

**STATE OF MAINE  
118TH LEGISLATURE  
SECOND REGULAR AND SPECIAL SESSIONS**

**Final Report  
of the**

**COMMITTEE TO REVIEW  
THE GOVERNANCE STRUCTURE  
OF THE  
GOVERNOR BAXTER SCHOOL FOR THE DEAF**

**December 15, 1998**

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**COMMITTEE TO REVIEW THE GOVERNANCE STRUCTURE  
OF THE GOVERNOR BAXTER SCHOOL FOR THE DEAF**

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## **Governor Baxter School for the Deaf**

### **Vision Statement**

Governor Baxter School for the Deaf is a statewide community of students, parents, personnel, alumni, and other advocates. GBSD honors and respects each student as a unique and whole person.

**We dedicate ourselves to providing a diverse learning environment which will assure that each student . . .**

- is held accountable to his/her highest expectations for academic achievement and personal responsibility;
- has the opportunity to grow to his/her fullest potential intellectually, linguistically, emotionally, socially, physically, and culturally;
- is nurtured appropriately to develop a sense of respect for self and others;
- is provided the motivation and skills to make learning a life-long experience;
- is involved in and encouraged to appreciate the distinct characteristics of Deaf Culture;
- will contribute positively and successfully in his/her school, local, and global communities.

*Vision statement approved by the  
School Board of the Governor Baxter School for the Deaf on May 14, 1998*

## **Executive Summary**

In 1996, the Maine Legislature enacted a law that shifted authority to govern operations of the Governor Baxter School for the Deaf from the Maine Department of Education (DOE) to a newly-created School Board at the Baxter School. As part of that law, the Joint Standing Committee on Education and Cultural Affairs (Education Committee) was directed to establish a study committee to review the transition to the new governance structure and to report back to the Education Committee by December 15, 1998. The Education Committee established the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf (Governance Review Committee), a 20-member committee chaired by Representative Elizabeth Watson.

To begin its review, the committee familiarized itself with the current systems for governing and operating the school, including the roles of the school board, the Department of Education, the Department of Administrative and Financial Services, the Office of the Attorney General and the Department of Conservation. The committee also discussed current governance issues relating to budget and finance, personnel, legal representation, facilities and property management, and the provision of statewide outreach programs and services to deaf and hard-of-hearing children. The discussions revealed several aspects of the current governance system that make it difficult for the school to efficiently and effectively provide the best programs possible: the complexity and inflexibility of the state personnel systems, the division of authority over property management, the lack of authority for the school board to use funds to provide needed services, and the need to request state funds two school years before actual budget needs are known.

After discussing these issues among themselves and with representatives of the state departments that share governance and operational powers, the committee came to two major conclusions about governance of the school. First, that some steps can be taken within the current governance system to solve some of the school's most immediate problems. Second, that even with some tailoring, the current governance system cannot be made to fit the school board's need to effectively and efficiently govern the school. A new governance system must be created to give the school greater autonomy in managing its affairs.

## **Recommendations**

The GBSD Governance Review Committee unanimously recommends\* :

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\* Committee members Pam Brown and Aaron Rugh were absent from the meeting at which recommendations were approved. The Office of the Attorney General limited its participation on the committee to non-voting status and therefore did not participate in voting on recommendations.

**1. That the school board and the state immediately take steps available within the current personnel and budget system to address personnel needs until a redesigned governance system is in place.**

Among the most pressing personnel needs at the school are: (1) the need to offer salaries sufficient to attract and retain a qualified superintendent and principal and qualified teachers and other professional staff; (2) the ability to hire substitute teachers and other staff and to hire temporary staff to provide specialized therapeutic and clinical services; (3) the need for better training, development, recruitment and placement of teachers of the deaf and other educational personnel at the GBSD; and (4) the need for incentives for staff to develop bi-lingual competency (American Sign Language (ASL) and English). With the assistance of the Department of Administrative and Financial Services, the committee concluded that, although the school board is not able to solve these problems on its own, there are steps that can be taken within the current state system to address these needs. The committee recommends:

- A. That the school board develop and submit a supplemental budget request to the governor to increase the salary for the superintendent position to a nationally-competitive level;
- B. That the school board work with DAFS to determine whether the recruitment and retention problems experienced by the school are sufficient to justify an adjustment to salaries for the principal, teachers and other professional educational personnel to more appropriate levels;
- C. That the school board work with DAFS to designate currently-authorized positions as positions that can be used to hire temporary service providers;
- D. That the school board work with DAFS to prepare and submit a supplemental budget request to the Governor to better provide staff and funding for temporary service needs;
- E. That the Department of Education and the State Board of Education review existing certification standards for teachers of the deaf and other professional educational staff to determine whether there are more appropriate ways to measure competency in providing deaf education;
- F. That the school board work with the Department of Education to develop plans for improving preparation and development of teachers of the deaf and other professional educational personnel; and
- G. That the school board work with the Department of Administrative and Financial Services to create an incentive program to provide stipends to staff to develop the bi-lingual competency.

