

# MSBA HANDBOOK

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



A Publication prepared for Maine School Boards Association  
by Maine School Management Association

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## ***FOREWORD***

### **TO THE 2024 EDITION**

The need for effective local school boards acting in the best interest of students has never been greater. Board members must balance the needs associated with improving student achievement with school community fiscal realities. They must become well versed in their school district'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 a supporter of the local public school district.

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.

Eric Waddell  
Executive Director

# MSBA HANDBOOK

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Drummond Woodsum

## SECTION 1

# INTRODUCTION

## **Congratulations!!**

You have been elected to a local school board or appointed to fill a board seat which became vacant during a term. In either case, you have accepted a major responsibility as a member of a legislated governing board 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 school community stakeholders all of the time;
- You will not be able to shop in town without people stopping to talk to you about school issues; and
- Social media will be seen as a friend and as a curse.

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.

Maine School Management Association (MSMA) 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, assistant superintendents, and CTE directors consisting of the Maine School Boards Association (MSBA) and the Maine School Superintendents Association (MSSA). MSBA and MSSA serve as advocates for the interests of the state's public school students and school units and provide such programs and services as are required to fulfill the needs of the membership. MSMA is governed by the MSMA Action and Policy Committees; made up of five representatives of each member organization (Action Committee – MSSA; Policy Committee – MSBA). As a dues-paying member of MSBA, your board (including you as a member) is entitled to the various services we offer. (See pages 1-4 and 1-5, Resource Guide, for an overview of MSMA and MSBA 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 elected 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 governance 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, A Guide to Effective School Board Service* (4<sup>th</sup> Edition), contains the following perspective on focusing on the positive aspects of Getting On Board:

You might have spent your entire adult life in and around schools. You might have served as president of a parent-teacher organization in your community, headed a school financed 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, you thought about how serving on a school board would be. You probably pictured yourself sitting at the board table, acting and learning as a board member. You saw yourself changing the things you thought needed changing.

As a new board member, 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 begin to evaluate your successes and challenges as a board member. You will need time to learn the roles of board member and team player, as well as time to adjust to these roles.

Most of all, you will need to cultivate a "learner's attitude" to grow as a school board member. To get started, you can adopt a degree of curiosity about school board service in general and as it exists in your own district. You can study the qualities of effective school board members. And you can assess your current attitudes, skill, and knowledge and consider how they might enhance your effectiveness as a school board member.



## **Resources for Board Members**

Your most important resources are your superintendent, board chair, and fellow board members. You should spend some time familiarizing yourself with your board's policy manual—as this is the most important document guiding your local school unit. Your superintendent also has copies of the [Maine statutes](#) governing education (20-A MRSA). There are also materials from the [Department of Education](#) that you may want to review. You also can complete your required [Freedom of Access Act](#) training online.

MSMA publishes several newsletters, sent directly to you that provide timely information on school board and education issues. MSMA also keeps members informed of legislative activities and other matters of immediate importance through [MSMA's website](#) 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 online resources. Sample contracts to view in preparation for negotiations are also accessible online as is an extensive database of salary and benefits information. All of these resources are available to you upon request as part of your board's membership dues to MSBA.

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

Pages 1-4 and 1-5 provide an overview of resources that are available to you as a board member throughout your term.

# Resource Guide

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

- Local School Board Policy Manual
- [MSBA Handbook](#) for Maine School Board Members and Superintendents
- *Maine Education and School Statutes*  
(Maine Department of Education provides a copy to every superintendent; additional copies may be ordered from [Swan Island Press](#).)
- [Directory of Maine Schools](#) is on the Department of Education website

**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)
    - ✓ *Group Health and Dental*
    - ✓ *Property & Casualty*
    - ✓ *Workers' Compensation*
    - ✓ *Unemployment Compensation*

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

- [What I Need to Know About Running for my Local School Board](#)
- *How Not to be a Terrible School Board Member* (available for purchase)
- *Parliamentary Procedure at a Glance* (available for purchase)

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

(Ordering information available from MSMA including a 50% discount.)

