

# Bill as Introduced

HB 140 - AS INTRODUCED

2021 SESSION

21-0265

06/04

HOUSE BILL **140**

AN ACT relative to private rights of action regarding pupil safety.

SPONSORS: Rep. Cordelli, Carr. 4; Rep. Ladd, Graf. 4; Rep. Boehm, Hills. 20; Rep. Verville, Rock. 2; Rep. Shaw, Hills. 16; Rep. A. Lekas, Hills. 37; Rep. J. Osborne, Rock. 4; Rep. Layon, Rock. 6; Sen. Ward, Dist 8

COMMITTEE: Education

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ANALYSIS

This bill creates a private right of action for bullying and cyberbullying.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struckthrough.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT                   relative to private rights of action regarding pupil safety.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Safety and Violence Prevention; Pupil Safety Private Right of Action. RSA 193-F:9 is repealed  
2 and reenacted to read as follows:

3           193-F:9 Private Right of Action Permitted. Any person aggrieved as a result of gross negligence  
4 or willful misconduct in violation of any provision of this chapter may initiate an action against a  
5 school district or chartered public school and may recover court costs and reasonable attorney's fees  
6 as the prevailing party. Nothing in this section shall supercede or replace existing rights or  
7 remedies under any other law.

8           2 Effective Date. This act shall take effect upon its passage.

HB 140 - AS AMENDED BY THE SENATE

05/20/2021 1425s

2021 SESSION

21-0265

06/04

HOUSE BILL **140**

AN ACT relative to private rights of action regarding pupil safety.

SPONSORS: Rep. Cordelli, Carr. 4; Rep. Ladd, Graf. 4; Rep. Boehm, Hills. 20; Rep. Verville, Rock. 2; Rep. Shaw, Hills. 16; Rep. A. Lekas, Hills. 37; Rep. J. Osborne, Rock. 4; Rep. Layon, Rock. 6; Sen. Ward, Dist 8

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2 and reenacted to read as follows:

3       193-F:9 Private Right of Action Permitted. Any person aggrieved as a result of gross negligence  
4 or willful misconduct in violation of any provision of RSA 193-F:4 may initiate an action against a  
5 school district or chartered public school and may recover court costs and reasonable attorney's fees  
6 as the prevailing party. For the purposes of this chapter, "gross negligence" means deliberate  
7 indifference. Nothing in this section shall supercede or replace existing rights or remedies under  
8 any other law.

9       2 Effective Date. This act shall take effect upon its passage.

CHAPTER 164  
HB 140 - FINAL VERSION

05/20/2021 1425s

2021 SESSION

21-0265  
06/04

HOUSE BILL **140**

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CHAPTER 164  
HB 140 - FINAL VERSION

05/20/2021 1425s

21-0265  
06/04

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

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6 as the prevailing party. For the purposes of this chapter, "gross negligence" means deliberate  
7 indifference. Nothing in this section shall supercede or replace existing rights or remedies under  
8 any other law.

164:2 Effective Date. This act shall take effect upon its passage.

Approved: July 30, 2021  
Effective Date: July 30, 2021

# Amendments

Sen. Kahn, Dist 10  
May 10, 2021  
2021-1355s  
06/04

Amendment to HB 140

1 Amend the bill by replacing section 1 with the following:

2

3 1 Safety and Violence Prevention; Pupil Safety Private Right of Action. RSA 193-F:9 is repealed  
4 and reenacted to read as follows:

5 193-F:9 Private Right of Action Permitted. Any person aggrieved as a result of gross negligence  
6 or willful misconduct in violation of any provision of RSA 193-F:4 may initiate an action against a  
7 school district or chartered public school and may recover court costs and reasonable attorney's fees  
8 as the prevailing party. For the purposes of this chapter, "gross negligence" means deliberate  
9 indifference. Nothing in this section shall supercede or replace existing rights or remedies under  
10 any other law.

UNAPPROVED

Senate Education  
May 12, 2021  
2021-1425s  
06/04

Amendment to HB 140

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6 or willful misconduct in violation of any provision of RSA 193-F:4 may initiate an action against a  
7 school district or chartered public school and may recover court costs and reasonable attorney's fees  
8 as the prevailing party. For the purposes of this chapter, "gross negligence" means deliberate  
9 indifference. Nothing in this section shall supercede or replace existing rights or remedies under  
10 any other law.

# Committee Minutes

**SENATE CALENDAR NOTICE**  
**Education**

Sen Ruth Ward, Chair  
Sen Erin Hennessey, Vice Chair  
Sen Denise Ricciardi, Member  
Sen Jay Kahn, Member  
Sen Suzanne Prentiss, Member

Date: April 14, 2021

**HEARINGS**

Tuesday	04/20/2021	
(Day)	(Date)	
Education	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	<b>HB 69</b>	relative to the display of the national motto in schools.
9:15 a.m.	<b>HB 71</b>	relative to school district emergency special meetings.
9:30 a.m.	<b>HB 140</b>	relative to private rights of action regarding pupil safety.
9:45 a.m.	<b>HB 182</b>	relative to approval of coursework completed at other approved schools
10:00 a.m.	<b>HB 278</b>	relative to the use of unused district facilities by chartered public schools.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/93782614838>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: +13126266799,,93782614838# or +19292056099,,93782614838#
4. Webinar ID: 937 8261 4838
5. To view/listen to this hearing on YouTube, use this link:  
<https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:  
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: [remotesenate@leg.state.nh.us](mailto:remotesenate@leg.state.nh.us) or call (603) 271-6931.

### EXECUTIVE SESSION MAY FOLLOW

**Sponsors:**

**HB 69**

Rep. True  
Rep. Torosian

Rep. Abramson  
Rep. Hobson

Rep. Greene  
Rep. Folsom

Rep. Piemonte

**HB 71**

Rep. Boehm

Rep. T. Lekas

Rep. McLean

**HB 140**

Rep. Cordelli  
Rep. Shaw  
Sen. Ward

Rep. Ladd  
Rep. A. Lekas

Rep. Boehm  
Rep. Osborne

Rep. Verville  
Rep. Layon

**HB 182**

Rep. Ladd  
Rep. Boehm

Rep. A. Lekas  
Rep. Moffett

Rep. Allard

Rep. Cordelli

**HB 278**

Rep. Hill  
Rep. Rice

Rep. Ladd  
Rep. Rouillard

Rep. Turcotte  
Rep. Weyler

Rep. Silber

Ava Hawkes 271-4151

Ruth Ward  
Chairman

# Senate Education Committee

*Ava Hawkes 271-4151*

**HB 140**, relative to private rights of action regarding pupil safety.

**Hearing Date:** April 20, 2021

**Time Opened:** 9:30 a.m.

**Time Closed:** 10:20 a.m.

**Members of the Committee Present:** Senators Ward, Hennessey, Ricciardi and Prentiss

**Members of the Committee Absent :** Senator Kahn

**Bill Analysis:** This bill creates a private right of action for bullying and cyberbullying.

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**Sponsors:**

Rep. Cordelli

Rep. Ladd

Rep. Boehm

Rep. Verville

Rep. Shaw

Rep. A. Lekas

Rep. Osborne

Rep. Layon

Sen. Ward

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**Who supports the bill:** 29 people signed up in support of the bill. Full sign-in sheet available upon request.

**Who opposes the bill:** 37 people signed up in opposition to this bill. Full sign-in sheet available upon request.

**Who is neutral on the bill:** None.

**Summary of testimony presented:**

**Representative Glenn Cordelli – Carroll, District 4**

- Representative Cordelli introduced HB 140.
- Bullying is a serious national and statewide issue.
- In the 2019 school year, there were 1,400 reported cases of bullying in NH, including 66 documented cases of physical harm.
- 65% of bullying incidents go unreported.
- Even students who witness bullying are impacted.
- A Yale study found that bullying victims were two to nine times more likely to have suicidal thoughts.

- House Education heard tearful testimony, stories of neglect, and stories of suicide on this subject.
- Current RSA states that nothing shall create right of action.
- In 2015, there was a case in the Manchester School District that went to the Supreme Court.
- This case involved two separate altercation. First, the student was punched in the face on the bus. Then, received threatening messages, which later resulted in another attack, which landed this child in the emergency room with severe injuries.
- The parents became aware of the school bus incident at the emergency room.
- The court ultimately sided in favor of the school district, as to not create a private right of action.
- This bill is simple. If there is gross negligence or willful misconduct by a school district, there shall be a private right of action.
- The statute pertaining to school employees remains untouched: they shall be immune from civil liberties for good faith conduct arising from or pertaining to the reporting or investigation response to bullying incidents.
- There should be accountability when there is negligence and misconduct by school districts.
- All pupils have the right to safe, secure and peaceful environments.
- The legislature needs to ensure bullying issues are being taken seriously.
- We'd like to think districts are doing everything possible to fulfill their duty; when they are not, parents deserve a remedy.

**Barrett Christina – Executive Director, NH School Board Association**

- Opposed to this bill.
- The legislature acknowledges, through RSA 193-f:2, II that bullying is mostly based on one the various protected classes.
- This bill is not needed as there is already a cause of action that exists in NH law relative to discrimination, bullying based on protected classes.
- RSA 193:38, the former SB 263 from the 2019 session, states that any person facing discrimination can initiate a civil lawsuit against a school or school district in superior court for legal or equitable relief.
- There is no need for this bill when causes of action already exist.
- Other causes of action that students may file under common law.
- Common law is based on customs and precedent.
- There is a 1995 common law case from the NH Supreme Court ruled that school districts have duty of supervision over their employees.
- There are two causes of action that already exist under laws.
- The language in the bill pertaining to aggrieved persons is too broad and may cover more than the victim of bullying, but the perpetrator.

- Not good policy to allow someone to sue a school district to have courts decide who is and who is not a bully.
- When the bullying statute was amended in its current form roughly ten years ago, it passed almost unanimously.
- When SB 263 was working through the legislature in 2019, House Education members voted against it due to issues with private rights of action.
- Senator Hennessey asked Mr. Christina about the protected classes portion of his testimony. Younger kids don't always base their bullying on protected classes, for instance, clothing may be a reason to bully. What can those kids do if they don't fall under a protected class in their cases of bullying.
  - Mr. Christina referred to RSA 193:38, which is a very expansive statute, that covers protected classes in a broad sense.
  - The majority of the reasons she stated could fall under family status or socioeconomic status. He does, however, understand her point.
  - Another aspect to be mindful of is the fact that there are now more reported cases of bullying, which is positive, as that means students are coming forward and districts are reporting cases of bullying to NHDOE. It is not good that bullying is happening, but that it is being reported.
  - At the elementary level, we would think that teachers and principals are able to address and stem bullying early on.
- Senator Hennessey asked Mr. Christina to clarify the notion that simply because folks may fall under the socioeconomic status for the type of bullying, it does not make them a protected class. Thus, it does not provide protections and rights for lawsuit reasons.
  - Mr. Christina said under RSA 193:38, "family status" may invoke economic factors.
  - There are also protections under RSA 186:11, a common law cause of action for failure to supervise.
  - Based on testimony before the House, school district employees were not following local policies or pertinent statute relative to bullying, that seems to be a supervision issue, which may give rise to a cause of action suit.

**Representative Erica Layon – Rockingham, District 6**

- Supports this bill.
- There are bullying cases that do not fall under protected classes, i.e. body odor.
- The Manchester case proves this issue needs addressing through this bill.
- Loss of confidence and loss of learning happens frequently with bullying.
- When parents are aware of this, they can help their children overcome these challenges.
- Students in NH have been hospitalized and committed suicide as a result of bullying incidents.

- Many school shootings are the result of bullied children snapping.
- While we have not seen this in NH, it is a clear risk factor nationwide.
- Laws can't solve every issue we face.
- This bill can solve those rare cases where parents are denied the knowledge they need to support their bullied children.
- This bill will put schools on notice that they can be held responsible for failing to appropriately deal with bullying.
- In 2019, a middle school student in Nashua was jumped twice at school. Other students filmed the attacks and shared them on social media. The students and her friends continued to receive threats after the attack.
- The girl was uninjured in the first attack but following the second attack, the student was concussed and had broken ribs.
- The school's response was that there was nothing they could do as it was considered a mutual fight as it was recorded. Their suggestions were for the student to fight back or change schools.
- Another example is of a transgender student in California shot dead in a middle school computer lab. The transgender child was a protected class, however, they were the bully. RSA 193:38 would do nothing in order to give private right of action to the bullied student because the bully, not the victim, was a protected class.
- Victims of bullying should not be unserved.
- Teachers should have the best interest of students at heart.

### **Megan Douglass**

- Supports this bill.
- She is the attorney who represented the student in the Manchester case referenced by Representative Cordelli.
- Mr. Christina's representation of her case, under common law relief, is flatly rejected in her case.
- The Supreme Court held that plaintiff attorneys could not assert common law of action.
- It is striking that we send students to school, entrusting their care, with adults to protect them from physical harm.
- There is no way to hold those adults accountable for gross failures.
- They are completely immune from gross negligence.
- She knows a lot of teachers.
- She plans to submit written testimony.

## **Marissa Chase – Executive Director, NH Association for Justice**

- Supports this bill.
- It is very hard to bring a lawsuit due to professional ethics where lawyers cannot file frivolous or meritless claims. If they were to, they would be disbarred.
- There are not rash, frivolous lawsuits happening in NH.
- You can point to two supreme court cases where this has been an issue in the past decade. These cases are not brought lightly.
- There has yet been a case filed using the law passed in SB 263. That's a good thing.
- When these laws are passed with a penalty associated, it helps everyone be accountable.
- Their hope is that there will be no lawsuits filed under the provisions in HB 140.
- This bill would provide accountability and create teeth to a very important statute.
- They don't want to see children harmed.
- This is how our civil justice system works.
- When there are penalties in place, we tend to have better outcomes.
- She plans to submit written testimony.

## **Kimberly Lavalley**

- Opposed to this bill.
- Mont Vernon, NH resident.
- Founder of two charter schools in Manchester.
- As a mother of two young adults, she sees ramification in one of her children as a result of bullying.
- Each investigation by the school takes time and personnel and should be thoroughly investigated.
- Social media increases challenge for schools in bullying.
- There is never an excuse for bullying.
- This bill's language may allow for unintended lawsuits.
- In this bill, parents are able to recoup legal fees if they win. Public schools and charter schools would be unable to recover those fees if they win.
- Legal fees and insurance premiums are expensive for all.
- Small charter schools can be challenged to find affordable legal representation and liability insurance.
- If the amount of lawsuits increase, so will cost of insurance. They would face higher premiums, higher deductibles and higher retention costs.
- Insurance companies are beginning to see more nuclear settlements over time.
- She appreciates the sentiment behind the bill. The state did not have a bullying law when her child was in school.

- The issue with this bill is the current draft.
- Trial lawyers will benefit.
- The bill does not provide a reasonable, affordable solution for schools.

**Matt Southerton – President, NH Alliance for Public Charter Schools**

- Opposed to this bill.
- This issue is serious and complicated.
- He has seen firsthand the effects of bullying on students.
- School administrators and officials work hard to conduct investigations and protect students.
- If this language were to go through, there will be costs to school communities across state.
- We must seriously consider the damage this bill could do.
- One of the most critical methods to fighting against bullying is open communication between schools and families.
- This bill would reduce conversations and the level of trust between schools and families with the impending doom of lawsuits.
- Pulls focus away from students who we are trying to protect.
- He will submit written testimony.

**Scott Perron**

- Opposed to this bill.
- Manchester, NH resident.
- Bullying cannot be tolerated.
- He understands and agrees with many of the points brought up so far.
- Understanding where bullying responsibility lies is a joint venture, not just one of the schools.
- Worries that the number of resources that would be necessary to accomplish this, on the school administration level, would take away from the necessary funding that our schools need for educational purposes.

**Katherine Shea**

- Supports this bill.
- Important to her family and neurodiverse students who struggle with self-advocacy.
- They are also the victims of school staff's lack of training and understanding.
- Parent to autistic children who have experienced bullying.
- Served on taskforce to serve and generate solutions to bullying in our state.

- Disabled children may be considered protected, but that is not always recognized in schools.
- The current dispute resolution process did not know how to even define their statistics and couldn't break down their definitions of bullying and how they report that kind of information.
- While a civil lawsuit sounds nice, families do not have money for those kinds of lawsuits.
- Common law is not a practical way to solve this problem.
- No protections or real teeth in the current process and nothing is enforced.
- For other families, you may recognize from being in the news, bullying was the final factor that pushed their unsupported, unhappy, mistreated children over the edge. Those children are no longer with us.
- This bill will hold schools accountable.

