

# MSBA HANDBOOK

**A GUIDE FOR MAINE SCHOOL BOARD  
MEMBERS AND  
MAINE SCHOOL SUPERINTENDENTS**

**Prepared for the Maine School Boards Association  
by Maine School Management Association**

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# MSBA HANDBOOK

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## ***FOREWORD***

### **TO THE 2011 EDITION**

The need for effective local school boards acting in the best interest of students has never been greater. Board members must balance fiscal realities and the needs associated with improving student achievement. They must become well versed in their school's finances; be advocates for their students, programs, and teachers; anticipate the impact of rapidly changing state and federal regulations; and, keep the community engaged and on the district's side.

Although state government has the primary legal responsibility for public education, the school board is in charge of the separate school units in a decentralized system that values local control.

This MSBA HANDBOOK is designed to assist local school boards and board members in meeting the many and varied responsibilities of their roles as they govern the public education of the students in their charge. It is hoped that this publication benefits both individuals just beginning service as board members and those with years of experience.

Generally, newly-elected board members come to their responsibilities with only limited understanding of the scope and nature of the role. This HANDBOOK offers:

1. A basic acquaintance with the requirements of Maine state law;
2. General information about educational programs and the functioning of schools; and
3. "Boardsmanship" information, which gives practical grounding for the ongoing development of the skills necessary for success as an elected school official.

This HANDBOOK is intended to be a handy resource on Maine school law for board members and superintendents. Many statutes are cited, quoted verbatim, or paraphrased. Contents may be affected by changes in statutes or Department of Education rules. The references are usually brief and are not intended to replace a thorough reading of the law on a given topic. They certainly are not meant to replace the advice of the school board's attorney on complex issues that require formal interpretations of law.

The MSBA HANDBOOK should be considered as one general resource among many. It will have accomplished its purpose if it helps those who read it to gain new insights into the importance of their responsibilities and enables them to better discharge their duties.

The school board member will find the superintendent of schools, fellow board members, the Maine Department of Education (MDOE), the Maine School Boards Association (MSBA), and the Maine School Management Association (MSMA) all to be important resources.

MSMA will keep you informed via bulletins, newsletters, legislative alerts, and issue papers, as well as periodic updates of this HANDBOOK.

Dale A. Douglass  
Executive Director

# **1. INTRODUCTION**

## **CONGRATULATIONS!!**

You have been elected to a local school board or appointed to fill a board seat that became vacant during a term. In either case, you have accepted a major responsibility as a member of a legislative body within Maine state government.

No doubt as a school board candidate you thought a lot about what school board service would be like. You probably pictured yourself working hard to represent your constituents and making a positive difference in the education of your school unit's students. This optimistic picture is how it should be, as serving on a school board is one of the most satisfying contributions you can make to your community.

However, the transition from being a private citizen to being a public school official can be a challenging one. Now you have to function as part of a team and learn how the public schools work. Your board has important legal responsibilities to fulfill and many competing interests to satisfy. The learning process takes time, and it can be frustrating and humbling. Among the discoveries most board members make early in their term are the following:

- It takes a lot of time and hard work to be an effective board member;
- There is a great deal to learn—about legal responsibilities, curriculum, budgets, facilities, negotiations, and other facets of governing a school system;
- Most issues are more complicated than you thought;
- You will not be able to please all of your constituents all of the time; and
- You will not be able to shop in town without people stopping to talk to you about school issues.

Despite these challenges, most board members enjoy their public service. One of the keys to being an effective board member is learning all you can about the job.

The Maine School Management Association has prepared this manual especially for new school board members. However, it is also a useful resource for more experienced board members who want to review the fundamentals of board service.

First, a word about who we are. MSMA is a statewide, non-profit federation of local school boards, superintendents, and assistant superintendents consisting of the Maine School Boards Association and the Maine School Superintendents Association. MSMA serves as an advocate for the interests of the state's public school students and school units and provides such programs and services as are required to fulfill the needs of the membership. MSMA is governed by Action and Policy Committees made up of representatives of both member organizations. As a dues-paying member of MSBA, your board (including you as a member) is entitled to the various services we offer. (See page 1-4, *Resources for Board Members*, for an overview of MSMA services.)

## **Principles of Successful Board Service**

To succeed in your service as a board member, there are several basic principles to keep in mind.

1. You were selected by your fellow citizens to be a school board member, not simply to echo their views and wants but for your willingness and ability to:
  - Learn about and analyze complex issues;
  - Help the public understand the issues; and
  - Work with fellow board members and use your best judgment in making decisions.
2. The skills you need to be an effective board member may be different from those that got you elected.
3. It is important to learn how to make good decisions based on all available information, even when you are under time or political pressure.



4. You need to be able to work effectively as part of a team.
5. You need to act as a policy maker, not an administrator.
6. In spite of competing pressures and demands, you must be committed to doing the right things and to doing things right.

The National School Boards Association's (NSBA) very helpful book, *Becoming a Better Board Member*, contains the following perspective on focusing on the positive aspects of board service:

“While you’re learning how to function as a school board member, your board colleagues and others will be eager to tell you their special problems and not so eager to discuss anything else. Espousing school problems appears to be an honorable pastime for a majority of board members. It’s certainly natural. Just as bad news sells newspapers, school system problems usually fill the board’s agenda.

School problems can also serve as energy food for the board member’s spirit. They are often the reason a person becomes a school board member. They are opportunities to be pondered, shared, explored, managed, and solved.

You’ll want to develop a well-balanced picture of reality. So in your conversations with your board colleagues, the superintendent and others, give attention to problems, but also encourage people to discuss the good things about school board service and the schools. Talk about the benefits of board service, such as seeing test scores rise, students graduating, new schools built, and having months of work culminate in a successful new program.”

## **Resources for Board Members**

Your most important resources are your superintendent, board chair, and fellow board members. You should first familiarize yourself with your board's policy manual, as this is the most important document guiding your school unit. Your superintendent has copies of the Maine statutes governing education (Title 20-A), which can be viewed on the web at [www.mainelegislature.org/legis/statutes/](http://www.mainelegislature.org/legis/statutes/), and materials from the Department of Education, found at [www.maine.gov/education](http://www.maine.gov/education). You also can complete your required Freedom of Access Act training online at [www.maine.gov/foaa](http://www.maine.gov/foaa).

MSMA publishes several newsletters, which are sent directly to you, that provide timely information on school board and education issues. MSMA also keeps members informed of legislative activity and other matters of immediate importance through MSMA's website [www.msmaweb.com](http://www.msmaweb.com) and various other means.

MSMA also maintains an extensive resource center with sample policies and administrative procedures, forms, job descriptions, regulatory guidance, practical information from many sources, and links to web-based resources. All of these resources are available to you upon request as part of your board's membership dues.

MSMA offers an extensive School Leadership Development Program, which provides in-service education opportunities throughout the year, including the two-day Annual Fall Conference in October. Announcements and registration forms for upcoming events are sent to every board chair and superintendent. MSMA staff also provide individualized services to boards, including workshops, policy manual review/revision projects, superintendent search assistance, and specialized consultations on a fee-for-service basis.

Pages 1-5 and 1-6 provide an overview of resources that are available to you as a board member.

## RESOURCE GUIDE

**Local:** Superintendent, Board Chair, Other Board Members

- Local School Board Policy Manual
- *MSBA Handbook* for Maine School Board Members and Superintendents (MSMA provides a copy to every board member.)
- *Maine Education and School Statutes* (Maine Department of Education provides a copy to every superintendent. Additional copies may be ordered through the superintendent from Swan Island Press.)
- *Directory of Maine Schools*  
The Directory of Maine Schools is on the Department of Education website at: [www.maine.gov/education/eddir/schcontact.htm](http://www.maine.gov/education/eddir/schcontact.htm)

**Publications** sent periodically to **Board Members from Maine School Boards Association (MSBA)** and **Maine School Management Association (MSMA)**

- *MSBA Update*
- MSMA Legislative Bulletins
- MSMA Special Bulletins
- MSMA Newsletters
  - *School Law News*
  - *Labor Relations News*
  - *Policy Development News*
  - *Legislative News*
  - *Insurance Trust Newsletters*: (participants only)

**Publications available from Maine School Management Association (MSMA)**

- Parliamentary Procedure at a Glance
- NEPN/NSBA Code Finder Index (for Policy Manuals)

**Available from National School Boards Association (NSBA)**

- *Becoming a Better Board Member* (3<sup>rd</sup> ed., 2006)
- *The American School Board Journal* (published monthly)
- *Secrets of School Board Success*
- *Targeting Student Learning: The School Board's Role as Policymaker*

## Web-based Resources

- Maine School Management Association: [www.msmaweb.com](http://www.msmaweb.com)
- U.S. Department of Education: [www.ed.gov/](http://www.ed.gov/)
- State Department of Education: [www.maine.gov/education](http://www.maine.gov/education)
- Maine DOE Commissioner Letters (Administrative and Informational): [www.maine.gov/education/edletrs/](http://www.maine.gov/education/edletrs/)
- Maine State Board of Education: [www.maine.gov/education/sb/](http://www.maine.gov/education/sb/)
- National School Boards Association: [www.nsba.org](http://www.nsba.org)
- Education Week: [www.edweek.org](http://www.edweek.org)
- American School Board Journal: [www.asbj.com](http://www.asbj.com)
- Maine Law (Click on Title 20-A and Title 20 for Education Law): [www.mainelegislature.org/legis/statutes](http://www.mainelegislature.org/legis/statutes)
- DOE Rules: [www.maine.gov/sos/cec/rules/05/chaps05.htm](http://www.maine.gov/sos/cec/rules/05/chaps05.htm)
- Maine Legislature: [www.maine.gov/legis](http://www.maine.gov/legis)
- Maine Legislators email addresses
  - House of Representatives: [www.maine.gov/legis/house/e\\_mail.htm](http://www.maine.gov/legis/house/e_mail.htm)
  - Senators: [www.maine.gov/legis/senate/senators/email/maillst.htm](http://www.maine.gov/legis/senate/senators/email/maillst.htm)
- Maine Legislature Bill Status: [www.mainelegislature.org/LawMakerWeb/search.asp](http://www.mainelegislature.org/LawMakerWeb/search.asp)

**Services Available from MSMA** (telephone: 207-622-3473 or toll free 1-800-660-8484; fax: 207-626-2968; email: [msma@msmaweb.com](mailto:msma@msmaweb.com); website: [www.msmaweb.com](http://www.msmaweb.com))

- School Leadership Development Program
  - (In-service education programs for board members and superintendents)
- MSMA Annual Fall Conference
- Consultations with:
  - Executive Director
  - Deputy Executive Director
  - Associate Executive Director
  - Director of Policy and Resource Services
  - Director of Communications
- Resource Center
  - Sample policies
  - Sample administrative procedures, job descriptions, and forms
  - Regulatory guidance
  - Practical information and articles on various education related subjects
  - Links to web-based materials

Additional contracted services are available on a fee basis: Policy Manual Revisions, Superintendent Search Services, and Individualized Workshops.

## **2. ROLES, FUNCTIONS, AND DUTIES OF SCHOOL BOARDS AND SCHOOL BOARD MEMBERS**

School boards must operate within the framework of the U.S. and Maine Constitutions and a wide range of federal and state statutes and regulations that provide specific requirements regarding the operation of schools and protections for students, parents, and employees.

The duties of school boards are primarily set forth in Maine Statutes, Title 20-A, and Maine Department of Education administrative rules. The administrative rules have the effect of law and provide direction to boards as they implement the legal requirements of Title 20-A. Please review 2-A, *Duties and Responsibilities of School Boards*, beginning on page 2-8. You will note that the duties of school boards are varied and wide in scope. Board responsibilities have evolved as legislation has been enacted over the years.

It is reasonable to assume that the state statutes and DOE administrative rules grant local school boards the authority necessary to fulfill the required functions. However, board members should be aware that school boards, like other public bodies in Maine, may exercise only that power which is conferred upon them by law, whether expressly or by “necessary inference,” in order to carry out these specifically granted powers. Therefore, if there is no law that specifically or by implication permits a board to do something, then the board is not permitted to take that action. Boards should rely on basic principles contained in the law, the advice of the board’s attorney, and the superintendent’s knowledge and experience to guide them in setting direction and making policy for their district.

We have given you examples of some of the law that pertains to school and school board operations starting on page 2-8.

### **WHAT DO BOARD MEMBERS DO?**

In order to give the best service to your local community, you will need to develop skills and knowledge in a variety of areas. These include:

- **Policy Making.** A major function of any school board is to develop and adopt policies that spell out how the school district will operate. Policies should be based on the board's *vision* for the school district and should cover every aspect of district operations—including employment of staff personnel, administration of pupil services, educational programs, instructional material, school facilities, equipment, finance, and support services. A board can adopt policy upon the recommendation of the superintendent, but the final decisions on policy cannot be delegated.

But although boards set policy, they do not carry it out. The responsibility for *implementing* policy is delegated to the superintendent of schools. The board evaluates the implementation of policy through its *accountability* procedures: conducting observations, establishing special oversight studies, and requiring periodic reports by administrative officers.

- **Designating the Chief Executive.** A board is responsible for recruiting, hiring, and evaluating the performance of the superintendent of schools who will carry out its policy. This task cannot be delegated. Unless otherwise specified in state statutes or board policy, a board exercises daily supervision and control primarily through its chief administrator and does not deal directly with individual staff members employed to assist the superintendent in implementing board directives.
- **Planning, Goal Setting, and Appraisal.** This vital leadership role of a board cannot be delegated. Each board must establish a shared community *vision* for its district, translate that vision into long - and short-range goals, and then set up the *structure* to accomplish that vision. It is responsible for obtaining from the administration and other sources reliable information on which to make the best possible decisions about the scope and nature of school programs. The board is ultimately *accountable* for appraisal of the results of these programs, tasks which are frequently delegated to the administration, and for formulating appropriate program alternatives as necessary to ensure students meet learning goals.

- **Financial Resources.** In consultation with the superintendent, a board is responsible for approval and adoption of an annual budget that will provide the financial basis for the buildings, furnishings, staff, materials, and equipment needed to carry out educational programs. Most of the responsibility for establishing a *structure* for the school system is affected by the budget the board adopts. Other financial responsibilities include:
  - Authorizing the administration to make the necessary expenditures budgeted and appropriated by the board;
  - Adopting policies for the purchase, disposal, and distribution of supplies, property, and equipment; and
  - Approving and adopting an insurance program for the district.
  
- **Staffing and Appraisal.** In most districts, the board delegates the tasks of recruiting, hiring, evaluating, promoting, and disciplining staff (in accordance with state law or board policy) to the superintendent. The board must negotiate and approve all collective bargaining contracts.
  
- **Instruction.** Working closely with the school administration, a board must set clear expectations or standards and adopt policies upon which instructional programs will be based, all of which must be in accordance with state law and regulations promulgated by the state department of education. Often, the community will also be involved—many districts involve community members in the textbook selection process, for example. Decisions about instruction should be based on information about student achievement. Boards should ask how the district can best improve student achievement and then monitor student performance to see that they are meeting the goals the board has set forth. In most school districts, the superintendent will make recommendations about the scope and nature of the district’s educational offerings, and the board has the option of accepting, modifying, or rejecting those recommendations. Board members should be active ambassadors of the district’s instructional program.

- **School Facilities.** A board is responsible for determining school housing needs: communicating those needs to the community; purchasing, disposing of, or leasing school sites; and for approving building plans that will support and enhance educational programs. Upon the recommendation of the superintendent, a board will employ architects, hire building contractors, and contract for operational and maintenance services.
- **Students.** Although the board does not deal directly with students and solve student-related problems, it does set policies that guide the actions of administration and other school staff. A board can accept, modify, or reject policies recommended by the superintendent regarding school admissions, placement, promotion, attendance, expulsion, suspension, graduation, conduct, discipline, safety, health services, food services, and transportation services. All such policies must be viewed in light of their effect on all students' equal access to educational opportunities in accordance with state and federal guidelines.
- **Communication with Various Constituencies.** To be an effective board member, you will want to maintain ongoing, two-way communication with school staff, students, and members of the community. Your board must see to it that there are adequate and direct means for keeping the local citizenry informed and for keeping itself informed about the wishes of the public. These communication techniques should be both formal (public hearings, newsletters, official school district publications) and informal (as one board member remarked, "I don't need to take a survey of parents in my district—all I need to do is go to the grocery store"). All formal means of district communication should be established in board policy and delegated to the administration.
- **Advocacy.** Many children come to school with problems that impede their ability to learn—but that the schools cannot solve.



School board members, both individually and collectively, need to serve as advocates for children. They must make the community aware of its responsibility to our next generation and support programs that help meet the needs of *all* children.

- **Adjudication and Investigation.** From time to time, a board may have to hear appeals from school staff members or students on issues which involve board policy implementation. It may also conduct legislative oversight hearings and investigations on board policy implementation issues and school system operations.
- **General.** Other board activities include:
  - Establishing procedures for the operation of the board;
  - Electing board officers;
  - Determining who will be on the district negotiating team;
  - Approving the annual school calendar;
  - Establishing attendance zones for the school district;
  - Retaining an attorney or law firm for the school district;
  - Setting strategy and coordinating litigation decisions when the school district is involved in a lawsuit;
  - Establishing and maintaining effective board-superintendent relations;
  - Periodically reviewing and evaluating board operations and performance; and
  - Working with (as well as authorizing the administration to work with) city, county, and other government and non-government officials and agencies.

## **Requests for Information**

Individual board members and the board as a whole have a duty to become informed on subjects that involve board responsibilities and decisions, and this often means asking the superintendent for information. However, board members need to be sensitive about demands placed on staff. It is useful to keep the following guidelines in mind when you request information:

1. As a board member, you do not have the right to access confidential information concerning employees or students except in particular circumstances. The superintendent may summarize or share relevant information with the board if necessary in the context of disciplinary hearings.
2. Make sure your request is reasonable and related to an issue that properly concerns the board. Most information requests should come from the board as a whole, and information should be shared with all board members. The following questions may help define what information the board needs on a particular subject:
  - a. What information does the board need for policy making?
  - b. What information does the board need to evaluate policies and their implementation?
  - c. What information does the board need to evaluate school unit operations?
  - d. What information does the board need to advocate for students and learning?
3. Give staff members enough time to respond to your request, particularly if it involves extensive research or data gathering.
4. Visits to the schools, classrooms, and staff members should be pre-planned so as not to interfere with the educational program.

5. In general, board members are entitled to information that will help them make informed decisions on issues before the board.

### **Other Important Board Member Duties**

Aside from the roles and functions of school boards that we have discussed above, boards and individual board members have both statutory and implicit duties to act ethically and in the best interests of education and the school unit's students. To this end, many school boards have adopted a Code of Ethics to guide their actions. We have included MSMA's sample policy, BCA, *Board Member Code of Ethics*, as supporting document 2-B beginning on page 2-29. If your board has not yet adopted a code of ethics, you may want to discuss the issue with your board chair.

We also have included as document 2-C, *The Governance Role of the Local School Board: NSBA's Vision for Public Education*, on page 2-31.

## DUTIES AND RESPONSIBILITIES OF SCHOOL BOARDS

PLEASE NOTE: LEGAL REFERENCES ARE UPDATED THROUGH THE SECOND REGULAR SESSION OF THE 124<sup>th</sup> LEGISLATURE, 2010.

### School Structure and Governance

School boards and committees are the governing bodies for school administrative units. With the passage of the school consolidation law in 2007 and subsequent amendments to the statute, there are now a half dozen ways school districts can be structured to make up a school administrative unit, including Regional School Units (RSU), School Administrative Districts (SAD), Community School Districts (CSD), municipal school units, Alternative Organizational Structures (AOS), and Unions.

The consolidation law does not allow for the creation of any more Unions, but existing ones are allowed to continue. AOSs are seen as an alternative to a Union. The AOS, like the Union, preserves local school committees, but a shared committee is formed to oversee the functions of the central office. Most SADs are now technically RSUs, although law allows former SADs to retain their SAD identity in public. The law does not allow any new SADs to be formed.

#### A. STATUTORY DEFINITIONS

1. School Board - the governing body with statutory powers and duties for a school administrative unit (20-A MRSA § 1).

School boards in Maine include the following:

- a. School Committee - the governing body with statutory powers and duties for a municipal school unit, including members of an Alternative Organizational Structure or Union;
  - b. Board of Directors - the governing body with statutory powers and duties for a Regional School Unit and School Administrative District;
  - c. District School Committee - the governing body with statutory powers and duties for a Community School District; and
  - d. Union Committee - the governing body with statutory powers and duties for a School Union.
2. School Administrative Unit - a state-approved unit of school administration (20-A MRSA § 1). School units in Maine include the following:
    - a. Municipal Unit - composed of a single municipality (see 1.a. above);

- b. Regional School Unit (RSU) - composed of two or more administrative units that pool their educational resources to provide public education to public school students in the district. (See 1.b above.)
- c. Regional School Unit (RSU) Doing Business as School Administrative District (SAD) - while most of the SADs in the state have technically become RSUs, some have opted to retain their identity as a SAD. State law no longer allows new SADs to be formed, but since RSU law was based on SAD law, the two types of units are governed largely by the same rules. (See 1.b above.)
- d. Community School District (CSD) - composed of more than one school administrative unit and may provide public education for any combination of grades, kindergarten through grade 12. (See 1.c above.)
- e. Alternative Organizational Structure (AOS) - composed of two or more school administrative units joined together for the purpose of providing administrative and sometimes educational services. Administrative services provided include: superintendent; special education administration; transportation administration; and business-office functions. Each member entity maintains its own budget and school board. AOS costs are shared based on a formula outlined in the AOS reorganization plan. An AOS School Committee, made up of representatives of each member unit school committee, is formed to oversee shared administration. (See 1.a above.)
- f. School Union - composed of two or more school administrative units for the purpose of sharing the cost of a superintendent and superintendent office. Each member unit maintains its own budget and school board. A Union School Committee, made up of representatives of each member unit school committee, conducts the business of the union. State law no longer allows new unions to be formed. (See 1.a and 1.d above.)

## B. ORGANIZATION

### 1. School Committee - (Municipal Unit)

- a. Election - A non-charter municipality not included in any SAD or CSD shall elect a School Committee of three at its annual meeting (20-A MRSA § 2302).
- b. Compensation - School Committee members shall serve without pay, unless otherwise voted by the town (20-A MRSA § 2306).
- c. Declared Vacancy - Except in municipalities having municipal charters, when a member is absent without excuse from three consecutive regular Committee meetings, the Committee may declare that a vacancy exists (20-A MRSA § 2305).
- d. Other Vacancies - A vacancy shall be declared when the term of office of a member expires, when a member changes a residency from the municipality, upon the death of a member, or when a member resigns (20-A MRSA § 2305).

- e. Unexpired Term Fulfillment - A vacancy may be filled by the School Committee within 30 days or by election at a town meeting called for that purpose (20-A MRSA § 2305).

NOTE: In a municipality governed by a charter, the terms of the charter control the election and compensation of committee members, vacancies, and the fulfillment of unexpired terms.

## 2. Board of Directors - (RSU and SAD)

- a. Election - The Board of Directors shall include at least one member from each municipality or sub-district unless determined otherwise. In municipalities with annual elections, Directors shall serve three-year terms. In municipalities with biennial elections, Directors shall serve four-year terms (20-A MRSA § 1251 and § 1471).
- b. Compensation - Compensation for attendance at a school board meeting shall be between \$10 and \$25 per meeting. Increases in board member compensation must be voted on and approved by district voters. Such recommendations shall be placed by the municipal officers on a warrant or ballot to be voted on at the next town meeting or city election. Approval must be by a majority of voters voting on the question (20-A MRSA § 1251 and § 1471).
- c. Declared Vacancy - Except in municipalities having municipal charters, when a Director is absent without excuse from three consecutive regular board meetings, the board may declare that a vacancy exists (20-A MRSA § 1254 and § 1474).
- d. Other Vacancies - A vacancy shall be declared when the term of office of a school Director expires, when a Director changes residency from the municipality from which elected, upon the death of a Director, or when a Director resigns (20-A MRSA § 1254 and § 1474).
- e. Unexpired Term Fulfillment - The Board of Directors shall notify the municipal officers of the municipalities within the district of the vacancies before the annual town meetings or before regular city elections. The municipal officers shall then select an interim Director to serve until the next election (20-A MRSA § 1254 and § 1474).
- f. Methods of Representation - State statute provides several alternatives for representation on the RSU and SAD Board of Directors:
  - 1) Subdistrict Representation - Subdistricts, as far as practicable, shall be whole municipalities. If municipalities are divided into subdistricts, they must be of roughly equal size. Boundaries of subdistricts are determined by majority vote of a joint meeting or reapportionment meeting (20-A MRSA § 1252 and § 1472);

- 2) Weighted Votes - 1,000 votes shall be apportioned among all the members of the board. The number of votes cast by each member shall be in the same ratio to 1,000 as the population he/she represents is to the total population of the district. Board member votes may be increased or decreased by as much as five votes to ensure the use of whole numbers (20-A MRSA § 1252 and § 1472); and
- 3) At-Large Voting - Directors shall be elected at-large by the voters of the entire district (20-A MRSA § 1252 and § 1472).

3. District School Committee - (CSD)

- a. Election - In a district that does not include kindergarten and grades 1-12, the School Committee of each member town shall choose from its membership the appropriate number of members to represent the town on the District School Committee (20-A MRSA § 1653).

In a district that does encompass kindergarten and grades 1-12, the member towns shall elect their representatives directly to the District School Committee in accordance with Title 30-A or in accordance with the municipal charter, whichever is applicable (20-A MRSA § 1653).

- b. Declared Vacancy and Fulfillment of Unexpired Term

- 1) If any representative on the school committee in a CSD that does not include kindergarten and grades 1-12 is absent without excuse from three consecutive regular committee meetings, the committee may declare that a vacancy exists and the school committee in the representative's town may choose from among its members another representative to the community school committee. The new member must be chosen on the basis of seniority (20-A MRSA § 1653(2)(B)).
- 2) Except in municipalities having a municipal charter, if any representative on a school committee in a CSD that includes kindergarten and grades 1-12 is absent without excuse from three consecutive regular committee meetings, the committee may declare that a vacancy exists. The municipality shall elect another representative to the community school committee in the same manner as provided for original election (i.e., member towns shall elect their representatives directly to the district's school committee as provided in 20-A MRSA § 1653(1)(B)). The successor serves for the remainder of the unexpired term (20-A MRSA § 1653(2)(B)).

- c. Other Vacancies and Fulfillment of Unexpired Term - Vacancies caused by death, resignation, or change in a member's residence are filled as follows:

- 1) A vacancy on a school committee of a district that does not include kindergarten and grades 1-12 must be filled by the school committee of the town in which the vacancy occurs (20-A MRSA § 1653(2)(A)).

2) A vacancy on a school committee of a district that includes kindergarten and grades 1-12 must be filled by the municipal officers of the municipality in which the member resided. The municipal officers shall select a new member from the municipality in which the old member resided to serve until the next annual municipal election at which time a replacement must be elected to serve the remainder of the unexpired term (20-A MRSA § 1653(2)(A)).

d. Absent Member - If a member of the School Committee in a Community School District which does not include kindergarten and grades 1-12 is absent from a meeting, the senior non-voting member shall be allowed all the rights and privileges of the absent member. This shall apply only to a community with only one member on the District School Committee (20-A MRSA § 1653(2)(c)).

#### 4. School Union

- a. Union Committee - A school union exists solely for the purpose of cooperatively employing a superintendent and providing other central office services (20-A MRSA § 1901, 1902). It is not a school board, but is comprised of two or more local school boards of school administrative units (can be municipal school committees, SAD boards of directors, CSD committees).
- b. Election - An individual school board of a school administrative unit in a School Union may authorize one of its members to act for the school board in the meetings of the Union Committee. The member may cast the votes for the school board (20-A MRSA § 1902).
- c. Method of Voting - The votes of the individual members of the Union Committee shall be cast on a weighted basis in proportion to the population of the Union. All action of the Union, to become effective, must be approved by a vote representing more than 1/2 of the population of the Union (20-A MRSA § 1902).

### C. SCHOOL BOARD MEETINGS

- 1. Notice - Public notice shall be given for all public proceedings as defined in 1 MRSA § 402 if these proceedings are a meeting of a body or agency consisting of three or more persons. This notice shall be given in ample time to allow public attendance. In the event of an emergency meeting, local representatives of the media shall be notified of the meeting. Whenever practical, this notification will include time and location of the meeting and will be delivered by the same or faster means used to notify the board members (1 MRSA § 406).
- 2. Records/Minutes - An accurate record of all votes must be kept by the superintendent of schools who is the legal secretary of the Committee (20-A MRSA § 1055). Members of the public shall be provided access to board meeting minutes during regular business hours (1 MRSA § 408).



3. Voting - The basic requirement for approval of an action by a deliberative assembly is a majority vote, meaning more than half of the votes cast by persons legally entitled to vote, excluding blanks or abstentions.

A vote to enter executive session must be by 3/5 of the members present and voting (1 MRSA § 405(3)).

Employing a superintendent requires a majority vote of the full membership of the board (20-A MRSA § 1051).

Written/paper ballots are not permitted by Maine law except for the selection of officers for a Community School District Committee (20-A MRSA § 1652).

4. Abstentions - Every member of a public body has a duty to express a choice or preference by voting but can legally abstain from so doing. Abstentions should be reserved only for situations where the member has declared a direct or pecuniary interest in the matter being voted on. An abstention is a non-expression and cannot be considered a vote in favor of or against the motion (30 MRSA § 2607).

#### D. RESPONSIBILITIES OF SCHOOL BOARDS

1. School Board Powers and Duties - The school board is the governing body for the school unit with powers and duties established by law (20-A MRSA § 1001).

The board is a legislative/policymaking body that is responsible for the development and adoption of policy. The implementation of policies is an administrative task to be performed by the superintendent and his/her staff, who are to be held responsible for the effective administration and supervision of the entire school system.

The board, functioning within the framework of laws, court decisions, attorney generals' opinions, and similar mandates from the state and national levels of government, and recognizing the authority of the state, fulfills its mission as the governing body of a political subdivision by acting as follows in the execution of its duties:

- a. Adopts policies that govern the school administrative unit;
- b. Selects the superintendent;
- c. Is responsible for the management of school property and providing for its custody and care;
- d. Provides for the planning, expansion, improvement, financing, construction, and maintenance of the physical plant of the school system;
- e. Prescribes the minimum standards needed for the efficient operation and improvement of the school system;

- f. Requires the establishment and maintenance of records, accounts, archives, management methods, and procedures incidental to the conduct of school business;
  - g. Prepares the budget, financial reports, audits, major expenditures, payment of obligations, and policies whereby the administration may formulate procedures, regulations, and other guides for the orderly accomplishment of business;
  - h. Determines the necessary expenditures which eventually result in the levying of taxes by the town for the operation, support, maintenance, improvement, and extension of the school system;
  - i. Adopts courses of study and policy governing selection of educational materials;
  - j. Provides staff and instructional materials and equipment;
  - k. Evaluates the educational program to determine the effectiveness with which the schools are achieving the educational purposes of the school system; and
  - l. Provides for the dissemination of information relating to the schools necessary for creating a well-informed public.
2. Board Member Authority - Members of the board have authority only when acting as a board legally in session. The board shall not be bound in any way by any action or statement on the part of any individual board member except when such statement or action is authorized by specific instructions of the board (20-A MRSA § 1001).
3. Board Subcommittees - The board may establish from its membership such standing committees or other board subcommittees as it deems necessary to facilitate school unit governance and address ongoing school unit needs. The following guidelines should be considered in the establishment and appointment of standing committees and other board subcommittees.
- a. All standing committees and other board subcommittees should be comprised of less than a majority of the board.
  - b. A standing committee or other board subcommittee has only such authority as specified by the board.
  - c. All standing committees and other board subcommittees should be established by vote of the board. A motion to establish a committee should state the purpose and responsibilities of the committee (the “charge”) and set the number of members comprising the committee.
  - d. The board chair should appoint the members of board committees and each committee should elect its own chair.

- e. The board chair and superintendent should be ex-officio (non-voting) members of all standing committees and other board subcommittees.
  - f. A standing committee or other board subcommittee may research issues and make recommendations for board action, but only the board may take final action.
  - g. A standing committee or other board subcommittee may be abolished at any time by vote of the board.
  - h. All standing committee or other board subcommittee meetings must be open to the public except as provided by the Freedom of Access Law and the Municipal Public Employees Labor Relations Law (1 MRSA § 401 et seq.).
4. Advisory Committees to the Board - The board may establish advisory committees that include parents, staff, community members, and others to perform specific functions. These functions should be described in written instructions to the committee. Each advisory committee should have at least one board representative.

The board should consult with the superintendent before establishing or dissolving any advisory committee. The number of members, the composition of the advisory committee, and the selection of members should be determined by the board in consultation with the superintendent based upon the purpose of the committee.

Advisory committees may study particular problems or issues and make reports and/or recommendations to the board, but may not act for the board.

Unless given a new assignment, an advisory committee should be dissolved promptly upon completion of its task. An advisory committee may also be dissolved at any time by board action.

The scope and authority of any advisory committee is limited to that assigned to it by the board. The board is in no way obligated to follow advisory committee recommendations.

All advisory committee meetings are open to the public except as provided by law, and committee reports and minutes, if prepared, are public information subject to the Freedom of Access Law (1 MRSA § 401 et seq.).

## E. CENTRAL OFFICE ADMINISTRATION

1. Employment of the Superintendent - The school board shall elect the superintendent by majority vote of the full membership. Only those persons who hold the appropriate state certificate are eligible to be employed as superintendent. Members of the school board are not eligible to become superintendent in the school administrative unit they represent. The superintendent's term of employment shall be established by the school board but may not exceed five years (20-A MRSA § 1051).

- a. Regional School Unit (RSU) - The Board of Directors shall determine the superintendent's duties.
  - b. School Union - The Union Committee shall perform the functions of a school board.
  - c. Community School District (CSD) - The District School Committee shall elect the superintendent.
2. A sample contract for employment of a superintendent is available from MSMA.
  3. The board must meet during the December preceding the expiration of the superintendent's term of employment to consider action on the superintendent's contract (20-A MRSA § 1051).
  4. Discharge of the Superintendent - A school board may discharge a superintendent before the expiration of a contract term only for cause and only after due notice and investigation. A majority vote of the full membership is required. On discharge, the superintendent's salary shall cease. The superintendent may appeal the school board's decision to the Commissioner of Education (20-A MRSA § 1052).

## F. CURRICULUM

Definition: "Curriculum" means the school administrative unit's written document that includes the learning expectations for all students in all content areas of the system of Learning Results as well as other content areas specified by the school board (20-A MRSA § 6209; Ch. 125, 127 (Me. Dept. of Ed. Rules)).

More information concerning the system of Learning Results may be found in Chapter 7 of this Handbook, *"The Board's Role in Curriculum and Instruction."*

1. Language: The basic language of instruction shall be English. However, schools may provide transitional instruction to students of limited proficiency in English and establish bilingual programs for the purpose of providing proficiency in both English and a second language. School administrative units shall offer one, two-year sequence in a world language (20-A MRSA § 4701 and § 4726).
2. American History and Civics: American history, government and citizenship, including the Constitution of the United States, Declaration of Independence, importance of voting, and the privileges and responsibilities of citizenship must be taught and required for graduation in all elementary and secondary schools. Two years of social studies and history are required for a high school diploma (20-A MRSA § 4706 and § 4722).

3. Maine History and Geography - Instruction shall include the Constitution of Maine, Maine's geography and environment, its natural and industrial resources, its culture and ethnic heritage, and Native American studies (20-A MRSA § 4706).
4. Required Subjects - Courses in the following subjects, provided in separate or integrated study programs, are currently required of all students for a high school diploma (20-A MRSA § 4722).
  - a. English - 4 years;
  - b. Social Studies and History - including American History and Government - 2 years;
  - c. Mathematics - 2 years;
  - d. Science - including at least one year of laboratory study - 2 years; and
  - e. Fine Arts - may include art, music, forensics, or drama - 1 year.
5. Health and Physical Education - The secondary course of study shall include instruction in health, safety, and physical education, as prescribed by the Commissioner, and physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants, and narcotics on the human system (20-A MRSA § 4723).
6. Computer Instruction - Instruction in the use and application of computer skills shall be available to secondary school students. Each school administrative unit shall develop standards for computer literacy and proficiency and the performance levels which shall be required for graduation (20-A MRSA § 4724).
7. Additional Courses - The school board of each school administrative unit may prescribe instructional requirements in addition to minimum state requirements, subject to approval by the Commissioner of Education (20-A MRSA § 4705).
8. Educational Materials - The board shall adopt a policy governing the selection of educational materials and may approve educational materials. The superintendent is responsible for carrying out the policies of the board for the selection and purchase of all educational materials (20-A MRSA §§ 1001(10-A), 1055(4)).

## G. ASSESSMENT

Each school administrative unit is required to use multiple assessment methods to measure student achievement of the learning results and the Common Core standards for English and Mathematics that have been provisionally adopted by Maine and a majority of states (20-A MRSA § 6202-B).

Statewide all students as of the 2009-2010 school year are required to take the Maine Education Assessment (MEA) in grades 5 and 8 for Science; the New England Common Assessment Program (NECAP) in grades 3-8 for Reading and Math and grade 5 and 8 for

Writing; and, an enhanced SAT, known as the Maine High School Assessment, in grade 11 for Reading, Writing, Math, and Science.

Maine is currently part of a national consortium that is developing assessments to measure competency in the Common Core. Those assessments are expected to be developed for implementation in the 2014-2015 school year.

## H. OPERATION OF SCHOOLS

### 1. Professional Staff

- a. Principals - The principal supervises the operation and management of the school as determined necessary by the superintendent under policies established by the school board (20-A MRSA § 1(21)).
  - 1) Individual Employment - The school board may approve the employment of supervising principals following nomination by the superintendent (20-A MRSA § 13302).
- b. Salaries - School boards may adjust the salaries of teachers, principals, and other persons legally employed by them who are compelled to be absent from their duties. No reduction in pay may be made if absence is caused by bona fide observance of designated holidays in the church of their faith. This applies only to persons who are employed on yearly contracts or on continuing contracts and who hold the legal qualifications necessary for the positions (20-A MRSA § 1001(12)).
- c. Health - School boards shall adopt a policy for enforcement by the superintendent to safeguard the health of any student or employee who has contracted or been exposed to a communicable disease (20-A MRSA § 1001(11-A)).
- d. Teachers
  - 1) Individual Employment - The school board may approve the employment of teachers following nomination by the superintendent (20-A MRSA § 13201).
  - 2) Teacher Contracts - After a probationary period not to exceed two one-year periods, subsequent contracts of duly certified teachers shall be for not less than two years. Unless a duly certified continuing contract teacher receives written notice to the contrary, at least six months before the terminal date of the contract, the contract shall be extended automatically for one year and similarly in subsequent years (20-A MRSA § 13201).
  - 3) Non-renewal - After a probationary period of two years, any continuing contract teacher who receives notice that his or her contract is not going to be renewed, may, during the 15 days following such notification, request a hearing with the school board. The teacher may request reasons. The hearing shall be held in executive session except by mutual consent and except that either or both parties

may be represented by counsel. The hearing must be granted within 30 days of the receipt of the teacher's request. Just cause for dismissal or non-renewal shall be a negotiable item, in accordance with Title 26, for teachers who have served beyond the probationary period (20-A MRSA § 13201).

- 4) Dismissal - After investigation, due notice of hearing, and hearing, the school board may dismiss any teacher who proves unfit to teach or whose services the board deems unprofitable to the school. The teacher will be given a certificate of dismissal and the reasons for that dismissal, a copy of which the board will retain. The dismissal shall not deprive the teacher of compensation for previous service (20-A MRSA § 13202).
- 5) Leaves of Absence - The following leaves of absence are established by statute, though some may be subject to further elaboration in collective bargaining agreements. Additional types of leaves, not listed here, are entirely subject to collective bargaining agreements.
  - a) Sick Leave - A school administrative unit shall grant all certified TEACHERS, except substitute teachers, a minimum annual sick leave without loss of pay of 10 days, cumulative to a minimum of 90 days. Full-time teachers' assistants and teachers' aides shall be granted minimum annual sick leave of 10 school days (20-A MRSA § 13601).
  - b) Leave of Absence as Legislators - A school administrative unit shall grant a certified TEACHER, except a substitute teacher, leave of absence without pay to fulfill the duties of a legislator. This shall be without forfeiture of continuing contract status and other accumulated benefits. The teacher must provide a written notice of intent to become a candidate for the legislature at the time teacher contracts are issued (20-A MRSA § 13602).
  - c) Military Leaves of Absence - Under Maine law, teachers who are members of the National Guard or the Reserves of the United States Armed Forces are entitled to take a military leave of absence from their duties without loss of pay when engaged in military training not to exceed 17 calendar days in any calendar year, provided that teachers have made a reasonable effort to perform their military training during the period when school is not in session (20-A MRSA § 13603).

A federal law, the Uniform Services Employment and Reemployment Rights Act (USERRA), protects job rights and benefits for all school unit employees who are absent for military duty in the Armed Services or Reserves, not just teachers. USERRA contains an "escalator clause" that requires employees to be restored to employment that reflects the seniority, pay, and benefits they would have received but for their military leave. An employee must return to work or apply for reemployment within the time frame specified by law, which varies depending upon the length of military duty. USERRA also provides protections for disabled veterans, requiring employers to make

reasonable efforts to accommodate the disability. Service members convalescing from injuries received during service or training may have up to two years from the date of completion of service to return to work or apply for reemployment.

