



# School Committee Meeting Materials

## **Regular School Committee Meeting**

**September 3, 2019**

**7:00pm**

*Ms. Mary A. Manning  
Mr. James M. Fleming  
Ms. Kristine Wilson*



*Ms. Ana Nuncio  
Mr. Manny Cruz  
Ms. Amanda Campbell*

*Mayor Kimberley Driscoll, Chair*

"Know Your Rights Under the Open Meeting Law, M.G.L. c.30A § 18-25 and City Ordinance Sections 2-2028 through 2-2033"

August 29, 2019

#### REGULAR SCHOOL COMMITTEE MEETING

Notice is hereby given that the Salem School Committee will hold a Regular School Committee meeting on Tuesday, September 3, 2019 at 7:00 p.m. The meeting will be held in the School Committee Chambers at Collins Middle School, 29 Highland Avenue, Salem, MA.

#### **I. Call of Meeting to Order**

#### **II. Consent Agenda**

- a. Minutes of the Regular School Committee meeting held August 19, 2019
- b. Approval of Warrants: 8/15/19 in the amount of \$1,306,545.20, 9/5/19 in the amount of \$522,030.87

#### **III. Approval of the Agenda**

#### **IV. Public Comment #1: Questions and Comments from the Audience**

#### **V. Presentations and Reports**

Superintendent's Report – Kathleen Smith

- a. Recognitions
  - Recognition of Kelly Cronin, Teacher at Witchcraft Heights Elementary School for Receiving the Project Bread Award by the AFT, Massachusetts
- b. Teaching and Learning
  - Convocation
  - Preparation of Buildings and Schools
  - Update on the Bates Elementary School Afterschool Program
- c. Superintendent to speak at City Council meeting on October 10, 2019

#### **VI. Action Items: Old Business**

- a. Deliberation and Vote on the Fee Waiver Requests by the League of Women Voters for the use of Salem Public School facilities to hold candidate forums for the upcoming biennial elections. Proposed dates, times and locations include:
  - Ward 3 - Monday, September 9, 2019, 7:00 – 8:30pm, Salem High School
  - Wednesday, September 11, 2019, 6:30 – 8:30pm, School Committee Chambers (co-sponsored by the Salem Education Foundation)
  - Ward 4 - Thursday, October 17, 2019, 7:00 – 8:30 pm, Witchcraft Heights Elementary School

- Wednesday, October 23, 2019, 6:30 – 8:30pm, School Committee Chambers (co-sponsored by the Salem Education Foundation)

**VII. Action Items: New Business**

- Deliberation and Vote on the MOA between the Salem School Committee and the Salem Teachers Union – Teachers regarding a salary increase for the 2019-20 school year
- Deliberation and Vote on the MOA between the Salem School Committee and the Salem Teachers Union – Paraprofessionals regarding a salary increase for the 2019-20 school year
- Deliberation and Vote on the July 2019 Agreement between the Salem School Committee and the AFSCME Union regarding the Accounts Payable/Accounting Coordinator position
- Statement regarding the School Committee's Response and Resolution to Open Meeting Law Complaints filed by Mr. Kapantais on May 6, 2019, May 7, 2019, May 14, 2019, and June 24, 2019

**VIII. Policy Subcommittee**

- Deliberation and Vote on the Third Reading of the recommendation of the Policy Subcommittee on the revisions to the following policies:
 

4116	Personnel Reports
5110	School Census ( <i>recommended for deletion</i> )
5111	Student Withdrawal from Schools
5114	Participation in Activities during Suspension or Absence
5116	Dismissal of Students by School Personnel
5416	Use of Physical Restraint

**IX. School Committee Concerns and Resolutions**

**X. Public Comment #2: Questions and Comments from the Audience**

- XI. Executive Session.** The School Committee will enter Executive Session under Exemption #7 to comply with MGL c30A, §§ 22(f), (g) to review Executive Session Minutes from May 14, 2019, June 3, 2019, and August 19, 2019.

**XII. Adjournment**

Respectfully submitted by:

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Angelica Alayon, Secretary to the  
Salem School Committee

Salem School Committee  
Meeting Minutes  
Monday, August 19, 2019

A regular meeting of the Salem School Committee was held on Monday, August 19, 2019 at 7:05 p.m. in the School Committee Chambers at Collins Middle School, 29 Highland Avenue, Salem, MA.

**Members Present:** Ms. Mary Manning, Mr. James Fleming, Ms. Kristine Wilson, Mr. Manny Cruz, Amanda Campbell, and Mayor Kimberley Driscoll

**Members Absent:** Ana Nuncio

**Others Present:** Kathleen Smith, Superintendent, Kate Carbone, Assistant Superintendent, Jill Conrad, Chief of Systems Strategy, and Kristin Shaver, Business Manager

**Call of Meeting to Order**

Ms. Manning called the regular meeting of the Salem School Committee to order at 7:05 p.m.

**Consent Agenda**

- a. Minutes of the Regular School Committee meeting held July 15, 2019
- b. Approval of Warrant: 8/1/19 in the amount of \$999,469.62, 8/8/19 in the amount of \$458,536.53

Mr. Fleming motioned to approve the Consent agenda. Ms. Wilson seconded the motion. The motion carried.

**Approval of the Agenda**

Mr. Fleming motioned to approve the agenda as presented. Mr. Cruz seconded the motion. The motion carried.

**Public Comment #1: Questions and Comments From the Audience**

Christine Ross, League of Women Voters, announced that Salem Education Foundation, the League of Women Voters, and Salem News would be hosting a candidate forum on September 11, 2019, at 6:30pm, at the Collins Middle School, in the School Committee Chambers. Ms. Ross shared further details of the forums.

Alexa Ogno, 180A Federal Street, Salem Education Foundation, informed that another project they are working on this fall are teacher grants, which can be found on their website at [www.salemeducationfoundation.org](http://www.salemeducationfoundation.org). Applications are due by Monday, October 14, 2019. Ms. Ogno shared details of the grant amounts. Applications are open to all public schools in Salem.

A. J. Hoffman, 3 Victory Road, asked if paraprofessionals would be covering school recess at the Horace Mann school this year and wondered if the Horace Mann school could receive help with their basketball court asphalt.

**Superintendent's Report – Kathleen Smith**

Superintendent Smith asked everyone for a moment of silence for the untimely passing of Bentley Academy Charter School teacher, Jennifer “Jeffie” Chapin. Superintendent Smith reported on the informational parent meeting that was held at the Bentley Academy Charter School on August 6, 2019, the New Teacher Institute orientation held today, and on student enrollment. The Superintendent talked about her individual meetings with School Committee members to gain their

insights and feedback. Superintendent Smith talked of the Leadership Institute on August 6 through 9 at the Saltonstall and at Root North Shore, Inc. Ms. Smith provided updates on the Plummer Youth Promise summer program in Salem. The Superintendent updated the School Committee on the training that was held for Salem Public Schools bus drivers and monitors and recent visit to the Essex North Shore Agricultural and Technical School.

#### **Update on the Dual Language Task Force Program**

Ms. Rebecca Westlake, Director of Bilingual Education, Salem Public Schools shared an update on the work of the Dual Language Task Force and emerging plans to locate a new dual language program at the Bentley Academy Charter School.

#### **Update on the Bertram Field Renovations**

School Committee members followed a presentation on Phase 2 of the renovations of the Bertram Field.

#### **Action Items: Old Business**

##### **Deliberation and Vote on the Salem Children's Charity request to install a plaque at the Carlton Innovation School in honor of Charles B. Walsh – tabled 6/17/19**

Mr. Fleming motioned to remove the item off the table. Mr. Cruz seconded the motion. The motion carried.

Mr. Fleming motioned to approve the Salem Children's Charity request to install a plaque at the Carlton Innovation School in honor of Charles B. Walsh. Ms. Wilson seconded the motion. The motion carried.

##### **Deliberation and Vote on the Salem High School staff request to re-name the main office at Salem High School the Gail A. Kucker Welcome Center (3<sup>rd</sup> reading)**

Mr. Fleming motioned to approve the 3<sup>rd</sup> reading to re-name the main office at Salem High School the Gail A. Kucker Welcome Center. Ms. Manning seconded the motion. The motion carried.

##### **Deliberation and Vote on the Salem Youth Football & Cheering request to use Bertram Field and waive fees – tabled 6/17/19, 7/15/19**

Mr. Fleming motioned to remove the matter off the table. Ms. Manning seconded the motion. The motion carried.

Mr. Fleming motioned to accept the Buildings and Grounds Subcommittee's recommendation to waive the fees as requested. Ms. Manning seconded the motion. The motion carried.

#### **Action Items: New Business**

##### **Deliberation and Vote to accept a donation of \$2,790 from Paramount Pictures to the Carlton Innovation School for the use of the school during filming**

Mr. Fleming motioned to accept a donation of \$2,790 from Paramount Pictures to the Carlton Innovation School for the use of the school during filming. Ms. Wilson seconded the motion. The motion carried.

