

Kearsarge Regional School Board

15 August 2024

Open to Public

I. Call to Order	The Chair called the meeting to order at 6:33 p.m.
II. Pledge of Allegiance	Ms. Mastin led the Pledge of Allegiance.
III. Roll Call	<p>Present: Alison Mastin, Emma Bates, Art Bobruff, Ben Cushing, Eric Gregoire, Kyle Lombard, Patrick McGowan, and Kristen Schultz.</p> <p>KREA Representative Catharine Hyson</p> <p>Absent: David Keith and student representatives, since school is not yet in session.</p> <p>Public Hearing – Appropriation for Unanticipated Funds As required per NH RSA 198:20-b, III, the Kearsarge Regional School Board is conducting a public hearing regarding unanticipated revenue awarded to the Kearsarge Regional School District for the amount of \$11,890 from the Bottinger Scholarship Fund. Advertised in the Intertown Record of July 23, 2024.</p> <p><i>Ms. Schultz made the motion to accept and expend unanticipated revenue funds by the Bottinger Scholarship for \$11,890. Ms. Bates seconded.</i> <i>The motion passed 7-0-1 (Ms. Mastin abstained).</i></p>
IV. Approval of Minutes	<p><i>Mr. Lombard made the motion to approve the minutes of 6 June 2024, as written.</i> <i>Ms. Bates seconded.</i> <i>The motion carried 6-0-2 (Ms. Schultz and Ms. Mastin abstained).</i></p>
V. Reports of Administration	<p>Chair Report – Alison Mastin: No official report</p> <ul style="list-style-type: none"> • She thanked the Board for their hard work and for the hours they will put in this year on behalf of their constituents. <p>Superintendent John Fortney’s Report:</p> <ul style="list-style-type: none"> • The leadership team just completed a 3-day retreat and he is eager to serve this community. • KRSD was one of only five districts in the state to receive \$3,750 from an opioid class-action suit. The money was put in an opioid abatement trust fund. • In light of the changed beginning/end times for this school year, the superintendent is focused on having administrators hold Professional Development (PD) either before or after school to reduce staff time commitments. PD should not run past 5:00 p.m. on any given day. • To help cut down on travel time, technology will be used for off-site meetings. • The first night of negotiations with the Kearsarge Regional Education Association (KREA) as they work toward a new Collective Bargaining Agreement was held 14 August 2024. • At the 29 August 2024 School Board meeting the KRSD attorney will attempt to solidify numbers regarding their salary packaging. <p>Superintendent Fortney presented the following summer hires for approval:</p> <ul style="list-style-type: none"> • Karen Scolforo (KRMS Language Arts) • John Higgins (KRHS English) • Terri-Jean Keith (KRHS Social Worker) • Lauren Connolly (KRHS Social Studies) • Carrie Gallugi (Sutton Special Education)

