

**INVESTIGATION REPORT:
PART 2**

**RELATING TO DROWNING OF
LEWISTON MIDDLE SCHOOL STUDENT
AT RANGE POND STATE PARK
ON JUNE 12, 2018**

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SUMMARY OF INVESTIGATION PROCESS

Lewiston Middle School student Rayan Issa drowned at Range Pond State Park in Poland, Maine, while on a school-sponsored field trip on June 12, 2018. The decision to conduct an investigation of the incident was promptly made by Lewiston Public Schools Superintendent Bill Webster. Because the incident involved the death of a student, and because the investigation involved issues relating to appropriate policies and procedures, Superintendent Webster made the decision to appoint Brann & Isaacson to conduct the investigation. The mandate given to Brann & Isaacson was to:

- Review the events of June 12, 2018 that preceded the death of Rayan Issa in light of existing Lewiston Public Schools policy.
- Make recommendations for implementation by Lewiston Public Schools to prevent similar incidents from occurring in the future.
- Prepare reports to the Superintendent of Schools, to be made available to the public, disclosing the facts and setting forth recommendations resulting from the investigation.

The investigation consisted of two parts, a fact gathering stage, and a process for developing recommendations. The results of the first part of the investigation are summarized in Part 1 of this report issued on June 25, 2018.

The second part of the investigation involved the development of recommendations for the Lewiston Public Schools regarding appropriate policies and procedures for water-related activities. With permission from the Superintendent, Brann & Isaacson consulted with an independent expert on aquatic safety, Carrie Bonnefond, who is Chief Executive Officer of Lighthouse Health and Safety. Ms. Bonnefond and her company provide training and

consultation services regarding aquatic safety to businesses, schools and summer camps throughout Northern New England. Ms. Bonnefond, who is an American Red Cross Licensed Training Provider and Strategic Partner, has provided recommendations regarding best practices for conducting and supervising youth water activities. Brann & Isaacson also has reviewed policies and procedures for water-based activities developed by other organizations, including the YMCA, Boy Scouts, Girl Scouts, and the American Camp Association, as well as guidance on aquatic safety and activities developed by the American Red Cross.

The independent expert assisted in development of the recommendations contained in this report. The organization and wording of the report are those of Brann & Isaacson, however, and do not constitute a verbatim rendering of discussions with the independent expert. The recommendations that result from the second part of the investigation are set forth in this report.

The Androscoggin County Sheriff's Department is conducting its own investigation of the drowning at Range Pond State Park. The recommendations in this report are made independently of the work of the Sheriff's Department.

RECOMMENDATIONS FOR APPROVAL AND CONDUCT OF WATER-RELATED FIELD TRIPS

The drowning of Rayan Issa on a school field trip on June 12, 2018, illustrates the fact that water activities are inherently dangerous. According to the Centers for Disease Control and Prevention, drowning is the fifth leading cause of unintentional injury death for people of all ages, and the second leading cause of unintentional injury death for children ages 1 to 14 years. Because of the risks associated with water-related activities, we recommend that the Lewiston Public Schools adopt policies that set specific standards for field trips that involve water activities.

A review of school board policies adopted by other Maine school districts indicates that few, if any, Maine school districts have specifically addressed water-related field trips in their school board policies. The standard field trip policy IJOA distributed by Maine School Management Association, which many public school districts in Maine use as a model starting point in drafting their own policies, does not address water-related field trips.

Lewiston Public Schools has applied a more stringent process for approval of water-related field trips than many Maine school districts by requiring that field trips involving water activities receive advance approval from the Lewiston School Committee.¹ Because there were not any specific standards to govern the approval and conduct of water-related trips prior to the June 12 incident, however, it is recommended that comprehensive procedures be developed both to guide the School Committee and administrators in approving such field trips and to guide school staff in the conduct of such field trips. Superintendent Bill Webster already has

¹ LPS requires School Committee approval for any field trip involving water activities through submission of an additional form for School Committee approval of any field trip that is overnight, out-of-state, or involves either "water activities" or "watercraft-air transportation." In this case, the Team Leader who organized the June 12th field trip completed both forms, and the field trip received School Committee approval as part of the School Committee's consent agenda at the May 7, 2018, School Committee meeting.

implemented interim guidelines relating to water-related field trips, and this report is intended to assist the Lewiston Public Schools in developing a more comprehensive policy.