**2. That the budget system be revised to give the GBSD school board flexibility to move money around within its budget without legislative approval and that the board be authorized to submit a supplemental budget request to the Legislature at the beginning of the second year of each biennium.**

Under current law and practice, the budget bill enacted by the Legislature specifies the number and type of staff positions that an agency may fill, the dollars that may be spent to pay for personal services, capital expenses and all other expenses. The GBSD school board is not authorized to increase or change the authorized staff positions, even if it has sufficient funds to support the change. Nor is it authorized to use unexpended funds in the “all other” account to pay for needed personal services.

This system is particularly difficult for the Baxter School. The need for specialized personnel to provide services to its students may not be known at the time the school submits its budget to the Governor, which is almost a year before the beginning of the school year to be funded by that budget. Although there are mechanisms within the current system for receiving approval for some changes within the system, the school board feels it is appropriate and necessary for them to be able to make such changes without delay. An amendment to the law allowing for flexibility with some or all of the budget would enable the school to govern the operations of the school more effectively.

The school board also seeks specific authority to submit legislation at the beginning of the second year of the biennium to reflect changes needed for the next school year to meet the Individual Educational Program needs of Baxter School students. It is too difficult to plan 2 years ahead in a school budget without knowing how many students will attend the school, and the specific needs of those students who are designated as exceptional students under federal and state laws.

**3. That a study group be established immediately to design a more autonomous governance system for the school, that resources be dedicated to helping the school develop capacity to be more autonomous, and that legislation creating the new governance system be developed for introduction to the Second Regular Session of the 119th Legislature.**

The Governor Baxter School for the Deaf is a unique institution in Maine -- a state-funded school for the deaf and hard-of-hearing, with a statewide obligation and role to help local schools educate deaf and hard-of-hearing children and a critical role as the centerpiece of Deaf Culture in the State. To take best advantage of its unique features, the school needs a governance system and management powers that reflect the school’s unique status.

Although the committee did not have time to propose a design for this unique system, it did endorse several principles to be met by the new system:

- A school board with legitimate authority to develop policy for the school that is consistent with State and federal laws and regulations;
- Lump sum budget with flexibility to transfer money as needed;
- Personnel not subject to of the state personnel classification system;
- School board duty to negotiate directly with employee unions; and
- Employee benefits to be defined (e.g., health and retirement benefits).

The committee recommends that a group be formed immediately to define a new governance system and to help the Baxter School develop the capacity to implement a system that is more autonomous from the State than the current governance system. The group should be appointed by the Legislature, must represent all interested parties, must begin its work immediately and must report back to the Legislature by December 1, 1999.

The charge to the new committee would be to:

1. Define the basic structure of the new governance system and answer the questions: What does it mean for the school to have autonomy from state government? What are the roles and responsibilities of the school board, school administrators and state agencies? The answers to these questions will determine the extent to which the provisions in the existing Agreement for Administrative Assistance will need to renewed or renegotiated by the Department of Education and the GBSD School Board;
2. Identify the resources needed for the school board to develop the capacity to perform functions that the school would take over from state agencies, such as personnel and budget management functions. This may involve securing additional staff for the school to strengthen its personnel management capacity. If the GBSD School Board is to bargain directly with employee unions and is to address employee relations issues (e.g., grievance proceedings), the Baxter School must build the capacity to undertake these functions as well;
3. Develop a plan to address the recommendations from the Basic School Approval review and any other necessary reviews, such as a review of the residential program. The Department of Education is performing a Basic School Approval review process this year and will have results ready in January, 1999. Governance Review Committee members and members of the public stressed the need for a comprehensive review of the residential program at the school. A plan to address the results of these reviews should be developed and factored into the planning for transition to a new governance system;

4. Consult with GBSD employees and their representatives so that their interests can be taken into account in designing a new governance system. Employees have an interest in the potential for changes in salary, benefits and working conditions. Planners must take into account existing employee rights under union contracts or state law that may impact the timing or scope of change that may occur at the school;
5. Develop strategies for properly managing state-owned facilities and the natural resources of the island. What role, if any, should state agencies play in managing school property and Mackworth island? What improvements are needed in the school's physical plant, and who should make the improvements? The deed from Governor Baxter granting Mackworth Island to the State requires the island to be used and managed in a certain way. Should a state agency continue to be involved in managing the island or only in overseeing the school's compliance?;
6. Hire an impartial consultant to help the school, the Department of Education and other state agencies to redefine their roles and shift responsibilities;
7. Establish benchmarks to measure the school's progress toward a more autonomous governance system and require that the consultant, the school and the Department of Education make progress reports to interested parties, including the Legislative committee with jurisdiction over education matters. This gives interested parties an opportunity to give input on the change; and
8. Draft legislation to create the new governance system in Maine law. The legislation should be ready for submission to the Second Regular Session of the 119th Legislature, with an implementation date of July 1, 2000.

