

**STATE OF MAINE  
119<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION**

**Final Report  
of the**

**TASK FORCE TO REVIEW  
THE EDUCATIONAL PROGRAM AND  
THE GOVERNANCE SYSTEM  
OF THE  
GOVERNOR BAXTER SCHOOL FOR THE DEAF**

**February 2000**

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**TASK FORCE TO REVIEW THE EDUCATIONAL PROGRAM AND THE GOVERNANCE SYSTEM OF THE GOVERNOR BAXTER SCHOOL FOR THE DEAF**

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## Executive Summary

Joint Study Order H. P. 1587 was passed by the Legislature on June 5, 1999. It established the Task Force to Review the Educational Program and the Governance System of the Governor Baxter School for the Deaf (GBSD or Baxter School), a 14 member Task Force co-chaired by Senator Sharon Treat and Representative Elizabeth Watson. The duties of the Task Force were to review the efficiency and effectiveness of the educational program at the GBSD in the context of the range of alternative educational models and placements that are available in other states to deliver appropriate educational programs and services that meet the unique educational needs of children and youth who are deaf and hard-of-hearing; and if necessary:

- (1) Redefine the basic structure of the governance system, including defining the respective roles and responsibilities of the GBSD School Board, school administrators and state agencies;
- (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;
- (3) Develop a plan to address the findings and recommendations from the Department of Education's (DOE) Basic School Approval review conducted in December, 1998; and to conduct any other necessary reviews and develop a plan to address the results of these reviews;
- (4) Consult with GBSD employees and their representatives so that their interests can be taken into account in designing a new governance system;
- (5) Develop strategies for properly balancing the protection of and public access to the natural resources of the island with the need for managing the state-owned facilities under the provisions of the deed from Governor Baxter granting Mackworth Island to the State; and
- (6) Establish benchmarks to measure the school's progress toward a more efficient and effective governance system and require that the consultant to the Task Force, the GBSD and the DOE make progress reports to interested parties, including the Legislative committee with jurisdiction over education matters.

The Task Force familiarized itself with the current system for governing the Baxter School, including the roles of the GBSD School Board, the DOE and other state agencies; as well as the requirements in federal and State law that govern the placement of deaf and hard-of-hearing students. The Task Force was also informed about the corrective action plan developed by the GBSD in response to the findings and recommendations from the Review Committee report compiled by the Department of Education (DOE) regarding Basic School Approval. After receiving public testimony and following several panel

discussions involving GBSD School Board members, the superintendent and administrative leadership at the Baxter School, DOE and other state agency officials, special education practitioners in the public schools, and the superintendents of two out-of-state schools for the deaf, the Task Force deliberated on these issues and came to a number of conclusion and recommendations about governance of the Baxter School and effectiveness of programs delivered to deaf and hard-of-hearing students in the State.

## **Conclusions**

Task Force members reached consensus\* on a number of conclusions regarding the delivery of educational programs for deaf and hard-of-hearing students in the State and the redesign of the governance system. Except where noted, conclusions and recommendations were approved by a consensus of those Task Force members present.

### **A. Delivery of Educational Programs and Services**

With respect to the delivery of educational programs and services to deaf and hard-of-hearing students in the State, a consensus of those Task Force members present concluded that:

- The corrective action plan developed by the Baxter School in response to the Basic School Approval report articulates the actions and performance indicators that can guide the school toward school approval status and school improvement;
- Staffing levels within the Baxter School's outreach and statewide consultation services may not be adequate to ensure that deaf and hard-of-hearing students placed in local public schools are receiving appropriate outreach services;
- Deaf and hard-of-hearing students placed in local public schools may not have access to qualified educational personnel and appropriate academic support services;
- The existing programs operated by the Baxter School should be maintained for a period of two years and must include the continuation of contracted services that provide consultation, training and appropriate safeguards for students who are placed in the residential program; and
- State policymakers should focus on the statewide configuration of instructional programs that provides an appropriate array of educational placement options that can meet the Individual Education Program (IEP) requirements of every deaf and

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\* Task Force members Senator Berube, Senator Kilkelly, Senator Small and Representative Bragdon were absent from the meeting at which conclusions and recommendations were approved.

hard-of-hearing student.

Regarding the administration of the Baxter School's residential program and outreach services, Task Force members did not agree on the appropriate delivery system for these programs. The Task Force was divided on this issue as follows:

- A majority of the Task Force concluded that the existing "center school" programs at Mackworth Island should be upgraded to include an array of affiliated satellite programs and outreach services to be operated by the Baxter School; and
- A minority of the Task Force concluded that the reconstituted governing body should authorize the delivery of an array of community-based residential and outreach programs that are operated through a contractual relationship with public school administrative units or with private, non-profit, educational organizations.

## **B. Redesign of the Governance System**

While unable to agree on all aspects of redesigning the existing governance system, Task Force members unanimously agreed on the following conclusions:

- The Legislature should change the governance system to a more autonomous model comparable to the governance systems established for the Maine School for Science and Mathematics and the Maine Technical College System;
- The Legislature should create a new governing board and should also specify goals and benchmarks that the GBSD School Board must achieve prior to granting greater authority to the new governing board; and
- The composition of the new governing board should also be reviewed by the Legislature; and the number of board members should be increased to involve members of the public who possess both desirable skills and knowledge that would enhance the functioning capacity of the board; and
- The process of appointing governing board members should allow the board and other interested parties to nominate potential candidates to the Governor, and should require legislative confirmation of gubernatorial nominees to the board.

Concerns regarding certain aspects of the administration of the Baxter School's residential program and outreach services prevented the Task Force from agreeing on the appropriate governance arrangement regarding these programs. As a result, the Task Force report was divided as follows:

- A majority of the Task Force concluded that the new governing board should have both the policymaking authority and the operational responsibility for delivering an array of educational programs for deaf and hard-of-hearing students in the State;

and

- A minority of the Task Force concluded that the new governing board should properly balance its policymaking authority and operational responsibility with the need to ensure that appropriate educational opportunities are provided for all deaf and hard-of-hearing students, including those students placed in the “center school” programs on Mackworth Island and those students placed in community-based, residential or outreach programs.

## **Recommendations**

The Task Force makes the following recommendations regarding the governance and delivery of instructional programs for deaf and hard-of-hearing students in the State:

### **A. Public Policy on Education of the Deaf and Hard-of-hearing**

The Task Force recommends that the Legislature take immediate action to change the statutes regarding the role and responsibilities of the Baxter School in delivering educational programs for deaf and hard-of-hearing students in the State. The Task Force recommends that the Legislature should consider the following policy principles as guidance for state policymakers who are responsible for the planning and the delivery of instructional programs and educational services for deaf and hard-of-hearing students:

#### **1. Recognition of the Array of Programs and Services Delivered to Deaf and Hard-of-hearing Students in Accordance with Federal and State Law**

The Task Force recommends that the following array of instructional programs be recognized as essential educational placement options for the purpose of educating deaf and hard-of-hearing students in the State:

- A. Local public schools or approved private schools in the State;
- B. The programs operated by the GBSD located at Mackworth Island;
- C. Satellite residential programs that may be offered by publicly-operated or independently-operated entities under contract with the governing board; and
- D. Satellite consultation and outreach services that may be offered by publicly-operated or independently-operated entities under contract with the governing board.