- *Becoming a Better Board Member* (4<sup>th</sup> ed., 2019)
- *The American School Board Journal* (published monthly)
- *The Key Work of School Boards* (4<sup>th</sup> ed., 2020)

**Online Resources**

- [Maine School Management Association](#)
- [Maine School Boards Association](#)
- [Maine Department of Education](#)
- [Maine Legislature](#)
- [National School Boards Association](#) (NSBA)
- [United States Department of Education](#)
- [The Daily News](#) from *Education Week*
- [Maine Department of Education Rules](#)

- Maine Legislators Email Addresses
  - [House of Representatives](#)
  - [Senators](#)
- [Maine Legislature Bill Status](#)

**Services available from MSMA** (telephone: 207-622-3473 or toll free 1-800-660-8484; fax: 207-626-2968; email: [msma@msmanweb.com](mailto:msma@msmanweb.com); website: [www.msmanweb.com](http://www.msmanweb.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
  - CFO/Insurance Trusts Administrator
  - Director of Communications and Government Relations
  - Director of Policy and Research Services
- Resource Center
  - Policy development assistance, including sample policies
  - General information upon request

Additional contracted services are available on a fee basis: policy manual revisions, superintendent search services, negotiations assistance, contract analysis, and individualized workshops.

#### **Please Note:**

The *MSBA Handbook* contains a variety of supporting materials, including supplemental readings and sample policies. These materials do not necessarily reflect official MSMA policy.

The readings are intended to provide board members with various perspectives to consider while learning about the many aspects of school board service.

MSMA sample policies are not intended for verbatim replication but should be used as a starting point for a board's policy development on specific topics. Rarely does another board's policy serve exactly to address the concerns and needs of all other school units. MSMA recommends that each school board carefully analyze the need and purpose of any policy and thoroughly consider the applicability and suitability to its particular school unit.

The readings and sample policies in the *Handbook* may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.

## SECTION 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.

Your role as a school board member can be complex. You may have supporters that expect you to accomplish certain goals while you serve. An essential first step is to understand your role and your obligations to the students in your district as well as the Maine statutes under which you serve (20-A MRSA §1001). Maine statute defines the legal power and responsibilities of school boards. In addition, you may have local ordinances, convening documents, and bylaws that your board is obliged to follow. Your board should have a policy manual which defines how you, as an entire board, envision your school system as well as expectations on how it is to be governed.

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-B, *Duties and Responsibilities of School Boards*, on page 2-21. 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.

To learn about your role and responsibilities, meet with your school board chair and your superintendent. Some districts provide an orientation for new board members. Ask how to access board governing documents such as bylaws and the policy manual.

It can be helpful, yet sometimes hard, to share your role within the community since what may be in the best interest of your students while adhering to the law, may not make all your constituents happy. Your job as a school board member is to provide an environment to increase student learning, while engaging your community. You will need to develop skills and knowledge about board governance and key work of school boards.

NSBA describes the governance role of school boards in its *Vision for Public Education*, adopted as a resolution and reaffirmed in 2019. We have included it as Section 2-C on page 2-43.

Through years of research and input from state school boards association the National School Boards Association (NSBA) has identified *The Key Work of School Boards*. This body of work has developed a framework that outlines key areas that effective school boards embody. Effective school boards:

- Establish and promulgate ownership of the district's vision and values;
- Develop a framework to monitor progress and results;
- Adopt policies to establish guidelines which transform vision into reality;
- Ensure community-wide climate of commitment, respect and trust; and
- Develop a productive partnership between the board and the superintendent.

As a school board member, it is important to understand you have no authority as an individual. All School Board authority comes from a majority vote of the board.

Your role is to ask good questions and make difficult decisions. A school board's primary work is creating a powerful, shared vision – a mental image of success. It should be future focused and seek to shape events rather than just let it happen. Powerful visions involve key stakeholders and many hours of discussion. Effective school boards commit to a vision of high expectations for student learning, quality instruction and equity for all students.

The school board needs to develop a clear accountability framework for assessing the quality of its schools based on progress over time.

A board cannot be effective unless the superintendent is fulfilling their responsibilities. Conversely, the superintendent functions best when the board develops the district's vision, and establishes clear expectation and direction for the superintendent and the district. Board policy AD, *Educational Philosophy/Mission* and ADA, *School District Goals and Objectives* are required policies and give the school community a clear picture of the established goals and objectives.

## **Ethics**

Ethics and effectiveness are different concepts that go together. If your actions as a board are guided by a sound, ethical code of conduct, the chances are good that you will be an effective board that produces results. It is extremely important for the board to articulate, internalize, and document specific, mutually agreed upon ethical principles and norms. Once developed, this document should be reviewed regularly and discussed. This is especially important when new board members are seated. Ideally, it should become part of your board policy BCA, *Board Member Code of Ethics*.