## **I. Introduction**

In 1996, legislation enacted by the Maine Legislature changed the governance structure of the Governor Baxter School for the Deaf (GBSD). Public Law 1995, chapter 676, (also known as Legislative Document 505, An Act to Implement the Recommendations of the Committee to Study the Operations of the Governor Baxter School for the Deaf), shifted the authority to administer operations of the GBSD from the Maine Department of Education (DOE) to a newly-created School Board at the Baxter School. As part of that law, the Joint Standing Committee on Education and Cultural Affairs (Education Committee) was authorized to establish a committee to review the transition to a new governance structure for the GBSD and to report back to the Education Committee by December 15, 1998 (see Appendix A).

The Education Committee held two public meetings with representatives from the DOE and the GBSD to assess the status of the transition process already underway and to review the provisions included in the current “Agreement for Administrative Assistance” signed by the Department and the Baxter School. The Education Committee established the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf (Governance Review Committee) comprised of 20 members that would be chaired by a member of the Education Committee who was appointed jointly by the Chairpersons of the Education Committee (see Appendices B and C). Pursuant to Public Law 1995, chapter 676, § 11, sub-~~§§~~ 11 and 12, the Governance Review Committee was authorized to review the new governance structure of the GBSD, including the current “Agreement for Administrative Assistance” executed between the Department and the Baxter School (see Appendix D).

The Governance Review Committee was authorized to meet four times to conduct its review of the fundamental state and education policy issues that are involved in the transition to a new governance structure for the Baxter School. Policy issues to be reviewed included, but were not limited to, the following matters: budget and finance, personnel, legal representation, facilities and property management, and the provision of statewide outreach programs and services to deaf and hard-of-hearing children. The Governance Review Committee was also authorized to present its findings and make recommendations for the provision of administrative assistance for the period beginning July 1, 1999.

Representative Elizabeth Watson was appointed to serve as chairperson of the Governance Review Committee. The Governance Review Committee was convened on August 19, 1998 at the GBSD campus on Mackworth Island. Committee staff provided a summary of the powers and duties of the key participants in the governance of the GBSD and reviewed the Agreement for Administrative Assistance between the GBSD School Board and the Department of Education. Committee members identified issues and concerns related to the following categories: role of the school board; personnel;

curriculum; educational programs and services; residential program funding; safety and security; and the role of the state (see meeting summaries in Appendix E).

The full committee met three additional times on September 9, October 21 and November 23. Committee members discussed problems, possible causes and potential solutions, reviewed the governance powers and duties of the GBSD School Board compared to the school board of a local education agency and the Board of Trustees of the Maine School for Science and Mathematics (see Appendices F and G) and considered the governance structures of comparable schools for the deaf in other states.

At its September 9th meeting, the committee established a subcommittee to find ways to meet some of the immediate personnel and budget needs of the school. Administration and Financial Services Commissioner Janet Waldron convened a group of high-level staff from her department to work with the subcommittee. Before meeting with the full subcommittee, DAFS staff met with GBSD Superintendent Roy Bishop, Business Manager Dennis Lawley, School Board members John Paddock and Jonathan Connick, and Representative Watson to clarify problems that needed to be resolved. The subcommittee then met and unanimously approved a set of recommended action steps to be taken by DAFS staff and the school to solve some immediate problems, such as the need to provide for substitute staff. The report of the subcommittee to the full review committee is found in Appendix H.

During its third meeting, the committee heard public testimony and received information from consultants under contract with the Department of Education. Dr. Doin Hicks and Dr. Gaylen Pugh, both expert in deaf education issues, worked with Commission staff to collect and analyze governance, program and budget information from other states (see Appendix I).

The final committee meeting was a work session devoted to reviewing preliminary findings and recommendations and coming to agreement on the final report to be presented to the 119th Legislature.

## **II. Background**

### **A. History of the Governor Baxter School**

The Maine School for the Deaf, predecessor of the Governor Baxter School, was created by private and special law in 1897 (see Appendix J). This school was located in Portland and governed by a 5-member Board of Trustees, appointed by the governor, with advice and consent of the Executive Council. The Executive Council was a 7-member board elected annually by the Legislature.

Governance of the school was moved from the Board of Trustees to the state Department of Health and Welfare, Bureau of Institutional Service in 1933. The Department obtained power previously held by the Board of Trustees to employ staff and determine the educational system. By 1944, the bureau had become a separate department called the Department of Institutional Service (which regulated correctional institutions, insane hospitals, children's homes and the school for the deaf), and later the Department of Mental Health and Corrections.