### **Moira Ryan**

- Supports this bill.
- Plans to submit written testimony.
- For school to be in compliance with bullying standards, they must file a report.
- Students do reach out and don't get help.
- School districts need to protect their students and educate them.
- She has known of schools who do not follow through in filing reports.

### **Shannon Bouchard**

- Supports this bill.
- Plans to submit written testimony.
- Her daughter was severely bullied on the bus.
- She was reassured during her IEP meetings that they were documenting the bullying. She was also told by the bus company that they record bus rides.
- She trusted the school immensely and thought they were keeping an eye on her daughter.
- Her daughter endured bullying every day.
- Instead of mailing special education reports home, the school sent home the reports with her child and the bullies found the reports on the bus.
- The most often kind of bullying starts in elementary school and peaks in middle school.
- This bullying caused her daughter to withdraw and not want to go to school.
- The threat of truancy, by her daughter's school, came about due to her missing so much school.
- The bullying caused her daughter physical harm.
- The school did not report physical abuse by the bully, she found out through her daughter's friend.

- Due to her own disability, she could not drive her daughter to and from school so she had to continue taking the bus.
- The bully was suspended off the bus a few times, but continually came back.
- Children with disabilities are two to three times more likely to be bullied than non-disabled children.
- Disabled children may have a harder time communicating about bullying.
- Her daughter began to suffer from depression, anxiety, self-harm and suicidal thoughts.
- She ended up going before the school board with the help of the disability rights center.
- She is still fighting even while permanently disabled with MS. Her husband is the only one able to work in their home.

amh

Date Hearing Report completed: April 21, 2021

# Speakers

# Senate Remote Testify

## Education Committee Testify List for Bill HB140 on 2021-04-20

Support: 29 Oppose: 37 Neutral: 0 Total to Testify: 11

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>
Houston, Alicia	Alicia.houston@outlook.com	603-820-3468	A Member of the Public	Myself	Support	Yes
Banfield, Ann Marie	Banfieldannmarie@gmail.com	603-714-5814	A Member of the Public	Myself	Support	Yes
Almy, Susan	susan.almy@comcast.net	603.448.4769	An Elected Official	Myself	Oppose	No
Hunnewell, Richard	hunnewell.richard@gmail.com	603.536.4015	A Member of the Public	Myself	Oppose	No
Hunnewell, Anne	ahunne@roadrunner.com	603.536.4015	A Member of the Public	Myself	Oppose	No
Bixby, Peter	peter.bixby@leg.state.nh.us	16037495659	An Elected Official	Myself	Oppose	No
Hobson, Deborah	deborahlhobson@gmail.com	603-968-5417	An Elected Official	Myself	Support	No
Drye, Margaret	Not Given	603.675.9159	A Member of the Public	Myself	Support	No
Piedra, Israel	israel.piedra@leg.state.nh.us	603.563.0675	An Elected Official	Myself	Support	No
Ballentine, John M	mikeb@btine.com	Not Given	A Member of the Public	Myself	Oppose	No
Schapiro, Joe	joe.schapiro@leg.state.nh.us	603.852.5039	An Elected Official	Cheshire 16, Keene	Oppose	No
Ladd, Carl	carl@nhsaa.org	603.225.3230	A Lobbyist	New Hampshire School Administrators Association	Oppose	No
Ladd, Rick	rick.ladd@leg.state.nh.us	603 989 3268	An Elected Official	Rep Grafton 4, Haverhill	Support	No
Bergeron-Beaulieu, Jane	jbergeron@nhasea.org	494-1149	A Lobbyist	NH Association of Special Education Administrators	Oppose	No
MacVittie, Robbin	Not Given	Not Given	A Member of the Public	Myself	Support	No
Parker, Sharon	parker20@juno.com	603.863.7348	A Member of the Public	Myself	Oppose	No
Lemoy, Claude	Not Given	603-523-2224	A Member of the Public	Myself	Oppose	No
Hennessey, Martha	Not Given	Not Given	A Member of the Public	Myself	Oppose	No
Lewandowski, Jean	jlewando@hotmail.com	Not Given	A Member of the Public	Myself	Oppose	No
Dutzy, Sherry	sherry.dutzy@leg.state.nh.us	603.557.5599	An Elected Official	Myself	Oppose	No
Levesque, Cassandra	cassandra.levesque@leg.state.nh.us	Not Given	An Elected Official	Myself	Oppose	No
Koburger, Penny	Pennykob@gmail.com	603.667.0951	A Member of the Public	Myself	Oppose	No
Ford, Debra	dford@mvrdsd.org	603.632.5563	A Member of the Public	Myself	Oppose	No
Ward, Senator Ruth	Not Given	Not Given	An Elected Official	Senate District 8	Support	No
Pauer, Eric	secretary@BrooklineGOP.org	603.732.8489	A Member of the Public	Myself	Support	No
Pagliarulo, Krista	Not Given	Not Given	A Member of the Public	Myself	Support	No
Aron, Judy	judy.aron@leg.state.nh.us	603.843.5908	An Elected Official	Myself	Support	No
Dade, Kristina	tina.na.na@gmail.com	Not Given	A Member of the Public	Myself	Support	No
Walbridge, Tracy	tracywalbridge@gmail.com	603.312.1283	A Member of the Public	Myself	Support	No
Burbidge, Kate	katlyn.burbidge@gmail.com	603.548.2420	A Member of the Public	Myself	Support	No
Ledoux, Max	maximledoux@protonmail.com	Not Given	A Member of the Public	Myself	Support	No
McCarthy, Frank	serendipity922@gmail.com	603.356.9160	A Member of the Public	Myself	Support	No
Morasae, Amanda	kaendraarcaya@gmail.com	603.496.9177	A Member of the Public	Myself	Support	No
Dutton, Robert	bobdutton@aol.com	Not Given	A Member of the Public	Myself	Support	No
Dutton, Mabel	bibbsdutton@aol.com	Not Given	A Member of the Public	Myself	Support	No
Ryan, Moira	army51kilo@hotmail.com	254.466.8220	A Member of the Public	Myself	Support	No
Ryan, Thomas	Not Given	Not Given	A Member of the Public	Myself	Support	No
Gildersleeve, Darlene	dmcote88@gmail.com	Not Given	A Member of the Public	Myself	Support	No
Howard Jr., Raymond	brhowardjr@yahoo.com	603.875.4115	An Elected Official	Myself	Support	No
Grassie, Chuck	chuck.grassie@leg.state.nh.us	16039787417	An Elected Official	Strafford 11	Oppose	No
McNamee, Brigid	brigidmcnamee@yahoo.com	603.223.0139	A Member of the Public	Myself	Oppose	No
Osborne, Stephanie	Not Given	(603) 238-31	A Member of the Public	Myself	Oppose	No
Rich, Cecilia	cecilia.rich@leg.state.nh.us	603.380.8679	An Elected Official	Myself	Oppose	No
MacVittie, Paul	Not Given	Not Given	A Member of the Public	Myself	Support	No
Taylor, Sue	Sueetaylor158@gmail.com	603.675.6566	A Member of the Public	Myself	Oppose	No

Fox, Kyle	kyle.fox@comcast.net	Not Given	A Member of the Public	Myself	Oppose	No	'
MacLean, Mark	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	'
Wilke, Mary	wilke.mary@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No	'
Dontonville, Roger	rdontonville@gmail.com	.603.632.7719	An Elected Official	Myself	Oppose	No	'
Hamblet, Joan	joan.hamblet@leg.state.nh.us	603.205.4925	An Elected Official	Myself	Oppose	No	'
Tucker, Kathy	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	'
Frew, Jerry	Jerry@nhsaa.org	Not Given	A Lobbyist	NHSAA	Oppose	No	'
Horrigan, Timothy	timothyhorrigan@icloud.com	603.969.3823	An Elected Official	Strafford 6	Oppose	No	'
Kim, Ahlgren	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	'
Rasmussen, Elissa	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	'
Bates, Marion	the.bates@gmail.com	Not Given	A Member of the Public	Myself	Oppose	No	'
McPeck, Gail	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	'
Southerton, Matt	matt@nhcharterschools.org	603.303.8070	A Member of the Public	Myself	Oppose	Yes	'
Layon, Erica	erica.layon@leg.state.nh.us	603.479.9595	An Elected Official	Myself	Support	Yes	'
Christina, Barrett M.	Not Given	Not Given	A Lobbyist	New Hampshire School Boards Association	Oppose	Yes	'
Cordelli, Glenn	Not Given	603.515.0008	An Elected Official	Myself	Support	Yes	'
Perron, Scott	scottysyr@aol.com	239.405.5833	A Member of the Public	Myself	Oppose	Yes	'
Shea, Katherine	klynshea4618@gmail.com	603-361-3534	A Member of the Public	Myself	Support	Yes	'
Douglass, Megan	mdouglass@nhlawoffice.com	603.224.1988	A Member of the Public	Myself	Support	Yes	'
Chase, Marissa	mchase@nhaj.org	603.854.9330	A Lobbyist	NH Association for Justice	Support	Yes	'
Lavallee, Kimberly	Not Given	Not Given	A Member of the Public	Myself	Oppose	Yes	'

# Testimony

April 20, 2021

*Via email and first class mail*

Sen. Ruth Ward, Chair  
Senate Education Committee  
Concord, NH 03301

Re: HB 140 (allowing lawsuits for violations of the anti-bullying statute)

Dear Senator Ward and members of the Senate Education Committee:

I am writing on behalf of the New Hampshire Association of Special Education Administrators (NHASEA), as an unpaid volunteer.

The NHASEA opposes HB 140 as currently written. The bill proposes to amend RSA 193-F:9 by allowing lawsuits for *any* violation of RSA 193-F, the anti-bullying statute, no matter how trivial. The bill also allows a prevailing plaintiff to recover attorney's fees.

The House Education Committee voted that HB 140 "ought to pass" by a narrow 12-8 margin. That Committee's minority report accurately summed up why the bill in its current form is overbroad:

This bill is unnecessary and expands the cause of action by any person aggrieved by any violation of RSA 194-F, including technical violations when nobody was injured and when no bullying occurred, provided a school official committed that technical violation with "gross negligence," which is a term state law does not define. The bill also allows the plaintiff to recover attorney's fees for such technical and victimless violations creating an incentive to school districts for harmless mistakes.

House Record, Vol. 43, No. 18 (April 2, 2021), p. 38.

RSA 193-F:9 currently provides as follows:

Nothing in this chapter shall supersede or replace existing rights or remedies under any other general or special law, including criminal law, nor shall this chapter create a private right of action for enforcement of this chapter against any school district or chartered public school, or the state.

This provision operates in tandem with RSA 193-F:7, which states:

A school administrative unit employee, school employee, chartered public school employee, regular school volunteer, pupil, parent, legal guardian, or employee of a company under contract to a school, school district, school administrative unit, or chartered public school, shall be immune from civil liability for good faith conduct arising from or pertaining to the reporting, investigation, findings, recommended response, or implementation of a recommended response under this chapter. The department of education shall be immune from civil liability for its good faith conduct in making recommendations under this chapter.

HB 140 would repeal RSA 193-F:9 and replace it with the following language:

Any person aggrieved as a result of *gross negligence or willful misconduct* in violation of *any provision of this chapter* may initiate an action against a school district or chartered public school and may recover court costs and reasonable attorney's fees as the prevailing party. Nothing in this section shall supercede [sic] or replace existing rights or remedies under any other law.

(Emphasis added.) <sup>1</sup>

The NHASEA opposes HB 140 for the following reasons.

***First, the bill is overbroad.*** It allows a lawsuit by anyone “aggrieved” by “any” violation of RSA 193-F, *regardless of whether there was actual bullying and regardless of whether the violation proximately caused physical or emotional injury.*

RSA 193-F includes many technical provisions. For example:

- The statute directs every local school board to adopt a policy prohibiting bullying and cyberbullying. RSA 193-F:4, II.
- This policy must include procedures for: (a) reporting incidents of suspected bullying; (b) notifying parents of those reports; (c) investigating such reports; and (d) remedial action. RSA 193-F:4, II.
- The statute imposes short deadlines for school officials to notify a suspected victim's parents and to complete investigations. RSA 193-F:4, II(i)-(j).
- School districts must provide training for students and staff regarding bullying. RSA 193-F:5.
- Each school district must annually report to the State Department of Education all “substantiated incidents” of bullying. RSA 193-F:6.

HB 140, allowing an award of attorney's fees for “any” violation of RSA 193-F, will invite

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<sup>1</sup> The bill misspells “supersede.”

lawsuits alleging technical violations that ultimately caused no harm.

**Second, the bill violates Part 1, Article 28-a of the New Hampshire Constitution, which prohibits the State from imposing new unfunded mandates on school districts.** This constitutional provision became effective in 1984. RSA 193-F was first enacted in 2000 and amended in 2010. While the statute serves a laudable purpose, the legislature did not appropriate funds to defray the costs of compliance. HB 140 compounds that constitutional violation by imposing substantial new costs on school districts, such as liability for attorney's fees.

**Third, the bill relies on an undefined term.** HB 140 permits lawsuits alleging "gross negligence" and allows a party to recover attorney's fees upon proving that degree of carelessness. Alas, the bill neglects to define this critical term.

HB 140 incorrectly assumes the term is defined elsewhere, such as via court decisions applying common law. However, unlike many states, New Hampshire's common law does not recognize the concept of gross negligence. *Barnes v. New Hampshire Karting Assoc'n, Inc.*, 128 NH 102, 108-09, 509 A.2d 151, 155 (1986). It consequently remains unclear exactly what "gross negligence" means in HB 140. This, like the attorney's fees provision, will encourage litigation.

**Fourth, HB 140 is unnecessary.** RSA 193-F:9, which HB 140 would repeal, merely provides that a violation of RSA 193-F is not *per se* grounds for liability. The existing statute does not foreclose liability based on other laws. RSA 193-F:9 states, "Nothing in this chapter shall supersede or replace existing rights or remedies under any other general or special law." RSA 193-F:7 reiterates that concept by providing immunity only to those who act in "good faith."

Other statutes do not totally immunize either school districts or school employees from liability for violations of RSA 193-F *that result in actual injury*. For example:

- RSA 507-B:4, IV immunizes local government personnel from liability for money damages only when "said employee or official was acting within the scope of his or her office and reasonably believed in the legality of his or her actions."
- RSA 507-B:5, generally provides that "[n]o [local] governmental unit may be held liable in any action to recover for bodily injury, personal injury or property damage except as provided in this chapter or as is provided or may be provided by other statute." However, if a municipality has liability insurance coverage, RSA 507-B:7-a supersedes that immunity by allowing an award of damages up to the coverage limits.
- If the bullying violates a student's rights secured under the U.S. Constitution or a federal statute, the immunity provisions established by state statute are irrelevant.

For all those reasons, the NHASEA oppose HB 140 as overbroad. A more moderate bill would allow lawsuits against school districts only when bullying actually occurred.

Thank you for considering these comments.

Very truly yours,

*Gerald M. Zelin*

Gerald M. Zelin

cc: Jane Bergeron, Exec. Dir, NHASEA

## **'I need this bullying to stop. I need it for her sake': New Hampshire family says 11-year-old endured severe bullying before taking her own life**

*By Dialynn Dwyer, Boston.com Staff July 10, 2018*

Every night before going to sleep, Skylar Desmarais would find her grandmother in the home they shared in Manchester, New Hampshire.

The 11-year-old would tell her grandmother that she loved her, giving her a hug and a kiss.

She never missed a night.

"Even if she was away with somebody she would call me and say, 'I love you, Grammy,'" Teri Desmarais said of her granddaughter.

It was one of several rituals the 11-year-old shared with her grandmother, with whom she'd lived since she was 2. They watched "The Ellen DeGeneres Show" together each evening, bringing their dinner trays into the living room, taping episodes to save for later when they couldn't watch it side-by-side.

Skylar loved Christmas, so they started watching holiday movies in October and cranked up the carols on the radio in the car as soon as they hit the airwaves.

"If it was too hot out, we'd turn the air conditioner on in the car, so it was nice and cold to listen to Christmas music and just sing at the top of our lungs," Desmarais said. "People would think we were crazy, but it's OK. It was fun. It was our thing."

