaintiffs challenge the 2008 Spreadsheet's failure to incorporate "the actual cost of providing benefits to teachers and other staff." (Id. at ¶ 51.) The Final Report determined that salary and benefit percentages should be used in calculating the base adequacy aid and elaborates on its rationale for selecting a base salary, stating, "The Committee determines that the cost of adequacy should be calculated using a teacher salary calculated at the state average for a teacher with a bachelor's degree and three years [sic] experience plus benefits at 33% of salary." (Final Report 19.) The Final Report states that, in assisting with the Joint Committee's determination of proper salary level and benefit percentages, the DOE prepared reports documenting the 2007–2008 schoolyear salary schedules utilized by public schools across the State, specifically "costs for personnel benefits, including the average rate for benefits as a percentage of teacher salary." (Id. at 18.) The Final Report does not elaborate on how it chose the 33% figure, but explains its selection of a base salary level of a teacher with three years' experience: "The Committee decided that a teacher with three years [sic] experience is the most appropriate salary to choose for costing purposes because after three years of experience a teacher completes a probationary period for employment purposes." (Id. at 19.)

The Plaintiffs point to the 2008 Spreadsheet, which presumes the total cost of teacher benefits will be 33% of the first-year teacher's salary, or \$11,728, per teacher. (Id. at ¶ 52; 2008 Spreadsheet.) Yet, the Amended Complaint states, actual teacher benefits exceed \$11,728 in every school district in the State. (Am. Compl. ¶ 53.) In explaining teacher benefits, the Plaintiffs cite four requirements placed on school districts: RSA 100-A:16, III, which contains the New Hampshire Retirement System and

requires an employer contribution of 17.80% for 2019 through 2021 per teacher, (Id., Ex. E); federal employment taxes, which require school districts to pay 7.56%; workers compensation coverage and unemployment insurance, which totals at least \$150 per teacher per year; and health insurance premiums. (Id. at ¶¶ 55–64.) The Amended Complaint states, “The portion of health insurance premiums paid by the school district for a teacher will alone total in excess of \$17,000.00.” (Id. at ¶ 60.) As an illustration of health insurance costs, the Amended Complaint points to the State’s compensation to its own employees, which total more than \$26,700 in health insurance contributions and more than \$31,800 in total benefit packages. (Id. at ¶ 64; id., Ex. F.) Thus, providing funding that presumes teacher benefits packages cost only \$11,728 per teacher fails to meet the State’s constitutional mandate of providing funding for an adequate education. (Id. at ¶ 65.)

Fourth, the Plaintiffs challenge the 2008 Spreadsheet’s calculus for failing to include several State-required services; specifically, nurse services, superintendent services, and food services. (Id. at ¶¶ 66–67.) The Amended Complaint states that Ed 306.12 requires the provision of a school nurse and that RSA 200:29 requires school nurses to have completed their nursing degrees and have three years of experience.⁸ (Id. at ¶¶ 69–70.) Nurses that meet these requirements command salary and benefit packages in excess of \$65,562, and the DOE’s most recent survey of school nurses

⁸ The Amended Complaint states that this statute, “as amended in 2016,” contains this requirement. Prior to 2016, RSA 200:29 did not impose requirements on a school nurse’s qualifications beyond that he or she be a registered professional nurse licensed in New Hampshire. RSA 200:29 (1971) (amended 2016). The Court notes that both versions of the statute use the permissive term “may,” but that the regulation cited, Ed 306.12, contains the mandatory term “shall,” as it did in 2008, in requiring “qualified personnel to carry out appropriate school health-related activities.” Ed. 306.12 (2008) (amended 2017); Ed. 306.12 (2019).

determined there is a statewide average of one school nurse for every 223 pupils. (Id. at ¶¶ 71–72; id., Ex. G at 3.) The Amended Complaint asserts that a constitutionally adequate education thus requires at least \$294 per pupil for school nurse costs, yet school nurse costs are not part of the 2008 Spreadsheet. (Id. at ¶¶ 73–74; 2008 Spreadsheet.)

In regard to superintendent services, the Amended Complaint cites to RSA 194-C:4, Ed 302.01, and Ed 302.02, which require schools to have superintendent services and detail the necessary responsibilities of the superintendent's office, including all fiscal oversight of the district budget. (Am. Compl. ¶ 75.) The average salary and benefit package for a qualified superintendent, the Amended Complaint asserts, exceeds \$158,000. (Id. at 77.) Larger districts required a business administrator and/or an assistant superintendent, and districts with more than 1,000 pupils require a second person in the superintendent's office. (Id. at ¶¶ 78–79.) The 2008 Spreadsheet does not account for superintendent services. (2008 Spreadsheet.)

In regard to food services, the Amended Complaint states that Ed. 306.11's requirement that all public schools provide food services has resulted in an annual loss of \$33,617,749, or roughly \$200 per pupil, according to submitted DOE reports. (Id. at ¶¶ 80–82; id., Ex. H.) As current education-funding statutes do not provide any funds to food services losses, the Amended Complaint states, the State is failing to meet its obligation to provide sufficient funds. (Id. at ¶¶ 83–84.)

Fifth, the Amended Complaint addresses the 2008 Spreadsheet's failure to properly provide funding for facilities operation and maintenance. (Id. at ¶¶ 85–93.) The Amended Complaint explains, "Children need lights and heat in their schools in

order to learn and the driveways and parking lots need to be snowplowed so children can get to school.” (*Id.* at ¶ 86.) The funding formula contained in the 2008 Spreadsheet attributes \$195 per pupil for facilities operation and maintenance, yet, according to the statewide average for plant operations, the cost is \$1,462.66 per pupil.⁹ (*Id.* at ¶¶ 87–89; 2008 Spreadsheet.) The Final Report states that it “determined that a clean, healthy and safe learning environment is needed for students to have the opportunity for an adequate education as defined in RSA 193-E:2-a.” (Final Report 23.) The Joint Committee’s decision to fund facilities and operation maintenance at \$195 per pupil was based on information it received from the DOE, which reflected that “facilities operation and maintenance constitutes about 8% of the total school cost.” (*Id.*) The Final Report states that it applied this percentage to “the projected universal costs as calculated through the Committee’s other decisions” and arrived at \$195.¹⁰ (*Id.*) In ConVal, plant operations include approximately \$500,000 in oil/gas, approximately \$500,000 in electricity, and more than \$160,000 in snowplowing, which amounts to \$1,406.81 per pupil. (Am. Compl. ¶ 90.) The Amended Complaint asserts that, because the State has funded only 13% percent of the actual expenses for facilities operations and maintenance, according to the DOE’s data, the State has failed to meet its constitutional mandate to fund an adequate education. (*Id.* at ¶¶ 92–93.)

The Plaintiffs have submitted a calculus that includes the same data the Joint Committee used with the exceptions of corrected figures for the teacher-student ratio;

⁹ The Plaintiffs calculated this figure by consulting a DOE report, titled “State Summary Revenue and Expenditures of School Districts 2017-2018,” which reflects that plant operations cost \$243,271,198; the Plaintiffs divided this figure by 166,321.18, which they state is the total number of pupils in the State. (*Id.* at ¶ 89, n. 7; *id.*, Ex. H (Doc. 13).)

¹⁰ The Final Report does not explain why the 8% figure resulted in \$195 per pupil when the Joint Committee concluded that the universal cost, or base adequacy aid per pupil, was \$3,456, 8% of which is \$276.48.

corrected teacher and staff benefits to reflect actual levels; maintenance costs at \$1,400 per pupil; the superintendent, nurse, and food services figures included; and no transportation costs included. (Am. Compl., Ex. I.) For transportation costs, the Plaintiffs state the average cost for ConVal is \$914.60 per pupil. (Id. at ¶ 96.) Using this calculus, and including the proposed transportation cost, the Amended Complaint asserts that the cost of providing a constitutionally adequate education to pupils in ConVal is \$10,843.60. (Id. at ¶ 97.) In Winchester, with an average transportation cost of \$962.73 per pupil, the cost is \$10,891.73. (Id. at ¶¶ 98–99.)

