

Ludington Board of Education  
Public Meeting Notice

Please Post

Mission: The Ludington Area School District, in partnership with parents and community, will educate and empower students to adapt and succeed in their future.

**Personnel/Policy Committee Meeting**

Date: September 16, 2020

Time: 7:00 a.m.

Place: Ludington Area School District Administration Office  
809 East Tinkham Avenue, Ludington, Michigan

- 1) CALL TO ORDER & ROLL CALL  
 Stephanie Reed    Mike Nagle    Leona Ashley
- 2) CITIZEN PARTICIPATION
- 3) AGENDA MODIFICATION
- 4) MEETING PARTICIPANT CONTROLS
- 5) DISCUSSION ITEMS
  - a) New Teacher Hiring Recommendation
  - b) Second Reading - NEOLA Special Policy Update: Title IX Regulations
  - c) First Reading - NEOLA Policy Update: Volume 35, Number 1
  - d) NEOLA Policy Special Release: Legal Alert on School Reopening During COVID-19
  - e) Update on District Goals and Extended COVID-19 Continuity of Learning Plan
  - f) Thrun Law Firm - Review of School Law Notes
  - g) Updates from other committees
- 6) OTHER ITEMS OF BUSINESS AND ANNOUNCEMENTS
- 7) ADJOURNMENT

This is a meeting of the Board of Education in public for the purpose of conducting the School District's business and is not to be considered a public community meeting. Official minutes of the Ludington Board of Education are available for public inspection during normal business hours at the Board of Education's Central Business Office, 809 E. Tinkham Avenue, Ludington, Michigan, 231-845-7303. The Ludington Area School District is an equal opportunity employer and provider. If you are an individual with a disability who is in need of special accommodations to attend or participate in a public meeting please contact Superintendent Jason J. Kennedy at 231-845-7303 at least 24 hours prior to the meeting or as soon as possible.

# Memorandum - Office of the Superintendent

**TO:** Board of Education  
**FROM:** Jason Kennedy, Superintendent  
**RE:** Personnel/Policy Committee Meeting ~ Agenda Notes

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## **CITIZEN PARTICIPATION**

### **Review Board Policy 0167.3: Public Participation at Board Meetings**

The Board of Education recognizes the value of public comment on educational issues and the importance of allowing members of the public to express themselves on District matters.

To permit fair and orderly public expression, the Board shall provide a period for public participation at every regular meeting of the Board and publish rules to govern such participation in Board meetings. The rules shall be administered and enforced by the presiding officer of the meeting.

The presiding officer shall be guided by the following rules:

- A. Public participation shall be permitted as indicated on the order of business, or at the discretion of the presiding officer.
- B. Participants must be recognized by the presiding officer and will be requested to preface their comments by an announcement of their name, address, and group affiliation, if and when appropriate.
- C. Each statement made by a participant shall be limited to three (3) minutes duration.
- D. No participant may speak more than once.
- E. Participants shall direct all comments to the Board and not to staff or other participants.
- F. The presiding officer may:
  1. interrupt, warn, or terminate a participant's statement when the statement is too lengthy, personally directed, abusive, obscene, or irrelevant;
  2. request any individual to leave the meeting when that person does not observe reasonable decorum;
  3. request the assistance of law enforcement officers in the removal of a disorderly person when that person's conduct interferes with the orderly progress of the meeting;
  4. call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action;
  5. waive these rules with the approval of the Board when necessary for the protection of privacy or the administration of the Board's business.
- G. The portion of the meeting during which the participation of the public is invited shall be limited to thirty (30) minutes, but the timeframe will be extended, if necessary, so that no one's right to address the Board will be denied.

- H. Tape or video recordings are permitted. The person operating the recorder should contact the Superintendent prior to the Board meeting to review possible placement of the equipment, and agrees to abide by the following conditions:
1. No obstructions are created between the Board and the audience.
  2. No interviews are conducted in the meeting room while the Board is in session.
  3. No commentary, adjustment of equipment, or positioning of operators is made that would distract either the Board or members of the audience while the Board is in session.
- I. Each Board agenda will include the following statement, "Public participation shall be permitted only as indicated on the order of business."