## **2. Legal Requirements and Policy Standards for Educational Programs for Deaf and Hard-of-hearing Students.**

The Task Force also recommends that authorized programs for deaf and hard-of-hearing students not only comply with all applicable federal and state statutory requirements, but should also meet certain educational policy guidelines and accreditation standards including:

- A. Federal laws and regulations, including the federal policy guidance issued in 1992 regarding consideration of each deaf and hard-of-hearing student's communication needs and social, emotional and cultural needs in the development of an IEP and the determination of a FAPE in the LRE for that student;
- B. State statutes and rules, including special education laws and state standards for public schools or approved private schools;
- C. Educational service guidelines that seek to ensure that every deaf or hard-of-hearing student receives direct instruction and related educational services from qualified educational support personnel; and
- D. Accreditation standards from an appropriate accrediting agency.

## **3. Participation in and Support for Newborn Screening Programs.**

The Task Force recommends that the programs within the array of instructional programs should participate in and support, as may be appropriate, the newborn hearing screening program established in the State in order to maximize the potential of an infant's communication skills, cognitive development and readiness to learn.

## **B. Governance System for the Array of Instructional Programs for Deaf and Hard-of-hearing Students.**

The Task Force recommends that the Legislature take immediate action to change existing statutes regarding the governance system of the Baxter School. These statutory changes should include a 24-month transition period, including benchmarks and methods of assessing the capacity of the GBSD School Board to exercise genuine policymaking authority and to govern the Baxter School with substantial autonomy. The Legislature should consider the following factors in designing benchmarks and methods of assessment that can “trigger” the implementation of the new governance system:

### **1. Transition to a Redesigned Governance System.**

The Task Force recommends that the Legislature, the Governor and the GBSD School Board work together over the next two years to implement a new governance system. Task Force members agreed that a new governance system should include a

governing board empowered with genuine policymaking authority and substantial autonomy to develop educational policies for the existing the “center school” programs on Mackworth Island and the Baxter School’s statewide consultation and outreach services. Task Force members did not agree on whether this reconstituted governing board should have sole authority for operating any or all affiliated instructional programs for deaf and hard-of-hearing students that may be established in the State.

The Task Force also recommends that a new governing board should be established consistent with the following:

A. The governing board should have legitimate authority to develop policies for the school and its affiliated programs that are consistent with State and federal laws and regulations;

B. The total membership of the governing board should be increased and the composition of the board should be based on skill- or knowledge-based qualifications (e.g., human resource management, financial planning and management, expertise in education of the deaf, etc.) in addition to the existing categorical criteria (e.g., representatives of parents, the Deaf community, the general public, etc.) so that the governing board as a whole sufficiently represents all categorical criteria and skill- or knowledge-based qualifications;

C. The process for appointment of governing board members should allow the governing board and other interested parties the opportunity to nominate potential board candidates to the Governor; and with the Governor having appointment authority subject to the review of, and confirmation by, the Legislature;

D. The governing board should have budget flexibility with the ability to transfer money between budget account lines as needed;

E. The governing board should have the authority to establish its own personnel management system for Baxter School personnel, including the option of separating from the state personnel classification system; and

F. Following a transition period during which the State, the GBSD School Board and the collective bargaining units of the current Baxter School employees can negotiate the necessary provisions of a new legal framework for labor relations (similar to statutory transition requirements enacted for the Maine State Retirement System and the Maine Technical College System), the governing board should have the authority to negotiate directly with collective bargaining units, including the authority to define employee benefits (e.g., health and retirement benefits) pursuant to State law and all other necessary transition requirements.

## **2. Cohesive Program Delivery System.**

The Task Force also recommends that the governance system stakeholders develop, maintain and support the most cohesive delivery system possible for planning and providing educational opportunities through an array of instructional programs.

## **3. Program Placement Options and Related Instructional Philosophies.**

The Task Force further recommends that the reconstituted governing body maintain a full range of program placement options and related instructional philosophies (e.g., bilingual/bicultural; cued speech, oral, etc.) that its deaf and hard-of-hearing students may require to fulfill the requirements of their IEP.

## **4. Public Funds, Financial Support and Accountability.**

Finally, the Task Force recommends that the Legislature and the Governor provide adequate financial support to maintain high quality educational opportunities for deaf and hard-of-hearing students; and that the array of instructional programs make maximum use of federal funds available for the support of instructional programs for deaf and hard-of-hearing students. The Task Force members also recommend that the reconstituted governing body should expect appropriate public accountability for this financial support.

## **C. Powers and Duties of the Governing Board**

The Task Force recommends that the Legislature take immediate action to change existing statutes regarding the powers and duties of the GBSD School Board, and that the powers and duties of the restructured governing board should include the following:

- A. Develop and adopt policies and rules, including bylaws;
- B. Oversee the administration of the array of instructional programs;
- C. Oversee budget development and financial management;
- D. Enter into contracts and agreements to the execute its powers;
- E. Establish benchmarks and conduct local methods of assessing student academic achievement and the professional development of educational personnel;
- G. Present an annual program review report to the Governor and the Legislature on the results of the assessments conducted in paragraph E and the general status of the school and its affiliated programs;
- H. Present annual financial audit report to the Governor and the Legislature; and

I. Present semi-annual report to the Governor and the Legislature on the board's progress towards achieving the benchmarks and levels of policy-making and governance capacity established jointly by the GBSD School Board and state policymakers.

