

Wilton-Lyndeborough Cooperative School District
School Administrative Unit #63

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SUPERINTENDENT'S REPORT
August 14, 2018

The summer has been quickly going by with preparations for the coming school year progressing rapidly. The maintenance crews have been working through the extended days of heat and are doing an outstanding job. The buildings have been busy with summer programs as well as professional development opportunities for staff. I want to take a moment to commend those staff persons who took part in these opportunities to enhance our instruction and assessment practices.

We did hire one new teacher since the last board meeting with the approval of board representative Matt Ballou. Courtney Palladino will be taking the position as special education teacher for the high school replacing Kathy Wilson. Courtney has a Bachelor of Arts degree from the University of New Hampshire in History and a master's degree in Psychology from Rivier University. She has experience as a para-educator as well as working with Project Drive working with children from the Milford area. Courtney will be an Alt. 4 teacher and we will be working with her to complete her certification in Special Education. She will be placed on step 1 of the master's scale at a salary of \$40,000. This is a reduction in salary from the budgeted amount of \$51,000.

The district is still looking to hire two para-educators for the middle school and we received a resignation from our elementary music teacher as well. We are actively looking to interview and fill these positions prior to the start of the school year.

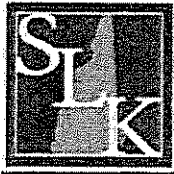
New staff will be here in the district for a two-day orientation on August 22nd and 23rd. The two days will provide information around district procedures, protocols and policies along with time to be in their buildings and meeting their mentors for the coming school year. All staff will return on Monday August 27th for three days prior to the first day for students on Thursday August 30.

The administrative team met at my home on Wednesday, August 8. Our agenda included:

- Efforts to implement and demonstrate rigor in all of our schools
- Budget for the 2019-20 school year
- How we can communicate better between ourselves and how we can communicate our efforts to the school community at large
- Revisions to the mentoring process
- Fiscal procedure

We have received guidance from our attorney regarding the matter of providing references for school employees accused of sexual misconduct. A copy of that communication is included.

Meetings of both the Strategic Planning Committee and the Policy Committee have taken place in the summer months.



SOULE, LESLIE, KIDDER,
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MEMORANDUM

TO: Superintendents of Client School Districts

FROM: Michael S. Elwell and Diane M. Gorrow

RE: Providing References For School Employees Accused of Sexual Misconduct

DATE: August 7, 2018

School district references for employees accused of sexual misconduct have been the subject of much discussion in two recent contexts. The United States Department of Education recently reminded state departments of education, which in turn communicated to school districts, that the Elementary and Secondary Education Act requires districts to adopt policies which prohibit assistance in obtaining a new job for a school district employee, contractor or agent who is known or is believed to have engaged in sexual misconduct with a minor or a student. There also have been many recent headlines concerning sentencing statements made by school district employees in support of a former co-worker who pleaded guilty to sexual assault of a student. We have received questions from many of you about each of these situations. Please consider the following.

I. Policy Pursuant to ESSA and ESEA

Section 8546(a) of the Elementary and Secondary Education Act, as reauthorized in December 2015 by the Every Student Succeeds Act,¹ requires a local education agency that receives federal funds under the ESEA to have a policy which prohibits it (and its employees, contractors and agents) from assisting a school employee, contractor or agent in obtaining a new job if the individual or the agency knows or has probable cause to believe that the person engaged in illegal sexual misconduct regarding a minor or a student. The Department of

¹ Codified at 20 U.S.C. 7926(a).

Education's recent letter specifies that providing a "recommendation of employment" is prohibited, but Section 8546(a) also requires the policy to prohibit other forms of assistance to obtain a new job.

Section 8546(b) of the ESEA establishes some limits and exceptions. Routine transmission of administrative and personnel files is permissible. The requirements of Section 8546(a) also do not apply if:

1. Information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction; and
2. That information also has been properly reported to other authorities as required by law (e.g., DCYF); and
3. Either (a) the matter has been officially closed; (b) the prosecutor or police have investigated and notified school officials that there is insufficient evidence for them to proceed; (c) the alleged perpetrator has been charged and acquitted or otherwise exonerated; or (d) the case remains open and no charges have been filed for at least four years after the information was reported to the law enforcement agency.

In our experience, school districts do not provide references or other employment assistance to persons believed to have engaged in sexual misconduct with students or minors. However, Section 8546 now requires a formal policy that prohibits such assistance by the school district and its employees, contractors and agents. A model policy, which tracks the language in Section 8546, is attached.

II. Character References for School Employees Who Have Sexually Assaulted Students

Kristie Torbick, a former guidance counselor, pleaded guilty to four counts of felonious sexual assault against a student and was sentenced to 2 ½ to 5 years in prison. Educators recently were asked to attend her sentencing hearing and speak on her behalf. Some refused, some went without the knowledge or consent of their employers, and a few went with the authorization of their employers. Educators who supported or spoke favorably about Kristie Torbick at her sentencing hearing have been publicly criticized.

What, if anything, can or should districts do to avoid what happened in the Torbick case? Individuals who are employed by districts have the right under the First Amendment as individuals to speak in support of someone to be sentenced. As long as the educator is speaking as an individual, the individual cannot be terminated or disciplined for that speech.

Districts do have control over what individuals can do as representatives of the districts. As a general rule, unless the district is a party to an action, a district is not required to send representatives to court hearings without a subpoena. Districts do not need to adopt board policies to address how to respond to requests for testimony. However, the superintendent should establish guidelines to handle requests to appear in court. The guidelines should require the following: Any employee who receives a request to testify or appear in court as a

representative of the district must notify the building principal. The building principal must then contact the superintendent. The superintendent should determine, in consultation with legal counsel, how to respond to the request.

POLICY

The School District and its employees, contractors and agents are prohibited from providing a recommendation of employment and from otherwise assisting a school employee, contractor or agent in obtaining a new job if it is known or there is probable cause to believe that such school employee, contractor or agent engaged in illegal sexual misconduct with a minor or a student. Routine transmission of administrative and personnel files is not prohibited.

The requirements of the foregoing paragraph shall not apply if:

1. Information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction; and
2. That information also has been properly reported to other authorities as required by law (e.g., DCYF); and
3. Either (a) the matter has been officially closed; (b) the prosecutor or police have investigated and notified school officials that there is insufficient evidence for them to proceed; (c) the alleged perpetrator has been charged and acquitted or otherwise exonerated; or (d) the case remains open and no charges have been filed for at least four years after the information was reported to the law enforcement agency.