	<ul style="list-style-type: none"> • Vincent Hargreaves (KRMS Spanish) • Meghan Oxland (NLES Reading) • Sann Prak (KRHS Special Ed) • Danielle Sampson (NLES Elementary) • Christel Shaw (NLES Elementary) <p><i>Mr. McGowan made the motion to accept the recommendation to hire as presented, seconded by Ms. Bates. The motion passed 7-0-1 (Ms. Mastin abstained).</i></p> <p><i>Assistant Superintendent Michael Bessette's Report:</i></p> <ul style="list-style-type: none"> • He attended Taylor Lipinski's and Molly McDougal's first coaching clinic of the season, which was well attended by coaches in the district. • Efforts toward solidifying strength and conditioning for football players are ongoing. • He is looking forward to great seasons across the board, not just in football, as they put their Portrait-of-an-Athlete model into motion. • The 3-day leadership retreat offered the opportunity for quality conversations surrounding ethics, responsibilities, trust, and effective team building in the year to come as they put into motion the Portrait-of-an-Educator model.
	<p><i>Business Administrator's Report: Larry LeBoeuf reporting</i></p> <p><i>Purchase Recommendation:</i></p> <ul style="list-style-type: none"> • Graduation contracted service for High School 2025: This vendor, Consider it done, has been used the past four years. They do the set up and take down of all equipment, chairs, decorations, etc. The cost also includes the KADP graduation and the awards ceremonies associated with graduation.. The total cost is \$46,780, an increase of \$1,010 from the previous year. <p>This was not put out to bid, but has been in the past. Few vendors in the area do this type of work. Ms. Mastin affirmed this contractor does a quality job. Mr. Bessette also noted this company is very responsive and has gone above and beyond in the past. Ms. Schultz said she would like to have prices from other companies to make a more informed decision.</p> <p>Larry said he would speak with KRHS principal Charles Langille about putting out a request for proposal (RFP) and will present again at the next board meeting.</p> <p><i>Budgetary Transfer Request:</i></p> <ul style="list-style-type: none"> • From Par Education Health to Special-Ed Contracted Services in the amount of \$70,000 to hire new employees. <p><i>Mr. McGowan made the motion to approve the budgetary transfer as presented. Ms. Bates seconded. The motion passed 7-0-1 (Ms. Mastin abstained).</i></p> <p><i>Purchase Recommendation:</i></p> <ul style="list-style-type: none"> • Playground Structure Replacement: Ben Shaffer Recreation is the only vendor that met the bid specifications. It is to replace the current play structure, which has been broken since April. The total cost is \$42,781. <p><i>Ms. Schultz made the motion to approve the purchase as presented. Nobody seconded. The motion was not considered.</i></p>

	<p><i>KREA Representative Catharine Hyson: No official report</i></p> <ul style="list-style-type: none"> • She wanted to extend a welcome to Superintendent Fortney, stating she looks forward to working with him. <p><i>Student Representative: No official report</i></p> <ul style="list-style-type: none"> • No student representatives were present since school has not yet begun.
VI. Public Comment	<p><i>Ms. Mastin opened the meeting for public comment.</i></p> <ul style="list-style-type: none"> • Chelsea Williams, New London, a health teacher and coach in the district, encouraged the Board to follow Federal Title IX regulations regarding sex discrimination over those proposed by House Bill 1205, which would require schools to designate athletes by sex pro, thus prohibiting biological males from participating in female athletics. She cited many studies and national experts on athletics, youth development, and mental health indicating that this bill causes undue harm to transgender athletes, who are a vulnerable and at-risk population already. Sports allow them to feel more connected to their peers, increases their academic and/or life aspirations, and improves self-esteem, among other positive attributes. Data shows that transgender female athletes perform at varying levels, as do cisgender athletes, so it is not creating an across-the-board inequitable advantage to transgender athletes to allow them to compete in female sports. • Christine Arsnow, Sarah Lester, Frances Lim-Liberty and Rebecca Lozman, local pediatricians, also encouraged the board to vote to follow federal Title IX law over the State's law, House Bill 1205. They noted that this bill does more harm than good, citing the increased risk of anxiety, depression, substance use, self-harm, and suicidality among transgender youth. They further noted the benefits of inclusivity in all walks of life, including in sports. They feel this bill targets a handful of youth, as it only applies to a handful of students in the entire state. <p><i>Ms. Schultz made a motion to close public comment.</i> <i>Mr. McGowan seconded. The motion carried 7-0-1 (Ms. Mastin abstained).</i></p>
VII. New Business	<p><i>Larry LeBoeuf, KRSD Business Administrator, presented the following purchase recommendations and/or transfer requests:</i></p> <p>A) Purchase Recommendations (Approved by Finance & Audit 6/24/24)</p> <ol style="list-style-type: none"> 1. Alexander Concrete would replace the gravel KRMS Outdoor Seating area with a 54' x 58' concrete one. This area is used by KRMS students as an outdoor cafeteria or learning area. The gravel gets tracked into the building, causing additional cleaning by staff, and can sometimes damage doors. The total cost for this project is \$35,200. <p><i>Ms. Bates made the motion to approve the purchase request as presented.</i> <i>Mr. Lombard seconded. The motion passed 7-0-1 (Ms. Mastin abstained).</i></p> <ol style="list-style-type: none"> 2. Vendor CDW-G would provide Lightspeed Renewal, which is K-12 content filtering tool on and off the network/MDM for one grade at the middle school. The total cost for this project is \$14,373. <p><i>Ms. Schultz made the motion to approve the purchase request as presented.</i> <i>Mr. McGowan seconded. The motion passed 7-0-1 (Ms. Mastin abstained).</i></p> <ol style="list-style-type: none"> 3. Vendor Wilson Language Learning would supply a reading collection set for New London Elementary. This is the only vendor that has the appropriate kits and support. The total cost is \$12,023.18. <p><i>Ms. Schultz made the motion to approve the purchase request as presented.</i> <i>Ms. Bates seconded. The motion passed 7-0-1 (Ms. Mastin abstained).</i></p>

