

Milford Central School

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TO: Board of Education
FROM: Mark Place, Superintendent
RE: Briefs on Current and Upcoming Agenda Items
DATE: March 15, 2021

The attached briefs are meant to provide the Board and community information regarding current items on the Board agenda as well as upcoming items. The briefs included here contain information on:

- EXECUTIVE SESSION – ALLOWABLE TOPICS
- PUBLIC STATEMENTS REGARDING INDIVIDUAL EMPLOYEES OR STUDENTS
- UPCOMING TENURE RECOMMENDATIONS

EXECUTIVE SESSION – ALLOWABLE TOPICS

An executive session is a portion of a board meeting that is not open to the public. School boards, and other public boards, can only enter executive sessions for specific purposes.

The following are the permissible subjects for executive sessions of public board meetings in New York:

1. matters which will imperil the public safety if disclosed;
2. any matter which may disclose the identity of a law enforcement agent or informer;
3. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
4. discussions regarding proposed, pending or current litigation;
5. collective negotiations pursuant to article fourteen of the civil service law;
6. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
7. the preparation, grading or administration of examinations; and
8. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

FREQUENTLY ASKED QUESTIONS:

- Can a Board vote to go into Executive Session for “personnel matters”?
 - This phrase is commonly used as shorthand for #6 in the list above; however, it is best practice to state the entire allowable phrase in the motions and the minutes.
- If the Board is going into Executive Session for items regarding personnel issues, can it state specifically the nature of the issues?
 - This depends on whether the statement would by its nature identify a specific person. For example, in a large school district you may be able to state something such as “matters leading to the....of a school psychologist” because there may be many people in that position in many different buildings. However, in a small, rural school district there is rarely more than one person in a specific title and therefore even using the title would not be allowed because it can be deduced as to whom the motion is referring to.
- Can the Board take a vote in Executive Session on personnel matters?
 - No. The Board must vote on all matters in the public session.

PUBLIC STATEMENTS REGARDING INDIVIDUAL EMPLOYEES OR STUDENTS

The Board of Education and administration are prohibited by law from discussing any issues in public regarding individual employees or students.

FREQUENTLY ASKED QUESTIONS:

- Can the Board or Administration discuss any issues regarding individual students or employees?
 - No. Neither the Board nor administration can comment either in the affirmative or negative when issues are raised regarding individual employees or students.
 - Are there any exceptions?
 - In the event of a criminal matter, the Board President and Superintendent would work with legal counsel to make a statement.
- During public comment sessions of the Board, can the Board allow statements regarding individual employees or students?
 - No. Public comment sessions are prohibited from allowing either positive or negative comments regarding individual employees or students.
 - Why?
 - With regard to students, their personal information is protected by the Federal Education Records Protection Act (FERPA).
 - Employees are protected under Labor Law from having their private employment information discussed publicly.
- If a member of the school community wants to express their concerns or share their thoughts to the Board of Education regarding a specific student or employee, how can they do so if not allowed during public comments?
 - Members of the public can submit in writing their concerns or thoughts to the Board of Education regarding specific students or employees. This can be done either by letter or via email. The Board's email address is boe@milfordcentral.org
 - Will the Board respond to questions or comments regarding a specific student or employee?
 - The Board will acknowledge receipt of the correspondence; however, in most instances they are prohibited from responding to specific questions or comments.

UPCOMING TENURE RECOMMENDATIONS

This year twelve certificated employees will reach the end of their probationary employment period. Recommendations for their tenure will be forthcoming over the next several months. All discussions regarding tenure recommendations will occur in Executive Sessions of the Board; however, a vote on each employee's tenure will occur in public session.

FREQUENTLY ASKED QUESTIONS:

- What is a probationary period?
 - For the majority of certificated employees (teachers, LTAs, school counselors, and administrators), the first four years of employment are referred to as the probationary period. During this time, their employment can be ended at any time for any reason that is allowable by law.
- What is tenure?
 - Tenure is the advancement of a person from an employment status of probationary to permanent. Once an employee is granted tenure, the employee gains property rights to the position, and they can only be removed through a lengthy and expensive due-process hearing.
- What are the criteria for granting tenure?
 - During the final two years of the probationary period, each certificated employee must be rated at the "Effective" level or higher on their Annual Professional Performance Review (APPR) in order to be eligible to be recommended for tenure.
 - Are there any variances because of the pandemic? Yes. Because of the pandemic, school districts can review the overall performance of the employee over the four years and make its recommendation based on that review.
 - What happens if the employee's performance does not support a recommendation for tenure? The school district has two options:
 - The employee and district can enter into an agreement to extend the probationary period. This is referred to as a "Juul Agreement".
 - The Board of Education can vote to not grant tenure, and the employee's employment would be terminated at the end of their probationary period.
 - Is this considered a "negative employment action"? Yes.
 - Are there any options other than termination for the employee? Yes. It is customary to allow the employee to submit a letter of resignation instead of being terminated.

- Are there any other criteria that must be met before a recommendation of tenure is made?
 - Yes. The employee must be properly certificated with NY State prior to the end of their probationary period.
 - What happens if the employee is not properly certificated by the end of their probationary period? The school district has two options:
 1. The employee and district can enter into an agreement to extend the probationary period. This is referred to as a “Juul Agreement”.
 2. The Board of Education can vote to not grant tenure, and the employee’s employment would be terminated at the end of their probationary period.
 - Is this considered a “negative employment action”? Yes.
 - Are there any options other than termination for the employee? Yes. It is customary to allow the employee to submit a letter of resignation instead of being terminated.
- If an employee has not met both of the criteria noted above, how long before the end of their probationary period must they be notified that their tenure will not be recommended?
 - Employees must be given at least 30 days notice prior to the Board of Education meeting at which the tenure recommendation would be voted upon; however, it is common practice to notify employees 2-3 months in advance to allow them the most time possible to secure new employment.
- If all criteria have been met and the employee will be recommended for tenure, what is the rest of the process to actually grant tenure to the employee?
 - The Superintendent will transmit a letter to the Board of Education and the employee no less than 30 days prior to the Board meeting at which the Board will vote to consider the tenure recommendation.
 - The Board of Education will meet in Executive Session with the Superintendent to review the tenure recommendation of the employee. By law, no discussion regarding an employee’s tenure review can be conducted in public.
 - The vote regarding the employee’s tenure will be posted on the agenda of the Board meeting in which the vote will be taken.
 - The Board will vote in public session on the employee’s tenure.
- What if the Board and Superintendent do not agree on the granting or denial of tenure to an employee?
 - In the case of granting or denying tenure, the Board and Superintendent hold equal standing. Only upon consensus can an employee be granted tenure.