For all field trips, it is recommended that permission slips include detailed notification to parents of the specific activities that will be involved in the field trip, the risks associated with those activities, and a description of the safety steps and precautions that will be used. We understand that the Lewiston Public Schools already has initiated more detailed notification to parents regarding activities and risks associated with field trips.

Risk levels and best practices vary depending on the location and nature of a water-related activity. These recommendations are intended to form the basis for a consistent policy that includes both field trips during the school day and trips organized as part of Lewiston Public Schools' after school and summer programming. For purposes of making recommendations, this report divides water-related field trips into four categories: (1) field trips that involve swimming at lakes, beaches or pools; (2) field trips that take place near the water but at which swimming is not allowed; (3) field trips that involve boats or other watercraft; and (4) field trips to water parks.

I. Swimming Activities at Lakes, Beaches or Pools

Best practice guidelines for administering youth swimming activities have been developed by the Boy Scouts of America, Girl Scouts of America, the American Camp Association and the YMCA. Based on review of these guidelines, and in consultation with Carrie Bonnefond of Lighthouse Health and Safety, it is recommended that the following best practices be considered by the Lewiston Public Schools in connection with field trip activities that involve swimming by students at lakes, beaches or pools²:

² Because rivers present the possibility of strong currents, it is recommended that swimming activities not be allowed in rivers unless the location is carefully inspected and vetted in advance to ensure a safe environment.

A. Field trip participants should be required to demonstrate water competency before being allowed to swim.

Students participating in swimming activities should be required to demonstrate water competency and should be assigned to designated swimming areas based on their level of competency. Guidelines from the Boy Scouts of America, Girl Scouts of America, the American Camp Association and the YMCA recommend water competency testing before allowing participants to enter water beyond a certain depth. *BSA Guide to Safe Scouting*, at p. 9 (Boy Scouts of America 2018) (öAll youth and adult participants are designated as swimmers, beginners or nonswimmers based on swimming ability confirmed by standardized BSA swim classification tests. Each group is assigned a specific swimming area with depths consistent with those abilities.ö); *GSA Safety Activity Checkpoints 2018*, at p. 138 (Girl Scouts of America) (öClearly identify swimming abilities. These could be indicated, for example, with different colored wristbands to signify beginners, intermediate, and advance swimmers.ö) *Enjoying Water Safely, Aquatic Safety Guidelines for Y's* (YMCA of the USA, rev. May 2011) (öRequire a swim test for all youths and adults who give a lifeguard concern before allowing the patrons to enter water that is deeper than their armpits.ö); *American Camp Association Standard PA.13* (2012 Edition, updated Jan. 2016) (öCamps must evaluate and classify participantsøswimming abilities and assign them to appropriate swimming areas, equipment, facilities and activities.ö)

Evaluation of water competency should be conducted by certified lifeguards who are trained in evaluating water competency. An example of a water competency test used by the American Red Cross includes the following elements: (a) step or jump into the water over one's head; (b) return to the surface and float or tread water for one minute; (c) turn around in a full circle; (d) swim 25 yards to the exit; (e) exit from the water.

Based on water competency testing, participants can be divided into either two or three classifications. Under a two-tier system, participants who are able to demonstrate water competency should be identified in some way, such as a specific wrist band, and allowed to swim in deeper water. Those who are not able to successfully complete the water competency test should be required to remain in shallower water (waist deep or less).

Alternatively, a three-tier system would identify participants as swimmers, beginners or nonswimmers, with beginners passing a less stringent and shorter distance test than swimmers. Each group would be identified through a specific color wrist band or other method, with swimmers allowed into deeper water, beginners restricted to swim in water no deeper than their chests, and nonswimmers restricted to no more than waist deep water.