4. Vendor SAVVAS would supply a science curriculum with NGSS aligned workbook and online access to curriculum materials for KRMS. The total cost is \$19,595.10.

Mr. McGowan made the motion to approve the purchase request as presented.

Mr. Gregoire seconded. The motion passed 7-0-1 (Ms. Mastin abstained).

5. Vendor Siemens would supply KRHS Gym with AHU controls. The current 7 units that control the HVAC system have antiquated controls that are not working, and this upgrade would allow for better controllability of the units. The total cost is \$39,585.

Mr. McGowan made the motion to approve the purchase request as presented.

Ms. Schultz seconded. The motion passed 7-0-1 (Ms. Mastin abstained).

6. Vendor Youngs Paving would pave the entry road to KRMS. This is cost effective since this vendor will already be onsite doing other paving work. The total cost is \$50,000.

Mr. McGowan made the motion to approve the purchase request as presented.

Mr. Gregoire seconded. The motion passed 7-0-1 (Ms. Mastin abstained).

7. To cover the paving project above in (6), he made a transfer request to Middle School Maintenance Paving and Striping for \$23,000.

Mr. McGowan made the motion to approve the transfer request as presented.

Mr. Gregoire seconded. The motion passed 7-0-1 (Ms. Mastin abstained).

8. Vendor Siemens would provide district-wide fire panels and conduct annual testing/inspections. Siemens is the soul source due to existing relationships with the same vendor for HVAC services, which often coincide with fire services. The total cost is \$15,450.

Ms. Bates made the motion to approve the purchase request as presented.

Mr. McGowan seconded. The motion passed 7-0-1 (Ms. Mastin abstained).

9. Vendor Naughton and Son Recycling, Inc. would provide trash removal for KRES Bradford, KRES Simonds, KRES New London, KRES Sutton, KRMS, KRHS, and the SAU. The total cost is \$76,419.

Mr. Gregoire made the motion to approve the purchase request as presented.

Ms. Bates seconded. The motion passed 7-0-1 (Ms. Mastin abstained).

10. Vendor Frontline Technologies Group, LLC, would provide human resources and professional development evaluation technology. The total cost is \$17,511.81.

Ms. Schultz made the motion to approve the purchase request as presented.

Ms. Bates seconded. The motion passed 7-0-1 (Ms. Mastin abstained).

11. Vendor Branching Minds would provide RTI purposes. The total cost is \$24,450.95.

Mr. Gregoire made the motion to approve the purchase request as presented.

Ms. Bates seconded. The motion passed 7-0-1 (Ms. Mastin abstained).

12. To cover special-education contracts for hard-to-fill positions such as psychologists/OT and PT/Speech-Language Pathologists he made a transfer request totaling \$171,676.54. These positions in particular are particularly difficult to attract qualified candidates because the school district is competing with hospitals, which can offer salaries sometimes as much as 3x what the district can offer.

***Mr. McGowan made the motion to approve the transfer request as presented.
Mr. Gregoire seconded. The motion passed 7-0-1 (Ms. Mastin abstained).***

13. The Board allows the superintendent to unilaterally opt to transfer funds if they total less than \$5,000. Mr. LeBoeuf presented the sum total of all 76 transfers made throughout the 2023-24 school year.