##### **Deliberation and Vote to accept a donation of \$5,000 from Netflix to the Salem High School Marching Band for participation in a film this summer**

Mr. Fleming motioned to approve the donation of \$5,000 from Netflix to the Salem High School Marching Band for participation in a film this summer. Mr. Cruz seconded the motion. The motion carried.

**Discussion of the Interim Superintendent and School Committee's participation in the MASC/MASS joint conference scheduled for November 6-9, 2019**

Ms. Smith reminded the School Committee on their option to register and participate in the MASC/MASS joint conference that is scheduled for November 6-9, 2019.

**Deliberation and Vote on the League of Women Voter's request to waive fees for use of the Saltonstall and Witchcraft Heights school buildings to hold candidate forums for the upcoming biennial elections**

Mr. Fleming motioned to amend the deliberation and vote to include the Salem High School and refer the matter to the Buildings and Grounds Subcommittee for further review and discussion. Mr. Cruz seconded the motion. The motion carried.

**Deliberation and Vote on the Salem Education Foundation's request to use the School Committee Chambers on Wednesday, September 11 and Wednesday, October 23, 2019 from 6:30 – 8:30 p.m. and have the rental fees waived**

Mr. Fleming motioned to refer the matter to the Buildings and Grounds Subcommittee for further review and discussion. Mr. Cruz seconded the motion. The motion carried.

**Appointment of Superintendent Smith to the Board of Directors of the North Shore Education Consortium for one year**

Ms. Manning motioned to appoint Kathleen Smith to the Board of Directors of the North Shore Education Consortium for one year. Mr. Fleming seconded the motion. The motion carried.

**Policy Subcommittee**

Deliberation and Vote on the Third Reading of the recommendation of the policy subcommittee on the revisions to the following policies:

4108	Staff Complaints and Grievances
5102	Enrollment – Salem Residents
5102.01	Enrollment of Non-Resident Students/School Choice
5102.04	Policy on Admission of Foreign Exchange Students
5103	Controlled Choice Student Assignment – <i>see additional revisions since 6/17/19</i>
5103.01	Student Assignment – Vocational Technical Education Programs
5103.02	Student Assignment – Enrollment of Students from Other Schools
5104	Age Majority ( <i>recommended for deletion</i> )
5105	Flags and the Pledge of Allegiance
5106	Evacuation (Fire Drills)
5107	School Day
5108	School Year/School Calendar
5112	Student Work Permits
5113	Work Hours
5115	Dismissal at Parental Request
5223	Student Advisory Committee
5402	Tobacco Use Policy
5413	School Property
5501	Responsible Use Policy and Media

Ms. Manning motioned to approve the Deliberation and Vote on the Third Reading of the recommendation of the policy subcommittee on the revisions to the policies as presented. Mr. Cruz seconded the motion. The motion carried.

**Deliberation and Vote on the Second Reading of the recommendation of the policy subcommittee on the revisions to the following policies:**

4116	Personnel Reports
5110	School Census ( <i>recommended for deletion</i> )
5111	Student Withdrawals from Schools
5114	Participation in Activities during Suspension or Absence
5116	Dismissal of Students by School Personnel
5416	Use of Physical Restraint

Mr. Cruz motioned to approve the Second Reading of the recommendation of the policy subcommittee on the revisions to the policies as presented. Ms. Manning seconded the motion. The motion carried.

**School Committee Concerns and Resolutions**

Mr. Fleming commented on the promise, from the previous administration, that the School Committee would receive regular updates and report regarding the progress of students who were formally enrolled at the Nathaniel Bowditch K-8 School, which closed on June 2018. Mr. Fleming asked for a current update report as soon as possible. Mayor Driscoll reminded the School Committee of their request to bring in Education Resource Strategies (ERS), a consulting organization that did an analysis of Salem Public School's resource allocations, earlier this year, and suggested a School Committee of the Whole (COW) meeting on September 18, 2019 at 6pm. Mayor Driscoll suggested that the Committee also schedule another School Committee of the Whole (COW) meeting, prior to September 18, to discuss the search committee for the hiring process of a Superintendent. Mayor Driscoll flagged the need for a Personnel Subcommittee meeting to review and discuss the one-year extension proposal on both teacher and paraprofessional contracts and recommended a one-year contract extension proposal.

Ms. Wilson motioned to refer the proposed one-year contract extension proposal for teacher and paraprofessional contracts to the Personnel Subcommittee for review and discussion. Ms. Manning seconded the motion. The motion carried.

**Public Comment #2: Questions and Comments from the Audience**

Christine Ross, 33 Pleasant Street, shared her interest on the status of the students who were transferred from the previous Nathaniel Bowditch School. Ms. Ross inquired about the status of a New Equity Subcommittee and briefly shared her thoughts in favor of the Dual Language program.

**Adjournment**

There being no further business to come before the School Committee this evening. Mr. Fleming motioned to adjourn the Regular School Committee meeting, move to Executive Session to conduct contract negotiations with non-union personnel (Exemption #2, School Committee Executive Assistant) and under Exemption #3, to discuss litigation, pending open meeting law complaint), not to reconvene in open session. Mr. Cruz seconded the motion.

**School Committee Secretary Roll Call**

Ms. Mary Manning	Yes
Mr. James Fleming	Yes
Ms. Kristine Wilson	Yes
Mr. Manny Cruz	Yes
Ms. Amanda Campbell	Yes
Mayor Kimberley Driscoll	Yes

Of the 6 members voting, six (6) members voted ‘Yes.’ The matter carried with a motion of 6 in the ‘*affirmative.*’ Members adjourned to move to Executive Session to conduct contract negotiations with non-union personnel (Exemption #2, School Committee Executive Assistant) and under Exemption #3, to discuss litigation, pending open meeting law complaint).

Respectfully submitted by:

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Angelica Alayon, Secretary to the  
Salem School Committee

Meeting Materials and Reports

School Committee Consent agenda August 19, 2019

Minutes of the July 15, 2019 School Committee meeting

Dual Language Update Presentation

Phase 2 Improvements to Captain John Bertram Field

Bertram Field Phase 2 Renovation – New Facilities & Access Improvements – FAQ

School Committee ratification on employment contract for Kathleen Smith, Interim Superintendent, 2019-20

Gail A. Kucker Welcome Center request letter

Request for use of the Bertram Field and fee waiver

Request by League of Women Voters to waive fees for use of the Saltonstall and Witchcraft Heights school buildings

Request by Salem Education Foundation for use of the School Committee Chambers, and rental fee waiver, on September 11 and October 23, 2019

Policies



Teachers play an important role in fighting childhood hunger. They are strong advocates for kids and trusted members of the community. But they need proper support, resources, and partnerships to make a difference for their students without compromising their primary role as educators. Project Bread's Teacher Champion Award recognizes teachers for their commitment to nurturing the whole child and offers financial and programmatic support to increase food access for students.

Kelly Cronin is a 4<sup>th</sup> Grade Special Education teacher at Witchcraft Heights Elementary School (WHES). She is also an avid gardener and a skilled, professionally-trained chef!

Kelly has been a tireless anti-hunger advocate within her school, across the district and throughout the state & northeast region. With FNS Director, Deb Jeffers, she has worked very closely with the chefs in Food & Nutrition Services for over 10 years to address hunger at school, secure locally-grown food, and to outreach to parents about student nutrition. Kelly helped FNS provide "Cooking Matters" classes for lower-income parents and their students. These classes helped WHES families to find healthy and economic ways to bridge the gap between school meals and home meals.