If it is not possible to administer water competency testing, or there are students or adults who do not want to take the water competency test, those not taking the test should be considered nonswimmers. Nonswimmers should be required to remain in water no more than waist deep, with their heads above water at all times, or they should be required to wear properly fitted lifejackets/personal flotation devices in the water at all times. If lifejacket use is permitted, only U.S. Coast Guard approved Type II or Type III lifejackets that are inherently buoyant should be allowed. Before allowing individuals with lifejackets to enter the water, an individual who is trained in lifejacket use and fitting should inspect the size and proper fit of each participant's lifejacket. During the activity, lifeguards and lookouts should be responsible for monitoring participants to ensure that lifejackets are not removed and remain properly fitted.

B. Adequate lifeguard coverage should be ensured.

The Lewiston Public Schools should ensure that there is adequate lifeguard coverage at facilities where students are allowed to swim on field trips. Guidelines from the Boy Scouts of

America, Girl Scouts of America, the American Camp Association, and the YMCA require adequate lifeguard coverage for swimming activities. *BSA Guide to Safe Scouting*, at p. 6 (‘‘Every swimming activity must be closely and continuously monitored by a trained rescue team on the alert for and ready to respond to emergencies’’); *GSA Safety Activity Checkpoints 2018*, at p. 137 (‘‘Ensure the presence of lifeguards’’); *American Camp Association Standards PA.3 & PA.7* (‘‘Camps must have an appropriately certified lifeguard for each swimming activity’’; ‘‘Camps must specify ratios of aquatic-certified persons and lookout on duty at each aquatic area, with a minimum of one adult and one other staff member.’’); *Enjoying Water Safely, Aquatic Safety Guidelines for Y’s*, at p. 12-13 (setting standards for minimum supervision by qualified lifeguards based on a variety of factors.)

Most schools and other organizations rely on the operator of a public beach with lifeguards to determine the appropriate lifeguard coverage. This was the case for the June 12th field trip, as Lewiston Public Schools employees believed that Range Pond State Park would provide adequate lifeguard coverage. Although Range Pond State Park had two lifeguards on duty during Lewiston Middle School’s 2017 field trip to Range Pond, the State Park had only a single lifeguard on duty during the June 12, 2018 field trip.

Standards for minimum lifeguard coverage vary. Although Maine law does not set standards for lifeguard coverage at public pools and beaches, rules adopted for public swimming areas in some other states recommend a minimum of one lifeguard for every 25 swimmers in the water. It is likely that the number of lifeguards at Range Pond State Park did not meet this standard, based on the size of the Lewiston Middle School group and the fact that there were other members of the public swimming at Range Pond that day.

It is recommended that Lewiston Public Schools ensure that there is adequate lifeguard coverage at any facility in which students are allowed to swim as part of an organized school activity. On lakes, rivers and streams, Girl Scouts of America guidelines recommend that there be at least one certified lifeguard present for every 25 swimmers. *GSA Safety Activity Checkpoints 2018*, at p. 137. A ratio can be monitored and enforced through a buddy system that requires swimmers to check in and out of the water as described below. Because it likely is not possible to effectively ensure that a ratio for minimum lifeguard coverage is satisfied at swimming facilities open to the general public, where the School Department has no control over the number of other swimmers who may be in the water, the School Department may need to contract for its own certified lifeguards in order to implement this recommendation.

C. Students in the water also should be monitored by designated “lookouts” or “watchers”.

In addition to ensuring adequate lifeguard coverage, it also is recommended that one or more adult chaperones be designated as “lookouts” or “watchers” to observe students in the water and help to alert lifeguards if there are any issues. The Boy Scouts of America, the Girl Scouts of America, and the American Camp Association all recommend designation of non-lifeguards to serve a lookout role during swimming activities, in addition to ensuring an adequate level of lifeguard coverage. *BSA Guide to Safe Scouting*, at p. 8 (“The lookout continuously monitors the conduct of the swim, identifies any departure for Safe Swim Defense guidelines, alerts rescue personnel as needed, and monitors the weather and environment”); *GSA Safety Activity Checkpoints 2018*, at p. 154 (“Identify watchers” This person assists the group by watching for possible emergencies.); *American Camp Association Standards PA.6 & PA.7* (“Lookouts must be oriented to responsibilities and able to demonstrate elementary forms of non-swimming rescue”; “Camp must specify ratios of aquatic-certified persons and lookouts on

duty at each aquatic area. As with lifeguards, a ratio for lookouts to swimmers should be established. Girl Scouts of America guidelines recommend a ratio no less than 1 adult lookout for every 10 swimmers in the water. Ideally, lookouts should receive training in Basic Water Rescue, a 4-hour training module offered by the American Red Cross, but at the very least lookouts should participate in basic water safety training as described in Paragraph F below.