USERRA requires service members to provide advance written or verbal notice to their employer for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity.

For military service of less than 31 days, the employer must maintain and pay for health insurance coverage as if the service member was not on leave. For military service of 31 days or more, the employee may elect to continue health insurance coverage through his/her employer for up to 24 months after the absence begins or the period of absence, whichever is shorter, but cannot be required to pay more than 102% of the full premium for coverage (38 U.S.C. § 4301-4335).

- d) Sabbatical Leave - To increase the efficiency of the public schools and to permit TEACHERS, PRINCIPALS, OR OTHER PERSONS to pursue a further course of study or to travel to be better qualified for the position they hold in the schools, school boards may grant to any regularly employed teacher, principal, or other person a leave of absence for a period of not longer than one year. Such a leave of absence may be granted only after 7 years of service, and under those conditions and rules determined by the school board and/or by a collective bargaining agreement (20-A MRSA § 13604). This applies only to persons who are employed on yearly contracts or on continuing contracts and who hold the legal qualifications necessary for the positions (20-A MRSA § 1001).
- e) Mandatory Unpaid Family Medical Leaves - There are two statutes that provide family and medical leave to school employees, one federal and one state.

The federal Family and Medical Leave Act (FMLA) applies to school units with 50 or more employees working within 75 miles of the worksite of the employee seeking leave. In order for an employee to be eligible, he/she must have been employed by the school unit for at least 12 months and have worked at least 1250 hours in the previous 12-month period. Teachers employed on a full-time basis are presumed to meet the minimum hours requirement. Employees who qualify for leave are entitled to 12 “workweeks” of unpaid leave in a 12-month period.

Under the Maine FMLA, an employee must work at a site where there are 15 or more school unit employees and have been employed by the same school unit for 12 consecutive months. The Maine FMLA entitles a qualified employee to 10 workweeks in any two years.



Both federal and Maine FMLA leave may be used 1) when an employee has a serious health condition that makes him/her unable to perform the functions of his/her position; 2) for the birth and care of a son or daughter; 3) for placement of a child with the employee for adoption; or 4) for caring for a spouse, child, or parent with a serious health condition.

Unlike the federal law, Maine recognizes domestic partners for FMLA purposes. However, only the federal law provides for “qualifying exigency leave” and “military caregiver leave” under specific circumstances to employees who have family members in the military.

If leave is taken under the federal FMLA, the employer must maintain and pay for the employee’s health insurance coverage, provided the employee continues paying his/her usual share of premiums. Under Maine law, the employer only must make it possible for employees to continue their health insurance benefits at their own expense.

Both federal and Maine law entitle the employee to return to his/her position or to an “equivalent” position.

If eligible for both federal and Maine FMLA leave, the law that provides the most benefit applies. Neither the federal nor the Maine FMLA supersedes employer obligations established under a collective bargaining agreement (29 U.S.C. § 2601-2654 (federal FMLA); 26 MRSA § 843 et seq. (Maine FMLA)).

## 2. Buildings

- a. Provide Custody and Care - The school board is responsible for the management of school property and its custody and care, including repairs and insurance on school buildings and all school property in the administrative unit (20-A MRSA § 1001).
- b. Oversee Construction - The legislative body of a school administrative unit may establish a special building committee at a regular or specially called meeting held prior to a project receiving concept approval as provided in 20-A MRSA § 15901. If such a committee is not established, the school board shall act as the committee and may delegate the powers and duties of the building committee to the superintendent (20-A MRSA § 15902).
- c. Suspend Operation of a School Building - It takes a two-thirds vote of the school board in a Regional School Unit to close any school and closure then must be approved by the voters in the member municipality where the school is located. If a school proposed for closure serves students from more than one municipality, voters in those municipalities must vote on closure. Voter approval is required to close elementary schools in SADs and CSDs. Secondary schools in SADs and CSDs and either elementary or secondary schools in other school administrative units may be closed without voter approval unless the school board is presented with a written

petition within 30 days of the board's decision to close the school (20-A MRSA §1512 and §4102).

d. Safety

- 1) Sanitary Inspection - The school board shall annually cause an inspection of the sanitary conditions of the school unit's buildings (20-A MRSA § 6501).
- 2) Fire Escapes - The school board shall ensure that all school buildings are provided with appropriate exits as specified in the Life Safety Code (25 MRSA § 2453).
- 3) Emergency Evacuation Drills - Written procedures for fire drills shall be posted in all buildings.

Schools at all levels K-12 are required to hold two drills during the first two weeks of school. Schools housing grades K-4 will hold an additional eight drills during the year; schools housing grades 5-8, an additional six drills; schools housing grades 9-12, an additional four drills. Schools housing any combinations of these grade levels will hold the additional number of drills required of the lowest grade level within the span. Results shall be recorded and deficiencies noted and corrected. Staff members shall receive an annual orientation in this procedure (Ch. 125 § 10.02(A) (Me. Dept of Ed Rule)).

- 4) Comprehensive Emergency Management Plan - Each school board shall annually approve a comprehensive emergency management plan developed by the school unit administration working with school teachers and staff and local, county, and state public safety officials, fire-fighting personnel, emergency management officials, mental health officials, and law enforcement officials to identify and deal with all hazards and potential hazards that could reasonably be expected to affect a facility or unit under the authority of the school administrative unit (20-A MRSA § 1001(16)).
- 5) Bomb Threats - The board must adopt a bomb threat policy consistent with prototypes developed by the Commissioner of Education and include a section in the student handbook explaining the school unit's bomb threat policy, protocol, and legal and educational consequences of making a bomb threat at school (20-A MRSA § 1001(17-18)).

3. Transportation

- a. Municipal School Unit - With the approval of the School Committee, the superintendent shall provide transportation for elementary school children a part of or the whole distance to and from the nearest elementary school. The municipality may also provide transportation for secondary school students (20-A MRSA § 5401(1)).
- b. School Administrative Districts - With the approval of the Board of Directors, the superintendent shall provide transportation for elementary and secondary school

children a part of or the whole distance to and from the nearest suitable school (20-A MRSA § 5401(2)).

- c. Community School District - The District School Committee shall either instruct the superintendent of schools to provide transportation for elementary and secondary school students all or a part of the way to and from the nearest suitable school or shall provide transportation in accordance with a written agreement with the member school administrative unit (20-A MRSA § 5401(3)).
- d. Regional School Unit - The law has not been changed to address the RSUs role in providing transportation. Legislation is expected.
- e. Students Living in Remote Areas - If a student lives in a location remote from and inaccessible to schools or public highways, the student's parents shall be responsible for providing transportation to a public highway or paying board for the student within walking distance of the school. Failure of the parent to provide transportation or board shall be considered a violation of the truancy law (20-A MRSA § 5401(7)).
- f. Minimum Distances - The school board may establish the distance from a school that students must reside to receive transportation (20-A MRSA § 5401(11)).
- g. Safety - Transportation provided shall conserve the comfort, safety, and welfare of the students conveyed. A responsible driver shall be in charge of the vehicle and shall have control over the conduct of the students while they are transported (20-A MRSA § 5401(12)).

#### 4. Students

- a. Operate Grades K-12 - The school board shall operate programs in grades K-12 or otherwise provide for students to participate in those grades. They shall determine which students shall attend each school, classify them, and transfer them from school to school as necessary (20-A MRSA § 1001(8)).
- b. Assess Damages - If a minor injures, aids in injuring, or destroys school property belonging to a school administrative unit, the unit may recover from the minor's parent, in a civil action, double the damage (20-A MRSA § 6805).
- c. Adult Education - A school administrative unit may raise and appropriate money for the support of adult education classes and educational activities. These classes and activities shall be under the direction and supervision of the school board. A school board also may make facilities available for adults for day and evening educational and recreational activities not reimbursed by the State. These courses and activities may be financed by tuition fees, by funds voted by the school administrative unit, or by funds from other sources (20-A MRSA § 8604).

d. Student Health

- 1) School Physician - Each school board shall appoint one or more school physicians. The school physician shall advise the administrative unit on school health issues, policies and practices, and may also perform certain other health-related functions assigned by the board (20-A MRSA § 6402-A).
- 2) Screening/Immunization - When a public health official has reason to believe that the continued presence in a school of a student who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the school's chief administrator, who will exclude the student from school during the period of danger or until the student receives the necessary immunizing agent (20-A MRSA § 6359 (4)). The school board shall adopt a policy for enforcement by the superintendent to safeguard the health of any student or employee who has contracted or been exposed to a communicable disease (20-A MRSA § 1001(11-A)). The school board will see that students are screened periodically to determine whether they have sight or hearing defects (20-A MRSA § 6451 (1)). The school board shall inform the parent of a student suffering from a disease or defect (20-A MRSA § 6453).
- 3) Medication - Any public school shall have a written local policy and procedure for administering medication. The written local policy must include the requirement that all unlicensed personnel who administer medication receive training before receiving authorization to do so (20-A MRSA § 254(5)(B)).

A public school must have a written local policy authorizing students to possess and self-administer emergency medication from an asthma inhaler or epinephrine pen (20-A MRSA § 254(5)(C), 4502(5)(N)).

- e. Equal Educational Opportunities - All students shall be provided with equal educational opportunities and all school administrative units shall provide equal educational opportunities for all students with disabilities (20-A MRSA § 7201).

f. Special Education - Each unit shall:

- 1) Identify all children in its jurisdiction who require special education;
- 2) Make and keep current records of students with disabilities;
- 3) Assist advocates;
- 4) Provide educational evaluations and assessments necessary to plan and implement a special education program;
- 5) Submit a plan for its special education program to the Commissioner of Education for approval;

- 6) Notify in writing the parent, surrogate parent, or guardian of the child with a disability of that person's right to be a member of the team; and
- 7) Seek approval in advance from the Commissioner of Education for construction, renovation, or repair of facilities intended for the education of students with disabilities (20-A MRSA § 7202).

NOTE: Special Education Regulations are extensive and complex. Questions about this area frequently have to be referred to an appropriate authority.

- g. School Lunch - Public schools shall provide non-profit school food service programs. The school board shall make all contracts to provide necessary material, personnel, and equipment. The board shall also hire the necessary employees to manage and operate the food service program. Secondary schools limited to grades 9, 10, 11, and 12 are exempted from this requirement (20-A MRSA § 6602).
- h. Student Code of Conduct - With input from educators, administrators, parents, students, and community members, the board shall adopt a district-wide student code of conduct consistent with standards for student behavior developed by the Commissioner of Education (20-A MRSA §§ 254(11), 1001(15)).
- i. Bullying - The student code of conduct must establish policies and procedures to address bullying, harassment, and sexual harassment (20-A M.R.S.A § 1001(15)(H)).
- j. Student Suspensions/Expulsions - The school board shall expel any student who is deliberately disobedient or deliberately disorderly or for infractions of violence, possession or use of firearms or any other dangerous weapons, or for possession, furnishing, or trafficking in any scheduled drug, after a proper investigation and due process, if found necessary for the peace and usefulness of the school; and readmit the student on satisfactory evidence that the behavior which was the cause of the student being expelled will not likely recur. The school board may authorize the principal to suspend students to a maximum of 10 days for infractions of school rules (20-A MRSA § 1001(9)). Discipline of exceptional students must be consistent with the requirements of federal and state regulations (34 CFR §§ 300.121; 530-537, August 14, 2006, as amended; and Me. Spec. Ed. Ch. 101 § 17, May 8, 2010).
- k. Eligibility to Enroll - School boards may accept students from other administrative units if the parent or guardian agrees to pay the cost of tuition and transportation. School boards may also pay tuition and transportation to other administrative units for students who live remote from public schools in their own administrative unit or who live in units with 10 or fewer students (20-A MRSA § 5203).
- l. Hazing - “Injurious hazing” means any action or situation, including harassing behavior, which recklessly or intentionally endangers the mental or physical health of any school personnel or student enrolled in a public school (20-A MRSA § 6553(1)(A)).

“Violator” means any person or any organization which engages in injurious hazing (20-A MRSA § 6553(1)(B)).

- 1) Adoption of Policy - Establishes that “injurious hazing,” either on or off school property, by any student, staff member, group or organization affiliated with the public school is prohibited (20-A MRSA § 6553(2)).
- 2) Penalties - The school board shall establish penalties for violation of the rules established above. The penalties shall include, but not be limited to, provisions for:
  - a. In the case of a person not associated with the public school, the ejection of the violator from school property;
  - b. In the case of a student, administrator, or staff violator, the individual’s suspension, expulsion, or other appropriate disciplinary action; and
  - c. In the case of an organization affiliated with the public school which authorizes hazing, rescission of permission for that organization to operate on school property, or receive any other benefit of affiliation with the public school.

These penalties shall be in addition to any other civil or criminal penalty to which the violator or organization may be subject (20-A MRSA § 6553(3)).

- 3) Administrative Responsibility - The school board shall assign responsibility for administering the policy to the superintendent of schools and establish procedures for appealing the action or lack of action of the superintendent (20-A MRSA § 6553(4)).
- 4) Dissemination - The school board shall clearly set forth the policy and penalties adopted and shall distribute copies of them to all students enrolled in the public school (20-A MRSA § 6553(5)).
- m. Secret Societies - The school board will prohibit students from participating in or being members of any secret society in or associated with public schools (20-A MRSA § 4007).
- n. Dropout Prevention Committee - Each superintendent, with school board approval, shall annually establish a separate Dropout Prevention Committee for each individual school unit under the superintendent’s supervision. The Dropout Prevention Committee shall be composed of the following members: a member of the school board selected by that board; a school administrator selected by the superintendent; a teacher and a school counselor selected by the school administrative unit’s teacher organization; a parent selected by the unit’s organized parent group or, if no organized parent group exists, by the school board; a school attendance coordinator from the unit selected by the superintendent; a high school student; a dropout; and a resident of

the unit. A Dropout Prevention Committee may increase its membership by majority vote. Members shall serve in accordance with policy established by the school board (20-A MRSA § 5103(1-3)).

The Dropout Prevention Committee shall:

- 1) study the problem of dropouts, habitual truancy, and need for alternative programs, kindergarten to grade 12;
- 2) make recommendations for addressing the problems; and
- 3) submit a plan of action to the school board, in accordance with (20-A MRSA § 5103(5)).

The Dropout Prevention Committee shall meet at least annually to review its plan and to make recommendations to the school board (20-A MRSA § 5103(6)). The Department of Education shall provide technical assistance to a Dropout Prevention Committee upon request (20-A MRSA § 5151).

- o. Attendance - A school board shall elect an attendance coordinator or coordinators. Vacancies shall be filled as they occur. An attendance coordinator shall be a professionally certified or registered person in the mental health, social welfare, or educational system who is qualified to carry out the duties in accordance with rules established by the State Board of Education. The duties of an attendance coordinator shall include, but not be limited to, the following:
    - 1) When notified by a principal that a student's attendance is irregular, interviewing the student and the parent(s) or guardian(s) to determine the cause of the irregular attendance and file a written report with the principal;
    - 2) Filing an annual report with the superintendent summarizing school year activities, findings, and recommendations regarding truants; and
    - 3) Serving as a member of the Dropout Prevention Committee (20-A MRSA § 5052-A).

The Department of Education shall provide technical assistance to school attendance coordinators for carrying out these duties through the Office of Truancy, Dropout and Alternative Education (20-A MRSA § 5052-A).

## 5. Other

- a. Audits - The school board shall provide for an annual audit of the school administrative unit's revenues and expenditures. On or before November 1, the school board shall provide the Commissioner with a copy of the audit and assurance that the records were found to be satisfactory and accurate (20-A MRSA § 6051).

- b. Holidays - The public schools must close on Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, Martin Luther King Day, Patriots Day, and Memorial Day. However, the school board may vote to keep the schools open on New Year's Day and Washington's Birthday and observe the day with special exercises (20-A MRSA § 4802). (MSMA provides a calendar worksheet annually.)
- c. School Approval Report - The board shall prepare and implement an ongoing school improvement process and annually update a written school improvement plan. The ongoing school improvement process and plan shall be reported annually to the citizens of the unit (20-A MRSA § 4502).
- d. Gifts - A school board may accept and receive money or other property, outright or in trust, for any specified benevolent or educational purpose (20-A MRSA § 4005). If the board receives notice from a prospective donor or representative of a donor of a proposed gift, the matter shall be submitted to the next regular meeting of the board or to a special meeting. The board shall, within 10 days after the meeting, send written notice of its acceptance or rejection (for SADs, see 20-A MRSA § 1256; for CSDs see 20-A MRSA § 1705). If the gift is in trust, the board shall deposit or invest those trust funds according to 30 MRSA § 5653.



**BOARD MEMBER CODE OF ETHICS**

Having accepted the challenge of service on this School Board, I accept the principles set forth in the following code of ethics to guide me in helping to provide free public education to all the children of my school unit within the State of Maine.

- A. I will view service on the School Board as an opportunity to serve my community, state, and nation because I believe public education is the best means to promote the welfare of our people and to preserve our democratic way of life.
- B. I will at all times think of children first and base my decisions on how they will affect children, their education, and their training.
- C. I will make no disparaging remarks, in or out of the Board meetings, about other members of the Board or their opinions.
- D. I will remember at all times that as an individual I have no legal authority outside the meetings of the Board, and that I will conduct my relationship with the school staff, the local citizenry, and all media of communications on the basis of this fact.
- E. I will recognize that my responsibility is not to operate the schools but to see that they are well operated.
- F. I will seek to provide education for all children in the community commensurate with their needs and abilities.
- G. I will listen to all citizens but will refer all complaints to the proper authorities, and will discuss such complaints only at a regular meeting after failure of administrative solution.
- H. I will support a decision graciously once it has been made by the majority of the Board.
- I. I will not criticize employees publicly, but will make such criticism to the Superintendent for investigation and action, if necessary.
- J. I will make decisions openly after all facts bearing on a question have been presented and discussed.
- K. I will refuse to make promises as to how I will vote on a matter that should properly come before the Board as a whole.

- L. I will not discuss the confidential business of the Board in my home, on the street, or in my office, the place for such discussion being the School Board meeting.
- M. I will confine my Board action to policy making, planning, and appraisal, leaving the administration of the schools to the Superintendent.
- N. I will welcome and encourage cooperation and participation by teachers, administrators, and other personnel in developing policies that affect their welfare and that of the children they serve.
- O. I will endeavor at all times to see that schools have adequate financial support within the capabilities of the community and state, in order that every child may receive the best possible education.
- P. I will resist every temptation and outside pressure to use my position as a School Board member to benefit myself or any individual or agency apart from the total interest of the school unit.
- Q. I will endeavor to attend every regular and special Board meeting recognizing that my presence means representation for my town or city. If I find that this is not possible for an extended length of time, I will give consideration to resigning from my position on the Board.
- R. I will recognize at all times that the School Board of which I am a member is an agent of the state, and as such, I will abide by the laws of the state and the regulations formulated by the Maine Department of Education and by the State Board of Education.

Adopted: \_\_\_\_\_

*The Maine School Boards Association Delegate Assembly in 2008 adopted by resolution the NSBA's statement concerning the work of the local school board. This statement, "The Governance Role of the Local School Board: NSBA's Vision for Public Education" is meant as a guide to Maine's school boards in this era of change in the local school setting.*

## **THE GOVERNANCE ROLE OF THE LOCAL SCHOOL BOARD: NSBA'S VISION FOR PUBLIC EDUCATION**

The National School Boards Association believes local school boards are the nation's preeminent expression of grass roots democracy and that this form of governance of the public schools is fundamental to the continued success of public education. Adequately funded, student-centered public schools will provide, in a safe and supportive environment, a comprehensive education for the whole child and will prepare all of America's children for a lifetime of learning in a diverse, democratic society and an interdependent global economy. By focusing on raising student achievement and by actively engaging the community, school boards will provide leadership for academic success in the nation's public schools. America's school boards, by creating a vision of excellence and equity for every child, will provide performance-oriented schools that meet today's problems as well as the challenges of tomorrow.

## HOW SCHOOLS ARE VISITED IS WHAT COUNTS—NOT WHETHER

Although it isn't difficult to make a case for school visits by board members, it is sometimes a controversial issue. The school board, after all, has comprehensive statutory responsibilities related to buildings, budget, personnel, students, curriculum, and transportation. It is, therefore, natural for boards to want to become familiar with the operation of the schools under their jurisdiction. The best way to do that, they feel, is to visit the schools, which not only assures that they will be better informed, but will also enable them to make better decisions when the need arises.

On the other hand, the sudden appearance of a board member in a school building usually causes considerable anxiety on the part of employees—particularly teachers and administrators. Usually, a board member will explain that he or she is there as a “private citizen” rather than as a school board member. Unfortunately, in the eyes of school employees, the separation of the private and public roles of board members isn't that easy—neither is it for board members.

Whether or not your school unit has experienced a problem in this area, the following advice may help.

- Good board-superintendent communications suggest that a board member notify the superintendent when a visit to a school building is planned.
- Visits should generally be regarded as informal expressions of interest in school activities and not as “inspections” or visits for supervisory purposes.
- Arrangements for the visit should be made through the building principal, indicating the reasons for the visit if other than general interest.
- Board members should recognize that their presence in a building might be subject to a variety of interpretations by school employees and others.
- It is not a duty of board members to evaluate personnel other than the superintendent.
- School boards should understand that the closer individual board members get to the actual operation of schools, the greater the risk of becoming involved in administrative details.
- A school board member, acting independently of the school board, has neither the authority to make decisions, nor to otherwise commit the board to a course of action.
- If your school board has not already done so, you may be well advised to develop a policy on school building visitations by individual board members. The conditions under which visitations are made are important if such visits are to be viewed in a constructive manner. It is essential that input be solicited from all segments of the management team prior to adoption of the policy.

The issue here is not “whether” you visit the schools, but “how” the visits are conducted.

### **3. SUPERINTENDENT ROLE AND RELATIONSHIP WITH THE BOARD**

School boards are responsible for the governance of the school unit through the decisions they make and policies they adopt. The superintendent is responsible for the ongoing administration of the school unit and operations of the schools in compliance with board policies and applicable laws and regulations. The board's role is legislative; the superintendent serves as educational leader and the school unit's chief administrator. Together, they form the school unit's governance team. The roles of the school board and superintendent are complementary but distinct—and both are critical to educating students and ensuring a smoothly operating school unit.

The duties and responsibilities of superintendents are primarily set forth in Maine Statutes, Title 20-A. Like school board members, superintendents are agents of the state. Also like school boards, the statutory duties of superintendents have expanded over the years. Please review 3-A, *Duties and Responsibilities of the Superintendent*, beginning on page 3-4.

The most important functions of a superintendent can be categorized as follows:

- The superintendent is the ex officio secretary of the board.
- The superintendent is the educational leader of the system with the responsibility for advising the lay board on policy issues, employing and supervising staff, and recommending curriculum.
- The superintendent is responsible for implementing board policy, general administration, compliance with state and federal requirements, and business management of the school unit.

While the superintendent has ultimate responsibility for these functions, specific duties are often delegated to other staff members through board policy or administrative procedures.

## A Unique Relationship

Good relationships between board members and the superintendent depend, in part, on a clear understanding of their complementary roles. While the board employs, evaluates, and, if necessary, discharges or non-renews the superintendent, he/she is not simply an employee of the board. The superintendent's statutory duties cannot be performed by the board and vice versa. They operate together as a governance team. Some clear examples:

- The superintendent carries out the policies of the board in regard to the selection and purchase of educational materials (20-A MRSA § 1055(4)).
- The superintendent *nominates* all teachers, subject to such regulations as the *school board* shall make. Upon *approval* of nominations by the school board, the superintendent may *employ* teachers who have been nominated and approved (20-A MRSA § 13201).
- With the *approval* of the board, the superintendent *provides* transportation for elementary and secondary school children part of or the whole distance to and from the nearest suitable school (20-A MRSA § 5401(2)).

New board members often ask whether the board is really just a “rubber stamp” for the superintendent's recommendations. The answer is clearly no. Effective public education requires strong school boards and strong superintendents working together to lead the school unit. This demands a working relationship based upon respect, good communication, and good information. The board should look to the superintendent as the school unit's educational leader and request the information needed to make sound policy decisions and set direction for the unit.

Board members should be confident that they understand recommendations from the superintendent before they vote. Don't be afraid to say, “Put it in language I can understand, and convince me.” The superintendent should understand that the board is elected to represent the community and its interests, to advocate for students, and to support improvements in the educational program.

## Searching for a Superintendent

One of the most important duties of a school board – if not the most important single decision the board makes – is selecting a superintendent. MSMA believes the local board should be fully responsible for all decisions regarding its search procedure. Moreover, all judgments about applicants, from choosing initial candidates to be interviewed to the ultimate selection of the new superintendent, should be made by the school board through a carefully designed and implemented process.

The average tenure in the superintendency is approximately five years, so it is possible that you will be involved in recruiting and selecting a new superintendent during your term. Here are two suggestions that can make this a positive and effective process:

1. Use this opportunity to reflect on both the statutory role of the superintendent and the real-life work done by the superintendent in your school unit. The board should take the time to discuss the unit's needs in depth and to identify what type of leader will be able to move the school unit ahead. This is an opportunity to involve the community, through workshops or surveys, in articulating the specific qualifications and characteristics you are looking for in a superintendent.
2. Maine School Management Association is available to support the board in conducting a thorough, effective, and lawful superintendent search. As a member service, your board is entitled to a no-cost local workshop that provides valuable information and guidance regarding legal requirements, designing your search process, and screening candidates. The workshop includes sample applications, advertisements, and forms your board may use or adapt. The board may also contract with MSMA to conduct certain aspects of the search process if desired.

MSMA assists only Maine member boards with the superintendent search process. In making no recommendations concerning applicants, we stand in contrast to many private search consultants, who may solicit individuals to apply and who may provide “short lists” of recommended candidates. For additional information on MSMA's Superintendent Search Services, please contact MSMA at 800-660-8484 or email [msma@msmaweb.com](mailto:msma@msmaweb.com).

## DUTIES AND RESPONSIBILITIES OF THE SUPERINTENDENT

A. **SUPERINTENDENT DEFINED** - “Superintendent” means the person in a school administrative unit appointed and having the authority and responsibility under 20-A MRSA §1 and other applicable statutes (see, especially, 20-A MRSA § 1055).

### B. SCHOOL BOARD

1. Secretary - The superintendent shall be ex officio secretary of the school board and school building committee chosen by the administrative unit and shall perform duties as the school board or building committee direct (20-A MRSA § 1055).
2. Board Policies and Rules - The superintendent shall ensure that the operation of the schools conforms to policies and rules adopted by the board, as well as to state laws and regulations (20-A MRSA § 1055).
3. Full-time Employment - The entire time of the superintendent shall be devoted to superintendency in the employing supervisory unit. The superintendent may perform educational service outside of the unit with the approval of the Commissioner and with the consent of the school board (20-A MRSA § 1055).
4. Part-time Employment - A superintendent who is employed as a part-time superintendent shall perform the duties agreed upon between the superintendent and the employing school board, subject to approval by the Commissioner (20-A MRSA § 1055).

### C. SCHOOL FINANCES

1. Reports - The superintendent shall send an accurate account of school finances to each school board member at least annually (20-A MRSA § 1055).
2. Records, Orders, and Vouchers - The superintendent is responsible for keeping a permanent record of all votes, orders, and proceedings; placing orders for materials and supplies purchased by vote of the school building committee or school board; keeping all financial records and accounts; and issuing vouchers showing the correctness of bills contracted on account of school appropriations (20-A MRSA § 1055).

### D. SCHOOLS

1. Inspection - The superintendent is responsible for inspecting the schools and reviewing the operating rules, the discipline, and the proficiency of the students. He/she shall visit each school at least the minimum number of times each term required by the school board (20-A MRSA § 1055).
2. Reports - The superintendent shall annually report to the Commissioner concerning the operation of the school unit. The report shall contain the amount appropriated and expended on elementary and secondary education in the preceding fiscal year, the number of weeks school was open, the number of students registered, the average attendance, the amount received for tuition, and other information required by rule adopted by the Commissioner (20-A MRSA § 1055).



#### E. STAFF

1. Nominations - The superintendent shall nominate all teachers and principals, subject to such regulations governing salaries and qualifications as the school board shall make. Upon the school board's approval of nominations, the superintendent may employ such persons (20-A MRSA § 13201).
2. Teachers - The superintendent shall direct and supervise the work of all teachers (20-A MRSA § 1055).
3. Principals - The principal will supervise the operation and management of the school as determined necessary by the superintendent under policies established by the school board (20-A MRSA § 1).
4. Supervision - The superintendent is responsible for the evaluation of all teachers and other employees of the school administrative unit (20-A MRSA § 1055).

#### F. EDUCATIONAL PROGRAM

1. Instructional Materials - The superintendent is responsible for carrying out the policies of the board for selection and purchase of educational materials (20-A MRSA § 1055(4)). By Department of Education Rule, the superintendent shall establish the system for selection of instructional materials, including access to Internet resources with the assistance of professional personnel and approval of the school board (Ch. 125 § 9.03 (Me. Dept. of Ed. Rule)).
2. Supplies - The superintendent shall assure that all necessary apparatus and supplies are seasonably distributed to each school, accurately accounted for, and economically used (20-A MRSA § 1055).
3. Flags - The superintendent shall ensure that the United States and Maine flags are displayed from public school buildings every school day and on appropriate occasions. The superintendent will further ensure that an American flag is displayed in every classroom in each public school in the unit (20-A MRSA § 1055).

#### G. STUDENTS

1. Annual Pupil Count - By April 15 and October 15, the superintendent of each school unit shall inform the Commissioner of the number of students attending school and the number of students residing in his/her administrative unit. This information shall be supplied on forms provided by the Commissioner (20-A MRSA § 6004).
2. State Ward - A state ward shall be considered a resident of the unit where placed (Title 20-A MRSA § 5205).
3. Other Students Not Living at Home - A student other than a state ward, a state agency client, or a homeless child residing with another person who is not the student's parent, is considered a resident of the school administrative unit where the student resides if the superintendent determines that it is in the best interest of the student (20-A MRSA § 5205).

4. Paying for Students Not Residing with Parent or Guardian - Whenever a student is not residing with that student's parent or legal guardians because of a broken home or intolerable home conditions, the unit where the student attends school may apply to the Commissioner of Education for a determination regarding which unit shall pay the cost of educating such a student. Special laws apply to students considered "homeless" (20-A MRSA § 5814).
5. Students Placed by the Department of Health and Human Services - A student placed with an adult, who is not the child's parent or legal guardian, is considered a resident of either the school administrative unit where the student resides during the placement or the school administrative unit where the student resided prior to the placement based on the best interest of the student. DHHS, in consultation with the DOE and the school administrative units, shall make that determination.
6. Transfer - Two superintendents may approve the transfer of a student from one school administrative unit to another provided that the parent approves and that the transfer is in the student's best interest (Superintendents Agreements). No tuition may be charged by the receiving unit. The superintendents shall annually review any such agreements (20-A MRSA § 5205).
7. Student Health - When a teacher has reason to believe that a student is a public health threat as a result of being infested with parasites or having a communicable disease of the skin, mouth, or eyes, he/she shall inform the superintendent. The superintendent may inform the student's parents to cleanse or furnish the student with the required treatment or exclude the student from the public school until the student is no longer a public health threat (20-A MRSA § 6301).
8. Notification Team - The superintendent shall convene a notification team within 10 days of receiving notice from a district attorney of an alleged juvenile offense or after receiving notice from a law enforcement officer of credible information that indicates an imminent danger to the safety of students or school personnel. The notification team must consist of the administrator of the school building or the administrator's designee, at least one classroom teacher to whom the student is assigned, a parent or guardian of the student, and a guidance counselor (Title 20-A MRSA § 1054).
9. Reintegration Team - The superintendent shall convene a reintegration team to carry out reintegration planning within 10 days of receiving notice from the Department of Corrections. The reintegration team must consist of the administrator of the school or the administrator's designee, at least one classroom teacher to whom the student will be assigned or who is involved in the school's student assistance team, a parent or guardian of the student and a guidance counselor (Title 20-A MRSA § 1054).
10. Transportation
  - a. Municipal School Unit - With the approval of the School Committee, the superintendent shall provide transportation for elementary school children a part of or the whole distance to and from the nearest elementary school. The municipality may also provide transportation for secondary school students (20-A MRSA § 5401(1)).
  - b. School Administrative Districts - With the approval of the Board of Directors, the superintendent shall provide transportation for elementary and secondary school children a

part of or the whole distance to and from the nearest suitable school (20-A MRSA § 5401(2)).

- c. Regional School Unit - The law has not been changed to address the RSU's role in providing transportation. Legislation is expected.
  - d. Community School District - The District School Committee shall either instruct the superintendent of schools to provide transportation for elementary and secondary school students all or a part of the way to and from the nearest suitable school or shall provide transportation in accordance with a written agreement with the member school administrative unit (20-A MRSA § 5401(3)).
  - e. Students Living in Remote Areas - If a student lives in a location remote from and inaccessible to schools or public highways, the student's parents shall be responsible for providing transportation to a public highway or paying board for the student within walking distance of the school. Failure of the parent to provide transportation or board shall be considered a violation of the truancy law (20-A MRSA § 5401(7)).
  - f. Minimum Distances - The school board may establish the distance from a school that students must reside to receive transportation (20-A MRSA § 5401(11)).
  - g. Safety - Transportation provided shall conserve the comfort, safety, and welfare of the students conveyed. A responsible driver shall be in charge of the vehicle and shall have control over the conduct of the students while they are transported (20-A MRSA § 5401(12)).
11. Work Permits - No minor under 16 years of age shall be employed unless the employer keeps on file a work permit issued to the child by the superintendent of schools or his/her designee. This does not apply to minors engaged in work performed in the planting, cultivating, or harvesting of field crops or other agricultural employment not in direct contact with hazardous machinery or hazardous substances, household work, or any occupation that does not offer continuous, year-round employment. Under certain circumstances, the superintendent has the authority to withhold or withdraw a work permit because of attendance, discipline, and for academic problems (26 MRSA § 775).

## 4. SCHOOL BOARD MEETINGS

Since board members only carry out their legal functions in official meetings, it is important to know something about board meetings from the start. While good board meetings do not guarantee a good school system, it is a decided advantage for the board to appear businesslike, well-prepared, and in control during its meetings. The public is not likely to have confidence in or support a board that is haphazard in conducting its business.

### Freedom of Access Law

It is very important to remember that school board meetings are public proceedings governed by Maine's Freedom of Access Law (1 MRSA § 401 et seq.). Some states call this type of legislation a "sunshine law," and this is a useful way to think about how board meetings should be conducted. The Legislature stated its intent as follows:

"...public proceedings exist to aid in the conduct of the people's business. It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection...clandestine meetings, conferences, or meetings held on private property without proper notice and ample opportunity for attendance by the public (shall) not be used to defeat the purposes of this subchapter.

This subchapter shall be liberally construed and applied to promote its underlying purposes and policies as contained in the declaration of legislative intent."

The Freedom of Access Law defines and addresses public meetings, public records, recording and broadcasting of meetings, executive sessions, public notice, and appeals by the public. See 4-A, *Freedom of Access*, beginning on page 4-8, for a review of the important provisions of the law.

<b>FOA Mandatory Training</b> – Elected officials must complete a course of training on the Freedom of Access Law. For more information go to <a href="http://www.maine.gov/foaa/faq">www.maine.gov/foaa/faq</a> .
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**A "Certificate of Completion of Freedom of Access Training" is available on the website listed above, and MSMA recommends that training documentation be maintained at the Superintendent's Office for ease of complying with "right to know" requests.**

## Types of Meetings

Most school boards have policies that specify the various types of meetings, how meetings are called, who prepares the agenda, and how meeting notices and agendas are distributed. Generally, boards have the following types of meetings:

**Regular meetings**—These are regularly scheduled meetings, usually once or twice a month, when the board conducts regular business. Usually, these meetings are held on a fixed day and time (such as the first Monday each month at 7:00 p.m.). The schedule may be set at the annual reorganization meeting or carried over by tradition from year to year.

**Special meetings**—Occasionally there is a need to schedule a meeting to address important matters that arise between regular board meetings, require board action before the time set for the next regular meeting, or to consider a single subject in one session (for example, the budget). The agenda should state the subject(s) of the meeting and any action to be taken, and no other business should be transacted.

**Emergency meetings**—An emergency meeting may be called if there is a matter so urgent that it must be addressed immediately. No business may be transacted other than that related to the purpose for which the emergency meeting has been called.

**Workshop meetings**—A board may schedule workshops or other meetings to discuss a particular subject or to gather input from staff, community, or other groups. Some boards hold workshops on a set schedule (such as monthly or quarterly), or they may be called as needed. No formal action may be taken at a workshop meeting.

Under the Freedom of Access Law, school boards must provide ample notice of board meetings to allow for public attendance. In the case of an emergency meeting, which may be called on short notice, the local media must be notified, whenever practical, by the same or faster means used to notify board members.

## **Executive Sessions**

An executive session is a portion of a board meeting where the public is not allowed to be present. Executive sessions are strictly regulated by the Freedom of Access Law. The important requirements are as follows.

- A. An executive session must start with a public meeting.
- B. To enter executive session, the board must pass a motion with a recorded vote of 3/5 of the members present and voting.
- C. The motion must state the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business. The nature of each matter must be stated if there is more than one. When labor contracts are the subject of an executive session, the parties must be named.

The only matters that may be considered in an executive session are:

- 1. Specific personnel matters (when public discussion could reasonably be expected to cause damage to the individual's reputation or right to privacy);
- 2. Suspension/expulsion of a student;
- 3. Condition, acquisition, or use of real or personal property if premature disclosure would prejudice the school unit;
- 4. Discussion of labor contracts or negotiations;
- 5. Consultations with legal counsel regarding legal rights, pending litigation, and settlement offers; and
- 6. Discussions of records that are considered confidential by law.

- D. Only matters stated in the motion may be considered in executive session.
- E. No final action shall be taken in executive session, i.e., votes on issues under discussion must be taken in the open portion of the meeting.
- F. No public record shall be kept.

Students and employees who are the subject of an executive session have the right to be present and to request that the hearing/investigation be held in public session.

See 4-A, *Freedom of Access*, beginning on page 4-8, for a complete description of executive session requirements.

It is a very wise rule of thumb for board members never to discuss specific employee or student issues at a public meeting. If you have a question or concern regarding a particular individual, it is best to ask the superintendent or board chair, outside of a public meeting, about how and when it would be appropriate to address the issue.

## **Conduct of Board Meetings**

This section provides a brief introduction to the conduct of board meetings.

### **Roles of Board Chair and Superintendent**

The board chair conducts the meetings and retains the same rights as other board members to discuss issues, make motions, and vote. See 4-E, *Role of the Board Chair*, beginning on page 4-19, for further responsibilities.

The superintendent is the ex officio secretary of the board and is responsible for preparing minutes of meetings (“a permanent record of all votes, orders, and proceedings”). As the board secretary and the school system’s chief executive officer (CEO), the superintendent should be present at all board meetings.

## **Agenda Preparation/Adjustment**

In most school units, the agenda for regular board meetings follows an established order of business (see 4-B, MSMA Sample Board Procedure BEDB-R—*Agenda Format*, on page 4-11). The agenda is usually prepared by the superintendent, in cooperation with the board chair. If you have questions regarding how items are placed on the agenda or how items are added and deleted, speak to your superintendent or board chair about the procedure.

## **Quorum**

An official board meeting cannot be held without a quorum. If no other number is specified in board policy, bylaws, or the town charter, a simple majority of the board membership is required to be present. For RSUs and SADs at least a majority of the board of directors in number and in voting power constitutes a quorum (20-A MRSA § 1477 and § 1257).

## **Voting**

State law requires nothing beyond a simple majority of members present and voting to pass a motion except in the following circumstances:

- Election or discharge of the superintendent requires a majority vote of the full board;
- A motion to enter executive session must pass with a vote of 3/5 of members present and voting (1 MRSA § 405); and
- In school unions where all actions of the union committee must be approved by a vote representing more than one half of the population comprising the units that make up the union committee (20-A MRSA § 1051-1052, § 1902(2)).

Every member of a public body, including the chair, has a duty to express a choice or preference by his/her vote, but legally can abstain from voting. An abstention is a non-



expression and cannot be considered a vote in favor of or against a motion. Board members should abstain from voting only in situations where he/she has a direct or pecuniary interest in the matter under consideration. (For more information on this topic, see Section 5.)

## **Absences**

In order to fulfill the duty of representing the community, board members should make a conscientious effort to attend every board meeting. The board may declare that a vacancy exists after a member has three consecutive unexcused absences from regular meetings. The only exception is in municipal units with charters, where the charter requirements regarding absences apply.

## **Rules of Order**

Effective and efficient board meetings depend on having rules of order. Most boards in Maine use the familiar *Robert's Rules of Order*, adapted for small governing bodies. To avoid being overly encumbered with formality, some boards adopt *Robert's Rules* to “help resolve procedural uncertainties.” We have included a short summary of the basic terminology and use of parliamentary procedure for your review in 4-F, *The Conduct of Board Meetings*, beginning on page 4-20.

## **Public Participation**

Meetings of the school board must be held in public. *This does not mean they are public meetings* where everyone has the right to speak. There is no statutory requirement in Maine that the public be permitted to speak at board meetings. However, most boards do allow time for public comment—within established parameters designed to ensure order. We have included a copy of *Public Participation at Board Meetings* on page 4-13 and MSMA’s sample policy on public participation in 4-D, *Public Participation at Board Meetings*, beginning on page 4-16.

## **A Few Words About Teamwork**

Boards that function well work together as a team. Action is taken on matters after the board has had an opportunity to review pertinent information, hear appropriate input, and

discuss the matter fully at a board meeting. It is important for board members to respect each other's opinions and to understand that there are usually many "right" ways to serve the community and the students' interests.