July Fourth was another favorite holiday. Desmarais and her granddaughter would scout the listings of the fireworks displays in the paper and would drive between the surrounding towns, going to up to four different shows surrounding the holiday.

This year, Desmarais stayed home. She said she just couldn't go see the fireworks without her granddaughter.

Skylar took her own life weeks before, on June 20, after struggling daily with depression and anxiety that her family says stemmed from severe verbal and cyberbullying by classmates at school.

"I just want her back," Desmarais said. "I don't know how to live without her."

## **'She was the type of child that wanted everyone to be happy'**

Skylar and Teri Desmarais. —Courtesy of Teri Desmarais

Skylar seemed to have easily made friends until within the last year and a half, her grandmother said.

“She really started to have a hard time,” Desmarais said of the 11-year-old. “She never wanted to get anyone in trouble. She was the type of child that wanted everyone to be happy and she would make sure they were happy even if it was her pain that was inside. She couldn’t let people know that, she had to make them happy all the time.”

Skylar Desmarais —Courtesy of Teri Desmarais

The bullying started in the middle of this past school year, while Skylar was attending Parker-Varney Elementary School, according to Desmarais. After the family moved within the city, the 11-year-old was given the choice between continuing at Parker-Varney or transferring to Highland-Goffe’s Falls Elementary School, which she did. Skylar’s father, Michael Desmarais, suggested that maybe a new school would a good chance to start over, her grandmother said.

“It was worse,” Desmarais said.

She saw her granddaughter, who loved drama class and singing, become more and more withdrawn.

“She wanted to stay in her room more and draw,” Desmarais said. “That’s how she vented — she drew — and the pictures she drew started getting more dark. She’s always gone to therapy, so I asked her, I said, ‘Sky, what’s going on?’ And she said, ‘Nothing, Grammy. Everything’s fine.’ And I could just see it wasn’t.”

The Manchester woman said one day she noticed marks from self-harm on her granddaughter’s arms. Skylar eventually told her how bad the bullying was, but she wouldn’t tell her the names of the classmates.

“She has always just been loving, caring, never said the word ‘hate’ to anyone in her life,” Desmarais said. “Never said it to anyone or about anything.”

The 11-year-old didn’t want her classmates to get into trouble, her grandmother said.

“Skylar didn’t want to tell me a lot of stuff, but one of things that was brought out was some kids on the bus and at school said, ‘If I had a face like Sklyar Desmarais, I’d kill myself,’” the grandmother said.

Once it was in her brain, Desmarais said her granddaughter couldn’t forget it.

Separate of the bullying, the 11-year-old and her family had already had a difficult year. Last June, Desmarais said one her sons, Skylar’s uncle, died of a drug overdose in their basement. In October, Desmarais’s father, who lived in the two-family home they occupied, died of cancer.

“She had these two major losses, too, within a very short amount of time,” Desmarais said. “I’m having a hard time dealing with it, and I’m an adult. I can’t even imagine a child having to deal with this.”

Desmarais said she had begun the process of signing custody of Skylar back to her son, Michael Desmarais. The 11-year-old was excited about going to live with her father and his fiancée, Hope Shafer, in Pittsfield.

The Manchester School District told Boston.com it could not answer specific questions about the bullying Skylar's family says she experienced:

Our whole community is grieving over the tragic death of one of our Highland-Goffe's Falls students and we feel for the family who is struggling with this unimaginable loss. Out of respect for the privacy of our students and their families, and to comply with both state and federal law, we cannot provide a specific response to comments about the student being a victim of bullying. We have an exceptionally caring and dedicated staff working to ensure that services are in place for the students in our community. Suicide is a complex issue and research informs us that one issue rarely results in a suicide death, rather it is often a combination of factors. Our focus remains on healing and caring for the students, staff and community impacted by this tragedy.

By the end of the school year, Skylar had attempted suicide twice, her grandmother said. At school, she was accompanied by an adult because she'd tried to harm herself there.

But still, Desmarais said, the bullying continued.

## **'I need this bullying to stop'**

Skylar Desmarais. —Courtesy of Teri Desmarais

Skylar finished fifth grade.

Desmarais said her granddaughter was happy about graduating elementary school and was happy that she would be moving to Pittsfield to live with her dad, her stepmother, and half brother. The last day of school was June 15, and Skylar planned to attend camp at the end of June.

On June 20, Skylar was found by a family member at her father's home. Desmarais said a letter left behind spoke of the bullying the 11-year-old experienced during the school year.

"I need this bullying to stop. I need it for her sake," she said of her granddaughter's death. "I don't want her to have left this world for no reason at all."

Desmarais said she and her family believe Skylar was "put on this Earth for a short time to teach us love, forgiveness, and caring."

"She was a unique child. She beat to her own drum, which everybody should be able to," she added.

The family plans to set up a memorial fund in Skylar's name to combat and raise awareness about bullying. Desmarais said she also plans to work to get more accountability in schools for reporting on incidents of bullying.

“I just want everyone — not to remember her death — but remember her life,” Desmarais said of her granddaughter. “Remember her smile every time she saw somebody, remember the hugs she used to give. Remember the loving, caring child. That’s what I want people to remember.”

Skylar Desmarais. —Courtesy of Teri Desmarais



Home > Bullying Prevention > Bullying Prevention News > Study Finds Most Bullying Not Reported; Reporting More Likely When Physical Harm Involved

## Study Finds Most Bullying Not Reported; Reporting More Likely When Physical Harm Involved

Education Development Center, Inc. (EDC)

Bullying often goes unreported in U.S. schools, making the problem difficult for school officials to identify and manage. However, a new report identifies several factors tied to increased reporting to school officials.

The report, entitled *What Characteristics of Bullying, Bullying Victims, and Schools Are Associated with Increased Reporting of Bullying to School Officials?* was conducted by researchers at the Regional Educational Laboratory Northeast and Islands (REL-NEI) and funded by the Institute of Education Sciences at the U.S. Department of Education.

The research team examined the bullying incidents included in the 2007 National Crime Victimization Survey School Crime Supplement, a biennial survey from the Department of Justice of children who attended school in the prior academic year. The supplement includes over 5,000 students, ages 12–18, from a nationally representative sample of households.

Using the self-reported data in the survey, researchers analyzed 51 characteristics associated with the bullying incidents and found 11 tied to increased reporting. For example:

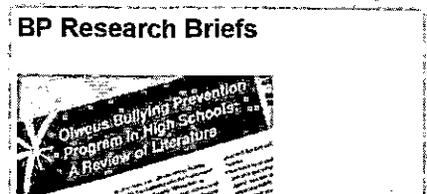
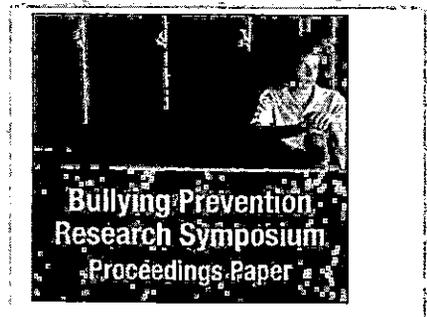
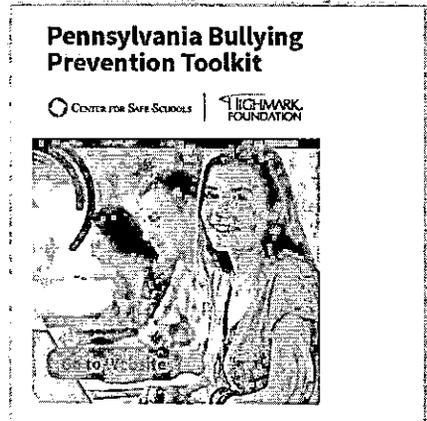
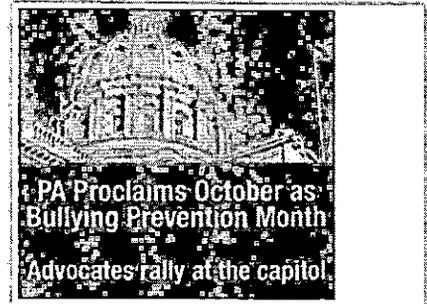
- Bullying was more likely to be reported when it involved injury, physical threats or contact, destruction of property, greater frequency, multiple types, more than one location, or at least one occurrence on a school bus.
- Victims involved in a fight during the school year and victims who reported being afraid of attack and avoiding certain school areas or activities were more likely to indicate that their victimization was reported to a school official.
- Students in younger grades were more likely to report bullying than students in older grades.

Echoing findings from previous research, the REL-NEI researchers found that nearly 65 percent of victims said the bullying was not reported, either by themselves or others, to teachers or school officials.

"Even when a bullying victim had suffered injury, 40 percent of the time the students said the bullying was not reported," said Anthony Petrosino, lead researcher on the study.

"Since schools cannot address problems that they don't know about, increased reporting of bullying is a first step towards creating a safer learning environment for all students."

The study was carried out by REL-NEI, one of 10 Regional Educational Laboratories funded by the Institute of Education Sciences at the U.S. Department of Education. It is administered by Education Development Center, Inc. (EDC), in partnership with the American Institutes for Research (AIR) and Learning Innovations at WestEd.



The report comes at a time of increased concern regarding the prevalence of school bullying, and when many states have passed legislation mandating that school districts take action against bullying and develop strategies for handling incidents.

"These findings challenge adults everywhere to help young victims and bystanders feel the motivation, safety, and trust in adults they need to report early incidents of bullying," said EDC senior scientist Ron Slaby. "Early reporting is a key to prevent the harm from continuing and growing into personal tragedy."

Suggestions for future research include examining why such a high percentage of bullying victimization is not reported (for example, fear of retaliation by bullies or belief that the school cannot help).

*What Characteristics of Bullying, Bullying Victims, and Schools Are Associated with Increased Reporting of Bullying to School Officials?* was written by Petrosino and Sarah Guckenburg of Learning Innovations at WestEd, Jill DeVoe of the American Institutes for Research, and Thomas Hanson of WestEd. To view or download a copy of the report, go to [http://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL\\_2010092.pdf](http://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL_2010092.pdf)

The Regional Educational Laboratory Northeast and Islands (REL-NEI) is administered by EDC in partnership with the American Institutes for Research (AIR) and Learning Innovations at WestEd. Visit [www.relnei.org](http://www.relnei.org). Education Development Center, Inc. (EDC) is a global nonprofit organization that develops, delivers, and evaluates innovative programs to address some of the world's most urgent challenges in education, health, and economic development. Visit [www.edc.org](http://www.edc.org)

Center for Safe Schools at Center for Schools and Communities 275 Grandview Avenue, Suite 200 | Camp Hill PA 17011 | (717) 763-1661 | [safeschools@csc.csiu.org](mailto:safeschools@csc.csiu.org)

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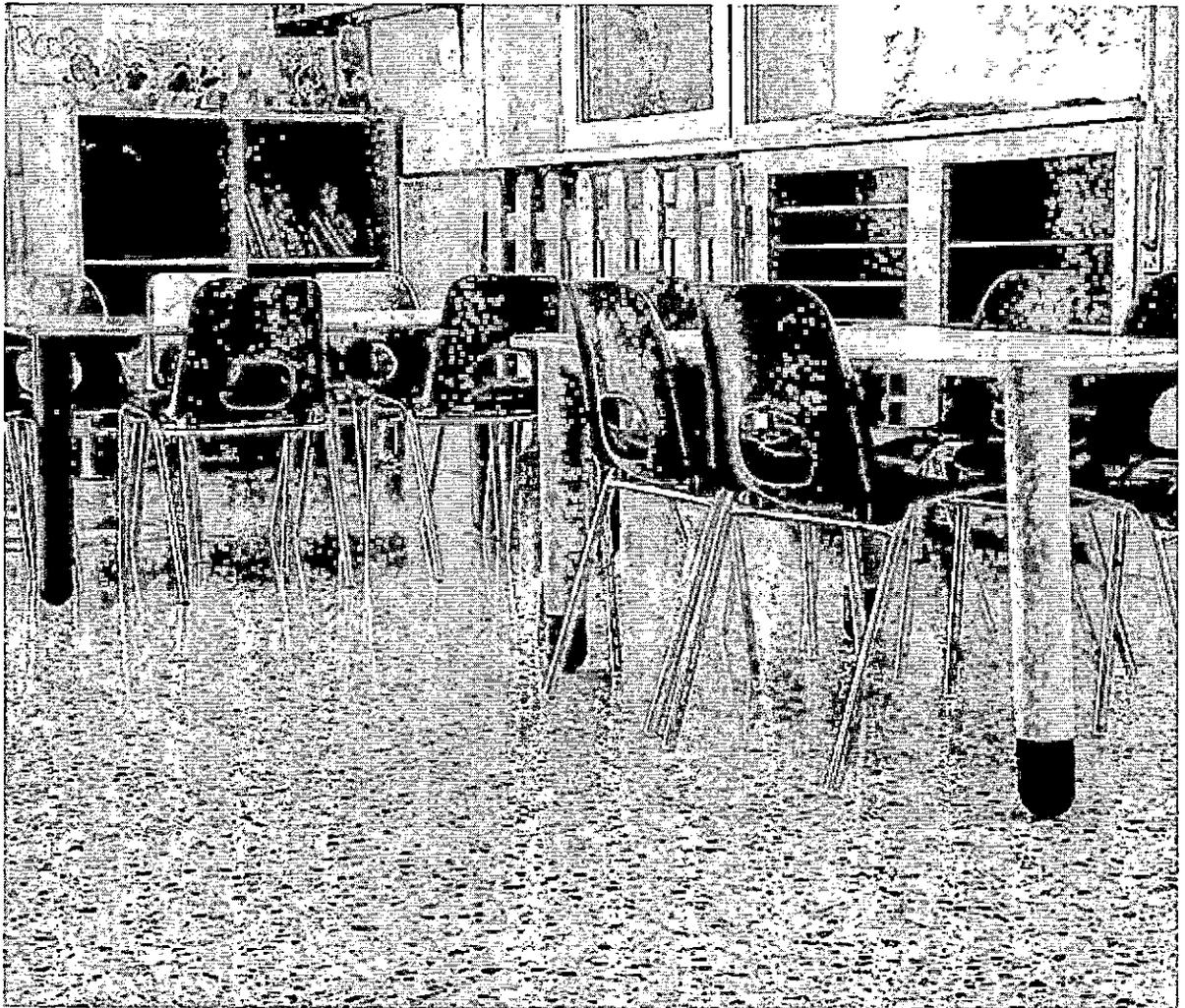
# Nashua Father Says Daughter Bullied At Fairgrounds Middle School

[schools](#)

**Chad LaCrosse posted a video on social media that he says was one of two occasions in the past week where his daughter was assaulted.**

By [Scott Souza, Patch Staff](#)

Oct 8, 2019 4:42 pm ET | Updated Oct 9, 2019 6:30 pm ET



Chad LaCrosse posted a video on social media that he says was one of two occasions in the past week where his daughter was assaulted at Fairgrounds Middle School in Nashua. (Shutterstock)

NASHUA, NH – A Nashua father is calling for a public discussion of bullying in schools and action from school officials after posting a video on social media of his 12-year-old daughter being attacked at Fairgrounds Middle School. Chad LaCrosse said that his daughter was attacked twice by other girls at the school and that meetings with school officials have been unsuccessful in keeping her safe.

"I plan on taking this as far I can," LaCrosse told Patch in a phone interview Tuesday night. "I was blown away with how the school system dealt with it. They told me they have their protocols and that it was a fight. That's not a fight. That was a planned attack."

LaCrosse said the video posted was of a Sept. 27 attack and that his daughter was attacked in the same manner on Monday, getting beat down while she was looking the other way. LaCrosse also asserts that his daughter was threatened on Sept. 26, received more threats on Sept. 28, and had to be dismissed from school due to threats on Oct. 4 before being attacked a second time on Monday.

He said other students witnessed the attacks and posted the videos of Snapchat, Instagram and TikTok. He said he went public after the second attack – which he said occurred when his daughter got off the bus at the school Monday morning – because he felt having the videos go viral would be the only way to increase awareness of the incident. As of Wednesday afternoon, the post of the video had received 55,000 views and 192 comments.

LaCrosse said he brought cause for a restraining order against two of the girls accused in the assault in Nashua District Court on Wednesday. He said a family pediatrician told him his daughter had signs of a concussion and cracked rib after the second attack. LaCrosse added that his daughter's friend had also been threatened.