The State has provided ConVal with three of the four base adequacy aid installments pursuant to RSA 198:42. (Id. at ¶ 115.) The State's fourth payment is due on or about April 1, 2019. (Id. at ¶ 118.) For the 2019 Fiscal Year, pending its final payment to ConVal, the State intends to provide ConVal with \$7,432,106.64 in base adequacy aid funding, which is \$3,636 multiplied by the 2,044 pupils in ConVal. (Id. at ¶¶ 111, 114.) According to the Plaintiffs' calculus, however, the State must provide ConVal with \$22,164,318.40, or \$10,843.60 per pupil, to meet its constitutional obligation. (Id. at ¶ 112.) Even with that amount, the aid would cover less than half of ConVal's approximate \$48,000,000 in education expenses each year. (Id. at ¶ 113.) The Plaintiffs assert that, without injunctive and declaratory relief from this Court, ConVal will incur a shortfall of more than \$16,961,843.75 with the final April 1, 2019 payment remaining. (Id. at ¶ 117.)

Similarly, the State's fourth installment payment to Winchester is pending. (Id. at ¶ 124.) The State intends to provide Winchester with \$1,967,214.27 in base adequacy aid funding. (Id. at ¶ 123.) According to the Plaintiffs' calculus, the State must provide

Winchester with \$5,892,752.68, or \$10,891.73 per pupil, to meet its constitutional obligation. (Id. at ¶ 122.) The Plaintiffs assert that, without injunctive and declaratory relief from this Court, Winchester will incur a shortfall of more than \$4,515,702.69 with the final April 1, 2019 payment remaining. (Id. at ¶ 124.)¹¹

The Plaintiffs also assert facts concerning the 2020 Fiscal Year. (Id. at ¶¶ 135–49.) According to the same calculus, the Amended Complaint asserts that, because ConVal will have approximately 2,035 students during the 2020 Fiscal Year and because the base adequacy aid will increase to \$3,708.78 as per the CPI adjustment, the State must provide ConVal with at least \$22,066,726 for the 2020 Fiscal Year. (Id. at ¶¶ 136, 138–39.) Yet, the State’s published forecast of its anticipated funding to ConVal for the 2020 Fiscal Year is \$7,547,367.30. (Id. at ¶ 140.) And, because Winchester will have approximately 542 students and as per the CPI adjustment, the Plaintiffs assert the State must provide Winchester with at least \$5,903,317.66. (Id. at ¶¶ 137, 141.) However, the State’s anticipated funding to Winchester for the 2020 Fiscal Year is \$1,990,873.10. (Id. at ¶ 142.)

The Amended Complaint further states that the State obtains a majority of the funds used for the base adequacy aid through the Statewide Education Property Tax (“SWEPT”), collected pursuant to RSA 76:3. (Id. at ¶ 106.) The SWEPT was originally adopted at a uniform rate of \$6.60 per thousand dollars in property value. (Id. at ¶ 107.) The SWEPT has since been decreased to \$2.06 per thousand, less than one-third of its

¹¹ Plaintiffs were involved in sponsoring HB 678, filed on 01-03-2019. This bill sought to raise the adequacy base rate from \$3561 per pupil to \$9929 per pupil. This would have had a \$1.13 billion fiscal impact on the 2020 budget. At the hearing in this matter, the State indicated that the current request in this suit, if extended to other school districts that will experience a “shortfall” similar to Plaintiffs, would result in a \$1.3 billion fiscal impact. HB 678 was retained in committee on 02-19-2019.

original rate. (Id. at ¶ 108.) State education aid now consists of a smaller percentage of total education expenditures than it had in 1999, and local communities have had to increase their tax rates to make up for the decreased or stagnant State aid with increasing educational expenditures. (Id. at ¶¶ 109–10.) The Amended Complaint states that education property taxes vary greatly throughout the State, which the Plaintiffs allege is unconstitutional. (Id. at ¶¶ 126, 130; id., Ex. K.) Communities such as Newington have a total education tax rate of \$3.19, while Dublin has a combined local and state education tax rate of \$16.46. (Id. at ¶ 127; id., Ex. K.) The Town of Winchester has a combined local and state education tax rate of \$22.65. (Id. at ¶ 128; id., Ex. K.)

The Plaintiffs allege that RSA 198:40-a(II)(a), which contains the base adequacy aid, is unconstitutional on its face and as applied to both ConVal and Winchester. (Id. at ¶ 131.) The Plaintiffs also allege that the State has unconstitutionally applied, and intends to continue to unconstitutionally apply, RSA chapter 198 to deny ConVal and Winchester full educational adequacy aid. (Id. at ¶ 150.) In seeking declaratory relief, the Plaintiffs assert that it would be unconstitutional to further delay the full funding of education and that the State is constitutionally required to provide at least \$22,066,726 to ConVal and \$5,903,317.66 to Winchester for the 2020 Fiscal Year. (Id. at ¶¶ 145, 146–48.) The Plaintiffs also request attorneys' fees. (Id. at ¶ 149.) The Amended Complaint explains that RSA 198:42(II) provides the State governor authorization to draw a warrant from the State's education trust fund "to satisfy the state's obligation under this section," and that after the State makes all of its intended grants as of April 1, 2019, the trust will have a surplus of \$20,000,000. (Id. at ¶¶ 132–34, 158–59.)

As noted above, these data are not disputed by the State, to the extent that they are contained in data from the DOE. The State's opposition to this matter is focused on the Court's authority to grant the relief requested, or, in other words, whether the Court has the authority to make and impose factual findings that are inconsistent with factual findings that were derived from the legislative process. That is a complicated question, but not one that needs to be resolved today.

The State also argues that principles of equity require denial of the request for a preliminary injunction because of the timing of the legislative budget process: that a court order encumbering the State with a \$1.3 billion payout in this fiscal year would significantly disrupt the current legislative budget process.

STANDARD OF REVIEW

A preliminary injunction is considered an extraordinary remedy. N.H. Dep't of Envtl. Servs. v. Mottolo, 155 N.H. 57, 63 (2007). "An injunction should not be issued unless there is an immediate danger of irreparable harm to the party seeking injunctive relief, there is no adequate remedy at law and the party seeking an injunction is likely to succeed on the merits." ATV Watch v. N.H. Dep't of Res. & Econ. Dev., 155 N.H. 434, 437 (2007) (ellipses and brackets omitted). "The granting of an injunction . . . is a matter within the sound discretion of the Court exercised upon a consideration of all the circumstances of each case and controlled by established principles of equity." Gauthier v. Robinson, 122 N.H. 365, 368 (1982). "Although a party seeking a preliminary injunction must show that it would likely succeed on the merits, injunctive relief is an equitable remedy, requiring the trial court to consider the circumstances of the case and balance the harm to each party if relief were granted." Kukene v.

Genualdo, 145 N.H. 1, 4 (2000). A denial of a preliminary injunction is not by itself a determination that the underlying case is frivolous. Id.

ANALYSIS

Both ConVal and Winchester have moved for a preliminary injunction enjoining the unconstitutional underfunding of both districts. (ConVal Mot. Prelim. Inj. (Doc. 2); Winchester Mot. Prelim. Inj. (Doc. 8).) The State has objected. The two motions for preliminary injunction contain facts from the Amended Complaint, including the discrepancy between the State's provided base adequacy aid to both districts and what the Plaintiffs allege is constitutionally required. (ConVal Mot. Prelim. Inj. ¶¶ 4–5; Winchester Mot. Prelim. Inj. ¶ 12–14.) In addition to the Amended Complaint's facts concerning Winchester, Winchester's Motion also states that Winchester is "one of the most property poor districts in the state with only \$443,886 equalized value per pupil and does not have the capacity to raise local property taxes to pay for a constitutionally [adequate] education as compared to other communities with greater property." (Winchester Mot. Prelim. Inj. ¶4.) Winchester's Motion cites to a DOE document titled "Equalized Valuation Per Pupil, 2017-2018." (Id.)