Once a vote is taken, board members need to respect and support the decision of the majority. If your viewpoint does not prevail, you should not continue to argue for your position or undermine the implementation of the policy or decision. You will better serve the community and students if you give the action a chance to succeed and evaluate the results down the road.

### **The "NO SURPRISES" Rule**

There is probably no quicker way to destroy the sense of teamwork and trust among board members and the superintendent than to blindside them with a proposal, accusation, or concern at a board meeting. When the board is unprepared to address an issue—no matter how important or worthy you believe it is—you are likely to be met with defensiveness and hostility. Always discuss your concerns or ideas with the board chair and/or superintendent before the meeting and give them an opportunity to place the issue on the agenda or address it in an appropriate manner. This will greatly improve your effectiveness as a board member.

## FREEDOM OF ACCESS

### A. GENERAL INTENT

In 1976 the Maine Legislature enacted a revised Freedom of Access Law. Title 1 MRSA § 401 et seq. govern the conduct of public proceedings and access to public records. In section 401, the Legislature states its intent as follows:

“...public proceedings exist to aid in the conduct of the people’s business. It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection...clandestine meetings, conferences, or meetings held on private property without proper notice and ample opportunity for attendance by the public (shall) not be used to defeat the purposes of this subchapter.

This subchapter shall be liberally construed and applied to promote its underlying purposes and policies as contained in the declaration of legislative intent.”

The Freedom of Access Law which was amended in 2004 to incorporate the recommendations of the Legislature’s Committee to Study Compliance with Maine’s Freedom of Access Laws, is summarized below:

#### § 402 - Definitions

“Public proceedings” is defined as the transaction of any functions affecting citizens of the state by the legislature, University of Maine governing bodies, and boards of various political and administrative subdivisions, including school boards.

“Public records” include data which have been received or prepared for use in connection with the transaction of public or governmental business.

#### § 403 - Public Meetings

Any person shall be permitted to attend any public proceeding. Public participation is not guaranteed; boards may develop their own policies for managing direct public comment and participation. MSMA counsel recommend that public participation be limited to time periods just prior to the agenda items upon which citizens wish to comment rather than during a general public comment period elsewhere on the agenda. In cases where such a policy is established, local boards may wish to clarify to the public the process by which items are placed on the agenda.

#### § 404 - Broadcasts

As long as they do not interfere with the orderly conduct of proceedings, any person is entitled to make written, taped, or film records of public proceedings and to broadcast the same. Public bodies, such as school boards, may make reasonable rules and regulations to govern these activities.

#### § 405 - Executive Sessions

See Executive Session Law Summary which follows on next page.

#### § 406 - Public Notice

Public notice must be given in ample time to allow public attendance at the proceedings including school board meetings. The notice procedure may vary from unit to unit, but consistency in giving notice and holding meetings on the same days each month will help meet the requirement.

#### § 407 - Decisions

School boards are required to make a written record of decisions involving the dismissal or the refusal to renew the contract of any public employee.

#### § 408 - Public Records Available for Public Inspection and Copying

Except as otherwise provided by statute, every person has the right to inspect and copy any public record during the regular business hours of the agency or official having custody of the public record within a reasonable period of time after making a request to inspect or copy the public record. Inspection, translation, and copying may be scheduled to occur at such time as will not delay or inconvenience the regular activities of the agency or official having custody of the public record sought.

An agency or official may charge a reasonable fee to cover the cost of copying. The agency or official may charge a fee to cover the actual cost of searching for, retrieving, and compiling public records of not more than \$10 per hour after the first hour of staff time per request. The agency or official must provide to the requestor an estimate of the time necessary to complete the request and of the total cost. The requestor must be informed if the estimated cost is greater than \$20, and if the estimated cost is greater than \$100, the requestor may be required to pay the cost in advance. A requestor who has previously failed to pay a fee assessed under the Freedom of Access statute may also be required to pay copying costs in advance.

#### § 409 - Appeals

Any denial of access to public records shall be made in writing stating the reason for denial within five days of the request. Any aggrieved person may within five days of receipt of the written denial appeal to the Superior Court.

#### § 410 - Violations

Willful violation of state Freedom of Access Law is a civil violation for which a fine of no more than \$500 may be adjudged.

### **EXECUTIVE SESSION LAW SUMMARY**

#### Title 1 MRSA § 405

#### **I. TO ENTER EXECUTIVE SESSION, A BOARD MUST:**

- A. Start with a public meeting.
- B. Pass a motion to enter executive session with a recorded vote of 3/5 of members present and voting.

- C. State in the motion the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business. The nature of each matter must be stated if more than one. When labor contracts are the topic of an executive session, the parties must be named.

## II. RESTRICTIONS DURING EXECUTIVE SESSION:

- A. Only matters stated in the motion may be considered.
- B. No official actions shall be finally approved.
- C. No public record shall be kept.

## III. ITEMS WHICH MAY BE DISCUSSED IN EXECUTIVE SESSION:

- A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation, or dismissal of public officials, appointees, or employees of the body or agency or the investigation or hearing of charges or complaints against persons, subject to the following conditions:
  - 1. If public discussion could be reasonably expected to cause damage to the reputation or violate the individual's right to privacy.
  - 2. Any person charged or investigated has the right to be present.
  - 3. Any person charged or investigated may request in writing that the investigation be conducted in open session; such requests must be honored.
  - 4. Any person bringing charges shall be permitted to be present (the law does not mention participation).
- B. Discussion or consideration of suspension or expulsion of a student, the cost of whose education is paid from public funds. Please note that student and legal counsel (and parents or guardian if student is a minor) shall be permitted to be present if the student, parents, or guardian so desires.
- C. Discussion or consideration of the condition, acquisition, or the use of real or personal property only if premature disclosure would prejudice the competitive or bargaining position of the body or agency. General budget matters should not be discussed in executive session.
- D. Board discussion of labor contracts and proposals and meetings. (Negotiations between the representatives of a public employer and public employees are closed unless opened by agreement of both parties.)
- E. Consultations between a body or agency and its attorney concerning legal rights, pending litigation, and settlement offers, when premature public knowledge would give the Board a substantial disadvantage.
- F. Discussion of records made, maintained, or received by the body or agency, if access is prohibited by statute.

**AGENDA FORMAT**

In order to provide reasonable notice of the business to be conducted and to achieve consistency in the order of its meetings, the Board has adopted the following agenda format for its regular and special meetings. Additions and/or adjustments to the agenda for a particular meeting may be made during that meeting in accordance with Board policy. The agenda format may be altered only by vote of the Board and in a manner consistent with its policy adoption process.

**[SCHOOL BOARD NAME]**

**[TYPE OF MEETING]**

**[DATE]**

**[TIME]**

**[PLACE]**

- A. Call to Order
- B. Pledge of Allegiance
- C. Attendance/Roll Call
- D. Adjustments to the Agenda
- E. Approval **[OR: Consideration]** of the Minutes
- F. Communications/Correspondence
- G. Public Participation\*
- H. Superintendent's Report
- I. Board Chair's Report
- J. Committee Reports
- K. Old Business
  - 1. \_\_\_\_\_
  - 2. \_\_\_\_\_
  - 3. \_\_\_\_\_
- L. New Business
  - 1. \_\_\_\_\_
  - 2. \_\_\_\_\_
  - 3. \_\_\_\_\_
- M. Calendar/Announcements
- N. Adjournment

The order of business may be altered or items added or deleted from the agenda by a majority **[OR 2/3]** vote of the Board members present and voting.

Cross Reference:   BEDB—Agenda  
                      BEDH—Public Participation at Board Meetings

Adopted:       \_\_\_\_\_

**[\*NOTE: The Board may choose to limit public participation to items on the agenda listed under “old” or “new” business.**

**Some Boards may wish to have one period for public comment rather than to ask for public input on individual action items. If so, it may be more beneficial for the public participation period to occur before the Board takes up its old or new business so that public comments can be taken into consideration, rather than after the Board has finished its business.**

**Boards may also choose to offer opportunities for public participation prior to Board consideration of individual agenda items and, in addition, during a period set aside for more general public comment related to the operations of the schools. If so, we suggest that the “open” participation period occur after the Board has finished its business to enable the Board to complete its “action agenda” in a timely manner.**

**MSMA is not recommending that public participation be placed on the agenda in any particular location. We have inserted it here to remind boards that there should be at least some opportunity for constructive public input.]**

If your regular board meetings are like most, they will draw a crowd of 10 citizens or less. Exceptional turnouts have always occurred (and may be increasing) when boards hold hearings on matters of intense interest to all or parts of the community (budget cuts, construction, closing of a school, or other local “hot potato” issues).

Although large meetings may be challenging at times, the board should seize these opportunities to project positive public relations through an orderly atmosphere receptive to public concerns.

All members of the public have the right to attend your meetings (except properly called executive sessions). However, it depends on the board as to WHETHER AND WHEN they may speak. Lack of a thoughtful and formally adopted policy in this regard could lead to confusion, inconsistency, and possibly chaos.

It is helpful to remember that meetings of the school board are *held* in public. *This does not mean they are public meetings in the same sense as a “town meeting.”* There is no statutory requirement in Maine that the public be permitted to speak at board meetings. However, we recommend public comment be allowed, but in an orderly and non-disruptive fashion. It is a legitimate and practical way to receive *some* public input, to demonstrate the interest the board has in representing the needs of the community, and to help in securing public support.

Some boards may feel their meetings are virtually taken over because of their sincere but overly generous effort to be “open to the public.” However, audience participation must not occur in such a way as to disrupt or to prevent the board from getting its work done. Public participation can be controlled by having (and fairly enforcing) an effective policy addressing PUBLIC PARTICIPATION AT BOARD MEETINGS.

The board can designate specific times on the agenda for public comment. Moreover, a limit can be specified as to the time each person may speak and/or the amount of meeting time allowed for open comment. It is far more difficult to try to establish such limits “on the spot” than to have them already provided for in established policy. Moreover, many boards find that fairly strict limitations work best—they are there when you need them, but the chair can exercise some judicious flexibility when appropriate.

Some boards have had success (some have not) with designating a period early in the meeting limited to public comments on items in the published agenda and/or having a time after the board has concluded its business during which the public may make general comments. Because that approach presents many risks including loss of control of the meeting, MSMA counsel recommends that public participation be limited to time periods just prior to board discussion on agenda items upon which citizens wish to comment rather than during a general public comment period elsewhere on the agenda. The sample policy that follows reflects our more strict approach. If your unit wishes to provide one or more open comment periods as described above, the model will need to be adapted accordingly to meet your preferences.



Public Participation at Board Meetings policies may vary depending on local needs, but some of the following approaches might be effective for your board:

- The chair should first determine the number of individuals who will be allowed to speak.
- Limit the number of speakers and/or the time given each speaker. The policy needn't specify the exact numbers, but provide for the chair to determine what is appropriate depending on the crowd size.
- Develop a system for determining the nature of each speaker's concerns before he/she is allowed to speak—such as information cards or a sign-up sheet for each speaker to give name, address, and topic.
- Ask the audience to direct all questions to the chair.
- Announce in advance that the board will hear but not discuss or act on matters not already on the agenda, but that the board will receive comments for consideration. If comments received are actually complaints, channel them through the superintendent to the appropriate staff for resolution.
- Do not allow any complaints or accusations to be stated in public against any personnel. Should such matters begin to come up, describe appropriate means to enable the concerns to be heard by the board or staff, under appropriate circumstances.
- The chair should ask that people not repeat what someone has said before them. Preventing repetitious comments beforehand should comfort both the board and audience.
- Be prepared in advance to deal with disorder or to handle disturbances. Check with your board attorney on such procedures and have them in writing. Generally applicable is the following advice from NSBA's *Becoming a Better Board Member*.
  1. The chair should order anyone causing a disturbance to leave the room.
  2. The chair can declare a brief recess until order is restored.
  3. The meeting can be adjourned and reconvened at a time and place selected by a majority vote.
  4. The board can table the agenda item which precipitated the incident.
  5. If physical harm is threatened, the chair should order a recess and summon the police.

- Establish procedures for concerned citizens to submit requests (through the superintendent) to address the board in time for inclusion on the agenda, if appropriate.
- Consider holding board workshops or community meetings at which no official actions are taken but public comments are solicited. Some boards hold several such workshops each year, often in different community locations. The meetings may be general or topical.
- Avoid being overly restrictive or limiting First Amendment rights. For example, we have a reported court case that indicates participation cannot be limited just to residents. Others, such as employees, have legitimate interests in the board's business. However, this is not to suggest that employees or employee groups should be permitted to use the public meeting instead of more appropriate forums provided for certain purposes.
- Be sensitive to the individual rights of students and employees.

### **A Word of Caution . . .**

It may be deceiving to think that you are “hearing the voice of the public” when you receive the questions, comments, criticisms, and suggestions of those who attend your public meeting—whether they be from the few, frequent attendees at routine meetings or from the outspoken who turn out for a particular issue.

Remember that you only heard those who were present and speaking. There were probably many more persons who were not there. They may have differing ideas or opinions of what ought to be done. It is not always safe to conclude that “if the others cared, they'd be here speaking their piece.” A thoughtful board will consider all legitimate views—those who have articulate (or energetic) spokespersons as well as those who may not be represented. You are elected to use your judgment to make responsible decisions.

## **PUBLIC PARTICIPATION AT BOARD MEETINGS**

Board meetings are conducted for the purpose of carrying on the official business of the school system. All regular, special, and emergency meetings of the Board are open to the public. The public is cordially invited to attend and participate in Board meetings as provided in this policy.

Although Board meetings are not public forums, the Board will provide appropriate opportunities for citizens to express opinions and concerns related to the matters under consideration by the Board. The intent is to allow a fair and adequate opportunity for the public to be heard and to provide adequate time for the Board to obtain information and opinion on subjects before it, while ensuring that the time allowed for public discussion does not interfere with the fulfillment of the scheduled agenda.

**[OPTIONAL LANGUAGE: Some alternatives available to boards for defining public participation are the following:**

**Option 1: Public comment shall be limited to the item(s) on the agenda.**

**[NOTE: Boards electing to limit public comment to items on the agenda should consider adding the language of Options 1A or 1B to implement this choice.]**

**Option 1A: Public participation may be permitted just prior to Board discussion of agenda items requiring Board action.**

**Option 1B: The Board will ask members of the public for comment prior to Board action on agenda items pertaining to \_\_\_\_\_ (e.g. policy or budget issues).**

**Option 2: During the time allotted for public participation, members of the public may speak on any subject directly related to the operations of the schools, except for personal matters or complaints concerning specific employees or students, which shall be addressed through established policies and procedures.]**

**[NOTE: Boards who wish to set aside a designated portion of a meeting for “open” participation may choose to hear comments related to specific agenda**

**items as well. Boards should be conscious that a Board meeting is not a public forum, but a means of doing official business in public. Therefore, the desire to provide ample opportunities for public participation should not overshadow the objective of completing Board business in a timely manner. Effective meeting and time management skills may be required to achieve an appropriate balance.]**

Members of the public may address the Board within the guidelines provided in this policy. The Chair shall be responsible for maintaining proper order and compliance with these guidelines.

The following guidelines shall apply to public participation at Board meetings.

- A. Citizens and employees of the school unit are welcome to participate as provided in this policy. Others may be recognized to speak at the Chair's discretion. Individual employees and/or employee groups will not be permitted to discuss matters for which complaint or grievance procedures are provided.
- B. The Chair may limit the time allotted for comments on a particular topic as well as the time each individual may speak.
- C. In the event of a sizeable audience, the Chair may require persons interested in speaking to sign up so they may be called on in a fair and efficient manner.
- D. During the time set aside for public participation, the Chair will be responsible for recognizing all speakers, who must identify themselves as they begin talking.
- E. Speakers are not permitted to share gossip, make defamatory comments, or use abusive or vulgar language.
- F. All speakers are to address the Chair and direct questions or comments to particular Board members or the Superintendent only with approval of the Chair. Requests for information or concerns that require further research may be referred to the Superintendent to be addressed at a later time.

- G. Members of the Board and the Superintendent may ask questions of any person who addresses the Board but are expected to refrain from arguing or debating issues. Questions must be addressed through the Chair.
- H. No complaints or allegations will be allowed at Board meetings concerning any person employed by the school system or against particular students.  
  
Personal matters or complaints concerning student or staff issues will not be considered in a public meeting but will be referred through established policies and procedures.
- I. In order to make efficient use of meeting time, the Board discourages duplication or repetition of comments to the Board. The Board requests that groups or organizations be represented by designated spokespersons.
- J. The Chair has the authority to stop any presentation that violates these guidelines or the privacy rights of others.
- K. Persons who disrupt the meeting may be asked to leave, and the Chair may request law enforcement assistance as necessary to restore order.

An agenda shall be published in advance of each meeting in accordance with Board policy. Copies will be posted and/or available prior to regular meetings, at **[identify locations where agenda is available, i.e., Superintendent's Office, in each school, town hall, public library and/or other appropriate public facilities, website]**. Anyone desiring additional information about an agenda item should direct such inquiries to the Office of the Superintendent.

Legal Reference: 1 MRSA § 401 et seq.

Cross Reference: BEC – Executive Session  
BEDA – Notification of Board Meetings  
BEDB – Agenda  
BEDD – Rules of Order  
KE – Public Concerns and Complaints

Adopted: \_\_\_\_\_

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MAINE SCHOOL MANAGEMENT ASSOCIATION

## ROLE OF THE BOARD CHAIR

Being an effective school board chair is important to the proper operation of the school unit. To be effective, the chair must provide leadership both in and out of board meetings. The following are suggestions which should be helpful to board chairs in their leadership roles.

While presiding at a meeting, an effective board chair:

- Keeps a meeting moving in an orderly fashion;
- Remains calm and self-possessed at all times;
- Recognizes members to be heard in a fair and impartial manner;
- Allows both sides of a question to be heard;
- Keeps the attention of the board on one matter at a time;
- Knows the basics of parliamentary procedure and refers to rules of order when necessary; and
- Allows for visitors' comments that are appropriate to the business at hand, but controls such comments so that they do not destroy the purpose of the meeting.

Outside of board meetings, an effective board chair:

- Keeps in touch with the superintendent. Whether it is a regular telephone chat or regular visits to the office, reasonable contact with one another is important in the normal course of events;
- Doesn't become the superintendent. Always clears all school unit matters through—and with—the superintendent;
- Refrains from issuing (or appearing to issue) directives to administrators;
- Directs all concerns and questions that relate to how the schools are being run and that are raised by district employees (including administrators) to the superintendent for follow-up;
- Provides opportunities for the superintendent and other administrators to answer board questions, especially at board meetings;
- Keeps in mind that both the board chair and the superintendent should have the opportunity for independent thinking and to bring an individual perspective to school problems or concerns;
- Avoids snap decisions and judgments, including those relative to the performance of the superintendent and other administrative personnel. Gets the facts first;
- Serves as a model for the rest of the board. Often, the actions of the leader set the tone for the actions of others;
- Serves as the guardian of fairness and even-handed discussion for other members of the board;
- Does his/her "homework" and encourages opportunities and funding for in-service training and information for other members of the board;
- Shows restraint when dealing with the public on behalf of the board; and
- "Acts in crisis with calm and acts during a calm by thinking ahead of crisis."

## THE CONDUCT OF BOARD MEETINGS

An effective board meeting doesn't just happen. It must be carefully planned and carried out. A first priority should be the adoption of a suitable format and rules of order for meetings. Many boards use the familiar *Robert's Rules of Order*, adapted for small governing bodies. To avoid being overly encumbered with formality, some boards adopt *Robert's Rules* when needed "to help resolve procedural uncertainties."

### A. ROBERT'S RULES OF ORDER

*Robert's Rules* are over 100 years old, dating to 1876 when General Henry M. Robert adopted the U.S. House of Representatives' standard rules of procedure for group meetings. The rules are practically impossible to memorize in total. However, a Chair who knows the basics of parliamentary procedure and is willing to occasionally refer to a detailed reference guide can be an effective presiding officer.

The following summary embodies the basic provisions of parliamentary procedure:

1. The primary vehicle of action is a motion which is supported by a second;
2. Each motion may deal with only one issue or idea. A Chair or a member may ask that a motion be rephrased or rewritten if it deals with two or more different matters;
3. Debate should follow, not precede, a motion. The Chair should require a motion to be stated and seconded before debate is allowed;
4. Debate must be limited to the motion at hand. Speakers who wander or attempt to enter new matters should be ruled out of order;
5. When a motion is on the floor, no new motions may be made;
6. Main motions may be amended. Votes on amendments must be taken before the original motion is voted upon;
7. Before a vote on a main motion is taken, business may be interrupted by a motion to table, to postpone action, to refer to a committee, to withdraw the motion, or to adjourn the meeting;
8. Debate may be formally closed only by a motion to close debate or to move the previous question passed by a two-thirds affirmative vote. In cases in which the Chair believes discussion to have ended, a vote on the main motion may be taken without a formal motion to close debate unless a member objects;
9. Before main motions are voted upon, the motion should be reread/restated;

10. Motions turned down at a meeting may be reconsidered only with the consent of the majority. Action should be initiated only by a member who was in the majority when the issue was first voted down;
11. No member can speak twice to the same issue under debate until everyone else wishing to speak has spoken to it once.
12. The Chair has the right to appoint committees unless the board directs otherwise. The first-named person is considered the chair of a committee and the second-named person the vice-chair (unless otherwise stated);
13. While most Maine school boards have adopted *Robert's Rules of Order* as their rules of procedure, it is important to realize that some of the formality imposed by strict adherence does not necessarily apply to small legislative bodies which meet frequently such as school boards. One such exception has to do with the Chair's role in discussion and voting. Specifically, *Robert's Rules* (10<sup>th</sup> edition, 2000) Section 48:

PROCEDURE IN SMALL BOARDS. In a board meeting where there are not more than about a dozen members present, some of the formality that is necessary in a large assembly would hinder business. The rules governing such meetings are different from rules that hold in assemblies, in the following respects...The Chair can speak in discussion without rising or leaving the chair; and, subject to rule or custom within the particular board (which should be uniformly followed regardless of how many members are present), usually can make motions and usually votes on all questions.

Therefore, it is appropriate under *Robert's Rules* for the Chair to make motions and seconds. Some chairs voluntarily refrain from involvement in making motions; others view being Chair as an active leadership position and place issues on the agenda and/or participate actively in discussion, including making the motion or second, if others are slow to do so. It is largely a matter of style, and the board Chair does not have to surrender the gavel or "step down" before speaking or making a motion.

A board Chair, as an elected representative to the board, should vote on every issue, unless there is a statutory or ethical conflict of interest. Not to vote is to abstain. Sometimes board chairs vote last and as such may cast the tie-breaking vote.

14. The Chair should keep readily on hand a conveniently indexed *Robert's Rules of Order* or a similar reference book. When an unusual order of business confronts the Chair, the guide may be consulted for the proper course of action.



*This overview is from a presentation given by Dr. Paul Krohne at the MSMA Annual Fall Conference in 2009.*

## **RUNNING EFFECTIVE BOARD MEETINGS**

School boards are in charge of the largest businesses in town, responsible not only for money but their community's children and should run their meetings accordingly, says Dr. Paul Krohne. Krohne, the executive director of the South Carolina School Boards Association, is an expert parliamentarian, but said running everything strictly by *Robert's Rules* can bog down business. On the other hand, you need the rules to keep order, particularly during a crisis, and to make sure everyone is treated fairly. "Over or under-dedication to *Robert's Rules* can be disastrous," he said.

The basic principles of Roberts include:

- Everyone is equal, including the chair;
- Individual members have no authority;
- People have a right to know in advance what will be discussed;
- One thing at a time, one person at a time, one time per meeting;
- There is a balance between democracy and efficiency;
- No interruptions; and
- Majority rules, usually.

The most common protocol mistakes school boards make are:

- Misunderstanding of the chair's role;
- Allowing surprises;
- Forgetting your school board is a corporate board;
- Forgetting to demand proper respect and protocol by all board members; and
- Forgetting that board member conduct sends messages to the community.

Krohne said a well written agenda will help assure well run meetings. He cautioned against adding to the agenda the night of the meeting—a practice that should only be done in an emergency and with a two-thirds vote of the board. He also recommended against including open-ended items like "board member comment," which can open the meeting up to a multitude of topics.

He said board members and the public need to understand a public meeting does not mean unlimited public participation. "Don't allow a few individuals to take over the evening," Krohne said. He suggested considering limiting public comment to agenda items and putting a time limit on those comments.

Krohne said the entire meeting should last about two hours, and the way to control that starts with the agenda. A board also can limit debate, with time limits on each agenda item, limits on length of comments, and allowing members to speak only twice on a motion.

The 10 “must know” motions for school board meetings are:

- Adjournment—ends the meeting;
- Recess—calls for a break that does not end the meeting;
- Lay on the table—sets a pending motion or question aside temporarily when something else of immediate urgency has come up;
- Close debate—ceases debate on the pending question, and if there is no objection, the chair states the question and takes a vote;
- Limit/extend limits of debate—limits or extends debate on the question for a defined period of time;
- Postpone to a certain time—states the time the motion or agenda item will be resumed;
- Commit or refer—designates the committee to receive the question or resolution; if no committee exists, includes size of committee desired and method of selecting the members (election or appointment);
- Main motion—made by a member to bring business before the committee for its action;
- Primary amendment—deals with changes to the wording in the main motion; and
- Secondary amendment—deals only with changes to the primary amendment.

Further explanation of those motions and others necessary information can be found in *Robert’s Rules*.

“Take care of yourself as a board,” Krohne said, and avoid rambling conversations and meetings that don’t accomplish anything. “The public will perceive if you can’t run a board meeting, how can you run the schools?” he said.

## **5. CONFLICTS OF INTEREST**

As elected officials, school board members are obligated to protect the public interest and to serve the public good. Contracts made in violation of this duty are not in the public interest and may be unenforceable. Board members must be constantly alert to their responsibilities and potential conflicts, and take care to avoid even the *appearance* of self-interest through disclosure or abstention (Title 30-A § 2605). Although there are no clear rules to determine what is lawful and proper in every possible scenario, board members can protect themselves by becoming familiar with the provisions of the statutes governing conflict of interest.

Case law and attorney general opinions also have been issued that are important to consider when addressing specific conflict of interest concerns. Therefore, when a board member has a question about a possible conflict, it is important that the board attorney be consulted for a definitive recommendation. Board members should discuss any questions with their superintendent and board chair.

The following sections will provide a brief review of the statutes, case law, and attorney general opinions concerning conflict of interest of school board members.

### **Pecuniary Interest**

Title 30-A MRSA §§ 2605-2606 are provisions of the general laws that relate to municipal officials and officials of quasi-municipal bodies, such as school board members.

One key to a determination of the existence of a conflict of interest situation is whether or not a board member “has a direct or indirect pecuniary interest” in the question or contract under consideration. This means that some financial benefit may somehow come to the board member as a result of the board action. If a board member has such an interest and votes on that question, or is involved in the discussion, negotiation, or award of the contract, the vote of the board is voidable.

The statute attempts to define under what circumstances “a direct or indirect pecuniary interest” is present:

1. In the case of actual fraud;
2. When the board member is an officer, director, partner, associate, employee, or stockholder of a private corporation, business, or other economic entity to which the question or the contract relates; or
3. When the board member is the owner, either directly or indirectly, of at least 10% of the stock of the private corporation or of at least a 10% interest in the business or other economic entity.

However, except in the case of actual fraud, the board member may prevent the vote on the question or contract from being voidable by taking the following steps:

1. Making a full disclosure of his/her interest prior to any action being taken;
2. Abstaining from voting on the question, negotiating or awarding the contract, or otherwise attempting to influence the decision; and
3. Recording the disclosure and abstention from any part of the decision/vote in board meeting minutes.

The bottom line is—for the protection of the individual board member and to preserve the validity of board decisions—it is prudent for board members *always* to disclose any personal interest they may have on a matter before the board.

## **Employment of Board Members and Spouses**

Title 20-A MRSA § 1002 provides that a member of a school board or the spouse of a member may not be employed in a public school within the jurisdiction of the school board to which the member is elected. The member or spouse is also prohibited from employment in a contract high school or academy located within a supervisory union in which the member is a representative on the union committee. An employee or the spouse of an employee of a school administrative unit may not serve on the school board of another school administrative unit when the two school administrative units are members of the same school union and have the same superintendent of schools.

In addition, a member of the Board or the spouse of a member may not serve as a volunteer when that volunteer has primary responsibility for a curricular, co-curricular, or extracurricular program or activity and reports directly to the Superintendent, principal, athletic director, or other school administrator in a public school within the jurisdiction of the Board to which the member is elected, or in a contract high school or academy located within a supervisory union in which the member is a representative on the school committee.

Section 1002 further prohibits a board member from being appointed to any civil office of profit or employment position for one year following the end of his/her service as a board member, if the position was created or the compensation increased by action of the school board during his/her term.

We have included a copy of MSMA's sample Conflict of Interest policy for your review (see 5-A, *Conflict of Interest*, beginning on page 5-5).

## **Employment of Relatives**

Title 20-A MRSA § 1002 does not specifically address the question of the employment of relatives of a board member other than a spouse. Nonetheless, a conflict of interest would

probably exist if the board member has a direct or indirect pecuniary interest in the appointment. For example, if the relative is dependent upon the board member for support, or if the relative is financially indebted to the board member in some way, a pecuniary interest may be present and a conflict of interest exists. Absent these or similar circumstances, a relative could properly be an employee, even if the board member participated in the vote electing that individual. It is always prudent for board members to disclose any relationship to avoid even the appearance of a conflict.

We have included MSMA's sample *Nepotism* policy on page 5-8.

### **Incompatibility of Offices**

Another area of concern is the incompatibility of offices. Offices are judged to be incompatible when:

- The holder of one office is subordinate to or has supervision over the other; and/or
- Has the power of appointment, removal, or punishment of the other; and/or
- Has the power to determine the compensation of the other.

School board members are specifically prohibited from also being superintendent in the unit (20-A MRSA § 1051). The State Attorney General's Office has also issued opinions that the offices of school board member and municipal official (town councilor, selectman) are incompatible. If it is determined that a person is holding two incompatible offices, he/she is deemed to have resigned the first office at the time he/she is sworn in to the second office.

## **BOARD MEMBER CONFLICT OF INTEREST**

Board service is a matter of public trust. In making decisions that affect the [School Unit Name] schools, Board members have the duty to act in the interest of the common good and for the benefit of the people they represent.

A conflict of interest may arise when there is an incompatibility between a Board member's personal interest and his/her responsibilities as an elected official in a matter proposed or pending before the Board. Board members have a legal and ethical responsibility to avoid not only conflict of interest, but the appearance of conflict of interest as well.

### **Financial Interest**

A Board member has a financial interest in a question or contract under consideration when he/she or a member of his/her immediate family may derive some financial or other material benefit or loss as a result of the Board action. The vote of the Board is voidable if a Board member has a financial interest and votes on that question or is involved in the discussion, negotiation, or award of a contract or other action in which he/she has a financial interest.

In order to prevent the vote on a question or contract from being voidable, a Board member who has a financial interest must:

- A. Make full disclosure of his/her interest before any action is taken; and
- B. Abstain from voting, from the negotiation or award of the contract and from otherwise attempting to influence the decision.

The Secretary of the Board shall record in the minutes of the meeting the member's disclosure and abstention from taking part in the decision in which he/she has an interest.

It is not the intent of this policy to prevent a Board member from voting or the school unit from contracting with a business because a Board member is an employee of that business or has another, indirect interest but is designed to prevent the placing of Board members in a position where their interest in the schools and their interest in their places of employment may conflict and to avoid appearances of conflict of interest.

### **Appearance of Conflict of Interest**

A Board member should do nothing to give the impression that his/her position or vote on an issue is influenced by anything other than a fair consideration of all sides of a question.

Board members shall attempt to avoid the appearance of conflict of interest by disclosure and/or by abstention.

### **Appointment to Office and Other Employment**

A Board member may not, during the time the member serves on the Board and for one year after the member ceases to serve on the Board, be appointed to any civil office of profit or employment position which has been created or the compensation of which has been increased by action of the Board during the time the member served on the Board.

### **Employment**

A member of the Board or spouse of a member may not be an employee in a public school within the jurisdiction of the Board to which the member is elected or in a contract high school or academy located within a supervisory union in which the member is a representative on the union committee.

### **Board Members as Volunteers**

A member of the Board, or spouse of a member, may not serve as a volunteer when that volunteer has primary responsibility for a curricular, co-curricular, or extracurricular program or activity and reports directly to the Superintendent, principal, athletic director, or other school administrator in a public school within the jurisdiction of the Board to which the member is elected, or in a contract high school or academy located within a supervisory union in which the member is a representative on the school committee.

Volunteer activities of a member of the Board or member's spouse other than in roles that are prohibited by this section may be prescribed by policies developed and approved by the Board.



## Definitions

For the purposes of this policy, the following statutory definitions apply:

- A. “Employee” means a person who receives monetary payment or benefits, no matter the amount paid or hours worked, for personal services performed for a school administrative unit.
- B. “Volunteer” means a person who performs personal services for a school administrative unit without monetary payments or benefits of any kind or amount.

Legal Reference: 20-A M.R.S.A. § 1002-1004  
20-A M.R.S.A. § 1315 (SADS’s)  
30-A M.R.S.A. § 2604-2606

Cross Reference: BCA - Board Member Code of Ethics

Adopted: \_\_\_\_\_

## **NEPOTISM**

### **Employment**

It shall be the policy of the [**School Unit Name**] Board not to employ as school unit staff any person who is a member of the immediate family of a Board member or of the Superintendent. Immediate family of Board members or the Superintendent who are employed by the school unit on the date of adoption of this policy are not affected by this paragraph.

By Maine law (20-A M.R.S.A. § 1002(2)), a Board member's spouse is precluded from employment under any circumstances in any public school within the jurisdiction of the Board to which the member is elected.

**[FOR SCHOOL UNIONS ONLY, ADD: A Board member's spouse may not be employed by any other Board in School Union \_\_\_\_ [insert school union number].**

### **Supervision and Evaluation**

No person shall be employed in or assigned to a position that is within the administrative supervision of a member of his/her immediate family, nor in a position in which he/she is supervised or evaluated, in whole or in part, by a member of his/her immediate family.

### **[OPTIONAL:]**

### **Exceptions**

**In extraordinary circumstances, the Board may approve an exception to the prohibitions on the employment of immediate family so long as the candidate is qualified for the position to which he/she has applied, the hiring is in the best interest of the school system and its students, and the candidate is not the spouse of a Board member.]**

## **Volunteers**

Under Maine law (20-A M.R.S.A. § 1002(2-A)), a board member's spouse may not serve as a volunteer when that volunteer has primary responsibility for a curricular, co-curricular, or extracurricular program or activity and reports directly to the superintendent, principal, athletic director, or other school administrator within the jurisdiction of the Board.

## **Definitions**

For the purpose of this policy:

- A. "Immediate family" means spouse, brother, sister, parent, son, or daughter.
- B. "Administrative supervision" refers to the authority of a person in the position of principal or higher.

Legal Reference: 20-A M.R.S.A. § 1002

Cross Reference: BCB - Board Member Conflict of Interest

Adopted: \_\_\_\_\_

## 6. THE LEGISLATIVE/POLICY MAKING ROLE OF THE BOARD

One of the most important functions of the school board as a legislative/policy making body is the formulation of policy. Through policy, the board exercises its power to articulate the school unit's direction, vision, philosophy, and expectations. A clear understanding of the board's policy making role, what policy is (and is not), and the process through which a policy is developed and adopted is critical to the board's effectiveness—and ultimately, to the quality of education for students.

In formulating policy, boards need to avoid the temptation to micromanage—to become overly involved and direct the day-to-day operations of the schools. This is not the board's role or function. Maine law requires the board to employ a superintendent to administer board policies and operate the schools. The board-superintendent team will be most effective when the board concentrates on its policy making and evaluation roles.

### What is Policy?

A school board policy is an idea designed to bring action—it tells *what* the board wants to happen and *why* it should happen. The board's policy manual creates a framework within which the superintendent and staff can discharge their duties with positive direction.

The board is often called upon to make decisions in response to specific issues or problems that are raised within the school unit. When this happens, it indicates a policy need. Policies provide guidance for decision making to avoid problems or address similar issues in the future.

Effective policies share certain attributes:

- Inform the community and school staff about board goals and philosophy;
- Are clear, concise, and focused;

- Provide general direction and authority for the superintendent;
- Provide stability despite personnel changes; and
- Provide for evaluation and amendment if necessary.

Federal and state laws and Maine Department of Education rules and regulations require written policies on several topics. Lists are published annually in MSMA's *Policy Development News*. These are the bare minimum policies that a board must have. MSMA also publishes lists of policies which are recommended by MSBA Resolutions and those which are considered prudent to good school management.

See 6-A, *Why Do We Need Policies?* beginning on page 6-4, for a brief summary of the benefits of written policies.

### **What Policy is *Not***

In general, policies should guide the action of the superintendent and the staff—not set forth the specific step-by-step method for implementation. These specific directions—telling *how, by whom, where, and when*—are properly addressed in administrative procedures and regulations. In most instances, boards prefer to have the superintendent and administrators develop procedures to support policies, subject to board review. See 6-B, *Is It a Policy or a Regulation?* on page 6-5, for a description of the differences between policies and administrative procedures/regulations.

Of course, there is a gray area between what constitutes a policy and what is an administrative procedure. Boards occasionally need to provide specific direction and steps in response to a state or federal mandate (for example, drug-free schools); to provide legal enforceability and explanations (for example, student expulsion procedures); or to assure the community that the board stands behind the procedure (for example, video cameras on school buses or holiday celebrations).

## Policy Process

The specific procedure to be used to develop and adopt policies varies from school unit to school unit. Whatever procedure is used, it should be in writing and adopted by the board. This will ensure that the board is consistent in its approach and that the community and staff understand the process. We have included copies of MSMA's sample policy and procedure for your review (see 6-C, MSMA Sample Policies BG—*School Board Policy* and BG-R— on *Policy Adoption Procedure*, beginning on page 6-6).

Document 6-D on page 6-11, *Policy Process*, is a flow chart illustrating a typical policy process. It is very important for new board members to understand that the policy process is ongoing. There will never be a time when a board is “done” with policy. There will always be new policy needs, policies that need to be evaluated, and policies that need to be updated or eliminated. MSMA recommends that boards review their policy manuals on a regular cycle of three years.

MSMA publishes *Policy Development News* several times a year. This newsletter provides boards with timely information on policy issues and new and revised sample policies.

Case law and Maine Labor Relations Board decisions over the years have identified numerous educational policy categories, including class size, scheduling and length of school vacations, the qualifications and selection of evaluators for teachers and content of curriculum, among others. Your superintendent or MSMA can provide you with a complete list.

Obtaining input from teachers on educational policy issues is not only the law, it makes good sense. The board should take time to obtain feedback on proposed policies from other affected groups as well. Policies that are hastily made or made in the midst of a crisis are rarely effective.

Document 6-E on page 6-12, *Five Things to Remember*, provides a valuable perspective on a school board's policy making power.

## **Why Do We Need Policies?**

### **The Board is an Elected Public Body**

As an elected public body, school boards have the authority to set direction for a school system. Just as the laws established by the legislature must be in writing, so should school board policies be in writing. Increasingly, the Maine Legislature, the State Board of Education, the U.S. Congress, and the courts are requiring written statements of policy.

### **Policies Establish a Written Legal Record**

This is especially important for policies which carry the force of law or are legally mandated. Policies are an important way to document that the board is fulfilling its obligations. Effective policies help protect the school district from liability.

### **Policies Foster Stability and Continuity**

Board members come and go; staff people leave or retire; but policy endures. An up-to-date policy manual permits smooth transitions and consistency in dealing with issues.

### **Policies Inform Staff and the Public About the Board's Goals and Philosophy**

An up-to-date, accessible policy manual is an effective way to communicate the board's goals and educational and operational philosophy. It helps the board operate in the open and with consistency.

### **Policies Clarify Board-Superintendent Relations**

Policies and regulations developed to support policies help clarify board-superintendent relations. They help foster good communication and understanding of roles and responsibilities.

### **Policies Save the Superintendent Time and Effort**

When problems surface, the superintendent does not have to go to the board each time for a decision. Policies help schools operate smoothly, not in a crisis mode.

### **Policies Save the Board Time and Effort**

When there are well thought out policies in place, the board can focus on issues that will improve education for the district's children—instead of focusing on crises and the details of administration. Effective policies also prevent the board from facing the same issues over and over and worrying about the consistency of their response.

## Is It a Policy or a Regulation?

**Policy** status is generally indicated by YES answers to one or more of these questions:

- Does the statement concern goals, purpose, philosophy, or aspirations?
- Does the statement concern how the board operates?
- Does the board assign responsibility or authority to the superintendent/administration?
- Does the statement set forth a function that the board reserves to itself?
- Would only the board have authority to make such a statement?
- Is the board required by law or regulation to make such a statement?
- Generally speaking, does the statement answer the questions *what, why, and how much?*

**Regulation** status is generally indicated by YES answers to these questions:

- Does the statement set forth mechanics for achieving goals?
- Does the statement list specific dos and don'ts?
- Does the statement list specific procedures or requirements?
- Does the statement contain a great deal of detail?
- Generally speaking, does the statement answer the questions *how, by whom, and when?*

There are particular areas where boards often adopt their own regulations for legal reasons or because an issue is particularly sensitive in the school or larger community. Examples include:

- Suspension and expulsion;
- Complaint procedures regarding instructional/media materials, harassment, and staff;
- Use of school facilities;
- Policy adoption; and
- Staff hiring.