"I want it to stop," he said. "I was told they can't arrest a 12-year-old for that. What exactly does a 12-year-old have to do to get arrested? That was a planned attack. I can understand if two kids go out in the playground and have a fistfight – that's a fight. If you are hit from behind when you are not looking, that's a planned attack. There is nothing you can do about it?"

LaCrosse posted on Facebook that he had meetings with Nashua Principal Sharon Coffey, Vice Principal Jeffrey Arbogast and Nashua Police, but claimed on social media: "They all said there is nothing they can do to make this stop, and she needs to fight back, or maybe she should change schools."

"My daughter is a straight-A student and she is the one who should change schools?" he told Patch was his reaction.

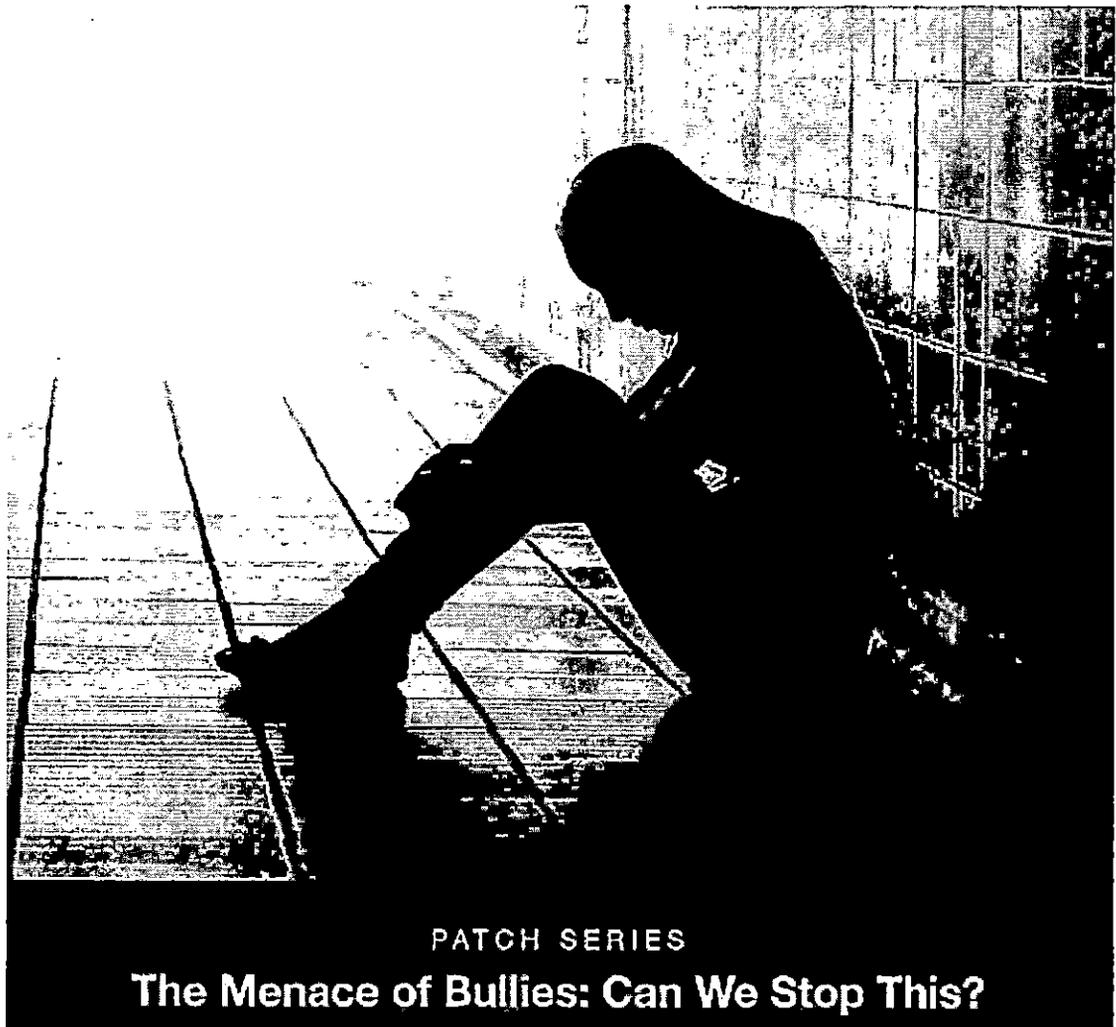
Nashua Superintendent Jamahl Mosely issued a letter to parents saying: "As superintendent, and as a father of a middle schooler at Fairgrounds Middle School, I am deeply troubled by this event and we will investigate this fully."

LaCrosse said he has a meeting with Mosely scheduled for Wednesday that he was told may include other school officials.

"I want things to change," LaCrosse said. "I want things to change in Nashua. I want things to change in Nashua schools. I want things to change with Nashua Police, if necessary."

"How many other parents are in my shoes and they have no way out?" he added.

Mosely wrote that Nashua Police have been contacted for "support and guidance in this matter" and that anyone revealed to be involved with being involved with, or filming, the bullying "will have consequences."



*As part of a national reporting project, Patch has been looking at society's roles and responsibilities in bullying and a child's unthinkable decision to end their own life in hopes we might offer solutions that save lives.*

*Do you have a story to tell? Are you concerned about how your local schools handle bullies and their victims?*

*Email us at [bullies@patch.com](mailto:bullies@patch.com) and share your views in the comments.*

### **Selected Stories From The Project**

- [Bullied To Death: When Kids Kill With Words](#)
- [New Jersey Man Remembers The Day He Stood Up To Racist Bully](#)
- [Why Bullying Is Killing Kids: National Stop Bullying Day](#)
- [Teen Bullied, Outed As Bisexual Takes His Life](#)
- [Boy, 13, Dies 9 Days After Moreno Valley Middle School Attack](#)

## **Ava Hawkes**

---

**From:** Ann Marie Banfield <banfieldannmarie@gmail.com>  
**Sent:** Tuesday, April 20, 2021 10:16 AM  
**To:** Ava Hawkes  
**Subject:** Testimony for HB 140

My apologies for the inability to connect with the Committee this morning. I thank you for your thoughtful consideration on my testimony :

Honorable Members of the Senate Education Committee:

My name is Ann Marie Banfield and I am an advocate for parental rights and academic excellence in education. I am here today to testify in support of HB 140.

HB 140 would create a private right of action for bullying and cyberbullying.

I was in front of this committee several years ago when the anti-bullying legislation was passed. Unfortunately at that time, many of us felt it didn't go far enough. Today I hear from parents who are still trying to get their school administrators to act upon the bullying that continues to exist.

For instance parents and a representative from the NAACP contacted me a couple of years ago regarding a case in Hampton. Their daughter, who was bullied at school for several years, ended up filing a complaint with the Federal Department of Education's Office for Civil Rights. In this case, the parents ended up removing their child from the school after several years of inaction. <https://apnews.com/article/55d8802c5eef40c180bd62f3c6abf276>

Laws and stories from students have certainly raised awareness. Depending on what school your child attends, some students are seeing action. But for other children, many remain frustrated by the lack of action.

The current law has no teeth. If you don't have highly motivated administrators, some of these cases are being swept under the rug.

RSA 193-F:7 is the section that gives immunity to school districts and employees for "good faith conduct arising from or pertaining to the reporting, investigation, findings, recommended response, or implementation of a recommended response under this chapter."

Section 9 of the law explicitly states that the statute creates no private right of action for a student who is harmed because the authorities don't follow the law and fail to protect the student from bullying.

The recent case of *Gauthier v. Manchester School District*, 168 N.H. 143 (2015) demonstrates how useless this law is. A female student was assaulted on a school bus. The school principal failed to notify the student's parents as required by the law. Eleven days later, the young bully assaulted the female student again in the cafeteria, this time causing injuries which required hospital treatment. The mother of the injured student sued the School District for failing to follow the law to protect her child, but the case was dismissed due to the immunity section of the law. (See link below)

Testimony on HB140 will identify those who advocate for the student and those who advocate for a corrupt institution. No one is advocating for holding anyone responsible if they do not meet the threshold of being grossly negligent or show willful misconduct. If we cannot allow for parents to hold school administrators accountable for those actions, what is the alternative? To do nothing? Because nothing is allowing for children to be harmed.

There needs to be an avenue where parents can hold responsible, those individuals who demonstrate gross negligence or willful misconduct. To oppose this much-needed correction to the current law would put more children in danger. For these reasons I ask you to support HB 140

Ann Marie Banfield  
Hampton, NH  
603-714-5814

## Ava Hawkes

---

**From:** Shannon Boo <bouchardshannon92@gmail.com>  
**Sent:** Tuesday, April 20, 2021 10:39 AM  
**To:** Ava Hawkes  
**Subject:** My daughter was bullied from Kindergarten on and I thought it would stop it was only on the bus and I reported it so I figured my daughter was just a very sensitive child and it wasn't that bad I was reassured over and over by the teacher at her IEP me...

My daughter was bullied from Kindergarten on and I thought it would stop it was only on the bus and I reported it so I figured my daughter was just a very sensitive child and it wasn't that bad I was reassured over and over by the teacher at her IEP meetings and I was assured by the bus company that there were video recordings on the bus and they handled all acts of behavior and would be keeping a close eye on my daughter. I trusted this school immensely as I knew them from educating my older sons 10 years previously though they were not special education. I felt they were keeping an extra eye on my disabled sensitive sweet daughter. Meanwhile she was enduring harassment and bullying everyday. They were saying and writing mean things. They would send her home with special education reports on the bus instead of mailing them home. These reports would be opened when I got them because students on the bus were opening these private notes and reading them, then laughing at her

As I was researching I have found out that,

This is the most common form of bullying. This often starts in elementary school and has its peak in middle school. This is exactly the course my daughter experienced with our school district that I had loved and trusted, I had been a student with them also. They would make her feel excluded and humiliated. This was often carried out by a boy on the bus and others would then join in. For me it was hard to recognize. I was being constantly assured that it was being handled. This boy before the start of middle school had the whole school bus laughing at her because I volunteered at the school and I had got a very short haircut. This boy on the bus and in the classroom started telling everyone that her mom was really a man. I spoke with the teacher never thinking it was really picking away at my daughter's self esteem and causing tremendous stress on her. This seemed silly yet to my daughter it was mean and harassment causing her to withdraw socially and not want to attend school. My daughter has been missing so many days her entire career for illnesses. I kept taking her to see our pediatrician. The school during IEP meetings made it seem as if I was the cause of her missing school and could even be charged with truancy. I even had all the pediatrician notes that I was providing them. On the playground the bullying was so bad that they ripped her hair out with only the teachers having the bully stand at the wall for the rest of recess. I was never informed of the incident and learned months later from my daughter's childhood friend when she came over. I prayed these kids would stop now she was in Middle school. With the combined towns in my district and the anti bullying program they talked about it would not be tolerated. The behavior did not stop and because of my own disability I couldn't drive her to and from school. The boy was suspended off the bus a few times I learned through my daughter. My daughter learned to keep quiet even (teachers) seemed irritated if she told. He would pinch shove and just be downright awful. I would speak frequently to the head of the bus company. I was assured they had videos though I was not allowed to view. They promised it would not be tolerated they would take care of it. One of the children kids on the bus lived across the street from us and joined in with the bully and teased she had to go on the small bus. They tortured her with this information. Middle school around May before her IEP renewal meeting she told me no more learning center. During this meeting I told administration and teachers, guidance that she was being bullied because of entering into a classroom labeled sped in a different section of the school. They replied it had always been like this. It had always been. separate sign labeled SPED. Which they referred to as learning center. It was horrible for her being called dumb, stupid, and the r word with hand gestures to match. She. I called her guidance counselor said she had seen and heard this and would be handling it. I refused to make her go back into accessing learning center I was told it was the only way to access special education they told me it was state law and the only way with an IEP she could get special education. The only thing they could do was put her on a 504 plan. I agreed disgruntled though but I wanted the bullying to stop and she was adamant about not doing a learning center after the 6th grade. Unfortunately she told me that upon giving her teacher a copy of her new 504 plan they made her take the plan to her teacher. The teacher looked at the teacher across the hall and loudly after looking at it responded "oh great we have another one". My daughter

never telling me this yet feeling humiliated by her own teacher because of her disability. My daughter though keeping it bottled up inside. Seventh grade 504 plan did nothing to help her and she was struggling. I requested her to be reevaluated for special education. My daughter again qualified. Her new evaluations were done. They showed a complete spin on what they had been the year before. My daughter it said was in desperate need for help she was emotionally losing her will to do school. My child had elevated high anxiety and low self esteem. The promise was made that if any bullying or harassment was done that it would immediately be rectified and I could be assured that accessing learning center she would not be bullied. They assured me how serious they took bullying. Starting eighth grade and on September 2 I called and spoke with her guidance counselor who reported it has been brought to her attention it. My daughter was then called to guidance over the loud speaker along with the children doing the bullying she was made to confront the bully's in a peer mediation. This caused the bullying to become even worse so she decided to just endure because speaking up was making it so much worse. My daughter does not want to do push out education to the resource room in the new district that we changed to following the MEH law. I don't blame her look what happened to her the last time she was made to do learning center and be pushed out from general Ed.

Children with disabilities are two to three times more likely to be bullied than nondisabled children. This form of bullying can be especially dangerous because victims may be defenseless against the perpetrators and may have a harder time communicating about the bullying to others.

This is very true for my daughter as her disability was a severe speech disorder. Made this hard for her to get across to teacher what was happening. Even if she spoke up or cried it was kept from me and she never told me again for fear I would call and it would be even worse. I expected the school district and bus company to protect her. My daughter was feeling depression, and anxiety. This was only ever happening on school days. My daughter was happy and her normal self on non school days. She was never sick, I brought this up during an iep meeting and again I was promised they would see if the bullying or something was going on. I learned that summer during her renewal to go on to high school because she attended the meeting telling them NO learning center. My daughter would dissolve into tears that day and break down in my arms telling me what she had really been enduring. I had enough. I decided to go before the school board which was first denied by my superintendent until the disability right center helped me get them to allow me to go before my school board. I wanted to find a new district with new teachers and students. After my school board met they decided in my favor. I was then met with a refusal from the two closest districts. The one district seeming to be willing to accept her only to deny her after receiving her special education records. The only reason given to me was Covid as the reason. Did not make sense as I had spoken with the district's superintendent and had agreed to stay remote till all residents were back in the building. I soon found out that the MEH law does not really help these students and parents as it was intended. The district farthest from us has recently accepted her enrollment. We have recently had another iep meeting with this new district who again says special education can only be accessed by being pushed out to a resource room. My daughter refuses and is now only remote because they will not work with her trauma and do a inclusive individual special education. They have rescheduled for another iep meeting hoping they will be able to talk her into accepting the push out special education in a resource room. All she wants is help with staying in regular Ed classroom and not have to relive the trauma of before. My daughter now suffers from

- Depression
- Anxiety over and desire to avoid settings in which bullying may occur
- Lower grades than non-bullied peers
- Suicidal thoughts and feeling .
- Self harm in the way of cutting herself.

In her school records you can see the hardship that driving is for me with multiple sclerosis . This has been a hardship her entire school career. It is no wonder they have chose a district 35 minutes away. The new district is going to be the same push out education. The anxiety will be the same as the last. Other closer districts that are 10 minutes from my home have denied her even though there is space. The superintendents of the district has final say and there is nothing in the law that helps my family. Honestly, this all after being awarded the meh. This was supposed to have been put in place to protect the student and families in New Hampshire. It was a law that could give comfort in knowing if

harassment and bullying happen they can go to another district. We now have travel expenses. We are driving when driving long distance being handicapped is awful. The new district has the same push out special education. My family learned we are at the mercy of all superintendents in the state. Not even Frank Endulbut can help us get in the district that is 10 minutes from my home. I was denied by Steve Berwick many times to even have the right to speak to him on what has been happening to us. We are a family of one income and the other parent has to work in order to help us. Not many parents have the means to hire an attorney and these districts can get away with so much. New Hampshire children are suffering with mental health, lifetime issues, all that there parents wanted and deserve is a free appropriate public education. I am trying to get my daughter into a closer district that will give her a individual special education without pushing her out of general Ed. I have found that schools really have no accountability. No one to find out why they are really issuing denials to a public school with plenty of room. These districts tell parents No, they can use any excuse for a denial. Who is going to challenge them? Who has the money when they have high paid attorneys sitting in on IEP meetings to intimidate us? I will tell you what I think, not many. It really becomes cost effective for the districts in the long run. The districts already have high paid attorneys on staff. Why wouldn't they continue with this practice when they get away with it. Thank you for taking the time to read our story. I hope you can see what is happening in our school districts. I may be the only one speaking out and it may be hurting my child because I have.