## I. Introduction

Joint Study Order, H. P. 1587 which was passed by the Legislature on June 6, 1999, established the Task Force to Review the Educational Program and the Governance System of the Governor Baxter School for the Deaf (Task Force.) (See Appendix A) The Order required the Task Force to review the efficiency and effectiveness of the educational program at the Governor Baxter School for the Deaf (GBSD or Baxter School) in the context of the range of alternative educational models and placements that are available in other states to deliver appropriate educational programs and services that meet the unique educational needs of children and youth who are deaf and hard-of-hearing; and if necessary:

- (1) Redefine the basic structure of the governance system, including defining the respective roles and responsibilities of the school board, school administrators and state agencies;
- (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. If the GBSD School Board is to bargain directly with employee unions and is to address employee relations' issues such as grievance proceedings, the Baxter School must build the capacity to undertake these functions as well. This may involve securing additional staff for the school to strengthen its personnel management capacity;
- (3) Develop a plan to address the findings and recommendations from the Department of Education's (DOE) Basic School Approval review conducted in December, 1998. Conduct any other necessary reviews, such as a comprehensive review of safety, security and welfare of students in the residential program at the school and develop a plan to address the results of these reviews;
- (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. The Task Force 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 balancing the protection of and public access to the natural resources of the island with the need for managing the state-owned facilities under the provisions of the deed from Governor Baxter granting Mackworth Island to the State. The strategies must address what role, if any, state agencies play in managing school property and Mackworth Island, what improvements are needed in the school's physical plant, who should make the improvements and whether a state agency should continue to be involved in managing the island or only in overseeing the school's compliance with the deed; and
- (6) Establish benchmarks to measure the school's progress toward a more efficient and effective governance system and require that the consultant to the Task Force, the Baxter

School and the Department of Education make progress reports to interested parties, including the Legislative committee with jurisdiction over education matters;

The Task Force was composed of 14 members, 8 members from the Legislature, including one Senator and one House member from each of the following legislative joint standing committees: Education and Cultural Affairs, Health and Human Services, Judiciary, and Agriculture, Conservation and Forestry; three members representing the Committee to Review the GBSD Governance Structure, including two members who represented the Deaf community and one member who represented an interested party other than a state agency or the Deaf community; the Commissioner of Education or his designee; the Commissioner of Administrative and Financial Services or her designee; and the chair of the GBSD School Board or her designee. Senator Sharon Treat was appointed to serve as the Senate Chair and Representative Elizabeth Watson was appointed to serve as House chair. (See Appendix B)

### **A. Commission Process**

The Task Force was convened on September 10, 1999. In addition to this first meeting, the Task Force held 6 other meetings. These meetings were held on October 1, 1999; October 22, 1999; November 5, 1999; November 19, 1999; January 7, 2000 and January 14, 2000. One of the meetings included a public forum, held at the GBSD, during which the public was invited to comment on the program delivery and governance systems. The Task Force enlisted the services of a consultant with expertise in deaf education to provide professional services in reviewing and analyzing the educational programs and the governance system of the Baxter School. The consultant briefed the Task Force on the recent history and current trends in deaf education and also arranged for administrative leaders in deaf education from other states to present information to the Task Force. Task Force members discussed problems, possible causes and potential solutions, reviewed the governance powers and duties of the Baxter School Board, considered the governance structures of comparable schools for the deaf in other states and held panel discussions with state agency personnel, public school special education staff and representatives of stakeholder groups and interested parties (see Appendices C, D, and E).

The first meeting of the Task Force focused on reviewing the charge to the Task Force, receiving a summary of the legislative history and background information on the Task Force and receiving various briefings related to the GBSD, including the recommendations of the 1998 GBSD Governance Review Committee and the Joint Standing Committee on Education and Cultural Affairs' intent in establishing the Task Force through the passage of H. P. 1587 (see Appendix F). (For additional details of the 1998 Governance Review Committee refer to the Final Report of the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf completed December 15, 1999.) Representatives from the DOE and the GBSD provided briefings on the Basic School Approval Report, the status of the GBSD action plan and the current status of program delivery to deaf and hard of hearing children in Maine. (See Appendix G for selected excerpts from the Basic School Approval Report, including an update by the DOE). During the remainder of the meeting, the Task Force identified major issues, developed a work plan and discussed the Task Force's goals.

The second meeting, held at the GBSD, focused on providing information to the Task Force on the current programs and operations at the GBSD. A panel of GBSD personnel presented information on the academic curriculum and programs, the outreach programs, the distance learning facilities and community relations. The Task Force was also briefed by the GBSD superintendent and business manager and a DAFS official on the GBSD operations, finances and program budgets before taking a guided tour through the distance learning site and the residential facilities.

The third meeting of the Task Force focused on receiving national perspectives on deaf education. A deaf education private consultant to the Task Force provided historical information on deaf education and then shared nationwide statistics gathered by Gallaudet Research Institute as part of their Annual Survey of Deaf and Hard-of-Hearing Children and Youth. This survey provided composite information ranging from demographic data to instructional methods used for the deaf and hard-of-hearing population of children and youth for the states that participate in this annual survey. The Task Force also heard from the Superintendent of the American School for the Deaf in Connecticut about the history, funding, governance structure and educational program there. The Task Force also continued their tour from the previous meeting, viewing the classrooms and academic facilities. In response to questions about Baxter School expenditures from the previous meeting, follow-up information was provided concerning per-pupil costs (see Appendix H). After a discussion period with the deaf education specialist and the Superintendent, the Task Force heard testimony during a public forum requesting public comment on issues related to: (1) the effectiveness of the educational programs and outreach services provided by the GBSD to deaf and hard-of-hearing students; and (2) the redesign of the governance system currently in place for the Baxter School.

The fourth meeting of the Task Force provided an opportunity for the Task Force members to receive perspectives from a variety of different stakeholders involved in deaf education. The Superintendent of the Maryland School for the Deaf spoke about the governance system and educational programs at the Maryland School for the Deaf. The Baxter School Board and the GBSD Superintendent provided information concerning the GBSD vision and the current status of educational programs and governance. A panel comprised of the Director of the Special Services Division of the Department of Education, the Director of the Bureau of Rehabilitative Services, the Director of Special Education from a public school district, and the parent of a deaf child provided background information to the Task Force and answered questions concerning public school programs for delivering educational programs for deaf and hard-of-hearing students. Next, the Task Force discussed key policy issues, such as: (1) program and placement options based on legal, political and cultural definitions of the “Least Restrictive Environment” (LRE), (2) deaf education philosophies, especially bi-cultural/bi-lingual and oral approaches, (3) governance structure impact on effective program delivery, and (4) alternative models of program delivery. Later another panel comprised of the Task Force’s consultant, a specialist in deaf education, three statewide Outreach Program educational consultants from the GBSD, an Attorney from the Maine Disability Rights Center, and the Civil Rights Director from the Maine Center on Deafness discussed outreach programs as part of the educational program delivery to deaf and hard-of-hearing students.

The fifth meeting of the Task Force focused on group discussion. In previous meetings the Task Force had spent most of their time listening to presentations and receiving information from a variety of different perspectives concerning deaf education. This meeting allowed Task Force members to discuss various program and governance options and to determine support for these options. Task Force members discussed: (1) the importance of the outreach, early childhood and residential programs, (2) the value of adding satellite programs for all ages and for providing additional course offerings, especially for high school students, (3) the scope of authority, lines of reporting and composition of the school board and (4) possible scenarios incorporating these previous components into workable school models.