Kelly runs a wildly popular garden club at WHES – so popular that she had to start a second one! She single-handedly designed and mostly self-financed a gorgeous (38) bed school garden space at WHES. Last year, she received a grant from Vermont Feed to become part of their Farm to School learning environment under the guidance of MA Farm to School coach, Simka Horowitz. Kelly organized a multi-disciplinary, district- and school-level team that developed a plan to engage Classrooms, Cafeterias & the Community at large in eating, growing & savoring fresh local produce during the school year AND in the summer. She worked outside of her normal school day to develop a K-5 School Garden curriculum that will be implemented this year. She successfully encouraged her teaching counterparts to utilize the garden as a dynamic, year-round learning environment – helping them to think about science or math training but also to embrace new garden activities such as mindfulness, journaling, poetry writing, painting. She helped FNS organize & execute "Tasting Extravanzas" where the Cafeteria becomes a learning lab featuring a delicious new recipe. <https://www.youtube.com/watch?v=IU8ovMaTW1A>

*An evening at the Blue Cross Blue Shield Well B Innovation Center  
honoring exceptional teachers fighting child hunger in Massachusetts*

*August 22, 2019*

## TEACHER CHAMPION AWARD RECEPTION

*6:00pm*

*DRINKS + HORS D'OEUVRES*

*6:30pm*

*WELCOME*

*Jay McQuade, BCBSMA*

*Erin McAlver, Project Bread*

*TEACHER CHAMPIONS VIDEO PREMIERE*

*AWARD PRESENTATION*

*Beth Kontos, AFT Massachusetts*

*Jeff Bellocq, BCBSMA*

*7:00 - 8:00pm*

*FOOD + DESSERT*

## THANK YOU TO OUR PARTNERS

*Blue Cross Blue Shield of Massachusetts and AFT Massachusetts are proud to partner with Project Bread  
to support and further the efforts of teachers and schools across the Commonwealth to address hunger  
in the classroom and ensure every child has the opportunity to reach their fullest potential*



*Honoring Project Bread's*

## TEACHER CHAMPIONS



*Project Bread, American Federation of Teachers Massachusetts, and Blue Cross Blue Shield of Massachusetts are proud to honor teachers in Massachusetts as part of a statewide initiative to systemically address food insecurity in our schools.*

*These eleven teachers have gone above and beyond as educators to address all needs of their students and are true champions in fighting child hunger. Thank you for joining us in celebrating these exceptional teachers.*

**JENNIFER AMENDOLA**

*Boston Public Schools*

**HARRY BRANDT**

*Chicopee Public Schools*

**SONYA BROWN**

*Boston Public Schools*

**SARAH CORDERO**

*Lawrence Public Schools*

**KELLY CRONIN**

*Salem Public Schools*

**DAWNE DINICOLA**

*Pittsfield Public Schools*

**SUSAN DODD**

*Webster Public Schools*

**PRIYADARSHINI KUMAR**

*Boston Public Schools*

**JENNIFER REESE**

*Amherst-Pittsford School District*

**PATRICIA TAYLOR**

*Amherst-Pittsford School District*

**TIMOTHY POWERS**

*Fall River Public Schools*

To: The Salem School Committee  
Kim Driscoll, Chair  
Mary Manning, Vice Chair  
James Fleming  
Amanda Campbell  
Manny Cruz  
Ana Nuncio  
Kristine Wilson

Regarding: Request for Exemption to the School Committee Policy on the Use of School Facilities by Non-School Groups

9 August 2019  
Updated 25 August 2019

Dear Members of the Salem School Committee,

The League of Women Voters–Salem is organizing candidate forums for the up-coming biennial elections. We have partnered with neighborhood associations, the Salem Education Foundation, and other established organizations where possible. There are some ward candidate forums that are without a host organization and/or location, and we would like to hold these events in the schools where voting takes place. We feel that this calls attention to the polling location, which we hope will improve voter turn-out.

As a recently established and nonprofit organization, it is difficult for us to cover school building use fees. ***We would like to hold forums in the Salem High School Library, Saltonstall school, and Witchcraft Heights school. We respectfully request that you grant us a fee waiver for candidate forums in these three schools.***

I have attached our candidate forum policy to this letter, so you can read about our nonpartisan approach to create an unbiased and respectful environment for candidates. While we are a political organization, we do not endorse or oppose any candidate; instead we focus on the issues facing Salem and look forward to giving a platform to future leaders, so they can communicate their visions and plans to the voters.

Thank you for your consideration,  
Jen Lynch, Convener  
On behalf of the League of Women Voters–Salem

To: The Salem School Committee  
Kim Driscoll, Chair  
Mary Manning, Vice Chair  
James Fleming  
Amanda Campbell  
Manny Cruz  
Ana Nuncio  
Kristine Wilson

Regarding: Request for Exemption to the School Committee Policy on the Use of School Facilities by Non-School Groups

9 August 2019

Dear Members of the Salem School Committee,

The League of Women Voters–Salem is organizing candidate forums for the up-coming biennial elections. We have partnered with neighborhood associations, the Chamber of Commerce, the Salem Education Foundation, and other established organizations where possible. However, there are some ward candidate forums that are without a host organization and/or location, and we would like to hold these events in the schools where voting takes place. We feel that this calls attention to the polling location, which we hope will improve voter turn-out.

As a recently established and nonprofit organization, it is difficult for us to cover school building use fees. We have requested the Salem High School Library (\$100 use fee) for one forum, but are holding off on requesting to use two other schools (Saltonstall and Witchcraft Heights).

We respectfully request that you grant us a fee waiver for candidate forums. I have attached our candidate forum policy to this letter, so you can read about our nonpartisan approach to create an unbiased and respectful environment for candidates. While we are a political organization, we do not endorse or oppose any candidate; instead we focus on the issues facing Salem and look forward to giving a platform to future leaders, so they can communicate their visions and plans to the voters.

Thank you for your consideration,  
Jen Lynch, Convener  
On behalf of the League of Women Voters–Salem

To: The Salem School Committee  
Kim Driscoll, Chair  
Mary Manning, Vice Chair  
Amanda Campbell  
Manny Cruz  
James Fleming  
Ana Nuncio  
Kristine Wilson

Re: Request for Exemption to the School Committee Policy on the Use of School Facilities by  
Non-School Groups

August 14, 2019

Dear Members of the School Committee,

The Salem Education Foundation, in conjunction with the League of Women Voters-Salem, is organizing two candidate forums for the upcoming School Committee election. At this point, we plan to hold both forums in the School Committee Chambers. This is to take advantage of the ability of SATV to broadcast the forums live, in addition to recording them for rebroadcast and online viewing. The first will be held on Wednesday September 11 and the second will be on Wednesday October 23<sup>rd</sup>. Both are scheduled to run from 6:30 p.m. to approximately 8:30 p.m.

We are requesting a waiver of the \$225 fee for each of the two dates. These forums are intended to allow voters to learn more about candidates and for candidates to get their ideas and platforms out to a broad audience. Neither SEF nor the LWV endorses candidates.

Thank you for your consideration,  
Alexa Ogno, Board Member, Salem Education Foundation

## **LWV-Salem Policies for Candidate Forums and Debates for Municipal Elections**

Adopted XXXXXXX by the Steering Committee

These are the policies of the League of Women Voters of Salem (LWV-Salem) relating to candidate forums and debates for Salem's municipal elections. The term "forum" in the rest of this document should be taken to refer to forums or debates, unless otherwise specified.

### **Nonpartisanship**

LWV-Salem is nonpartisan; it neither supports nor opposes candidates for office. When planning and running candidates forums, the steering committee of LWV-Salem (the steering committee) bears the responsibility of safeguarding this nonpartisan policy and the organization's nonpartisan reputation. The LWV-Salem organizers of specific forums will communicate regularly with the steering committee and inform the committee immediately of any potential problems relating to nonpartisanship.

### **Purpose of Candidates Forums**

The purpose of candidate forums is to provide a fair, informative, respectful, and inclusive platform for candidates and others to present their views to the public. Accordingly, it is the policy of LWV-Salem to plan and run candidate forums to achieve this purpose.

### **Goals of Candidate Forums**

The goals of candidate forums are to:

- promote interest in the election
- ensure fairness for all candidates
- have a format that will attract and educate the public
- help voters make realistic and informed choices among candidates
- provide voters with an opportunity to judge the candidates' character, knowledge of public affairs issues, and communication skills
- document candidates' statements on their positions so they can be on record

### **Elections Covered by These Policies**

These policies cover Salem's elections for mayor, school committee, and city council (both at-large and ward councillors).

### **Candidate Invitation and Participation Policies**

LWV-Salem will invite all the candidates on the ballot in each contested election to participate in a forum at a mutually agreed-upon date and time. Additionally, LWV-Salem may invite

announced write-in candidates if the evidence convinces LWV-Salem that the announced write-in campaign is being conducted in earnest.

Candidates who choose not to or are unable to participate in the forum may not send a substitute, but may submit a brief statement, which will be read by the moderator.

If any candidate cancels well enough in advance of the forum to allow LWV-Salem to make other arrangements without charge or penalty, LWV-Salem will make every effort to reschedule. If a candidate cancels and the forum cannot be rescheduled, or if the candidate simply fails to appear, the forum will be held with the participation of all other candidates. This policy specifically allows “empty chair” forums at the municipal level. If only one candidate appears for a forum (the others cancel or do not appear), then the sole candidate present will be allowed to proceed in a forum format.

### **Format**

LWV-Salem, in collaboration with any co-sponsors, will:

- choose the forum (or debate) format that best serves the goal of providing voters with useful information
- select a moderator and timekeepers
- collect and edit any questions for candidates prepared in advance of the forum
- select a sorting and editing committee for any questions submitted by the audience at the forum

The moderator, timekeepers, and question committee will have no connection with the candidates or with issues that any of the candidates are strongly identified with. The moderator may not be identified as a member of a political party or campaign committee. Ideally, the moderator will live outside of Salem.