Sincerely,  
Shannon Bouchard  
(Mom)

## Ava Hawkes

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**From:** Erica Layon  
**Sent:** Tuesday, April 20, 2021 9:55 AM  
**To:** Ava Hawkes  
**Subject:** Testimony on HB140

HB140

Thank you Madame Chair and Members of Senate Education

For the record, I am Representative Erica Layon, representing Derry and I serve on the House Education Committee.

I will note that being ugly, having crooked teeth or body odor is not a protected class, and many students have been bullied for these reasons.

Bullying comes at a large human cost. There is the loss of confidence, and loss of learning that happens frequently with bullying. When parents are aware of the bullying, they can better support their child to overcome these challenges.

Then there is physical harm to the bullied student. Students in New Hampshire have been hospitalized after bullying incidents. Some have also committed suicide.

But it gets even worse. Many school shootings are the result of a bullied child snapping. We haven't seen this extreme in New Hampshire, but it is a clear risk factor nationwide.

Laws can't solve every problem we face. Caring support from a network of teachers, administrators and parents won't solve every problem either.

What we can solve with the passage of HB140 are those rare cases where parents are denied the knowledge they need in order to support their child when they are bullied at school.

HB140 will put schools on notice that they could be held responsible for failing to appropriately deal with bullying.

Take the case of a middle school student in Nashua who was jumped twice on campus in September 2019. Other students filmed the attacks and shared them on social media, and the student and her friends continued to receive threats after the attack. The girl was uninjured in the first attack, and suffered broken ribs and a concussion in the second attack.

The school principal told the girls father that there was nothing they could do and she should fight back, or change schools.

Fight back, or change schools. That was the school's solution.

I don't know about you, but when I was a kid all of the students involved in a bullying incident that became physical would get detention at minimum. In middle school I got detention to go along with my broken wrist for defending my friend from a boy who was hitting her.

But recently, in Nashua schools, a girl was jumped from behind on video and the school decided that it was a mutual fight and there was nothing they could do.

Nothing they could do. I've heard that before. My mother heard that said about a boy who was being bullied in her former middle school. Perhaps you've heard of them. Maybe you remember the boy shot dead in a middle school computer lab in California. One child was transgendered, but that was the bully. The statute referred by the previous speaker would not have applied, had this happened in New Hampshire.

Schools need to address incidents of serious bullying, and need to keep parents informed. The threat of legal action for inaction by schools or teachers is a really good way to keep them on notice.

I would much rather our schools and teachers consider how their treatment of a bullying incident would look in the papers and court records than see victims encouraged to change schools to avoid a bully.

I would rather the schools consider how their actions will look, than hear of another student commit suicide because of bullying.

And I REALLY don't want to see a victim of bullying come down like an avenging demon on his school or classmates.

Please vote OTP on HB140 to put an angel of conscience on the shoulders of those we trust to care for our students in our schools.

Thank you.

Representative Erica Layon  
(603) 470-9464

## Ava Hawkes

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**From:** Mark MacLean <mmaclean@mvsdpride.org>  
**Sent:** Monday, April 19, 2021 6:20 PM  
**To:** Ava Hawkes  
**Subject:** HB140

Hi Ava -

I'm writing today to put forth concerns school and district administrators have in regards to HB140. Thank you in advance for sharing this email with members of the Senate Education Committee. Prior to outlining these concerns, please know that I confidently speak on behalf of all administrators, as well as the New Hampshire School Administrators Association, in stating that collectively, we want to see bullying stamped out of our schools (and society). Schools should be safe and nurturing. All schools and districts should respond to bullying in a timely, communicative, and comprehensive manner. Additionally, among the goals of these responses, districts should be putting supports in place for victims, as well as education and supports for perpetrators so that future behaviors are positively changed.

Regarding HB140, my colleagues and I have the following concerns and unanswered questions:

- Parents currently have appeal rights to the superintendent, then the school board, and finally to the State Board of Education, should they feel aggrieved. Have parents expressed concerns that these venues are not meeting their needs?
- The Buckley Amendment (aka FERPA) prohibits school personnel from disclosing certain details during a bullying investigation. For example, many administrators receive questions from families relative to the consequences of other parties involved. Due to privacy laws and confidentiality, school districts cannot reply with details to these queries. This will, at times, exacerbate parent frustrations. How does this bill hope to alleviate this issue?
- Lawsuits filed against school and district personnel may have a significant financial impact. With each suit, warranted or not, districts will have to empanel their own legal counsel in response. This will likely cost school districts thousands of dollars each time. This increased expense will be borne by district tax payers. Has there been any sort of analysis on the potential financial impact of this bill?

Thank you (again) for your time and consideration.

Best,

Mark MacLean



**Mark MacLean**  
Superintendent of Schools | SAU #46  
2020 NH Superintendent of the Year

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**Ava Hawkes**

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**From:** Israel Piedra  
**Sent:** Monday, April 19, 2021 2:18 PM  
**To:** Ruth Ward; Erin Hennessey; Jay Kahn; Denise Ricciardi; Suzanne Prentiss  
**Cc:** Ava Hawkes  
**Subject:** HB 140 - private right of action regarding student safety

Dear Committee Members:

I write in support of HB 140, which will be heard before your committee tomorrow morning.

The current statute immunizes school districts for injurious conduct that would otherwise be considered gross negligence, or even worse. HB 140 changes that only slightly -- it allows for liability in a very narrow set of cases involving egregiously wrongful conduct by the school.

In my opinion, essentially any law that immunizes entities from the consequences of their negligence is bad policy. It undermines the rule of law and incentivizes bad behavior (intentional or not). Our constitution protects the right to a jury trial and the right to a remedy for a reason: questions of liability should be decided by a jury, not by a judge barring injured persons from entering the courthouse doors.

For those reasons, I urge you to support this very narrow and common-sense modification to the current law.

I'm happy to discuss further if anyone would like to.

Thank you!

Iz

**Rep. Israel F. Piedra**  
Hillsborough - District 9

## Ava Hawkes

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**From:** Wendy Richardson <butterfly91011@yahoo.com>  
**Sent:** Monday, April 19, 2021 5:03 PM  
**To:** Ava Hawkes  
**Subject:** HB140 STOP Bullying

To All Whom it concerns and for the benefit all school children.

I would like to express my approval and support of HB140.

I am a mother of 4 children. My eldest two children attended public school for many years. Over time they experienced bullying, I wanted to believe it was a right of passage that one endures during childhood. But my husband was also a teacher. The bullying EVERYWHERE is out of control. From our society to extra curricular activities to classrooms and libraries. There is NO safe space! With social media at an all time high it also encompasses bullying and keyboard warriors.

Schools and faculty are inundated with behavioral issues and problems with no real procedure or protocol that can "fix" the issue.

I support HB140 in hopes it can help aid this problem.

Thank you for your time!

Truly,

Wendy Richardson

Sent from my iPhone

## Ava Hawkes

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**From:** Moira Ryan <army51kilo@hotmail.com>  
**Sent:** Sunday, April 25, 2021 2:38 PM  
**To:** Ava Hawkes

Dear Senate Education Committee,

One of the families with whom I consulted had their case of bullying made public in the paper. Here is one of the articles on the case:

Mr. and Mrs. Cochrane were both disappointed to learn that they had no options available to them. Fortunately, they had the ability to move their child to a private school but I have friends who state that while the times have changed, the schools have not and they continue to ostracize and allow children to be bullied. NO PARENT would put their child through this with a frivolous lawsuit. And NO PARENT who is low income would have a chance to make a meaningful change for their child because even ESAs can cover the cost of the needed specialized counseling and a new school. Parents who come to me for education advice are more often than not overly justified in their desire to effect change and have experienced horrific and disturbing experiences in schools with NO accountability on them.

As a parent, I am absolutely disgusted by the school districts claim that it is inconvenient to file a report and I wish they would say that to the faces of the Cochranes who will have to deal with after effects of this bullying for the rest of their daughter's life. A human life has to be viewed as more important than a report. If it is not, then what does that say about our state, our country?

Please support HB 140 for kids' sake.

<https://www.nhpr.org/post/hampton-schools-plan-reforms-after-family-says-racist-bullying-went-unchecked#stream/0>

Hampton Schools Plan Reforms After Family Says Racist Bullying Went Unchecked | New Hampshire Public Radio - nhpr.org

Editor's note: This is the first story in a two-part series. Here is part two . The schools in Hampton are in the midst of debate over how to handle racism

[www.nhpr.org](http://www.nhpr.org)

April 23, 2021

Madam Chair and Senate Education Committee,

My name is Moira Ryan and I had not originally planned on testifying today on HB 140. I originally came for moral support for Shannon Bouchard, who has gone through a considerable amount of grief over the past 2 years while dealing with bullying incidents in the school. I was completely horrified to hear NHSBA and a school state that this law should not be passed because it was such an inconvenience to do an investigation and file a report. This happened after another parent described how bullying lead a student to commit suicide after these actions were just too much. I was completely horrified that the inconvenience and cost of doing what I consider the absolute LEAST you can do should be a factor in dealing with bullying. This callous attitude shows EXACTLY why this law is not working.

Schools have a duty to protect and educate children. Kids are supposed to have a safe environment so they can have the best opportunity to learn. When a student is bullied, it affects their emotional and ultimately their physical well being. The kicker here is that it is avoidable. If handled properly, becoming unwell can be avoided. The lack of appreciation for this is glaring and it dehumanizes the students.

I have worked as an advocate for many different families over the years. Due to a lack of time, I can't get permission to share their exact stories. But a substitute which can reflect their struggles can be seen in movies. I mentioned the HBO series, 13 Reasons Why. This is a violent and depressing story of a girl who did not fit in, was bullied by her peers, and ultimately took her own life. The movie highlights important factors that I ask that you reflect upon. The student reaches out for help in many different ways. Her parents are too caught up in their own problems to see. Her school counselor doesn't have time for her. There is a very us (kids) vs them (adults) mentality which damages and affects the student's ability to get help. In fact, she sees her suicide and the tapes she leaves behind as a type of revenge against her bullies. People who are in pain are not necessarily thinking through all their actions. Guidance from others, especially from people who should help, is critical. A report doesn't provide that guidance and it certainly doesn't stop one student from committing acts of cruelty against another. Again, it is literally the least a school can do. Right now, schools only have to follow their bullying policy which typically consists of filing a report. MANY parents have complained that this does nothing. A good chunk pray for a better teacher next year or they move out of the district for a fresh start. Many parents feel they never get the resolution they should.

The municipal immunity law was never intended to cover anything like this for teachers. Originally, Courts continued to conclude that since a municipality derived no profit from the exercise of governmental functions performed for the public benefit, moneys raised by taxation for public use should not be diverted to payment of tort claims. Now municipalities do provide a benefit to those who work for them in terms of retirement and insurance is purchased to cover the costs of liabilities. These concepts were foreign in England and the idea of suing a municipality was new. Now it is a very different time, Schools have so many safeguards built into their policies and laws that govern them, they effectively are left to police themselves. This obviously does not work. Here is

another glaring example where schools minimize their involvement and liability but expect to be treated as though they are co-parents. Parents bear substantial responsibilities to their children and they are held responsible? Should schools not be the same? No, they should have even greater responsibility as they are not the parents and are being entrusted with the care of the children that the parents cherish. Schools are not repainting town parking lots and are playing with the well being of the students entrusted in their care. This same level of trust is put in doctors, nurses, firefighters, etc, all of whom bear greater responsibility and more accountability for their actions.

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I apologize for not having a prepared statement earlier, but I do support HB140. If doctors, nurses, firefighters and police are responsible, I see no reason why teachers should not be. Self-policing has just led to apathy and irresponsibility. It is time for schools to be accountable again.

I thank you for allowing me to submit written testimony and if I can answer any questions, please feel free to contact me.

Thank you.

Moira Ryan

# DL&G DOUGLAS, LEONARD & GARVEY, P.C.

## A T T O R N E Y S

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May 3, 2021

New Hampshire State Senate  
Education Committee  
SH Rm 103  
Concord, NH 03301

### Via email delivery

Dear Honorable Members of the Committee:

I write today as a teacher, parent, and plaintiff's attorney, to support HB140 relative to a private right of action for schools' gross negligence or willful misconduct in violation of the duties prescribed by RSA 193-F (the pupil safety and violence prevention act).

To me, deciding whether to support this bill is as simple as deciding whether you want the school to which you send your child to provide a minimal level of care for your child. If the answer is yes, you should support the bill, because requiring schools to provide a very minimal level of care, care that school professionals already know they must provide under RSA 193-F (but are not providing, in some cases), is all that this bill does.

Here is why I say this:

### **BEFORE RSA 193-F, Schools WERE, Arguably Legally Required to Provide Children Minimal Protection from Child-On-Child Abuse, under NH COMMON (Not Statutory) Law**

I hope that the committee will credit me and allow me to clear up some inaccurate legal information as it relates to this bill, because I have worked intimately with RSA 193-F. I was one of the attorneys who attempted to bring a civil action for an in-school beating suffered by a child in Gauthier v. City of Manchester, which effort failed because of the current language of RSA 193-F:9.

See, before RSA 193-F, including the “no civil action” language in RSA 193-F:9, schools were required to ensure that the children in their care were safe from brutality just as parents are required to do for children.<sup>1</sup> Common, court-made law, under the doctrine of “in loco parentis,” held that adult professionals were responsible for supervising children in school and therefore had to intervene when they saw children being abused. This is the Marquay v. Eno case. Although the facts of Marquay do not specifically involve *peer-on-peer* abuse, under the duties prescribed in Marquay, if the Supreme Court were to be presented, for example, a case where a teacher could see that a child was repeatedly being taunted, chased, and beaten by other children, in a “ganging up” on the child, to humiliate and dominate the child, the Court likely would have extended Marquay to hold that the teacher had a legal duty to step in and try to stop the abuse.

Thus *before* RSA 193-F, if a teacher deliberately *ignored* child-on-child abuse, and looked the other way, and the victimized child went on to suffer serious injury, the victimized child likely would have been able to borrow the Marquay doctrine to bring a common law civil action to remedy his/her school’s gross negligence or willful misconduct causing harm.

But enactment of RSA 193-F, while well-intended, blocked this avenue for relief under common law. RSA 193-F, while looking aggressive at RSA 193-F:4 (prescribing a number of specific duties to professionals for the prevention of peer abuse), because of its statutory authority to override common law in loco parentis doctrine actually **gave schools a statutory “legal pass” to avoid liability** which they did not have before under common law, allowing them to avoid legal liability for doing reasonable things to protect kids. The precise problem is the combination of 193-F sections 4 and 9. 193-F:4 basically dictates all of the reasonable things that an adult professional would do, and should do, in the face of bullying in school, and RSA 193-F:9 essentially erases ANY legal liability on the part of a school for refusing to do these things.<sup>2</sup>

### **HB140 Only Requires Schools to Provide Minimal, or “Not-Grossly-Negligent,” Care**

Enacting HB140, or essentially reversing RSA 193-F:9, is a balanced and equitable way to ensure that schools actually follow the bullying standard of care for children prescribed in RSA 193-F:4. HB140 presents no risk of overburdening schools with frivolous lawsuits. This is because all that HB140 would do is hold schools accountable for their “gross negligence” or “willful misconduct” in the face of bullying, which is to say the most egregious dereliction of duty in response to known bullying.

HB140 would NOT provide a cause of action against a school for a mere careless error or mistake in investigating or responding to a report of bullying. In order for a school to be found to have committed “gross negligence” or “willful misconduct” under the bill, a plaintiff child

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<sup>1</sup> Marquay v. Eno, 139 N.H. 708, 717, 662 A.2d 272, 279 (1995)(holding that schools share a special relationship with students entrusted to their care, “which imposes upon them certain duties of reasonable supervision,” limited to supervisory adults and reasonably foreseeable harms.)