Both motions provide the same argument for a preliminary injunction. First, ConVal and Winchester assert that they will be irreparably harmed if a preliminary injunction is not issued before April 1, 2019 as the State will likely argue that sovereign immunity bars this Court from granting injunctive relief after that date. (ConVal Mot. Prelim. Inj. ¶ 9; Winchester Mot. Prelim. Inj. ¶ 18.) Second, both assert there is no adequate remedy at law as this case seeks to prevent the State from acting unconstitutionally in the future. (ConVal Mot. Prelim. Inj. ¶ 10; Winchester Mot. Prelim.

Inj. ¶ 19.) And third, both assert that they are likely to succeed on the merits as the 2008 Spreadsheet contains computational errors that can be corrected with the State's own data as published by the DOE. (ConVal Mot. Prelim. Inj. ¶ 11; Winchester Mot. Prelim. Inj. ¶ 20.) Both cite to a Superior Court Order in Bedford School District v. State to support the assertion that this Court may issue equitable relief requiring the State to provide constitutionally required funds. (ConVal Mot. Prelim. Inj. ¶ 12; Winchester Mot. Prelim. Inj. ¶ 21); Bedford Sch. Dist. v. State, Cheshire Cty. Super. Ct., No. 216-2016-CV-00396 (April 6, 2017) (Ruoff, J.). And, both motions repeat RSA 198:42(II)'s authorization to the State governor to draw a warrant to use funds from the education trust fund to satisfy the State's obligations under RSA chapter 198. (ConVal Mot. Prelim. Inj. ¶ 13; Winchester Mot. Prelim. Inj. ¶ 22.)

According to the Plaintiffs' theory, the State is obligated to distribute funds as fulfillment of its constitutional obligation to provide an adequate education. The Amended Complaint seeks declaratory judgment that RSA 198:40-a(II)(a) is unconstitutional, and the Plaintiffs seek preliminary injunction to prevent the State from violating Part II, Article 83 and Part II, Article 5 of the New Hampshire Constitution. (Am. Compl. 22; ConVal Mot. Prelim. Inj. 4; Winchester Mot. Prelim. Inj. 5.) Effectively, the Plaintiffs ask for this Court to determine that they are likely to succeed in showing RSA 198:40-a(II)(a) is unconstitutional and to order the State to provide the funds that the Plaintiffs have calculated as constitutionally sufficient base adequacy aid. The Plaintiffs have stated that the anticipated fourth installment of the State's dispersion of base adequacy aid is due on or about April 1, 2019, and that June 30, 2019 is the end of the

2019 Fiscal Year. (Am. Compl. ¶¶ 115–16.) The Plaintiffs therefore seek payment from the State by April 1. (ConVal Mot. Prelim. Inj. ¶ 14; Winchester Mot. Prelim. Inj. ¶ 23.)

The State objects to the Plaintiffs' motions for preliminary injunction. The State relies on the Joint Committee's findings in the Final Report and states that the cost components the Plaintiffs' highlight are "ancillary and beyond those directly attributable to delivery of what the Constitution requires – *i.e.*, the core "substantive educational program" detailed in RSA 198-E:2-a. (State's Obj. Mot. Prelim. Inj. 2.) The State also characterizes the Plaintiffs' request for injunctive relief as asking the Court to aggregate funds to those ancillary cost components and direct millions of dollars in payments from the State in violation of the New Hampshire Constitution's Separation of Powers Clause. (*Id.*) The State asserts that the Plaintiffs have failed to satisfy the burden to obtain a preliminary injunction. (*Id.*)

I. Irreparable Harm

Both ConVal and Winchester have alleged the same impending irreparable harm: that the State will likely argue that sovereign immunity bars this Court from granting injunctive relief after April 1. (ConVal Mot. Prelim. Inj. ¶ 9; Winchester Mot. Prelim. Inj. ¶ 18.) Neither party has articulated any other potential or ongoing harm. The State has not raised sovereign immunity as a defense nor addressed the Plaintiffs' argument in its Objection.

Under the doctrine of sovereign immunity, the State cannot be sued for damages in its own courts without its consent or permission. In re Estate of Raduazo, 148 N.H. 687, 692 (2002). The Court has jurisdiction to enjoin the State where a plaintiff seeks a declaratory judgment that actions taken by the State are unconstitutional. Lorenz v. N.H.

Admin. Office of the Courts, 152 N.H. 632, 635, *as mod.* (Feb. 16, 2006). When a Court determines that the State has acted unconstitutionally, the Court may order prospective equitable relief to enjoin state officials to conform their conduct to the law, notwithstanding any impact on the State treasury. See Milliken v. Bradley, 433 U.S. 267, 289 (1977) (discussing prospective-compliance relief exception to sovereign immunity, established in Ex parte Young, 209 U.S. 123 (1908)). A court may also grant retrospective “compensatory” equitable relief when such relief is part of an existing plan or operation that has been decreed by a court. See id. at 290 (“That the programs are also ‘compensatory’ in nature does not change the fact that they are part of a plan that operates prospectively to bring about the delayed benefits of a unitary school system.”). However, sovereign immunity bars a retrospective award for constitutional wrongdoing in the absence of such a decree when the award is indistinguishable from an award of damages paid from State funds. See Edelman v. Jordan, 415 U.S. 651, 668 (1974).

The Plaintiffs have asserted that, in the absence of a preliminary injunction, the doctrine of sovereign immunity will bar this Court from granting injunctive relief. While the Court agrees that sovereign immunity would bar a retrospective award of equitable relief, the Court disagrees that sovereign immunity would arise in the absence of the requested preliminary injunction. As the Plaintiffs point out, the 2019 Fiscal Year ends on June 30. The Plaintiffs have not shown that the State would be disabled from providing any Court-ordered payment after April 1 and before June 30, and the Court will not presume as such. While the April 1 date has passed, and thus the State’s fourth installment of base adequacy payments to the Plaintiffs has potentially been dispersed, the Plaintiffs seek funds from the State as fulfillment of its constitutional obligations

during the 2019 Fiscal Year. Because the 2019 Fiscal Year has not ended, the Plaintiffs thus seek prospective relief. Because June 30 has not passed, nor is it immediately looming, the Court does not agree that a preliminary injunction is warranted. See Bedford Sch. Dist. v. State, Cheshire Cty. Super. Ct., No. 216-2016-CV-00396, at 16–18 (April 6, 2017) (Ruoff, J.) (stating that relief in school funding case was not barred by sovereign immunity when petitioners’ suit was filed after the final education adequacy payment had passed but before the end of the fiscal year); City of Dover, et al. v. State, Sullivan Cty. Super. Ct., No. 219-2015-CV-312, at 10 (Sept. 2, 2016) (Tucker, J.) (stating that compensation for past funds wrongly withheld in school funding case were barred by sovereign immunity). After June 30, the Plaintiffs’ apprehension that sovereign immunity will bar an award will be valid. **Both** parties have requested **expedited** treatment from this Court on this matter; as such, the Court intends to fully dispose of this matter by June 30.¹² The parties are ordered to plan accordingly because the mutual request for expedited treatment is granted and the Court expects nothing less from the parties.¹³

As stated, the Plaintiffs have not provided any other explanation of what irreparable harm they will incur without a preliminary injunction. There has been no other explanation of why or how the Plaintiffs will be harmed in the absence of immediate receipt of the requested funds. Because the Court has found that sovereign

¹² For this reason, the Court also finds there is an adequate remedy at law to address the Plaintiffs’ petition. The Court therefore does not address this part of the preliminary injunction standard.

¹³ The State hinted at the hearing that this case might require significant discovery. Both plaintiffs (and the Court) disagree. As the State clearly articulated at the hearing, the fiscal impact of \$1.3 billion is significant. Thus, this case is worthy of dedicating resources necessary to resolve this by June 30, 2019. Moreover, because the plaintiffs rely on DOE data, the factual and discovery issues, if any, are very discreet and well defined.

immunity will not bar relief in the absence of a preliminary injunction, and the Plaintiffs' alleged irreparable harm will not result, the Plaintiffs' Motions for Preliminary Injunction are DENIED. The Court further addresses the parties' arguments below.