The code of ethics and norms should include a basic set of rules and expectations about how the board will conduct its work. The document should start with basic rules of good board service, such as doing your homework, no surprises at the board meeting, and no personal attacks. It should clarify expectations about how information will be shared with the board as a whole, with individual members as well as how communications will occur between the board and superintendent, among the board membership, and with the public.

Finally, there should be statements addressing traditional ethics such as honesty, trust, fairness and integrity. Your position as a school board member should not be used for personal gain or to benefit family, friends, or special interest groups. You need to recognize the limits of an individual member's authority and never make promises without proper authority to citizens or to staff.

## **The Key Work of School Boards (Presented in more detail in Section 2-A)**

The local control of education is the foundation of public education and affords the opportunity for communities to enable students to fulfill their potential. Local school boards oversee high academic standards for their community and provide opportunities for top-quality student learning.

NSBA's framework of *The Key Work of School Boards* identifies the following five action areas that help provide for improved student learning: Vision, Accountability, Policy, Community Leadership, and Governance Team Relationships.

- **Vision** – Effective school boards establish a clear vision that should be based on community expectations and values with specific stated goals. This is the image of what your school system will look like; what it is that you see and desire as a school board working with your community. Your visioning process best serves your community when you embrace input from all stakeholders.
- **Accountability** – Boards are accountable to their communities for ensuring high academic standards, transparency, efficient and effective management in addition to a commitment to continued improvement. Without a viable and transparent accountability system your system won't be able to improve student learning.
- **Policy** – Is the vehicle that boards use to establish the guidelines to transform the vision into reality and outlines accountability expectations. Policies are a statement of values, of what the board expects the district to accomplish, and of how it expects the district to operate. Some of the most important decisions you will make involve developing policy. Policies should be based on your vision for the district and should include every area of district operation. This process may involve a variety of stakeholders.
- **Community Leadership** – Through public advocacy and strategic engagement, boards need to build public support for their school district and board vision. The board needs to take a leadership role in engaging the community to convey its concerns and actions as well as to listen to the community's concerns and expectations.
- **Governance Team Relationships** – The school board and the superintendent have leadership roles that are interconnected yet different. Effective school boards lead as a collaborative team with the superintendent, always recognizing their respective roles.

A board can't be effective unless the superintendent is fulfilling their responsibilities **AND** the superintendent functions best when the board articulates the district's vision and establishes clear expectations and directions for the superintendent and the district.

# | Learning about Board Service

Student learning is the reason you are a school board member! Your goal should be that each student achieves their potential. It is important to ask pertinent questions and to come prepared for each board meeting. Please be sure to let the board chair and the superintendent know when you have questions or issues about an agenda item and ask them in person, by phone, or via email, so they can prepare for a public discussion at the board meeting. This step is critical in your work as a school board member.

As you embark on your journey as a school board member reviewing various governing documents may help. Meet with your board chair and superintendent to get an overview of what is available to help inform you about this essential job. Some documents you may want to review include:

- District organizational documents
- District Policy Manual (usually online)
- School Board Handbook (if there is one)
- Student Handbook(s)

It is important for you to come prepared to each board meeting. It is the responsibility of each member to go through the meeting packet prior to the meeting, and if clarification is needed, ask your chair or the superintendent so you feel prepared for the discussion that will take place in public. These questions should be provided to the board chair or superintendent at least 24-48 ahead of the meeting in order to provide time for them to come prepared to the meeting with a response to your question.

## | Role of the Board

Being a school board member comes with many responsibilities. Some of these responsibilities include adopting policies, electing the superintendent, adopting curriculum, and responsibility for school facilities. There are other responsibilities such as employee benefits and student suspension which are detailed in [MRSA 20-A §1001](#). This statute outlines the board's obligations and responsibilities. School boards also utilize policy BB, *School Board Legal Status*, and policy BBA, *School Board Powers and Responsibilities* to clearly state within their policy manual their roles and responsibilities as provided by statute.

High functioning school boards do impact student outcomes! Impressive results are evident when a school board makes student achievement the primary focus of their governance work.