The Governor Baxter School for the Deaf was created in the 1950's with a gift from former Governor Percival Baxter. In 1943, Governor Baxter deeded Mackworth Island to the State to be used for state public purposes (see Appendix K). At that time, he had explained that the use of the island for children "would be especially pleasing." He donated \$625,000 to the state in 1953 to enable the state to build a school for the deaf on Mackworth Island and a bridge connecting the island to the mainland in Falmouth. The island had been granted to the state with the conditions that it be used for state public purposes, that the state maintain the animal cemetery on the island and that the island be maintained as a sanctuary for wild animals. When the new school was created, the Department of Mental Health and Corrections was in charge of governance.

In 1972, the Baxter School was placed under jurisdiction of the Department of Education, and a 1975 revision of state laws specifically gave the department power to employ staff and determine the educational program for the school. A 7-member Policy Review Board was created in 1983 to advise the commissioner and the school's superintendent on policy issues, to review development and implementation of policy by the superintendent and commissioner, to review staff recruitment, retention, promotion and evaluation and to meet with parents, students and other interested parties to solicit opinions about the school. The board was appointed by the governor.

In 1994, the Legislature created a 10-member committee to study the administrative structure, operations, and physical plant of the school and to make recommendations for improved operations and management of the school. Although the recommendation of the committee regarding governance of the school was not adopted in full, some change in governance structure did occur. A school board was created and given authority to manage the school. The Department of Education provides

administrative assistance pursuant to a written agreement, but has no authority or responsibility for operation of the school.

## **B. Current Governance of the Baxter School**

Under current law, authority over important issues affecting the Governor Baxter School for the Deaf is divided among the school board and a number of state agencies, including the Department of Education, the Department of Administrative and Financial Services, the Department of the Attorney General and the Department of Conservation.

### School Board of the Governor Baxter School for the Deaf.

The school board has 13 voting members and 2 nonvoting members, all appointed by the governor. Membership on the school board includes parents of students at the school, deaf representatives of the state's deaf community, persons with experience in deaf education, members of the general public, students who are nonvoting members and a parent of a child in the outreach program. Currently, the board meets twice a month.

By law, the school board has power to adopt policy for operation of the school, hire a superintendent, prepare an annual budget and exercise budgetary responsibility, and create, maintain and expand programs at the school. However, few of those powers are exercised without the approval, agreement or involvement of one or more state agencies (as shown by the chart in Appendix F).

### Department of Education.

The Department of Education is not directly involved in governance of the school. In contrast to its role prior to the passage of LD 505, the Department has no authority over employment of teachers and other employees or the course of study to be pursued at the school. The Department is directed by state law to provide administrative assistance to the school by reviewing and forwarding personnel and budget documents to the appropriate state agency. This assistance is given pursuant to an administrative agreement that expires June 30, 1999. The review committee is charged with recommending what, if any, administrative assistance the department should provide to the school after June 30, 1999. In addition, pursuant to the collective bargaining agreement, the Department of Education works to resolve employee grievances under the collective bargaining contract.

The Department also regulates Baxter School operations through its statewide role in setting teacher certification requirements and oversight of special education programs. The Department is the agency responsible under federal law for ensuring that schools comply with the requirements of the Individuals with Disabilities Education Act (IDEA). That is the law that requires educational agencies to provide deaf and hard-of-hearing children with a "free appropriate public education" in the "least restrictive environment."

### Department of Administrative and Financial Services.

The Department of Administrative and Financial Services provides personnel, purchasing, employee benefit, budgetary and other administrative services to all state executive agencies.

- Bureau of Human Resources (BHR) -- The employees of GBSD are state employees, subject to the Civil Service laws, the state job classification system and the state compensation plan. This means that the BHR categorizes, evaluates and assigns each position to a pay range in the state compensation system. This classification and compensation system is the state's attempt to ensure consistency in pay across state agencies. If an agency needs to fill a type of position that is not included in the classification system, the agency must work with the BHR to classify and assign that position to a pay range. The BHR is also the bureau that works with an agency to determine whether a recruitment/retention stipend is warranted.

This bureau also screens applicants for jobs that are within the competitive hiring class of employees, such as maintenance staff. For these jobs, the agency must hire persons from a list of eligible candidates developed by the bureau. Most of the teachers and other professional staff at the Baxter School are not hired through the competitive process, but are hired directly by the Baxter School.

- Bureau of Employee Relations (BER) -- As with any state agency whose employees are included in the state employee collective bargaining unit, the BER negotiates the union contract on behalf of state government as the employer. This is generally not done with a specific eye to the needs of the GBSD. The BER also advises state agencies, subject to the contracts, on questions related to implementing the contract and represents state agencies in grievance arbitration, in matters before the Maine Labor Relations Board and in related court proceedings.
- Bureau of the Budget -- This bureau assists state agencies and the Governor in analyzing and preparing the state budget. The bureau also processes, oversees agency spending and establishes requirements for submission of proposed budgets.
- Bureau of General Services -- This bureau manages state property, including the grounds and buildings at the Baxter School. The bureau also includes the division that authorizes and regulates purchases and contracts entered into by state agencies.