II. Likelihood of Success on the Merits

The Court also addresses that it could not grant the Plaintiffs' motions for preliminary injunction because it does not have sufficient undisputed evidence before it to demonstrate the Plaintiffs' likelihood of success on the merits.

The Court agrees with the Plaintiffs that the "flaws" it identifies in the Joint Committee's funding of a constitutionally adequate education appear problematic. The base adequacy aid amount of \$3,636 is a far cry from the actual (approximate) amount of \$18,000 per pupil.¹⁴ It does not appear, based on DOE data, that there is a single school district in the State that could function if it only spent \$3,636 on each student. But that is not the test the Court must apply at this point and numbers can be deceiving in the absence of more information. Therefore, in examining the circumstances of this case, the Court finds it inequitable to determine the merits, or likelihood of success on the merits, on the factual record the Court has before it presently.

The parties have provided the Court with the Final Report, containing the Legislature's analysis and conclusions on what composes a constitutionally adequate education and its appropriate funding, while the Plaintiffs have provided supplementary material that they assert the Legislature was constitutionally required to consider. As the Plaintiffs characterize their evidence, the DOE has provided accurate data with which the Joint Committee's findings do not align. However, there has been no

¹⁴ HB 678, and this suit more or less, only seek a \$9,929 base adequacy rate. Both sides agree that all school districts provide funding well above and beyond the base adequacy rate through local taxation. The \$18,000 figure was discussed at the hearing.

evidence contextualizing or validating the Plaintiffs' evidence—specifically, the DOE data—as relevant to the constitutional inquiry before the Court.¹⁵ And, the State disputes that the DOE data is appropriate for this Court to consider. The Court agrees with the State that the Plaintiffs must establish that the Legislature's definition of "adequate education" embraces the cost components and funding amounts they have identified; or, alternatively, the Plaintiffs must show that the Legislature's determination of base adequacy aid effectively fails to meet its obligation to fund a constitutionally adequate education. See Tuttle v. N.H. Med. Malpractice Joint Underwriting Assoc., 159 N.H. 627, 640 (2010) ("The party challenging a statute's constitutionality bears the burden of proof."). The Court is unable to rely on the Plaintiffs' evidence at this stage of the litigation to find either. Therefore, the Court is unable to determine whether the Plaintiffs will or will not succeed on the merits.

By way of analogy, the Court likens the evidentiary issue to that on a motion for summary judgment: the moving party must show there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. RSA 491-a, III. When a material fact is disputed, determining the factual merits as a matter of law is improper. However, whether facts are "material" is a question of law. Here, the Court has yet to find that the Plaintiffs' evidence (the DOE data) is material to determine

¹⁵ The Plaintiffs argued at the preliminary injunction hearing that Rideout v. Gardner requires the State to use "real data" when legislation affects fundamental rights, rather than speculative data, and that the DOE provides such real data. 838 F.3d 65 (1st Cir. 2016). First, it is unclear how Rideout will apply to this inquiry—as the First Circuit applied intermediate scrutiny, and the lower court applied strict scrutiny, 123 F.Supp.3d 218 (D.N.H. 2015), to a question concerning free speech. Second, whether the DOE data may be considered "real data" that would support a legislative restriction on a fundamental right, as Rideout required, is not the question before the Court; the Plaintiffs ask the inverse, to use the DOE data to upend a legislative decision. Accordingly, Rideout does not shed light on whether the DOE data is appropriate to consider in this matter.

whether the State's base adequacy aid is constitutionally sufficient.¹⁶ And, as noted, the State objects to the Court considering the Plaintiffs' evidence. Therefore, in considering the circumstances of this case and principles of equity, the Court cannot determine the Plaintiffs' likelihood of success.

The Court also notes that, for the same reason, it is precluded from granting the requested injunction at this time. The Court agrees with the State's distinction between a preliminary injunction and a mandatory injunction. (State's Obj. Mot. Prelim. Inj. 3.) While a preliminary injunction "is a provisional remedy that preserves the status quo pending a final determination of the case on the merits," a mandatory injunction "requires affirmative action by the non-moving party in advance of trial" and thus "alters rather than preserves the status quo." Mottolo, 155 N.H. at 63; Braintree Labs., Inc. v. Citigroup Glob. Markets Inc., 622 F.3d 36, 41 (1st Cir. 2010); see New England Employee Benefits Co., Inc. v LeSage, No. 2017-CV-00246, 2017 WL 6061157, at *5 (N.H. Super. Dec. 06, 2017) ("The few cases that have afforded [a mandatory injunction as] relief have done so either after a full trial on the merits or where there is evidence of broad dissemination of a clearly objectively false statement." (citations omitted)).

Currently, the status quo is such that ConVal and Winchester will receive the fourth and final installment of the base adequacy funds of \$3,636.06 per pupil. (Am. Compl. ¶ 25.) The Plaintiffs request significant alteration of the status quo and seek payment of more than \$20 million. (ConVal Mot. Prelim. Inj. 4; Winchester Mot. Prelim. Inj. 5.) As this Court has yet to make any factual findings and cannot yet rule on the propriety of

¹⁶ The Court notes that any attacks on the definition of adequacy, or fiscal items not contained in the definition of adequacy, are also purely legal issues -- as are the separation of powers issues which loom large in this case. There is nothing in the factual record before the Court to explain why certain items discussed by the plaintiffs are not contained in the definition of adequacy.

legislative factual findings, it finds it is improper and inequitable to order a mandatory injunction.

Lastly, the Court notes that the Plaintiffs' motions for preliminary injunction do not ask this Court to find RSA 198:40-a(II)(a) unconstitutional at this stage in litigation yet asks the Court to order the State to disperse the requested funds as if it were. The Plaintiffs thus ask the Court to put the cart before the horse and order funds dispersed contrary to a presumptively valid law. N.H. Health Care Ass'n v. Gov., 161 N.H. 378, 385 (2011) ("In reviewing a legislative act, we presume it to be constitutional and will not declare it invalid except upon inescapable grounds." (quoting Baines v. N.H. Senate President, 152 N.H. 124, 133 (2005))). As noted, the evidence before the Court is insufficient to upset that presumption and support a preliminary injunction.¹⁷

CONCLUSION

The Court finds the Plaintiffs will not incur irreparable harm in the absence of a preliminary injunction because the State will not be able to claim sovereign immunity before the end of the 2019 Fiscal Year, June 30, 2019, has passed. And, the Court lacks sufficient evidence to determine the Plaintiffs' likelihood of success on the merits. Furthermore, without this ability, the Court is unable to sufficiently find facts to support a mandatory injunction. For these reasons, the Plaintiffs' motions for a preliminary injunction are DENIED.

In light of the Court's finding that it will resolve this matter prior to June 30, 2019, the Court imposes the following deadlines: Dispositive Motions are due on (or before) April 29, 2019. Responses to Dispositive Motions: May 6, 2019. Orders on dispositive

¹⁷ The Amended Complaint also has asserted an argument that varying property taxes are unconstitutional. (Am. Compl. ¶¶ 126, 130.) The Plaintiffs have not asserted this argument as a basis for a preliminary injunction and the Court therefore does not address it.

motions will be issued within 10 days by the Court. A final hearing on the merits, if dispositive motions are denied, in this matter will be the week of June 3, 2019.

SO ORDERED.

April 5, 2019

A handwritten signature in blue ink, reading "David W. Ruoff". The signature is written in a cursive style with a large, sweeping "W" at the end.