The sixth meeting of the Task Force was a work session focused on discussing the Task Force members' positions on the issues of governance and educational programming that had been presented at previous meetings. The Task Force heard from a consultant who had been working with the current GBSD School Board. This consultant had been working to help the GBSD School Board assess their strengths and needs, to advocate board development activities and to assist the board in developing a system that would facilitate the board's ability to evaluate their authority and responsibility and to be better equipped to deal with that responsibility. There was much discussion about the size and composition of the board and the need to establish continuity and stability in leadership, both in management positions and the on board of the GBSD.

The final Task Force meeting was a work session devoted to reviewing the Task Force's discussion from previous meetings concerning areas of agreement and disagreement regarding the GBSD governance system and educational program issues in relation to a new operating model for the school. The Task Force responded to a draft document prepared by Task Force staff that proposed language for State public policy and principles for the governance and education of deaf and hard-of-hearing students throughout the State. The Task Force used this meeting to build consensus on the broad concepts of the issues concerning the governance system and educational program and they discussed the preliminary findings and recommendations regarding the final report to be presented to the Second Regular Session of the 119<sup>th</sup> Legislature.

## **B. Report and Legislation**

H. P. 1587 established December 3, 1999 as the date the Task Force to Review the Educational Program and Governance System of the Governor Baxter School for the Deaf should report to the Joint Standing Committee on Education and Cultural Affairs. However, the Task Force requested and received permission from the Legislative Council to extend the reporting date to January 14, 2000 and to add an additional meeting. The Task Force is authorized pursuant to H. P. 1587 to recommend legislation to the Joint Standing Committee on Education and Cultural Affairs and to recommend supplemental budget appropriations to the Joint Standing Committee on Appropriations and Financial Affairs. The Joint Standing Committee on Education and Cultural Affairs is authorized to report out any legislation during the Second Regular Session of the 119<sup>th</sup> Legislature concerning the findings and recommendations of the Task Force.

## **II. Background**

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

Private and Special Law created the Maine School for the Deaf, predecessor of the Governor Baxter School, in 1897. 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, mental 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. 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 maintains 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 school governance.

In 1972, the Baxter School was placed under jurisdiction of the Department of Education (DOE), and a 1975 revision of state law 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 governor appointed the board.

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

In 1996, legislation enacted by the Legislature changed the governance structure of the Governor Baxter School for the Deaf. 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 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.

In 1998, the Education Committee established the GBSD Governance Review Committee (Review Committee) in accordance with Public Law 1995, chapter 676. The Review Committee discussions revealed several aspects of the governance system that make it difficult for the school to efficiently and effectively provide the best programs possible: the complexity and inflexibility of 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. The Review Committee concluded that some steps could be taken within the existing governance system to solve some of the school's most immediate personnel and budget problems; and that, even with some tailoring, the existing governance system could not be made to entirely fit the school board's need to effectively and efficiently govern the school. The Review Committee recommended that a new governance system must be created to give the school greater autonomy in managing its affairs; however, committee members did not reach consensus as to the exact composition of a new governance system or the range of educational programs that should be administered by this system. The Review Committee also recommended that a separate study group be established to redesign the new governance system. In 1999, the Legislature passed Joint Study Order H. P. 1587 and established the Task Force to Review the Educational Program and the Governance System of the Governor Baxter School for the Deaf.

## **B. Current Governance of the GBSD**

Under current law, authority over important issues affecting the Baxter School 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 (see Appendix I).

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 C.

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 P. L. 1995, c. 676, 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 expired 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). IDEA 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 GBSD.

- 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 focus on the needs of the GBSD. The BER also advises state agencies, subject to the contracts, on questions related to implementing contracts 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 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 GBSD**

The Task Force generally agrees that the governance structure created by P. L. 1995, c. 676 has not solved the GBSD's problems. The people who are served by the GBSD, 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 complicated 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 GBSD across the State.

Problems with the current structure cited by the Task Force include the following:

- Hiring of Superintendent and Principal -- 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 and Interpreters-- At the time of the Task Force meetings, based on the recommendations of the 1998 Legislative Review Committee studying the governance structure of the GBSD, the Baxter School had increased flexibility to hire substitute teachers or substitutes for other staff and interpreters. Although this allows for better ability to hire necessary staff, the current solution does not provide the degree of flexibility that would allow the most effective operation for the needs of this special purpose state school.
- School Board Vacancies and Composition -- State law specifies the composition of the School Board of the Baxter School (see Appendix J). 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. The Task Force expressed concern that specific criteria were not necessarily represented on the Board. The Task Force thought it was important that at least some members of the Board had such skills as: previous experience on a board of directors; fiscal, financial and budgetary knowledge; expertise in deaf education issues; as well as a broader representation of the Deaf community. In addition, the consultant to the GBSD Board of Directors stated that the Board was too small to accomplish the multiple tasks a fully functional board would be responsible for if the Board was to take on the typical operational duties of a public school board.
- 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 Baxter School, 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 Baxter 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. 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. In

cases of competing interests the Baxter School Board members would like to have the option of retaining its own legal counsel. The role of the Office of the Attorney General should be clarified with respect to the GBSD.

- 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. 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). The DOC is charged with ensuring that the island be maintained as a sanctuary for wild beasts and birds, and also managing the use of the perimeter of the island as 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. 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. Here again, these competing interests require the roles of the DOC and BGS should be clarified with respect to the GBSD.
- Educational Program -- Many Governance Task Force members believe that the recent change in governance structure has done little 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.

#### **D. Current Educational Program of the GBSD**

The Baxter School offers a variety of different programs to serve the varied needs of deaf and hard-of-hearing children and their families.

- The Early Childhood Programs offer consultation and support services and programs to families and children from birth to age five. Included are on-site and home based services to families with children newborn to 3 years of age, a language-enriched, developmentally-based preschool program for children ages 3 to 5 years old who are deaf and a developmental language-based preschool program for hearing children with special speech and language disorders or delay.
- The GBSD also offers an on-site “center school” program for K-12 level students. The children receive a K-12 educational program with the appropriate support services, such as

speech and language therapy, audiology and occupational therapy based on the students' IEPs. The center school programs offer a range of academic, athletic, social, cultural and recreational programs to facilitate the students' development.

- The GBSD Residential Life Program is also available for students in grades 8-12. Residential Life Program placement allows distant students to attend the Baxter School and also provides nearby students the opportunity for greater socialization and exposure to Deaf culture through increased interaction with peers. Residential placement is determined by the PET process and serves GBSD students who either live an extreme distance from the school or who have other social/emotional needs as determined by the PET.
- In addition, the Outreach Program offers assistance to service providers in the local school districts that serve students who are deaf and hard-of-hearing and choose to remain in their home school district. This assistance is provided through consultation, technical assistance, in-service trainings and regional peer support groups.