<sup>2</sup> Gauthier v. Manchester Sch. Dist., 168 N.H. 143, 149, 123 A.3d 1016, 1021 (2015)(refusing to recognize a common law right of action for violation of duties prescribed by RSA 193-F:4 because doing so “would undermine the policy thus expressed by the legislature” in RSA 193-F:9, prohibiting a private right of action.”)

would have to show clear incidences of unambiguous abuse, and a school that was clearly notified of these abuses but clearly ignored the abuses or willfully permitted them to continue.

This is a high proof burden for a plaintiff, which will disincentivize plaintiff's attorneys from taking on marginal cases. Plaintiff's attorneys are almost exclusively paid on a contingency fee basis, which means they are paid nothing unless and until they recover funds for their clients. Because of the high proof bar, gross negligence cases are not only risky for the plaintiff's attorney, but require a lot of work on the plaintiff's end, which equates to an upfront investment by the attorney of tens of thousands of dollars' worth of work time, in addition to thousands of dollars in expert fees expended and litigation costs in order to advance the plaintiff's case. Given this investment risk, there is simply no incentive for a plaintiff's attorney to take on a questionable gross negligence case, even with the possibility of recoverable attorney's fees. Put plainly, I know of no plaintiff's attorney who will take on a marginal gross negligence case only because of the *possibility* of recovering attorney's fees after a costly and arduous march to trial.

Additionally, we have two statutes on the books, RSA 507:15 and RSA 507-G:4, that impose serious financial costs and penalties upon plaintiffs if they bring frivolous law suits against teachers and schools, and these statutes provide that a complicit plaintiff's attorney runs the risk of disbarment for frivolous suit.

#### **HB140 Could Only Be Used in Rare Cases of Egregious School Conduct**

Some say that local school boards and the Department of Education adequately address the problem of school negligence in protecting children from child-on-child abuse. For some savvy parents, able and willing to navigate multi-level local appeals and prosecute cases at the Department of Education and the State School Board, this may be the case, particularly where the negligence is just that, *negligence* or carelessness, and the abuses are not daily and devastating. But these parents and children are not the parents and children that *this* bill, targeted at gross negligence and willful misconduct, is intended to help.

HB140 is intended to help the children who are drowning, directly in front of the proverbial adult lifeguards at their schools, day after day in a place they are compelled to go, and who are going under. Like the case of Morgana Isenberg, who testified before this committee in support of this bill last year. She testified that her 12-year-old son was repeatedly attacked by a group of boys with the school's knowledge and the school failed to intervene. On her son's last day, he was kicked in the testicles and told that this was being done so that "someone like him" would never be able to reproduce. Her son, who spent his school year watching his adult protectors look away, went home, and took his life. This bill, addressing gross negligence and willful misconduct, could have been used to prevent *this* type of tragedy.

Because there has been some concern over the lack of definition for "gross negligence" in the current draft of the bill, and lack of specificity as to precisely what conduct would give rise to a cause of action, I have enclosed a proposed modified version of the bill. This version would incorporate the "stringent standard of fault" of "deliberate indifference," giving rise to a school's liability only with proof "that a defendant disregarded a *known or obvious* consequence of its action or inaction." Brodeur v. Claremont Sch. Dist., 626 F. Supp. 2d 195, 211 (D.N.H. 2009) This is the standard that federal courts apply to Title IX, school sexual harassment cases. The standard is described as "turning a blind eye" to abuse, failing to respond to repeated reports of

abuse, and repeatedly applying ineffective remedial measures despite knowledge of the ineffectiveness. In the enclosed proposed amendment, this standard would be applied only to school's failures to investigate and respond to reported abuses (not failures with regard to bureaucratic functions, which as a practical matter, would not support a civil action anyway for lack of provable damages).

I welcome any questions you might have with regard to the bill. Thank you.

Respectfully Submitted,

*/s/ Megan Douglass*

Megan Douglass

Enclosure

Safety and Violence Prevention; Pupil Safety Private Right of Action. RSA 193-F:9 is repealed and reenacted to read as follows:

193-F:9 Private Right of Action Permitted. Any person aggrieved as a result of gross negligence or willful misconduct in violation of ~~any provision of this chapter~~ **RSA 193 F:4** may initiate an action against a school district or chartered public school and may recover court costs and reasonable attorney's fees as the prevailing party.

***For the purposes of this chapter, 'gross negligence' means deliberate indifference.*** Nothing in this section shall supercede or replace existing rights or remedies under any other law

## Ava Hawkes

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**From:** Marissa Chase <mchase@nhaj.org>  
**Sent:** Monday, May 10, 2021 2:00 PM  
**To:** Ruth Ward; Denise Ricciardi; Erin Hennessey; Suzanne Prentiss; Jay Kahn  
**Cc:** Ava Hawkes; Glenn Cordelli; mdouglass@nhlawoffice.com  
**Subject:** HB 140 follow up  
**Attachments:** Davis Next Friend LaShonda D v Monroe County Bd of Educ.doc; HB140-Written Testimony in Support-Megan Douglass 5.3.21.pdf

Good afternoon, Senators,

I wanted to follow up with some additional information on HB 140 creating a private right of action for bullying, Megan Douglass's testimony, and our proposed amendment following a conversation we had with Senator Kahn a week ago Friday.

Feedback from legislators and those in opposition to the bill during the House and Senate hearings seemed to indicate there were questions of breadth in determining "gross negligence" in the House-passed version of HB 140 before you. To attempt to give guidance to this definition, Megan Douglass shared an idea for a definition in her testimony sent to you May 3.

It is our position that the proposed amendment would not change how HB 140 would be used in practice, and that the Courts would likely follow in this direction with or without the proposed amendment anyway. It was our hope that with some added definitional guidance, those with questions or in opposition to the original bill might feel differently.

### **How we arrived at "deliberate indifference":**

Title IX says -

"[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." 20 U.S.C. § 1681(a).

In Davis Next Friend LaShonda D. v. Monroe Cty. Bd. of Educ., 526 U.S. 629, 649-50, 119 S. Ct. 1661, 1674, 143 L. Ed. 2d 839 (1999), US Supreme Court asked itself - **does the above Title IX language mean that a student can sue a school for its failure to remediate student on student sexual harassment causing her harm?**

The Supreme Court said yes, under Title IX, but only if the student can show:

"1) the school district must have exercised substantial control over both the harasser and the context in which the harassment occurred; 2) the plaintiff must have suffered harassment that is so severe, pervasive, and objectively offensive that it can be said to have deprived the plaintiff of access to the educational opportunities or benefits provided by the school district; 3) the school district must have had actual knowledge of the harassment, 4) the school district must have acted with deliberate indifference to the harassment, meaning that the school's response to the harassment was clearly unreasonable in light of the known circumstances; 5) the school district's deliberate indifference must have subjected the plaintiff to harassment, i.e., caused the plaintiff to undergo harassment or made the plaintiff liable or vulnerable to it."

The highlighted 4<sup>th</sup> element is the important mental state element in the term "gross negligence". The elements in 1-3 are foundational, and the 5th is simply the causation element which is included in every prima facie case, for every cause of action.

The goal with the proposed amendment included in Megan's testimony was to instruct New Hampshire courts as to what legislators mean by including "gross negligence" as the bar in 193-F should HB 140 pass, so the courts would follow the law as legislators intend. So, we suggested "gross negligence" could be defined as "deliberate indifference," to signal to the Court that it should apply the Davis test and that "gross negligence" with "deliberate indifference" means "clearly unreasonable in light of the known circumstances." This is still a high bar, exactly in line with the House-passed version of HB 140 - but it is spelled out more clearly.

I hope this adds clarity and not the exact opposite. If you have any questions, please don't hesitate to call me on my cell: (603) 854-9330.

NHAJ is in strong support of HB 140 with or without the amendment in Megan's testimony - again, it was our hope that by adding a definition, it might help the bill gain a broader base of support. We thank Rep. Cordelli for all his work on this bill and for continuing to push for this needed change.

Thank you very much for your time and consideration.

Sincerely,  
Marissa

**Marissa Chase**  
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Concord, NH 03301  
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April 25, 2021

Madam Chair and Senate Education Committee Members:

I am writing to you regarding HB 140, relative to private rights of action regarding pupil safety.

It is my understanding that Kim Llavalle, Matt Southerton, and Scott Perron testified before the Senate Education committee and essentially stated that the current investigation requirements for bullying were both inconvenient and expensive.

The three (3) people who gave that testimony are the exact reason **why this bill should be passed.**

Representative Victoria Sullivan had a child who attended The Founders Academy (TFA). While there, Ms. Sullivan received numerous complaints from parents regarding instances of bullying. In an attempt to support and help, she spoke with the NH DOE and NH State Board of Education.

The NH DOE conducted a partial investigation. (*See results attached*). Not only was TFA not compliant with the very minimal bullying standards, but they were not interested in stopping the bullying. A guidance counselor tried to stop the very open and persistent bullying (signs were being placed on lockers and other students were threatened. One student had hot soup poured over her).

Not only did TFA not follow a very minimal standard, but TFA also allowed the bullying to continue on.

In addition to this, TFA has a history of issues with discriminatory practices. TFA was asking students with IEPs and 504s to identify themselves on applications and then failing to follow IEPs.

Educators bullied students with IEPs by humiliating and belittling them for needing accommodations in front of their peers.

- Office of Civil Rights (OCR) complaints were filed.
- NH DOE complaints were filed. Unfortunately, nothing was done.
- One student ended up being hospitalized at Hampstead Hospital due to persistent bullying.

TFA is the reason that laws like HB 140 need to be in place. There should be no free passes for the anguish of children.

If we truly are an equal society, then one person or group can not cause the torture and mental anguish of another without receiving the consequences of those actions.

And incidentally, Matt Southerton is a perpetrator. He has repeatedly targeted individuals:

- Victoria Sullivan and Patrice Benard when they tried to be active at Founders and tried to get the bullying addressed.
- Parents have been known to be victims of his stalking, verbal abuse, and offensive behaviors.

If we let the bullies win if we let them bully our kids, what does that say about us?

I ask you to vote yes to support HB 140.

Thank you,  
Tracy Walbridge  
NH

*Attached: NH DOE Report of Investigation dated September 13, 2018*

**New Hampshire Department of Education**

***Report of Investigation Re: Founders Academy***

**PRIVILEGED AND CONFIDENTIAL**

*The information contained in this report is CONFIDENTIAL and exempt from the provisions of RSA 91-A. See also Murray v. State Police, 154 N.H. 579 (2006).*

***\*\*Andrew Cline, Board Chair and Frank Edleblut, Commissioner of the Department of Education, are recused from this investigation\*\****

Licensee: The Founders Academy (represented by Attorney Dean B. Eggert & Attorney Dan Courter, of Wadleigh, Starr & Peters, PLLC)  
Date License was Issued: July 13, 2013  
Board Member Investigator: Ann Lane  
DOE Investigators: Diana E. Fenton, Esq. and Richard Farrell  
Date of Report: September 13, 2018

**REPORT OF INVESTIGATION**

**I. Relevant Background and Origin and Nature of Complaint:**

By way of relevant background, Founders Academy is a public chartered school located in Manchester, which provides education for New Hampshire children in grades 6-12. The State Board of Education granted the charter for Founders Academy in July of 2013.<sup>1</sup> The Founders Academy provides a classical education through a curriculum of classical studies to develop leadership abilities in its students.

Beginning on or about August of 2017, the Department of Education began to receive complaints and concerns from parents and staff about Founders Academy. Specifically, there were concerns about a lack of a Parent Steering Committee, substantive changes to the curriculum, specifically the elimination of Saxon math, alleged violations of the Right-to-Know law,<sup>2</sup> unrest and high turnover on the Board of Trustees, and general mismanagement of the school by Maureen Mooney and Kim LaVallee, the Dean and Assistant Dean, respectively.

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<sup>1</sup> The charter for the Founders Academy was up for renewal in July of 2018. *See generally RSA 194-B:3, III* (initial charter is valid for period of 5 years). However, the Department of Education sought and received a 6 month extension from the Board of Education for the renewal process. Therefore, the charter renewal for the Founders Academy is currently scheduled for December of 2018.

<sup>2</sup> The New Hampshire Right-to-Know law is governed by RSA 91-A.

On or about April of 2018, the State Board of Education, pursuant to its authority in RSA 186:5<sup>3</sup> initiated an order of formal investigation of Founders Academy to determine if the school had engaged or was engaging in actions or inactions which were in violation of its charter. Specifically, the formal order of investigation encompassed the following areas:

- Board of Governance
- Curriculum
- Administration Leadership
- Parent Involvement
- Financial Disclosure
- Health & Safety—Bullying
- Policy & Procedures
- Staffing
- Enrollment

During the investigation, additional areas of concern were identified. Specifically, a failure to be in compliance with the Safe School Zone law, RSA 193-D, violations of Title IX, and the management of IEP and 504 plans for special education.

## **II. Sources of Information:**

Pursuant to this investigation, the following people were interviewed regarding their concerns about Founders Academy:<sup>4</sup>

- Bree Goodrish-Bundy, current English teacher
- Robin Small, former English teacher
- Meghan Murphy, Student Services Director
- Mike Gaumont, current History teacher/Faculty representative to the Board
- Cassie Hayes, Director of Faculty
- Sean Thomas, former Board Member
- Richard Hyotte, former Chairman of the Board
- Bridget Hyotte, former Director of Admissions
- Renee Williams, former school counselor

<sup>3</sup> RSA 186:5 provides in relevant part as follows: "The state board shall have the same powers of management, supervision, and direction over all public schools in this state as the directors of a business corporation have over its business, except as otherwise limited by law. . . . It shall be the duty of school boards and employees of school districts to comply with the rules and regulations of the state board."

<sup>4</sup> It is important to note that on or about February of 2018, in anticipation of the charter renewal process, a Facebook post message was sent out to the Founders Academy community with a request to contact the Department of Education to express support for the school. In response to that post, the Department did receive numerous emails/letters which supported the school. Those documents are available upon request.

- Victoria Sullivan, parent of student/member of the House of Representative
- Patrice Benard, parent
- Maureen Mooney, Dean
- Kim LaVallee, Assistant Dean
- Virginia Nichols, current Math teacher
- Dr. Kenneth Stanton, former Math teacher
- Colleen McInnis, current guidance counselor (interviewed as part of bullying investigation at Founders Academy, but information is relevant to current investigation)
- Kathleen Barlow, former French teacher
- Chris Kline, current History teacher
- Tina Bento, former staff<sup>5</sup>

### **III. State Board Authority to Revoke Charter and Teacher Credential:**

The State Board of Education has two avenues by which it can undertake action against Founders Academy: charter revocation, pursuant to RSA 194-B:16, and teacher credential revocation, pursuant to New Hampshire Administrative Rule Ed 510<sup>6</sup>. RSA 194-B:16 provides, in relevant part, as follows:

- I. Written petition to the state board to revoke a school's charter may be requested by the parent of any pupil currently attending that chartered public school, or by the school board of a host or receiving school district.
- II. After reasonable notice has been provided to all affected parties, the state board may revoke a school's charter prior to the expiration of its term under the following circumstances:
  - (a) The school commits a material violation of any of the conditions, standards, or procedures set forth in its charter application and contract.
  - (b) The school fails to meet generally accepted standards for fiscal management.
  - (c) The school significantly violates the law.

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<sup>5</sup> The following people were contacted but never returned the investigator's call: Jackie Efraimson, Andrew Croteau, Jen Fortier, Mike and Jules Hammer, Joelle Henry, Michelee Matthieu, Kevin Ahern, and Kathleen Barlow. Kylene Normandin did return Richard Farrell's call but stated that she felt that it was a conflict of interest for her to speak on this investigation since she has started a new charter school in Manchester. Deb Waite was also contacted but her husband unexpectedly passed away during the time in which Richard Farrell was trying to contact her, therefore, an interview with Ms. Waite never came to fruition.

<sup>6</sup> Maureen Mooney received a Statement of Eligibility (SoE) to teach social studies to grades 5-12, but never received a credential. Kim LaVallee does not have a teaching credential. Therefore the provisions of N.H. Admin. Rule Ed are inapplicable.

- (d) The school makes a material misrepresentation in its application or contract application.
- (e) The school becomes insolvent or financially unstable.
- III. Before revoking a school's charter, the state board shall consult with the school board and the board of trustees on the development and implementation of a remedial plan.
- IV. The state board may place a chartered public school on probationary status for up to one year to allow the implementation of a remedial plan, after which, if the plan is unsuccessful, the charter shall be revoked.
- V. Nothing contained in this section shall prevent the state board from immediately revoking a school's charter in circumstances posing extraordinary risk of harm to pupils.
- VI. By the end of its final contract year, the chartered public school shall meet or exceed the objective academic test results or standards and goals as set forth in its application. If the school does not meet these results or standards and goals, it shall not be eligible for renewal of its charter. . . .