***Ms. Schultz made the motion to approve the transfer list as presented.
Mr. Lombard seconded. The motion passed 7-0-1 (Ms. Mastin abstained).***

14. Mr. LeBoeuf presented a mini grant request for MS STEM, to be used to purchase supplies and equipment. The mini grant is \$3,500.

***Mr. McGowan made the motion to approve the transfer list as presented.
Mr. Gregoire seconded. The motion passed 7-0-1 (Ms. Mastin abstained).***

Assistant Superintendent Michael Bessette presented the following:

Due to shifts in Presidential administrations and the corresponding policies of said administrations, as of August 1, 2024, the district is out of compliance with the most recent Federal Title IX regulations regarding harassment and discrimination. Since this timeframe has already passed, the Board must adopt a compliant policy and procedure in alignment with Title IX. Therefore, he asked that the board utilize its ability to make an emergency adoption of the following policies, drafted by KRSD legal counsel:

B) Policies: JIE Student Pregnancy, ACAA—Harassment and Sexual Harassment of Students, ACAB Harassment and Sexual Harassment of Employees.

1. ACAA—Harassment and Sexual Harassment of Students: This policy prevents discrimination or harassment against students of any kind on the bases of race; sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy, or related conditions; parental, family, or marital status; color; religion; ancestry or national origin; and disability.

***Dr. Bobruff made the motion to adopt policy ACAA. Ms. Bates seconded.
The motion passed 7-0-1 (Ms. Mastin abstained).***

2. ACAB—Harassment and Sexual Harassment of Employees: This policy likewise prohibits harassment against employees on the basis of race; sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, pregnancy or related conditions; parental, family, or marital status; color; religion; ancestry or national origin; age; disability; and genetic information. In cases of sexual harassment, it also offers concessions for how to report this to the proper authorities.

***Ms. Bates. made the motion to adopt policy ACAB. Ms. Schultz seconded.
The motion passed 7-0-1 (Ms. Mastin abstained).***

3. JIE—Student Pregnancy: In brief, this policy prohibits discrimination of pregnant students and allows for reasonable educational accommodations for the student both during pregnancy and post-partum to help ensure equal access to education.

Dr. Bobruff noted that, because this policy allows for protections post-pregnancy, the title of this particular policy is a bit of a misnomer and might be changed in the future to be broader to include all stages of pregnancy.

Ms. Schultz made the motion to adopt policy JIE. Ms. Bates seconded. The motion passed 7-0-1 (Ms. Mastin abstained).

Mr. Bessette noted the existence of conflicting responsibilities in the District’s obligations to meet the requirements of New Hampshire and Federal Title IX law. Specifically, Mr. Bessette described the following:

Federal: Title IX federal law went into law on 1 August 2024 and prohibits sex discrimination based on sexual orientation, gender identity, sex characteristics (including intersex traits), and sex stereotypes. Section 106.6 reads “the obligation to comply with title IX is not obviated or alleviated by any state or local law or other requirement that conflicts with title IX.

State: Revised Statutes Annotated (*RSA*) 354-A:27 provides that no person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination in public schools because of their age, sex, **gender identity** (emphasis added, current as of 2018), sexual orientation, race, color, marital status, familial status, disability, religion, or national origin, as all defined in this chapter.

RSA 354-A:29 is more applicable to university systems, but of note is the fact that the term “gender identity” was also recently added to this statute as a protected class.

However, Gov. Sununu seemingly overrode his own statute by recently signing *House Bill 1205* into law on 19 July 2024 as *RSA 193:41* and *193:42*. *RSA 193:41* and *193:42* requires schools to designate athletics by sex at birth, therefore prohibiting transgendered females from participating in female athletics.

This bill includes the following provisions: *RSA 193:41* and *193:42* entitled “School Athletics” and “School Athletics Net Causes for Harm.”