### **Electioneering**

No candidate literature or paraphernalia is allowed to be displayed or distributed in the meeting room before or during the forum. Supporters of the candidates are asked not to wear any campaign buttons, t-shirts, etc. during the forum in order to maintain a neutral atmosphere for participating candidates. After the actual forum, but during time designated for other purposes such as socializing, candidate literature may be placed on the tables LWV-Salem designates for that purpose and supporters may wear candidate buttons, t-shirts, etc.

### **Behavior**

All participants in forums (candidates, LWV-Salem, co-sponsors, and audience) are expected to behave respectfully to one another.

LWV-Salem and any co-sponsors will commit the ground rules of the forum to writing and share them with the candidates and audience in advance of the forum. Candidates not adhering to the forum ground rules will be considered out of order. Penalties may include immediate loss of microphone privileges and exclusion from future forums.

### **Accessibility & Inclusion**

Forums will be open to the public and held in places that do not seem to exclude any potential audience members. LWV-Salem will consult with co-sponsors and the community to determine whether it is advisable to provide interpretation. When possible, forums will be video-recorded for subsequent viewing on widely-accessible platforms.

LWV-Salem and co-sponsors will plan and promote forums to be inclusive of the full range of diversity in Salem. This includes, but is not limited to, fostering participation by people of different ages, races, ethnicities, gender expressions, income levels, sexual orientations, health and ability statuses, lengths of residency, housing statuses, and household sizes/types.

### **Funding of Forum Expenses**

LWV-Salem may solicit donations in cash or in-kind for forum expenses, but will not solicit or accept donations from candidates, persons or entities closely associated with candidates, campaigns, or political parties.

### **Co-Sponsorship of Forums**

It is the policy of LWV-Salem to collaborate whenever possible with the organizations that ran candidate forums prior to the founding of LWV-Salem, such as the Chamber of Commerce and Civics, the Salem Education Foundation, and neighborhood associations. It is also the policy of LWV-Salem to collaborate whenever possible with new organizations seeking to co-sponsor candidate forums.

In keeping with the “Guidance for Local League Collaborations with Other Organizations” approved by the LWVMA Board of Directors on March 8, 2019, LWV-Salem has adopted the following policies:

- The LWV-Salem steering committee must approve any co-sponsorship of a forum. In doing so, the steering committee will consider carefully potential effects on the LWVMA’s nonpartisan status or the public’s perception of its nonpartisanship.



- The LWV-Salem steering committee cannot waive its nonpartisan policy, its general forum policies, or any procedures that ensure fair treatment of candidates.
- Co-sponsors cannot have endorsed or be affiliated with a candidate prior to the forum.
- If at any time during the planning of the forum LWV-Salem believes co-sponsorship of the forum will jeopardize its nonpartisanship, LWV-Salem will withdraw from its co-sponsorship.
- LWV-Salem will only co-sponsor a forum if the co-sponsors agree upon:
  - The format of the forum
  - Who will take the lead in contacting the candidates and negotiating disputes
  - How questions will be prepared and sorted
  - The moderator and timekeeper
    - The moderator may not be identified as a member of a political party or campaign committee or have any relationship with any of the candidates.  
The best practice is for the moderator to live outside the district.

Sources: LWVMA, LWV of Oakland

August 28, 2019

Ms. Angelica Alayon  
Secretary to the Salem School Committee

Dear Angelica:

Thank you for your help on the telephone earlier today. This is a full listing of [League of Women Voters of Salem](#) candidate forums for 2019 involving Salem Public Schools requests:

1. 9 September 2019 – Salem High School Library  
Event: Ward 3 Candidate Forum, 7:00 to 8:30 pm (setup at 6:00 pm)  
Co-Sponsor: Greater Endicott Street Neighborhood Association  
My understanding from Ms. Lavorante is that the building use was approved previously. The request was submitted by me (Judith Reilly) on behalf of LWVS.  
We are requesting a fee waiver. (Please do not cancel our use if we don't get the fee waiver.)
2. 11 September 2019 – School Committee Chambers at Collins Middle School  
Event: School Committee Candidate Forum, 6:30 to 8:30 pm (setup at 5:30 pm)  
Co-Sponsor: **Salem Education Foundation**  
Requesting use & fee waiver.
3. 17 October 2019 – Witchcraft Heights Elementary School Cafetorium  
Event: Ward 4 Candidate Forum, 7:00 to 8:30 pm (setup at 6:00 pm)  
Co-Sponsor: None at this time  
I submitted a request form to Ms. Lavorante on Friday, 23 August, on behalf of LWVS.  
Requesting use & fee waiver.
4. 23 October 2019 – School Committee Chambers at Collins Middle School  
Event: School Committee Candidate Forum, 6:30 to 8:30 pm (setup at 5:30 pm)  
Co-Sponsor: **Salem Education Foundation**  
Requesting use & fee waiver.
5. TBD October 2019 – Saltonstall Cafeteria  
Event: Ward 7 Candidate Forum, 7:00 to 8:30 pm (setup at 6:00 pm)  
Co-Sponsor: None at this time  
I am trying to see if Salem State University will let us use space for free. If not, I will submit building use and fee waiver requests next week (week of September 2).

Thank you,

Judith Reilly  
Voter Services & Civic Engagement Chair  
League of Women Voters of Salem  
401-401-6899 (cell)

## MEMORANDUM OF UNDERSTANDING

This memorandum of understanding (hereinafter the "MOU") is entered into by and between the Salem Teachers Union, Local 1258, American Federation of Teachers, AFT Massachusetts, AFL-CIO (hereinafter the "FEDERATION", "UNION") and the Salem School Committee (hereinafter the "EMPLOYER") to outline a collective bargaining extension.

### RECITALS

- A. The EMPLOYER and the FEDERATION are parties to a collective bargaining agreement covering the Teacher bargaining unit (hereinafter the "CBA") that is effective from September 1, 2016 through August 31, 2019.
- B. The EMPLOYER is in the processes of recruiting and hiring a new Superintendent of Schools.
- C. The parties believe that it is in the best interest of students and staff to extend the current collective bargaining agreement so that negotiations for a successor agreement can occur in collaboration with senior district management.
- D. The parties met and negotiated in good faith pursuant to M.G.L. c. 150E.

### AGREEMENT

Upon successful ratification by the FEDERATION and the EMPLOYER, the parties agree as follows:

- 1. Effective September 1, 2019, there shall be a two and one-half percent (2.50%) general wage increase applied to salaries.
- 2. All other terms and conditions of the CBA shall remain unchanged.

Signed and dated this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

For the Federation

For the Employer

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## MEMORANDUM OF UNDERSTANDING

This memorandum of understanding (hereinafter the "MOU") is entered into by and between the Salem Teachers Union, Local 1258, American Federation of Teachers, AFT Massachusetts, AFL-CIO (hereinafter the "FEDERATION", "UNION") and the Salem School Committee (hereinafter the "EMPLOYER") to outline a collective bargaining extension.

### RECITALS

- A. The EMPLOYER and the FEDERATION are parties to a collective bargaining agreement covering the Paraprofessional bargaining unit (hereinafter the "CBA") that is effective from September 1, 2016 through August 31, 2019.
- B. The EMPLOYER is in the processes of recruiting and hiring a new Superintendent of Schools.
- C. The parties believe that it is in the best interest of students and staff to extend the current collective bargaining agreement so that negotiations for a successor agreement can occur in collaboration with senior district management.
- D. The parties met and negotiated in good faith pursuant to M.G.L. c. 150E.

### AGREEMENT

Upon successful ratification by the FEDERATION and the EMPLOYER, the parties agree as follows:

- 1. Effective September 1, 2019, there shall be a two and one-half percent (2.50%) general wage increase applied to all hourly wages.
- 2. All other terms and conditions of the CBA shall remain unchanged.

Signed and dated this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

For the Federation

For the Employer

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AGREEMENT BY AND BETWEEN  
SALEM SCHOOL DISTRICT  
AND  
AFSCME LOCAL 294  
COUNCIL 93, AFL-CIO

Accounts Payable/Accounting Coordinator"

**WHEREAS**, the Salem School District, hereinafter the "District" and the American Federation of State, County and Municipal Employees, (AFSCME), Local 294, AFL-CIO, hereinafter the "Union", are parties to a Collective Bargaining Agreement for a bargaining unit that includes the clerical employees of the District, and

**WHEREAS**, the District has revised the job description of the "Senior Clerk & Typist" position, and,

**WHEREAS**, it is the position of the District that the revised position is distinguished from the previous role in that it involved additional duties and a greater level of responsibility and oversight of the accounts payable and accounting procedures and as such should be classified accordingly, and

**WHEREAS**, the District and the Union both agree to the new classification, and

**WHEREAS**, the parties desire to reduce said agreement to writing, it is

**THEREFORE AGREED** as follows:

1. The position of Senior Clerk & Typist shall be re-classified to a Principal Account Clerk classification and give a new name.
2. The new position shall be called "Accounts Payable/Accounting Coordinator"
3. This Agreement shall be effective as of July 1, 2019.