Administrative Rule NH Ed 318.14 further provides as follows:

- (a) A charter shall be revoked for any of the reasons listed in RSA 194-B:16, II, or if the board of trustees fails to cooperate in the development of a remedial plan under RSA 194-B:16, III. If the commissioner makes a recommendation to revoke a charter, it shall give the trustees at least 90 days notice of its intent. Revocation shall occur only after notice and opportunity for a hearing as provided under RSA 541-A:31. The hearing shall be conducted in accordance with Ed 200.
- (b) A charter shall be withdrawn if the board of trustees fails to submit a progress report under RSA 194-B:3, IX.
- (c) The charter shall be withdrawn if a progress report is filed but fails to:
  - (1) Specify which provisions of RSA 194-B are delaying the opening of the charter school; or
  - (2) Provide a remedial plan for the school to overcome any obstacles.

It is also worth noting that RSA 194-B:17, V, provides that "[t]he state board shall develop procedures and guidelines for revocation and renewal of a school's charter." It is unclear whether the administrative provision set forth above was intended to meet that

statutory mandate<sup>7</sup>. Other than Ed 318.14, the Department is unaware whether the Board has ever developed any such document as it relates to the revocation of a charter.

#### **IV. Summary Conclusion:**

In general, the teachers, parents, board members, and administration of Founders Academy believe in the mission of the school and the underlying charter. It is important to note that no one who was interviewed expressed a desire for the school to close or for the charter to be revoked by the State Board of Education. In large part, the people interviewed felt that Founders Academy continues to have great potential, but that some serious changes in the administration and management of the school must occur in order for the school to reach its full potential.

The general crux of frustration that people expressed stemmed from what was believed to be mismanagement by Dean Mooney and Assistant Dean LaVallee. What was heard repeatedly during this investigation was that Dean Mooney's lack of experience as an educator and lack of experience working in an educational setting had adverse effects on the school which was felt by all levels of the school community.

In speaking with Dean Mooney and Assistant Dean LaVallee, it became clear that Founders Academy was started with the best of intentions and they are both incredibly passionate about the school. However, the business model of the school contained some inherent flaws. One of these flaws was that there was simply not enough staff to fulfill all the necessary administrative roles. As such, Dean Mooney and Assistant Dean LaVallee took on a multitude of roles which they may or may not have been qualified for and "spread themselves too thin" thereby, being ineffective in all their roles. However, they both stated that there were simply not enough financial resources at the opening of the school to hire more administrators to fill these roles. As such, they were left to undertake all of these tasks themselves in order to get the school off the ground. Additionally, had either of them had relevant experience in an educational setting, there were issues which may have been identified at the inception of the school and arguably, would have been dealt with in a more appropriate manner.

An overarching area of concern is the applicable law which governs charter schools. RSA 194-B:1-a, V explicitly states that the purpose of the charter school law is to "[e]xempt charter schools from state statutes and rules, other than where specified, to provide innovative learning and teaching in a unique environment." This statutory provision is reinforced by RSA 194-B:3, I(a) which provides as follows:

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<sup>7</sup> RSA 194-B:17 does not invoke the rulemaking authority pursuant to RSA 541-A, therefore there is a strong argument that Ed 318.14 does not fulfill the statutory requirement of RSA 194-B:17, V which utilizes the mandatory term "shall".

Except as expressly provided in this chapter, including but not limited to RSA 194-B:8, charter schools shall be fully exempt from state laws and rules which otherwise apply to public or nonpublic schools, or local school boards or districts. Notwithstanding the foregoing, charter schools shall have all the rights and privileges of other public schools.

These statutory provisions, in essence, create a shelter of protection for charter schools, which are public schools, but prevent charter schools from having to be in compliance with the laws that are applicable to other public schools in this state. This legislative loophole becomes strikingly clear with regards to Founders Academy's failure to be in compliance with RSA 193-D, Safe School Zones, as described in detail below. In short, there are many provisions which apply to public schools, but unless are explicitly stated in the law, are not equally applicable to charter schools. However, given that charter schools are public schools, there is a strong argument to be made that many, if not all of the statutory provisions should be equally applicable to charter schools. It is recommended that the State Board seek a possible legislative change to address this concern.

**V. Identified Areas of Concern:**

*Curriculum—Saxon Math:*

Upon the opening of Founders Academy, the school utilized Saxon math as its sole math curriculum. By way of relevant background, Saxon math is a teaching method for the incremental learning of mathematics. It involves teaching a new mathematical concept every day and constantly reviewing old concepts. The charter for Founders Academy did not specify that it would utilize Saxon math. Rather, the charter states that

[t]he Common Core State Standards will serve as the framework to develop a curriculum. The curriculum will ensure that all students will achieve or exceed competency expectations for grade levels and required courses as they progress toward college and career readiness.

Coursework will include the arts and sciences organized for coherence around identified domains of historical development beginning with ancient civilizations and ending with modern times. For example, Algebra will be taught both as a course where students learn a process of mathematical thinking to solve relevant problems, and, in connection with other coursework or interdisciplinary projects, where students learn how mathematics in successive periods of time was constructed.

While the use of Saxon math is not explicitly stated in the charter, Assistant Dean LaVallee stated that she discussed the use of Saxon math when she was doing community outreach in order to create support for the creation of Founders Academy, in part because it was a draw to home-school parents. Therefore, whether explicitly or implicitly, the founders of the school lead some parents to believe that Saxon math was part of the foundation of the teaching ideals of the school. In particular, Patrice Benard and Victoria Sullivan, who are both huge proponents of the program, were under the distinct impression that Saxon math would be exclusively utilized.

According to Dr. Stanton, who taught math at Founders Academy, newer students were struggling with Saxon math and current students were beginning to struggle as they got into higher mathematical concepts. Assistant Dean LaVallee stated that the fundamental problem of utilizing Saxon math was that the program was designed to be taught every day, however, that did not comport with the block scheduling at Founders Academy since math is taught every other day.<sup>8</sup>

To further highlight the issue, a group of students, who had tested proficient<sup>9</sup> in math at Founders Academy, transferred to Memorial High School for the 2017-18 academic year. Upon entering their freshman year, these students took a math assessment and all of them failed. The highest test score of this group of students was 35%. The math teacher from Memorial High School who administered the test to the students wrote the following email regarding the results:

I just wanted to give you an update on those placement exams. The scores for the five students that took the exam are: 6%, 8%, 11%, 34%, and 35%. More important than the scores and the issue of correct/incorrect answers, is the work produced. Most of the test could not even be answered by the students, and the ones that were answered...the methods were like nothing I have ever seen. One thing that I do want to make clear, this is not the kids' fault or a reflection on them. I could see them boiling over with fear and anxiety. It's not the end of the world. However, they have essentially lost a year (or more) of instruction and will be very behind when they enter Memorial. My recommendation for all five students is to enroll in Algebra 1 level 2. Geometry is definitely not an option. There is a time over the course of their

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<sup>8</sup> While speculative in nature, the realization that the use of Saxon math would not work with a school schedule is arguably an area in which a leader who had experience in an educational setting would have been able to identify immediately.

<sup>9</sup> At the end of the academic year, students at Founders Academy have to take a test and students who obtain 80% or higher are deemed to have achieved "mastery" of a particular subject.

4 years here to move up and achieve at a higher level, but for now they need the basics.<sup>10</sup>

Based upon these emerging concerns, in the spring of 2016, the school began to use a hybrid model of Saxon math. In the fall of 2017, under the guidance of Dr. Stanton and Dean Mooney, and with the approval of the board, Founders Academy changed the curriculum, thereby eliminating Saxon math.<sup>11</sup>

While these changes were evolving, some concerned parents began to approach the leadership of the school, specifically Dean Mooney and Assistant Dean LaVallee, to ask if the school intended to eliminate Saxon math from the curriculum. These parents claim that they were assured by both members of the leadership team that Saxon math would remain a core foundation of the school, however, it was eliminated. Therefore, parents felt that they had been intentionally misled and that there was a significant lack of information regarding the impending change in the curriculum provided to the school community. Dean Mooney and Assistant Dean LaVallee were both surprised at the backlash of eliminating Saxon math and described it as a "nuclear bomb." Both felt that they could have done a better job communicating and discussing the change with the school community. In particular, the change was precipitated over the summer months, thereby reducing the amount of opportunity parents had to receive information and ask questions about the impending change.

Based on the timeline of this case, it would appear that this change of curriculum precipitated the stream of complaints and concerns that began to come to the Department of Education. However, it is important to reiterate that Saxon math is not part of the charter, therefore while the elimination of the program could have been addressed better, the elimination was not a violation.

Parent Steering Committee:

The charter for The Founders Academy states that:

Parental involvement is a core philosophy of the school. The school will have a well-defined parent involvement initiative through the Parent Steering Committee. The parent steering committee can have up to two representatives on the Board of Trustees and have regular attendance at their meetings by the School Director. [The

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<sup>10</sup> Dean Mooney and Assistant Dean LaVallee were aware of the email from the Manchester teacher and were aware of the test results. However, they stated that the test the students were given was a final exam in Algebra 1, thus was an unfair tool to utilize since, regardless of how the students had been taught, they would have been unprepared for that particular test.

<sup>11</sup> Rick Hyotte was on the board when the change in the math curriculum occurred and he deferred to the professionals in the mathematics department in their assessment that a new program should be utilized.

Founders Academy] believes that parents are an integral part of the school community and bring valuable input, energy and skills to the school's success.

A Parent Steering Committee will be created within the first few weeks of school. The Committee serves as the communication vehicle between the parents, the School Director and Board of Trustees.

*Page 39-40 of Charter.*

However, the Parent Steering Committee was only formed in late 2017/early 2018 after concerns were raised by the parents and brought to the attention of the Department of Education.

On May 21, 2018, in response to the State Board's order of a formal investigation into Founders Academy, Ann Lane received a letter from the Board of Founders Academy with responses to each allegation raised. In regards to the issue of the Parent Steering Committee, the letter stated as follows:

While the previous two Board Chairs did not consider the Parent Steering Committee as a first priority, the current Board of Trustees is committed to the proper operation of the Parent Steering Committee. We affirm that a Parent Steering Committee exists and is now functioning positively to support the Vision and Mission of the School.

*Page 1-2 Letter from Board of Trustees.*

*Administration:*

By way of background, Dean Maureen Mooney is an attorney who has served as a State Representative, a trustee for her high school and college, and helped to create an undergraduate program which would serve as a gateway program to law school. Dean Mooney has a Statement of Eligibility from the Department of Education, but never became a certified educator. When Dean Mooney heard about the formation of Founders Academy, she reached out and offered her skills and services to the founders. Initially Dean Mooney began her work for the school by developing curriculum, and although not a certified educator, taught history at Founders Academy for a year before being asked to take a leadership role. RSA 194-B:14, IV, provides as follows:

The teaching staff of a chartered public school shall consist of a minimum of 50 percent of teachers either New Hampshire certified or having at least 3 years of teaching experience.

Therefore, even without a teaching certificate or teaching experience, pursuant to the law, Dean Mooney was eligible to teach at Founders Academy. Upon being asked to take on a leadership role within the school, Mooney became the School Director, a position which is established pursuant to the charter. According to the charter, the following qualifications are required for this position:

- Meet all NH regulations for eligibility
- Master's Degree from an accredited university, preferred
- Minimum of 5 years teaching and/or school administration experience, preferred
- Experience with administrative duties in a school or business
- Background in high school education, preferred
- Demonstrated leadership, people management, and business management experience
- Such other qualifications as the Board may find appropriate.

While Mooney did not have a master's degree, she did receive her Master's in Education while working at Founders Academy. Mooney then morphed the position of School Director into that of Dean, which is not an established position in the charter, because she felt that the title was more fitting for a school setting. In the role of Dean, Mooney handles all issues from curriculum to student discipline to the finances of the school in addition to doing community outreach, admissions work, and fundraising.

A consistent, common theme from all people who were interviewed for this investigation was that Mooney's lack of experience in education was a detriment to her fulfilling her role as Dean of the school. It was often stated that Mooney simply made poor administrative choices based upon a lack of experience and knowing what would work and be appropriate within a school setting. One teacher described the administration as being that of a dictatorship and that Mooney is concerned only with the image of the school and her connection with the parents—not the students. Perhaps more troubling, is a report that teachers who gave their notice were subject to "retaliation" by Dean Mooney. Specifically, one teacher claimed that Dean Mooney locked her out of her email account upon receiving her resignation letter. Current teachers also felt that Dean Mooney has made it clear that current teachers should not interact with former teachers. However, Dean Mooney felt that she had provided enormous support for her teachers and has been surprised by the outcry from former teachers.

In the charter, Kimberly LaVallee is listed as one of the original founders of the school, a permanent Board Member, and Treasurer. She has since become Assistant Dean of the school, a position that is not provided for in the charter. LaVallee's professional background is in the commercial and residential real estate industry and she has previously worked on the Board of another charter school, the Academy of Science and Design.

However, it does not appear she has any formal experience in education by way of a teaching certificate or teaching experience. Upon opening the school, Assistant Dean LaVallee was involved in all facets of the school from overseeing human resources, finances, state reporting, facilities management, oversight of special education, student discipline—everything but teaching. She has recently been able to delegate some of these responsibilities to a Student Services Director and a Faculty Services Director so that now she only has oversight of the finances and manages the facility. More importantly, she no longer serves as the Special Education Liaison as that role is now handled by Megan Murphy who coordinates with the resident districts on special education issues.<sup>12</sup> At the time that Assistant Dean LaVallee served in that role, there were some unsubstantiated questions as to whether she was qualified to do so and if the IEP and 504 files and records were properly managed.

### Bullying:

The Founders Academy has a policy to address acts of bullying in accordance with RSA 193-F<sup>13</sup> While on its face the policy appears to be sufficient, the application of the policy is flawed. In accordance with the policy, investigations of bullying allegations are conducted by the Dean or designee. However, all the case of bullying are investigated and documented by Mooney herself or in one instance, the Assistant Dean. Typically, at a public school, an allegation of bullying would be investigated by the principal or designee and then the principal would determine the sanctions which could then be directly appealed to the superintendent and then ultimately, the board. The process at the Founders Academy thereby eliminates the ability to have an appeal to the Dean before having an appeal to the Board. Thus, while the policy speaks of due process, in practice, there is none. Dean Mooney and Assistant Dean LaVallee hope to implement this practice to ensure due process now since there is additional administrative staff to conduct the underlying investigations, thereby allowing Dean Mooney to serve as the first appeal.

As a practical matter, there seems to have been issues with how Dean Mooney and Assistant Dean LaVallee follow the bullying policy. Rather than following the language of the bullying policy, Founders Academy engages in a practice known as “restorative justice,” which was voted on and adopted by the Board. In one specific instance, between December 2017 and January 2018, there was an allegation of bullying between two female students. Instead of conducting an actual investigation, the Dean ordered that each student was

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<sup>12</sup> Megan Murphy was not interviewed for this report, however, it is interesting to note that she is not a credentialed educator, but does have a Master’s degree.

<sup>13</sup> RSA 193-F explicitly includes charter schools within the statutory provision. Specifically the applicable provision of the law, RSA 193-F:4, II states in relevant part, “[t]he school board of each school district and the board of trustees of a chartered public school shall, no later than 6 months after the effective date of this section, adopt a written policy prohibiting bullying and cyberbullying.”

required to routinely check-in with the Dean and guidance counselors and teachers and staff were ordered to follow the students around and observe their actions. All of this was documented by the school, but the underlying problem was never directly addressed. As such, this situation eventually expanded to include other students and ultimately resulted in a physical altercation between two students.

Furthermore, there is report that a student's locker was the subject of vandalism. Instead of undertaking a bullying investigation, Dean Mooney placed a neon sign on the student's locker stating, in essence, that this locker was not to be touched anymore. When a teacher told Dean Mooney that this was not a proper or appropriate way in which to handle the situation, she was rebuked.

Dean Mooney and Assistant Dean LaVallee are currently working on having additional opportunities for staff and faculty training which would cover topics such as how to conduct a bullying investigation.