Under *RSA 193:41*, KRSB must classify all co-curricular activities as either “males, men or boys” teams; “female, women or girls’ teams; or as “co-ed” or “mixed” teams.

RSA 193:42 Causes of Action: Any student who is deprived of an athletic opportunity or suffers any direct or indirect harm as a result of the school knowingly violating *RSA 193:41* shall have a private cause of action for injunctive relief, damages, and any other relief available under the law against the school. A school that suffers any direct or indirect harm as a result of violation of this statute shall have private cause.

Some key points:

- *RSA 193:41* and *193:42* goes into effect on 18 August 2024 despite widespread criticism.
- *RSA 193:41* and *193:42* state that teams designated teams for female, women or girls *shall* “not be open to” students of the male sex.
- “Sex” is based on that listed on the student’s birth or adoption certificate given at the time of birth (or adoption).
- KRSB is required to write policies and procedures that comply with these statutes.

- This is considered a Hobson's Choice, wherein you have no good choice because both choices will violate a law, whether Federal or New Hampshire.

The following potential pitfalls of either choice were reviewed:

Title IX:

Pitfalls:

- Penalties include the total loss of federal funding if any actions are taken when the district should have reasonably known their actions were not in compliance with Title IX law and were discriminatory in nature.

HB 1205 RSAs 193:41 and/or 193:42:

Pitfalls:

- The potential worst-case scenario of violating *RSA 193:42* is an undetermined, but potentially unlimited (and therefore untenable), number of civil actions taken against the district.
- If the district were to violate *RSA 193:42*, if an individual or group determines they've been harmed by this policy, it could potentially lead to an entire team having to cease and desist from participation in their sports and/or potential forfeiture of games/matches, etc.
- Potential litigants have up to two years to claim "harm" and file suit.
- Violating *RSA 193:42* is far-reaching, because it is not limited to only our district. Students/family members/groups/individuals from other districts deemed "harmed" by our district's actions are not likewise prohibited from filing injunctive relief.
- Since this issue is unprecedented in courts, it is yet unknown how much the civil damages and the court costs for each case could amount to.

Superintendent Fortney recommended that, in order to insulate the District from worst case financial impacts, the Board would be best suited to follow *RSA 193:41* and *193:42* for the purposes of athletic rostering until such time as the conflicts between Federal and State laws are resolved in the courts.

Discussion:

- This directly affects our district.
- The superintendent has not been able to get definitive guidance from the New Hampshire Interscholastic Athletic Association (NHIAA), but that the initial feedback is that they intend to follow the state law.
- The board decision made this evening is reversible.
- RSA 193:41 was likely constructed as a "cookie-cutter law" used across many states. A similar law was recently struck down in West Virginia, and there is potential the law, or at least parts of the law, may also be struck down in New Hampshire.
- If struck down, lawsuits could potentially go away, and the district's chances of prevailing in court would improve.
- It is possible only parts of the law could be struck down on the basis of constitutionality, so the dismissal of lawsuits is largely dependent on which clauses are stricken.
- Dr. Bobruff noted that opportunities for physical activity should always be viewed in a positive light, and thanked Ms. Williams for noting this in her public comments.
- Mr. Lombard noted support for the concept behind *RSA 193:41* and *193:42* due to a desire to have fairness in sports.
- All states where similar laws have been implemented have historically had such laws struck down.