This Agreement entered into this 22<sup>nd</sup> day of July, 2019.

FOR THE COMMITTEE

FOR THE UNION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Paula M. Gist  
[Signature]



## OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: Stephen Last Name: Kapantais

Address: 23 A Wisteria St

City: Salem State: MA Zip Code: 01970

Phone Number: 9788821188 Ext.

Email: kapantais@gmail.com

Organization or Media Affiliation (if any):

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

### Public Body that is the subject of this complaint:

☐ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/town, county or region, if applicable): Salem School Committee Salem, MA

Specific person(s), if any, you allege committed the violation:

Date of alleged violation: May 6th 2019



## Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

The Open Meeting Law requires that a public body, or its chair or designee, review the minutes of its executive sessions at reasonable intervals to determine if the Open Meeting Law warrants continued non-disclosure. G.L. c. 30A, § 22(g)(1). Upon a request for executive session meeting minutes, it shall review those minutes and release " the non-exempt minutes, or any portion thereof, not later than the body ' s next meeting or 30 days, whichever first occurs. " G.L. c. 30A, § 22(f).

On April 24th, I requested a review and release of the non-exempt minutes from the School Committee Chair for the April 15th executive session. On May 6th, the School Committee met and did not report on a review the minutes. Furthermore, I have not received any communications from the School Committee that the minutes were reviewed.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

First, I would like the Committee to acknowledge that they have violated the Open Meeting Law. Second, Committee should review the meeting minutes and release the non-exempt minutes. Third, the School Committee needs to make periodic reviews of executive sessions part of their normal routine.

## Review, sign, and submit your complaint

### I. Disclosure of Your Complaint.

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

### II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

### III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: 5/7/19

For Use By Public Body

Date Received by Public Body

For Use By AGO

Date Received by AGO



# OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted

## Your Contact Information:

First Name: Stephen Last Name: Legantino

Address: 23 A Winthrop St

City: Salem State: MA Zip Code: 01970

Phone Number: 9780821100 Ext: \_\_\_\_\_

Email: legantino@gmail.com

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For individual filers only)

☒ Individual ☐ Organization ☐ Media

## Public Body that is the subject of this complaint:

☐ City/Town ☐ County ☐ Regional District ☐ State

Name of Public Body (including city/town, county or region, if applicable): Salem School Committee Salem, MA

Specific personnel, if any, you allege committed the violation: \_\_\_\_\_

Date of alleged violation: May 06, 2019

## Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

The Open Meeting Law requires that a public body, or its chair or designee, review the minutes of its executive sessions at reasonable intervals to determine if the Open Meeting Law warrants continued non-disclosure. G.L. c. 30A, § 22(g)(1). Upon a request for executive session meeting minutes, it shall review those minutes and release " the non-exempt minutes, or any portion thereof, not later than the body ' s next meeting or 30 days, whichever first occurs. " G.L. c. 30A, § 22(f).

On April 26th, I requested a review and release of the non-exempt minutes from the School Committee Chair for the April 25th executive session. On May 6th, the School Committee met and did not report on a review the minutes. Furthermore, I have not received any communications from the School Committee that the minutes were reviewed.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

First, I would like the Committee to acknowledge that they have violated the Open Meeting Law. Second, Committee should review the meeting minutes and release the non-exempt minutes. Third, the School Committee needs to make periodic reviews of executive sessions part of their normal routine.

## Review, sign, and submit your complaint

### I. Disclosure of Your Complaint.

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

### II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

### III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: 5/7/19

For Use By Public Body

Date Received by Public Body

For Use By AGO

Date Received by AGO



## OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: Stephen Last Name: Kapantais

Address: 23A Wisteria Street

City: Salem State: MA Zip Code: 01970

Phone Number: 9788821188 Ext.

Email: kapantais@gmail.com

Organization or Media Affiliation (if any):

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

### Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (Including city/  
town, county or region, if applicable): Salem School Committee

Specific person(s), if any, you allege  
committed the violation:

Date of alleged violation: May14th, 2019

## Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Please see items 2,3, 5 and 6 in the attached response to your attorney for actions I want to be taken

## Review, sign, and submit your complaint

### **I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

### **II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

### **III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:



## OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: Stephen Last Name: Kapantais

Address: 23A Wisteria Street

City: Salem State: MA Zip Code: 01970

Phone Number: 9788821188 Ext.

Email: kapantais@gmail.com

Organization or Media Affiliation (if any): Salem School Committee

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

### Public Body that is the subject of this complaint:

☐ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/  
town, county or region, if applicable): Salem School Committee

Specific person(s), if any, you allege  
committed the violation:

Date of alleged violation: 06/13/19

## Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On May 30th I filed a request for the May 14th executive session meeting minutes to be reviewed specifically the non exempt minutes related to my requests and OML complaints that were discussed at that meeting in secret (no notificatoion of entering executive session posted) to be reviewed and released.

As of June 24th, 2019 the minutes have not been released nor have I received any notificaoion of why the minutes not have been released as required by law.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Acknowledge that they have violated the OML by not resonding in the time frame required. Release the meeting minutes that were requested.

## Review, sign, and submit your complaint

Read this important notice and sign your complaint.

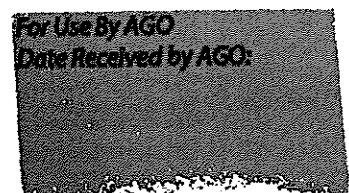
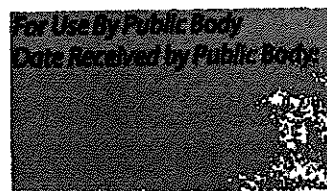
Under most circumstances your complaint will be considered a public record and be available to any member of the public upon request.

I understand that when I submit this complaint the Attorney General's Office cannot give me legal advice and cannot act as my personal lawyer.

I certify that the information contained on this form is true to the best of my knowledge.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_



# STONEMAN, CHANDLER & MILLER LLP

99 HIGH STREET  
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KATE CLARK  
ANDREA L. BELL  
CRISTINE M. D. GOLDMAN  
COLLEEN SHEA

MIRIAM K. FREEDMAN  
OF COUNSEL

May 13, 2019

Via Electronic Mail and US Mail

Stephen Kapantais  
23A Wisteria St.  
Salem, MA 01970

RE: Open Meeting Law Complaint

Dear Mr. Kapantais

This letter is response to your recent open meeting law complaint. This response comes after the School Committee has met to consider your complaint and is copied to the Office of the Attorney General as required by law.

The School Committee understands that your complaint is twofold: (1) that the Salem School Committee ("Committee") held a meeting on a holiday (Patriot's Day), and (2) that the Committee violated the law by conducting a review of Superintendent Ruiz in Executive Session. Thus, the School Committee is responding to those issues.

Factual Background:

On April 10, 2019 at 9:57am, the School Committee posted a special school committee meeting for Monday, April 15, 2019 at 10:15am. The only agenda substantive agenda item was executive session based on Purpose #1 of MGL Chapter 30A, Section 21 (a), to discuss the character, reputation or complaint against a Salem Public Schools employee, in this case, the Superintendent, and possible disciplinary consequences. Per the law, the Superintendent was made aware of this meeting at least forty-eight (48) hours prior to the meeting, her right to have counsel present and her right to have the meeting in open session. The Superintendent ultimately declined to attend and declined to have the meeting held in open session.

On Monday, April 15, 2019, the Committee convened in public session and immediately went in to executive session, by roll call vote, under Purpose #1 under MGL Chapter 30A, Section 21 (a). The School Committee invited Paul Dakin, an outside consultant to the meeting who had been hired the district to report on the Superintendent's practices, particularly around communication. To be clear, Mr. Dakin was not hired to or asked to evaluate Superintendent Ruiz, but was asked to gather



information which would be reported back to the School Committee. While the School Committee anticipated that it would use Mr. Dakin's research to inform their joint goal setting process and ultimately evaluation of Superintendent Ruiz, there was no agreement or understanding to limit the use of Mr. Dakin's research to the Superintendent's goal setting and evaluation. The reason for Mr. Dakin's invitation at the executive session was to share some of the information that he had gathered to date, as the information was relevant to the purpose of the executive session.

1. Holding a meeting on a holiday.

The first allegation is that Salem School Committee should not have held a meeting on April 15, Patriots' Day in Massachusetts. In previous ruling by the Attorney General, public bodies have not been found to have violated the Open Meeting Law on a legal holiday. See Ashland Town Forest Committee, OML 2017-172 and Frequently Asked Questions, [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting). As such, the Committee contends that there was no violation of the Open Meeting Law for holding an executive session on Patriots' Day.