D. Require monitoring of students through a buddy system.

It is recommended that a buddy system be used to monitor students during any field trip that involves swimming activities. Boy Scouts of America and Girl Scouts of America guidelines require use of a buddy system for swimming activities. *BSA Guide to Safe Scouting*, at p. 9 (Boy Scouts of America 2018) (“Every participant is paired with another.”) Buddies are instructed to stay together, monitor each other, and alert lifeguards and monitors if either needs assistance or is missing; *GSA Safety Activity Checkpoints 2018*, at p. 9 (Girl Scouts of America, rev. June 2016) (“Use the buddy system.”) The American Camp Association requires that camps use a safety check system, such as a buddy system, to quickly account for all participants in each aquatic activity. *American Camp Association Standard PA.12* (“Camp must have a system in place to quickly account for all participants in each aquatic activity”); *see also Decision-Making Buddy Checks for Camper Swimming Activities*, by Diane Tyrell (American Camp Association 2012).

Under a buddy system, each participant is paired with another and buddies are required to stay together, monitor each other, and alert lifeguards and monitors if either needs assistance or is missing. An effective buddy system in an aquatic environment requires buddies to check into and out of the swimming area together. This can be accomplished through use of a “buddy board” or checkout system that is supervised by a staff member to keep track of which students

are in the water at any one time. Buddies are normally in the same ability group and remain in their assigned area. If they are not in the same ability group, then they would be required to remain in the area assigned to the buddy with the lesser ability.

Staff and students should ensure that buddies remain within arm's reach of each other while in or around the water. Periodic buddy checks should be implemented to remind participants of their obligation to monitor their buddies and to determine how closely the buddies are keeping track of each other. Every 5 or 10 minutes, or as needed to keep buddies together, a designated adult should give an audible signal, such as a single whistle blast, and a call for "Buddies." Buddies are expected to raise each other's hand within a specific amount of time, and buddies who take longer to find each other are reminded of their responsibility for the other's safety. Once everyone has their buddy, a count is made by area and compared with the total number known to be in the water. After the count is confirmed, a signal is given to resume swimming.

E. The swimming area should be inspected and a safety talk should be given to all participants that covers the specific risks and hazards presented by the swimming facility.

All field trips that include swimming should begin with inspection of the swimming area and a discussion with all participants that cover the specific risks and hazards present at the facility. This is consistent with recommended guidelines from the Boy Scouts of America, the Girl Scouts of America and the American Camp Association. *BSA Guide to Safe Scouting*, at p. 7 (Boy Scouts of America 2018); *GSA Safety Activity Checkpoints 2018*, at p. 138; *American Camp Association Standard PA.8* ("Camps must orient participants of aquatic activities to safety rules and regulations.") The safety talk should include instruction from a lifeguard that is

familiar with the facility. The safety discussion should include consideration of all conditions and hazards present at the facility, including water depth, quality, temperature, and visibility.

F. Employee chaperones should participate in basic water safety training.

Because swimming activities involve unique risks, we recommend that LPS consider requiring employee chaperones to participate in basic water safety training prior to supervising field trips that involve swimming. The Boy Scouts of America, Girl Scouts of America and American Camp Association all recommend some level of training for individuals who are involved in monitoring of swimmers. *BSA Guide to Safe Scouting*, at p. 8; *GSA Safety Activity Checkpoints*, at p. 137; *American Camp Association Standard, PA*, p. 6. This training could be implemented by development of a written presentation that covers principles of basic water safety and a requirement that chaperones certify that they have reviewed and understand the information contained in the presentation.

G. Proof of liability insurance should be requested from swimming facilities operated by private vendors.

When a private vendor is furnishing a swimming facility with lifeguard coverage, it is appropriate to confirm that the facility maintains general liability insurance. This may include current general liability insurance with minimum coverage of \$1 million per occurrence.