	<ul style="list-style-type: none"> • Several members of the board lamented the ethical implications of voting in support of the house bill. With heavy hearts, weighing their personal convictions against the legal consequences, most opted to vote with their constituents and taxpayers’ best interest in mind. <p>Ms. Mastin read the following statement: “Kearsarge Regional School Board would like the public to know that we don’t take these decisions lightly. At no point does the board endorse the discrimination of students or their rights. No matter how each of us votes, our responsibility as a board is to make the best choice for the short term to protect the district.”</p> <p>Ms. Schultz expressed her frustration with the NH Legislators who allowed this legislation to come forward as law, fully recognizing the impact the law would have financially on taxpayers who would be impacted by the resulting court proceedings due to the conflicting Federal and State law.</p> <p><i>Mr. Lombard made a motion to direct the superintendent of schools to utilize the state RSA 193:41 for the purpose of athletic rostering eligibility in the Kearsarge Regional School District. Ms. Schultz seconded, with regret. The motion passed 4-1-3 (Mr. McGowan, Dr. Bobruff, and Ms. Mastin abstained).</i></p>
<p>VIII. Public Comment</p>	<p><i>Ms. Mastin again opened the meeting for public comment</i></p> <ul style="list-style-type: none"> • No public comment. <p><i>Ms. Schultz made a motion to close public comment. Mr. Lombard seconded. The motion carried 7-0-1 (Ms. Mastin abstained).</i></p>
<p>IX. Non-Public Session</p>	<p><i>Mr. McGowan made a motion to enter into non-public. Mr. Gregoire seconded. The motion carried 7-0-1 (Ms. Mastin abstained).</i></p> <p><i>The Board entered into non-public under the following: RSA 91: A3, II--(The Board reserves the right to enter into “nonpublic” at any given time during the meeting)</i></p> <p>and</p> <p><i>91-A: 3II (c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the body or agency itself, unless such person requests an open meeting.</i></p> <p>Present: Emma Bates, Art Bobruff, Ben Cushing, Eric Gregoire, Kyle Lombard, Alison Mastin, Patrick McGowan and Kristen Schultz.</p> <p>Absent: David Keith</p> <ul style="list-style-type: none"> • The board discussed out-of-district placement. • The board discussed a personnel issue. • The Board discussed a student issue. <p><i>Ms. Schultz made a motion to go out of non-public session. Mr. McGowan seconded. The Motion carried 7-0-1 (Ms. Mastin abstained).</i></p>
<p>X. Out-of-Non-Public</p>	<p><i>Ms. Schultz made a motion to approve district placements as presented. Mr. Gregoire seconded. The motion carried 7-0-1.</i></p> <p><i>Mr. Gregoire made a motion to approve Stepping Stones Group for \$125,000. Ms. Bates seconded. The motion carried 7-0-1 (Ms. Mastin abstained).</i></p>

	<p>Mr. Elliott presented the purchase recommendation for the playground structure replacement again, this time explaining that the funds had previously been earmarked for this purpose last year. The board was simply confused by the seemingly out-of-the blue budgetary item and had forgotten that it had previously been decided upon. Having a playground is required by law for preschoolers, following a 50:50 model for the special needs population that need a safe playing environment. The current structure is broken and few vendors are able to fulfill the requisite needs for the SPED population. The vendor is Ben Shaffer Recreation for a total of \$42,781.</p> <p><i>Ms. Bates made a motion to reconsider the motion for the playground equipment for the preschool. Mr. McGowan seconded. The motion passed 7-0-1 (Ms. Mastin abstained).</i></p> <p><i>Dr. Bobruff made a motion to approve the purchase recommendation as presented. Mr. McGowan seconded. The motion carried 7-0-1 (Ms. Mastin abstained).</i></p> <p><i>Ms. Bates made a motion to reconsider the motion for the playground equipment for the preschool. Mr. McGowan seconded. The motion passed 7-0-1 (Ms. Mastin abstained).</i></p> <p><i>Dr. Bobruff made a motion to approve the purchase recommendation as presented. Mr. McGowan seconded. The motion carried 7-0-1 (Ms. Mastin abstained).</i></p> <p>Larry LeBoeuf made a transfer request that \$42,781 go into the New London Preschool Equipment Line from the Salary Line.</p> <p><i>Ms. Bates made a motion to approve the transfer request as presented. Mr. Gregoire seconded. The motion carried 7-0-1 (Ms. Mastin abstained).</i></p>
<p>XI. Adjourn</p>	<p><i>Dr. Bobruff made a motion to adjourn the meeting. Ms. Schultz seconded. The motion carried 7-0-1 (Ms. Mastin abstained). The meeting adjourned at 8:44 p.m.</i></p>

Respectfully submitted,

Amy Monroe
 KRSD Notetaker