Hon. David W. Ruoff
Presiding Justice

Clerk's Notice of Decision
Document Sent to Parties
on 04/05/2019

Strategic Plan Summary Page

Mast Way & Moharimet

Goal Area	2019 – 2020	2020-2021	2021-2022	2022-2023	2023-2024	5 Year Outcome
Multi-Tiered Systems of Support (MTSS)- Social Emotional Learning (SEL)/Mental Health	Implement chosen SEL program; Connect new SEL Screener (DESSA) to chosen program	Refine chosen SEL program; Use DESSA data to support chosen program; Provide necessary PD	Continue professional development and analysis of DESSA data to determine what should be shared. Integrate SEL program with reporting system.	Review 3 years of SEL data to determine necessary changes.		By June 2024, students K-4 will have consistent, evolving and proactive SEL instruction in classrooms and as necessary in small groups and/or 1:1 setting.
Multi-Tiered Systems of Support (MTSS)- Academic	Implement building level goals set in 19-20 to focus on academics in the areas of Math and ELA.	MW and MOH will work with MTSS Team and consultant to develop an implementation timeline for Math & ELA Tier 1-3 supports.	MW and MOH will share systems for both SEL and MTSS to refine, based upon student data.	Fully implement MTSS and SEL systems in both buildings.	Review process to date and refine MTSS system as needed.	By June 2024, students K-4 will learn and grow in a cohesive system that supports their wide variety of learning needs.
Competency Based Education (CBE)	Learn about CBE through professional development and writing science units with competency focus.	Continue learning about CBE through professional development and the continued writing of science units.	Develop and begin a schedule of competency writing for English language arts and mathematics.	Continue writing competencies ELA & mathematics.	Continue writing competencies ELA & mathematics.	By June 2024, K-4 teachers will understand how competencies support student learning and be knowledgeable of writing and evaluating competencies.

2019-2024

Strategic Plan Summary

Middle School

Goal Area	2019 – 2020	2020-2021	2021-2022	2022-2023	2023-2024	5 Year Outcome
New Middle School	By September 2019, ORMS will have completed an academic program assessment and have submitted it to the architect.		Develop school opening transition plan, consider academic year calendar	Implement transition plan.		By June 2023, students will have programming that meets their needs in a new facility.
Multi-Tiered Systems of Support (MTSS)- Social Emotional Learning (SEL)/ Mental Health	SEL subgroup will review SEL assessments & programs to pilot.	Investigate & pilot evidence-based assessments & programs for SEL.	Fully implement evidence-based assessments & programs.	Review data from assessments & programs.	ORMS willfully implement and evidence-based SEL Program.	By June 2024, students will participate in a program that incorporates assessment, instruction, and support to develop and enhance their social and emotional development
Multi-Tiered Systems of Support (MTSS)- Academic	MTSS team will formalize, process & define academic support process for Bobcat time.	Investigate evidence-based programs and screenings to support academics/student performance.	Implement evidence-based programs and screenings	Review data from programs, screenings, & protocols.	Revise programs, screenings, & protocols based on data.	By June 2024, students will access systems of support (instruction, intervention, enrichment with progress monitoring) that meets their personalized learning needs through a fully implemented Multi-Tiered System of Support (MTSS).
Competency Based Education (CBE)	Staff will develop a variety of assessments to measure student achievement through curriculum competencies.	Implement teacher created assessments to measure curriculum competencies.	Establish student CBE focus group & use data to revise teacher created assessments and instruction.	Implement teacher revised CBE assessments and practices.	Continue to use data and revise CBE practices	By June 2024, students will participate in competency-based education with a greater understanding and depth to their learning to support high school aspirations.

2019 – 2024

Strategic Plan Summary Page

High School Updated 02/05/19

Goal Area	2019 – 2020	2020-2021	2021-2022	2022-2023	2023-2024	5-Year Outcome
Social Emotional Learning (SEL)/Mental Health	Establish a MTSS Team process for data driven decision making, using screeners and other data (around social emotional/mental health), and map resources.	Assess current evidence-based programming and staffing to ensure that tiers of support are in place to support students social emotional/mental health needs.	Continue to implement evidence-based programming to ensure that systems of support are in place to support students social emotional/mental health needs.	Utilize team process for data driven decision making and screeners and other data (around social emotional/mental health) to ensure that interventions are implemented with fidelity	Establish a review and reflection cycle	By June 2024, students will be supported through a comprehensive SEL program.
Multi-Tiered Systems of Support (Academic)	Develop an MTSS process for data driven decision making and map academic resources.	Assess current tiers of support and programming to ensure that tiers of support are in place to meet student academic needs.	Evaluate progress of implementation to date; continue to implement supports and programming to ensure systems of support are in place to reflect student academic needs.	Review current process and procedures for identifying students who are struggling and refine MTSS system as needed.	Establish a cycle of review and reflection for MTSS academics.	By June 2024, students will be supported through a fully implemented MTSS academic program.
Competency Based Education	Competencies, reviewed, written and posted for all courses.	Staff will develop a variety of assessments to measure student achievement through curriculum competencies.	Implement ORHS grading and reporting systems to reflect competency-based education.	Examine and refine competency-based education and implementation.	Fully implement CBE program	By June of 2024, students will have a greater understanding and depth of their learning through a fully implement CBE to support post-secondary aspirations.
Technology	Prepare classroom technology (necessary in infrastructure support). Examine staffing needed to support 1 to 1 at ORHS and provide faculty professional development to support a 1 to 1 program.	Establish a 1 to 1 program. Continue to examine infrastructure and staffing to provide support and professional development.	Continue to provide support and professional development for integration.	Examine and refine integration practices. Review professional development provided and needs.	ORHS will have a 1 to 1 program with staff and resources in place to fully utilize the program to maximize student learning.	By June 2024, students will have a 1 to 1 program with staff and resources in place to fully maximize their learning experience.

Strategic Plan Summary Page

School District

Goal Area	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	5 Year Outcome
Curriculum Leadership Structure	Establish a budget and job description for a stipend for curriculum leadership positions in 6-12 ELA, Science, SS and World Language; K-12 Art and PE and K-5 Science.	Establish a district curriculum leadership team with goals for the year and develop a budget and job description for Sustainability Coordinator K-4.	Review curricular leadership structure and make adjustments as needed. Establish and budget for a Sustainability/STEM coordinator 9-12.	Establish a sustainability/STEM position for K-4 to be shared between Moharimet and Mast Way. Review curricular leadership structure and make adjustments as needed.	Review curricular leadership structure and make adjustments as needed.	By 2024, a teacher-based curriculum support team will be in place across all curricula areas.
MTSS - SEL/Mental Health	Increase supports at each tier; Develop systems to move to proactive v. reactive supports; implement screening and data collection procedures, define criteria for support; on-going self-assessment	Refine MTSS supports/strategy; data collection of tiered interventions based on each school's individual goals; on-going self-assessment	Refinement of MTSS components using data from self-assessment	Refinement of MTSS components using data from self-assessment	Refinement of MTSS components using data from self-assessment	By 2024, student's wellness and post-secondary aspirations will be supported through a targeted, systematic MTSS Mental Health approach at each school K-12.