School Boards as described within MRSA 20-A §1001 shall perform the following duties (these are described in greater detail within section 2-B of this handbook):

- **Policy adoption.** A major function of your school board is to develop and adopt policies that clarify 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 operation—including employment of staff personnel, administration of pupil services, educational programs, instructional material, school facilities, equipment, finance, and support services. Board policy

helps your citizens understand the objectives of your school system and conforms to state and federal laws and regulations.

Your superintendent may recommend a policy, but the final decisions on adopting a policy cannot be delegated. While boards set policy, they do not administer policy. The responsibility for *implementing* policy is delegated to the superintendent of schools. The board evaluates the implementation of policy through its *accountability* procedures.

- **Management of school property.** A board is responsible for determining school facility 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.
- **Hiring the superintendent.** It is the responsibility of the board to recruit, hire, supervise and evaluate your superintendent. It is key to develop measurable goals with the superintendent that helps them pursue the vision of the district. It is the superintendent's job to administer a process which adheres to board policy. It is the job of the school board to monitor the superintendent's success and not the job to deal directly with staff.
- **No prohibition on use of school buildings for political activity.**
- **Insurance premiums and employee benefits.**
- **Courses of study.** School boards shall adopt the courses of study in alignment with the system of learning results established in 20-A, § 6209 and in accordance with the requirement of this Title (20-A).
- **Tuition payment for attendance by those residents on territory ceded to United States.**
- **Operate public preschool programs, kindergarten and grades one to 12.**
- **Due process standards for expulsion proceedings.**
- **Students expelled or suspended.**
- **Physiology and hygiene.**
- **Educational materials.** They shall adopt a policy governing the selection of educational materials and may approve educational materials. (Typically this is policy IJJ, *Instructional and Library Materials Selection*).
- **Persons not immunized excluded.**
- **Exposure to communicable disease.**
- **Salaries of persons absent.**
- **Nondiscriminatory hiring.** They shall develop a nondiscriminatory hiring practice for positions requiring administrator certification. That hiring practice must include:
  - Creation or reassessment of job description;
  - Clearly stated criteria for positions; and
  - An interview format that includes questions based on job descriptions and stated criteria.
- **Insurance purchase by competitive bidding.**
- **Adoption of student code of conduct.**
- **School disciplinary policies.**
- **Comprehensive health and safety and emergency management plan.**
- **School bomb threat response policies.**
- **Bomb threat information in student handbooks.**
- **Adoption of policy to manage concussive and other head injuries.**



- **School board meeting public comment period.**
- **Communication with school employees and the public.**
- **Workplace bullying.**

While performing the duties of school board members, the board engages in the following strategically designed activities to assist their work:

**Vision and Goal Setting.** 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-range and short-range goals, and then set up the *structure* to accomplish that vision. As a board it is your responsibility for obtaining from the administration and other sources reliable information on which to make the best possible decisions about the scope, nature, and success of school programs. The board is ultimately *accountable* for the analysis of the results of these programs, and for adopting appropriate program alternatives as necessary to ensure students meet learning goals.

**Financial Resources.** The superintendent and staff prepare a draft budget to present to the school board. After a careful review, including thorough and thoughtful communication, questioning and consideration, the board is responsible for approval of a budget to be presented to the community for final approval. The budget should provide the financial basis for the buildings, furnishings, staff, materials, and equipment needed to carry out educational programs. Your review should be through the lenses of “How does this budget align to our vision and goals?”, “Do our resources align with our vision and goals?”, and “Does the budget address the needs of all our students?”

After the budget has gone through the approval process, a policy should be in place that authorizes the administration to make the necessary expenditures that are budgeted and appropriated by the board. In addition, your board should have a policy that outlines the process for the purchase, disposal, and distribution of supplies, property, and equipment. Maine law also states that your school board is responsible for approving and adopting an insurance program for the district.

**Staffing.** In many districts, the board delegates the tasks of recruiting, hiring, evaluating, promoting, and disciplining staff in accordance with state law and/or board policy to the superintendent. Maine law requires that nominations for principals and teachers be made by the superintendent, be approved by the school board, with the final hiring step performed by the superintendent. Board policy should spell out the responsibilities of the superintendent and the school board in the staffing process. In addition, the board should 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. Many districts engage their community in establishing expectations. Decisions about instruction should be based on information about student learning and 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.