## SCHOOL BOARD POLICY

The [School Unit Name] Board considers policy development its most important governance function.

It is the intent of the Board to develop written policies that will serve as the foundation for the successful and efficient operation of [School Unit Name] and its schools.

The Board accepts the definition of policy set forth by the National School Boards Association:

School Board policies are statements that set forth the purposes and prescribe in general terms the organization and program of a school system. They create a framework within which the Superintendent and the staff can discharge their assigned duties with positive direction. They tell what is wanted. They may also indicate why and how much. Policies should define clearly the goals and objectives of the school system, allow for the flexibility that is vital in day-to-day operations, reflect the board's vision, define roles and responsibilities (who is supposed to do what), and include measurable outcomes.

**[NOTE: The source for this definition is NSBA's publication, *Becoming a Better Board Member*, 3<sup>rd</sup> edition (2006).]**

The Board's policies are framed and meant to be interpreted in terms of federal laws and regulations, state statutes and the rules of the Maine Department of Education, State Board of Education, and other regulatory agencies at various levels of government. The Board's policies are also intended to reflect the Board's educational philosophy and instructional objectives and practices and procedures that are supported by research and generally accepted by leaders and authorities in the field of public education.

It is the Board's intent that its policies set goals and provide direction and guidance for administrators, staff, and students and serve as sources of information for parents, community members, and others who are interested in or connected with the schools.

The Board regards policy development and review as an ongoing process. The need for a new policy or revision or deletion of an existing policy may arise from a change in law and/or regulations, modification of the school unit's vision or goals, educational research

or trends, the occurrence of a significant incident or a recommendation or request from Board members, school administrators, staff, parents, students, or other interested persons.

Adoption of new or revised policies and repeal of existing policies is solely the responsibility of the Board. Policies will be adopted, amended, or repealed only by the affirmative vote of a majority of members present and voting.

Policies shall become effective upon Board adoption or at a future date designated by the Board at the time of adoption.

The Superintendent/designee will be responsible for distributing new or revised policies to Board members and for making policies accessible to school personnel, students, and the public.

Legal Reference: 20-A MRSA §1001(1)(A)

Cross Reference: BEDF – Voting Procedure  
BG-R – Policy Adoption Procedure

Adopted: \_\_\_\_\_

## **POLICY ADOPTION PROCEDURE**

The following procedure shall be used to develop, adopt, review, revise, and/or delete (repeal) [School Unit Name] Board policies:

- A. The Board's Policy Committee is charged with reviewing and recommending all new policies and policy changes to be considered by the Board.
  1. Individual Board members, Board subcommittees, the Superintendent, and members of the public may submit policy suggestions and concerns directly to the Policy Committee. Policy suggestions that are submitted to **[OR: received by]** the Board Chair or the Superintendent will be forwarded to the Policy Committee. School unit employees should follow any and all applicable administrative procedures and/or collective bargaining agreement provisions for submitting policy suggestions.
  2. The Policy Committee, together with the Superintendent, will be responsible for reviewing and researching suggestions for new policies and policy changes. The Policy Committee may seek or ask the Superintendent to provide information such as, but not limited to, the specific need for the policy; the fiscal consequences of the proposed policy; the potential effect of the policy on the instructional program, staff, students, and the community; samples of policies on the same or similar subjects; applicable provisions of state and/or federal law and regulations; and the anticipated costs and benefits of implementing, enforcing, and monitoring the proposed policy.
  3. The Policy Committee may prepare draft policies or delegate the drafting of all or individual policies to the Superintendent.
  4. At an appropriate stage in the process, the Superintendent, on behalf of the Policy Committee and the Board, shall notify the bargaining agent for the school unit's teachers of any proposed new educational policy or proposed modification of any existing educational policy.

The Policy Committee may also seek input or discuss the proposal with other groups affected by the policy.

5. The Policy Committee will make reports to the Board regarding its activities and the status of policy development.
- B. Upon recommendation by the Policy Committee, the first reading of a new policy, revision, or deletion of policy shall be placed on the agenda of a regular Board meeting. Board members shall receive the policy, supporting material, if appropriate, and any written recommendations in advance of the meeting date.

The Policy Committee Chair will explain the proposed policy or policy change. The Board may discuss the substance of the policy proposal, and a vote shall be held to acknowledge the first reading of the policy. Any changes to the policy agreed to by consensus or by vote on a motion to amend shall be made prior to the second reading.

- C. At a subsequent regular meeting, at least two weeks but no more than eight weeks after the first reading, the policy shall be placed on the agenda for second reading and action. Amendments may be introduced and acted upon. If a main motion to approve the policy is not passed at such a meeting by a majority vote of Board members present and voting, the process for that policy is ended unless the Board, by vote, takes action to table further consideration of the policy or otherwise dispose of the policy (e.g., refer it back to the Policy Committee for further research).
- D. The Superintendent will be responsible for making new and revised policies available to Board members, school unit personnel, students, and the public by sending copies to the schools, updating the school unit's website, and/or other appropriate means as soon as practicable following adoption. Board members should update their policy manuals when they receive copies of new or revised policies or notifications of deletions.
- E. The Superintendent shall provide each Board member with a policy manual, in print, on a CD, and/or by other means, as specified by the Board. If Board member access to the policy manual will be online, the Superintendent will provide each Board member with instructions for accessing it. The Superintendent/designee may periodically recall all policy manuals for administrative updating to ensure that the content of all Board manuals is current and consistent.

Legal Reference: 26 MRSA § 965(1)(C)

Cross Reference: BEDB - Agenda  
BG - School Board Policy  
CHD - Administration in the Absence of Policy

Adopted: \_\_\_\_\_

## **Policy Process**

### **Identify Need**

New law/regulation  
Liability issue  
Board operation need  
District philosophy/direction need  
Administrative/staff need  
Community expectation



### **Research/Discuss**

Educational issues  
Legal issues  
Cost issues  
Practicality/anticipate impact  
Consistency with other policies  
Alternatives



### **Draft Policy/Get Feedback**

Draft clear, direct policy  
Obtain staff/student/parent/community/legal reaction  
Revise as necessary



### **Two Readings**

First reading at public board meeting  
Feedback/revision  
Second reading at public board meeting (reject, table, or adopt)



### **Adopt**

Formal board vote  
Policy included in board minutes/manual



### **Implement and Review**

Policy disseminated as necessary  
Regulations developed in support of policy  
Policy monitored for effectiveness  
Changes made as necessary by board (but not too soon!)

## Five Things to Remember

The task of developing policy is different, challenging, and very near unique in the experience of citizens.

Difficult? Yes. Possible to achieve? Definitely.

Success will require that individual board members bear in mind five points about school boards and their policy power.

First, as a board member, you're required by law, by theory, and by good practice to give a major portion of your time, effort, and talents to developing policy and examining the results. You are not expected to wade in and administer the school system.

To put it as clearly as possible, a board member is not expected to be an operative. You are not asked to do the actual work. You have a staff to get things done. You work mainly with the school superintendent--the chief of that staff--who is employed to carry out your policy. Your responsibility is formulation and evaluation of policy--the things that count most in board membership.

The second point to keep in mind is that you are making policy in the field of education.

Education has engaged the minds of philosophers and statesmen through the ages. It has challenged the attention of men and women from Socrates to Rousseau to Montessori to Dewey; it has called upon the thinking of individuals who include China's Confucius, Russia's Peter the Great, France's Napoleon, and America's Thomas Jefferson. Today, after generations of study, teaching and learning still baffle the best of our scholars. So be aware that the operation of school systems remains a venture that defies dogmatic and easy solutions.

Third, remember that an individual board member has no power or legal authority except as that person votes at a duly called meeting of the board. Only the board as a body can make policy.

Serving on a school board is not an assignment for a rough, tough, high-handed individual who wants to act immediately, independent of others. Therefore, you, as an individual, will participate with others in policy making. You will have to persuade, compromise (a good word in this context), balance, and harmonize points of view if you are to develop wise policies for your school system.

Fourth, be aware that all actions of your board must adhere to law. The board must act in accordance with the statutes, obey court decisions, follow federal and state guidelines, and comply with contracts.

In light of points three and four, policy making is necessarily a slow and deliberate process. You don't ram through policies; you grow and nurture them. In your private life and on your job perhaps you can hire and fire on the spot; make decisions without conferring or

consulting anyone; change your mind with alacrity; and take risks with your money or your reputation. Service at the board of education table is nothing like that. It is public service. It is labor for and on behalf of children and youth and adults who want to use education as one means for reaching their goals. Therefore, what you do around the board table, you will do for the good of others and not to satisfy your ego.

Fifth, bear in mind that the staff you employ is not, and should not be, totally subservient to you, the board.

The superintendent is a professionally trained school administrator who must carry out certain obligations prescribed by law as well as imposed by the ethics of the profession. This also is true of principals, teachers, department heads, and staff specialists. These individuals have an obligation to see that sound educational policies are followed for the good of the child. To use an extreme example, you and your board may believe that caning children is good for learning, but it is doubtful if you will be able to implement a child-whipping policy because no professional staff will enforce it.

On the positive side, your cooperation with staff will mean that you will receive a constant flow of ideas about new policies to be introduced and old ones to be revised. You will get proposals for choices and for alternatives. You will get backup and background information for making decisions. You will get evidence that certain policies will, or will not, work.

Such assistance is invaluable. Your board will not be able to operate effectively without it. But once the facts are in, all the evidence is recited, and all the arguments are made by staff, only the board can do the consensus building and community work that is necessary before its final Yes or No bears the imprint of success.

School staff are responsible for administering school board policy. Although they interact frequently with various school constituencies, only the school board is responsible for cultivating a give and take attitude among school groups, creating the environment for change to occur, and communicating policy ideas and programs early enough so that due consideration is possible before the board has to take action. Only board members can do this effectively because they represent the community.

-Reprinted from:

*The School Board Member's Guide to Effective Policy Development* (NSBA)



## **7. THE BOARD’S ROLE IN CURRICULUM AND INSTRUCTION**

Among the most important responsibilities of the board are the areas of curriculum and instruction. School boards are required to do the following:

- Courses of study. They shall adopt courses of study in alignment with the system of Learning Results (20-A MRSA § 1001-6).
- Operate kindergarten and grades 1 to 12. They shall either operate programs in kindergarten and grades 1 to 12 or otherwise provide for students to participate in those grades (20-A MRSA § 1001-8).
- They shall adopt a policy governing the selection of educational materials and may approve educational materials (20-A MRSA § 1001-10A).

Boards are required by state laws and regulations to adopt policies related to curriculum, defined as the administrative unit’s written document that includes the learning expectations for all students for all content areas of the system of Learning Results, as well as the content areas specified by the school board. (Chapter 125 § 2.10, Chapter 127 § 2.07, ME DOE rules.)

The Learning Results set up grade-level expectations in Math, English Language Arts, Social Studies, Visual and Performing Arts, World Languages, Health and Physical Education, and Career and Education Development.

Boards also must adopt policies related to other educational issues, including educational philosophy/mission, school system goals and objectives, professional development, selection of instructional and library materials, and student tests and assessments. (See more information on *Learning Results* and assessments starting on page 7-6.)

## Three Areas for Board Focus

Curriculum and instruction issues frequently intimidate new board members, who are not usually trained educators. The simplest route may be to defer to the recommendations of the superintendent and professional staff when taking action on curriculum matters. However, the law makes it clear that the board is not intended to be just a rubber stamp. The board has an important leadership role to play in establishing and evaluating the educational direction of the school unit, listening to and responding to the needs of students and the community, and stimulating quality work and reflection on the part of the professional staff. There are three ways that the board can make a tangible and positive difference in curriculum:

1. **Commit to curriculum.** A board that takes its curriculum role seriously leads through its actions: developing a mission and vision statement, adopting policies, and discussing curriculum issues at board meetings. In other words, the board provides leadership and insists that curriculum matters be a major focus of the school unit.
2. **Allocate adequate resources.** A board that expects the school unit to have an effective curriculum and staff must adopt budgets that allocate adequate resources to curriculum development and evaluation as well as staff supervision, evaluation, and professional development. The board should also ensure that students have access to up-to-date textbooks, library materials, and other instructional materials.
3. **Make informed decisions.** In order to make good curriculum decisions, the board needs information—not only about the curriculum in place in the schools now, but what the curricular and instructional possibilities may be. The board needs regular reports from administrators and presentations on issues such as:
  - What are we doing to ensure that there is continuity in curriculum between grade levels?

- How is our school unit meeting the curriculum and staff development requirements of the Learning Results?
- What assessment tools are we using, and how are we using the data to improve the curriculum?
- What is our plan for evaluating and revising major curriculum areas?
- How are we using our staff development time, and what more needs to be done?
- When new courses of study, curriculum, or textbooks are being discussed, what is the research that indicates that the recommended material is the best for our school unit?
- Is the curriculum balanced, and does it provide for the differing needs of our students?
- Are we providing multiple pathways for students to demonstrate they are meeting learning goals?
- Is there a Response To Intervention (RTI) program in place to identify those students who are not achieving and offer help before a student fails?

There will often be strong pressure from interest groups—both among the staff and in the community—for the board to adopt particular materials or set a particular direction. Board members should insist on receiving the information they need to make informed, reasoned decisions on curriculum matters that serve the best educational interests of the school unit's students.

### **Superintendent/Staff Roles**

The board cannot fulfill its statutory duties regarding curriculum and instruction without input and recommendations from the superintendent, who in turn should gather input from administrators and teachers. The superintendent has the statutory duty under Title 20-A MRSA § 1055 to:

- Inspect the schools and review the operating rules, the discipline, and the proficiency of the students;
- Annually report to the Commissioner of Education on the progress of the comprehensive education plan for the district that is aligned with the system of Learning Results, focused on the learning of all students and oriented to continuous improvement;
- Select textbooks, supplies, and apparatus with the approval of the school board and shall make all these purchases under rules adopted by the school board; and,
- Supervise school employees, including all teachers and other employees of the school unit.

In thinking about the respective roles of the board and superintendent/staff, it is useful to think of the board as being responsible for *what* is taught in the schools, *when* it is taught, *how much* time and/or resources are available, and *who* will teach or implement it. (The board's role in supervision and evaluation of instructional staff is discussed in Section 9.)

The superintendent takes his/her direction from the board and—with the administrators and staff—*trains* the staff, *plans* the instructional time, *assesses* programs and materials, and *reports* the results and recommendations back to the board. The board then reviews superintendent/staff assessments of the program/material and decides whether it should be continued, ended, or modified.

Clear and comprehensive board policies on selecting instructional materials, staff and curriculum development, and student assessment will ensure that the board receives the professional recommendations it needs from the superintendent, administrators, and staff to adopt the best curriculum and instructional materials for the school unit's students. In particular, board policies and any procedures developed by the superintendent should provide for adequate staff input, freedom from undue pressure from special interest groups, comprehensive evaluation, and access to current research and materials.

## **Special Education**

Numerous federal and state laws and regulations require schools to provide a “free appropriate public education” to all students with disabilities who require special education services to benefit from their education. These laws and regulations also set forth stringent requirements regarding parental rights, student placement and educational planning, discipline, and appeals of school decisions concerning special education students. Your superintendent or special education director will be able to give you more information about the legal requirements of special education, what programs are in place in your school unit, and the budgetary and curriculum implications.

## **Community Input on Curriculum**

Your school unit’s instructional program touches every student and determines how well-prepared he/she is to contribute to society following graduation. Long gone are the days when the community left decisions on curriculum to the teachers and the school board. Curriculum issues are often emotional for parents and can generate fierce philosophical and/or political debates in communities. The board, as an elected body, has an obligation not only to be aware of parent and community sentiments, but to provide opportunities for their views to be considered when major decisions about curriculum and instruction are being made.

Boards handle the issue of community input in a variety of ways. Two common methods are through public workshops on curriculum issues or by using advisory committees that include parents and other community members. Whatever methods your board uses, it is important to have policies in place that clearly define the role of community input in curriculum review and adoption processes. Misunderstandings and negative feelings toward the board and the schools can be minimized if the public clearly understands that the board and superintendent have the ultimate responsibility for making decisions in the best interest of the school unit’s students.

## **Challenges to Curriculum/Materials**

It is probably inevitable that at some point during your term, a parent, student, or interest group will challenge a book, an instructional method, or curriculum content in your school unit. In general, if a parent or community member approaches you personally, you should handle the complaint as you would any other—that is, refer the person to the administrator/teacher who can best address his/her concern. However, there are times when the board does need to address a curricular challenge or complaint—and this procedure should be spelled out in board policy. We have included MSMA’s sample policy on *Instructional and Library-Media Materials Selection* starting on page 7-9 for your review. This policy contains a procedure and form boards may use to fairly address curricular challenges. A sample *Challenge of Instructional Materials Form* can be found beginning on page 7-15. Many boards also have a policy concerning Exemptions from Required Instruction (a sample is available from MSMA), which provides an “opt-out” opportunity for individual students/parents. This option should be utilized sparingly, however.

## **Maine’s System of Learning Results**

Maine’s system of Learning Results, originally adopted by the Legislature in 1997 and revised in 2007, is intended to identify the knowledge and skills needed to prepare Maine students for work, higher education, and citizenship. The system was amended in 2010 to allow for the adoption of national Common Core standards in Math and English Language Arts that are shared by other states. Those national standards are being incorporated into the Learning Results, which still includes Maine’s standards in Science, Social Studies, Visual and Performing Arts, World Languages, Health and Physical Education, and Career and Education Development.

School Boards are charged under law with adopting courses of study that align with the Learning Results. DOE rules require that “Each school administrative unit shall provide programs and instructional approaches that support the variety of learning styles of the students in the schools of the unit. The school board shall adopt a policy that provides all students with

equitable opportunities to access the content standards of the system of Learning Results” (Chapter 127 § 3).

MSMA's sample policy on *School District Commitment to Learning Results* is on page 7-8. More information regarding the state’s system of Learning Results can be found on the DOE website at: [www.maine.gov/education/lres/](http://www.maine.gov/education/lres/).

## **Measuring Student Achievement**

Students are expected to achieve proficiency in the content areas outlined in the Learning Results. A series of state and local assessments are used to measure that proficiency.

Required statewide assessments in 2010 included the Maine Education Assessment (MEA) in grades 5 and 8 for Science; the New England Common Assessment Program (NECAP) in grades 3 through 8 for Reading and Math and grades 5 and 8 for Writing; and, an enhanced SAT, known as the Maine High School Assessment, in grade 11 for Reading, Writing, Math, and Science. While the Common Core standards are to be in place in 2012-2013, assessments aligned with those standards will not be required until 2014-2015, according to the most recent information available. Maine has joined a national consortium that is developing assessments that measure the Common Core standards.

## **A Few Words for Educators on School Boards**

Across the state, there are a number of educators who serve on school boards. If you are one of them, we have a few words for you. You are in a position to make a special contribution to your board, provided that you are careful:

- Not to substitute your judgment for that of the superintendent;
- Not to blur the differences between the school unit where you serve as a board member and the school unit where you are employed; and
- Not to get caught in the middle between fellow board members, who may ask for your opinion, and the superintendent, and staff.

## SCHOOL DISTRICT COMMITMENT TO LEARNING RESULTS

**[School Unit Name]** hereby adopts Maine's system of Learning Results. The Learning Results system is intended to serve as a foundation for education reform and to promote and provide assessment of student learning, accountability, and equity. The Board recognizes that the legislative intent of the Learning Results system is to provide children with schools that reflect high expectations and create conditions where these expectations can be met.

The Board understands that implementation of the Learning Results system and the mandate to provide all students with equitable opportunities to meet the content standards of the system of Learning Results have broad implications for the school unit, including curriculum, budget, professional development, student assessment, professional evaluation, and graduation requirements. Therefore, the Board is committed to examining its policies and school system practices to ensure that they are consistent with the intent and goals of the Learning Results system. This will require a concerted and coordinated effort involving the Board, the Superintendent, administrators, teachers, parents, students, and the community.

The Superintendent will be responsible for implementing the Learning Results system, including development of appropriate administrative procedures. The Board further directs the Superintendent to report to the Board on a regular basis **[school units should insert desired interval: monthly, quarterly, other]** on progress toward implementing the Learning Results system.

Legal Reference:   20-A MRSA §§ 1001(6), 6208-6209  
                           L.D. 1536, Chapter 51 Resolves  
                           Ch. 127 § 3; 131; 132 (Me. Dept. of Ed. Rules)

Adopted:       \_\_\_\_\_



## INSTRUCTIONAL AND LIBRARY-MEDIA MATERIALS SELECTION

The Board is legally responsible for all matters relating to the operation of the schools, including the provision of instructional materials and maintenance of library-media resources that support the school system's curriculum.

While the Board retains its authority to approve the selection of instructional materials, it recognizes the educational expertise of its professional staff and the need for such staff to be involved in the recommendation of instructional materials. The Board delegates responsibility for the selection of instructional materials and library-media resources to the professionally trained personnel employed by the school system, subject to the criteria and procedures for selection and the Board's policy on challenged materials as described below.

**[NOTE: Under 20-A MRSA § 1001(10-A), a school board is required to have a policy governing selection of educational materials. The statute also states that a board may approve educational materials. "Educational materials" are not defined in statute. Chapter 125 of the Department of Education Rules makes a distinction between "instructional materials" and "library-media resources," but does not use the term "educational materials." MSMA has provided definitions in this policy.]**

**OPTION 1 (Board delegation):** With the assistance of professional staff, the Superintendent shall establish a system for the selection of instructional materials, including procedures to establish an orderly process for the review and recommendation of instructional materials. The Superintendent will be responsible for overseeing the purchase of instructional materials within budgetary parameters set by the Board. The Board expects the Superintendent to report on progress made in aligning instructional materials with curriculum development and evaluation in support of the content standards contained in Maine's system of Learning Results.

**OPTION 2 (Board approval):** With the assistance of professional staff, the Superintendent shall establish a system for the selection of instructional materials, including procedures to establish an orderly process for the review and recommendation of instructional materials. The Superintendent shall present his/her recommendations to the Board regarding the selection of textbooks and other instructional materials after completion of the review process. The Board will act on the Superintendent's recommendations concerning instructional materials. The Board expects the Superintendent to report on progress made in aligning instructional materials with curriculum development and evaluation in support of the content standards contained in Maine's system of Learning Results.

Each school shall maintain a library-media program that includes books and other print materials, multimedia materials, online Internet resources, and information technology that support the curriculum. A certified library-media specialist will be responsible for overseeing the library-media program, under the supervision of the Superintendent. As with instructional materials, the Board delegates responsibility for selection of library-media materials and technology and Internet resources to the school system's professionally trained staff, subject to the criteria and procedures for selection and the Board's policy on challenged materials described below.

### **Definitions**

"Instructional materials" include textbooks and other print materials, software and other electronic materials, online/Internet resources (including access), and supplies and other materials to support instruction in subject areas and implementation of the system of Learning Results.

"Library-media resources" include books, print materials, online/Internet resources (including access), multimedia materials and information technology that, as part of the library-media program, support the school system's curriculum.

### **Objectives of Selection**

The Board recognizes that it is the primary objective of instructional materials to implement and support the curriculum, and of library-media resources to extend and enrich the educational programs of the schools. Quality instructional materials and library-media resources are essential to student learning. In preparing students to meet the content standards of the Learning Results, in supporting the achievement of the school unit's educational goals and objectives, and in providing enrichment opportunities that expand students' interests and contribute to a desire for lifelong learning, it is the responsibility of the instructional program and the library-media centers of the schools to provide a wide range of materials on all levels of difficulty, with diversity of appeal and the presentation of different points of view.

### **Criteria for Selection**

Instructional and library-media materials selected should:

- A. Support achievement of the content standards of the Learning Results;
- B. Support the goals and objectives of the school system's educational programs;

- C. Enrich and support the curriculum;
- D. Take into consideration the varied interests, abilities, and maturity levels of the students served;
- E. Foster respect and appreciation for cultural diversity and varied opinions;
- F. Give comprehensive, accurate, and balanced representation to minorities and women in history, science, leadership, and the arts and acknowledge the contributions of ethnic, religious, and cultural groups to our American heritage;
- G. Present a balance of opposing sides of controversial issues to enable students to develop a capability for critical analysis;
- H. Stimulate growth in factual knowledge, literary appreciation, aesthetic values, and ethical standards;
- I. Provide a background of information that will enable students to make intelligent decisions in their daily lives; and
- J. Respect the constraints of the school unit's budget.

Other factors that should be considered are accuracy and currency of material; importance of the subject matter; scholarship; quality of writing and production; and reputation and significance of the author, artist, or composer.

In evaluating software, multimedia materials, and online/Internet resources, additional factors that should be considered include purpose for use; content; format (degree of interactivity or student involvement); appropriate use of graphics, sound, and animation; feedback provided; and ease of use.

### **Procedures for Selection**

Meeting the needs of the individual schools, based on knowledge of the curriculum and the existing collections of instructional and library-media materials, shall be the highest priority. Basic learning materials, i.e., those that are the predominant instructional materials used by most members of the class, are used for a significant portion of the course or receive major emphasis during a course, or are essential to student achievement of content standards of the Learning Results are to take priority in the selection process.

Before recommending materials for purchase, professional staff should evaluate the existing collection, consulting reputable, unbiased, professionally prepared selection aids and specialists from all departments and/or all grade levels.

Social studies and science textbooks should not be older than five years unless up-to-date supplemental instructional materials are also available.

Whenever possible, purchase of non-print materials and multimedia, Internet and technology resources shall be made only after personal evaluation by the librarian/media specialist and/or other appropriate professional staff. Reviewing aids may be used in lieu of personal evaluation.

Multiple copies of outstanding and much-in-demand materials should be purchased as needed. Worn or missing standard items should be replaced periodically. Out-of-date or no-longer-useful materials should be withdrawn from the collection/circulation.

### **Donated Materials**

Gift materials are to be evaluated by the same criteria as purchased materials and are to be accepted or rejected by those criteria and in accordance with Board policy on gifts and donations.

### **Parental Authority**

A student's parent/guardian may inspect, upon request, any instructional material used as part of the curriculum. The Superintendent will be responsible for developing and implementing procedures for providing access to instructional material within a reasonable time after such a request is made.

The Board recognizes that the final authority as to what materials an individual student will be exposed rests with that student's parents or guardians. However, at no time will the wishes of one child's parents to restrict his/her reading or viewing of a particular item infringe on other parents' rights to permit their children to read or view the same material.

Library-media center materials will not be removed from the collection because of criticism except in accordance with Board policy.

## **Challenged Materials**

Despite the care taken to select materials for student and teacher use and the qualifications of the persons who select the materials, the Board recognizes that objections may be raised occasionally by students, parents, school staff, or community members.

In the event a complaint is made, the following procedures will apply:

- A. The complaint shall be heard first by the person providing the materials in question.
- B. If the complaint is not resolved, the complainant shall be referred to the building Principal and requested to fill out the “Instructional and Library-Media Materials Challenge Form.” A copy of the form will be forwarded to the Superintendent.
- C. The Superintendent shall appoint a committee composed of the following persons to review the complaint: one Principal at the appropriate grade level; one librarian/media specialist; one classroom teacher; the department head in the subject area of the challenged materials; and one community member.
- D. The review committee shall: read and examine the materials referred to them; check general acceptance of materials by reading reviews; weigh values and faults against each other and form opinions based on the material as a whole and not on passages or portions pulled out of context; meet to discuss the material and to prepare a written report on it.
- E. The report of the committee shall be forwarded to the Superintendent who will inform the complainant of the results.
- F. No materials shall be removed from use until the review committee has made a final decision.
- G. The review committee’s decision may be appealed to the Board. The Board may set aside a portion of a regular meeting or call a special meeting for the purpose of receiving testimony from representatives of the various points of view. The material in question shall be:
  - 1. Reviewed objectively and in its full content;

2. Evaluated in terms of the needs and interest of students, school, curriculum, and community;
3. Considered in the light of differing opinions; and
4. Reviewed in light of the criteria for initial selection and purpose as provided herein.

The Board will announce its decision in writing not later than the conclusion of the next regular meeting of the Board following its receipt of said testimony.

Legal Reference: 20-A MRSA §§ 1001 (10-A); 1055 (4); 4002  
Ch. 125 §§ 9.01, 9.03 (Me. Dept. of Ed. Rules)  
P.L. 107-110 § 1061 (No Child Left Behind Act)

Cross Reference: IJJ-E – Instructional and Library-Media Materials Challenge Form

Adopted: \_\_\_\_\_

**CHALLENGE OF INSTRUCTIONAL MATERIALS FORM**

Type of Material: ☐ Book ☐ Magazine/Periodical ☐ Film ☐ Recording  
☐ Software ☐ Other (Please specify) \_\_\_\_\_

Author (if known) \_\_\_\_\_

Title \_\_\_\_\_

Publisher (if known) \_\_\_\_\_

Person making complaint: \_\_\_\_\_

Telephone \_\_\_\_\_ Street Address \_\_\_\_\_ Town \_\_\_\_\_

Complainant represents: ☐ Him/herself  
☐ Organization \_\_\_\_\_  
☐ Other group \_\_\_\_\_

1. To what portion of the material do you object? (Please be specific, cite pages, scenes, etc.) \_\_\_\_\_
2. What do you feel might be the negative result of reading/viewing/hearing this material?  
\_\_\_\_\_
3. For what age group would you recommend this material? \_\_\_\_\_
4. Is there anything good about this material? \_\_\_\_\_
5. Did you read/view/hear all of the material? \_\_\_\_\_ If not, what parts did you read/view/hear? \_\_\_\_\_
6. Are you aware of the professional reviews/judgment of this material? \_\_\_\_\_
7. What do you believe is the theme and/or intention of this material? \_\_\_\_\_
8. What would you like the school to do about this material?  
☐ Do not assign it to my child.  
☐ Do not assign it to any students.  
☐ Withdraw it from the library and/or instructional program.  
☐ Refer it to the Educational Media Review Committee for evaluation.

9. In its place, what material would you recommend? \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Complainant

\_\_\_\_\_  
Date



## 8. RELATIONS WITH THE COMMUNITY

The transition from private citizen to elected public official should be an exhilarating one. Excited by the success of your election or appointment to the school board, it was probably easy to foresee nothing but clear sailing ahead. You likely did not anticipate how your new status would change community perceptions of you—and change how you interact with your community.

The public tends to view board members and all elected officials as “belonging” to them 24 hours a day. It is unlikely that you will be able to shop in local stores, take a walk around town, or watch a sports event without someone approaching you to discuss a problem or express their views about the schools. People who supported your candidacy often expect you to vote “their” way on all the issues, and those who supported another candidate may be hostile toward you.

In addition, if you were like most school board candidates, you probably expressed strong personal opinions on educational issues and spelled out what “you would do” if you were a board member. Now you *are* a board member and probably discovering that the issues are more complicated than you thought. You are also learning that as an *individual* board member you have no authority to act, and you cannot always share all you know about the schools with concerned citizens and friends.

How you interact with the community, both as an individual board member and as part of the school board team, is important to you personally and to the board’s effectiveness. This section will help put board relations with the community in proper perspective.

## **What Being an Elected Official Means: The Balancing Act Between Representation and Using Your Best Judgment**

As an elected school board member, you are part of representative government. In order to represent your constituents, you need to actively seek input, listen carefully to all viewpoints, and keep your finger on the pulse of your community. This means being in touch with all of the various constituencies in town—not just those who may have supported you. These constituencies include parents (who may have different interests at different grade levels), senior citizens, municipal officials and local state legislators, community opinion leaders, service and business organizations, and others.

But you are elected to do more than simply mirror the wishes of the majority of your constituents. As a board member, you took an oath to uphold the laws of Maine and your municipality. You are also obligated to learn as much as you can about issues before the board, listen to and analyze competing arguments, interests, and priorities, and then use your best judgment to decide what is in the best interest of the students and the educational program. Make every decision through the lens of what is in the best interest of the students and the educational program. You will find that the public does not always understand your role this way, but it is crucial both to your effectiveness as a board member and to your board's success in charting a strong and steady course for the school system. A board member who simply votes with the majority on every issue—or according to the wishes of the loudest constituent group—is probably not serving his/her students and community well in the long run.

### **The Importance of Informing the Public**

Board members not only have the obligation to listen to the public, they have an obligation to inform public opinion. This is true not only for the board when it meets in business or workshop sessions but for individual board members. Every time you receive a call from a constituent or ask a neighbor what they think about a particular issue, you have an opportunity to inform that person about the good things that are going on in the schools and their condition and

needs. It is important for the community to hear about the schools, not only at budget time but throughout the year.

The board can play a role through board policy in ensuring that the schools are doing all they can to make contact with parents and the wider community. The board should also request copies of all communications and suggest ideas to improve school communications through newsletters, informational meetings, open houses, volunteer programs, student outreach and community services, and other creative means. The more knowledge people have of the schools and the more accessible the schools are, the more likely people are to be proud of them and to support their needs.

### **Community Involvement in Decision Making**

The last few decades have seen a strong trend toward “consumerism” in our society—not only in education but in health care and other areas as well. Homebuyers frequently “shop” for the “best” schools or the “lowest” tax rates. Once settled in, they often want and expect to be actively involved in their child’s education—from teacher assignments to the choice of reading material.

School boards and schools have become increasingly open to involving the community in the decision making process through the use of citizen advisory committees, including citizens on board/building level committees, holding workshops to seek public input, allowing public participation at board meetings, conducting community surveys, and the like. Community involvement in decision making can yield very useful information, and it can help boards anticipate how a new idea will be received by the community and lay a foundation for acceptance. This is particularly important when major changes are being planned—such as a new building, new program or instructional approach, or in the school calendar.

However, it is important to keep community involvement in decision making processes in context. The board must ensure that it retains its statutory policy making authority and that the

public clearly understands this up-front. The board should make it clear through its policies that community input is both welcomed and appreciated but that this input is considered advisory.

## **Responding to Pressure**

When individual constituents or groups approach you to advocate for a particular policy, program, or concern, it is certainly appropriate to listen. However, it is very important to explain that you will listen to and review all available information on the subject before you take a position.

As a general principle, a board member should never make a commitment to vote for or against something until:

1. you are in a board meeting;
2. have engaged in a full discussion of the issue with fellow board members; and
3. have reached a conclusion based upon the available information.

## **Handling Complaints**

Board members hear complaints from many sources and on countless subjects—staff members, instructional materials, recess, the budget, and on and on. It is appropriate to listen carefully to the issue, and then refer the person to the staff member, administrator, or other person who is in the best position to address the complaint. In general, complaints should be handled as close as possible to their origin. In most cases, your involvement should extend no further than helping the person with the complaint set up an appointment with the appropriate person—but only if they really need your help in doing so. You should also let your superintendent and/or board chair know about the complaint, in case further intervention is necessary. Many boards have policies that provide guidelines for handling public complaints. If your board does not, MSMA's sample policy KE, *Public Concerns and Complaints*, is included in 8-D, beginning on page 8-10, for your review.

It is very important to keep your cool when you hear complaints, and remember that you are hearing only one side of the story. Even if you think you agree with the complaint, it is wise not to say so. Do not commit yourself to a course of action that you may regret later. You may learn additional facts that shed a different light on the situation; the board may not support your view; or in the case of a complaint about a staff member, the board may need to be involved in a disciplinary or employment hearing. If you have expressed an opinion on the matter, you may put yourself in legal jeopardy and/or have to excuse yourself from the hearing.

Board members are not like Congressmen and Senators, who often advocate before government agencies for the causes of individual citizens in their districts. For new board members in particular, it is often tempting to jump in and try to solve a constituent's personal problem with the schools. However, this approach rarely solves the problem and may jeopardize your effectiveness as a board member. You will soon be inundated with personal complaints and lose credibility with your fellow board members and school staff.

## **Conclusion**

In order for a school board to deliberate openly and effectively, it is very important for each board member to demonstrate his or her commitment to the process. There is a constant balancing act between listening to constituents with sincere and genuine interest and reserving judgment until all the facts are in and you can make your best judgment on an issue. If you are able to communicate this to members of the community, you will gain their trust and respect—even if you don't vote "their" way on every issue.

Remember that as a board member you have an obligation to exert responsible leadership. You will be expected to attend and participate in many public meetings, and people will listen to what you have to say. Listen well and speak wisely, and you will help shape public opinion and create support for public education in your community.

## **Ten Commandments for Better Communication for School Officials**

1. Thou shalt always remember that the public schools are public. They do not belong to any school official.
2. Thou shalt encourage every school official to treat people as if they were customers. (If the voucher system were initiated, would enough people choose your school to justify keeping it open?)
3. Thou shalt realize that a sound communication program is more than what most people consider public relations.
4. Thou shalt recognize the importance of communication in meeting key challenges. (For example, communication components play a major role in reducing vandalism, in gaining support for financial needs, and in effecting innovations).
5. Thou shalt always use and insist that all school officials use language that laymen can understand.
6. Thou shalt emphasize the importance of communication by adopting a written communication policy.
7. Thou shalt involve the community and staff in identifying communication accomplishments, challenges and needs, and in setting goals for the schools.
8. Thou shalt offer in-service programs for all officials and employees. (Most school administrators and teachers are inadequately prepared for communication responsibilities. Secretaries and custodians are often the main source of taxpayers' impressions of the schools).
9. Thou shalt stop and think about the most important ingredients that make a good school. (Invariably when this kind of thinking takes place, a better commitment is made to improve communication. This means establishing improved communication as a goal—one that administrators know they will be evaluated on).
10. Thou shalt be sure to make someone responsible for communication leadership in the district. (Without this kind of leadership, too often the effort fails to receive the impetus needed).

-Pennsylvania School Boards Association

## Ten Tips for New Board Members

The following ten tips, although intended primarily for new board members, can serve as a team-building refresher for all board members. School board work on behalf of school children is far too important to approach personally or with anything less than a fully cooperative team effort on the part of the board and the superintendent. Here are some tips to help guide your role in that all-important process.

1. **Go slow in the beginning.** Especially if you have come to the board to “reform” it. The chances are you will feel differently about a lot of things after several months on the board.
2. **Remember that the only authority you have lies in the action of the school board.** You have no legal authority to act alone unless the board as a whole specifically delegates a task to you.
3. **Do not let your differences of opinion degenerate into personality conflicts.** Nothing is more devastating to good board procedures than to have one member vote for a measure simply because another member voted against it.
4. **Don’t talk too much.** You may acquire a reputation for wisdom simply by not saying the wrong thing at the wrong moment. One thing is certain: you are not learning when you are talking; you are only hearing your own ideas.
5. **If possible, keep out of teacher/personnel problems.** The board has hired a superintendent and staff for these responsibilities.
6. **Give the superintendent and staff your public support.** Except in unusual and mitigating circumstances, the superintendent has a right to expect your support. To undermine the superintendent and other employees is unethical. Use individual conferences with the superintendent and the official forum of legal board meetings to iron out differences of opinion.
7. **Make an effort to be informed.** School business is always important business, and big business, with budgets into the hundreds of thousands, even millions of dollars. To be informed requires time and effort.
8. **Welcome comments from people about school problems.** Listen carefully, then refer them to the appropriate person according to board policy. If the problem is controversial, remember that you may be hearing only one side of the story. Do not commit yourself to a course of action that you may regret later; the board as a whole may not support your view, and you could find yourself in an embarrassing position of having committed yourself to a stand that the board rejects.

9. **When a special interest group approaches you, insist on your right to hear and review all the facts before you act.** A vocal minority can force a school board to act before all the facts are known and evaluated. If you are being pressured, tell them that you need more time to gather all the necessary information and to make a fair decision with fellow board members.
10. **Accept your job on the board as one of responsible leadership in the community.** You will be expected to attend and participate intelligently in many public meetings on school affairs. This is more than an opportunity; it is an obligation to interpret school affairs to an interested public. You may clear away doubts, misconceptions, and misunderstandings. You can do more than merely inform the public; you can help form public opinion and create active, intelligent support for education in your community.



## Responding To Citizen Complaints

The typical school board member wants to do what's right and work harmoniously with fellow board members, staff, parents, and the general community. That can sometimes be difficult since many citizens seem to hold the school board responsible not only for its own acts, but also for the acts of all of the school system's employees and students. How school board members respond to complaints, therefore, is of utmost importance and can have a profound impact on the conduct of board meetings—not to mention the peace of mind of individual board members, the superintendent, and other staff. In some school systems, board members rarely hear complaints. In others, board meetings represent a regular forum for airing various gripes. Fortunately, there are some things that boards can do to reduce the severity of criticism and, in some cases, reverse its effects.

Experience shows that the most supportive constituent is not one who has never complained, but rather one who has had a complaint handled in a fair, efficient, and constructive manner. On the other hand, complaints that were ignored and allowed to fester have resulted in deep resentment and even driven board members from office. Establishing formal procedures for the handling of complaints, therefore, is strongly advised.

Here are some guiding principles: The attitude of the board and staff must be to treat all complaints as legitimate and to receive them with an open mind. Don't make promises that can't be kept. In the case of misunderstandings, provide accurate information. If the complaint is the result of different values or beliefs, negotiation and mutual understanding are essential, and agreeing to disagree may be part of the solution.

The school board, through policy and its actions, needs to emphasize to all employees the vital importance of human relationships—especially with parents. People directly affected by a decision should be informed and be given the opportunity to speak up. Staff members who must implement a decision need to determine who needs to know what and when they need to know it. Then they have a responsibility for communicating effectively.