2. The Committee violated the law by evaluating the Superintendent in executive session.

The Committee did not evaluate the Superintendent on April 15th. As described in the posting and agenda, the purpose of the meeting was to discuss her character, reputation and the complaints that the School Committee had received regarding the Superintendent, and decide whether to take disciplinary action. As such, Purpose #1 was the proper avenue for this discussion as it "is designed to protect the rights and reputation of individuals." To hold this meeting in open session would have violated the Superintendent's rights.

The fact that Mr. Dakin was invited to attend and provide information does not change this result. First, the Open Meeting Law does not prohibit a School Committee from inviting another party to attend executive session for the purpose of providing relevant information to the School Committee so that it may be fully informed as it conducts business. It is also not the case that an invitee's presence be noted on the agenda; however, it is assured that Mr. Dakin's presence was recorded in the executive session meeting minutes.

Second, Mr. Dakin's presence alone does not mean that the School Committee evaluated Superintendent Ruiz. As stated previously, Mr. Dakin was not hired to evaluate Superintendent Ruiz, but to do research. Sharing information relative to a complaint is not an "evaluation."<sup>1</sup>

The School Committee notes that the evaluation of a Superintendent is a well-defined process pursuant to 603 CMR 35.00 et seq. The evaluation system used by schools must be reflective of the "Standards and Indicators for Effective Administrative Leadership Practice and the procedures in 603 CMR 35.04 through 35.10 as applicable to the role and contract of the administrator." 603 CMR 35.05. In the present case, there is no indication that the School Committee undertook a performance review which considered the Standards and Indicators for Effective Administrative Leadership Practice, nor any of the

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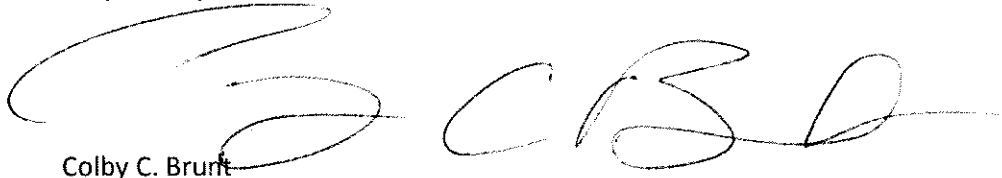
<sup>1</sup> Even if the information shared by Mr. Dakin was an evaluation document, it would not be subject to disclosure under the open meeting law. According to the FAQ from the Attorney General, "evaluations conducted by individuals who are not members of public bodies are not public records." See, Frequently Asked Questions, <https://www.mass.gov/info-details/frequently-asked-questions-about-the-open-meeting-law#frequently-asked-questions-about-evaluations>

Superintendent's contractual provisions related to evaluation. In addition, 603 CMR 35.05 assures school committees that, "[n]othing in 603 CMR 35.00 shall abridge the authority of a school or district to dismiss or non-renew an educator consistent with applicable law, including G.L. c. 71, §§ 41 and 42" meaning that a school committee it is free to consider issues for discipline or dismissal independent of the evaluation process. Indeed, the School Committee completed the annual evaluation of Superintendent Ruiz in the fall of 2018 and did so in open session.

The Attorney General's guidance on this matter is also informative: "while conclusions drawn from deliberations about professional competency may be part of a deliberation for another executive session, the evaluation of professional competency itself, must occur during an open session." See Frequently Asked Questions, <https://www.mass.gov/info-details/frequently-asked-questions-about-the-open-meeting-law>. This acknowledges that information regarding professional competency can both inform evaluations and executive sessions. To illustrate this point, the School Committee points to the guidance from the Attorney General's office which puts forth the following example: a School Committee considering the renegotiation of a Superintendent's contract may consider the Superintendent's evaluation during an executive session as a part of their deliberation process about strategy in negotiating with the Superintendent. Id.

In the present case, the School Committee contends that it considered information provided by Mr. Dakin when discussing the character, reputation of or complaints about the Superintendent. Even though information from Mr. Dakin could have been used for evaluation, in this case, the School Committee's focus was on how Mr. Dakin's information pertained to Superintendent Ruiz's character and reputation or the complaints received by the Committee. As such, the School Committee contends that it did not violate the open meeting law by entering in to executive session, as allowed under MGL Chapter 30A, Section 21 (a) Purpose #1, to discuss character, reputation and complaints made against the Superintendent.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Colby C. Brunt", written over a horizontal line.

Colby C. Brunt  
Counsel for the Salem School Committee

cc: Attorney General's Office (Via US Mail Only)  
Mayor Kimberly Driscoll, Chairperson, Salem School Committee (Via Electronic Mail Only)

# STONEMAN, CHANDLER & MILLER LLP

99 HIGH STREET  
BOSTON, MASSACHUSETTS 02110

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JOHN M. SIMON  
KATE CLARK  
ANDREA L. BELL  
CRISTINE M. D. GOLDMAN  
COLLEEN SHEA

MIRIAM K. FREEDMAN  
OF COUNSEL

May 28, 2019

Via Electronic Mail

Stephen Kapantais  
23A Wisteria St.  
Salem, MA 01970

RE: Open Meeting Law Complaint

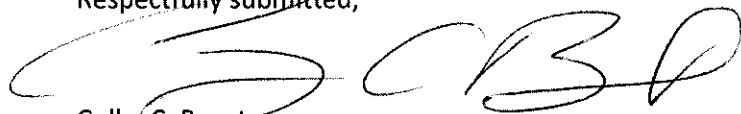
Dear Mr. Kapantais

This letter is response to your recent open meeting law complaint. It is my understanding that you filed the complaint due to the fact that on April 24<sup>th</sup>, you requested copies of any non-exempt minutes from the April 15, 2019 executive session and that the Committee did not respond within 10 days to your request or review the minutes at the School Committee meeting on May 6, 2019.

As I had informed you in an email communication on May 13, 2019, the Committee acknowledged that their review of the minutes on May 13, 2019 and lack of response within 10 days was outside of timelines per the law. Of note, the Committee did review the minutes on May 13<sup>th</sup> and in their review determined that at that time the exemption/reasons for executive session still existed and that they could not release any of the minutes from that meeting at that time.

Please note that my client views this an unfortunate oversight and will ensure that moving forward the Committee is timely with the review of executive session minutes. I hope that this response fully satisfies your requested relief.

Respectfully submitted,



Colby C. Brunt  
Counsel for the Salem School Committee

cc: Attorney General's Office (Via Electronic Mail Only)  
Mayor Kimberly Driscoll, Chairperson, Salem School Committee (Via Electronic Mail Only)

### Summary of Outstanding OML Complaints and Public Info Requests

Below is a summary of recent OML Complaints and Public Information Requests that require action by the School Committee, as outlined below.

Date submitted	Complaint	District Response
4/26/19	A. KAPANTAIS - Complaint filed about scheduling the 4/15/19 Executive Session on a holiday (Patriots Day)	<p>5/6/19 SPS Attorney Colby Brunt, Esq. provides a response indicating that the meeting was held on a holiday during school vacation week because it was the only day that all members of the School Committee were available to attend. The meeting was in Executive Session and therefore members of the public would not be able to participate. Further, while holding a meeting on a holiday is not a best practice, it is not against the law. Given the importance of the issue, the School Committee felt it was more important to meet with everyone present as soon as possible, rather than delay matters till the following week.</p> <p>Mr. Kapantais has since included this response as “inadequate” in his recent filing with the Attorney General and would prefer that the School Committee initiate a rule that in the future, meetings will not be scheduled on a holiday.</p> <p><b>9/3/19 The School Committee acknowledges that scheduling a meeting on a holiday is unusual and in the future the Committee will strive to follow the Attorney General’s best practices and avoid scheduling meetings on a holiday.</b></p>
	B. KAPANTAIS - Complaint about Paul Dakin presence and report being a performance review of Superintendent Ruiz	<p>5/6/19 SPS Attorney Colby Brunt, Esq. provides a response indicating that the School Committee did not evaluate the Superintendent in executive session at their meeting on April 15, 2019.</p> <p>Mr. Kapantais has since included this response as “inadequate” in his recent filing with the Attorney General.</p> <p><b>9/3/19 The School Committee re-affirms that there was no violation of the Open Meeting Law associated with Mr. Dakin’s presence at the April 15<sup>th</sup> Executive Session.</b></p>
5/7/19	C. KAPANTAIS - OML Complaint filed pertaining to requests for the 4/15 and 4/25 Executive Session meeting minutes	<p>At that time of Mr. Kapantais’ requests, neither of the minutes had been transcribed, reviewed or approved. Mayor Driscoll responded by email to Mr. Kapantais on April 26, 2019 informing him that his request had been received and was being worked on.</p> <p>An Executive Session was held on 5/14/19 to review the 4/15 and 4/25 Executive Session minutes. At that meeting, the School Committee reviewed the 4/25 Executive Session minutes, but did not vote on it that night as not all members were present.</p> <p>Another Executive Session was held on 6/3/19 to review the</p>

### Summary of Outstanding OML Complaints and Public Info Requests

Below is a summary of recent OML Complaints and Public Information Requests that require action by the School Committee, as outlined below.