**Students.** Although the board does not deal directly with students and solve student-related problems, it does set policy that guides 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 students' equitable access to educational opportunities and in accordance with state and federal statutes and 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 should ensure that there are adequate and direct means for keeping your community engaged in an interactive dialogue about the students and their learning. These communication practices might include public hearings, newsletters, and official school district publications. All formal means of district communication should be established in board policy and delegated to the administration. It isn't uncommon for board members to be approached by community members regarding a specific issue. You need to know your board concerns and complaint policy (typically policy KE) and understand your limited role as an individual school board member. Be polite and listen genuinely but remind them of how best to handle a complaint and that you can't resolve the issue yourself.

**Advocacy.** Many children come to school with problems that impede their ability to learn which the schools cannot always solve. The school board needs to serve as an advocate for all students within the school community. They must make the community aware of its responsibility to our next generation and support programs that help meet the needs of *all* children and to recommend a budget that is equitable for every student.

**Quasi-judicial Responsibilities.** Occasionally, a board may have to hear appeals from school staff members or students regarding a board policy. You might be required to conduct a hearing regarding staff or student misconduct. It is crucial that as a board member you stay objective and therefore not get entangled in any issue that may later require you to sit in a quasi-judicial role in a hearing. You need to enter these deliberations as un-biased as you can.

**General.** Additional responsibilities you may be involved in include:

- Establishing procedures for the operation of the board;
- Electing board officers;
- Approving the annual school calendar;
- 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;
- Determining insurance that the district should have to protect facilities and personnel;
- Getting information and making decisions on bids that have been requested for services needed by the district;
- Establishing and maintaining effective board-superintendent relations;
- Periodically reviewing and evaluating board operations and performance; and
- Working with governmental and non-governmental 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. (See *How Schools Are Visited* in Section 2-E on page 2-47)
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-D on page 2-44. If your board has not yet adopted a code of ethics, you may want to discuss the issue with your board chair.

## There is Help from Others!

You aren't in this job alone. There are more than 90,000 school board members across the nation. Many have experienced the feelings you have now. NSBA asked experienced board members to identify the most difficult lesson they had encountered. The most frequent answers were reported in *Becoming a Better Board Member*:

- Gaining the power to acknowledge publicly that you have no power or authority as an individual board member and that only the board as a whole can make policies and decisions for the school district.

- Determining what your function is on the board and how to accomplish it effectively.
- Realizing that no matter what you think about board service, when you come to the board, you still have a lot to learn.
- Recognizing the difference between establishing policy (the board's job) and administering (the superintendent's job).
- Accepting 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 complaints and concerns of citizens, school administrators, and other staff members.
- Appreciating that change comes slowly.
- Understanding that you can't solve everyone's problems by yourself.
- Recognizing that you must think deeply and sometimes accept a reality that is contrary to your own set of beliefs.
- Accepting 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.
- Realizing that the primary focus of all board decisions must be student achievement.

You may be starting to feel a little overwhelmed as you learn that your role as a board member is varied and complex. It is a critical role in your community as you are the only elected officials that are responsible for the students using a fair and equitable lens. It may take time for you to truly understand your role, but asking pertinent and thoughtful questions is beneficial. In each chapter of NSBA's *Becoming a Better Board Member* are questions that board members should be asking. Review questions are provided at the end of each chapter. This important reference can be purchased through MSMA at a 50% discount. It is provided to each school board whenever they schedule a school board training session through MSMA.

In addition, MSMA/MSBA are great resources for your questions. We have a robust sample policy manual and provide various newsletters on timely issues. In addition, MSMA provides professional development opportunities throughout the year to help assist you with your job.

## THE KEY WORK OF SCHOOL BOARDS

The *Key Work* areas provide a comprehensive overview of the school board's governance responsibilities and provides a systemic look at the WHAT and WHY of board service. Each component represents a distinct and essential skill that school boards must possess to be a high functioning board. While each component stands alone they are interconnected in successful and high achieving school districts.



*The Key Work of School Boards*

Effective school boards establish a clear **vision** and should be based on community values and expectations with specific goals. Boards are **accountable** to their communities for ensuring high academic standards, transparency, efficient and effective management in addition to a commitment to continued improvement. **Policy** is the vehicle that boards use to establish the guidelines to transform the vision into reality. Through public advocacy and strategic engagement to build public support for their school district and board vision the school board undertakes the role of **community leadership**. Both school boards and the superintendent have leadership roles that are interconnected yet different. Effective school boards lead as a collaborative team with the superintendent, always recognizing their respective roles. Working together this team becomes the **governance team** for your district.