It is important to recognize that complaints vary, both in their subject matter and in their source. Public complaints can be about curriculum or instructional materials, including textbooks and library books, about staff, or about board policies. Employee complaints often take the form of grievances filed in the context of collective bargaining agreements. In any case, formal policies (or one comprehensive policy) that take into account the various kinds of complaints are advised. Such policies need to acknowledge the need for referral to the appropriate staff level and how an unresolved complaint will progress, including the right to appeal if available. Not all complaints are appealable to the school board; that should also be made clear in any adopted policy. Board members can be particularly helpful to their constituents if they refer them promptly to the staff members best able to resolve their complaints. Consultation with the superintendent may be necessary in some cases.

Whatever is done in this important area of the public's business should convey to all that the public schools—local school boards and all employees—care about serving their students in the best way possible.

## PUBLIC CONCERNS AND COMPLAINTS

Parents, students, or other citizens with complaints or concerns regarding any aspect of the **[school unit]** or an employee thereof shall be encouraged to seek a resolution at the lowest possible level. The only exceptions are complaints that concern School Board actions or operations. Such complaints should be addressed to the Board Chair.

If the complaint cannot be resolved at the lowest level, the person initiating the complaint may appeal the decision to the next level (i.e., Supervisor of Buildings, Grounds & Transportation, Principal, Special Education Director, Assistant Superintendent).

If the complaint cannot be resolved at any lower level, it may be appealed to the Superintendent. If the complaint remains unresolved at the Superintendent's level, the person making the complaint may request that the matter be placed on the agenda of the next regular School Board meeting. The Superintendent/Board Chair shall determine whether the complaint should be placed on the agenda.

At all levels of the complaint process, school employees are required to inform the person making the complaint of his/her right to appeal the decision to the next level.

This policy shall not be utilized by employees for matters or grievances relating to any term or condition of their employment. Such matters shall be addressed through established channels for grievances.

Cross Reference:   BEDB – Agenda Preparation and Dissemination

Adopted:       \_\_\_\_\_

## **9. BOARD RELATIONS WITH STAFF**

The school staff—from the administrators, to the teachers, to the custodians, and bus drivers—are your school unit’s most valuable asset. Without your staff, students would not be educated, and the schools would simply cease to function. The board has a strong interest in and responsibility for ensuring that the most competent and dedicated staff are hired and retained. In addition, the board is responsible for ensuring that the staff receive appropriate supervision and evaluation, as well as meaningful in-service development opportunities.

Board members soon discover that collective bargaining agreements, specific laws protecting teacher and administrator employment rights, and Constitutional protections combine to make personnel management in a school unit more complex than for a private business. While the board is ultimately the employer of school staff, it relies upon administrators and teachers to provide professional guidance regarding curriculum, instructional methods, assessment, and other important issues. This sometimes creates a tension in the relationship between board members and staff that new board members should be aware of. A clear understanding of the roles of board and staff, as well as a respectful approach on the part of board members, can go a long way to promoting positive relations with staff.

### **Personal Interactions with Staff**

New board members need to understand that staff often view board members as authority figures and treat them differently than other community members or parents. Your election to the board may change the nature of your relationship with staff you knew before. This is largely unavoidable.

The situation is particularly complicated for board members who have children in the schools. Teachers may feel awkward around you or be hesitant to talk with you. You can help by acknowledging the situation and being sensitive to it in your dealings with staff. When you attend a parent-teacher conference, chaperone a field trip, or ask a question about your child’s education, make it clear you are acting in your capacity as a *parent*. Be very careful not to

misuse your board position to try to influence decisions about your child, such as class placement, grades, or disciplinary measures.

Board members also should understand that their visits to the schools take on added weight with the staff. If you are interested in visiting the schools in your “official” capacity, make arrangements with the superintendent and/or principal in advance. It is not appropriate to simply show up at the school and demand an audience with administrators or staff.

Finally, it is important for board members to use care in communicating with staff, as your casual personal opinion may be taken as an official board position. Save yourself potential embarrassment—and complications for the board—by measuring your words carefully.

## **The Chain of Command**

The board’s relationship to staff, other than the superintendent, is indirect. The superintendent is directly responsible to the board, and the remainder of the school staff are responsible to the superintendent. Each school unit has its own organizational structure and lines of authority, and new board members should ask their superintendent for a copy of the organizational chart. It is very important that board members understand and observe established lines of authority in their dealings with school staff. Generally speaking, if a board member has a question or concern about school operations or personnel, it is best directed to the superintendent, who can address the issue appropriately within the lines of authority. We have included MSMA’s sample policy BHC—*Board Communications with Staff* (see 9-A, beginning on page 9-10) to give you a deeper understanding of this issue.

## **Staff Hiring**

Maine law requires a three-step process for hiring teachers and principals (20-A MRSA § 13201, § 13302):

1. the superintendent nominates;
2. the board elects; and

3. the superintendent employs.

The superintendent has the professional responsibility to select the nominee, and by implication, for the recruiting, screening, and interviewing processes which result in the nomination. If the board does not approve a nominee, the superintendent must either convince the board to reconsider or submit another nominee. However, the board may not tell the superintendent whom to nominate. Following the approval of a nomination, the superintendent may execute a contract with the new teacher or principal.

The procedure for hiring support staff varies among districts. Many boards have a policy delegating this task to the superintendent. In such cases, the policy should state that the superintendent shall report all support staff hiring decisions to the board.

Your school unit probably has several different types of stipend or “extra-duty” pay positions. Such positions typically include athletic coaches; advisors for school-sponsored student activities (such as yearbook or speech/debate); department heads/team leaders; members of committees (such as curriculum or professional development); and teacher mentors/support teams. These part-time positions are often filled by teachers in the school unit, although coaches or others involved in student activities may be hired from “outside.” Pay and other conditions of employment for stipend positions are often included in the teachers’ collective bargaining agreement. Again, districts vary as to their procedures for stipend position hiring, and board members should ask their superintendent if they have any questions.

## **Supervision and Evaluation of Staff**

The board’s role in supervision and evaluation of staff should be limited to:

- Adopting policies on supervision and evaluation of the superintendent, teachers, and other staff;
- Evaluating the superintendent;
- Receiving reports from the superintendent on the implementation and results of supervision and evaluation processes; and

- Acting on employment nominations and superintendent recommendations regarding staff renewals, nonrenewals, and dismissals.

Board members should recognize that the superintendent is responsible for the supervision and evaluation of all teachers and other school system employees (20-A MRSA § 1055(10)). The superintendent should provide sufficient information on the supervision/evaluation process and staff performance for the board to be confident of the quality of instruction and school operations.

Teachers in Maine are “probationary” for their first two years of employment in a school unit (see 20-A MRSA § 13201). During the first or second probationary year, a teacher does not have a right to have his/her contract renewed or to be provided with the reasons why he/she was not nominated. The superintendent has total discretion in deciding whether to nominate a probationary teacher to the board. After the two-year probationary period, a teacher who is renewed is placed on “continuing contract.” At this point, the teacher has many more rights concerning his/her employment, and the steps necessary to non-renew or dismiss him/her are far more complicated. Your superintendent can explain the process in greater detail.

It is particularly important that board members not become involved at an early stage in individual staff problems or disciplinary issues. Such involvement not only violates the chain of command, but may cause board members to pre-judge a situation and jeopardize the result should the matter come before the board at a later time.

When boards conduct formal hearings in their quasi-judicial role, as in the case of the dismissal of an employee, a primary responsibility of the board is to safeguard the employee’s due process rights. *Generally*, due process requires:

1. An unbiased tribunal;
2. Notice in writing of the proposed action and the grounds for it;
3. The right of the individual to be heard and
  - a. to present reasons why the action should not be taken;

- b. to call witnesses; and
- c. to have assistance of counsel; and
4. The right to written reasons for the action ultimately taken and findings of fact.

Due process does not require a full-fledged proceeding or formal rules of evidence or procedure. The appropriate roles of the board chair, superintendent, and school board attorney in any due process hearing are complex and present many questions. Therefore, competent legal advice from your board attorney prior to any due process hearing is strongly recommended.

### **Personnel Records and Confidentiality**

Access to employee personnel records is severely restricted by law (20-A MRSA § 6101). The following information is designated as “directory information” and is open to inspection by the general public:

1. Name of employee;
2. Date(s) of employment by the school unit;
3. Regular and extra-curricular duties, courses, subjects taught, and any other responsibilities since the start of employment in the school unit;
4. Post-secondary education institution(s) attended;
5. Major and minor field(s) of study as required by those institutions; and
6. Degrees received and dates degrees were awarded.

All other information concerning employees or applicants (or their immediate families) is considered confidential, with two exceptions. The exceptions are the written record of a decision involving an employee disciplinary action by the school board, and, in the case where disciplinary action is taken by the Commissioner of Education against a person holding certification, the person’s name, type of action taken, grounds for the action, relevant dates, and where the person was employed (20-A MRSA §13004, sub-§2-A, D).

As a general rule, personnel files are not accessible to board members. However, the superintendent may summarize or share relevant portions of an employee's personnel file when consideration is being given to performance evaluation, continuation of employment, or disciplinary action by the board.

### **Public Discussion of Personnel Issues**

It is never appropriate for a board member to ask questions, express concerns, or criticize a school employee at a board meeting, with other staff members, or with members of the public. Although this is often difficult for the public to understand, any such discussion may subject the individual board member and/or the board as a whole to legal liability. If a board member has a question or concern about an employee, it should be addressed in a private conversation with the superintendent and/or board chair.

Board members should be aware that a school employee has the right to be present if there is board discussion that could be construed as a "charge or investigation" of the employee. The Freedom of Access Law (1 MRSA § 401) specifically permits the board to hold an executive session to discuss personnel matters "if public discussion could be reasonably expected to cause damage to the reputation or the individual's right to privacy," although the employee also has the right to require that the discussion be held in public session.

### **Labor Relations—Negotiations**

School employees have had the right to join, form, and participate in organizations for purposes of representation and collective bargaining since the Municipal Public Employees Labor Relations Law (MPELRL) was passed by the Legislature in 1969. Today, your board may negotiate not only with teachers but with other distinct employee groups as well (such as administrators, bus drivers, custodians, education technicians, and other support personnel).

The law imposes several specific conditions on public employers (school boards) and employee bargaining agents, including the obligation to bargain "in good faith with respect to wages, hours, working conditions, and contract grievance arbitration." Significantly, however,



the law specifies that boards “shall meet and consult but not negotiate with respect to educational policies” with teachers. The list of “educational policies” has expanded over the years and includes issues such as class size, scheduling of duty-free lunches, and many others. Your superintendent and MSMA can provide you with further information on this topic.

Collective bargaining and negotiations are among the most complicated and sensitive areas your board will face. Negotiations often are handled by a subcommittee of experienced board members. It is important that board members familiarize themselves with the unit’s collective bargaining agreements. MSMA sponsors or co-sponsors labor relations training to assist local school boards.

### **The “Meet and Consult” Requirement**

As “Public Employers” in Maine, local school boards have the right to make changes in educational policy. However, it is important to note that along with this right, comes the obligation to “meet and consult” with teachers’ associations and to “bargain the impact” of the change in educational policy.

It is important to distinguish between the two activities of “meet and consult” and “impact bargaining.” The meet and consult provision requires that the school board, upon request, meet with the employee bargaining agent to discuss a proposed change in educational policy. After listening to and considering the issues raised, the school board is free to make its decision on the educational policy issue. Once adopted, however, the Association may request that the impact of the policy on wages, hours, or working conditions be bargained. The meet and consult requirement is discussed in more detail in section 9-C beginning on page 9-13.

When confronted with the demand to bargain the impact of an educational policy decision, the school board negotiating team and superintendent should consider the following concepts carefully.

- a) Is the subject under consideration already “covered by” the current contract language?

For an issue to be “covered by” the contract, it is not generally necessary for it to be

addressed fully and specifically. Rather, the question, simply put, is whether or not the issue has already been bargained and included in the collective bargaining agreement. To be “included,” an issue may have been explicitly addressed, addressed within the context of another contract section or provision, or be a topic that should be considered to have been reasonably dealt with in previous negotiations.

- b) Is the issue being raised of such minor importance that it would be considered as having a “*de minimis*” effect? Such an effect would be minor in nature and basically insignificant. If this seems to be the case, the school board may wish to ask the bargaining agent to demonstrate the significance of the impact, before agreeing to a negotiation session.
- c) Is the demand an attempt to bargain an educational policy issue? If so, the school board should remind the bargaining agent that educational policy making is the responsibility of the board. The board should be careful not to give up educational policy making rights to the collective bargaining process.
- d) Has the bargaining agent waived his/her right to bargain the specific issue under consideration in some of the specific contract language? Areas of the contract to review are the “Zipper Clause,” which prohibits attempts to modify the agreement while in force, and the “Management Rights Clause.” It is also important to have a record of negotiation session minutes to consult in determining if a subject has been bargained and withdrawn.

It is important for school boards to understand that the process of impact bargaining can be complicated and difficult. Professional advice sought through the superintendent or other designated person is often warranted to avoid unfair labor practices and unnecessary bargaining sessions. MSMA and the school board’s attorney are able to provide assistance to the board as these issues are encountered.

Finally, it is important to remember that the process of collective bargaining is designed to determine the working relationship between the school board and the employees and to provide stability in that relationship for a specified period of time. If the request to “bargain the

impact” of a change in educational policy is an attempt to disrupt the stability of the current relationship, it may not be required that the school board agree to enter into this process.

See 9-C, *Meet and Consult—Board Responsibilities*, beginning on page 9-13, for further information on meet and consult requirements.

## **Staff Development Opportunities**

One of the most important responsibilities of your board is to provide appropriate and effective opportunities for teachers, administrators, and other school staff to improve their knowledge, skills, and abilities. Maine law currently requires each school unit to provide 175 days of student instruction out of a 180-day school year—thus providing at least five days for staff in-service education and other non-instructional activities. Typically, school units provide a mix of mandatory “in-house” staff development, opportunities to attend conferences, some level of reimbursement for courses relevant to the employee’s job duties, and leaves/sabbaticals. There is no doubt that providing effective staff development opportunities is a financial challenge, but it is critical to ensuring that staff keep up with changes in curriculum, technology, and instructional methods.

## **Staff Involvement in Decision Making**

The last few decades have seen much discussion of participatory decision making, both in schools and in private business. Teachers—who are on the front lines of education in the classroom—have valuable expertise and perspectives to offer to the board and administrators regarding staff development, curriculum, instructional methods, and student needs. In addition, involving staff in the process can be very effective in gaining acceptance for decisions. MSMA recommends that local boards develop a policy governing staff involvement in decision making.

The purpose of such a policy is two-fold: to articulate the board’s recognition of the value of staff input as well as to inform staff that the board must retain the statutory decision making and policy making authority regarding the educational program. We have provided MSMA’s sample policy GBB—*Staff Involvement in Decision Making*, document 9-B on page 9-12, to illustrate the balance of staff involvement in decision making with the board’s responsibilities.

## **BOARD COMMUNICATIONS WITH STAFF**

A clear understanding of responsibilities and relationships between and among the Board and school personnel is essential for a smoothly running and efficient school system. It should be remembered that the Board, school administrators, teachers, and all others responsible for any phase of the work of the school system have a common and basic responsibility—the welfare of the children in the schools. This responsibility must guide all of the Board's considerations and decisions.

### **Board and Superintendent**

The relationship of the Board and the Superintendent can best be described as one of teamwork. They must function cooperatively as some of their functions are not readily separable. However, the primary functions are separable and should be clearly understood by each. The Board is the legislative body of the school unit. It exercises its mandated management of the schools through the formation of policies.

The Superintendent is the executive officer of the Board and the chief administrative officer. The Board recognizes this and wishes to make this clear to all staff members and to all citizens.

All communications or reports to the Board, or to any committee of the Board, from Principals, supervisors, teachers, or other employees shall be submitted through the Superintendent.

### **Board and Principal**

The School Principal has no direct administrative relations with the Board. His/her relations to the Board are through the Superintendent, for the Board recognizes that the Superintendent is the person to whom it must look for professional leadership within the schools. A spirit of cooperation and mutual helpfulness must prevail between the Superintendent and the Principal if the best results are to be realized. For instance, the Principal and the Superintendent must cooperate in the selection of school staff because the Principal is in the best position to know the kind of person needed for a particular type of service in the school. However, the Principal must make recommendations to the Superintendent and not to the Board. At all times the Principal must remember that all matters which require Board action must be presented to the Board by the Superintendent.

## **Board and Teachers**

The relationship of the teacher to the Board is indirect. The teacher is directly responsible to the Principal and through him/her to the Superintendent, and then to the Board. However, this does not mean that the teacher does not have access to the Superintendent or to the Board. Conditions may arise when direct access may be obtained through channels established for grievances.

Adopted: \_\_\_\_\_

## **STAFF INVOLVEMENT IN DECISION MAKING**

The formulation of policy involving the curriculum, instruction, and the overall school program is one of the primary responsibilities of the Board, and the Board reserves the right to make the final decision regarding such policies. The Board believes that the best interests of the district's students should be the principle guiding the adoption of all educational policy. The Board further believes that appropriate input from the professional staff is important to the decision-making process.

The Superintendent shall ensure that there is a process in place to encourage meaningful professional staff input prior to making recommendations regarding curriculum, instruction, and the school program to the Board. The process should be conducted in a spirit of cooperation, with a clear focus on student learning as the most important function of the schools, and with the understanding that the staff is collectively responsible for student performance.

Participation in the decision-making process is accompanied with an expectation of accountability by the professional staff. All proposals for changes to the curriculum, instruction, or the district's educational goals should incorporate evaluation procedures linked to student outcomes. The Board encourages the use of professional development activities specifically directed to improving staff research, analytical, and decision-making abilities.

The Superintendent shall ensure that the administrative team has the appropriate support to lead an effective instructional program with a consistent focus on student learning and outcomes.

Legal Reference: 26 MRSA § 965

Cross Reference: BHC – Communications with Staff  
GCI – Professional Staff Development Opportunities  
GCOA – Supervision and Evaluation of Professional Staff

Adopted: \_\_\_\_\_

## Meet and Consult—Board Responsibilities

The Municipal Public Employees Labor Relations Act, Title 26 MRSA § 965(1)(C) states that “public employers of teachers shall meet and consult but not negotiate with respect to educational policies...” (26 MRSA § 965(1)(C)).

In a significant 1997 decision, the Maine Supreme Court made clear that school boards are *prohibited* from negotiating educational policy issues and that those issues are not and cannot be subject to grievance arbitration (*School Administrative District No. 58 v. Mt. Abram Teachers Association*, 704 A.2d 349 (Me. 1997)). Boards are still obligated, however, to bargain the impact of educational policy on wages, hours, and working conditions. School boards should be continually aware of the importance of their policymaking role in the governance of the school unit and careful not to give up their policy making rights to collective bargaining.

Although the bargaining of educational policy is prohibited, the board has responsibility in fulfilling the meet and consult requirement if it wishes to consider a change in existing policy or to adopt new policy. In *Southern Aroostook Teachers Association v. Southern Aroostook Community School Committee* (Case Nos. 80-35 and 80-40, April 14, 1982), the Maine Labor Relations Board (MLRB) determined that the purpose of the meet and consult obligation is to ensure that school committees consider their employees’ comments and concerns before implementing or changing educational policy. The duty to meet and consult thus is a mechanism for ensuring employee input in non-negotiable policy areas, designed to further the Act’s purpose of improving the relationship between school committees and their employees. Several elements are necessary to carry out the purpose of the meet and consult obligation:

1. Notice that a change in educational policy is planned must be given to the bargaining agent so that it can invoke the meet and consult process in a timely manner if employees wish to comment on the changes;
2. Pertinent information about the planned change must be provided so that the bargaining agent and employees can understand the change and make constructive comments about it;
3. Actual meeting and consulting at reasonable times and places about the planned change must occur upon receipt of a ten-day notice or other request to meet and consult by the bargaining agent. A school committee is obligated to come to meet and consult sessions with an open mind, to discuss the planned change openly and honestly, and to listen to the employees’ suggestions and concerns; and
4. Mature consideration must be given to the employees’ input before the change is implemented, and if any of the employees’ comments or concerns are meritorious, the school committee must decide in good faith whether they can be accommodated.

The notice must be to the bargaining agent as opposed to the staff. While the requirement may seem minor, there is a distinct difference. It is important to note that the MLRB did not state a specific number of meetings that are necessary to assure employees the opportunity for input. It would seem that if a local board met the above four elements, it would satisfy the requirements of the statute.

Determining whether a particular issue involves a matter of educational policy or of wages, hours, or working conditions frequently involves a complex analysis. School units that have questions about the meet and consult requirement or the process involved should contact MSMA or their school board's attorney for clarification.



## Collective Bargaining

In 1969, the Maine Legislature enacted Chapter 9-A of Title 26 MRSA, “Municipal Public Employees Labor Relations Act,” which recognized the right of public employees to bargain collectively with their employers “for terms and conditions of employment.” The contents of that law are available on request from the Maine Labor Relations Board (MLRB) as a separate pamphlet.

The summary, which follows, was prepared by Harry R. Pringle, Esq., of Drummond Woodsum. It is a summary of the more detailed explanation of the Municipal Public Employee Labor Relations Law that is contained in *Maine School Law 3<sup>rd</sup> Ed.*, edited by Harry R. Pringle, and Amy K. Tchao and available through [www.SchoolLaw.com](http://www.SchoolLaw.com).

In addition to the law itself, the MLRB also publishes separate “Rules and Procedures,” available at [www.maine.gov/mlrb](http://www.maine.gov/mlrb).

MSMA has prepared a number of publications, in addition to the monthly MSMA *Labor Relations News*, which are helpful to board negotiators. These include information on the meet-and-consult process, unit determination, “just cause,” and a categorical listing of topics which are negotiable and those that are non-negotiable that are updated periodically.

Periodically, MSMA also publishes statewide and regional salary, wage, and fringe benefit data for use by school boards and superintendents.

# **A Summary of the Provisions of the Maine Public Employee Labor Relations Law**

At the heart of the MPELRL is the balance which it attempts to strike between employee bargaining rights, on the one hand, and the public interest in limiting labor unrest on the other. The MPELRL therefore prohibits strikes and excludes salaries, pensions, and insurance from binding arbitration, but contains as well an elaborate mandatory dispute resolution process. Here is a summary of the basic provisions of the statute:

## ***Coverage of the Act: Section 962***

Two key definitions in section 962 determine the kinds of employers and employees which are subject to the statute.

- **Public employee**

Section 962(6) defines a public employee as “any employee of a public employer” with certain exceptions. In the context of public schools, the primary exceptions include the following: superintendents or assistant superintendents of school systems; any employee who has been employed less than six months; and temporary, seasonal, or on-call employees.<sup>1</sup> In a decision interpreting similar language in the State Employees Labor Relations Act,<sup>2</sup> the Maine Supreme Court has held that the six-month employment requirement may include time spent as a temporary employee.<sup>3</sup>

- **Public employer**

“Public employer” is defined in part to include any officer, board, or other person acting on behalf of any municipality or school district, with the result that all public school employers in the State of Maine are covered by that definition.<sup>4</sup> Additionally, under certain circumstances private employees performing services for public school systems can be determined to be “public employers.”<sup>5</sup>

## ***Protected Rights: Section 963***

Section 963 provides that no one may interfere with the right of public employees either individually or as a group to join, form, and participate in activities of organizations of their choosing for purposes of representation and collective bargaining. Section 963 rights are very broad and include the basic rights not to be discriminated against for union activities and to be represented by unions.<sup>6</sup> Nevertheless, there are limits to such rights. The Maine Supreme Court

has for example held that requiring payment of dues by public employees to increase union membership under an agency shop clause is illegal.<sup>7</sup>

### ***Prohibited Acts: Section 964***

Section 964 sets out those acts which are prohibited both by public employers and by public employees and their bargaining agents.

- **Public employer prohibitions**

Public employers and their representatives and agents are prohibited from:

- Interfering with the employee rights guaranteed in section 963;
- Encouraging or discouraging membership in any employee organization by discriminating with respect to employment;
- Dominating or interfering with the formation or existence of employee organizations;
- Refusing to bargain collectively with bargaining agents of employees; or
- Blacklisting employees.

- **Public employee prohibitions**

Similarly, public employees, their organizations, members, and bargaining agents are prohibited from:

- Interfering with or coercing employees in their section 963 rights or public employers in selecting representatives for purposes of collective bargaining;
- Refusing to bargain collectively with a public employer; or
- Engaging in work stoppages, slowdowns, strikes, or blacklisting.<sup>8</sup>

Violations of section 964 are processed by the Maine Labor Relations Board (MLRB) under section 968 of the Act, which provides generally that the MLRB has the authority to prevent “prohibited acts” (which are known in the private sector as “unfair labor practices”).

### ***The Obligation to Bargain: Section 965***

A keystone of the MPELRL is the obligation of both the public employer and the employee bargaining agent to “bargain collectively.” Collective bargaining is defined in the Act to mean the mutual obligation of employer and bargaining agent to:

- Meet at reasonable times;
- Meet within 10 days after receipt of written notice requesting a meeting for bargaining, unless the parties have otherwise agreed in a prior written contract;<sup>9</sup>
- Confer and negotiate “in good faith with respect to wages, hours, working conditions, and contract grievance arbitration.” There are, however, two major statutory exceptions to this obligation: First, neither party is required to agree to a proposal or to make a concession. Second, public employers of teachers “shall meet and consult but not negotiate with respect to educational policies;”<sup>10</sup>
- Execute any agreements arrived at in writing, provided that the term of any such agreement “shall not exceed three years;” and
- Participate in good faith in the mediation, fact finding, and arbitration procedures required by law.

### ***The Dispute Resolution Procedures: Section 965(2)-(4)***

The MPELRL provides a comprehensive set of procedures designed to ensure that bargaining disputes between public employers and public employees can be resolved amicably, without illegal job actions and resulting interruptions to public service. These procedures are as follows:

- **Mediation**

Either party to bargaining may request the assistance of a state mediator assigned by the Maine Labor Relations Board by filing a request on MLRB Form 5 with the Executive Director, with a copy to the opposite party.<sup>11</sup> The mediation process is required to be followed whenever either party requests such services prior to interest arbitration,<sup>12</sup> or at any time on motion of the Maine Labor Relations Board. The cost of mediation is, by statute, split between parties to a bargaining dispute.<sup>13</sup>

- **Fact finding**

If mediation is unsuccessful in resolving a controversy, the parties jointly or individually may request assignment of a fact finding panel. The filing party is required to file the original and four copies of a Request for Fact Finding Panel (MLRB Form 4), which requires specification of the issues in controversy.<sup>14</sup> The Executive Director appoints members of the fact finding panel, with one member of the panel representing the public employees, one member representing the public employer, and one neutral chair.

The recommendations of the fact finding panel are not binding on either party, and by statute the parties have a period of 30 days after receiving the recommendations of the fact finding panel to resolve their controversy. At the expiration of that period of time (but not until then, unless

the parties otherwise jointly agree), either party may make the fact finding recommendations public.<sup>15</sup>

- **Interest arbitration**

Interest arbitration is the last step in the dispute resolution procedures. Forty-five days after receipt of a fact finding report, the parties may jointly agree to an arbitration procedure which is binding on all issues. Such an agreement is clearly not required, however,<sup>16</sup> and if no such arbitration procedure is agreed to either party may by notice to the other submit the unresolved issues to a board of three arbitrators. Again, the board consists of two partial arbitrators and one impartial arbitrator, the bargaining agent and employer each selecting their arbitrator with a third being selected either by the two partial arbitrators or, if they are unable to agree, by the American Arbitration Association (AAA).<sup>17</sup> The decision of the arbitrators is binding on the parties on all issues except “salaries, pensions and insurance,” as to which the recommendations and findings of the arbitrators are only advisory.

### ***Bargaining Unit Determination: Section 966***

Under the MPELRL, a public employer and a public employee organization may agree to an appropriate unit for purposes of collective bargaining. In the event of disputes as to those issues, the Executive Director of the MLRB is required to make a determination on the appropriate bargaining unit, with the issue in each such determination being the existence of a “clear and identifiable community of interest” among employees concerned.<sup>18</sup> The Maine Labor Relations Board rules contain detailed provisions with respect to unit determinations and governing the filing of petitions, petitions to intervene, hearing procedures, and the factors required to be considered with respect to the existence of a community of interest.<sup>19</sup>

Additionally, statutory procedures and rules exist for unit clarification, where circumstances surrounding an existing bargaining unit are alleged to have changed so that its composition should be modified<sup>20</sup> and for the merger of bargaining units where either the public employer or the bargaining representative wishes to consolidate existing units of employees.<sup>21</sup>

### ***Selecting the Bargaining Agent: Section 967***

Maine law provides two methods for recognizing a public employee organization as the exclusive representative of a unit of public employees: voluntary recognition, or election.<sup>22</sup> If a request for voluntary recognition is made, the public employer need not grant it if the employer desires an election to determine whether the organization represents a majority of the members in the bargaining unit. In practice, public employers as a matter of policy almost always give their employees the right to an election before recognizing a bargaining agent. By statute, the bargaining agent certified as the exclusive bargaining agent is required to represent all public employees within the unit, regardless of whether or not those employees are members of the organization.<sup>23</sup>

## ***The Powers and Duties of the Maine Labor Relations Board: Section 968***

The Maine Labor Relations Board consists of three members and six alternates, appointed by the Governor and subject to confirmation by the Legislature. The members represent employers, employees, and the public.<sup>24</sup> The Maine Labor Relations Board appoints an executive director, who serves at its pleasure, and the Board has the power to adopt rules and regulations, review representation proceedings, and prevent prohibited acts through the conduct of prohibited practice proceedings.<sup>25</sup> The powers of the Maine Labor Relations Board in prohibited practice proceedings are extensive, with the Board being given the authority to require violations of the statute to be enforced by cease and desist orders, and by such “affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies” of the Act.<sup>26</sup> The one exception is that no employee who has been suspended or discharged may be reinstated if that suspension or discharge was “for cause.”<sup>27</sup>

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### ENDNOTES

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<sup>1</sup> 26 M.R.S.A. § 962(6)(E)-(G).

<sup>2</sup> 26 M.R.S.A. § 979-A et seq.

<sup>3</sup> Bureau of Employee Relations v. Maine Labor Relations Board, 611 A.2d 59 (Me. 1992).

<sup>4</sup> 26 M.R.S.A. § 962(7)(A)(1) and (2).

<sup>5</sup> See Baker Bus Service, Inc. v. Keith, 416 A.2d 727 (Me. 1980). The definition of public employer in the MPELRL also requires a public employer to be treated as an employer of employees of another employer if the public employer exercises enough control over those employees. 26 M.R.S.A. § 962(7)(B).

<sup>6</sup> See e.g., Monmouth School Bus Drivers & Custodians/Maintenance Association /MTA/NEA v. Monmouth School Committee, No. 91-09 (Me. L.R.B. Feb. 27, 1992).

<sup>7</sup> Churchill v. M.S.A.D. #49 Teachers Association, 380 A.2d 186 (Me. 1977). So called “fair share fees” raise serious constitutional issues in terms of the type of union activities for which costs can be charged. See Lehnert v. Ferris Faculty Association, 111 S. Ct. 1950 (1991); Chicago Teachers Union v. Hudson, 106 S. Ct. 1066 (1986); Locke v. Karass, 129 S.Ct.798 (2009). Additionally, a recent amendment to 26 M.R.S.A §964 prohibits public employers from “terminating or disciplining an employee for not paying union dues or fees of any type.”

<sup>8</sup> 26 M.R.S.A. § 964(1) and (2).

<sup>9</sup> 26 M.R.S.A. § 965(1)(B).

- <sup>10</sup> 26 M.R.S.A. § 965(1)(C). In the case of *Maine School Administrative District No. 58 v. Mount Abram Teachers Association*, 704 A.2d 349 (Me. 1997) the Maine Supreme Court finally made it clear that school boards are prohibited from negotiating educational policy issues, and that those issues cannot be subject to grievance arbitration.
- <sup>11</sup> Maine Labor Relations Board Rules and Procedures, § 5.01.
- <sup>12</sup> In *Mountain Valley Education Association v. Board of Directors*, No. 93-15 (Me.L.R.B. Aug. 19, 1993), aff'd, *Mountain Valley Education Association v. M.S.A.D. No. 43 and Maine Labor Relations Board*, 655 A.2d 348 (Me. 1995), the MLRB expressly held that participation in mediation is required only prior to interest arbitration; thereafter, it is optional.
- <sup>13</sup> 26 M.R.S.A. § 965(2)(C).
- <sup>14</sup> Maine Labor Relations Board Rules and Procedures, § 6.02.
- <sup>15</sup> 26 M.R.S.A. § 965(3)(C).
- <sup>16</sup> *Mountain Valley Education Association v. M.S.A.D. No. 43 and Maine Labor Relations Board*, 655 A.2d 348 (Me. 1995).
- <sup>17</sup> 26 M.R.S.A. § 965(4).
- <sup>18</sup> 26 M.R.S.A. § 966(2).
- <sup>19</sup> Maine Labor Relations Board Rules and Procedures, Chapter 1. The community of interest factors set forth in § 1.1 of the Rules and Procedures include the following: (1) similarity in the kind of work performed; (2) common supervision and determination of labor relations policies; (3) similarity in the scale and manner of determining earnings; (4) similarity in employment benefits, hours of work and other terms and conditions of employment; (5) similarity in the qualifications, skills and training of employees; (6) frequency of contact or interchange among the employees; (7) geographic proximity; (8) history of collective bargaining; (9) desires of the affected employees; (10) extent of union organization; and (11) the employer's organizational structure.
- <sup>20</sup> By statute, 26 M.R.S.A. § 966(2), no unit may include both professional and nonprofessional employees unless a majority of professional employees vote for inclusion in the unit, although teachers may be included in a unit consisting of other certificated employees. 26 M.R.S.A. § 966(3); Rule 1.16.
- <sup>21</sup> 26 M.R.S.A. § 966(4).

<sup>22</sup> 26 M.R.S.A. § 967(1), (2).

<sup>23</sup> 26 M.R.S.A. § 967(2). This statutory provision is the source of the Union’s so-called “duty of fair representation,” under which the Maine Labor Relations Board has ruled that all employees in the unit have a right to be fairly represented. Whitzell v. Merrymeeting Educators’ Association, No. 80-15 (Me.L.R.B. Nov. 6, 1980).

<sup>24</sup> 26 M.R.S.A. § 968(1)

<sup>25</sup> 26 M.R.S.A. § 968(2)-(5).

<sup>26</sup> 26 M.R.S.A. § 968(5)(C).

<sup>27</sup> 26 M.R.S.A. § 968(5)(C).



## **10. BOARD ROLE WITH STUDENTS**

Most people who choose to run for their local school board do so because they have a sincere interest in their community's children and education. For those who are not employed in education, serving on the board is seen as a way to make a positive contribution to quality education and their community's future. However, once elected, new members often find that the board spends relatively little time talking directly about students. That is because the board's statutory responsibilities focus on setting direction for the school unit, adopting policies that guide the educational program and operations, approving teachers and principals, approving the budget, and adopting curricula, courses of study, and textbooks. All of these responsibilities affect the education that students receive, but they do not involve the level of personal contact with students that school staff has. Board members have a responsibility to continually ask how the programs, proposals, or policies they are considering will affect the students, their education, and their future.

### **Creating Opportunities for Interaction with Students**

There are many ways consistent with the board's role and responsibilities that board members can create opportunities for interaction with students. The most obvious way is by being visible at student activities such as attending sporting events, concerts, plays, and art shows. Consider chaperoning a school dance or make a presentation to a class. Seeing board members at student activities can be meaningful to students.

The level of student involvement in board meetings varies widely across the state. Some boards include a non-voting student representative on their board; others have student representatives from various schools report on activities on a regular basis. Most school systems make an effort to recognize student accomplishments as a regular part of their agenda.

## **Involvement with Individual Student Problems**

As we cautioned in Section 8, *Relations with the Community*, it is unwise for a board member to become too involved with the problems of individual students or to become an advocate for particular student groups. Such involvement can damage your credibility and may jeopardize the board in its role as an impartial quasi-judiciary body if there is ever a need for a student disciplinary hearing. As with the complaints and problems of community members, staff members, and parents, it is best for you to refer student issues to the staff member in the school system who will be in a position to help. You should also let your superintendent and/or board chair know, in case further intervention is necessary.

## **Student Rights and Board Policies**

Since the 1960s, state and federal governments and the courts have significantly expanded the legal rights of students in public schools. These rights include, but are not limited to, the right to attend school, the right to a minimal level of due process before being suspended or expelled, protection from unreasonable search and seizure, free speech protections, and others. In the most basic sense, students also have the right to attend schools that are safe and in which there is an atmosphere of mutual respect.

Boards are required to have policies on certain issues involving student rights (such as nondiscrimination, student attendance, student discipline, and weapons in schools), and it is prudent for boards to adopt policies on other topics such as suspension, expulsion, school-sponsored activities, student searches, and so on. Policies which clearly delineate student rights and responsibilities foster a healthy learning atmosphere, provide legal protection for the board, and communicate expectations to the community, parents, students, and staff.

## **Board Involvement in Student Discipline**

One of the most difficult times to be a board member is when the board must hold a student disciplinary hearing. Under Maine law, the board may delegate to principals the authority to suspend students for up to ten days, but longer suspensions and expulsions require a board hearing in executive session (20-A MRSA § 1001(9)). State and federal laws spell out the conditions that allow or require expulsion. (For instance, weapons violations generally require a one-year expulsion unless the superintendent modifies the requirement on a case-by-case basis.) The board may readmit students who provide satisfactory evidence that the behavior that led to the expulsion will not likely recur. Board members should be aware that there are additional legal requirements governing discipline of special education students when their misbehavior is directly related to their disability (Maine Spec. Ed. Reg. Ch. 101 § 14, May 2010, as amended; and 34 CFR § 300.121; § 519-529, March 1999, as amended).

When boards conduct formal hearings in their quasi-judicial role, as in the case of a student expulsion, a primary responsibility of the board is to safeguard the student's due process rights (1 MRSA § 405(6)(B); 20-A MRSA § 1009(9), (9A), (9B)). *Generally*, due process requires:

1. An unbiased tribunal;
2. Notice in writing of the proposed action and the grounds for it;
3. The right of the individual to be heard and:
  - a. to present reasons why the action should not be taken;
  - b. to call witnesses; and
  - c. to have assistance of counsel; and

4. The right to written reasons for the action ultimately taken and findings of fact.

Due process does not require a full-fledged proceeding or formal rules of evidence or procedure. The appropriate roles of the board chair, superintendent, and school board attorney in any due process hearing are complex and present many questions. Therefore, competent legal advice from your board attorney prior to any due process hearing is strongly recommended.

Your superintendent can provide you with much more information about the procedures involved in expulsion hearings and the special requirements for dealing with special education discipline issues.

### **Student Records and Confidentiality**

Access to student records is governed by the Federal Educational Rights and Privacy Act (FERPA). As with personnel records, there is a limited amount of “directory information” which can be made public. All other information contained in student records is considered confidential except under specific conditions. MSMA sample policy JRA, *Student Educational Records*, has been included for your review as 10-A, on page 10-5.

As a general rule, student records are not accessible to board members. However, the superintendent or another administrator may summarize or share relevant portions of a student’s file during the course of a disciplinary hearing.

## STUDENT EDUCATION RECORDS AND INFORMATION

[**School unit name**] shall comply with the Family Educational Rights and Privacy Act (“FERPA”) and all other federal and state laws and regulations concerning confidentiality and maintenance of student records and student information.

### A. Directory Information

[**School unit name**] designates the following student information as directory information: name, participation, and grade level of students in recognized activities and sports, height and weight of student athletes, dates of attendance in the school unit, and honors and awards received. [**School unit name**] may disclose directory information if it has provided notice to parents (and eligible students over 18) and has not received timely written notice refusing permission to designate such information as directory information.

### B. Military Recruiters/Higher Education Access to Information

Under federal law, military recruiters and institutions of higher education are entitled to receive the names, addresses, and telephone numbers of secondary students and [**School unit name**] must comply with any such request, provided that parents have been notified of their right to request that this information not be released without their prior written consent.

### C. Information on the Internet

Under Maine law, [**School unit name**] shall not publish on the Internet any information that identifies a student, including but not limited to the student’s full name, photograph, personal biography, email address, home address, date of birth, Social Security number, and parents’ names, without written parental consent.

### D. Transfer of Student Records

As required by Maine law, [**School unit name**] sends student education records to a school unit to which a student applies for transfer, including disciplinary records, attendance records, special education records, and health records (except for

confidential health records for which consent for dissemination has not been obtained).

E. Designation of Law Enforcement Unit

School units may disclose student education records without parental consent to personnel of its law enforcement unit, provided that they have been designated as school officials with legitimate educational interests for the purpose of compliance with FERPA.

The Board hereby designates [**choose one of the following options: its School Resource Officer(s) [OR \_\_\_\_\_ Police Department]**] as [**School unit name**]'s law enforcement unit for the purpose of disclosure of student education records under FERPA.

F Health or Safety Emergencies

As permitted by FERPA, the school unit may disclose personally identifiable information from a student's educational record to appropriate parties, including parents of an eligible student, if taking into account the totality of the circumstances, it determines that there is an articulable and significant threat to the health or safety of the student or other individuals and knowledge of the information is necessary to protect the health or safety of the student or other individuals. In the event of disclosure, the school unit will record the articulable and significant threat that formed the basis for the disclosure and the parties to whom the school unit has disclosed and maintain such record with the student's educational record.

G. Administrative Procedures and Notices

The Superintendent is responsible for developing and implementing any administrative procedures and parent notices necessary to comply with the applicable laws and regulations concerning student education records and information. Notices shall be distributed annually to parents and eligible students concerning their rights under these laws and regulations. A copy of this policy shall be posted in each school.