Date submitted	Complaint	District Response
4/26/19	A. KAPANTAIS - Complaint filed about scheduling the 4/15/19 Executive Session on a holiday (Patriots Day)	<p>5/6/19 SPS Attorney Colby Brunt, Esq. provides a response indicating that the meeting was held on a holiday during school vacation week because it was the only day that all members of the School Committee were available to attend. The meeting was in Executive Session and therefore members of the public would not be able to participate. Further, while holding a meeting on a holiday is not a best practice, it is not against the law. Given the importance of the issue, the School Committee felt it was more important to meet with everyone present as soon as possible, rather than delay matters till the following week.</p> <p>Mr. Kapantais has since included this response as “inadequate” in his recent filing with the Attorney General and would prefer that the School Committee initiate a rule that in the future, meetings will not be scheduled on a holiday.</p> <p><b>9/3/19 The School Committee acknowledges that scheduling a meeting on a holiday is unusual and in the future the Committee will strive to follow the Attorney General’s best practices and avoid scheduling meetings on a holiday.</b></p>
	B. KAPANTAIS - Complaint about Paul Dakin presence and report being a performance review of Superintendent Ruiz	<p>5/6/19 SPS Attorney Colby Brunt, Esq. provides a response indicating that the School Committee did not evaluate the Superintendent in executive session at their meeting on April 15, 2019.</p> <p>Mr. Kapantais has since included this response as “inadequate” in his recent filing with the Attorney General.</p> <p><b>9/3/19 The School Committee re-affirms that there was no violation of the Open Meeting Law associated with Mr. Dakin’s presence at the April 15<sup>th</sup> Executive Session.</b></p>
5/7/19	C. KAPANTAIS - OML Complaint filed pertaining to requests for the 4/15 and 4/25 Executive Session meeting minutes	<p>At that time of Mr. Kapantais’ requests, neither of the minutes had been transcribed, reviewed or approved. Mayor Driscoll responded by email to Mr. Kapantais on April 26, 2019 informing him that his request had been received and was being worked on.</p> <p>An Executive Session was held on 5/14/19 to review the 4/15 and 4/25 Executive Session minutes. At that meeting, the School Committee reviewed the 4/25 Executive Session minutes, but did not vote on it that night as not all members were present.</p> <p>Another Executive Session was held on 6/3/19 to review the</p>

		4/15 and 4/25 Executive Session minutes. At that meeting, the School Committee reviewed the minutes from both 4/15 and 4/25 Executive Sessions, subject to final review by School Committee Counsel, since they involved a personnel matter.
5/30/19	D. KAPANTAIS – Requests copy of 5/14 Executive Session meeting minutes	<p>At that time of Mr. Kapantais' requests, the minutes had been transcribed, reviewed or approved. On June 1, 2019, Mayor Driscoll sent a response via email to Mr. Kapantais informing him that the Executive Session Minutes could not be released because they had not been reviewed by the School Committee.</p> <p>On August 19, 2019, the School Committee reviewed and approved the Executive Session minutes and authorized release of same.</p>
6/24/19	E. KAPANTAIS - OML Complaint outlining 6 items regarding the 4/15 and 4/25 Executive Sessions.	<p><b>9/3/19 Pursuant to the Open Meeting Law (OML), upon a request for executive session meeting minutes, a public body shall review those minutes and release 'the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. While responses were provided to Mr. Kapantais, they did not meet the timeline of being provided to him 'not later than the body's next meeting or 30 days, whichever first occurs', as required by the OML.</b></p> <p><b>As such, the School Committee would like to acknowledge that we have committed procedural errors under the public records laws and regulations. Specifically, the Committee failed to respond to a request to review/release executive session minutes in accordance with the required timeline and failed to include specific notice that the committee was reviewing an open meeting law complaint in an executive session on May 14th.</b></p> <p><b>The Committee would also like to acknowledge that these lapses in response were not done intentionally or to purposefully prevent the distribution of information requested.</b></p> <p><b>We apologize for this and to that end, the Committee has established a new protocol and policy for the receipt of public records requests so that these matters are better tracked and we will be conducting a training by legal counsel for the committee of the whole on the Open Meeting Law.</b></p>

		4/15 and 4/25 Executive Session minutes. At that meeting, the School Committee reviewed the minutes from both 4/15 and 4/25 Executive Sessions, subject to final review by School Committee Counsel, since they involved a personnel matter.
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<b>PERSONNEL</b>	<b>4000</b>
<u>ALL EMPLOYEES</u>	4100
PERSONNEL REPORT	4116

The superintendent or his designee shall provide the School Committee with a detailed personnel report three times per year (October, February, and July). Said report shall contain information on resignations and retirements (including length of service), newly hired personnel (including education, experience and certifications) and unfilled positions.

Reviewed and referred by the Policy Subcommittee 7/8/19

First Reading: 7/15/19

Second Reading: 8/19/19

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<b>STUDENTS AND INSTRUCTION</b>	<b>5000</b>
<u>ATTENDANCE</u>	<u>5100</u>
SCHOOL CENSUS	5110

State law makes the following provisions regarding the enumeration of school age children in the system:

The School Committee of each town shall ascertain and record the names, ages and such other information as may be required by the Department of Education, of all minors residing therein between 5 and 16 years, and of all minors over 16 who do not meet the requirements for the completion of the sixth grade of the public schools of the town where they reside. The School Committee of each town shall also ascertain the number of pupils, regardless of age, whose parents or guardians are residents of the town who are enrolled for full-time attendance in kindergarten and grades up to and including grade 12, in public and vocational schools and classes in the Commonwealth and non-public schools anywhere.

Further:

The superintendent of schools of each town shall file annually on or before the date prescribed by law with the Commissioner of Education, on forms provided by the Department of Education, a sworn statement reporting the number of minor children whose parents or guardians were residents of the town and who were enrolled on the preceding January 1st for full-time attendance in the following schools and classes, respectively, including kindergarten, and grades 1 - 12:

- Pupils in schools and classes in the city or town under the control of the School Committee, excluding pupils in schools and classes of regional school districts;
- Pupils in schools and classes of a regional school district, which includes the city;
- Pupils in schools and classes elsewhere in the Commonwealth under the control of the School Committee;
- Pupils in vocational schools and classes in the city under the control of the local trustees of vocational education, excluding pupils in vocational schools and classes under the control of district trustees for vocational education;
- Pupils in vocational schools and classes under the control of district trustees for vocational education in a district that includes the city;

**STUDENTS AND INSTRUCTION** **5000**

ATTENDANCE 5100

SCHOOL CENSUS 5110

Pupils in vocational or other schools and classes elsewhere in the Commonwealth that are supported by public funds;

Pupils in non-public schools anywhere. Such information shall be collected during the months of January and February.

Legal Reference: MGL 72:2, 2A

**Reviewed by Policy Subcommittee:** 6/19/19 and 7/8/19,

Recommended for deletion

First Reading: 7/15/19

Second Reading: 8/19/19

Jill Conrad 7/8/2019 1:15 PM

Deleted: August

## STUDENTS AND INSTRUCTION

5000

### STUDENT ENROLLMENT AND ATTENDANCE

5100

#### STUDENT WITHDRAWAL FROM SCHOOLS

5111

When a student leaves a Salem Public School before the end of the school year, the school department will furnish a completed transfer card to the student's parent/guardian or a student of legal age majority for the office of the superintendent of the receiving community only after:

The student's parent or an age majority student contacts the school office;

The parent or an age majority student completes a sign-out sheet;

The student returns all books and school property;

The student satisfies all financial obligations.

Additional pupil information will be furnished upon request by the parent, guardian, or the next school.

For pertinent information, refer to the appropriate student handbook(s).

Legal References: MGL 76:13

First Reading: 7/15/19

Second Reading: 8/19/19

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**Comment [1]:** This will be re-numbered to 5110 after the recommendation to delete current SC Policy 5110 (School Census) is approved.

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## STUDENTS AND INSTRUCTION

5000

### STUDENT ENROLLMENT AND ATTENDANCE

5100

#### PARTICIPATION IN ACTIVITIES DURING SUSPENSION OR ABSENCE

5114

A student's participation in co-curricular or athletic activities is a privilege, not a right or entitlement. Students who are suspended out of school are not allowed to be in school or on school property at any time during the period of suspension and are not allowed to attend any school-sponsored activities, except for scheduled meetings with school administrators.

In the case of an in-school suspension absence, a student could participate in an activity at the discretion of the principal.