## Department of the Attorney General

The Department of the Attorney General provides legal services to all state agencies, including the Governor Baxter School for the Deaf. Attorneys from the office represent the State in court in all actions where the State is a party. The school may request answers to specific legal questions and may use the services of the office in responding to complaints by parents under the IDEA.

## Department of Conservation

The Department of Conservation manages the island to comply with the conditions imposed in the deed granting the island to the State by Governor Baxter. The deed giving the island to the State provided that the grant was conditioned, among other things, on the State's maintaining a small animal cemetery on the island, using the island for state public purposes only, and maintaining the island and surrounding waters as a sanctuary for wild beasts and birds.

In a transfer agreement signed June 29, 1992, the Department of Education transferred responsibility for the management of the natural resources of Mackworth Island to the Department of Conservation. The agreement directs the Bureau of Public Lands to work closely with the administration of the Baxter School in exercising management of the natural resources of the island.

### **C. Problems with the Current Governance of the Baxter School**

The review committee generally agrees that the governance structure created by LD 505 has not solved the Baxter School's problems.

The people who are served by the Governor Baxter School, its administrators and staff do not feel that they have gained the control needed to properly manage the school. Although the law gives the school board authority to hire staff and manage the school, the board's exercise of that authority is hampered by its need to work through and comply with numerous state administrative laws and bureaucracies that are not designed to meet the needs of an educational institution.

At the same time, the Department of Education is uncomfortable with its diminished ability to affect the education and safety of students at the Baxter School and the educational opportunities available to all persons served by the Baxter School across the State.

Problems cited with the current structure include the following:

- Hiring of Superintendent and Principal -- The current manner of hiring the superintendent of the Baxter School has not resulted in the hiring of a permanent, qualified superintendent (see Appendix L). According to

school board members, the salary offered for the superintendent position is too low to compete for applicants on a national level. The salary for superintendent is \$55,000 and is set by the Bureau of Human Resources using the standard job evaluation methodology used to set the salary for the vast majority of state positions. Although there are methods to make “out of policy” salary adjustments to meet special recruitment or retention problems, this standard salary setting methodology does routinely consider specialized labor market conditions. The school board has the duty of selecting the superintendent and wishes to have greater discretion in determining an appropriate salary. Although the state personnel system does provide for the payment of a stipend in situations such as this, an agency that wishes to pay a so-called “recruitment/retention stipend” must provide evidence to the state Bureau of Human Resources every 2 years to continue the stipend. The GBSD board would prefer to determine the salary on its own. Recruiting and retaining a qualified school principal has suffered from similar problems.

- Substitute staff -- At the time of the review committee’s meetings, the Baxter School had no ability to hire substitute teachers or substitutes for other staff, because no positions had been established in the state personnel system. As a consequence, for example, the committee member who is an art teacher at the school has to rely on the goodwill of other teachers to cover her classes for her so that she can attend study meetings. As described below, the BHR is working with the school to create such positions. However, this is an example of how current administrative systems and their use by the GBSD board have not dealt directly with the needs of this special purpose state school.
- Interpreters -- There is not currently a position in the state personnel classification system for an interpreter, a critical component of the educational system at the Baxter School. Interpreters are needed to help hearing parents of deaf students meet with teachers and administrators, and to help hearing administrators and deaf students, staff and parents communicate.
- School Board Vacancies and Composition -- State law specifies the composition of the School Board of the Baxter School (see Appendix M). The Governor must appoint persons who meet the criteria set forth in the statute, rather than appointing persons on the basis of their general expertise or qualifications. Recent vacancies on the school board went unfilled for many months, leaving the board with barely the minimum quorum required for taking official action. In addition, some members of the review committee expressed the concern that the school board does not fully understand the needs of the deaf

community, and that more deaf members need to be appointed to the school board.

- **Teacher Qualifications** -- The GBSD faculty currently lacks a sufficient number of certified teachers who are qualified to be teachers of deaf and hard of hearing students. According to state law and regulations, GBSD must hire teachers that have met the state standards for teacher certification, including the National Teacher Examination. Baxter School officials and teachers believe that nationally-recognized standards for teachers of deaf and hard of hearing students may be more relevant than state certification standards. Many teachers at the school do not possess appropriate competencies to communicate with deaf and hard of hearing students using American Sign Language (ASL). The school board believes that to implement the bi-cultural, bi-lingual policy adopted for the GBSD, teachers must be able to achieve ASL proficiency standards in order to provide quality educational programs for GBSD students.
- **Individualized Education Program (IEP) and budget planning** -- The timing of state budget decisions does not allow planning for the needs of GBSD students. Individual education plans, required for all exceptional students by the IDEA, are developed prior to the student's placement at the GBSD and determine what staff and other services are needed for each child. If a student's IEP calls for a certain educational or therapeutic service and there is no such staff person available at the GBSD, the school must either contract for the service provider (at a higher cost) or do without -- a violation of the IDEA. Following a review of contracting practices at the school, the Internal Revenue Service found that certain individual providers who were under contract had to be formally employed by the GBSD to comply with state and federal employment and payroll requirements. The BHR is also helping the school create positions in the upcoming budget cycle to provide for necessary service providers. A budget that allowed for greater flexibility would enable the school to meet those needs without getting legislative approval.
- **Legal services** -- As a state agency, the school is required to use the legal services of the Office of the Attorney General, and may hire outside counsel only if the Attorney General consents. School board members feel that the attorneys in that office have too many responsibilities to devote primary attention to the school and that they do not receive the attention they need. Representatives of the Office of Attorney General disagree, reporting that they have spent significant amounts of time on legal matters for the school.