### Vision

Your vision should be a unifying image of the future and should seek to shape events rather than react to what is happening and everyone sees how they fit into the vision. Developing a vision should include wide-spread involvement of the various communities affected by the vision. It requires hours of discussions and input from a variety of stakeholders. Your school district's vision should provide a mental image of success for your students. Effective school boards commit to high expectations for student learning, quality instruction, and equity for all students.

A well-crafted Vision provides the ability to see and create the education system you desire. It is putting all the pieces of the puzzle together. In addition, you may want to craft a Mission Statement, which is a statement of purpose or the reason the school system exists.

The first step in developing a vision is to gather input to identify the communities' core beliefs and values – knowing what you really value individually and as a committee guide your aspirations and your vision. Core Values drive your Vision. Your mission and vision may evolve but your communities Core Values are constant.

Implementing your vision and moving the vision from paper into practice is a challenge. A vision without a plan is like a great movie title with no script. Your vision should guide the strategic

planning process, which includes goal setting for your district. Your vision should also influence your board policies and procedures. Therefore, you need to develop a strategic plan, set goals, have clear focus and direction with regular reporting on progress, needs and adjustments as necessary. It's important to understand that a shared vision is constant and doesn't sway with fads.

### **Accountability**

We live in an era of accountability! Parents and the community are looking for results. Measuring the growth in student learning and reporting those results must become a focus of your district. Adopting a framework for accountability should be a board's priority. The framework is continuous and needs to be developed in a culture of trust.

#### **Components of an Accountability Framework**



The board's responsibility is not to define the standards – that is for the educators, but your role is to ensure the process takes place. Effectively communicating your accountability framework becomes the job of your governance team. It is important to remember that a successful standards system cannot be implemented without the support from all stakeholders.

If educators don't embrace the standards they won't prepare students to meet them. If parents don't understand and support them they can't help their child meet them. If the community doesn't back the standards, taxpayers won't provide the necessary resources to fund the work.

Public entities too often measure effectiveness in terms of “inputs”, i.e. how many staff are assigned and the cost per student to attain the standards. Sometimes results are reported as outputs – for instance you can double the number of after school tutorials but if that does not tie to improved student learning, then it may not be an effective intervention or a good use of resources.

Measurements have changed over time. Traditionally individual success was measured by comparing students – which in reality only compares relative performance. Well-developed standards include

expected performance along with examples of work so that it is clear to parents what the expectations are for their children. Standards should establish consistent expectations so that all students are challenged. They also provide a measure for identifying students who need extra or different instructional support. The framework needs to focus on student results, it should encompass reviewing the quality of student results and provide the necessary resources for appropriate interventions such as RTI (response to intervention or MTSS (multi-tiered system of supports). It is important when developing the budget that funds be available for the obligatory support for educators to work toward improved student results.

Proficiency should be measured, but growth is equally important. Growth is a more significant measure of school and classroom effectiveness. *Becoming a Better Board Member* goes into more depth on the data cycle for analyzing student success. Looking at data by subgroups allows educators to pinpoint where additional help is needed.

The reporting out of data is crucial. Parent's need to understand how the child is progressing, the community needs evidence that the district is making progress toward achieving the district vision and goals. You are in the best position to develop a strategy to report your data based on local circumstances.

When staff believe that accountability promotes high-quality education they will promote assessments in a positive way. Do not use accountability as a punishment. It's critical to use a student's growth during the school year as a measurement of staff success rather than just standardized tests. For example, one student could be proficient in a standard but isn't showing any growth, while another student may not be proficient but is demonstrating major growth in the same standard. These results are critical data points for your staff to review and address. Growth in learning should be embraced. This calls for explicit standards and a solid assessment structure.

### **Board Members Questions in Developing an Accountability Framework**

- ◆ How do we ensure that our policy and budget decisions are researched-based and data-driven?
- ◆ How do we clearly communicate our standards and achievement results to students, parents, teachers, and other members of the community?
- ◆ How do student achievement results factor into superintendent, board, and staff evaluations?
- ◆ How do we hold the staff accountable for effective and efficient operations in pursuit of our vision for student learning?

Educators should ask if their students have mastered the knowledge and skills while the school board should be asking what percentage of students have achieved mastery.