II. Non-Swimming Activities Near Water

Field trips that are at or adjacent to the water require additional safety precautions even if students are not allowed to swim. In water environments where swimming is not allowed, the Lewiston Public Schools should implement procedures to ensure student safety. Based on review of policies from other organizations and schools, it is recommended that Lewiston Public Schools consider the following minimum standards:

A. Prohibit students from entering the water at all if there is no lifeguard coverage.

Students should not be allowed to touch the water if there is no lifeguard coverage present. This ensures that students who may be nonswimmers are not exposed to risk of drowning or other water accident without a certified lifeguard present.

B. Prohibit students from entering the water above their knees if there is lifeguard coverage.

On a non-swimming field trip, students should not be allowed to enter water deeper than their knees when there is a lifeguard present. This ensures that students who may be nonswimmers do not enter deep water and that there is a lifeguard present if any issues arise.

C. Require monitoring of students through a buddy system and assignment to designated chaperones.

When students are near the water, extra vigilance should be required in monitoring of students. Each chaperone should be responsible for monitoring the safety of an assigned group of students, and a buddy system should be utilized. If a lifeguard is present and students are allowed to enter the water up to their knees, they must first be authorized by their designated chaperone, and there should be no more than ten students per chaperone touching the water at any time.

D. A safety talk should be given to all participants that covers the specific risks and hazards presented by the facility.

All water-related field trips should begin with a discussion with all participants that covers the specific risks and hazards present at the facility. The safety discussion should include consideration of all conditions and hazards present at the facility, and should cover the rules necessary to keep participants safe.

III. Boating Activities

Boating activities on field trips may involve participatory boating activities, such as canoeing, kayaking, paddle boarding and white water rafting, or activities in which a boat is used as a means of transportation, such as ferries or other vessels used to transport students.

For all types of boating activities, it is recommended that the Lewiston Public Schools not allow field trips that involve use of personally owned watercraft, because there is no mechanism for inspection or assurance of the safety or reliability of personally owned equipment. Because the Lewiston Public Schools does not maintain its own boats, boating activities should only be conducted through reputable and insured third party vendors who furnish the equipment and are responsible for supervising the water-based elements of the activities. It is recommended that Lewiston Public Schools implement procedures to ensure that vendors meet minimum safety standards. Minimum safety standards for vendors will depend on the nature of the boating activity, i.e., whether the vendor offers participatory boating activities, such as canoeing, kayaking or paddle boarding, or the vendor provides transportation by boat.

The Lewiston Public Schools could approve vendors for boating activities on a case-by-case basis, or it could develop an approved list of vendors/activities, after reviewing whether each vendor meets certain minimum standards.

A. Participatory Boating Activities

The following minimum standards for participatory boating activities provided by third party vendors are derived from guidance developed by other organizations including the American Camp Association.

1. Required Use of PFDs

All participants in the boating activity must be required to wear safe and appropriate lifejackets/personal flotation devices.

2. Appropriately certified and trained instructors or guides

The vendor must provide an adequate number of appropriately trained and certified instructors or guides for the boating activity, and instructors must be trained in water rescue and emergency procedures, specific to the type of water and activities being conducted. Because the appropriate number of instructors or guides will vary depending on the type of boating activity, before a vendor is approved to conduct a boating activity the vendor should be asked to explain its policies regarding the number of instructors or guides assigned to the activity and to substantiate the adequacy of those policies.

3. Appropriate Safety Procedures

The vendor must provide appropriate safety instruction to all participants including a requirement to wear a PFD at all times, how to use a PFD, the safety regulations to be followed, how to enter and exit a boat, and how to react if a boat capsizes.

4. Appropriate Equipment

The vendor should have a procedure in place to ensure that boats and other equipment undergo safety checks and regular maintenance.

5. Liability Insurance

The vendor should maintain current liability insurance with minimum coverage of \$1 million per occurrence.

6. Buddy System/Safety Check System

A buddy system or other appropriate safety check system should be employed to ensure that all participants can quickly be accounted for. This may be implemented by the vendor or by Lewiston Public Schools chaperones in cooperation with the vendor.