A second concern is the potential for a conflict of interest in situations where the Office of the Attorney General represents both the Department of Education and the school in legal matters where the two have competing interests. For example, if a parent files a complaint that Baxter school is not providing the services called for in his or her child's IEP, the Department may side with the parent against the school. In such cases, the Attorney General assigns an attorney to represent each interest, a method of resolving competing interests that has been allowed by the Maine Supreme Court in other situations. But in such cases, the school board would like to have its own legal counsel.

The purpose behind the state law requiring that all legal services be provided or approved by the Attorney General is to ensure consistency in legal services and legal arguments among state agencies, to maximize the use of state resources and to provide governmental entities with lawyers having expertise in laws relating to their jurisdictions. Where there is truly a legally recognized conflict of interest, the Office of the Attorney General does authorize the hiring of independent counsel.

- Property management -- The Governor Baxter school board does not have exclusive control of the island on which the school is situated or the buildings it occupies (see Appendix K). The island and property located on it are owned by the state and managed by a trio of entities: the Baxter School itself, the Department of Conservation (DOC) and the Bureau of General Services (BGS). When Governor Baxter granted the island to the state, he did so on condition that the island be maintained as a sanctuary for wild beasts and birds. The DOC is charged with ensuring that maintenance, and also manages the use of the perimeter of the island. The public has access to the perimeter trail. This has caused concern for the school, since there is no method to ensure that the public does not wander onto the school campus and disturb the children. Although there has been no trouble recently, in the past there were problems. There is a Baxter school staff person at the gate to the school, but no full-time DOC employee monitoring use of the island. The DOC has spent funds for maintenance and intends to do more, once land of Governor Baxter's in Colorado is sold, creating a trust fund to pay for greater maintenance efforts.

With regard to management of the grounds and buildings of the school, there is divided responsibility between the Bureau of General Services and the school. The school has some maintenance staff, but the BGS also provides services.

- Educational Program -- Many Governance Review Committee members believe that the recent change in governance structure has done nothing to alleviate concerns about the educational program at the school. Administrators, staff and school board members spend so much time and energy trying to solve immediate problems that they have been unable to dedicate time to development of curriculum and other educational matters. Among the educational program concerns remaining at the Baxter School are the following: lowered educational expectations, limited curricular offerings, lack of student assessment, residential student safety and security due to inadequate staffing levels in residence halls and lack of training for residential staff, and an insufficient number of faculty, resources and course offerings in the outreach programs.

### **III. Conclusions and Recommendations**

#### **A. Conclusions**

The committee came to two major conclusions about governance of the school: first, that some steps can be taken within the current governance system to solve some of the school's most immediate problems; and second, that even with some tailoring, the current governance system cannot be made to fit the school board's need to effectively and efficiently govern the school. A new governance system must be created to give the school greater autonomy in managing its affairs.

As explained earlier (see Background, section C), the school board feels mired in the complexity of state personnel and budgeting systems in its attempts to provide some basic services at the school. As a result of meetings between school administrators, committee members and the DAFS, several mechanisms were identified within the current systems to meet some of the school's needs. Mechanisms that do not require legislative action or union negotiations were set into motion during the course of the study and continue to be developed. Others require approval of the legislature or unions before they can be implemented. Recommendation #1 summarizes those steps that can and should be taken to make the current governance system work better for GBSD.

Even with the recommended changes, the current governance system is not flexible enough for the Baxter School to properly fulfill its responsibilities. Committee members heard information from experts in deaf education about how other states manage schools for the deaf. They also heard about other state entities with flexibility, so-called "instrumentalities of the state" such as the Maine State Retirement System, Maine School of Science and Mathematics, University of Maine System and Maine Technical College System (see Appendix N).

The committee felt that they did not have sufficient time to determine the specific structure needed by the school, and therefore made the recommendation that another group be formed to make specific recommendations (see Appendix O). However, the committee did make a recommendation calling for more immediate attention: to give greater budget flexibility to the school. The committee also set forth some general principles that must be met by the new governance structure. These are set forth in Recommendation # 3.

#### **B. Recommendations**

The GBSD Governance Review Committee unanimously recommends\* :

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\* Committee members Pam Brown and Aaron Rugh were absent from the meeting at which recommendations were approved. The Office of the Attorney General limited its participation on the committee to non-voting status and therefore did not participate in voting on recommendations.