Legal Reference: 20 U.S.C. § 1232g; 34 C.F.R. Part 99  
20 U.S.C. § 7908  
20-A M.R.S.A. §§ 6001, 6001-B  
Ch. 101, 125 (Me. Dept. of Ed. Rules)

Cross Reference: JRA-E – Annual Notice of Student Education Records and  
Information Rights  
JRA-R – Student Education Records and Information Administrative  
Procedure  
ILD – Student Surveys

Adopted: \_\_\_\_\_

## **11. BUDGETS, BUSINESS SERVICES, AND SCHOOL FINANCE**

As an elected body, your school board is responsible for oversight of the school unit's finances. This relationship of trust and accountability is sometimes referred to as the board's "fiduciary responsibility." The board is responsible for ensuring that policies are adopted and implemented, including those for internal accounting, records management, audit compliance, prevention and detection of fiscal improprieties, and timely financial reports to the board. As a board member, you should develop a basic understanding of where money comes from to operate the schools and how it is expended, and how the budget development and approval process works.

The financial operations of schools in Maine are heavily regulated by law. The legal requirements vary somewhat among school units, depending upon whether it is a municipality (with a town meeting or a town or city council), a regional school unit (RSU), an Alternative Organizational Structure (AOS), a consolidated school district (CSD), or other legal entity. Board members should seek further information from their superintendent and/or board chair about the legal requirements applicable to their own school unit.

Under Maine law, the responsibility for financial management of the school unit is divided among the school board, the superintendent, and the school unit's legislative body (town meeting, town or city council, budget validation referendum, and the town or city charter).

This section will discuss financial issues that are common to all school units.

### **Board Responsibilities**

In the broadest sense, the school board is responsible for ensuring that the school unit has the resources for staff, buildings, furnishings, and instructional materials to carry out the



educational program (20-A MRSA § 1001). The board's major financial functions, as spelled out by law, are to:

- Adopt policies including those that relate to fiscal matters;
- Provide appropriate resources for the operation of the schools (the day-to-day operations are the responsibility of the superintendent);
- Prepare and adopt the annual budget (although the actual preparation of the budget is delegated to the superintendent);
- Approve spending of allocations budgeted by the board. Many boards have a standing Finance Committee to review and sign warrants as allowed by 20-A MRSA § 15006;
- Provide custody and care, including repairs and insurance, on school buildings and property; and
- Be responsible for purchasing, borrowing, establishing reserve funds, investments, and school construction funds as provided for by law.

### **Superintendent Responsibilities**

In RSUs and SADs, the superintendent serves as the school unit's treasurer, and in CSDs, the superintendent or a board member may be authorized to serve as treasurer. In municipalities, the treasurer of the town is elected or appointed by the municipal officers. The superintendent's major financial functions are to:

- Assure financial records and accounts are accurate and up-to-date;
- Issue vouchers to show the correctness of bills;

- Place orders for materials and supplies approved by the board or school building committee; and
- File appropriate financial reports and statements with the State.

In practical terms, the board carries out its financial responsibilities for the school unit primarily in two ways: by adopting policies which set management goals and provide direction to the superintendent for the implementation of financial operations and by approving budgets, spending, and purchasing.

## **Management of Business Services**

Depending upon the size of your school unit, the superintendent may delegate many of his or her financial responsibilities to others, such as a business manager, supervisors, or coordinators. The school unit should have a comprehensive set of administrative procedures that govern the business services of the district. These business services generally fall into these four categories:

1. **School Nutrition** (Food Services or Cafeteria Services)  
The lunch program (and breakfast in many school units) receives federal funds and is governed by federal and state laws and regulations. The laws provide free or reduced price meals for students who meet eligibility guidelines.
2. **Maintenance and Operations** (Buildings and Grounds)  
This category includes cleaning, repair and maintenance of buildings and grounds, and storage and distribution of supplies and equipment.
3. **Business Office** (Budget Administration)

This category includes bookkeeping, accounting, purchasing, payroll, and related recordkeeping and reporting functions.

4. **Student Transportation**

School units are required to provide transportation for K-8 students in municipalities, K-12 in SADs, and for any special education students for whom there are transportation requirements in their Individual Education Plan (IEP).

Local units may either own and operate their own buses or contract with companies to provide this service.

## **Budget Process**

The School Board is the legal entity responsible for the preparation of the school unit's annual budget. However, in practical terms, the preliminary steps in this process are usually delegated to the superintendent and/or a combination of the superintendent, assistant superintendent, or business manager if such positions are present in the system. Most superintendents have a procedure for gathering needed budget information and requests and presenting proposed budget items to the board for review and approval. Local school units vary a great deal in the process that is used, depending upon the size of the school unit, board policy, local municipal charter, and the various legal requirements specific to the type of school organization that is in place. The budget process is very complex and the most effective way for a new board member to understand it is to talk with the superintendent, board chair, and finance committee chair (if one exists in your unit).

## **School Funding**

The school budget is funded with a combination of state General Purpose Aid and local property taxes, along with federal dollars that are for specific programs like Title I and a portion of special education.

The state versus local share of the school budget is determined in a two-step process.

First, the state calculates how much each school district should be spending to educate children based on what is known as the Essential Programs and Services (EPS) funding formula.

Those EPS numbers are added up to create a statewide total and the state Legislature then determines what share of that amount it can afford to subsidize.

While state voters in 2004 passed a law saying the state must fund 55 percent of the EPS number, that requirement has never been met.

The percentage has been closer to 45 percent in recent years, and it should be remembered that is a statewide number. Individual districts have received as little as 6 percent of their costs covered by the state to up to 80 percent, based on their property values – used to determine ability to pay – and their student enrollment.

The percentage the state doesn't pay for, plus the amount districts decide to spend over what the EPS formula dictates, becomes the local share. Most districts spend over EPS because the formula doesn't take into account many specialty classes, school sports, or even the lunch program. The part not covered by the state is funded through the local property tax, once the school budget is approved by voters.

School board members need to understand how the EPS formula and the distribution formula are applied to their district in order to get the full picture.

## **How EPS Works**

EPS attempts to break down a basic education into its component parts – from teacher salaries to supplies. It was designed to ensure schools dedicate adequate resources to provide a core education and was never intended to define everything school districts have to pay for a comprehensive program.

The largest component of EPS is made up of instructional costs, including the salary and benefit costs for teachers and other support staff. The formula starts with the student count and then determines the number of teachers needed based on student-teacher ratios set in statute: 17:1 for elementary school; 16:1 for middle school; and, 15:1 for high school.

Schools that have more teachers than the formula allows get less of an allocation per teacher.

There are other student-staff ratios that affect allocation including: education technicians at 100:1 for K-8 and 250:1 for high school; school administration at 305:1 for K-8 and 315:1 for high school; guidance staff at 350:1 for K-8 and 250:1 for high school; librarians at 800:1; media assistants at 500:1; health staff at 800:1; and clerical staff at 200:1.

How much each district gets per teacher and other staff varies by unit based on the staff's years of experience and education level. The amount is further adjusted by what has become a very contentious regional adjustment based on Labor Market Areas (LMA). That adjustment allows the state to allocate more for teacher salaries in LMAs where higher salaries are paid.

Staff costs make up the lion's share of what then becomes a unique per-pupil rate for each district.

Districts also are allocated more money for students in four specialized groups, meaning the per-pupil rate is increased for students in a given category based on the weight given that group. Those categories include:

- Grade K-2 students with a weight of 1.1 for a 10 percent increase over the standard per-pupil rate;
- Economically Disadvantaged students with a weight of 1.15 for a 15 percent increase;
- Limited English Proficiency students with a weight ranging from 1.5 to 1.7, for a 50 to 70 percent increase;

- Special Education students, with a weight of 2.25 or a 125 percent increase for each student up to the point where special education students make up 15 percent of the student population. It goes down to 1.38 or a 38 percent increase for the number of special education students that exceed 15 percent of the overall student population.

The state also allows for adjustments for high-cost in-district and out-of-district placements for students with special needs.

The EPS formula allocates a per-student amount, adjusted for inflation, for other aspects of a school's operation. Those allocations for fiscal year 2011 include:

- \$986 for operation and maintenance of the plant for K-8 and \$1,172 for high school;
- \$337 for supplies and equipment for K-8 and \$466 for high school;
- \$215 for system administration K-12;
- \$95 for technology for K-8 and \$288 for high school;
- \$57 for professional development K-12;
- \$42 for Standards Based Implementation for student assessment K-12;
- \$33 for co-curricular and extra-curricular activities for K-8 and \$111 for high school;
- \$24 for Instructional Leadership Support K-12.

The allocations for K-2 students, technology and assessments are targeted, under the law. For the technology allocation, for example, that means districts have to submit a plan to the commissioner of education on how the funds will be used in order to get state support. Other funds are allocated by category, but can be used where needed in the overall school budget.

That leeway to allow local school districts to make the ultimate decision on how to spend most of their money was deliberate, according to the 1999 special committee report that endorsed EPS.

“A key component of the recommendations is that most of the funding identified should be made available without any requirements as to how the funds are to be spent. The local school districts would make that decision,” the report said.

There are several areas covered by EPS that still are driven, all or in-part, by what was spent in the previous year versus what the state says districts should be spending.

The allocation for transportation uses a hybrid method that looks at the population density of a district and the miles school buses travel versus what the district actually spent on transportation for the most recent year available. If 90 percent of the most recent year is higher than the allocation produced by the density/miles traveled formula, the district gets the 90 percent.

Career and Technical Education (CTE) and the Gifted and Talented program are outside of the formula, and while there has been a discussion about bringing CTE under EPS, the state has been reluctant to do so because the allocation would be more than what currently is being spent.

### **School District 279s**

How the EPS formula is applied to your school district is best shown on a form sent to each district by the Department of Education called an ED279. The 279s are usually sent out in March each year, although the date fluctuates. The 279s also show what percentage of the EPS allocation is being covered by the state and what is required of local taxpayers.

If you want to see your 279s, you can request them from your superintendent’s office.

## MARKETING YOUR DISTRICT'S BUDGET

For educators and board members, spring signals the annual focus on the school budget for next year. And they'll spend countless hours developing, explaining, debating, and seeking approval. This process often brings intense public attention.

Be patient with your publics. Remember, while they may not fully understand a school district's budget, they always understand an increase in their taxes.

Always be prepared to answer some of these tough questions:

- Why do the schools need more money?
- Why are costs rising when enrollment isn't?
- I have no children in the schools, so what's the benefit to me for your increased budget?
- What are your student assessment practices? And why?
- Will the increase in the budget help lift our children's performance?
- How does the budget increase help children learn?

Far too often, school districts do not take the time to explain or market their budget. This marketing process comes in two parts:

- Presentation of the budget through a document that contains the proposed expenditures and revenues; and
- Communication of the budget by explaining what's funded in the budget.

### **Presentation of Budget**

Districts have five different ways, using numbers and/or the written word, for presenting a budget.

#### **1. Pure numbers**

This format uses only numbers to present a budget's expenditures and revenues. Only the budget's individual line items are given.

#### **2. Summary numbers**

The budget's expenditures and revenues are presented in numbers through summaries of the major sections of the budget, i.e., salaries, fringe benefits, purchased services, instructional supplies, etc.

#### **3. Narrative numbers**

This combines either pure or summary numbers and a corresponding, written narrative to explain what the numbers mean and how they relate to programs and students.



**4. Executive summary**

This is a one-page explanation of the budget which provides few numbers and a narrative.

**5. Budget brochure/Annual report**

A brochure, usually three to ten pages, relies on pictures, graphs, and written narrative to explain the budget. This can serve as a public relations tool in communicating the district's budget throughout the school year.

**Communicating the Budget**

Specific publics or groups within the district will need to learn more about a district's budget. District officials should select the budget presentation format which most effectively addresses its budgetary issues, concerns, and audiences. Different publics might include the following:

- Elected officials, such as city or town councils, boards of selectmen, or town budget committees;
- Parents/parent groups;
- District employees; or
- Chamber of commerce/business leaders.

The district's marketing program should also focus on civic groups, community groups, the community "power brokers," news media, taxpayers' organizations, and school improvement councils.

Tailor your presentations to the groups or publics that you wish to address.

With the district's teachers, talk about salaries, how teacher salaries are developed and the influence the legislature has on their salaries.

Business leaders and representatives of the district's larger taxpayers will want to know how a tax increase in tax dollars, if proposed, will affect programs and, ultimately, the employees they may hire.

Know how to use and/or generate political pressure. Know when to make your marketing presentation to the legislative body which holds the key to your property tax requirement. Know when to talk with the power brokers in the district to get their support for the budget.

**Avoid the use of educational and financial jargon when making your case.**

## 12. CONCLUSION

**CONGRATULATIONS AGAIN!!** As a school board member, you are serving in one of the most important public service positions our country offers. You and more than 1,600 other Maine school board members hold the future in your hands. Your board service presents exciting opportunities for you and your school system. Be patient; if you take the time to learn and to hone your leadership skills, you will make a positive difference.

As a school board member, you are part of a big business. School systems deal with multi-million dollar budgets, personnel management, facilities management, food service, transportation, collective bargaining, and legal issues. In fact, in many Maine towns, the school system is the biggest business.

But the most important part of being a school board member is your advocacy role for students and an effective educational program. In setting direction for the school system and making policy decisions, you are having a real impact on students and their future.

Don't get discouraged by how much there is to know. Hopefully, this manual has helped to provide you with a good foundation. Don't hesitate to ask questions, read, listen, and discuss issues with your fellow board members, superintendent, staff, parents, students, and community members. Take advantage of the services that MSMA offers—such as the MSMA Annual Fall Conference in October, regional and individualized board workshops on a variety of topics, assistance with policies, and superintendent searches.

And most of all, don't forget to enjoy your board service. Interesting new challenges and opportunities present themselves continuously—but don't forget you need to have a private life too. Take your service seriously, but take time for yourself and your family. This will help make your board service more rewarding and productive. Always remember to **DO THE RIGHT THINGS, AND DO THINGS RIGHT.**

We have included a series of articles and tips on the following pages to help you get started.

# GETTING ON BOARD

You may have spent your entire adult life in and around schools. You may have served as president of every parent-teacher organization in your local community, headed a school finance campaign, or chaired a strategic planning task force. But nothing will really prepare you for the reality of serving on a school board.

As a candidate for school board service, you allowed yourself to dream about how school board service would be. You probably pictured yourself sitting at the board table, acting and leading as a board member. You saw yourself changing the things you thought needed changing. Things would only get better with time.

As a new board member, your visions will need to be tethered to reality. In the next few months, your orientation will change from board candidate to board member; from private citizen to public school official, and from being an individual to becoming a member of the team. Gradually, you will reassess your thinking and begin to evaluate your successes and failures as a board member. You will need time to learn the role of a board member and a team player, as well as to make any necessary adjustments.

Most of all, you will need to have a healthy eagerness to cultivate a “learner’s attitude” and to grow as a school board member. To get started, you can adopt a degree of curiosity about school board service as it exists in general and as it exists in your own district. You can study the qualities of effective board members. And you can assess your current attitudes, skills, and knowledge (ASK), and how these might enhance your effectiveness as a board member.

## Four Key Roles

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Local school boards are a uniquely American institution. The system of local control of education has made it possible for schools to ensure that each child is educated to the fullest of his or her potential.

In a time when dramatic changes are taking place in our society and in the world at large, the school board’s mission is even more important than ever. A statement of philosophy adopted by the National School Boards Association (NSBA) outlines four key roles that can ensure both excellence and equity in the public schools:

- **Vision**—setting the vision for education in the local community;
- **Structure**—establishing the structure and environment to implement the vision;
- **Accountability**—establishing academic standards to achieve the vision, assessing performance progress toward achieving the vision, and formulating strategies to help

marginal or failing students; and

- **Advocacy**—being the preeminent advocate for the public schools and their students.

## VISION

Setting a vision is not just another way of saying “goal setting” or “long-range planning.” The word comes from the Latin *ridere*, which means “to see.” And a vision for a school district should in fact give people another way to see their schools—clearly showing the district not only as it is, but also as it might become.

As a school board member, you will have a central role in defining your district’s vision—but yours should not be the only viewpoint considered. Teachers, administrators, community members, and students are more likely to support the board’s vision if they feel that they have played a part in developing it.

The process of creating a vision involves making choices—not only about

where the district is headed, but also about how it will get there. For this reason, establishing a vision may be the most difficult responsibility that any school board faces. But it is also perhaps the most important.

Specific responsibilities for school board members include:

- Keeping students as the focus of the work of schools;
- Adopting a shared vision based on community beliefs to guide local education; and
- Demonstrating a strong commitment to the shared vision and mission by using them to guide decision making and communicating them to others.

## STRUCTURE

To achieve its vision, a board must establish a structure and create an environment that will ensure for *all* students the opportunity to attain their maximum potential. Vision alone is not enough—the board must also put in place an organizational framework that can allow the district to *achieve* its vision.

School boards are responsible for providing a planning, policy, and management structure that can move the district toward its vision. The infrastructure that the board selects reflects local circumstances. It begins by employing a superintendent, adopting missions and goals in harmony with its vision through a strategic planning process, developing and approving policies, formulating budgets, and setting high instructional standards for students and staff. The board must also encourage an environment in the school system that encourages innovation and supports staff members in a process of continuous renewal of education.

Specific responsibilities for school board members include:

- Employing a superintendent and establishing a district management system that enables all people to contribute meaningfully to achieve the district's vision;

- Establishing direct processes to use information and make effective decisions;
- Ensuring that long- and short-term plans are developed and annually revised through a process involving extensive participation, information gathering, research, and reflection;
- Making decisions that support student learning and school renewal when reviewing and adopting policies and allocating resources;
- Setting high instructional standards based on the best available information of the knowledge and skills students will need in the future; and
- Encouraging an environment conducive to innovative approaches to teaching and learning and supportive of continuous renewal of education.

## ACCOUNTABILITY

The genius of America's system of local control of education is that local boards are directly accountable to the communities they serve. Effective boards engage in continuous assessment of all the conditions affecting education.

These should include:

- Monitoring student achievement;
- Using student achievement data and all other available information as a basis for making program corrections and modifications as needed;
- Keeping the public informed on the status of the district's programs—and students' progress;
- Ensuring that all functions of schools as institutions of teaching and learning fit together harmoniously;
- Providing appropriate staff and board training opportunities;
- Encouraging curricular and assessment innovation; and
- Fulfilling governance responsibilities as required by state and federal law.

A comprehensive accountability system can improve the effectiveness of schools by keeping the primary focus on student achievement—and on what can and should be done to improve that achievement. In short, as Stephen Covey has emphasized, a leader's role is to “keep the main thing, the main thing.” In this case, the education of children is “the main thing.”

Specific responsibilities for school boards include:

- Receiving regular reports on student progress and needs based on a variety of assessments in order to evaluate the quality and equity of education in the district;
- Evaluating both superintendent and board performance;
- Evaluating progress toward the achievement of district long- and short-term goals and ensuring that policies and allocation of resources effectively support the district vision; and
- Reporting district progress to community and parents on a regular basis.

## ADVOCACY

School boards ought to serve as the leading advocate on behalf of students and their schools in the community. Both individually and collectively, school board members need to speak out on issues that can advance the community's vision for its schools. They must keep the vision visible and vital for the community and for other organizations that serve the needs of children.

In a time when children come to school with more problems than ever before, schools must sometimes acknowledge that they cannot meet all these needs alone. Instead, they collaborate with families, community organizations, and other public and private agencies to benefit both the children and the community they serve.

As a result, the *advocacy* role is becoming increasingly important for school board members. Informing citizens about the schools' accomplishments, problems, and needs is an

essential part of school board leadership. Through their actions, board members represent the community and help foster understanding and support for the schools.

Specific responsibilities for school boards include:

- Seeking others who can help expand educational opportunities to meet the needs of the whole child;
- Advocating for children and families and establishing strong relationships with parents and other mentors to help support students;
- Promoting the schools' instructional and other programs;
- Leading in celebrating the achievements of students and others in education; and
- Promoting school board service as a meaningful way to make long-term contributions to society.

These responsibilities mean that school boards cannot be isolated institutions. They must bring together the entire community—parents, community groups, and others concerned about schooling—in effective and responsible ways to initiate and sustain lasting reform of the schools.

## What You May Not Know About Board Service

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By now, you may be more nervous than you were when you started reading this book. After all, you're being asked about your vision for the district's future...but you don't even know the names of all the principals. You're suddenly responsible for advocating for children in your community...but you're still trying to figure out how to attend the meetings you need to attend without losing either your job or your family life.

Actually, a clear-eyed assessment of what you *don't* know may be one of the best ways to begin your service on a school board.

Everything you have learned to date will serve as a base for becoming a better board member—but there is much that you need to learn in order to carry out the important responsibility with which you have been entrusted.

There are many facts, procedures, and practices that you will learn, if you do not know them now. You will learn about the other members of your board, their backgrounds, interests, concerns, and hopes, and about the key staff members with whom you will deal. You will learn about the history of your district, about school law in your state, about employee relations and about transportation, food service, personnel administration, and teacher certification.

You will need information about your state school boards association, the National School Boards Association, and about the complex web of federal, state, and local agencies that influence how schools function. You will learn how difficult it is to influence, in major ways, the operations of a school system. As one experienced board member put it: “Almost every new board member comes in expecting to be able to change a lot of things, full of plans and ideas. The discovery that many of those ideas have already been considered and rejected for valid reasons, and that the board operates under constraints that you, as a member of the public, weren’t aware of, can be a frustrating experience for an eager, new board member.”

You will learn about the language that will be spoken at the board table and the professional educators’ shop talk. You probably have not anticipated the time demands of board service—or how it can affect both your personal *and* professional life.

You may not know what meetings you will attend, or how many, or what will happen there, or what you will have to do at each meeting. You may not have determined what your colleagues on the board expect of you, what staff members expect of you, what local news reporters expect of you, what irate parents expect of you, or even what to expect of yourself. And you may not know how best to cope with all of these expectations.

If you do not already possess them, you will need to learn the skills of group decision

making, the patterns of parliamentary procedure as they operate in your district, the procedures for introducing items to the agenda, the functions of committees, the processes for established and changing policy, the dynamics of collective bargaining with employee groups, the methods of influencing legislators and other government officials, or about the opportunities you will have to learn many of these things.

You will learn about education of children with disabilities, the name of the superintendent’s secretary, how to visit a school building, or the effects of board service on your children in school. You probably have little knowledge of the current procedures in your district for evaluating the performance of school principals; and you may not know how much time students in your district devote to taking tests, why they devote this much time to taking tests, who picked the tests, or how the results are used.

There are so many unknowns that your knowledge about many of them can come only with time. Board service is a constant learning experience. Fortunately, as most board members agree, you don’t have to become an instant expert in all areas of board service. You *do* need to know enough to be able to ask  
*(continued on next page)*

## **IT SHOULD COME AS NO SURPRISE**

Board members admit that the most surprising discoveries about board service are:

- The great amount of time it takes to be an effective board member;
- The tremendous variety of concerns with which the board deals;
- The burden of board-related paperwork;
- The abrupt change from “citizen” status to board member status; and
- That the roles, responsibilities, and relationships of the board and administration in operating the school district do not match initial assumptions.

intelligent questions, evaluate the responses you get, answer questions when they arise, and help make board decisions.

## THE KNOWN

What you need now are the *basics*. You need to appreciate the power of the question as a tool of inquiry. Then you need to begin asking some questions, and you should continue to ask questions as long as you're on the board.

First, get a general picture of your roles and responsibilities as a board member. Then, examine the "Questions New Board Members Should Ask" (following list) that relate specifically to your local situation.

But take note: Don't feel overwhelmed if a lot of this looks foreign to you, or if there are a number of questions you can't answer completely. As one board member explained: "Just learning the basics can be a mindbender. When I first started, I felt I needed to learn everything at once. I got so flustered and frustrated, I wanted to quit."

Don't quit. These checklists are provided to help you learn. These are issues you can discuss with board colleagues, the superintendent, your neighbors, school employees, and others who can help you.

## QUESTIONS NEW BOARD MEMBERS SHOULD ASK

The path to becoming a better board member lies in asking the right questions and being able to interpret the responses and information you receive. The questions below are provided to stimulate your thinking about school board service and your role as a member of the board. If you're a new board member, it is unlikely you will be able to answer all of these questions. You will need to seek out the answers through your board colleagues, your superintendent, and others. It may be an interesting exercise to return to these questions and your answers six months or a year from now

to see how your perceptions have changed or how your district has changed. Reading this book should give you new insights to the issues addressed here—insights that may cause you to change some of your answers.

1. What does your board do for your school district? What should your board do that it does not do now?
2. Does your board have a vision for the school district? Do you concur with that vision? Why or why not?
3. What changes has your district undergone in the past five years? What changes are anticipated in the next two years? Five years?
4. What are your district's major objectives this year? Next year? Do these relate to the board's vision?
5. How does your board go about setting goals and objectives for the district? How is the community involved?
6. If your district could accomplish one major objective next year, what would *you* want it to be?
7. Has your board taken full advantage of the materials and programs available from your state school boards association?
8. Does the board have a strategic planning process in place?
9. In your judgment, should your board give more or less attention to policy making than it does? Why?
10. How does your board know whether its policies are implemented in the schools?
11. What are the ground rules in your district for determining what is "board business" and what is "staff" work?
12. How does your board evaluate administrative efforts?
13. How are school programs evaluated?
14. How is legal advice provided to your district? How does your district use this advice?
15. How does your board participate in budget preparation?
16. What major budget cuts have been made within the last two years? Why?

17. How does your board participate in setting the salaries of teachers and other school employees?
18. Does your board use standing or ad hoc committees? Citizen advisory committees? If so, what are their responsibilities? What impact do committee recommendations have on board decisions?
19. In what ways does your board communicate with the public? School employees? The press?
20. What is the school board's role in setting student achievement expectations (standards)? What is the board's role in developing strategies to help students meet the standards?
21. How does your board respond to complaints from citizens? What should you do when a citizen complains to you about a school-related matter?
22. Does your board act as an advocate for children in your community? Does your board act as an advocate for the district's instructional program? Does its advocacy role need to be strengthened?
23. Does your board engage in regular self-evaluation?
24. How is the agenda for each board meeting set?
25. Does your board comply with applicable "Sunshine" laws when it addresses matters in its executive (closed) sessions? Can the types of concerns discussed legally take place behind closed doors?
26. What staff development opportunities are provided to school employees?
27. How does your board influence the school curriculum?
28. How does your board collectively participate in state and national legislative deliberations? What is the relationship of your board to your state school boards association's legislative activities?

## THE HARDEST LESSONS

Experienced board members from across the nation were asked to identify the most difficult lesson or fact they had to learn about board service. Here is what they said:

- Learning to acknowledge publicly that you have no power and authority as an individual board member; that only the board as a whole can make policies and decision for the school district.
- Determining what your function is on the board and how to accomplish it effectively.
- That no matter what you *think* you know about board service when you first come on board, you still have a lot to learn.
- Recognizing the difference between setting policy (the board's job) and administering the schools (the superintendent's job).
- That you must represent *all* the students. Your decisions must be made in the interest of the total school system and not made solely for special groups or interests.
- Learning how to respond to the complaints and concerns of citizens, school administrators, and other staff.
- That change comes slowly.
- That you can't solve everyone's problems by yourself.
- That effective board service means being able to hold the minority viewpoint when voting on a given issue; then openly supporting the majority vote of the board in your community.
- Discovering how the schools are funded.
- That the primary focus of all board decisions must be student achievement.



## Ethics for Effective Board Members

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Ethics. Effectiveness. These are two different things, but they go hand-in-hand. Your ethics form the basis for the code of behavior by which you conduct yourself. If your actions are guided by a sound, ethical code of conduct, chances are good that you will be effective as a board member. You will be capable of producing results.

### BEGIN WITH A COMMITMENT

A sound code of conduct for school board members begins with a genuine commitment to striving for high quality public education that supports the full development of all children. It involves an understanding that our nation's strengths include its freedoms, its racial, ethnic, and religious diversity, and its commitment to education excellence and equity for all children. You must be committed to continuing these traditions, and you must be committed to working effectively with others to do this.

### DON'T FORGET THE WORK ETHIC

*Saying* you're committed to serving public education and your district's percentage of the nation's school children isn't enough. You've got to do something about your commitment. You've got to work for what you believe in. This means:

- Doing your homework before board meetings;
- Keeping abreast of current educational issues within your own school system, throughout the state, and across the nation;

- Making every attempt to attend all board meetings;
- Becoming well versed in parliamentary procedure;
- Learning how to get and present facts, not merely interpretations of them;
- Devoting sufficient time, thought, and study to proposed actions;
- Considering alternative solutions to problems;
- Encouraging ideas and opinions from students, staff, and citizens of the district, and endeavoring to incorporate their views in your deliberations and decisions;
- Working with the rest of your board to establish effective board policies by which the superintendent can administer the schools;
- Establishing fair and equitable terms and conditions of employment and evaluation for all school employees;
- Selecting sound instructional strategies and materials, and submitting them to regular and impartial evaluations;
- Acting as an advocate for the schools and for children;
- Setting high expectations for the work of the board; and
- Keeping the board's primary focus on the best interests of students.

### ADOPT THESE PRINCIPLES

No code, of course, is complete without such traditional ethics as honesty, trust, fairness, and integrity. Not using your office for personal or partisan gain, or for the benefit of your family, friends, church, or special interest groups is another standard that should be a part of your operating code.

Recognizing the limits of your authority as a board member is vital. As one board member said: "You must remember at all times that individual board members have no authority apart from the official actions of the board, and you should conduct your relationships with the

school staff, the local citizenry, and all media on the basis of this fact. Making promises to citizens that you don't have the authority to make is unethical."

The following are some standards that experienced board members agree are key elements of effective board service:

- Base your decisions on the available facts and your independent judgment, and refuse to surrender that judgment to individuals or special interest groups;
- Take no private action that will compromise the school system, the board, or the administration, and avoid being placed in a position of conflict of interest;
- Support and protect the civil and human rights of all members of the school community;
- Respect the confidentiality of information that is privileged;
- Keep an open mind so that you can accept and evaluate new concepts;
- Listen objectively to constructive criticism;
- Know the difference between personal influence and factual persuasion;
- Maintain a sense of humor;
- Learn and practice the art of compromise;
- Don't avoid confrontation merely to improve your chances for re-election;
- Share the responsibility for all board decisions, regardless of how you voted;
- Strive for teamwork; and
- Do not undermine the authority of the superintendent or intrude into the spheres of responsibility that properly belong to the school administration.

If your school district's written policies don't include a code of conduct for board members, check with your state school boards association for guidance in developing one.

## How Can I Become a Better Board Member?

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It's no secret: most board members feel good about themselves. They are competent and, consequently, have had many successes ...and they plan to have many more. Few, however, have taken the time to analyze why they are successful.

Whether you know it or not, you bring to your school board service a number of traits and characteristics that will help your board function more effectively. To maximize your effectiveness, you need to take a clear-eyed look at your strengths and weaknesses.

If you can realistically evaluate your skills and personal traits, you will be in a better position to minimize your weaknesses and utilize your strengths. This can add up to you being a more effective board member.

Open your eyes. Take a look at yourself by examining the following list of personal traits. All of them are things that can make you a more effective board member. Don't worry—we've never met a school board member who was equally skilled in *all* of these areas. But build on your strengths and then focus on one or two areas of improvement.

### Consider these statements.

I enjoy working with people.

☐ Yes    ☐ No

Ways to improve \_\_\_\_\_

I learn quickly.

☐ Yes    ☐ No

Ways to improve \_\_\_\_\_

I'm generally a good judge of people.

☐ Yes    ☐ No

Ways to improve \_\_\_\_\_

I have a good sense of humor.

☐ Yes    ☐ No

Ways to improve \_\_\_\_\_

I think positively.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I plan actions in advance.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I have the ability to control my temper and my emotions.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I am a good listener.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I try to listen objectively to criticism.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I'm sensitive to the needs and concerns of others.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I have a great deal of self-confidence.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I make decisions relatively quickly.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I am physically fit.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

My family supports my decision to serve.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I can keep confidences well.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I speak well in public.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I try to gather the facts and weigh all sides of an issue before I make a decision.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I can change my mind on issues.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I am a good follower.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I am a good leader.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I enjoy dealing with numbers, math, and budgets.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I manage my time well.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I'm a good organizer.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I have high expectations.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I can debate issues without arguing.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I can listen to people who are angry without getting angry myself.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

I feel comfortable with change.

☐ Yes ☐ No

Ways to improve \_\_\_\_\_

*-Becoming a Better Board Member*  
National School Boards Association

## **SCHOOL BOARD LEADERSHIP AND MANAGEMENT: UNDERSTANDING THE BASICS**

National reports on the condition of American public education seem to underscore the need for effective local school management and leadership. Management and leadership are distinct, not interchangeable, often leading to confusion about roles and responsibilities. Such confusion is perhaps the greatest deterrent to more harmonious and effective educational leadership. Once identified, however, it can be the easiest to correct.

Based on research and hundreds of on-site workshops for local school districts, school boards and the management team can provide effective leadership if their respective roles clearly are identified, understood, and respected by each member of the team.

While management and educational leadership often are intertwined, management is the process of accomplishing goals or objectives that are more easily measured and recognized. In other words, management is the ability to make systems work the way they are supposed to.

Leadership, on the other hand, is the ability to recognize and use the talents and energies of other people. It is the ability to motivate others to work together to achieve common goals. Effective leaders recognize that no one can do everything alone, and they inspire others to be part of the team.

Some people believe leadership is an inherent quality; others believe it is learned, practiced, and developed. While experts and practitioners may argue about what leadership is or if it can be taught, many agree on several qualities of leadership: integrity, perseverance, faith in others, the ability to plan, vision, initiative, and courage. These qualities must manifest themselves in sufficient amounts for the school management team to function effectively.

With these thoughts in mind, there are several guidelines and statements needed in the review process. These ideas reemphasize the notion that our system of local governance, while not perfect, still is the best system to provide the basis of effective leadership, which ultimately creates a quality learning environment for our children and our community.

### **Why are school boards necessary?**

- Local school boards keep the public schools in the possession of the public rather than a central government, professional educators, and private corporations. Our schools began as local institutions, and school boards keep them that way.
- School boards are a check on the proprietary interests of professionals. Thus, they carry out the American precept of checks and balances.

- School boards afford a means for bringing together varying points of view when formulating school policy.
- School boards make possible, but do not guarantee, the direct exercise of the people's will in regard to public education. School boards are expected to use the information at their disposal to make decisions in the best interest of the community.
- Because school boards are trustees of our heritage, the position of the school director has gained recognition as a community's highest honor. The purpose of education is to help people adjust to, perpetuate, and improve their lives.

### **What are the chief responsibilities of the school board?**

- Through the staff, to develop and constantly improve the educational program;
- To provide adequate and effective personnel for school programs;
- To provide and maintain educationally efficient school facilities;
- To secure adequate financial resources;
- To maintain two-way communication between the board and students, employees, parents, taxpayers, and the community; and
- To select the chief executive officer, and to work harmoniously and honestly with that person.

### **How do school board members differ?**

- School board members are unique. They differ in personality, attitudes, purposes, and methods of working with people. They come from all walks of life with different talents.
- Some school board members know how to work with people; some do not.
- Some have pet peeves or prejudices when they come on the board; others keep their minds open and ready to learn.
- Some are passive; others are aggressive.
- Some seek publicity; others are on the board only to serve the schools.
- Some are courageous and will stand up for the program of the schools; others are highly sensitive to criticism and will give in or compromise at the least pressure.

- Some will take time to represent the schools to the public and explain the program; others are too busy to devote the time.
- Some see the superintendent as a necessary evil; others see the superintendent as a partner, working with the board as its chief executive officer.

**Role of the superintendent and the administrative staff:**

- The staff is employed by the board to administer and operate the schools under its direction.
- The superintendent is a partner of the board. No policy should be adopted without the superintendent's recommendations. The superintendent should be at all board meetings, except possibly those fixing his or her salary.
- The superintendent is the leader of the staff.
- The superintendent links the board with all other school employees.
- The superintendent and the administrative staff must strive to use the resources of the board, the teachers, and the community in effecting changes in educational policy.
- The superintendent and staff must know the community. The superintendent must have the ability to work with community leaders to obtain their confidence and support.
- The superintendent and staff must interpret the needs of the school system.
- The superintendent and staff must interpret board decisions to school personnel and the community.
- The superintendent must work with central office staff who have unique skills and abilities to perform the many services needed in fulfilling the tasks of the school district.
- The superintendent of schools is employed by the board of education as its executive agent—a professional adviser to the board, the chief administrator of the schools, the leader of the staff, and the local point of responsibility in the district.
- Building principals are the educational leaders in the various schools. Their position is to inspire their staff to provide the best education possible, consistent with overall school district policy. They must share responsibilities for selection, improvement, and dismissal of personnel. They should be a professional resource to the board, and they should be able to identify the resources necessary to aid teaching and learning in their respective schools.

### **What are the basic requirements for successful school boardsmanship?**

- Recognition that in-service training and self-study are essential to effective boardsmanship;
- Acceptance of the principles of teamwork, board unity, and subordination of self-interest;
- Understanding the executive function delegated to the superintendent and the administrative staff, and willingness to support board administrative policies;
- Demonstrating initiative, informed leadership, and insight in board planning and policy making;
- Effectiveness in professional relationships;
- Effectiveness in staff and group relationships; and
- Courage for the good of the schools in spite of pressure and influences.

### **Earmarks of a successful management team:**

- Members of the team must know their roles and respect the roles of other team members.
- Each member must respect the right of others to have differing points of view.
- Each member must be working toward commonly accepted goals (performance by objectives, valuing job positions, management by objectives, etc.).
- Forums must be provided for dialogue and objective dissent, but once a decision is reached, uniform action is demanded.
- Responsibilities imply an inherent privilege—that of participation in the evolution of a decision leading to a responsibility.
- All team members must understand that various people are at different stages in their understanding of a new idea.
- Members must assign priorities to the use of their time in achieving board goals.

### **Leadership responsibilities of school board members**

1. Have qualities such as integrity, perseverance, faith, the ability to plan, vision, initiative, and courage among members.
2. Work for harmony and a “team spirit” within the board.
3. Establish clearly and simply written board policies in cooperation with all concerned; make them available to the school staff and the community; and keep them up to date.
4. Work for a curriculum that adequately meets the needs of children and adults in the school community.
5. Move steadily toward adequate housing and facilities for the school population, present and future.
6. Stand for adequate financial support based on an equitable distribution of the burden, and stand for efficient use of financial resources.
7. Encourage cooperative relationships between the school system and the community, so everyone has the important facts about the school.
8. Be alert to conditions and influences in the school district that contain seeds of controversy, and initiate plans to deal with them.
9. Work unceasingly to advance the quality and effectiveness of the educational program.
10. Encourage in-service training for the board and staff. Establish policy and budget accordingly for board learning opportunities.

*-PSBA Bulletin*



# MAINE SCHOOL BOARDS ARE UNIQUE: UNDERSTANDING THAT UNIQUENESS IS IMPORTANT

By Donald A. Kopp

## Background

Of Maine's political bodies, school boards may well be the most complex and least understood.

Maine's Constitution gives the responsibility and authority for public education to the Maine Legislature, mandating that it, through its statutes, require Maine's towns to provide a suitable public education. Acting on that mandate, the Legislature has enacted statutes creating the Maine school board as a political entity (and creating the separate office of superintendent) and defining the duties of school boards.

Maine's Supreme Court has concluded that school boards may exercise only those powers conferred on them by the State's education laws.<sup>1</sup> Towns and town voters did not create school boards, and other than voting for school board members, budgets, and referenda, towns and town voters have no authority over school boards. That is why understanding the following principle set forth by Maine's Supreme Court is so important:

(T)he (school) committee acts as a public board. It in no sense represents the town. Its members are chosen by the voters of the town, but after election they are public officers deriving their authority from the law and responsible to the State for the good faith and rectitude of their acts.<sup>2</sup>

What this means is that a school board is not a representative body like the State Legislature or Congress. Its members are chosen by the voters, but its primary duty is to oversee public education in the manner prescribed by state law and not solely to carry out the actual or perceived will of the local voters.

Unlike school board members, it *is* the primary job of state legislators and representatives in Congress to represent the interests of their constituents. And given our system of separation of powers and political parties, often our elected representatives are partisan, criticizing fellow representatives with whom they disagree, criticizing the executive branch, be it the governor and his administration or the president and his administration, and advocating for special interest. As legislators they introduce, debate, and vote on the enactment of laws. They are not responsible for enforcing those laws or for governing. That is the role of the executive branch, gubernatorial, or presidential.

## School Boards as Governing Bodies

The school board, by state statute, is the *governing body* of a school administrative unit.<sup>3</sup> Like the governor or the president, a school board's collective responsibility is to fulfill the laws enacted by the Legislature and to govern the organization for which it is responsible. For school boards this means effectuating the State's education laws and being responsible to the school board's students, employees, and residents. (It may be helpful to visualize a school board's responsibility to students, employees, and residents as a three-legged stool; if the board permits one of the legs to become too short or too long, the stool will topple over).

As discussed above, school boards were not primarily established to respond to what members of the community ask it to do. While an important aspect of locally elected school board members is guiding their school system in ways that reflect broad community values, they are not required to follow the desires of special interest in their community. This is worth remembering when a large number of residents show up at a school board meeting demanding, for example, that the board reinstate a popular coach that the superintendent did not renew. While daunting, school board members can feel secure in knowing that they are responsible to the State for carrying out state prescribed responsibilities to the school system as a whole and are not constituted to represent the specific desires of the group of voters at a particular meeting. (It may also help to remember that no matter how large a crowd, or how much media coverage the groups gets, it is very unlikely that the group represents a significant percentage of the residents of the entire school system, let alone the students or the employees). As with any governing body, a school board's decisions are not going to always please everyone. Being able to make a decision that does not please the small percentage of the community's voters who are sitting unhappily in front of a board is certainly a challenge, but it also sometimes is the duty of school board members.