#### **E. Problems with the Current Educational Program of the GBSD**

The Baxter School Board and the Superintendent requested that the Commissioner of Education dispatch a review committee to the school to conduct a Basic School Approval Review. The Basic School Approval Review Committee (Review Committee) included three Department of Education staff; a teacher, a curriculum coordinator, a principal, a superintendent and two directors of special education from various school departments in the area; a consultant from the Spurwink School; a representative from the Rehabilitation Administration of the U. S. Department of Education and a private consultant specializing in deaf education. The review was conducted in December, 1998 and the report stated that the numerous commendations, findings and recommendation were based on the inspection of GBSD documents, policies, statistics and the interviews. The deficiencies noted were in various components of the school approval review. The Review Committee determined that given the deficits present in the current educational program at the GBSD, the Commissioner of Education should change the GBSD status from "Approval" to "Provisional Approval" as provided for in DOE Regulations Chapter 125, "Regulations Governing Basic School Approval."

The Review Committee findings were in the following 6 major areas:

- Facilities,
- Curriculum, Instruction and Assessment,
- Professional Development,
- Programming,
- Personnel-Certification, and
- Special Education and 504 Students.

The following summarizes selected findings, recommendations, and proposed actions resulting from the Basic School Approval Review.

Facilities. These findings addressed the physical needs for all of the buildings and grounds. Most importantly, the review committee noted the GBSD needed a campus-wide fire alarm system that was up-to-date and comprehensive. In addition, the middle school and high school facilities were in critical need of repair and renovations and there were numerous security concerns. The GBSD has developed a comprehensive maintenance plan and has included consultation with DOE, the Department of Labor and the Bureau of General Services in order to address the facilities findings..

Curriculum, Instruction and Assessment. These findings addressed the need for a consistent curriculum across all grade levels, especially with respect to Maine’s System of Learning Results. The GBSD administration has consulted with the Falmouth School Department concerning the adaptation of the Falmouth curriculum to the Baxter School program. Another finding indicated that course offerings needed to be expanded to provide GBSD students with a broader secondary level educational experience. The GBSD responded with plans for a technical assistance contract with an outside consultant to develop methods to enhance literacy development, boost aspirations and expand course options.

Professional Development. This area of the Basic School Approval Review found that the GBSD lacked a consistent and cohesive professional development plan. The GBSD School Approval Corrective Action Plan included a review of the current professional development plan and involved consultation and technical assistance from the DOE to assist the GBSD in developing and implementing “best practices” for staff development.

Programming. These findings centered on the level of educational programming available to GBSD students, as well as the academic readiness of the GBSD students to succeed in mainstream classrooms. It was also noted that the Outreach Program was dreadfully understaffed with each caseworker only able to schedule one visit to a public school per year for each student because of the number of students involved and their geographic dispersion throughout the state. This shortage of outreach staff causes difficulty with follow-up and continuity of support for the deaf and hard-of-hearing students receiving outreach services. The GBSD action plan calls for expanding the Outreach Program and for additional staff. The action plan also includes strategies for the identification and comparison of statewide K-12 instructional programs to allow better alignment of outreach services, as well as plans to track the academic readiness of former GBSD students who subsequently attend public schools.

Personnel-Certification. This section addresses the qualifications and evaluations of the current personnel. The GBSD action plan involves an inventory by an outside consultant to assist with aligning the licensing requirements and hiring procedures at the GBSD. The plan also calls for the technical assistance consultant to review performance-based evaluation systems used in other residential settings.

Special Education and 504 Students. These findings indicate confusion concerning appropriate application of State and federal regulations. For example, many IEPs contain identical goals and related objectives, no clear policies exist regarding PET and IEP development, there is confusion concerning the designation of disabilities under special education laws or as identified

under Section 504 of the Rehabilitation Act of 1973. Finally, conflicting information exists concerning the provision of supportive services and whether the GBSD or the sending school unit is responsible. Here again, the GBSD plans to use the technical assistance contract with an outside consultant to develop a process for clarifying the complex technical application of the appropriate State and federal regulations.

It should also be noted that the School Approval Review Committee recognized many positive experiences at the GBSD throughout the review process. Throughout the review, the development of the action plan and the various updates the Review Committee was significantly impressed with the commitment and valiant efforts of the people at the GBSD to bring about the necessary improvements. In particular, members of the GBSD administration, faculty, staff, student body and parents were wholly cooperative in their dealings with the Review Committee. The Review Committee clearly sensed the strong commitment and enthusiasm shared by the people they came in contact with concerning support for the GBSD's programs and continued services.

## **F. Other State Models**

As part of the information gathering process on governance models, the Task Force reviewed examples of different types of governance structures studied by the 1998 Governance Review Committee (see Appendices K). The Task Force also heard from schools for the deaf that were operating within a different system of governance. The Task Force was interested in both a privately-run school as well as a publicly-operated school. The consultant to the Task Force arranged for the superintendents of two schools, The American School for the Deaf, a privately-run school and The Maryland School for the Deaf, a publicly-operated school to visit the Task Force and explain the workings and governance system of their respective schools.

The American School for the Deaf. The American School for the Deaf (ASD) is the oldest special education institute of any kind in the United States. Thus, when it was developed in 1817, there were no existing models. Over time, its procedures, protocols and philosophies have evolved based on the success and failure of their experiences. The ASD is a privately-run school with 130 Corporators who meet once a year. The school is governed by a 21 member Board of Directors that serve 3-year terms and the school's day to day operations are directed by the 5 executive officers; the president, the first vice president, the second vice president, the secretary and the treasurer. The ASD serves a population of nearly 250 students (80% from in-state) and has a budget of approximately \$12 million dollars a year, of which nearly half comes from the General Assembly of Connecticut based on the previous years' budget and the Governor's increase. The School also has \$30 million dollars of endowments and they use the income from their endowments to supplement their budget and for enrichment purposes. They do not use the endowment income as general support funds for the school. In addition, they lease a portion of their campus facilities to a Montessori school and they also raise money through annual fundraisers such as a golf tournament raising \$60,000 and a Board Member 'Roast' raising \$30,000.

The Superintendent of the ASD outlined the process by which they receive budgetary approval and funding through the legislature. The School presents their budget to the Department of Education which forwards the budget to the General Assembly. The Superintendent attends

legislative budget session and testifies on behalf of the budget, whereupon the legislature acts on the request and provides funding to the School Board. For capital expenditures, such as constructing a new building, the school would request money through the state bond commission. The Superintendent stated that the advantage of being a private school was the amount of flexibility with the budget. State funds are appropriated to the Board, the school presents their budget to the Board, and the school is authorized to spend, based on the Board's approval. If any adjustments in the budget are needed, the Superintendent would make that request to the Board.