Boards need to remember that achieving standards may require time, but every district should be able to show growth and improvement every year. The National Center for Educational Achievement found that low-performing districts rely on teachers alone to determine daily student mastery, while

high performing districts rely not only on classroom teachers, but utilize collaborative strategies when students need additional support.

### **Policy Role**

Policies are adopted by the school board in support of effective governance. Engaging your leadership team in identifying the components of the policies is critical to advance your work as a governance team.

Your board establishes the framework, through a body of policies, for your superintendent to follow in administering the school district. These policies establish local values, principals for district operation, and board expectations. Some board policies are required to stay legally compliant to federal and state laws and regulations.

Board policy serves as the written declaration of your district's vision and establishes an accountability framework. Well written policies are broad enough to give the superintendent and their administrators flexibility in handling day-to-day operations while providing clear guidance on the boards expectations in achieving the district's vision and embracing district values.

A board who prioritized written policies understands it is not responsible for managing the district, but embraces its role of governing the district. This chart lays out the responsibilities of the school board and the superintendent and their staff.

<b>POLICY Board The what, why, and how</b>	<b>REGULATIONS/PROCEDURES Superintendent and Staff The how, who, where, and when</b>
Sets district goals and operating parameters	Supports and implements board policy
Resolves issues; defines and aligns administrative responsibilities	Provides direction for administrative decisions and district procedures
Establishes oversight and evaluation procedures of the superintendent	Establishes oversight and evaluation procedures of the staff

*The Key Work of School Boards, pg 37*

Effective boards maintain a parallel of board policy as well as administrative procedures and regulations. Policies state the district goals to be achieved and the operating parameters while establishing the oversight and evaluation procedures for the superintendent. Developing policy (the what, why and to a degree - the how) is the core of the governance work of the board. Implementing the policies is the responsibility of the superintendent.

Administrative procedures should be designed to support board policy and provide specific direction for administrative decisions. Administrative procedures are the operations work of the staff (the how, who, where and when) for the district's work.

Developing board policy is a constant process that requires attention of both the board and the superintendent. It should be a continuous process of developing, adopting, monitoring and reviewing, and revising. Many boards set an ongoing schedule for monitoring, reviewing, and



revising their body of policies. An established review process helps to keep the board focused on the priority of adopting relevant and appropriate policies.

In developing a policy, an effective board considers input from appropriate stakeholders before the adoption of the policy. In the monitoring policy, the board has the responsibility to ensure that it is functioning as expected, in addition to ensuring that the policy and administrative procedures are working towards the district's vision.

### **Key Questions for Board Members to Consider in Monitoring a Policy**

- ◆ Are we getting what we wanted from this policy?
- ◆ Is the policy being implemented as expected?
- ◆ Are we doing what we said we would do?
- ◆ Is the policy consistently supported by board action?

Policy is dynamic and needs to be reviewed and revised to ensure that the language is what is intended to be implemented. Board members need to ask themselves if the policy is saying what they mean. In addition, policy language often needs to be revised to comply with changes in federal and state laws and regulations.

NSBA's *Key Work* system indicates that a board operating without dynamic and clear policy is in jeopardy for acting inconsistently. If a board is providing opportunities to shape, mold, and modify their district's future through discussion and embraces their policy role, they do make a difference in their students' achievement.

### **Community Leadership**

Community leadership is provided when boards make deliberate, ongoing efforts to establish and maintain processes that actively seek the community's voice and to enlist commitment for their public schools. As a board member you are an advocate for the students within your district. School board members are the only elected officials whose primary mission is devoted to student learning. Engaging your community in the commitment to prioritize student learning is crucial for the success of your district.

*"The purpose of collaboration is to create a shared vision and joint strategies to address concerns that go beyond the purview of any particular party."*  
- David Crisp and Carl Larson

*Collaborative Leadership: How Citizens and Civic Leaders  
Can Make a Difference*

The strategic engagement of your community provides the opportunity for stakeholders to become involved and committed to your public schools. Strategic engagement is an ongoing process and takes place over time while striving to engage all voices. It goes beyond just providing information to

the community but involves the board listening to the various stakeholders' voice with respect to public education.

Involving your community may involve reviewing your district vision. It may take the form of forums involving your various stakeholder groups to receive their input on the future of the district. Whatever the process you adopt it needs to be well designed and transparent.