### Duty of Loyalty

Understanding that school boards are governing bodies and not primarily representatives has important ramifications. Unlike elected representatives who are responsible only to the people who elected them, and who have no responsibility to other elected representatives or to the executive branch, school board members do not represent the voters, they do not act on their own, they are part of a governing team, and they have duties toward and are responsible for that team: their students, employees, residents, and fellow board members. Members of an executive/governing branch of government, like the governor's or president's cabinet, do not publicly attack other cabinet officers or their employees. Similarly, school board members, as members of a governing body, should not publicly attack each other or school employees. As a member of the governing team, school board members owe a duty of loyalty to its students, employees, and fellow school board members even while working hard for change and improvements when necessary. This difference between the responsibilities of school board members and those of our elected representatives is comparable to the difference between being a member of an orchestra and being a solo performer. The role of the piccolo player in the orchestra is to play in public harmoniously with the rest of the orchestra so that the orchestra as a whole is seen and heard to the best possible advantage. The role of the solo performer – let us

say Britney Spears – is to perform in the way she thinks her public will find most appealing while at the same time drawing as much attention to herself as possible.

## **Public Participation**

Another important result of not being solely representatives is that school boards are not required to let members of the public speak at its meetings. The Freedom of Access Act<sup>4</sup> merely requires that school boards conduct the public session of their meetings in public. (In only a few instances do the education laws require that a school board seek any public input at all<sup>5</sup>). Stated simply, the rights of voters in a school unit are (1) to watch the school board meet when it is in public session, (2) to vote for school board members, and (3) to vote on the school budget and referenda.

That residents have no right to speak at school board meetings is often difficult for school board members and members of the public to accept. The town meeting tradition in Maine is so well established that many assume that members of the public have a right to express their views and ask questions at school board meetings. (Now that many board meetings are televised, some even think that the meetings are a forum for community members to get on camera and address the community as a whole). It is important to focus, however, on the differences between a town meeting and a school board meeting. At a town meeting, the residents of the town, the audience, actually *are* the legislative body of the town. Like legislators everywhere, they need to ask questions of their executives, the selectmen, and to argue and debate warrant articles placed before the meeting, so that the audience can make a decision on each warrant article by voting it up or down. Contrast that with a school board meeting where the members of the audience have no responsibilities and only the right to be there and watch.

Some school boards have created agenda segments for members of the public to comment on matters on the agenda, or on matters the public is permitted to place on the agenda, or on anything at all. Perhaps boards do this in part to encourage people to come to their meetings. It would be hard to imagine, however, the governor's or the president's busy cabinet members saying, "Hey, here's a good idea. Let's invite members of the public to our cabinet meetings and see what's on their minds." Pretty clearly, an elected executive's cabinet members, with their departmentalized and specialized areas of responsibility and expertise, would find more efficient ways of obtaining broad and representative input from the public at large if they wanted it. The difference for school boards is that school boards are required to conduct the public portion of their meetings in public. But unless public comment is likely to be helpful to the board, as it might when considering the adoption of controversial policies or holding budget workshops, one has to ask why a governing body such as a school board, whose members possess an understanding and knowledge about school matters not available to the public as a whole, would make their meetings longer and less predictable than necessary by providing for open-ended public comment and questions from the very small percentage of its voters who might attend a meeting. Many school boards have found that policies which allow for public comment on agenda items dealing with policy or the expenditure of funds but that do not permit comments about personnel or matters not on the agenda strike a happy balance. Such policies also give the board control over what resident-initiated issues it will place on its agenda.

It is very important to remember that a loosely defined public comment policy that works all right when only a few people are in attendance, one day may be used by an organized special-interest group (with enthusiastic media coverage) to monopolize school board meetings and put board members under extreme and inappropriate pressure.

## **Conclusion**

Meetings that run too long, that subject administrators to unanticipated questions and sometimes abuse, and that permit unpredictable audience participation are not the hallmark of well-run, efficient governing boards, do not present school board governance in the best possible light, and may be one of the reasons why many talented, young administrators are not choosing to become superintendents and why many qualified community members do not choose to serve on school boards. Thinking as a member of a governing board and not a representative, an argument can be made that the happiness level of each board member ought to be inversely related to the number of people at its meetings. If few to none are there, the message can be seen as the majority of the community being content with the informed decisions board members are making. And when a large number of people do show up, a board member, thinking as a member of the governing board, will recognize that the crowd probably does not reflect a sudden upswing in appreciation for the hard work that the school board members are doing; it more likely reflects a group with a single interest that may well be asking the board to do something contrary to its duties under state law and its responsibilities to the school community as a whole.

I am hopeful that understanding the unique statutory role of school boards as governing bodies will make school board members more comfortable and confident in fulfilling their important and complex responsibilities to each other and to their school systems as a whole.

Source: *School Law Advisory* (Winter 2005), reprinted with permission from Drummond Woodsum.

## **Endnotes**

1. Churchill v. S.A.D. #49 Teachers Association, 380 A.2d 186, 192 (Me. 1977); see generally, Pringle & Tchao, *Maine School Law* 13 (2<sup>nd</sup> ed. 2001).
2. Shaw v. Small, 124 Me. 36, 41 (1924).
3. 20-A M.R.S.A. § 1 (28)
4. 1 M.R.S.A. §§ 401 et. seq.
5. In a few areas, school boards are required by law to seek public input or hold a public hearing before making a policy or decision. Examples include budget meetings, adoption of the system wide student code of conduct, and Title I parent participation policies.

## SCHOOL BOARDS - WHY AMERICAN EDUCATION NEEDS THEM

By Michael A. Resnick and Anne L. Bryant

**If school boards didn't exist, someone would invent them to create a link between the community and its schools, to ensure oversight of education, and, increasingly, to translate state and federal government mandates for local use.**

Everyone thinks that they know what's best for schools because they have had a school experience. The public wants their voices heard inside the schoolhouse walls. They want to know that their tax dollars are being spent effectively and responsibly. They want to know that children in their communities are receiving a world-class education. They want to know that someone is accountable for what happens in classrooms. And the ones who are accountable are the members of the local school board.

What's more, public education evokes emotion from nearly everyone in a community. Consider the impassioned responses when President Obama prepared to address public school children last fall.

Although states and the federal government are becoming increasingly involved in education, public education remains a local enterprise. It represents a community's culture and values, which in turn are reflected in our schools. What works in one district doesn't necessarily translate to others.

Increasingly, local school boards are charged with ensuring that broader state and federal education requirements are met while translating local values and priorities into policies to meet the goals and aspirations of parents, taxpayers, and local businesses. By engaging their communities (parents, businesses, civic and religious groups, and community members), school boards create a culture that supports schools in their main mission: raising student achievement.

Across the country, school boards are successfully doing just that while performing a variety of key governance functions, such as setting academic goals, priorities, and policies; empowering the superintendent; and providing on-the-ground oversight and accountability for results.

In recent years, the chronically weak performance of several high-profile urban districts has led to some form of mayoral takeover or operational influence when school boards could not muster the necessary leadership to overcome educational challenges in their schools and the larger community. While a relative handful in number, the attention given to these districts has caused some to wrongly conclude that the nation's 14,350 school boards overall might not be needed or equipped to provide a 21<sup>st</sup> century education.

So, the questions raised are: Why do we have school boards? What do we lose without them? And what are they doing that tells us they are up to the task?

### **Making the Connection**

One major and increasingly important purpose for having school boards is to connect the federal and state levels, as well as local educators, with the real and diverse world of local people in a way that is close to the community, accountable to it, and which has the authority to act. Mayors and county officials can use their clout to rally the community behind the schools, but these officials are unlikely to provide the knowledge, focus, commitment, or ongoing accessibility that school boards do. After all, mayors run cities with a myriad of priorities to fulfill, including the needs of the majority of voters who don't have children in school. If education becomes a department of city or county government, what are the chances that education in the long run will get the attention it deserves? Elected school boards were created for the singularity of their purpose and accountability.

The demands of education have changed, and so has the operation of today's school boards. Go to school board meetings and witness the time devoted to student achievement issues, including newer approaches to goal setting, budget and policy development, and program evaluation. Look at the use of data and the level of reports given and discussed.

At the board level and in other meetings, board members work closely with their local community on issues of importance. Similarly, look at the conferences school board members are attending and the resources they're using to sharpen their knowledge around student achievement. Critics of school boards too often lack knowledge of the successful leadership that today's school boards provide through their changed substantive focus and governing method.

For example, in 1999, the National School Boards Association (NSBA) launched its Key Work of School Boards program, a year-round governance process used by many U.S. school boards. Specifically, the Key Work is aimed at increasing student achievement through effective board practices in goal setting, policy and resource alignment, evaluation, accountability, and fostering a climate for success (Gemberling, Smith, and Villani 2009).

With support from the Bill & Melinda Gates Foundation, NSBA is developing a school board training program for data-driven decision making that reflects the Obama Administration's Race to the Top program. Likewise, state school boards associations have developed hands-on programs to help boards meet a wide range of challenges through effective governance.

### **Taking the Lead for Students**

Beyond good decision making, do school boards perform special leadership functions that make a difference in raising student achievement? Evidence from Iowa suggests that they do.

Since 1999, the Iowa Lighthouse Study has interviewed and surveyed hundreds of school district leaders and school board members in an effort to answer that question (Iowa Association of School Boards 2000). Examined were districts that were comparable in socioeconomic

makeup and finances but which had vastly different student achievement. One of the study's key findings was that low-performing school districts had a self-fulfilling prophecy of low expectations by school staff and students. By contrast, high-performing school districts had climates of success specifically established by the board through expectations of students and staff, including the accountability and resources provided by the board and the community support that that board garnered for the schools.

In these high-performing districts, the boards and superintendent had strong team relationships, including a constructive oversight process for setting goals and evaluating results to drive the staff's work. Not surprisingly, school boards had a different view of the school district's accountability and responsibility than did the school staff, and that difference can add to the climate for success.

School boards have a long history as a cornerstone of democracy. Attend any school board meeting and you'll see communities having their say. Board members take their work home — and to grocery stores, soccer games, and gas stations — because they're never off duty. They can't be — they live in the communities where they serve, allowing for easy access and input from those who put them into office.

Emails, phone calls, PTA meetings, and other regular communications are part of the job in a way that can't be matched by mayors or distant state agencies. Given their proximity to the community and their singularity of purpose, school boards are not only uniquely positioned to hear the community, but to proactively engage the community as well.

No magic bullet exists for this, but the Key Work of School Boards encourages communication and transparency as critical pieces of the puzzle. Inviting key stakeholders and the public to the table, whether at public school board meetings or in other ways, creates a culture of collaboration that aids school board success. By building strong relationships, school boards can actively engage key stakeholders and grow support for their schools.

School boards give parents a mechanism for engaging in decisions that directly affect their children. This ability to engage allows parents to effect change and feel invested not only in their children's schools, but in the child's education as a whole. This cannot help but affect student achievement.

Having school boards that engage the public also pays off in passing tax and bond referenda. Debates over local funding measures frequently become high-profile community discussions about the direction of education in the local schools. Those debates also include the majority of people who don't have school-age children. They provide a means to balance local control and priorities with those of the state and federal levels. To pass these measures, typically school board members, and not professional staff, reach out to stakeholders — business leaders, parents, teachers, religious and community groups — to demonstrate how the use of taxpayer dollars will strengthen the schools and their community.

As education becomes more centralized at the state and federal levels, providing communities with opportunities to talk with policy makers and influence policy matters will

become even more important. Anything less risks alienating parents and other community members from the schools. It also risks shuffling off decisions to other levels of government that are not as knowledgeable — or caring — about a school district’s plans or the community’s desires. To meet these goals, school boards are well positioned with the perspective, knowledge of their schools, and authority to represent the system as a whole.

Furthermore, school boards make decisions in public, not behind closed doors or by executive fiat. The requirement that decisions occur through a majority vote helps ensure that a board consider a variety of options, debate proposals, and consider differing viewpoints — including voices from the community, not just from the school board.

### **Boards Are Up To the Task**

Even in sound economic times, budgets and funding are at the core of the issues facing school boards. In times of financial stress, funding and budgeting become even more urgently tied to what schools are able to deliver. Add to this the increased numbers of poor and underserved children, immigrant students who may not speak English, and the diversion of tax dollars from public schools to other purposes. Unlike school board members, legislators and mayors address a variety of issues in their scope as government officials. Education issues are the heart of what school board members do, and they make decisions accordingly without the burden of partisan politics.

Schools also are human institutions. Parents entrust their children to schools for six hours a day, 180 days a year and expect schools to provide a safe environment that also supports their broader development of skills, interests, character, and values. School boards must respond to diverse and varied communities, as well as set broader education and social policies and practices that address specific interests of their communities. They must also provide oversight to ensure that their policies are met.

One challenge facing schools is that turnout in many school board elections is too low. This is especially the case in areas where school board elections occur separately from the general election of candidates for other offices. The scheduling of these elections was by design to keep partisan political agendas out of schools and to ensure that education issues weren’t buried in a cacophony of election-year campaigning, long lists of candidates, and ballot initiatives.

Connecting school board elections to general elections might be appropriate in some cases; in others, promoting voter turnout in special elections may be a role for mayors and county officials, along with efforts by the media and the school board itself. When school boards have strong community relationships and have built a culture of civic engagement, their stakeholders are more likely to vote.

It is also important to recognize that election-day voting comes at the end of weeks of proposals and debate among candidates, including media coverage, that help build public knowledge of the school system and consensus for its future direction. Surely, education and



democracy are better served by finding ways to strengthen voter turnout, rather than use low voting numbers as a reason to eliminate representative school governance altogether.

## **Conclusion**

Schools can't exist in a vacuum. They're a critical part of their communities and they must engage those communities in order to thrive. The responsibility for drawing community and business leaders, parents, civic groups, and the public into the schools falls squarely on the shoulders of the local school board. To go about the business of running schools and educating children, the local school board must engage with the community, listen to its concerns, and enact policies and strategies that make the most of the local community's resources and culture.

Just as schools are human institutions, so are school boards. They aren't any more infallible than mayors, state legislators, presidents — or nondemocratically governed institutions. The institution of school boards should not be eliminated because of the performance of some chronically weak boards.

At the same time, we should not excuse the performance of such boards. Given the value that school boards bring to the education process, the better way to address this is by changing a weak board's leadership through the electoral process and by strengthening those boards through the various governance resources that can be made available to them — just as we do for other governing bodies in both the public and the private sector.

In sum, if local school boards were eliminated, it wouldn't be long before communities would try to reinvent them. School boards, as an institution, make our schools stronger and better equipped to educate the 50 million children in our nation's public schools.

*Anne Bryant is executive director and Michael Resnick is associate executive director of the National School Boards Association.*

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-From *Phi Delta Kappan*, March 2010

## **WHAT IS EXPECTED OF YOU AS A SCHOOL BOARD MEMBER?**

It is an honor for a person to be selected by the community to help guide the education of children. As a school board member, you will have many wonderful experiences as you serve the community. One of the biggest rewards you will receive is the satisfaction that comes from ensuring a good education for the children who attend your schools.

However, there will be some difficult times as well. Serving on a school board often is a thankless and difficult task. There is no paycheck at the end of the week, and many hours of personal time are given to the job. But, that's known going into it. What is not always known is the exact role of a school board member within the district.

With so many new people recently joining school boards, this is a good time for novices and seasoned members to take a moment to review their responsibilities.

A board is made up of elected individuals who act as a legislative body within the framework of federal, state, and local laws and regulations. The authority of the board is derived from what is explicitly authorized in applicable laws and regulations, or from what these laws and regulations necessarily imply. No board member has legal authority as an individual outside the public "sunshine" meetings unless authorized by a vote or resolution of a majority of the board. In other words, the majority of school board members need to vote in the same manner before an action can be official.

It is vital to understand the board's legal responsibilities. However, it is just as important to understand what characteristics make a school board member effective. Keep in mind, these traits are not determined by sex, occupation, race, income, or social standing. The ability to be an effective part of a governing school board depends on much more.

Effective school board members are characterized by the following qualities:

- A deep desire to serve children;
- A strong belief in the values of public schools and local control of public education;
- The ability to work as a team, to engage in open exchange of ideas, and to support the group's decision;
- The willingness to spend the time required to become informed and to take part in effective school board meetings; and
- The ability to recognize that the school district probably is one of the largest businesses and employers in the community and, as a board member, to accept responsibility for making sure the enterprise is well-managed.

Whether as a new board member or someone who is returning, ask yourself these questions:

- Do you care about the students, or are you only interested in your personal agenda?

- Are you willing to at least listen to the “other side,” or is your opinion always predetermined?
- Do you accept a vote once it has been taken, or do you publicly—or secretly—undermine the decision that was made?
- Do you review the necessary materials before a board meeting, or do you wait until the meeting to open your packet of information?
- Do you make the best decisions possible for the school district, or do you get side tracked by personal conflicts with other board members?

How did you answer these questions? How would you answer them in reference to some of your fellow board members? Did you answer, “yes” to the latter part of these questions, whether it was about yourself or a fellow board member? If you did, it is time to work toward resolving the problem. Here are some helpful tips for you and your colleagues to keep in mind as you lead your school district.

1. **Do your homework.** Be prepared to consider an issue by studying all its aspects before the meeting. Providing sufficient back-up materials on issues should be board policy. Only then can a board member weigh all aspects of an issue.
2. **Be issue oriented.** The central focus of a school system always must be students. Therefore, the decisions made by the board should be in terms of what is best for the students. It is irresponsible boardsmanship to reject an idea that is good for the students because of who offered the idea.
3. **Don’t be single-issue oriented.** School board members must make many decisions on a variety of topics. If a member expends all of his or her energy on a single issue, the other important issues receive inadequate consideration.
4. **Try not to surprise anyone.** Let the other board members and superintendent know your feelings before board meetings, so the board can focus more on the issues. Someone otherwise might suspect your motives, thereby clouding the issues.
5. **Be consistent.** Not knowing what position a board member will take on issues creates disruption in board meetings. Being able to “read” individual board members makes the superintendent’s task of formulating a workable recommendation more feasible. Board members owe voters and colleagues the opportunity to know what they stand for. Consistency assures that.
6. **Be open-minded.** Be willing to consider points of view different from your own. Sharing differing viewpoints and foregoing agreements are how best practices are developed.
7. **Listen to others.** This point goes beyond merely receiving the transmission from others. To listen with intensity, one must answer: “What is really being said?” Understanding the full message will enable board members to respond in a meaningful way to colleagues.

8. **Look for points of agreement.** Identify points of agreement and expand them until a full agreement is reached. The listening skill mentioned in the previous point can help find those areas of agreement.
9. **Don't lecture.** Elected public officials obviously said things that registered positively with the voters (or avoided saying things that did not). That quality belongs to every member of the board. Therefore, being among equals, one safely can assume a lecture would not be appreciated.
10. **Avoid "showboat" votes.** These votes are "for effect." Media reports usually mention the name of the one board member who voted against the motion. Most elected officials know the benefits of one's name in media reports. However, showboat votes detract from board unity. If even a few board members play the showboat game, the board will appear "soft" on an issue, and unnecessary pressures may develop. However, do not confuse a showboat vote with an honest minority opinion expressed by a "no" vote. Those are entirely legitimate.
11. **Respect the roles of the chair and other members of the board.** Chairing a board meeting is a tiring and difficult task. The chair must speak "for the board," prepare the agenda, and conduct the meeting. The chairman may make mistakes from time to time, but don't be too quick to criticize. Also, respect the roles of your colleagues. They, as do you, represent a large constituency.
12. **Support decisions of the board.** Even if your viewpoint did not prevail, support the decision that was made. Do not undercut a decision simply because you disagreed with it. If you wish to have it reconsidered, approach that matter directly. Do not use the community, the media, or other inappropriate avenues.
13. **Leave it in the boardroom.** Varying opinions are essential for a thorough decision-making process to occur. As a result, though, disagreements occasionally will occur that can create friction among board members. Try not to take it personally. Leave it where it happened—in the boardroom.

Remember that one of the greatest sources of frustration for a school board is trying to get along with one another. In most cases, the reason board members can't get along is because one or more individuals do not understand their roles in the school district completely. Board members truly understanding their roles can result in excellent board relationships and leadership.

-Adapted from *PSBA Bulletin*

## **EFFECTIVE PUBLIC SCHOOL BOARD PRACTICES**

By Dr. David A. Nicholls, Andrew M. Smith, and Steven D. Castle

Why are some boards of education more able than others to use meeting time effectively, manage controversy before it manages them, avoid surprises, and maintain a “big-picture” perspective when conducting school district business? Are such differences attributable to board members or superintendents themselves, or is it a reflection of the way board meetings are planned and conducted?

Examining such questions, as well as identifying practices school board members associate with effective and ineffective school board meetings, was the focus of a 2001 study of 250 randomly selected school board presidents across Ohio. The following is an overview of their responses concerning:

- school board meetings in general;
- changes their boards made to make meetings more effective; and
- factors that hinder board meeting effectiveness.

### **School Board Meetings in General**

Questions on this topic dealt with:

- How long do typical school board meetings last?
- Who is responsible for agenda development?
- How adequate is the time spent on various school board roles?

About half of the responding school board presidents (50.55%) indicate that their typical school board meetings last one to two hours. A little less than 30% (29.67%) reported that their meetings lasted two to three hours. Only 13.19% indicated that their typical meetings last three hours or more, while less than 7% reported meetings lasted under an hour.

Regarding responsibility for developing the agenda, over half of the respondents (56.4%) indicated it was a shared responsibility between the superintendent and board president. A little over a third, (35.1%) reported it was the sole responsibility of the superintendent. Less than 10% (8.79%) reported the involvement of the treasurer, as well as other members of the administrative team. No board president indicated he or she had the sole responsibility for deciding what appeared on the agenda.

When asked about their perception of the adequacy of time spent on various board roles, over three-quarters felt their boards were spending the right amount of time in such areas as:

- providing leadership for financial support of the school system and allocation of financial resources (79.35%);

- working for school system and community focus on access and equity for students (76.67%);
- providing visible leadership for public education in the community (76.09%); and
- defining student educational and related needs (72.53%).

Slightly fewer board presidents felt their boards were spending the right amount of time on:

- goal setting, policy development, and system appraisal (68.48%);
- setting standards and adopting policies for personnel selection, evaluation, and professional development (65.93%); and
- appraising the school curriculum in terms of district needs, goals, and objectives (65.22%).

Less than half (46.07%) felt their boards were spending the right amount of time expanding the number and type of constituents that actively support and participate in public education.

These findings suggest some generalizations. First, most typical board meetings are fairly short, usually ranging between one and three hours. Second, decisions regarding what appears on each month's agenda are a shared responsibility, primarily involving the superintendent and board president. Third, while most board presidents believe their boards are spending the right amount of time in their various roles, there is the perception that most boards are spending too little time expanding the number and type of constituents that actively support and participate in the public education.

Because of the relatively short period of time that boards meet each month and the multiplicity of issues involved, participants in the study were asked to identify changes their boards had made that, in their opinion, had made meetings more effective or productive. Following is an overview of their responses.

Use of a consent agenda or similar block-voting procedure was the most frequently reported change (23%) board presidents gave for enhancing meeting effectiveness. Other changes were: improving communications on the part of the board and superintendent (18%); making changes regarding public participation at board meetings (17%); and meeting preparation (15%).

Of those instituting some form of consent agenda, some listed all motions in consecutive order under one motion and voted on them at one time, unless a member of the board requested that individual items be removed for separate consideration and adoption. Others grouped motions by heading or as routine items and acted on them in blocks, rather than separately voting for each item.

Such practices, according to the respondents, expedite the meeting and allow more time for discussion of complex issues. Advance time requirements to determine whether individual items should be removed from the consent agenda prior to board action as well as possible public

misunderstanding when attending school board meetings were cited as considerations when instituting the concept.

Changes made to enhance board-superintendent communications tended to involve regular updates to the board on an as needed as well as a regular basis, both between and prior to board meetings. Ensuring adequate time for board members to review meeting agendas and supporting materials before meetings was another change, with three days cited as a minimum. Holding committee meetings was another suggested change, especially in the areas of legislation and policy, finance, buildings and grounds, curriculum, and transportation.

A variety of changes dealt with public participation at board meetings. While the majority of the changes reflected local circumstances, most dealt with where public comment should be scheduled on the agenda and how much time it should be allotted. Some, for example, suggested that placing public comment at the beginning of the meeting tended to reduce incidences of someone second-guessing actions of the board or administration at the end of a meeting. In addition, such placement was seen as showing sensitivity to the public by allowing them to address the board early in the meeting. That provided the option for them to leave early, rather than wait until the end to express views possibly unrelated to agenda items.

Time limits of three minutes per person or 30 minutes total were suggested, with provisions for extending the time if a majority of the board approved. While seeking to ensure an equal opportunity for those wanting to address the board, these changes also were made to help the board conduct its business in a timely and orderly fashion.

Primary among meeting preparation changes were those relating to preparation by board members, as well as those relating to how board meetings were conducted. In terms of board member preparation, board presidents overwhelmingly stressed the need for commitment on the part of individual board members to review the agenda and supporting documentation prior to meetings. Another suggestion was that individual board members take the time and initiative to ask questions and seek clarification from the superintendent, treasurer, or other board members.

Other changes relating to board member preparation included convening more than one school board meeting per month and having policies related to hot topics readily available. In cases involving more than one board meeting, one session was typically characterized as a study meeting, where board members had time to study proposed policy issues, receive public comment, and review other complex items of business prior to board action. The second session was the business meeting, where action on previously studied items would be taken and other routine board business would be conducted.

Suggestions for easily accessible policies on hot topics included the issues of public participation, public complaints, and guidelines for going into executive session. It was also suggested that boards should adopt the policy, or at least practice, of not discussing controversial topics that had not first gone through proper administrative channels. Being organized and informed, as well as knowing what to do and when, can go a long way toward fostering more effective board meetings. This is especially true when dealing with controversial issues or irate parents and community groups.

Practices identified by board presidents as hindering the effectiveness of board meetings were in many ways opposite those identified as contributing to effectiveness. Most of the factors or practices involved individual board members, or issues related to dealing with the public.

In cases related to individual board members, board presidents tended to cite lack of preparation, single-issue board members, or those with hidden agendas as the biggest factors hindering meeting effectiveness. In terms of poor preparation, respondents said that board members who don't read agenda materials prior to board meetings often:

- don't know what is going on;
- ask questions and bring up issues addressed in the prepared materials; and
- slow the meeting's progress.

They also tend to hinder the board's group discussion and decision-making by not taking advantage of opportunities to ask questions or seek clarification of issues prior to the meeting.

Single-issue board members and those with hidden agendas were described as those who tend to:

- say one thing and do something entirely different at a board meeting;
- make it difficult to establish trusting relationships;
- make consensus building nearly impossible;
- be more concerned with politics and playing to the public, rather than educating children; and
- keep the "pot" stirred.

It was also noted that such board members often attempt to micromanage the superintendent or other members of the staff in areas where their single-issue concerns or hidden agenda might lie. While all board members might be particularly interested in one aspect of the educational program over others, depending upon their background or expertise, concentration in such areas at the exclusion of what's best for the system as a whole are definite factors board presidents identified as hindering board meeting effectiveness.

Issues related to dealing with the public that were cited as problems included:

- the manner in which the public addresses concerns to the board; and
- relationships with the news media and how accounts of board meeting proceedings are communicated to the public.

In the case of the public addressing the board, it was noted that individuals who are unprepared or exceed allotted times for speaking undermine the effectiveness of board meetings. So too, do members of the news media who dramatize the more minor or "sensational" aspects of meetings to the point that such coverage distracts from adequate coverage of other important parts of the meeting. Board presidents cited such practices as well as board members who play to



the public or press in an attempt to further their own personal agendas as hindering board meeting effectiveness.

The findings of this study indicate that practices for effective school board meetings vary little according to district type or size. Moreover, it was found that while practices found to be effective in many respects reflect local tradition and circumstances, practices for effective school board meetings tend to involve three common elements. Those elements are:

- **Organization**—Board members and members of the administrative team know what is to take place and have taken active steps toward ensuring that the business of the school district is handled in the most effective and expeditious manner possible.
- **Preparation**—Members of the board and administrative team come to the meeting with the necessary background and information to engage in informed discussion, deliberation, and decision-making.
- **Communication**—There are few or no surprises on the part of the board or administrative team. Ample opportunities have been provided to obtain background information and rationales for recommended courses of action, as well as to ask questions and obtain needed or desired information.

The findings of this study are in many ways not new or surprising. They are, however, a large part of the answer to the question of how some boards of education are more able than others to use meeting time effectively, manage controversy before it manages them, avoid surprises, and maintain a “big-picture” perspective.

-Adapted from the *OSBA Journal*

## WHY BOARD CULTURE MATTERS

A school board's most critical responsibility is to safeguard the public's trust in public education. That trust hinges on a clear, unerring organizational mission to educate all students and challenge their level of achievement. Once that trust is lost, it is difficult to regain it.

As community members, we trust that our school board can define what it wants the schools to achieve for students and delegate the attainment of that vision to trained professionals who know how to achieve it. We trust that the board monitors and evaluates the performance of the organization and of the superintendent. We trust that the board and its members will hold themselves accountable to one another and to the community of the people they were elected or appointed to serve and represent.

Mainly, we trust that members of the board can find ways to work together. We trust that despite personal or pedagogical or philosophical differences, they will work maturely and civilly to meet the needs and hopes of all students in the district. And, we trust that they will have the skills to discuss, argue, and represent their individual points of view but ultimately vote and move forward as a democratic body to serve a diverse citizenry that expects a reasonable return on its investment.

Can school boards live up to these expectations? Is it reasonable to expect that public school boards should be made up of board members who are committed to creating an ethical culture and building the public's trust and support?

The expectations may be reasonable, but experience suggests we are far from achieving it. In our work with school boards nationwide, we are encountering with increasing and alarming frequency the rebel board member who chooses not to act for the public good, opting instead to promote a private agenda or advance the demands of a special interest.

Even more alarming is the trend for fellow board members to tolerate one member's unethical and self-righteous behavior. It is amazing how much power a single member can wield over an entire board—even when the others do not share the same views and tactics. These board members usually march to a different drummer—and they have found that they can make the entire board march to their drummer, too.

These mavericks may be a small percentage of any board, but they become a tyranny of the minority, forcing their will on the majority. They constitute a powerfully destructive force that is handicapping, if not destroying, effective board work. The result is a climate of public mistrust—not only of school boards but of public education at large.

## **Behaviors That Erode the Public's Trust**

Most school boards are made up of good people who want to make a positive difference in the districts they serve. But we have seen good board members who allow themselves to be completely taken over by one individual who refuses to be a functioning member of the board. In their effort to be “nice” to each other, they allow behaviors they know to be destructive to the board and the district to continue unchecked.

They permit a single member to dictate what they will and will not spend their time doing, to limit or delay significant actions that need to be taken, to direct major staff activities without board authorization, and to take over agendas with unrelated and irrelevant motions and comments. They leave unchallenged public comments that are demeaning to the staff and other members of the board.

Consider the following real-life scenarios that we have observed over the past few years:

### **Case Study A: The Queen Syndrome**

Sandra has come on the board to take charge of operations. The professionals can educate, but they can't possibly operate a multimillion-dollar enterprise without her tenacious vigilance. In her opinion, this lackadaisical board needs a watchdog to make sure buildings are built on time and without change orders. Finances must be scrutinized and every line item explained. Vendor complaints of injustice in the contracting process must be examined and reexamined.

At board meetings, Sandra takes advantage of every opportunity to put staff members in the hot seat with remarks that start, “Can you explain...?” “How could you let...?” or “Do you mean to tell me...?”

She garners increasing public attention with her veiled and unveiled innuendos and accusations. She likes the notoriety. She dismissed the idea of the superintendent ever appearing on television or at political or social events. “That’s the board’s role,” Sandra declares.

Through careful politicking, Sandra has recently been named board vice chair. She is working to defeat her board colleagues who are running for reelection and is increasingly revved up, trying to flex her muscles over all board decisions.

The superintendent and staff are stressed, trying to focus time and energy on their main job of educating the students and operating the district effectively. The board is worn down and worn out.

## **Case Study B: The Champion Syndrome**

Milt delivers. He sees himself as the lone voice for the special-interest groups and individuals in the community. Since that is Milt's primary reason for serving on the board, all other concerns come second. His job is to fight at the table for special consideration and then to deliver promises.

He questions the integrity of the other board members. He accuses them of not understanding or caring about "his" constituents. He enjoys offering evidence to refute every recommendation the superintendent makes and even writes lengthy counter-comments on the superintendent's weekly newsletter to the board. The confidentiality of executive sessions has little or no application to him—his responsibility is to his constituents.

Milt views facts as mere points to be manipulated and staff members as people who are meant to be distrusted. He accepts efforts to bridge misunderstandings and find common ground only for the night of the retreat—with the daylight comes renewed vigor and commitment to fight.

The superintendent has had a long and honored career, but the idea of leaving before his contract is up is beginning to look attractive. Senior staff members are frustrated and question why the other board members fail to confront this destructiveness. The local paper has an unending source for new stories that question the competence of board and staff members alike. And, discontent is growing among diverse factions of the community

## **Case Study C: The Keeper-of-All-Knowledge Syndrome**

Thomas is a native of the community who takes great pride in serving his hometown. He considers it his rightful role to be the repository of all information about district dealings. Every hiring, extension of tenure, curriculum decision, and building project must be scrutinized through laborious committee and board processes to satisfy his hunger for facts and figures.

Thomas needs to know everything, every detail—right now. Otherwise, he complains, "How am I supposed to answer questions when I get phone calls?" Or he says, "I can't look stupid and say I don't know. It's my job to know—my constituents believe we have the answers to any concern they have."

The highest sin, in his view, is not being informed before everyone else is. "I heard about this incident on the television, not from you," he fumes at the superintendent. "Your job is to keep us informed!"

The superintendent and senior staff members labor to get information to the board members in a timely fashion. But, some decisions seem to be clearly within the purview of the staff, with the board informed after the fact. For some operational decisions, it doesn't occur to staff members that the board would even care.

But Thomas cares. He punctuates board meetings with comments like, “I wish we had known,” or “Once again, we have failed to be informed.” Staff members look forward to board meetings with all the enthusiasm of awaiting a root canal—they never know when Thomas will inflict a public tongue-lashing, chastising them for their “purposeful intent to keep the board in the dark.”

## **Improving Board Culture**

We could continue with other examples, and you can no doubt add your own. In the face of these kinds of behaviors, how can a high-profile board address its own culture, its own commitment to ethical behavior, its vested trusteeship to build broad community trust and support for its school system? We have several suggestions:

1. **Resolve to govern as a body, not as individuals.** Board members should represent their individual perspectives and rigorously deliberate issues at the board table, but they must resolve to act as a single entity through the most powerful tool in a democracy: the vote.

This commitment should be written in policy, and it should be self-monitored routinely by the board to ensure full compliance. Then the board majority must faithfully practice the commitment. A single board member should never be allowed to override the whole to dictate the actions, the timing, the agenda, or any other aspect of the board’s or the staff’s operations.

2. **Develop a board member code of conduct.** The code, which should be adopted as board policy, should articulate written values by which the board will responsibly self-govern. Once adopted, the policy should be routinely monitored for compliance by all members.

Whenever new members come on board, the code of conduct should be reviewed for understanding and reaffirmation. Members should be expected to comply with the agreed upon code, without exception. If a member fails to comply, the board has reason and responsibility to privately and even publicly question the behavior as a violation of board policy. Individual situations must be dealt with, no matter how difficult that is. The board expects the superintendent to deal with policy violations by members of the school staff; the board must be equally diligent in confronting violations that fall in its area of responsibility.

3. **Ensure that individual points of view are heard.** Encourage rigorous floor debate and deliberation to explore conflicts and perspectives. This is demanded by our democratic society. But once a vote is taken, every members should accept the majority vote to provide clarity of direction to staff and the community.
4. **Encourage rigorous and frank dialogue with the public.** As a board, explore significant issues in public forums and other representative groups. Such dialogue gives board members the perspective they need to govern clearly on behalf of the diverse

community they serve. It also exposes the narrow agendas promoted by board members who seek to represent only a small fraction of the broader public.

5. **Don't ignore bad behavior.** If your board has a rogue member, the first step is to make every reasonable effort to encourage that member to work with the group in a contributing manner. This could mean conversations initiated by the president or other members, discussions with the full board, facilitated retreats to get to the root of the behavior, and any other reasonable attempt to establish full understanding of board behavioral expectations.
6. **Consider public censure.** Continuing and willful violation of the board's code of conduct challenges the board to take further steps. This requires soul-searching, courage, and determination to be an ethical board working for the benefit of the entire community. After pursuing logical and reasonable attempts to address and mitigate destructive behaviors, the only avenue left might be public censure—that is, a public statement that the board has chosen to publicly separate itself from the destructive member.

This is not an easy choice to make. Certainly, the board will want to exhaust every other option first. But, failure to act allows the misery to go without challenge and the damage to remain unchecked and unchallenged, thereby signaling to staff and community that this board cannot responsibly govern itself—let alone govern the organization.

7. **Reaffirm the board's role in relation to the staff.** The staff cannot work to achieve defined goals for students if individual board members direct the staff's work. The board must reaffirm to the superintendent and staff that they are not to perform any work directed by a single board member. If such demands or requests are made, they should be referred by staff to the superintendent and by the superintendent to the full board for disposition by the majority.
8. **Be strategic and speak the truth.** Because some boards value unity and civility at any cost, they too often succumb to the temptation to allow renegade, political, undermining behaviors to go unchecked. Some board members even refuse to speak out truthfully when they are being attacked or challenged or when campaigns are run against them.

Who benefits from not confronting maverick board members? Certainly not the board. At the board table or when responding to news queries or meetings with small groups of citizens or staff, speak the truth without rancor. "My colleague knows exactly what happened," you might say, "and I challenge him to speak the truth about this issue in the context of our mission and purpose here of governing a system to educate children."

9. **Recruit citizens of high ethics and integrity to serve on the board.** Target people who want to work with a board made up of members who value good governance, people who care about the district as a whole and not their own self-promotion. Make sure your school system has a legacy of good governance by people who have demonstrated the ability to express ethics and integrity not only in theory or talk, but also in how they live their lives.

## The Will to Act

Our democracy and the school boards that are a manifestation of it need clear, consistent, value-centered leaders who are unafraid to confront rogue board members. When these mavericks' destructive behavior is allowed to continue, the result is erosion of public trust in public education. Progress is slowed by poor morale and fear. Good staff members and leaders leave, and it becomes difficult to attract good people to replace them. The community suffers the image of a toxic system that is unable to govern, lead, or educate. This is happening in districts across the country.

No one can tell a school board when enough is enough; the board must decide that for itself. When board members realize they are being dominated and hindered by a single member, when it becomes apparent that one member is compromising the effectiveness of the board and the district, it is time to act.

We hope that your board has not fallen victim to this situation. It is not a pleasant, constructive, or wholesome environment in which to govern a district. But if you find yourself there, our best advice is this: Don't allow bad behavior to go unchallenged for the sake of temporary peace and harmony. In the long term, the cost of doing nothing is far too great.

### BOARDS BEHAVING BADLY

Consider the following checklist of destructive board member behaviors. Be honest: Have you ever fallen into any of them yourself?

Passive-aggressive behavior, including refusal to participate during meetings, but openly criticizing the board's decision afterwards.

Dominating meetings by talking too much, intimidating other members, and shutting them up through bullying and ridicule.

Publicly criticizing the board or the superintendent with the intent of promoting yourself and undermining public confidence in colleagues.

Refusing to participate in board development, choosing instead to revel in "lone wolf" notoriety.

Circumventing the superintendent to give directives to the staff.

Trying to "fix things" for your constituents rather than referring problems to the district for a systemic fix.

Declaring your First Amendment right to say and do as you please, without regard for the responsibility you have assumed as a member of the board to work for the whole.

Often, the individuals who manifest these behaviors are bright people who are accomplished in some field and gifted with a measure of ability that, if used properly, could reap enormous benefit for the board and district. Instead, they choose to strike out on their own and refuse to engage as constructive members of the board.

-Linda J. Dawson and Randy Quinn

## **Ten Ways to Help Your Superintendent Fail**

1. Make sure you don't call your superintendent ahead of time to ask for information on an issue you want to discuss at the board meeting. It will only give your superintendent time to organize his/her thoughts and produce documents. Make it clear that he/she should be able to read your mind by waiting until the meeting to scream at him/her in public. This will reinforce the necessity of predicting your every thought and need.
2. Whenever your superintendent is involved in negotiation, litigation, or another legal matter, be sure to make your own thorough investigation into the situation by calling any and all parties who may have information, even if it should jeopardize the school board's case.
3. Make sure you know exactly when your superintendent is not in the office. It will impress him/her to know that you are keeping track of his/her time during the day, even if you do not acknowledge the hours spent in the evening doing district work.
4. Explain everything to your superintendent. Be sure to supply him/her with names, telephone numbers, and procedures to follow. Do not assume that your superintendent knows anything or can gather information on his/her own from the state education department or local authorities.
5. Should you be particularly opposed to one of your superintendent's recommendations, spend a great deal of time during the board meeting raising your voice to repeatedly expound on your reasons for opposing the recommendation. If other board members don't provide you with support, scream louder and longer so that it will appear as if the whole board is opposed to the plan. Even if when the vote is taken you find yourself in the minority, continue to raise the points of your opinion frequently throughout the remainder of the meeting in order to solidify in your superintendent's mind your position so that he/she won't recommend such plans in the future.
6. Encourage parents and other community members to call you frequently to keep you informed of their gripes and problems with the district. By bringing it directly to the superintendent's level, you eliminate all the middlemen, which will enhance your political influence. Your superintendent, although he/she may appear to be disturbed at your attempt to cut into the chain of command, will no doubt appreciate your interest in every problem the district is facing and will be impressed with your power.
7. Whenever possible, request special privileges within the school system for your own child. Whether it be a request for a preferred teacher, admission to an overenrolled school program or other special treatment, remember that because you don't get paid for serving the public as a board member, you are entitled to certain perks associated with your position. The same principle holds true for any of your other family members who



may be employed by the school district or even your more distant relatives who may require your assistance.