The Maryland School for the Deaf. The Maryland School for the Deaf (MSD) was established in 1868 and currently operates at two different sites. The main site is located in Frederick and has about 350 students from infant to grade twelve and the other location is in Columbia, which has about 130 students from infant to grade eight. The MSD is a publicly operated school that acts as an independent state agency—a separate entity that is not part of the Department of Education. In 1992, a law was passed abolishing its 30-member (lifetime membership) Board of Visitors in favor of a 19-member Board of Trustees. The Trustees serve 6-year terms and are allowed two consecutive terms. Of the 19 members, 6 must be members of the Deaf community, although currently 10 members are deaf. The Board of Trustees is governed by its own set of by-laws and it operates like other school boards, establishing a budget, hiring and firing the superintendent, approving the master facility plan, establishing out-of-state tuition rates (in-state students attend at no charge) and other standard functions similar to any school board.

In 1996 the Maryland Legislature established a task force to study the funding structure of the school. Until that time, the MSD started each year with a zero-base budget, unlike other Maryland public schools that started with a funding formula and a predictable funding level based on the previous year's budget. As a result of that task force, the MSD funding is now established with a base of the current budget plus the funding formula plus a 4% incremental increase -- the same as the public school process. The school has an annual appropriation of approximately \$16 million. The school also has the option of going to the legislature for "unfunded budget requests." If the legislature approves the request, that amount is added to the base and becomes part of next year's base budget. This new budget mechanism provides the school with a predictable level of funding; and the school only needs to approach the legislature for the unfunded budget requests and not the entire budget amount as was the case in previous years.

#### **A. G. Other Proposals That Merit Further Review**

The superintendent for the Maryland School for the Deaf, as a deaf adult with two deaf children, also spoke about the critical importance of early identification of hearing loss in order to take full advantage of appropriate treatment and intervention measures to enhance an infant's speech, language and cognitive skills development. He emphasized that in order to prevent or mitigate developmental delays and academic failures associated with undetected hearing loss infants need to be exposed to and learn some form of language before the age of two. He also pointed out the unfortunate fact that most hearing loss is not detected until children are about 2½ years old, when it is virtually too late to receive the full benefit of natural language acquisition. He stated that his two children, who were both born deaf, did not experience the same developmental or academic delays that he had experienced as a young deaf child simply because they were exposed to a

language they could relate to from the time they were born. Maryland recently passed a “Universal Screening Law” for the early identification of hearing loss in newborns and the Superintendent suggested that a similar screening program would benefit deaf citizens in Maine.

Based on his recommendation and Task Force discussion, the Task Force members unanimously supported, in concept, the establishment of a hearing-screening program for all newborns in the State in order to maximize the potential of infants' communication skills and cognitive development (please note that the DOE and the DAFS members abstained from this vote). The Health and Human Services Committee was considering LD 1814, An Act Establishing the Newborn Hearing Program during the 2<sup>nd</sup> Regular Session of the 119<sup>th</sup> Legislature. The Task Force endorsed the establishment of statewide hearing screening tests to newborn children and agreed to notify the Health and Human Services Committee of this endorsement. Task Force members did not take a position on the specific requirements proposed for the Newborn Hearing Program, or the particular financing, oversight, tracking and mechanisms contained within LD 1814.

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

#### **Conclusions**

While Task Force members reached consensus\* on several conclusions regarding the delivery of educational programs for deaf and hard-of-hearing students in the State and the redesign of the governance system, the Task Force was not able to agree on all issues. Except where noted, conclusions and recommendations were approved by a consensus of those Task Force members present.

#### **A. Delivery of Educational Programs and Services**

The Task Force recognizes the noteworthy progress that has taken place at the Governor Baxter School for the Deaf (GBSD) in the past year. Task Force members commend the School Board, administrative leadership, faculty and staff of the Baxter School for making tremendous strides in developing and implementing a number of elements of the Basic School Approval corrective action plan, including the hiring of teaching principals, a guidance counselor and other school personnel, the establishment of training programs for faculty members and residential program staff, and for implementing the Maine Education Assessment program for the first time.

With respect to the delivery of educational programs and services to deaf and hard-of-hearing students in the State, a majority of Task Force members present concluded that:

- The corrective action plan developed by the Baxter School in response to the Basic School Approval report articulates the actions and performance indicators that can guide the school

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\* Task Force members Senator Berube, Senator Kilkelly, Senator Small and Representative Bragdon were absent from the meeting at which conclusions and recommendations were approved.

toward school approval status and school improvement;

- Staffing levels within the Baxter School’s outreach and statewide consultation services may not be adequate to ensure that deaf and hard-of-hearing students placed in local public schools are receiving appropriate outreach services;
- Deaf and hard-of-hearing students placed in local public schools may not have access to qualified educational personnel and appropriate academic support services;
- The existing programs operated by the Baxter School should be maintained for a period of two years and must include the continuation of contracted services that provide consultation, training and appropriate safeguards for students who are placed in the residential program; and
- State policymakers should focus on a statewide configuration that provides an array of educational placement options for educating deaf and hard-of-hearing students, including high quality programs and services offered at local public schools, at the Baxter School and possibly through an array of regional satellite programs and outreach services that can meet the Individual Education Program (IEP) of every Maine student requiring placement.

Regarding the administration of the Baxter School’s residential program and outreach services, the Task Force did not agree on the appropriate delivery system for these programs. Task Force members were divided on this issue as follows:

- A majority of the Task Force concluded that the existing “center school” programs at Mackworth Island should be upgraded to include an array of affiliated satellite programs and outreach services to be operated by the Baxter School; and
- A minority of the Task Force concluded that the existing residential and outreach programs should be delivered through an array of community-based residential and outreach programs that are operated through a contractual relationship with public school administrative units or with private, non-profit, educational organizations.

## **B. Redesign of the Governance System**

The Task Force recognizes the positive steps undertaken in the past year by the School Board and administrative leadership of the GBSD, the Department of Education (DOE) and the Department of Administrative and Financial Services to address the short-term budget and personnel issues facing the Baxter School. In particular, Task Force members acknowledge the progress made in the following areas: increasing the salary of the superintendent position to make it possible for the Baxter School to successfully complete a national search for this critical leadership position, enabling the school to create American Sign Language (ASL) Interpreter positions and substitute positions, and the development of a supplemental budget request to address additional personnel needs at the school. The Task Force also commends Baxter School officials for the leadership they have demonstrated in crafting the Basic School Approval corrective action

plan and cultivating the commitment of faculty and staff to undertake this important work. Finally, the Task Force supports the GBSD School Board decision to establish a board development plan to increase the functional capacity of the school board to effectively govern the school.

While unable to agree on all aspects of redesigning the existing governance system, Task Force members unanimously agreed on the following conclusions:

- The Legislature should take immediate action to change the governance system to a more autonomous model comparable to the governance systems established for the Maine School for Science and Mathematics and the Maine Technical College System;
- The Legislature should take immediate action to create a new governing board and should also specify goals and benchmarks that the GBSD School Board must achieve prior to granting greater authority to the new governing board; and
- The composition of the new governing board should also be reviewed by the Legislature; and the number of board members should be increased to involve members of the public who possess both desirable skills and knowledge that would enhance the functioning capacity of the board; and
- The process of appointing governing board members should allow the board and other interested parties to nominate potential candidates to the Governor, and should require legislative confirmation of gubernatorial nominees to the board.