**1. That the school board and the state immediately take steps available within the current personnel/budget system to address personnel needs before a newly designed governance system takes effect.**

As described earlier in this report, DAFS staff met with school board members, the superintendent, business manager of the Baxter School and with Governance Review Committee members to address some immediate personnel problems facing the school. The committee unanimously recommended that the following action steps be taken by school officials and DAFS staff to resolve these personnel issues:

- Recruitment and retention of qualified educational personnel -- The current manner of hiring the superintendent, principal and other professional educational personnel at the Baxter School has not resulted in the hiring of permanent, qualified leadership and constrains the hiring and retention of qualified professional educational personnel. Salaries offered for these professional positions may be set too low to compete for applicants on a national level. The school board should develop and submit a supplemental budget request for the upcoming biennium to the Governor that increases the salary range for the superintendent position. School officials should also work with the DAFS to review the applicability of the “severe recruitment / retention policy” with respect to the salary classification system in effect under the current collective bargaining agreement for the principal position, teachers of the Deaf and other appropriate professional educational personnel.
- Temporary and substitute staff -- As described earlier, the Bureau of Human Resources is working with the Baxter School to enhance the ability of school officials to hire substitute teachers, substitutes for other staff positions and temporary therapeutic and clinical service providers. The school board should continue to work with DAFS staff to designate an appropriate number of its currently-authorized positions as intermittent “project” or “limited period” positions so that the GBSD can provide therapeutic and clinical services for students in the current academic year. School officials should also work with the DAFS to prepare and submit a supplemental budget request for the upcoming biennium to the Governor that increases the full-time position headcount and provides the funds necessary to secure the number of intermittent positions necessary to provide an adequate level of temporary or substitute personnel staffing to meet the educational needs of GBSD students.
- Teacher qualifications -- Baxter School officials and teachers propose that nationally-recognized standards for teachers of Deaf and hard of hearing students may be more relevant than state certification standards, including the National Teacher Examination, in determining whether an individual is qualified to teach Deaf and hard of hearing students. According to state law and regulations, GBSD must hire teachers that have met the state standards for teacher certification. The Department of Education and State Board of

Education should conduct a review of existing certification standards for teachers of the Deaf and other professional educational personnel, and may recommend any necessary changes in the certification of teachers of the Deaf and professional educational personnel. This review should examine the participation and performance of teachers of the Deaf on the National Teacher Examination. The review should also consider alternative certification standards and practices that may be appropriate for the teachers of the Deaf and other professional educational personnel (e.g., the Council for Exceptional Children (CEC) / Council on Education of the Deaf (CED) Joint Knowledge and Skill Statements for All Beginning Teachers of Students who are Deaf or Hard of Hearing in the “Deaf and Hard of Hearing Students: Educational Service Guidelines”, National Association of State Directors of Special Education, 1994).

The school board and the Department of Education should work together with Gallaudet University, other postsecondary educational institutions for the Deaf and postsecondary educational institutions in Maine to develop a comprehensive plan that provides for the preparation and professional development of teachers of the Deaf and other professional educational personnel for the GBSD. The comprehensive plan may include the establishment of an agreement with Gallaudet University, the National Technical Institute for the Deaf or other postsecondary educational institutions for the Deaf to develop a distance-learning or outreach program for the training, development, recruitment or placement of teachers of the Deaf and other professional educational personnel who aspire to serve as administrators at the GBSD.

- Bi-lingual competencies -- The school board believes that to implement the bi-lingual, bi-cultural policy adopted for the GBSD, teachers of the Deaf and other appropriate educational personnel must be able to achieve competency in both ASL and the English language in order to provide quality educational programs and services for GBSD students. Many educators at the school do not possess appropriate bi-lingual competencies to effectively communicate with Deaf and hard of hearing students. The School Board should work with the DAFS to create an incentive program that provides a stipend to teachers of the Deaf and appropriate educational personnel for achieving ASL and English language proficiency standards established by the School Board.

**2. That the budget system be revised to give the GBSD school board flexibility to move money around within its budget without legislative approval and that the board be authorized to submit a supplemental budget request to the Legislature at the beginning of the second year of the biennium.**

Under current law and practice, the budget bill enacted by the Legislature specifies the number and type of staff positions that an agency may fill, the dollars that may be

spent to pay for personal services, capital expenses and all other expenses. The GBSD school board is not authorized to increase or change the authorized staff positions, even if it has sufficient funds to support the change. Nor is it authorized to use unexpended funds in the “all other” account to pay for needed personal services.

This system is particularly difficult for the Baxter School. The need for specialized personnel to provide services to its students may not be known at the time the school submits its budget to the Governor, which is almost a year before the beginning of the school year to be funded by that budget. Although there are mechanisms within the current system for receiving approval for some changes within the system, the school board feels it is appropriate and necessary for them to be able to make such changes without delay. An amendment to the law allowing for flexibility with some or all of the budget would enable the school to govern the operations of the school more effectively.