#### Title IX:

Title IX applies to all educational programs and all aspects of a school's educational system. US Supreme Court case law has clarified that Title IX requires schools to respond appropriately to reports of sexual harassment and sexual violence against students. As such, public schools typically have a Title IX coordinator who is tasked with investigating, interviewing and reporting.<sup>14</sup> Title IX coordinators are specially trained to address issues which fall within the purview of this area of Federal law. As such, issues that qualify under Title IX, should be handled separately from instances of bullying or student misconduct. Dean Mooney has appointed herself as the Title IX coordinator, however, when asked directly, she stated that she has never had any training in Title IX investigations.

It also appears that it has been unclear within the school community who the Title IX coordinator is and how instances of sexual harassment are to be handled. For example, there was a report from a female student that another female student was engaged in sexual harassment. Namely, this student kept touching the other student and making unwanted contact. As such, this was not bullying, rather it qualified as sexual harassment. The student reported it to a new teacher who then spoke to Mike Gaumont, who is the faculty Board member. He then spoke to Rick Hyotte, who was Board Chairman at the time. Hyotte told Gaumont to bring the issue up at the next meeting. When Gaumont began to speak it quickly became clear that the information he was sharing was a FERPA violation and he was asked to stop, which he did. However, this incident is a clear example of a failure within the school

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<sup>14</sup> N.H. Administrative Rule Ed 318.15(2) requires a chartered public school to develop a policy to address sexual harassment as detailed in Ed 303.01(j), which is specific to sexual harassment. Therefore, it would appear that the provisions of Title IX are applicable to charter schools.

to have a clear chain of command and an identified Title IX coordinator to address such issues from the outset. In theory, had there been an identified Title IX coordinator, the teacher who received the initial report would have known exactly who to bring this issue to and that person would have known the proper steps to take.

When confronted with this issue, Dean Mooney initially stated that it was incumbent upon the teachers to pay attention to the policies of the school. However, upon further discussion, agreed that it was an area that she and Assistant Dean LaVallee would be sure to address in their orientation training with faculty and staff.

*Safe Schools--Failure to Have MOU:*

Pursuant to RSA 193-D:4, I (c), "[e]ach school district, in conjunction with the local law enforcement authority, shall establish a memorandum of understanding [MOU] for administering the provisions of RSA 193-D:4, I (a)-(c)." RSA 193-D:4, I (a) provides that:

Any public or private school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority. Such report shall be made by the principal to the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing.

Based upon the plain language of RSA 194-B:3, I(a), as detailed earlier in this report, which fully exempts charter schools from the state laws and rules which otherwise apply to public schools, arguably, the provisions of RSA 193-D:4 are not applicable to charter schools. However, it is worthwhile to note that the school did draft an MOU in 2016, but never fully executed the document by getting the requisite signatures. In May of 2018, however, Founders Academy did finally execute an MOU with the Manchester Police Chief.

Beginning in November of 2013, The Founders Academy was involved with police on eleven occasions. During two of these instances, the staff did not follow the process and procedures of RSA 193-D. As articulated above however, the plain language of the charter school law exempts charter schools from having to follow this statutory provision. However, given the inherent school safety issues which occur, it is certainly a "best practice" for charter schools to be required to follow this law. Similarly, charter schools would then need to train faculty and staff on the reporting requirements of the safe schools law. This is a training issue that the Dean and Assistant Dean have stated will be addressed during orientation this year.

### Failures of Curriculum:

There was a claim that, in addition to the issue of the math curriculum as set forth above, there was an issue that the curriculum at Founders Academy is insufficient to meet the state graduation requirements. Specifically, Rick Hyotte's daughter transferred to Campbell High school for 10th grade for the upcoming 2018-2019 academic year. The intent was for her to join her age appropriate class. Initially, Campbell High School did not recognize her language credits for French as being transferrable credits because they were junior high school credits. However, Campbell High School allowed her to test out, which she successfully did. Additionally, both of Hyotte's children utilized the Londonderry School District to complete a civics course. This was paid for by the Hyotte family and done so that their children would be up to speed with other 10th grade students at Campbell High School. Furthermore, both children completed a health course on VLACS for the same reason. It is important to note that at the time, Founders Academy did not offer either course, both of which are a state requirement.

Hyotte's claim then, was that Founders Academy was behind the age-appropriate grade levels in the public schools. However, this claim is only accurate when viewed as a single snapshot in time. Namely that Founders Academy was in the process of building and creating their high school curriculum as students became of age and grade level. However, they were not able to continue to do this because students are continually transferring out to attend public and non-public high schools as discussed in more detail in the section below. In theory, had these students remained at Founders Academy, they would have continued to build their program and the corresponding curriculum so that students would have remained at the appropriate age and grade level.

At the time of the writing of this report, additional concerns regarding the curriculum were raised right before the start of school regarding the schedule for the upcoming academic year. Many parents expressed concerns that health and civics were not being offered at the school. However, in speaking with Dean Mooney, she has provided documentation to show that health is offered as a half credit, physical education is offered as two half credits, and a civics course and US Government course is also provided. This appears to have been a scheduling issue rather than a curriculum deficit.

### Enrollment—Sustainability:

According to the charter, Founders Academy anticipated that the first year enrollment in September of 2013 would be up to 100 students in grades 6 and 7 and it was anticipated that approximately 100 students would join each year thereafter. The charter states that the school "will build to a maximum total enrollment of up to 650 students in grades 6-12 at full capacity. By year three, [the school] expect[s] to introduce [its] first high-school upper

classrooms, which will grow to serve students in grades 9-12.” Ultimately, Founders Academy sought to maintain a student population of 600-650 once the school attained full capacity.

In the May 21, 2018, letter from the Board of Trustees of Founders Academy in response to the formal order of investigation, the Board stated as follows:

In our minds, our Charter did not provide a guarantee that a certain number of students would enroll in the Founders Academy, but rather set forth goals to obtain in terms of student enrollment. We have strived to meet those goals but do not agree that the failure to enroll a certain number of students, within a certain timeframe, is a violation of our Charter.

In regards to the enrollment figures, the law only requires that within the application procedure that the proposed charter school include the “[m]aximum number, grade or age levels, and, as applicable, other information about pupils to be served.” RSA 194-B:3, II(e). However, there is no provision that mandates that a charter school obtain or maintain the expected enrollment projections.

According to Dean Mooney and Assistant Dean LaVallee, at the end of last year there were 315 students in the school. They project 330-350 students for the fall of the 2018-2019 academic year and 123 of those are new students.

In reality, the enrollment numbers for grades 6th, 7th and 8th appear to be steady. The original business model idea seems to have been that the enrollment numbers in these grades would continue and sustain the school through the high school years. However, this business model had two inevitable flaws: the first is that after the 8th grade, public or non-public high schools simply offer more elective courses and extra-curricular activities which seem to draw students away from Founders Academy, and second, by Assistant Dean LaVallee’s own admission, the school simply did not have the ability, capacity or the resources to accommodate an influx of 100 new students a year.

*Right-to-Know:*

It should be mentioned that the day of the interview with Dean Mooney and Assistant Dean LaVallee, the DOE received a call from Patrice Benard that the Board of Founders Academy was violating the Right-to-Know law. Specifically, in accordance with the law, the Board had recently re-negotiated the terms of Dean Mooney’s contract in non-public session. However, the Board was then moving to adopt the minutes of the non-public session and adopt the contract without public comment. Ms. Benard objected, stating that this was in violation of RSA 91-A. The Board Chair then tabled the issue until the Board could receive legal guidance on the matter. Therefore, that Right-to-Know issue is still currently pending.

Ms. Benard also raised a concern that the Board did not have a quorum in accordance with the law, but it appears that one member was simply running late, so ultimately the board did proceed in compliance with the law. Ms. Benard also claimed that the treasurer's report was provided the night before the meeting. However, in speaking with Ms. Benard, she acknowledged that this was not a violation of the law, rather, she feels that it is a bad practice.

In general terms, the school and the Board have taken steps to ensure compliance with the Right-to-Know law. Specifically, the Board received training on RSA 91-A in November of 2017 and new Board members receive a copy of the training in their packets. An electronic copy of the training is also available on the school's website. All the financial reports for the school are available online and the school will soon be posting staff salaries. All Right-to-Know requests are reviewed and responded to by Dean Mooney and Assistant Dean LaVallee personally.<sup>15</sup> When asked if faculty or staff are aware of what to do if they were to receive a Right-to-Know request, Dean Mooney and Assistant Dean LaVallee stated that they would add that to the orientation training.

Special Education:

Many of the people spoken to during the course of this investigation stated that Founders Academy is not equipped to handle students with IEPs or 504 plans. In response to those concerns and pursuant to this investigation, the Department sought to conduct an on-site monitoring of the special education programs to ensure compliance with the special education laws.<sup>16</sup> However, in response to the Department's request, the attorney representing Founders Academy sent the following response:

We question [ ] the correlation of RSA 186-C with RSA 194-B:11. Specifically, RSA 194-B:11, III(c) states that a child's "...resident district shall have the responsibility, including financial responsibility, to ensure the provision of the special education and related services in the child's IEP . . . ." The State of New Hampshire has neither elected to designate chartered public schools as local education agencies nor elected to provide any IDEA grant funding for chartered public schools.

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<sup>15</sup> Rick Hyotte recently made a Right-to-Know request to Founders Academy and received a response letter back which provided him with an estimated timeframe in which he can anticipate receiving the documents he requested. He reached out to the Department to see if the response and handling of his request was in compliance with the law. However, the Department is unable to provide individuals with legal advice or guidance.

<sup>16</sup> This monitoring was pursuant to RSA 186-C:5, III(d) which provides, "[o]n-site monitoring to further evaluate non-compliance, verify accuracy of data, assess the adequacy of the corrective action plans and their implementation, or other purposes as the department may determine . . . ."

We can conclude, therefore, that the exemptions of the chartered public school statutes apply in relation to RSA 186-C. . . . As stated above, RSA 194-B:11, III(c) clearly places the responsibility for the funding and provision of special education and related services on the shoulders of the resident district. Consistent with this statute and past Bureau guidance, it is clear that any concerns raised relative to compliance with special education requirements dictate a conversation between the responsible resident district and the Bureau, not between the Bureau and Founders Academy.

We certainly acknowledge that Founders Academy is obligated, under RSA 194-B:11, III(c) to "...cooperate with the child's resident district in the provision of the child's special education and related services." Founders Academy is deeply committed to cooperating with the resident districts of students with disabilities who are enrolled at Founders Academy in the provision of special education and related services.

Therefore, the Department was not allowed to conduct the on-site monitoring that it sought to conduct. However, the Department has continued to engage in discussion with the attorney for the school in the hopes of conducting a "modified" version of the monitoring process to address only those statutory provisions which are applicable to a chartered public school. In speaking with Attorney Eggert at the time of the writing of this report, he has retracted his position and now agrees that pursuant to RSA 21-N:4, XII, (j),<sup>17</sup> and RSA 186-C:3-a, V,<sup>18</sup> the Department does have authority to conduct a modified special education monitoring of a chartered public school. However, discussion are still ongoing to finalize and clarify what this monitoring process will entail and how it will occur.

According to Dean Mooney and Assistant Dean LaVallee, currently there are 42 students with IEPs and 504 plans and they anticipate an additional 20 students who have IEPs and 504 plans will be starting with the school for the 2018-2019 academic year.

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<sup>17</sup> RSA 21-N:4, XII, provides in relevant part that "[t]he chartered public school program officer shall: (j) Work closely with the resident school districts and chartered public schools to assure appropriate support for students with disabilities."

<sup>18</sup> RSA 186-C:3-a, V, provides in relevant part that "[t]he department of education shall monitor the operations of local school districts, regional special education centers, chartered public schools . . . for the benefit of the education of children with disabilities regarding compliance with state and federal laws regarding the education of students with disabilities."

# Voting Sheets

**Senate Education Committee**  
**EXECUTIVE SESSION RECORD**  
*2020-2021 Session*

Bill # HB 140

Hearing date: 4/20/21

Executive Session date: 5/11/21

Motion of: OTP, Amendment 1355s Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Ward, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Hennessey, VC	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPIA Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Ward, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Hennessey, VC	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Ward, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Hennessey, VC	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Kahn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Kahn

**Notes:**

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# Committee Report



FOR THE CONSENT CALENDAR

**EDUCATION**

**HB 140**, relative to private rights of action regarding pupil safety.

Ought to Pass with Amendment, Vote 5-0.

Senator Jay Kahn for the committee.

This bill creates a private right of action for bullying and cyberbullying of NH students. This bill works to ensure accountability and create a legal remedy for parents whose children have been aggrieved as a result of a school district's gross negligence or willful misconduct in cases of bullying. The committee amendment defines gross negligence as deliberate indifference.

## General Court of New Hampshire - Bill Status System

**Docket of HB140**

Docket Abbreviations

**Bill Title:** relative to private rights of action regarding pupil safety.**Official Docket of HB140.:**

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/4/2021	H	<b>Introduced</b> (in recess of) 01/06/2021 and referred to Education <b>HJ 2 P. 36</b>
2/23/2021	H	Public Hearing: 02/23/2021 09:45 am Members of the public may attend using the following link: To join the webinar: <a href="https://www.zoom.us/j/94382337363">https://www.zoom.us/j/94382337363</a> / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
3/11/2021	H	Executive Session: 03/11/2021 09:00 am Members of the public may attend using the following link: To join the webinar: <a href="https://www.zoom.us/j/95090800832">https://www.zoom.us/j/95090800832</a>
3/24/2021	H	Majority Committee Report: Ought to Pass (Vote 12-8; RC) <b>HC 18 P. 38</b>
3/24/2021	H	Minority Committee Report: Inexpedient to Legislate
4/8/2021	H	<b>Ought to Pass: MA RC 207-169 04/08/2021 HJ 6 P. 14</b>
4/13/2021	S	Introduced 04/08/2021 and Referred to Education; <b>SJ 12</b>
4/14/2021	S	Remote <b>Hearing:</b> 04/20/2021, 09:30 am; Links to join the hearing can be found in the Senate Calendar; <b>SC 20</b>
5/12/2021	S	Committee Report: Ought to Pass with Amendment <b>#2021-1425s</b> , 05/20/2021; Vote 5-0; CC; <b>SC 24</b>
5/20/2021	S	Committee Amendment <b>#2021-1425s</b> , AA, VV; 05/20/2021; <b>SJ 16</b>
5/20/2021	S	<b>Ought to Pass with Amendment 2021-1425s</b> , MA, VV; OT3rdg; 05/20/2021; <b>SJ 16</b>
6/10/2021	H	House Concurs with Senate Amendment 2021-1425s (Rep. Ladd): MA DV 203-158 06/10/2021 <b>HJ 10 P. 9</b>
7/15/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); <b>SJ 20</b>
7/15/2021	H	Enrolled (in recess of) 06/24/2021
8/3/2021	H	Signed by Governor Sununu 07/30/2021; Chapter 164; Eff: 07/30/2021

NH House

NH Senate

# Other Referrals

**Senate Inventory Checklist for Archives**

Bill Number: HB 140

Senate Committee: EDUCATION

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

**Bill Hearing Documents: {Legislative Aides}**

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

**Committee Action Documents: {Legislative Aides}**

All amendments considered in committee (including those not adopted):

- amendment # 1355s      \_\_\_\_\_ - amendment # \_\_\_\_\_
- amendment # 1425s      \_\_\_\_\_ - amendment # \_\_\_\_\_
- Executive Session Sheet
- Committee Report

**Floor Action Documents: {Clerk's Office}**

All floor amendments considered by the body during session (only if they are offered to the senate):

- \_\_\_\_\_ - amendment # \_\_\_\_\_      \_\_\_\_\_ - amendment # \_\_\_\_\_
- \_\_\_\_\_ - amendment # \_\_\_\_\_      \_\_\_\_\_ - amendment # \_\_\_\_\_

**Post Floor Action: (if applicable) {Clerk's Office}**

- \_\_\_\_\_ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- \_\_\_\_\_ Enrolled Bill Amendment(s)
- \_\_\_\_\_ Governor's Veto Message

**All available versions of the bill: {Clerk's Office}**

- \_\_\_\_\_ as amended by the senate      \_\_\_\_\_ as amended by the house
- \_\_\_\_\_ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

\_\_\_\_\_  
Committee Aide

\_\_\_\_\_  
Date

Senate Clerk's Office AK