Concerns regarding certain aspects of the administration of the Baxter School's residential program and outreach services prevented the Task Force from agreeing on the appropriate governance arrangement regarding these programs. As a result, the Task Force report was divided as follows:

- A majority of the Task Force concluded that the new governing board should have both the policymaking authority and the operational responsibility for delivering an array of educational programs for deaf and hard-of-hearing students in the State; and
- A minority of the Task Force concluded that the new governing board should properly balance its policymaking authority and operational responsibility with the need to ensure that appropriate educational opportunities are provided for all deaf and hard-of-hearing students, including those students placed in the "center school" programs on Mackworth Island and those students placed in community-based, residential or outreach programs.

## **Recommendations**

The Task Force reached consensus on the following findings and recommendations regarding the governance and delivery of instructional programs for deaf and hard-of-hearing students in the State:

### **A. Public Policy on Education of the Deaf and Hard-of-hearing**

#### Findings

The Task Force finds that state policymakers, stakeholders and interested parties must recognize that State educational policies regarding the placement of deaf and hard-of-hearing students are governed by both federal and State law. The federal Individuals with Disabilities Education Act (IDEA), Section 504 of the federal Vocational Rehabilitation Act (Sec. 504), and State statutes obligate the DOE, the GBSD and any public school or approved private school in the State to provide deaf and hard-of-hearing students with a free and appropriate public education (FAPE) in the least restrictive environment (LRE).

Accordingly, deaf and hard-of-hearing students are provided with educational services in a variety of educational placements, including public schools, the Baxter School, approved private schools and through state licensed agencies as determined by state special education laws. Once referred for special education services, a prospective special needs student is evaluated by a Pupil Evaluation Team (PET) that may determine the student should receive educational programs and related services in a particular educational program placement. The overriding principle regarding student placement is that placement decisions may not be made on a category of exceptionality or disability, the availability of educational services or for administrative convenience, but must be made on an individual basis in the LRE according to the IEP for that particular student.

The Task Force recognizes that, regardless of the placement required by an Individual Education Program (IEP) for a deaf and hard-of-hearing student, the local school administrative is ultimately responsible for ensuring the delivery of special education services for students residing within their jurisdiction. The Task Force also acknowledges that the Baxter School must comply with the provisions of the IEP for students placed at the school, and that the GBSD may also provide outreach services to deaf and hard-of-hearing students who are placed in their local public school setting.

#### Recommendation

The Task Force recommends that the Legislature take immediate action to change the statutes regarding the role and responsibilities of the Baxter School in delivering educational programs for deaf and hard-of-hearing students in the State. The Task Force recommends that the Legislature should consider the following policy principles as guidance for state policymakers who are responsible for the planning and the delivery of instructional programs and educational services for deaf and hard-of-hearing students:

## **1. Recognition of the Array of Programs and Services Delivered to Deaf and Hard-of-hearing Students in Accordance with Federal and State Law**

The Task Force recommends that the following array of instructional programs be recognized as essential placement options for the purpose of educating deaf and hard-of-hearing students in the State. State policymakers, educational stakeholders and interested parties must recognize that the array of instructional programs includes programs delivered by:

- A. Local public schools or approved private schools in the State that may provide special education programs and services to deaf and hard-of-hearing students in accordance with both federal and State laws and regulations;
- B. The Baxter School located at Mackworth Island, including the residential program, day school program, parent-infant program, pre-school program, and communication garden program, distance education program, and community education program;
- C. Satellite programs, including residential programs, day school programs and early childhood programs that may be offered by publicly-operated or independently-operated schools; and which are dispersed geographically and located near the population centers of deaf and hard-of-hearing students within the state and are under contract with local school administrative units and the reconstituted governing board; and
- D. Statewide consultation and outreach programs that may be offered by publicly-operated or independently-operated schools; and which are dispersed geographically and located near the population centers of the state and are under contract with the reconstituted governing board.

## **2. Legal Requirements and Policy Standards for Educational Programs for Deaf and Hard-of-hearing Students.**

The Task Force also recommends that authorized programs within the array of instructional programs for deaf and hard-of-hearing students not only comply with all applicable federal and state statutory requirements, but should also meet certain educational policy guidelines and accreditation standards as follows:

- A. Federal laws and regulations, including the federal policy guidance issued in 1992 and 1994 regarding the development of an Individual Education Program (IEP) and the determination of a Free and Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE) for a deaf or hard-of-hearing student. This policy guidance stated that the development of an IEP and determination of a FAPE in the LRE for a deaf or hard-of-hearing student must take into consideration the following factors:
  - (1) Communication needs and the child's preferred mode of communication;
  - (2) Linguistic needs;
  - (3) Severity of hearing loss and potential for using residual hearing;

- (4) Academic level; and
- (5) Social, emotional and cultural needs, including opportunities for peer interactions and communication;

B. State statutes and rules, including standards for public schools or approved private schools and provisions regarding the delivery of educational services to children with disabilities;

C. Educational service guidelines for deaf and hard-of-hearing students with respect to ensuring that every deaf or hard-of-hearing student receives direct instruction and related educational services from appropriately certified teachers and qualified educational support personnel, including audiologists, deaf studies specialists, speech therapists and ASL interpreters; and

D. Accreditation standards from an appropriate accrediting agency.

### **3. Participation in and Support for Newborn Screening Programs.**

The Task Force\* recommends that the educational programs affiliated with the array of instructional programs should participate in and support, as may be appropriate, the newborn hearing screening program established in the State in order to maximize the potential of an infant's communication skills, cognitive development and readiness to learn. (\* the DOE and the DAFS members abstained from the Task Force vote on this issue).

## **B. Governance System for the Array of Instructional Programs for Deaf and Hard-of-hearing Students.**

### Findings

The Task Force finds that the Governor, the Baxter School, several executive branch agencies and the Maine Legislature have a shared obligation to ensure that the school achieves Basic School Approval status. Furthermore, the Task Force finds that state policymakers should augment the governance capacity of the school board by providing technical assistance, consultation and adequate resources over a two-year transition period. State-level technical assistance should support the school board as board members develop the capacity for genuine policymaking authority and the ability to govern the Baxter School with substantial autonomy as they seek to transition from the existing state budget, personnel and collective bargaining systems.