<p>K-12 World Language</p>	<p>Develop a budget and plan to expand World Language Instruction in French, Spanish and Chinese to grade 5</p> <p>Review and refine proficiency curriculum model in place since 2018</p>	<p>Implement 5th grade World Language plan. Review progress to date and establish a plan to provide World Language instruction in grades K-4.</p> <p>Develop schedule and budget to support K-4 expansion.</p>	<p>Begin implementation of K-4 World Language plan. Review 5-12 in light of K-12 model and make adjustments as needed.</p>	<p>Review progress in K-4 World Language implementation and make adjustments as needed.</p>	<p>Review K-12 World Language program and make the necessary adjustments</p>	<p>By 2024, students will have access to a fully implemented K-12 World Language Program.</p>
<p>Succession plan for district leadership</p>	<p>Conduct review of district leadership needs. Determine positions in need of internal succession plan.</p>	<p>Develop a plan for succession of Superintendent and Business Administrator.</p>	<p>School Board adopts a succession plan for Superintendent and Business Administrator.</p>	<p>New Superintendent hired as Associate Superintendent to work with current Superintendent as mentor.</p>	<p>Associate Superintendent assumes full leadership role for district. By mid-year new BA is hired and works with current BA as a mentor.</p>	<p>By 2024, a succession plan will be developed and approved by the School Board for the Superintendent's transition.</p>

Strategic Plan Summary Page

District Equity and Inclusion	
2021-2022	2022-2023
<p>Goal Area K-12 Curriculum that provides students with knowledge, skills, and awareness of race, racism, equity, and inclusion</p>	<p>2019 – 2020 Develop K-12 equity and inclusion competencies.</p>
<p>2020-2021 Implement equity and inclusion competencies.</p>	<p>Provide professional development to address areas identified in 2021-22 and develop assessment program to determine student growth on equity and inclusion competencies.</p>
<p>2021-2022 Review impact of implementation of equity and inclusion curriculum and offer PD to address issues identified in the review.</p>	<p>Conduct comprehensive assessment of equity and inclusion curriculum and use findings to guide development of goals for 2024-2029 strategic plan.</p>
<p>2022-2023 Review hiring process and modify strategies to better promote diverse applicants.</p>	<p>By 2024, the ORCSD will have increased staff diversity while assuring a welcoming, inclusive environment free of harassment and discrimination</p>
<p>2023-2024 Conduct comprehensive assessment of equity and inclusion curriculum and use findings to guide development of goals for 2024-2029 strategic plan.</p>	<p>By 2024, all extra- and co-curricular programs, including intersarsity and club athletics, will offer equitable and inclusive experiences for all students and staff.</p>
<p>2024-2025 Conduct comprehensive assessment of equity and inclusion curriculum and use findings to guide development of goals for 2024-2029 strategic plan.</p>	<p>Conduct comprehensive assessment of co-curricular activities to determine success in creating inclusive and welcoming programs, including athletics; set goals for next five years</p>
<p>Equitable and inclusive school climate</p>	<p>2019 – 2020 Develop specific strategies and partnerships to recruit, hire, and retain diverse staff at all levels and roles. Include goals for hiring over next four years.</p>
<p>2020-2021 Implement recruitment and hiring plan developed in year one. Explore restorative practices as a tool to address disciplinary issues within the school community.</p>	<p>Review hiring process and modify strategies to better promote diverse applicants. Review restorative justice practices and make adjustments as needed.</p>
<p>2021-2022 Develop retention strategies to retain recently hired diverse staff members. Begin implementation of restorative practices.</p>	<p>Implement use of assessment tool developed in 2020-21 in all extra-curricular and co-curricular activities. Review data gathered and make adjustments to programs to provide a more</p>
<p>2022-2023 Create assessment tools used by organizations and teams to assess student experience relative to equity and inclusion. Continue to provide PD to advisors and coaches on providing equitable</p>	<p>Implement goals established in 2021-22.</p>
<p>2023-2024 Conduct a review of current extra-curricular and co-curricular activities and organizations to identify areas in need of growth in order to provide an equitable and inclusive experience for all. Provide PD to advisors and coaches</p>	<p>Conduct comprehensive assessment of co-curricular activities to determine success in creating inclusive and welcoming programs, including athletics; set goals for next five years</p>

<p>Family and Community Engagement on Equity and Inclusion</p>	<p>to create more equitable and inclusive programs.</p>	<p>and inclusive environments.</p>	<p>fully inclusive environment for all students and staff.</p>	<p>based on assessment of co-curricular activities.</p>	<p>By 2024, ORCSD will continuously engage with Durham, Lee, and Madbury residents to assure understanding and support for Equity and Inclusion goals.</p>
<p>Create a Family and Community Engagement Advisory Group to set goals and design program activities.</p>	<p>Implement the goals for Family and Community Engagement established in 2019-20.</p>	<p>Implement goals set in 2020-21 to promote community and family engagement.</p>	<p>Community and family engagement goals at the district and building levels will be implemented.</p>	<p>Conduct a comprehensive assessment of family and community engagement and set goals for 2024-29 strategic planning.</p>	<p>The Advisory Group will review progress to date and make recommendations.</p>

2019 – 2024

Strategic Plan Summary Page

Operations- Facilities

Goal Area	2019 – 2020	2020-2021	2021-2022	2022-2023	2023-2024	5 Year Outcome
New Middle School	Provide public with documentation necessary for a vote on new middle school in March of 2020. Upon successful vote break ground in May 2020	Continue construction with an emphasis on Site Safety.	Construction complete by February 2022. Move into new facility. Remove useful items from current building before demo.	New building commissioned. Establish maintenance and custodial schedules.	Review and refine building systems.	By June 2024, the ORCSD will occupy and commission a new Middle School which is energy efficient and sustainable.
Enhance security measures across the district.	Build new Moharimet Entrance way/ renovate existing.	Add cameras District wide. Add security at SAU / SB.	Explore window film and ground level security projects.	5-year review of safety protocols.	Explore upgrades to building access.	By June 2024, building security at all ORCSD schools will be improved.
Upgrade and improve heating and cooling at all schools.	Review current needs of all buildings related to establishing a standard for heating and cooling.	Replace failing A/C in the IT closets.	Replace and expand AC to all rooms at Moharimet.	Replace and expand AC to all rooms at MW. Investigate and propose AC options for HS.	Budget for HS AC.	By June 2024, all buildings will have a standard heating and cooling environment.
Expand parking and improve grounds	Establish operational standards for grounds and lot maintenance.	Construct HS tennis courts & increase parking at ORHS.	Establish 5 yr beautification projects.	Improve Moharimet parking lot and lighting.	Improve Mast Way parking lot and lighting.	By June 2024, upgrades will be made to district grounds, parking and lighting.
High-School Auditorium Expansion			Facilities will explore design of the HS Auditorium expansion with an Architect	All contracts and work schedule will be ready in preparation for a July 2024 construction	Auditorium will be complete and ready for occupancy.	By June 2024, the High School Auditorium will be increased to house large performances and accommodate full school assemblies.

Strategic Plan Summary Page

Operations- Information Technology (IT)

Goal Area	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	5 Year Outcome
Tools and Resources	Develop plan to implement 1:1 laptop program for ORHS.	Implement ORHS 1:1 laptop program.	Review and maintain 1:1 laptop program grades 5-12.	Establish replacement plan for ORMS 1:1 laptops.	Review and maintain 1:1 program grades 5-12.	By 2024, the ORCSD IT Department will evaluate and implement technology tools and resources that will be used to support academic and operational goals of the ORCSD.
Policy and Law	Review law, update district policies and procedures, and provide staff training on changes.	Review law, update district policies and procedures, and provide staff training on changes.	Review law, update district policies and procedures, and provide staff training on changes.	Review law, update district policies and procedures, and provide staff training on changes.	Review law, update district policies and procedures, and provide staff training on changes.	By 2024, the ORCSD IT Department will continue to review and implement policy and procedure to meet federal and state law.
Infrastructure	Upgrade network switches and firewalls. Assist with technology needs planning for new MS.	Replace staff computers. Copier and Printer Replacement Assist with technology needs planning for new MS.	Replace servers and storage. Assist with technology needs implementation for new MS.	Replace elementary classroom computer sets. Replace classroom desktop computers districtwide. Assist with technology needs implementation for new MS.	Maintain and update district infrastructure and computing systems.	By 2024, the ORCSD computing infrastructure will be up to date and capable of handling the needs of the district.
SAU Systems-Software	Inventory and list functions of current systems.	Determine SAU system needs for finance, HR, student management information systems.	Research & investigate program capabilities.	Narrow potential solutions and budget accordingly.	Select and recommend SAU systems.	By June 2024, software will be recommended for finance, HR, and student information management.