The school board would also like specific authority to submit legislation at the beginning of the second year of the biennium to reflect changes needed for the next school year to meet the Individual Educational Program needs of Baxter School students. It is too difficult to plan 2 years ahead in a school budget without knowing how many students will attend the school, and the specific needs of those students who are designated as exceptional students under federal and state laws.

**3. That a study group be established immediately to design a more autonomous governance system for the school, that resources be dedicated to helping the school develop capacity to be more autonomous, and that legislation creating the new governance system be developed for introduction to the Second Regular Session of the 119th Legislature.**

The Governor Baxter School for the Deaf is a unique institution in Maine -- a state-funded school for the deaf and hard-of-hearing, with a statewide obligation and role to help local schools educate deaf and hard-of-hearing children and a critical role as the centerpiece of Deaf Culture in the State. To take best advantage of its unique features, the school needs a governance system and management powers that reflect the school’s unique status.

Although the committee did not have time to propose a design for this unique system, it did endorse several principles to be met by the new governance system:

- A school board with legitimate authority to develop policy for the school that is consistent with State and federal laws and regulations;
- Lump sum budget with flexibility to transfer money as needed;
- Personnel not subject to the state personnel classification system;
- School board duty to negotiate directly with employee unions; and

- Employee benefits to be defined (e.g., health and retirement benefits).

The committee recommends that a group be formed immediately to define a new governance system and to help the Baxter School develop the capacity to implement a system that is more autonomous from the State than the current governance system. The group should be appointed by the Legislature, must represent all interested parties, must begin its work immediately and must report back to the Legislature by December 1, 1999.

The charge to the new committee would be to:

1. Define the basic structure of the new governance system and answer the questions: What does it mean for the school to have autonomy from state government? What are the roles and responsibilities of the school board, school administrators and state agencies? The answers to these questions will determine the extent to which the provisions in the existing Agreement for Administrative Assistance will need to be renewed or renegotiated by the Department of Education and the GBSD School Board;
2. Identify the resources needed for the school board to develop the capacity to perform functions that the school would take over from state agencies, such as personnel and budget management functions. This may involve securing additional staff for the school to strengthen its personnel management capacity. If the GBSD School Board is to bargain directly with employee unions and is to address employee relations issues (e.g., grievance proceedings), the Baxter School must build the capacity to undertake these functions as well;
3. Develop a plan to address the recommendations from the Basic School Approval review and any other necessary reviews, such as a review of the residential program. The Department of Education is performing a Basic School Approval review process this year and will have results ready in January, 1999. Governance Review Committee members and members of the public stressed the need for a comprehensive review of the residential program at the school. A plan to address the results of these reviews should be developed and factored into the planning for transition to a new governance system;
4. Consult with GBSD employees and their representatives so that their interests can be taken into account in designing a new governance system. Employees have an interest in the potential for changes in salary, benefits and working conditions. Planners must take into account existing employee rights under union contracts or state law that may impact the timing or scope of change that may occur at the school;
5. Develop strategies for properly managing state-owned facilities and the natural resources of the island. What role, if any, should state agencies play in managing

school property and Mackworth island? What improvements are needed in the school's physical plant, and who should make the improvements? The deed from Governor Baxter granting Mackworth Island to the State requires the island to be used and managed in a certain way. Should a state agency continue to be involved in managing the island or only in overseeing the school's compliance?;

6. Hire an impartial consultant to help the school, the Department of Education and other state agencies to redefine their roles and shift responsibilities;

7. Establish benchmarks to measure the school's progress toward a more autonomous governance system and require that the consultant, the school and the Department of Education make progress reports to interested parties, including the Legislative committee with jurisdiction over education matters. This gives interested parties an opportunity to give input on the change; and

8. Draft legislation to create the new governance system in Maine law. The legislation should be ready for submission to the Second Regular Session of the 119th Legislature, with an implementation date of July 1, 2000.

### **C. Other Proposals That Merit Further Review**

The following proposals were forwarded as potential recommendations during the review committee meetings, but were not explicitly approved by the committee at its final meeting. Three of these proposals deal with the manner in which the school board members are appointed. The final proposal addresses the governance roles and responsibilities of the school board and state agencies in managing state-owned facilities and the natural resources of Mackworth Island.

- That the Governor's appointments to the GBSD School Board should be reviewed and confirmed by the Legislature.
- That GBSD employees should be allowed to become members of the school board, with restrictions on voting if necessary to avoid a conflict of interest.
- That the law setting forth the quorum required to approve school board actions and school board votes on the budget be amended to take into account vacancies on the board.
- That the Department of Conservation formalize its relationship with GBSD School Board by meeting regularly with the board to discuss concerns.

These issues are included in the final report so that the Joint Standing Committee on Education and Cultural Affairs may consider these matters when it reviews those items that were recommended as directions to the next group that will study the re-design the governance system of the GBSD.