Legal References: MGL 71:37G, 37H, 37H1/2, 37H3/4; 603 CMR 53.00

First Reading: 7/15/19

Second Reading 8/19/19

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## STUDENTS AND INSTRUCTION

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### ATTENDANCE

5100

### DISMISSAL OF STUDENTS BY SCHOOL PERSONNEL

5116

If a child needs to be sent home during the school day due to illness, a parent or guardian, or a designated person must accompany him or her, or arrange transportation for the student to be sent home.

If a child is to be sent home for disciplinary reasons, the parent or guardian must be contacted and informed of the reasons why the child is being dismissed. A parent or guardian, or a person specifically designated by the parent, must accompany the child home. If a parent cannot be reached, the student must be kept in school until the end of the session or, depending on the reason for the suspension, and if there is concern for school and student safety, the principal will consult with the Salem Police Department to determine the best course of action.

Students shall not be sent on errands outside the school building for any reason.

Requests to call children from classrooms during the school day may be honored at the discretion of the principal when he/she is satisfied that the circumstances warrant such an interruption.

Legal Reference: MGL 71:37H3/4; 76:21; 603 CMR 53.00

First Reading: 7/15/19

Second Reading: 8/19/19

Victoria Caldwell 7/25/2019 12:32 PM

**Comment [1]:** Concerned about a school policy releasing a student to police custody in the absence of an arrest or established need for protective custody.

Victoria Caldwell 7/25/2019 12:31 PM

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<b>STUDENTS AND INSTRUCTION</b>	<b>5000</b>
<u>INSTRUCTIONAL PROGRAM</u>	<u>5200</u>
USE OF PHYSICAL RESTRAINT	5416

## **RESTRAINT OF STUDENTS IN THE SALEM PUBLIC SCHOOLS**

To the extent required by law, the **Salem** Public Schools complies with the Department of Elementary and Secondary Education (hereinafter “DESE”) restraint regulations, which can be found at 603 CMR 46.00 et seq. (hereinafter “Regulations”). According to their terms, the Regulations apply not only at school but also at school-sponsored events and activities, whether or not on school property.

A brief overview of the Regulations is provided below.

**Purpose.** The purpose of this policy is to ensure that every student attending the **Salem** Public Schools is free from the unlawful use of physical restraint. Physical restraint shall be used only in emergency situations of last resort, after other lawful and less intrusive alternatives have failed or been deemed inappropriate, and with extreme caution.

School personnel shall use physical restraint with two goals in mind:

- (a) To administer a physical restraint only when needed to protect a student and/or a member of the school community from assault or imminent, serious, physical harm; and
- (b) To prevent or minimize any harm to the student as a result of the use of physical restraint.

**Use of Restraint.** Physical restraint<sup>1</sup> shall be considered an emergency procedure of last resort, and shall be prohibited in public education programs except when a student’s behavior poses a threat of assault, or imminent, serious, physical harm to self or others and the student is not responsive to verbal directives or other lawful and less intrusive behavior interventions and/or alternatives<sup>2</sup>, or such interventions and/or alternatives are deemed to be inappropriate under the circumstances. Prone restraint<sup>3</sup> shall be prohibited in public education programs except to the

<sup>1</sup> Physical restraint shall mean direct physical contact that prevents or significantly restricts a student’s freedom of movement. Physical restraint does not include: brief physical contact to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing comfort, or a physical escort.

<sup>2</sup> **List description/explanation of school’s alternatives to physical restraint and method of physical restraint in emergency situations.**

<sup>3</sup> Prone restraint shall mean a physical restraint in which a student is placed face down on the floor or another surface, and physical pressure is applied to the student’s body to keep the student in the face-down position.

## STUDENTS AND INSTRUCTION

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### INSTRUCTIONAL PROGRAM

5200

### USE OF PHYSICAL RESTRAINT

5416

extent allowed by law. All physical restraints, including prone restraints where permitted, shall be administered in compliance with 603 CMR 46.05.

Physical restraint shall not be used:

- (a) as a means of discipline or punishment;
- (b) when the student cannot be safely restrained because it is medically contraindicated for reasons including, but not limited to, asthma, seizures, a cardiac condition, obesity, bronchitis, communication-related disabilities, or risk of vomiting;
- (c) as a response to property destruction, disruption of school order, a student's refusal to comply with a policy or directive, or verbal threats when those actions do not constitute a threat of assault, or imminent, serious, physical harm;
- (d) as a standard response for any individual student. No written individual behavior plan or individualized education program (IEP) may include use of physical restraint as a standard response to any behavior. Physical restraint is an emergency procedure of last resort.

Mechanical restraint<sup>4</sup>, medication restraint<sup>5</sup>, and seclusion<sup>6</sup> shall be prohibited in public education programs. Seclusion does not include a time-out, as defined within the Regulations.<sup>7</sup>

The Regulations do not limit the protection afforded publicly funded students under other state or federal laws, including those laws that provide for the rights of students who have been found eligible to receive special education services.

**Proper Administration of Physical Restraint.** Only Salem personnel who have received training pursuant to the Regulations shall administer physical restraint on students. Whenever possible, the administration of a restraint shall be witnessed by at least one adult who does not

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<sup>4</sup> Mechanical restraint shall mean the use of any device or equipment to restrict a student's freedom of movement.

<sup>5</sup> Medication restraint shall mean the administration of medication for the purpose of temporarily controlling behavior.

<sup>6</sup> Seclusion shall mean the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.

<sup>7</sup> Time-out shall mean a behavioral support strategy developed pursuant to 603 CMR 46.04(1) in which a student temporarily separates from the learning activity or the classroom, either by choice or by direction from staff, for the purpose of calming. During time-out, a student must be continuously observed by a staff member. Staff shall be with the student or immediately available to the student at all times. The space used for time-out must be clean, safe, sanitary, and appropriate for the purpose of calming. Time-out shall cease as soon as the student has calmed.

## STUDENTS AND INSTRUCTION

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### INSTRUCTIONAL PROGRAM

5200

### USE OF PHYSICAL RESTRAINT

5416

participate in the restraint. Nothing in this policy shall preclude a teacher, employee or agent of the **Salem Public Schools** from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm. When administering a physical restraint, trained staff shall comply with the requirements regarding use of force, method, duration of the restraint, and safety, as set forth in the Regulations.

**Staff Training.** All school staff must receive training with respect to the district's restraint prevention and behavior support policy and requirements when restraint is used. Training shall include information on the role of various individuals in preventing restraint, the restraint prevention and behavior support policy and procedures, interventions that may preclude the need for restraint, types of permitted physical restraints and related safety considerations, and administering physical restraint in accordance with medical or psychological limitations, known or suspected trauma history, and/or behavioral intervention plans applicable to an individual student.

Additionally, the school must identify specific staff who are authorized to serve as school-wide resources to assist in ensuring proper administration of physical restraint. These individuals must participate in in-depth training in the use of physical restraint and implementation of the Regulations.

**Reporting Requirements.** Program staff shall report the use of any physical restraint, as required by the Regulations. The staff member who administered the restraint shall notify the principal verbally as soon as possible and in writing no later than the next school working day. The report shall be maintained by the school and made available for review by the Parent(s) or the DESE upon request.

The principal or designee shall make reasonable efforts to inform the Parent(s) of the restraint within 24 hours of the event, and shall notify the Parent(s) by written report within three school working days of the restraint. The information in the report shall be in conformance with 603 CMR 46.06(4). The written restraint report must be provided to the Parent(s) in the language in which report cards and other necessary school-related information are customarily provided.

The Principal or designee shall review restraint data and determine necessary next steps, if any, as set forth in the Regulations.

As required by the Regulations, all physical restraints must be reported to the DESE.

**Prevention of Dangerous Behavior.** As set forth in the Regulations, the **Salem Public Schools** shall develop methods for preventing student violence, self-injurious behavior, and suicide, including individual crisis planning and de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student. Including widespread Safety



## STUDENTS AND INSTRUCTION

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### USE OF PHYSICAL RESTRAINT

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Care Training, as well as building based school adjustment counselors, behavior specialists and therapeutic staff trained in multiple methods of de-escalation, therapeutic intervention and crisis management.

**Parent Engagement.** In accordance with the regulations, the **Salem Public Schools** shall engage Parents in discussions about restraint prevention and the use of restraint solely as an emergency procedure. Such discussions shall **include” Student Support Team ( SST) and Individual Education Program (IEP) meetings for individual student concerns, and discussions at the Parent Advisory Committee (PAC) for district level concerns.**

**Complaints.** Complaints and investigations regarding restraint practices are covered by the Executive Director of Pupil Personal Services.

**Additional information,** including a copy of the regulations, can be obtained from the Executive Director of Pupil Personnel Services who can be reached at 978-740-1249. A copy of the regulations may also be obtained at [www.doe.edu/lawsregs/603cmr46.html](http://www.doe.edu/lawsregs/603cmr46.html).

First Reading: 7/15/19  
Second Reading: 8/19/19

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