**Revised:** January 21, 2019

Legal: M.C.L.A. 15.263(4)(5)(6), 380.1808

## **DISCUSSION ITEMS**

### **New Teacher Hiring Recommendations**

- **Elementary Teaching Position:** Interviews were conducted and a candidate was recommended by Jennifer Mackey for hire to fill the vacancy created by Chaz Dila accepting the elementary technology position that was posted when Kris Anderson left that role to accept a mathematics teaching position at the middle school. This position was created when Cindy Hill retired from the District at the end of this year. Interviews were conducted by a team of educators at Lakeview Elementary School.

The District is pleased to recommend the hiring of Cody Jensen. Mr. Jensen holds a bachelor's degree in Interdisciplinary Studies (Grades K-8) and a master's degree in Instructional Design from Western Governors University. Mr. Jensen has spent the last two years teaching at Mason County Eastern Schools. Prior to that, he served as a migrant teacher and paraprofessional at Mason County Central Schools. Mr. Jensen has experience with many of the curricular resources that are used in Ludington Area Schools and across West Shore Educational Service District, and he has completed many of the necessary training on these curricular resources.

The District is pleased to welcome Cody Jensen to the District, where he will serve as a first grade teacher at Lakeview Elementary School.

### **Second Reading - NEOLA Special Policy Update: Title IX Regulations**

- Policy 2266: Nondiscrimination on the Basis of Sex in Education Programs or Activities (Replacement)
- Policy 5517.02: Sexual Violence (Rescind/Delete)

Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs and Activities is a replacement policy for Policy 5517.02, which is being eliminated. Policy 2266 is a mandatory policy that memorializes the key requirements of the new Title IX regulations that the U.S. Department of Education, Office for Civil Rights (“OCR”) released on May 6, 2020. The new regulations go into

effect on August 14, 2020, which means that public school districts must follow its mandates when addressing, investigating and adjudicating allegations of sexual harassment occurring in the District's education program and activities that the District received notice of on or after August 14. It is expected that districts will need to certify/affirm their compliance with Title IX and these new implementing regulations when applying for and receiving federal funds related to the 2020-2021 school year.

The new regulations are extremely prescriptive and the District is required to use specific terms (e.g., Complainant, Respondent, Title IX Coordinator, Formal Complaint, Sexual Harassment), definitions, and procedures (i.e., grievance process and procedures) in its policy that are different from those found in other Neola nondiscrimination and anti-harassment policies and administrative guidelines. For example, the regulations mandate a specific definition of "Sexual Harassment" that includes not only the standard quid pro quo sexual harassment that is found in existing policies, but also a more stringent definition of hostile environment sexual harassment (i.e., "unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity") and sexual misconduct that is based upon definitions of "sexual assault," "dating violence," "domestic violence," and "stalking" that are derived from two Federal statutes that historically have only applied to post-secondary and higher-education institutions (i.e., the Clery Act and the Violence Against Women Reauthorization Act).

Additionally, the scope of conduct that is covered by the regulations is narrower than that which is covered by other nondiscrimination and anti-harassment policies – e.g., the regulations do not cover conduct that occurs outside the United States (i.e., any field/class trips that take place outside the United States) or conduct involving a Respondent (i.e., the individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment) that the district does not have "substantial control" over.

Further, the regulations necessitate the need for the Board to require any employee who receives a report of, or has knowledge of, Sexual Harassment to notify the Title IX Coordinator so it can be promptly and equitably addressed; the District is considered to have "actual knowledge" and, therefore, responsibility for addressing such misconduct, even if the employee fails to bring it the appropriate person's attention. In such a situation, the District could be found in violation of Title IX if it does not promptly and equitably address Sexual Harassment that occurs in its education program or activity.

The regulations also eliminate the practice of having a single investigator and decision-maker. Under the new regulations the person who conducts an investigation cannot be the same person who makes the ultimate determination of responsibility concerning whether the Respondent engaged in Sexual Harassment. The investigation process is further different from school districts' prior practices because the Complainant (i.e., the individual who is alleged to be the victim of conduct that could constitute Sexual Harassment) and the Respondent must be provided advanced written notice before being interviewed, and must be afforded at least 10 days advanced notice of, and an opportunity to review, all of the evidence and information collected by the investigator

before the investigator prepares the investigatory report. In addition, the parties must have a minimum of 10 days to review the investigatory report before a decision-maker issues a determination of responsibility or conducts a hearing (if the Board elects to allow live hearings).