8. If you wish to see a certain program or activity adopted by your district, go directly to the teacher or principal who would have responsibility for the desired change. Forget the outdated rule that maintains the superintendent works for the board and that all other employees work for the superintendent. It is really none of his/her business if you wish to use your influence to make a change within the system. It is fun to watch the surprised look on your superintendent's face when he/she has been totally circumvented by your actions.
9. Any time you hear a rumor, receive an anonymous letter, or read something in the newspaper, always assume that it is true. Make clear and unequivocal allegations in public at the next board meeting so that everyone will know you are up on things. Keep your sources to yourself lest you give up your valuable contacts for future information. Insist that your superintendent act on your information without the benefit of defending anything he/she may know to be true. Remember, to put everything through the chain of command serves only to make your superintendent and district look good.
10. Speak directly to the media. Encourage every board member to state his/her personal opinion about district issues to newspaper, radio, and television reporters. This avenue provides exposure for you in future election campaigns, as well as raises your visibility and your constituents' awareness of the time and effort you put into your role as a trustee. Don't worry that your superintendent would like to have everything related to district public relations go through one channel. After all, as an elected official, you can do your own thing whenever you want and however you wish.

## **Ten Ways for Superintendents to Help School Boards Fail**

1. Keep from your board the information it needs to make decisions, or share it sparingly with only individual board members who ask for information outside board meetings. This will assure that you are in control of the dispersal of all meeting-related information and will most certainly result in confused and possibly chaotic board meetings. Don't welcome individual communications with board members who need to learn more about their roles and responsibilities. Also be sure to prevent such board members from participating in development activities which might improve their performance as members of the board-superintendent team.
2. When the board is involved in negotiation, litigation, or other legal matters, talk freely with board members, citizens, and the media about the details, being particularly careless about sharing your personal opinions and biases. That should not only achieve your goal of jeopardizing the board's position, but also hasten your departure as the board's chief advisor.
3. Make sure your board doesn't know when you're in the office. You will be spared much hardship and stress if they think, with the creative help of your secretary, that you are always incredibly busy. But you will also need to help yourself by constantly reminding the board that you don't have time to do everything because you're always "out straight" and that "There just aren't enough hours in the day." If that isn't sufficient, try "I'm up to my hips in alligators!" or "There just isn't enough of me to go around."—or everybody's favorite, "This is such a thankless job."
4. Explain nothing to your board. After all they are literate adults and should be able to fend for themselves as they wrestle with the legal complexities of their roles. Assume that the less they know the better, and that if they must know, then they will have to come to you reluctantly for the answers they seek. Of course they will not know who else to go to because you've led them to believe that all information rests with you. Why else would you have guarded it so doggedly?
5. Should you be particularly opposed to one of your board's decisions, spend a great deal of time sulking, lecturing to them, and explaining why they were wrong, and particularly why you were right. The board will be very pleased if you do this in public and if you pursue your dissatisfaction for several weeks, while speaking to local service groups, the media, staff, and friends.
6. Encourage your board not to communicate in any way with parents and other citizens. This will not only serve to help the public understand that board members are public officials they should respect and fear, it will also assure that they understand clearly that the schools their children attend are mysteriously beyond their comprehension.

7. Whenever politically beneficial, grant special favors to important and influential members of the community, to board members you favor, and to certain staff members. If you are really skilled in this regard, you can also extend such favors and privileges to community groups, organizations, and businesses. Remember, you are in a position of great power, and there is almost no limit to how much good you can do in the community—and there may in turn be personal rewards for you.
8. If you wish to recommend that the board adopt a certain program or activity, present it directly to the board without the assistance of other professional staff who know more than you do and who would be able to answer the board's questions. It is better that the board have as little information as possible about the program or activity. Their ignorance will assure that they will not have enough knowledge to ask further questions. Your goal is simply to get a favorable majority vote, no matter how many puzzled looks board members give you. Don't be intimidated by their need for more information. After all, such information might jeopardize your recommendation.
9. Any time you hear negative criticism about the schools, always assume that it is false and reinforce that assumption by not making objective inquiries. That will endear you to the staff and make it clear to board members that everything in the schools is under control and that you wouldn't have it any other way. Take every opportunity to dispel such criticism publicly. That will demonstrate that you are in charge and that you will not tolerate anyone who attempts to tarnish the image of the schools under your jurisdiction.
10. Make sure that you are the only board spokesperson when dealing with the media. Keep the board from interpreting its actions or explaining its disagreements (if any) to the community. The public's interest in their schools will pass when they learn that board members are discouraged from expressing themselves publicly. If you are successful in this endeavor, the community will not know who represents them, and they will feel secure knowing that the superintendent is always there to talk at them.

# APPENDIX

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## Duties and Responsibilities of the State Board of Education

- A. **STATE BOARD DEFINED** - The State Board of Education is a body established by law with certain policy making, administrative, and advisory functions. It is comprised of nine members appointed by the Governor, subject to approval by the Legislature, and is representative of the public and regions of the state. Each member serves a term of five years (5 MRSA § 12004-C, 20-A MRSA § 401-405).
- B. **ROLE OF THE STATE BOARD IN THE APPOINTMENT OF THE COMMISSIONER** - The Governor shall include the chair of the State Board of Education in the Commissioner selection process and shall ensure that the State Board has an opportunity to meet and interview the candidate(s). Within 10 days of meeting with the candidate(s), the State Board shall deliver to the Governor its written appraisal of the strengths and weaknesses of those interviewed. The Governor shall consider the appraisal of the State Board prior to posting a nomination (20-A MRSA § 251).
- C. **RECORDS** - The State Board shall keep in the office of the Commissioner a complete record of the minutes of its meetings and other procedures (20-A MRSA § 404).
- D. **SCHOOL ADMINISTRATIVE UNITS**
1. Reapportionment - The Commissioner shall determine if a District is apportioned in accordance with one person, one vote when he/she receives a request from the Board of Directors, when he/she receives a petition signed by 10% of the voters who voted in the last gubernatorial election, or if he/she determines that a District is not apportioned according to the principles of one person, one vote. If the Commissioner finds the district's representation is not so apportioned, he/she shall notify the municipal officers in each municipality and the school board to create a reapportionment committee. The Commissioner shall then approve or disapprove the committee plan within 30 days of receiving it (20-A MRSA § 1255).
  2. Interstate School Districts - The State Board shall act on articles of agreement for creation of an interstate school district (20-A MRSA §§ 405, 3610).
- E. **CAREER-TECHNICAL EDUCATION**
- Career-Technical Centers and Regions - The State Board shall develop and adopt a plan for the establishment of career-technical centers and regions and act upon applications to alter the delivery of career-technical education within career-technical regions and center areas (20-A MRSA § 405).
- F. **SCHOOL FINANCE**
1. Adjust Subsidies - The State Board shall adjust the subsidy to a school administrative unit when the expenditures for education in the unit show evidence of manipulation to gain unfair advantage or are adjudged excessive (20-A MRSA § 405).
  2. Recommend Funds - The State Board shall recommend funds to the Bureau of the Budget for equalization of educational opportunity (20-A MRSA § 405).

G. SCHOOL CONSTRUCTION

1. Standards - The State Board shall adopt or amend rules on standards for school construction (20-A MRSA § 405).
2. Projects - The State Board shall approve projects for state construction aid (20-A MRSA § 405).

H. SCHOOL APPROVAL

1. Rules - The State Board shall adopt or amend rules on requirements for approval and accreditation of elementary and secondary schools (20-A MRSA § 405).
2. Isolated Schools - The State Board shall approve isolated secondary schools (20-A MRSA § 405).

I. PERSONNEL

1. Certification - The State Board shall establish standards for certification of teachers (20-A MRSA § 405).

J. OTHER

1. Degrees - The State Board shall obtain information regarding applications for granting degrees and make a recommendation to the legislature (20-A MRSA § 405).
2. Recommendations - The State Board shall make recommendations to the legislature for the efficient conduct of the public schools (20-A MRSA § 405).

## Duties and Responsibilities of the Commissioner of Education

- A. COMMISSIONER DEFINED - “Commissioner” means the Commissioner of Education or the Commissioner’s designee (20-A MRSA § 1).
- B. APPOINTMENT - The Commissioner shall be appointed by the Governor, subject to review by the joint standing committee of the legislature having jurisdiction over education and to confirmation by the legislature. The Governor shall include the chair of the State Board of Education in the selection process and shall ensure that the State Board has the opportunity to meet and interview the candidate(s). Within 10 days of meeting with the candidate(s), the State Board shall deliver to the Governor its written appraisal of the strengths and weaknesses of the candidate(s). The Governor shall consider the appraisal of the State Board prior to posting the nomination (20-A MRSA § 251).
- C. GENERAL SUPERVISION - The Commissioner shall exercise the powers, enforce the requirements, and perform the duties granted to the Department by the legislature. The Commissioner may inspect and have general supervision over all public schools and may advise and direct superintendents and school boards in the discharge of their duties by circular letters and personal conferences (20-A MRSA §§ 253, 254).
- D. APPROVALS
1. Private Schools - Private schools may be approved for attendance purposes by the Department if they provide instruction in the basic curriculum established by the Commissioner (20-A MRSA § 2902). The Commissioner may remove basic approval from any private school for failure to meet applicable approval requirements (20-A MRSA § 2904).
  2. Inspections - The Commissioner shall inspect a school or schools in a school administrative unit and report the findings and recommendations to the school board, addressing the concerns of the petition in light of applicable school approval standards, when petitioned by 60% of the parents of the children in one school, when requested by the school board or superintendent, or when petitioned by 20% of the registered voters of the unit. The Commissioner shall periodically review all public schools and private schools which receive public funds to determine their compliance with applicable statutes (20-A MRSA § 258-A).
- E. SUPERINTENDENTS
1. Furnish Forms - The Commissioner shall prepare and print forms for all returns required by law or deemed necessary by the Commissioner, and on March 1 and May 1, will forward forms for the annual student counts to all superintendents (20-A MRSA § 255).
  2. Conference - Annually the Commissioner shall hold a conference for the instruction of superintendents (20-A MRSA § 254).
  3. Service Outside of Unit - The Commissioner’s approval along with the consent of the school board is required for the superintendent to perform educational service outside of the supervisory unit (20-A MRSA § 1055).
  4. Discharge of Superintendent - The Commissioner shall hold a hearing when a discharged superintendent appeals the board’s decision (20-A MRSA § 1052).

F. STAFF

1. In-service Education - The Commissioner shall encourage in-service education and staff development for teachers in cooperation with school officers (20-A MRSA § 254).
2. Appointment of Supervisors - The Commissioner may appoint supervisors to assist and direct elementary and secondary teachers to work with school officers and school boards on request and to perform other duties in the field of education (20-A MRSA § 253).
3. Nominations - In case the superintendent of schools and the school board fail to legally elect a teacher, the Commissioner shall have the authority to appoint a substitute teacher who shall serve until election is made (20-A MRSA § 13201).
4. Certification - In accordance with rules adopted by the State Board, the Commissioner shall certify all teachers in public elementary and secondary schools and in private schools receiving basic approval (20-A MRSA § 13003).
5. Reinstatement of Certificate - In determining whether a certificate which has been revoked for reasons of child abuse or exploitation may be reinstated, the Commissioner shall determine whether the applicant has been sufficiently rehabilitated to warrant the public trust. The Commissioner shall state in writing the basis for any decision which denies reinstatement of a certificate (20-A MRSA § 13020).

G. STUDENTS

1. High School Equivalency Certificates - The Commissioner shall issue high school equivalency certificates to residents of the state who are at least 18 years of age (or who are 17 years of age and have a documented, immediate need and written approval of the superintendent), who have not been in attendance for at least a year, who have completed an approved formal training program, and who demonstrate having attained a general educational development comparable to that of secondary school graduates (20-A MRSA § 257).
2. Transportation or Board - The Commissioner shall reimburse a school administrative unit for approved board of students who reside on state-owned property located in towns of less than 100 residents (20-A MRSA § 5601).
3. Children on Government Reservations - The Commissioner may make special arrangements to provide elementary school privileges in cooperation with the federal government for children residing with a parent or legal guardian at a light station, fog warning station, lifesaving station, or other places within a United States government reservation (20-A MRSA § 3255).
4. Exceptional Children - The Commissioner shall provide, or cause to be provided, all supportive assistance and services (as defined in rules the Commissioner establishes) required by a student with a disability so that the student may benefit from equal educational opportunities. The Commissioner shall also make and annually review a State Plan for Education of All Students With Disabilities in the state. This Plan shall be available to the public on request.

The Commissioner may also approve special education programs for the usual public school year, an extended school year, or other periods the Commissioner deems appropriate.

On the request of a school administrative unit, the Commissioner may provide technical assistance in the formulation of a plan or subsequent report required of all administrative units (20-A MRSA § 7204).



5. Medication - The Commissioner shall adopt or amend rules for the administration of medication in public or approved private schools, including the training of unlicensed personnel to administer medication. Board policy must include the requirement that all unlicensed personnel who administer medication must receive training before being authorized to do so (20-A MRSA § 254(5)).
- H. STATEWIDE STANDARDS FOR BEHAVIOR - In consultation with organizations representing school boards, school administrators, teachers, parents, and their interested local officials and community members, the Commissioner shall develop statewide standards for responsible and ethical student behavior. The standards must require annual reporting of incidents of violent and harmful behavior by or against students to the Department by school administrative units (20-A MRSA § 254 (11)).
- I. RESPONSE TO SCHOOL BOMB THREATS - The Commissioner, in consultation with state and local emergency services officials and representatives of school personnel and school board members, shall develop prototypical guidelines, policies, and protocols for school administrative units to present to their communities when these communities are considering implementing local policies that concern prevention of and response to school bomb threats (20-A MRSA § 263(1)).
- J. STATEWIDE STANDARDS FOR REINTEGRATION PLANNING - In consultation with juvenile correctional officials, juvenile community corrections officers, organizations representing school boards, school administrators, teachers and parents, and other interested local officials and community members, the Commissioner shall develop a program of technical assistance and establish statewide standards for reintegration planning and transition services for juvenile offenders who are discharged from juvenile correctional facilities in the State who have been enrolled in educational programs or schools for juveniles located in or operated by correctional facilities and who are transferring to schools located within local school administrative units in the State (20-A MRSA § 254(12)).
- K. SCHOOL CONSTRUCTION - If it appears to the Commissioner that a school construction project has not been completed in conformity with the approved plans and specifications, the Commissioner may cause an inspection of the project to be made. The Commissioner shall notify the building committee of the findings of the investigation and of any changes required (20-A MRSA § 15903).
- L. SCHOOL FINANCE
  1. Subsidy Payments - The Commissioner may withhold monthly subsidy payments from a school administrative unit when information is not filed in specified format and content and within specified time schedules (20-A MRSA § 15689-B).
  2. Funding Levels - Prior to December 15 of each year, the Commissioner, with the approval of the State Board, shall certify to the Governor and the Bureau of the Budget the funding levels which the Commissioner recommends (20-A MRSA § 15689-C).
- M. DEPARTMENT OF EDUCATION
  1. General Duties - The Commissioner shall exercise the powers and perform the duties granted to the Department, enforce the requirements of this Title, and shall devote full time to the duties of the office (20-A MRSA § 253).
  2. Hiring - The Commissioner may hire personnel deemed necessary to fulfill the duties of the Department (20-A MRSA § 253).

3. Delegation - The Commissioner may authorize a designee to carry out the assigned duties (20-A MRSA § 253).
4. Specific Duties
  - a. Budget - The Commissioner shall coordinate, consolidate, and prepare a budget for the Department (20-A MRSA § 253).
  - b. Personnel - The Commissioner may transfer personnel within the Department to ensure their efficient utilization (20-A MRSA § 253).
  - c. Equipment - The Commissioner shall coordinate the purchase and use of all Department equipment (20-A MRSA § 253).
  - d. Review - The Commissioner shall review the function and operation of the Department to ensure that overlapping functions and operations are eliminated (20-A MRSA § 253).

N. OTHER

1. Vocational Education Programs - The Commissioner may contract with a private school for the conduct of vocational courses and reimburse private schools for part of the cost of conducting approved vocational courses (20-A MRSA § 254).
2. Pamphlet of Laws - The Commissioner shall compile the amended school laws of the State and distribute them to municipal and school officers (20-A MRSA § 255).
3. Information - The Commissioner shall obtain information on school systems in this State and other states and shall disseminate this information by outlines, suggestions, and directions concerning the management, discipline, and methods employed in teaching (20-A MRSA § 255).
4. Maintain Records - The Commissioner shall preserve all school reports of this State and of other states which the Commissioner may receive, the returns from the various municipalities and institutions of learning, and books, apparatus, maps, charts, works on education, plans for school buildings, models, and other articles of interest to school officers and teachers as may be obtained without expense to the State (20-A MRSA § 255).
5. Report to the Governor and Legislature - The Commissioner shall prepare and deliver to the Governor and legislature an Annual Report on the Status of Public Education in the state (20-A MRSA § 256).
6. Gift-established Schools - The Commissioner shall assume the control and management of all public schools established and maintained by gifts or bequests when the gifts or bequests are conditioned on the Commissioner assuming that control and management (20-A MRSA § 256).

MAINE SCHOOL BOARDS ASSOCIATION  
49 Community Drive, Augusta, Maine 04330

## Constitution and Bylaws

### CONSTITUTION

#### - PREAMBLE -

Recognizing that the nation's future is dependent upon the effective education of its youth; that school boards bear a significant responsibility to bring about needed improvement in public education; that an exchange of ideas is important at all times; that coordination of effort on the part of all educational interests is necessary; we believe that a strong state organization of Maine school board members will aid in accomplishing these goals.

#### ARTICLE I NAME AND DEFINITION

Section 1. Name - The name of this organization shall be the Maine School Boards Association.

Section 2. Definition - For the purposes of this Constitution and its Bylaws enacted hereunder, the term "School Board" shall be interpreted to mean School Committees, Boards of Directors, District School Committees, or any other group legally established to govern the local school administrative unit.

#### ARTICLE II PURPOSES

Purposes - The purposes of this Association shall be:

- (a) to serve and represent the School Boards comprising the Association,
- (b) to promote and maintain local control of public schools,
- (c) to promote closer cooperation among the individual School Boards,
- (d) to represent the combined interests of School Boards in the legislative process,
- (e) to cooperate with other agencies in the State interested in the improvement of public education,
- (f) to provide information for School Boards and the general public about the needs and the accomplishments of the public schools, and
- (g) to sponsor, develop, and encourage those projects and programs that promote better public education in Maine.

### ARTICLE III MEMBERSHIP

Classes - There shall be four classes of membership in the Association:

(a) Active Regular Membership

All School Boards in Maine are eligible, and shall be considered active regular members upon payment of dues as required by the Bylaws. This membership allows voting privileges and formal involvement in the Association's policy development and adoption process.

(b) Associate Membership

Vocational Regions - Any cooperative board of a vocational region shall be considered an associate member upon payment of dues as required by the Bylaws. This membership, although not considered a School Board as defined in Article I, Section 2, allows voting privileges at the Annual Delegate Assembly.

State and Private Schools - State-operated schools, private schools, or other formally organized school supervisory entities not considered School Boards as defined in Article I, Section 2, shall be considered associate members upon payment of dues as required by the Bylaws. This membership shall not allow voting rights, nor shall it entitle the member to labor relations and legal services.

Municipalities - Municipalities or quasi-municipal corporations shall be considered associate members upon payment of dues as required by the Bylaws. This membership shall not allow voting rights, nor shall it entitle the member to labor relations and legal services.

(c) Individual Membership

Any individual School Board person shall be considered an individual member, without voting privileges, upon payment of dues as required by the Bylaws.

(d) Honorary Individual Membership

This honor may be conferred by the Delegate Assembly, when so recommended by the Executive Board of Directors, upon individuals who have rendered outstanding service to public education.

### ARTICLE IV OFFICERS

Section 1. Officers - The officers of the Association shall be a President, 1st Vice-President, and 2nd Vice-President.

Section 2. Elections - The President, 1st Vice-President, and 2nd Vice-President shall be elected at the annual meeting of the Delegate Assembly for a term of one year.

Section 3. Duties

(a) The President shall preside at all meetings of the Executive Board of Directors and of the

Association. The President shall perform all duties specified in this Constitution, as well as such duties as usually pertain to the office of President.

- (b) The Vice-Presidents shall render the President assistance as needed in carrying out the work of the Association. In cases of absence or disability of the President, the 1st Vice-President shall serve in that capacity, and in cases of absence or disability of the 1st Vice-President, the 2nd Vice-President shall serve in that capacity.

## ARTICLE V

### EXECUTIVE BOARD OF DIRECTORS

#### Section 1. Members

- (a) The Executive Board of Directors shall consist of the three (3) officers of the Association, one member from each of the nine (9) regions selected according to Section 2 (a) under this Article, six (6) members-at-large and, ex officio, the immediate Past President of this Association.
- (b) Not more than three officers and/or directors shall be members of School Boards in any one MSBA region, and only one member of an active regular member School Board shall be eligible to serve on the Board of Directors.
- (c) The term of office shall be for three (3) years except in the case of the election to fill a vacancy in which case the term shall be for the unexpired portion of the term to be filled.
- (d) If, during the term of his/her office, a Director ceases to be a member of his/her School Board, or his/her School Board ceases to be a member of the Maine School Boards Association, he/she may serve until the next annual meeting of the Delegate Assembly, at which time a replacement shall be elected.
- (e) A Director who is absent for two (2) consecutive Executive Board meetings without cause or reason as determined by the Executive Board of Directors, shall be considered disinterested in the work of the Association, whereupon the Executive Board of Directors shall declare that a vacancy exists and notify that Director.

#### Section 2. Elections and Vacancies

- (a) Directors shall be elected according to (b), (c), and (e) of this Section.
- (b) Three of the nine regional Directors shall be elected for terms of three (3) years each, either at regional meetings held prior to the annual meeting, or at the annual meeting.
- (c) Two of the six Directors, who are members-at-large, shall be elected at the annual meeting for terms of three (3) years each.
- (d) Vacancies on the Executive Board of Directors shall be filled by the President, with the approval of the Executive Board of Directors. Those Directors appointed by the President shall serve until the next annual meeting of the Delegate Assembly at which time new Directors shall be elected to fill the unexpired terms.

- (e) At-large Directors, and those regional Directors not elected at regional meetings at least thirty (30) days prior to the annual meeting, shall be elected by ballot at the annual meeting.

Section 3. Duties - The Executive Board of Directors is the governing body of this Association and all voting power is reserved to it except as otherwise provided in this Constitution. The Executive Board of Directors shall:

- (a) meet at least six (6) times annually at the call of the President and at such other times as may be designated by the President or requested in writing by three Directors,
- (b) propose and initiate programs and activities that are in harmony with the adopted policies of the Association,
- (c) transact business of the Association between meetings of the Assembly,
- (d) act as the policy-making body of the Association,
- (e) in the event of dissolution of the Maine School Management Association, appoint and set the salary of the Executive Director, and receive, disburse, and account for all funds of the Association through the Executive Director, and
- (f) assign the duties of the Executive Director which include the keeping of the records of the Association and of the Executive Board of Directors, and direct the activities of the Association according to adopted Association policies.

Section 4. Voting - Each member of the Executive Board of Directors shall be eligible to vote.

Section 5. Quorum - At any meeting of the Executive Board of Directors, the attendance of seven (7) members shall constitute a quorum.

## ARTICLE VI COMMITTEES

Section 1. Standing - The Constitution and Bylaws, Nominating, and Resolutions Committees, and the MSMA Policy Committee shall be the standing committees of this Association.

Section 2. Ad Hoc - Special committees may be authorized by the Executive Board of Directors for specific purposes.

Section 3. Membership - Members of committees shall be nominated by the President and approved by the Executive Board of Directors, with the exception of the Nominating Committee and the MSMA Policy Committee which will be chosen by the Executive Board of Directors.

Section 4. Policy Committee - The five-member Policy Committee of the Maine School Management Association shall consist of the President and First Vice-President of the Maine School Boards Association, and three members nominated and elected by and from the Executive Board of Directors. The Executive Board of Directors of the Maine School Boards Association shall be empowered to fill any and all vacancies of the Policy Committee of the Maine School Management Association. The term of a Policy Committee member will begin immediately following the MSBA Annual Meeting and will expire at the conclusion of the MSBA Annual Meeting in the third year thereafter. The Policy Committee shall elect and set the salary of the Executive Director of the Maine School Management Association who shall also serve as the Executive

Director of the Maine School Boards Association. In the eventuality of the dissolution of the Maine School Management Association, the Policy Committee shall cease to exist.

Section 5. Nominating Committee/Nominations

- (a) The Nominating Committee shall solicit nominations for Director vacancies to be filled at the annual meeting from member School Boards. The Committee shall prepare a written ballot containing nominations for the Officers and Directors to be elected at the annual meeting. In the case of regional Director nominations, the member School Boards filing such nominations shall be located within the region in question. The Nominating Committee shall make provision in the ballot for write-in voting for Directors and shall oversee the voting at the annual meeting.
- (b) Director Nominations - Nominations for regional and at-large Directors may be made in advance of the annual meeting by the filing of written statements by at least two member School Boards submitted at least thirty (30) days prior to the annual meeting. Nominations from the floor may be made and seconded by member School Board delegates in accordance with the requirements of this Section.
- (c) Officer Nominations
  - 1) Officer candidates must have completed at least one year on the MSBA Executive Board of Directors by the time of their election.
  - 2) Candidates who wish to be nominated by the Nominating Committee must submit an application by the deadline set by the Committee.
  - 3) Persons not nominated by the Committee, who wish to be candidates, must submit an official, written endorsement of their candidacy from two MSBA-member boards by the deadline set by the Nominating Committee.
  - 4) All officer candidates will be permitted to submit a written statement of no more than 150 words, to be circulated prior to the Delegate Assembly. The format/content of the statement is to be outlined by the Nominating Committee.
  - 5) No nominations from the floor or write-in candidates will be permitted for officer positions.

ARTICLE VII  
MEETINGS OF ASSOCIATION

Section 1. Annual - There shall be an annual meeting of the Assembly. All plans and arrangements for the meeting of the Assembly shall be the responsibility of the Executive Board of Directors.

Section 2. Special - Special meetings of the Assembly may be called by the President, and shall be called by the President upon the written request of six (6) members of the Executive Board of Directors.

Section 3. Quorum - Fifteen (15) delegates or their alternates present at the Assembly shall constitute a quorum.

ARTICLE VIII  
THE DELEGATE ASSEMBLY

Section 1. Members - Each member School Board shall be entitled to be represented by a voting delegate. An alternate may be elected to serve in the absence of the delegate. The delegate and alternate shall continue in office during membership on the School Board or until replaced by that School Board.

Section 2. Duties - The Assembly shall:

- (a) develop and adopt policies and resolutions that express the beliefs and purposes of the Association, and
- (b) transact such other business as presented to it prior to the opening of the Delegate Assembly by any delegation or the Executive Board of Directors.

Section 3. Voting - Adoption of policies and resolutions shall require a two-thirds majority of those voting. All other business shall be by simple majority vote.

ARTICLE IX  
AMENDMENTS

Section 1. Procedure - Any proposed amendment to this Constitution shall be presented to the Executive Board of Directors at least thirty (30) days prior to the meeting of the Delegate Assembly. Such proposed amendment shall be circulated with the agenda prior to the assembly together with the recommendations of the Executive Board of Directors.

Section 2. Vote - This Constitution may be amended by a two-thirds majority of those voting at the Assembly.

Section 3. Emergency - In case of emergency, so declared by the Executive Board of Directors, this Constitution may be amended by a two-thirds vote of the School Board memberships, said vote to be taken by mailed ballots.

**BYLAWS**

ARTICLE I  
FISCAL YEAR

The fiscal year of the Association shall run from July 1 to June 30.

ARTICLE II  
ASSOCIATION PROPERTY

The real and personal property of the Association shall be managed by the Policy Committee of the Maine School Management Association.



### ARTICLE III DUES

Dues for all classes of membership shall be fixed by the Executive Board of Directors on the recommendation of the MSMA Policy Committee, at least ten days before the annual meeting of the Delegate Assembly. However, the annual meeting of the Delegate Assembly may disapprove the action of the Executive Board of Directors and fix the annual dues in a different amount or amounts. Dues for any class of membership may be waived by the Executive Board of Directors subject to the same approval or disapproval action by the annual meeting of the Assembly.

### ARTICLE IV MSBA REGIONS

Section 1. Organization - The Association shall be divided into MSBA regions as determined by the Executive Board of Directors in each of which regions there may be formed a regional association. Any change in the number of regions shall be approved by the annual meeting of the Delegate Assembly.

Section 2. Purpose - The purpose of the MSBA regions shall be to further the purposes of the Association through local meetings and conferences for discussion, study, and interpretation of educational problems of common interest to School Boards and members in their region, and to promote additional opportunities for School Board member participation in the activities of the Association.

Section 3. Constitution and Bylaws - Regional associations shall adopt a Constitution and Bylaws not inconsistent with the Constitution and Bylaws of this Association.

### ARTICLE V AMENDMENTS TO BYLAWS

These Bylaws may be amended by a two-thirds vote of those voting at any meeting of the Assembly or the Executive Board of Directors.

### ARTICLE VI PARLIAMENTARY AUTHORITY

The rules contained in *Robert's Rules of Order* shall govern the proceedings of the Association, except in such cases as are governed by the Constitution and Bylaws.

## School Organization in Maine

The Legislature in 2007 passed the school district consolidation law—the most sweeping change to school district organization since the Sinclair Act of 1957. The ramifications of that law, which has been amended several times since its passage, are still playing out across the state. While the law never hit its goal of reducing the number of districts in Maine to 80, it has had a significant impact. It created two new types of districts in the state designed to bring school administrative units together—Regional School Units and Alternative Organizational Structures—and, they are now part of the organizational mix in Maine, which includes:

**Municipal Unit**—Composed of a single municipality which is responsible for the governance of schools through an elected School Committee.

**Regional School Unit (RSU)**—Modeled after the School Administrative District (SAD) created by the Sinclair Act, RSUs were supposed to encompass even greater numbers of students and meet a minimum size requirement. That has occurred in parts of the state, and the law now has been amended to allow smaller RSUs to be formed. RSUs, like SADs, share costs based on a formula that includes state valuation and/or number of pupils.

**Alternative Organizational Structure (AOS)**—Created as a replacement to Unions, the AOS is composed of two or more school administrative units joined together for the purpose of providing administrative and sometimes educational services. Administrative services provided include: superintendent; special education administration; transportation administration; and business-office functions. Each member entity maintains its own budget and school board. AOS costs are shared based on a formula outlined in the AOS reorganization plan. An AOS School Committee made up of representatives of each of the member entity school boards may be formed to oversee shared administration.

**School Administrative District (SAD)**—While most of the SADs in the state have technically become RSUs, some have opted to retain their public identity as a SAD. Since RSU law was based on SAD law, the two types of units are governed largely by the same rules.

**Community School District (CSD)**—A variation of the SAD concept, CSDs may provide public education for any combination of grades, kindergarten through grade 12. The member municipalities share the CSD costs based on a formula including number of pupils in each town and/or state valuation.

**School Union**—While the state no longer allows new unions to be formed, they still exist and are the oldest organizational structures in Maine. They are composed of two or more school administrative units for the purpose of sharing the cost of a superintendent and superintendent office. Each member unit maintains its own budget and school board. A Union School Committee, made up of representatives of each member unit school committee, conducts the business of the union.

### State Organizations

#### A. MAINE SCHOOL BOARDS ASSOCIATION (MSBA)

The MSBA, formed in 1959, is an organization of Maine school boards. Its mission is to enhance the education of all students in Maine's public schools by identifying and serving the needs of local school boards through board development, information and support services, and by advocating for all Maine public schools at the State and national levels.

The MSBA offers "active regular membership" to school boards, which join the association. "Associate membership" is also available to vocational regions and private schools. Dues are primarily based on resident pupil enrollment for each active regular member and are set each fall by the MSBA Board of Directors. The membership year is July 1 to June 30.

Until 1971 the MSBA operations were centered in Orono, with services provided by a part-time executive secretary who was a full-time College of Education professor. In 1971, MSBA and MSSA formed the Maine School Management Association, which is described on the following page.

A listing of the specific purposes of MSBA is included in the MSBA Constitution and Bylaws (see Appendix C). Following are the broad purposes of MSBA, provided through MSMA services to MSBA member boards and superintendents:

1. To gather and circulate information to school boards relative to educational programs, school management, school finance, state and federal legislation affecting education, and such other materials as are relative to the operation of the schools;
2. To take positions on legislation that promote the welfare of education in general and to make those positions known to appropriate legislators;
3. To hold conferences for the mutual exchange of information between school board members on timely topics; and
4. To cooperate with other educational organizations and agencies to promote projects beneficial to education.

Representatives from each member school board meet at the annual MSBA Delegate Assembly, held in conjunction with the MSMA Fall Conference. They develop school board positions on timely matters through the adoption of resolutions, elect association officers, hear reports from the staff, officers, and committees, are informed of the dues structure for the coming year, and conduct any other appropriate business.

The Executive Board of Directors of the MSBA meets to transact the business of the Association. It is made up of nineteen members, including the president, 1st and 2nd vice-presidents, immediate past-president ex officio, nine regional directors, and six at-large directors. All directors are elected for 3-year terms at the annual meeting, or in the case of vacancies, appointed by the President until the next annual Delegate Assembly.

## B. THE MAINE SCHOOL SUPERINTENDENTS ASSOCIATION (MSSA)

The Maine School Superintendents Association (MSSA) is a professional organization of superintendents and assistant superintendents in active service in Maine schools. The organization was formed in 1925. MSSA's organizational purpose is to provide leadership and support to its members in order to effectively promote exemplary educational opportunities for all Maine students.

The MSSA is governed by an Executive Committee composed of the officers (president, president-elect, vice president, and secretary); nine elected members, one from each of the nine regional organizations; the immediate past president; one at-large member to represent an underserved population (appointed by the president); and one AASA governing board member. The nine regional organizations are very active in educational programming and the coordination of programs and services to the school system.

MSSA has a very active core of committees that maintain liaisons with the MSBA, the Legislature, and the Commissioner of Education. These committees include Ethics, Funding, Legislative, Professional Development, School Construction and Facilities, School Nutrition Program, and Technology. Members are also appointed to serve as liaisons with other associations.

The MSSA contracts with the Maine School Management Association to provide for the services of an executive director and other administrative support functions.

## C. THE MAINE SCHOOL MANAGEMENT ASSOCIATION (MSMA)

In 1971, the Maine School Boards Association and the Maine School Superintendents Association jointly created MSMA. A full-time executive director was hired to serve both MSBA and MSMA. In July, 1972, MSMA hired a full-time Assistant Executive Director, and in September, 1974, a Labor Relations Specialist was added. The MSMA staff currently consists of an Executive Director, a Deputy Executive Director, an Associate Executive Director, a Director of Policy and Resource Services, a Director of Communications, and several positions that support the Insurance Trust programs.

MSMA is governed by two committees. The MSMA Action Committee is made up of five MSSA-member superintendents who review programs and policies and make recommendations to the MSMA Policy Committee, composed of five members of the MSBA Board of Directors, including its three officers. The Policy Committee adopts MSMA policies and is the governing body of MSMA.

MSMA, via a contract, provides executive director services to MSSA.

The annual meeting of MSMA is held the day after the MSBA Delegate Assembly. The primary item of business is the adoption of MSMA's annual operating budget.

MSMA provides assistance to MSBA members in the following areas: general consultation on issues relating to school management, legal memoranda, legislative action, policy development, superintendent search services, a reference center, conferences and workshops, and statistical information.

In addition to sponsoring conferences and workshops related to school management and to providing the services of MSBA, MSMA publishes a series of bulletins and newsletters to keep the members of MSBA and MSSA apprised of current developments. Among these publications are:

1. The *MSBA UPDATE* which includes topics of general interest and is sent to all members of MSBA and MSSA.
2. MSMA NEWSLETTERS
  - a. *SCHOOL LAW NEWS* - mailed to all superintendents and school board members.
  - b. *LABOR RELATIONS NEWS* - mailed to all superintendents and school board members.
  - c. *POLICY DEVELOPMENT NEWS* - mailed to all superintendents and school board members.
  - d. *LEGISLATIVE NEWS* - mailed to all superintendents and school board members. Legislative Bulletins are sent to all superintendents, board chairs, and legislative contact people.
3. MSMA emails bulletins throughout the year on state and federal actions that affect local school districts and their funding. These become more frequent when the Maine Legislature is in session and may call on local board members to contact their legislators. Issue papers on broader topics and legal memoranda on issues of particular importance are periodically produced when warranted. You can review past bulletins and issue papers on the MSMA website, [www.msmaweb.com](http://www.msmaweb.com).

## How the Legislature Works

The Maine Legislature is a part-time body, elected for two-year terms. The general election for legislators is held in even-numbered years.

In the first year of their term, legislators meet in their long-session, running from early December to mid-June. In the second year, they meet from early January to mid-April.

### Keeping track of bills

Legislators are the only ones who can sponsor bills, which are first reviewed in standing committees. Committees that deal most often with education are the Education Committee, Appropriations Committee, Labor Committee, State and Local Government Committee, and Taxation Committee.

MSMA issues a weekly Legislative Bulletin when the Legislature is in session to the legislative contacts designated by your school board. It alerts them to upcoming public hearings and workshops on bills of interest. The MSMA website also lists bills of interest and tracks hearings. Go to: [www.msmaweb.com](http://www.msmaweb.com) and click on the “Legislative” button.

You also can check on the status of a bill on the state website if you know its L.D. number. The web address to look up a bill is: [www.mainelegislature.org/LawMakerWeb/search.asp](http://www.mainelegislature.org/LawMakerWeb/search.asp). If you don’t know the L.D. number, check the legislative page of the MSMA website and click on “Important Legislative Bills.” If you still can’t find what you’re looking for, the Legislative Information Office at the State House can usually provide you with the information if you can describe the subject of the bill. The legislative office number is 287-1692.

### Effective advocacy

The most straightforward way to influence legislation is at the committee level. It is the committees that hold public hearings where the public is allowed to testify. Next there is a work session review where the committee often offers amendments and finally votes on its recommendation to the full Legislature.

The Legislative Committees of the Maine School Boards Association and Maine School Superintendents Association review all significant proposed legislation affecting K-12 schools and, when appropriate, MSMA staff or board officers testify on bills and are available as an information resource to legislators.

Public testimony does influence legislators as does backup information provided after the hearing, along with emails and phone calls made to legislators to discuss the issues. The second chance to make your voice heard is when a bill goes to the full House and Senate for a vote by all 151 Representatives and 35 Senators.

You can find a list of email addresses for your legislators in the House of Representatives at: [www.maine.gov/legis/house/e\\_mail.htm](http://www.maine.gov/legis/house/e_mail.htm). For Senators, go to: [www.maine.gov/legis/senate/senators/email/maillst.htm](http://www.maine.gov/legis/senate/senators/email/maillst.htm).

You also can call a toll-free number during session to leave a message with your legislators at the State House. Messages are checked.

Senators: 1-800-423-6900

Representatives: 1-800-423-2900

And, you can write a letter or make a call to a legislator's home. Addresses and phone numbers of House members are at [www.maine.gov/legis/house/townlist.htm](http://www.maine.gov/legis/house/townlist.htm). For your Senators, go to [www.maine.gov/legis/senate/](http://www.maine.gov/legis/senate/) and click on "Members" and then on "Addresses and Phone List of Senators."

### **How bills become law**

Some bills are killed by the committee when they are reported out with a unanimous Ought Not to Pass. Others are voted out either with an Ought to Pass or Ought to Pass as Amended recommendation, or a Divided Report, where some members support one version and others support something else. Those recommendations are then considered by the full House or Senate.

Bills and their amendments are given two readings in the House and the Senate, and then there's a vote on engrossment, followed by a vote on enactment. If a bill makes it through the whole process and is finally enacted, it then goes to the governor's office for consideration.

The governor can sign the bill into law; allow it to become law without a signature after 10 days; or veto it. A two-thirds vote of the House and Senate is needed to override a governor's veto. Once a bill is signed it becomes law and is eventually published as part of Maine Statute.

Before it is added to the statute books, a bill signed by the governor is listed on the same website used to check on the status of a bill. Go to [www.mainelegislature.org/LawMakerWeb/search.asp](http://www.mainelegislature.org/LawMakerWeb/search.asp) and type in the L.D. number. Click on the "Bill text and other documents" button and the public law version will be at the bottom. If you want to check a law that already has been included in Maine Statute, go to: [www.mainelegislature.org/legis/statutes](http://www.mainelegislature.org/legis/statutes). Title 20 and 20-A are the main bodies of law affecting education.