2019 – 2024

Strategic Plan Summary Page

Operations- School Nutrition

Goal Area	2019 – 2020	2020-2021	2021-2022	2022-2023	2023-2024	5 Year Outcome
Kitchen Equipment	Prepare inventory of all kitchen equipment and create replacement plan.	Begin to replace most needed items. Review and refine list.	Budget to replace elementary equipment.	Budget to replace high school equipment.	Evaluate status of replacement plan and address area still in need.	By June 2024, all kitchens will have a capital plan for equipment replacement.
Staff Training	Staff training on how to safely prepare food for children with allergies.	Staff training on preparing local food and using fresh herbs.	Staff training on workplace safety, ergonomics	Staff training on sanitation and food safety.	Staff training on creatively using commodity foods.	By June 2024, the department will have a written training plan for all staff.
Kitchen Designs	Complete work to redesign MW serving line and HS service.	Complete construction on MW kitchen and cafeteria.	Open new MS kitchen and cafeteria; refine as needed	Review and evaluate MOH kitchen and cafeteria.	Refine any designs to ensure maximum efficiency.	By June 2024, all district schools will have efficient kitchen layouts and serving lines.

2019 – 2024

Strategic Plan Summary Page

Operations- Transportation

Goal Area	2019 – 2020	2020-2021	2021-2022	2022-2023	2023-2024	5 Year Outcome
Update Bus Fleet	Apply for alternative energy grants to replace buses and legacy grants for qualifying buses.	Investigate and pilot grant/ partner opportunities for funding.	Plan for charging stations.	Construct charging stations.	Review choices and make adjustments as necessary.	By June 2024, the district will have hybrid or electric vehicles as part of the district fleet.
Student School Bus Safety Program	Investigate school bus safety program for students and present to administration	Develop and propose review of School Bus safety programs.	Implement school bus safety program for all elementary students.	Implement school bus safety program for middle school students.	Implement school bus safety program for high school students.	By June 2024, transportation will have an established bus safety program for all students(k-12).
Staff Recruitment and Pay	Develop plan to attract bus drivers.	Investigate driver pay/benefits in area to remain competitive.	Propose adjustments to maintain and increase drivers.	Review employee manual and meet with sub-committee to make adjustments.	Actively advertise and recruit.	By June 2024, transportation will have a competitive contract and be fully staffed.

Policies for
 First/Second Read/Adoption/Deletion
**SB Meeting of
 April 10, 2019**

Title	Code
Policies for First Read	
Student Automobile Use	JLIE
Searches of Student Automobiles on School Property	JIHB
Use of Private Vehicles to Transport Students	EEAG
Student Conduct on School Buses	JICC
Care of School Property by Students	JFCB
Policies for Second Read/Adoption	
Policies for Deletion/Replacement	
Support Staff – Reward for Outstanding Performance	GDBAA

As a reference the April 10, 2019 policy minutes are attached to this packet.

OYSTER RIVER COOPERATIVE SCHOOL BOARD	Policy Code: JLIE
Code Change School Board 1 st Read 7/14/10 Previously - JHFD Code/Revision School Board 2 nd Read/Adoption: 8/11/10 Review Policy Committee: April 10, 2019 School Board First Read: April 17, 2019	Page 1 of 1 Category: Recommended

STUDENT AUTOMOBILE USE

The Oyster River Cooperative School Board encourages high school students to use the bus transportation provided to them. However, students may be granted the privilege of driving to school in their own vehicles if the requirements in this policy are met.

1. A student must complete a Student Driver Request/Registration Form that includes documentation concerning the student's vehicle, insurance and parental permission. No application will be approved without appropriate insurance or parental permission.
2. Students who are approved to drive to school must park only in areas designated for student parking.
3. Students may not access their vehicles ~~or leave school grounds~~ during the school day without permission of the building administrator.
4. Students should be aware that any vehicle that they drive to school may be subject to search as provided by Board policy [JIHB](#).
5. Students are required to drive safely and obey all traffic/parking rules while operating a vehicle on school grounds.
6. In order for a student to drive his/her vehicle to any school-sponsored activity off school grounds in which he or she is participating, prior written permission from the student's parent/guardian must be provided on the appropriate form and in accordance with all applicable Board policies and school rules.
7. The building administrator has the discretion to suspend or revoke a student's driving privileges and impose other disciplinary measures for driving infractions or other violations of Board policies or school rules. The building administrator may also report driving infractions to local law enforcement authorities as he/she deems appropriate.
8. Students are not allowed to transport other students to school sponsored activities in which he or she is participating, except in special circumstances, without prior written permission from [both](#) the parent/guardian of the passenger and the driver and the approval of the building administrator.

Cross References: [EEBBAG](#) – Use of Private Vehicles to Transport Students
[JFICC](#) – Student Conduct on School Buses

[Student Driver Permission Form is part of this policy.](#)

~~Oyster River Cooperative School District~~

~~STUDENT DRIVER PERMISSION FORM~~

I understand that the Oyster River Cooperative School District *Extra-Curricular Activity Guidelines* require parents to transport their children to out-of-district individual extracurricular activities. I am asking that the Superintendent and/or his/her designee waive this requirement for _____ and allow him/her to drive his/her private vehicle to _____ School for _____ during the _____ school year.

I knowingly and voluntarily release, acquit, discharge and waive, and further agree to indemnify, hold harmless and reimburse each and all of those released, from and against any claim which I, my child or any other parent, relative or next of kin of ours, successors, or assigns or any other person, firm or corporation may now or hereafter have or claim to have known or unknown, seen or unforeseen, directly or indirectly, or within or without the control of those released, and also all claims which said minor has or hereafter may acquire, either before or after my child has reached the age of majority, for or on account of any losses, damages, personal injuries, pain and suffering, death, property damage, contract claims, or negligence resulting from, or arising out of, directly or indirectly, during, or in connection with my child's driving his/her private vehicle to _____ School.

I certify that _____ can be expected to drive in a responsible manner and will adhere at all times to applicable school district policies. I further certify that both the driver and vehicle are insured. I understand that, in the event of an accident, the driver's insurance provides the primary insurance coverage on the vehicle and its occupants.

I hereby give my permission for _____ to drive in his/her private vehicle to _____ School for _____ during the _____ school year.

(Parent/Guardian)

(Date)

JLIE-R

STUDENT AUTOMOBILE USE - PERMIT APPLICATION

Student
School

Age

Student's address (street, town/city, zip code)

Automobile (Year, made, model, color)

License Plate No.

Student's Driver's License No.

Owner of automobile

Owner's address (street, city/town, zip code)

I certify that the above information is true. I agree that my being able to operate and to park a vehicle on school property is a privilege conditioned on my willingness to have that vehicle subject to search by school authorities at any time the vehicle is on school property. I also understand that it is my responsibility to obey all posted speed limits while driving on school grounds, to operate the car safely, to display properly the school parking sticker, to park in designated areas, and to make certain that the car does not contain drugs, alcohol, weapons, or other items prohibited by law or school rules. Finally, I understand that any violation of this agreement or other school rules can lead to the revocation of all parking privileges. I further understand that motor vehicles in violation of this regulation may be subject to towing at the student's or owner's expense.

Student's signature

I, the parent/guardian of _____ hereby verify the information supplied above and understand and agree with the rules pertaining to the operation of vehicles on school grounds or property.

Signature of Parent/Guardian

OYSTER RIVER COOPERATIVE SCHOOL BOARD	Policy Code: JIHB
Policy Committee: January 7, 2015 Policy Committee: March 11, 2015 School Board First Read: March 18, 2015 School Board Second Read/Adoption: April 1, 2014 Policy Review: April 10, 2019 School Board First Read: April 17, 2019	Page 1 of 1 Category: Recommended

SEARCHES OF STUDENT AUTOMOBILES ON SCHOOL PROPERTY

Oyster River Cooperative School District students recognize that parking their automobiles on school property is a privilege and not a right. As part of this privilege, the district may search students' automobiles while parked on school property if the district has reasonable suspicion that a violation of school rules or policy has occurred. Students consent to having their automobiles searched by parking in school parking lots.

In the event that an employee of the school district has reason to believe that drugs, drug paraphernalia, or weapons are present in a student's automobile, that employee will inform the building principal, who will then conduct a search of the automobile. [The principal/designee shall have the discretion to engage the police in the search.](#) The principal shall fill out a vehicle search form, which will be maintained by the district.