### Recommendation

The Task Force recommends that the Legislature take immediate action to change existing statutes regarding the governance system of the Baxter School. These statutory changes should include a 24-month transition period, including benchmarks and methods of assessing the capacity of the GBSD School Board to exercise genuine policymaking authority and to govern the Baxter School with substantial autonomy. The Task Force recommends that the Legislature should

consider the following factors in designing benchmarks and methods of assessment that can “trigger” the implementation of the new governance system:

### **1. Transition to a Redesigned Governance System.**

The Task Force recommends that the Legislature, the Governor and the GBSD School Board work together over the next two years to implement a new governance system. Task Force members agreed that a new governance system should include a governing board empowered with genuine policymaking authority and substantial autonomy to develop educational policies for the existing “center school” programs on Mackworth Island and the Baxter School’s statewide consultation and outreach services. Task Force members did not agree on whether this reconstituted governing board should have sole authority for operating any or all affiliated instructional programs for deaf and hard-of-hearing students that may be established in the State.

The Task Force also recommends that a new governing board be established consistent with the following:

- A. The governing board should have legitimate authority to develop policy for the school that is consistent with State and federal laws and regulations;
- B. The total membership of the governing board should be increased and the composition of the board should be based on skill or knowledge-based qualifications (e.g., human resource management, financial planning and management, experience expertise in education of the deaf, etc.) in addition to the existing categorical criteria (e.g., representatives of parents, the Deaf community, the general public, etc.) so that the governing board as a whole sufficiently represents all categorical criteria and skill or knowledge-based qualifications;
- C. The process for appointment of governing board members should allow the governing board and other interested parties to have the opportunity to nominate potential board candidates to the Governor; and allow the Governor to have appointment authority subject to the review of, and confirmation by, the Legislature;
- D. The governing board should have budget flexibility with the ability to transfer money within its budget categories, as needed;
- E. The governing board should have the authority to establish its own personnel management system for Baxter School personnel, including the option of separating from the state personnel classification system; and
- F. Following a transition period during which the State, the GBSD School Board and the collective bargaining units of the current Baxter School employees can negotiate the necessary provisions of a new legal framework for labor relations (similar to statutory transition requirements enacted for the Maine State Retirement System and the Maine Technical College System), the governing board should have the authority to negotiate

directly with collective bargaining units, including the authority to define employee benefits (e.g., health and retirement benefits) pursuant to State law and all other necessary transition requirements.

## **2. Cohesive Program Delivery System.**

The Task Force also recommends that the governance system stakeholders develop, maintain and support the most cohesive delivery system possible for planning and providing educational opportunities for each deaf and hard-of-hearing student in the State through an array of instructional programs.

## **3. Program Placement Options and Related Instructional Philosophies.**

The Task Force further recommends that the governing body of the statewide instructional program should maintain a full range of program placement options and related instructional philosophies (e.g., bilingual/bicultural; cued speech, oral, etc.) that its deaf and hard-of-hearing students may require to fulfill the placement requirements of their Individual Educational Programs.

## **4. Public Funds, Financial Support and Accountability.**

Finally, the Task Force recommends that the Legislature and the Governor provide adequate financial support to maintain high quality educational opportunities for deaf and hard-of-hearing students through appropriations, grants and loans, based on comprehensive plans and budgets, both short-term and long-term. The Task Force encourages the array of instructional programs to make maximum use of federal funds available for the support of instructional programs and related educational services for the deaf and hard-of-hearing students, and also advocates that the State should provide matching funds, where necessary, initially and on a continuing basis. Task Force members also recommend that the reconstituted governing body should expect appropriate public accountability for this financial support.

## **C. Powers and Duties of the Governing Board**

### Findings

The Task Force finds that the Governor Baxter School for the Deaf and its affiliated programs are established as a public school pursuant to statutes for the purpose of providing deaf and hard-of-hearing students with a quality educational experience. The Baxter School is a body politic and corporate and is an instrumentality and agency of the State. The exercise by the school of the powers conferred by statutes is the performance of an essential public function by and on behalf of the State.

## Recommendation

The Task Force recommends that the Legislature take immediate action to change existing statutes regarding the powers and duties of the governing board for the Baxter School, and that the powers and duties of the governing board should include the following:

A. To develop and adopt policies and rules, including bylaws, necessary or useful for the operation of the school and its affiliated programs;

B. To oversee the administration of the school and its affiliated programs, including the hiring of teachers and administrative support staff;

C. To appoint a treasurer, who need not be a member of the governing board, and to accept donations, bequests or other forms of financial assistance for any educational purpose from a public or private person or agency and to comply with rules and regulations governing grants from the federal government or from any other person or agency;

D. To prepare and adopt an annual budget for the operation of the school and its affiliated programs, and to exercise budgetary responsibility and allocate for expenditure by the school and programs under its jurisdiction all the resources available for the operation of the school and its programs;

E. To enter into any contracts and agreements, to the extent that funds are available, in the execution of its powers under this chapter;

F. To establish benchmarks and methods of assessing progress towards attaining Basic School Approval status; including benchmarks and methods of assessing the levels of academic achievement for students who participate in school programs and benchmarks and methods of assessing progress in the professional development of teachers, administrators and other school personnel who participate in providing school programs;

G. The trustees, superintendent, or the board's representative, shall report annually to the Governor and the Legislative Standing Committee on Education and Cultural Affairs on the results of the student assessment and the general status of the school and its affiliated programs in complying with the state public policy on education of students who are deaf and hard-of-hearing as established by statute;

H. To provide annually to the Governor, the joint standing committee of the Legislature having jurisdiction over education matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a financial audit of the school conducted by an independent auditor that accounts for the prior year's funding; and

I. To report semi-annually (e.g., by July 1, 2000; January 1, 2001 and July 1, 2001) to the Governor and the Legislative Standing Committee on Education and Cultural Affairs on the board development activities and on the status of the board's progress towards the benchmarks and levels

of policy-making and governance capacity as established in the recommendation of a two-year transition period.

**APPENDIX A**

**Enabling Legislation  
Joint Study Order H. P. 1587**

## **APPENDIX B**

### **Membership of The Task Force on Educational Program and Governance System of the Governor Baxter School for the Deaf**

## **APPENDIX C**

### **Governance Powers and Duties**

## **APPENDIX D**

### **Comparison of Governance Powers and Duties: Governor Baxter School for the Deaf, Public School Boards and Maine School of Science & Mathematics**

## **APPENDIX E**

### **Examples of Different Types of Governance Structures of Schools for the Deaf**

## **APPENDIX F**

### **GBSD 1998 Governance Review Committee Conclusions**

## **APPENDIX G**

**Excerpts from the GBSD Review Committee Basic School Approval Report and  
Updates by the Department of Education Re: Basic School Approval**

## **APPENDIX H**

### **GBSD Per Pupil Costs**

## **APPENDIX I**

### **Explanation of Personnel Matters at the Baxter School**

## **APPENDIX J**

### **Explanation of School Board Membership on the GBSD School Board**

## **APPENDIX K**

### **Examples of State Entities with Some Degree of Independence**

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