Last, the regulations detail specific training that certain members of the District's Title IX team need to receive and mandate the retention of specific records for a period of seven calendar years and the posting of certain information on the District's website (i.e., the Board's notice of nondiscrimination, the name/title and contact information for the District's Title IX Coordinator, the Board-adopted grievance process and procedures, and specific training materials).

### **First Reading - NEOLA Policy Update: Volume 35, Number 1**

Volume 35, Number 1 of the NEOLA policy update has been released to schools. The committee will complete the first reading of the following policies:

- Policy 4362.01 - Threatening Behavior Toward Staff Members (Revised)

The corresponding policy (Policy 3362.01) for instructional staff was revised in the Volume 34 Number 2 Update in February 2020 in response to client requests to provide more clarity to the characterization of "threatening behavior." This revision is recommended for adoption.

- Policy 5610 - Removal, Suspension, Expulsion, and Permanent Exclusion of Students (Revised)
- Policy 5611 - Due Process Rights (Revised)

Revisions to these 2 policies provide for the use of the "Preponderance of Evidence" standard of evidence in determination of student discipline. This standard is consistent with the standard of evidence that has been applied in the Nondiscrimination and Anti-Harassment policies in effect. In addition "Retention of Investigatory Records" has been added to both policies. These revisions are recommended for adoption.

- Policy 7440 - Facility Security (Revised)

This policy has been revised in response to Public Act 2020-45 (effective June 1, 2020), which authorizes the Superintendent to install temporary door locking devices when deemed necessary. These revisions are recommended for adoption.

- Policy 8450.01 - Protective Facial Coverings During Pandemic/Epidemic (New)

This new policy is based on guidance from the Center for Disease Control and Prevention (CDC). The guidance and content of this policy may be included in the District's Restart/Reopening plan for the 2020-21 school year. The policy provides coverage for students, district employees, and volunteers/visitors. This new policy is provided for district consideration.

### **NEOLA Policy Special Release: Legal Alert on School Reopening During COVID-19**

Governor Gretchen Whitmer signed various bills into law on August 20, 2020, revising certain sections of the State School Aid Act (the "Act"). HB 5911, 5912 and 5913 address statutory modifications relating to the opening and the continuation of school during the COVID-19 pandemic. The modifications are limited to the 2020-21 school year and "pandemic learning," which is defined as a mode of instruction provided as a result of the COVID-19 pandemic. The legal alert reviews the legislation, including the specific requirements that may apply to its instruction method of choice. This document has been prepared in consultation with Varnum, LLP (Grand Rapids, MI) and is provided to Neola Policy clients.

### **Update on District Goals and Extended CoVID-19 Continuity of Learning Plan**

On August 20, 2020, Governor Whitmer signed House Bill 5913 into law as Public Act 149. Section 98a states that in order to receive state aid for 2020-2021, districts must provide for instruction under an extended COVID-19 Learning Plan ("Plan") that has been approved by an intermediate district or authorizing body. The Plan does not replace the District's/PSA's COVID-19 Preparedness and Response Plan, it is an additional plan that includes new assurances and sections on educational goals, instructional delivery, grading, and equitable access.

District/PSA educational goals written for all students and all subgroups must be established no later than September 15, 2020, and submitted in their Plan to the ISD or Authorizing Body, as applicable, no later than October 1, 2020, for approval. ISDs and PSAs will transmit the approved plan to the superintendent of public instruction and the state treasurer.

We will review the goals that have been established by the District to comply with the legislation, as well as the Extended CoVID-19 Learning Plan, the reconfirmation meeting template, and the data that is required to be collected and documented.

### **Thrun Law Firm - Review of School Law Notes**

We will discuss the most recent school law notes with the committee. This will provide the committee with the most recent developments in school law with regard to policy development.

### **Updates from Other Committees**

We will review updates from each of the other committees in preparation for the Board meeting on Monday, September 21, 2020.