Authorized personnel conducting a search shall have authority to detain the student or students and to preserve any contraband seized. Contraband seized during the course of a search will be preserved and held in accordance with applicable administrative rules and procedures.

Legal Reference:

NH Constitution, Pt.1, Art.19

Cross Reference:

JIHB-R – Student Operated Vehicle Search Report

OYSTER RIVER COOPERATIVE SCHOOL BOARD	Policy Code: EEAG
Date of Adoption: November 7, 2011 <small>Previously: EEBB</small> Code Revision: June 16, 2010 School Board First Read: November 6, 2013 School Board Second Read/Adoption: December 4, 2013 Policy Committee Review: April 10, 2019 School Board First Read: April 17, 2019	Page 1 of 1 Recommended

USE OF PRIVATE VEHICLES TO TRANSPORT STUDENTS

Any use of private vehicles to transport Oyster River Cooperative students to or from school, field trips, athletic events, or other school functions, must have prior authorization by the Superintendent or his/her designee. The Board specifically forbids any employee to transport students, except the teacher's own children, for school purposes without prior written authorization by the Superintendent or his/her designee. Individuals providing unauthorized student transportation do so at their own expense and liability.

Any employee or private citizen using their own or a rented vehicle to provide school-authorized student transportation must have automobile liability insurance of not less than [\\$250,000/\\$500,000](#) Combined Single Limit and provide a Certificate of Insurance naming the District as an Additional Insured. The District will maintain liability insurance, which will be in excess of the owner's primary insurance for authorized student transportation.

Persons under contract with the school district to provide school transportation services must have a valid School Bus Driver Certificate/License in accordance with applicable rules and laws. All vehicles must be approved by the New Hampshire Department of Safety as meeting all applicable school bus safety standards. Parents transporting their own children are exempt from this requirement, per Department of Safety regulations.

Persons providing transportation on an incidental basis, i.e., not specifically as part of a contract to transport, must have a valid driver's license, and the vehicle used must have a current New Hampshire inspection sticker. A commercial license is required for any vehicle that has a capacity of 16 or more.

No student shall be sent on school errands using any automobile. No student will transport another student for school authorized transportation [except in special circumstances per policy JLE](#).

Reimbursement for use of private vehicles may be made, but only if the employee or other person has prior approval of the designated administrator.

Legal References:

New Hampshire Code of Administrative Rules Section Saf-C 1304.05, Exemption From School Bus Driver's Certificate

OYSTER RIVER COOPERATIVE SCHOOL BOARD	Policy Code: JICC
Date of Adoption: June 29, 1988 Previously: JFCC Date of Revision: August 4, 1999 Code Change Adoption School Board: May 2, 2012 Policy Committee Review: April 10, 2019 School Board First Read: April 17, 2019	Page 1 of 1

STUDENT CONDUCT ON SCHOOL BUSES

Students using [Oyster River Cooperative School](#) district transportation must understand that they are under the jurisdiction of the school from the time they board the bus until they exit the bus.

The bus driver will have responsibility to maintain orderly behavior of students on school buses and will report misconduct to [the transportation director who will then report to](#) the student's principal [and/or parent](#).

The school principal will have the authority to suspend the riding privileges of students who are disciplinary problems on the bus by failing to conform to the rules and regulations promulgated by the school board. Parents of children whose pattern of behavior and misconduct on school buses endangers the health, safety, and welfare of other riders will be notified that their children face the loss of school bus riding privileges in accordance with the student discipline code.

RSA 189:9-a

OYSTER RIVER COOPERATIVE SCHOOL BOARD	Policy Code: JFCB
Date of Adoption: October 19, 1988 Dates of Revision: October 18, 1995, August 4, 1999 Policy Review for Possible Deletion: April 10, 2019 School Board First Read: April 17, 2019	Page 1 of 1

CARE OF SCHOOL PROPERTY BY STUDENTS

~~Oyster River S~~students will be held responsible for proper care and return of ~~books~~any school property issued to them. ~~Textbooks must be covered; students must pay for all books damaged or lost.~~

~~The board views vandalism against school property by students as reprehensible.~~ In response the principal is directed to take such steps as are necessary to recoup the loss.

- ~~1. To identify the student(s) involved.~~
- ~~2. To call together persons, including the parents, to study the causes and to advise on appropriate disciplinary action.~~
- ~~3. To decide upon disciplinary action and to assess the students and/or their parents for any costs.~~
- ~~4. To take any constructive action needed to try and guard against further such student misbehavior.~~

~~Final report cards and diplomas may not be issued until bills are paid.~~

Cross Reference: [ECAC – Vandalism](#)
[EDC – Authorized Use of School Owned Materials](#)
[JICL – Student Computer and Internet Use](#)
[KF - R – Use of School Buildings and Facilities](#)
[KFA – Public Conduct on School Property](#)

OYSTER RIVER COOPERATIVE SCHOOL BOARD	Policy Code: GDBAA
Date of Adoption: June 18, 1980 Review by Policy Committee for possible deletion: April 10, 2019 School Board for Deletion: April 17, 2019	Page 1 of 1

SUPPORT STAFF

Reward for Outstanding Performance

~~A member of the non-salaried staff may be judged eligible by the school board for additional financial reward based upon outstanding performance. Such re-ward may be given in the form of a bonus for outstanding performance at the completion of the school year.~~

~~Candidates for an additional financial reward may be identified by the school board, an administrator, or by a member of the salaried or non-salaried staff. Salaried or non-salaried staff wishing to recommend persons for such financial rewards will bake such recommendations through a statement in a sealed envelope given to the superintendent of schools. The superintendent will announce annually the period during which such recommendations may be submitted. De-termination of the recipient(s) is the responsibility of the school board.~~

Policy Committee Meeting Minutes

Wednesday, April 10, 2019 @ 3:30 PM

Attendees: Denise Day, Brian Cisneros, Kenny Rotner, James Morse, Wendy DiFruscio

Visitors: Daniel Klein

Dr Morse called the meeting to order at 3:30 PM.

Dr. Morse opened the meeting by asking for nominations for a policy chair. Brian nominated Denise, seconded by Kenny. All in favor.

Dan asked if the Facilities policy was on the agenda for review, but there was a miscommunication that it will be on the May agenda and Dan thanked the committee and excused himself at 3:40 PM.

Denise resumed the meeting with Policy JLIE – Student Automobile Use. It was explained that this policy was coming before the committee for review and also for a deletion of the form that was considered part of the policy and not an “R” document. Suzanne Filippone asked that this form be removed as its content was incorrect for the practice that is used at the high school. A proposed “R” document was included in the packet for review by the committee and minor changes were made to the policy. This is ready for a first read.

Policy JIHB – Searches of Student Automobiles on School Property. The policy committee asked about the legal ramifications of a district administrator actually searching the vehicle and what happens if the search finds something. Different examples were given, and review of the policy resulted in language being added for searching a vehicle. This policy is ready for a first read.

Policy EEAG – Use of Private Vehicles to Transport Students – The committee reviewed and discussed. Suggested addition of \$250,000 be added to the liability language and language from another policy to keep both aligned with the same context. Jim stated that we do discourage students from doing this. This policy is ready for a first read.

Policy JICC – Student Conduct on School Buses – This policy was reviewed by the transportation director as well as the committee, a brief discussion followed with a minor change to the language. This policy is ready for a first read.

Policy JFCB – Care of School Property by Students – This is a very old policy that resulted in a discussion as to whether to delete or revise completely. The Committee chose to revise, changes were made, and cross references were added. This policy will go for a first read.

Policy GDBAA – Support Staff – Reward for Outstanding Performance – Again this is a very old policy that needed to be reviewed before possible deletion. Committee asked if this even happens. It was decided to delete this policy.

No additional questions or comments.

Meeting ended at 4:20 PM – Next meeting May 8, 2019.

Respectfully submitted,
Wendy L. DiFruscio