7. Basic Water Safety Training for Chaperones

Because boating activities involve unique risks, we recommend that Lewiston Public Schools require employee chaperones to participate in basic water safety training prior to supervising field trips in which students participate in boating activities. This training could be implemented by development of a written presentation that covers principles of basic water safety and a requirement that chaperones certify that they have reviewed and understand the information contained in the presentation.

B. Boat Transportation

For field trips that involve transportation by boat, the Lewiston Public Schools should adopt procedures to ensure that the transportation provider meets minimum standards. The following minimum standards are derived from best practice guidelines developed by other organizations including the Girl Scouts of America.

1. U.S. Coast Guard Licensure

Federal law requires that passenger vessels that carry more than six passengers are licensed by the U.S. Coast Guard. The Coast Guard examines operator training and certification, vessel condition, and safety equipment. Because of Coast Guard oversight, it is recommended that boat transportation on field trips be limited to commercial vessels with Coast Guard licensure.

2. Licensed Crew

The transportation provider should have a professional, licensed crew with training and experience in handling emergency situations.

3. Safety Orientation including lifejackets/PFDs

The transportation provider should provide a safety orientation to passengers that covers the location and proper use of lifejackets and other critical information, such as how to signal the crew if an emergency occurs, and life raft and survival suit locations and proper use, if present on the vessel. The provider should require all participants to comply with its rules regarding PFD use.

4. Liability Insurance

The transportation provider should maintain current liability insurance with a minimum of \$1 million coverage per occurrence.

5. Buddy System/Safety Check System

A buddy system or other appropriate safety check system should be employed to ensure that all passengers can quickly be accounted for. This may be implemented by the transportation provider or by Lewiston Public Schools chaperones in cooperation with the vendor.

IV. Water Park Field Trips

Like boating activities, attendance at water parks necessarily involves reliance on a third party that operates the water park to provide a safe environment. It is recommended that the Lewiston Public Schools adopt the following practices in connection with water park field trips:

A. Review the safety practices of the water park operator

While the Lewiston Public Schools does not have the expertise to conduct exhaustive safety inspections of water parks, some level of due diligence should be applied to ensure that a water park is operated with safety as a priority. It is recommended that Lewiston Public Schools obtain information about safety practices, staff training and water park staffing before

authorizing field trips to a specific water park. This review should include a request for information about the safety practices at the water park, the water park's policies for employing trained lifeguards and other personnel to monitor guests, and confirmation, if possible, that the water park operator maintains current liability insurance with minimum coverage of \$1 million per occurrence.

B. Require that participants either provide certification of water competency or wear a lifejacket.

The water park safety rules posted on the website for Funtown/Splashtown in Saco, Maine include the following: "Small children, non-swimmers, and weak swimmers should wear a Coast Guard-approved life vest while enjoying waterpark attractions. Bring your own if you are unsure of availability and fit." Aquaboggan in Saco includes a swimming pool and a wave pool among its attractions. Because water parks involve the potential for swimming, it is recommended that participants in water park field trips be required to either wear a Coast Guard approved lifejacket or provide proof that they are able to swim.

Proof of water competency in the case of water parks could involve administering swim tests or requiring certification that a participant is able to swim and has permission not to use a lifejacket. If parents are allowed to certify that their children are able to swim and do not need lifejackets, the disclosure and certification on the permission slip should contain specific information about the nature of the water attractions at the water park, the fact that Lewiston Public Schools cannot ensure that chaperones will have eyes on students at all times, information about the risks involved, and language by which parents acknowledge that they understand the risks and authorize participation either with or without a lifejacket.

C. A safety talk should be given to all participants that covers the specific risks and hazards presented by the water park.

As with other types of water-related activities, a water park field trip should begin with a discussion with all participants that covers the specific risks and hazards present at the facility. The safety discussion should include consideration of the conditions and hazards presented by the water park attractions, and describe the rules necessary to keep participants safe.

D. Require monitoring of students through a buddy system that assigns students to designated chaperones and requires that students check in at designated times and locations.

Each chaperone should be responsible for monitoring an assigned group of students, and a check-in buddy system should be utilized. Chaperones should require periodic check-in times and establish a location to meet.