Parents of course need to be involved as your district will not be able to accomplish long-term efforts to improve student learning without their support and buy-in for the process. Effective governance teams also find meaningful ways to engage participation from your business community. They can be involved with helping to assess progress toward goals, set standards and identifying accountability measures. And do not leave out your community leaders. These individuals will be different in each community, but as a governance team identify those people that are influencers within your community and engage them in the process.

Collaboration does not mean an abdication of your role. Confident boards give serious consideration of the ideas and feedback they have received, they do not feel obligated to agree with every recommendation. The board should engage in a transparent analysis and public discussion of the information received but recognize that the final decision is their responsibility and they will be held accountable for the decision.

*The Key Work of School Boards Guidebook* offers a list of great suggestions for building a successful strategic engagement process.

### **Effective School Board Governance**

We know what a good school board looks like – impressive results are seen and the board's primary focus is student learning. The five Key Work areas provide a comprehensive overview of the school board's key governance responsibilities and provide a systemic look at the WHAT and WHY of board service.

Your job as a school board is to determine what is in the best interest of your students with input from all the stakeholders.

It is important to understand the Act of transforming the needs, wishes, and desires of the community into policies that direct the community's schools, but always remember that sometimes the needs, wishes, and desires of a specific group are not in the best interest of all children within your district.

Both the board and the superintendent have essential leadership roles. Boards govern the district through policy – the superintendent administers and implements that policy through the day-to-day operations of the district. The superintendent generally brings professional training and expertise to the job. The board brings an understanding of their community's expectations and aspirations as well as their personal knowledge and experience. The chart below illustrates the primary functions of these roles.

## The Educational Leadership Team

*A Relationship of Trust*

The Board (the big picture) POLICY	The Superintendent (the details) ADMINISTRATION
<ul style="list-style-type: none"> <li>• Why?</li> <li>• What?</li> <li>• How much?</li> </ul>	<ul style="list-style-type: none"> <li>• How?</li> <li>• When?</li> <li>• Where?</li> <li>• Who?</li> <li>• How much?</li> </ul>
<ul style="list-style-type: none"> <li>• Vision</li> <li>• Mission</li> <li>• Goals</li> <li>• Policies</li> <li>• Monitoring</li> <li>• VOTE</li> </ul>	<ul style="list-style-type: none"> <li>• Objectives</li> <li>• Action Plans</li> <li>• Regulations</li> <li>• Procedures</li> <li>• IMPLEMENT</li> <li>• RECOMMEND</li> </ul>

*The Key Work of School Boards, pg 62*

The board focuses on the big picture policy work of governance – asking and answering the questions: Why? What? and How Much? These questions lead to its primary work of clarifying vision and mission, identifying goals, developing policy to put that vision into words/provide operating parameters/and accountability expectations that it then monitors. The board’s primary action is to VOTE.

The superintendent is responsible for the details of administration – asking and answering the questions How? When? Where? Who? How much? And these questions guide the work of setting objectives and action plans and developing operating regulations and procedures. The superintendent’s primary work is to IMPLEMENT the boards policy and to make recommendations to the board based on their educational expertise.

An effective governance team has continuing conversations to clarify the distinctive, yet complementary, roles which will enable them to develop a relationship of trust regarding:

- Unity of Purpose – vision/mission/values
- Roles and Relationships – assuring everyone knows what is expected in their role
- Communication – clear, purposeful, meaningful
- Culture – standards and expectations for the way the team operates
- Structure – formal processes/checks and balances that assure the team operates effectively

In 2013, NSBA asked state school board associations to identify board governance and leadership competencies most frequently addressed. That work along with the findings of the Iowa Lighthouse Study and NSBA’s Center for Public Education became the foundation of “*Eight Characteristics of Effective School Boards*”. Their compiled research indicated that effective board members:

1. Effective school boards commit to a vision of high expectations for student achievement and quality instruction and define clear goals toward that vision.
2. Effective school boards have strong shared beliefs and values about what is possible for students and their ability to learn, and of the system and its ability to teach all children at high levels.
3. Effective school boards are accountability driven, spending less time on operational issues and more time focused on policies to improve student achievement.
4. Effective school boards have a collaborative relationship with staff and the community and establish a strong communications structure to inform and engage both internal and external stakeholders in setting and achieving district goals.
5. Effective boards are data savvy; they embrace and monitor data, even when the information is negative, and use it to drive continuous improvement.
6. Effective school boards align and sustain resources, such as professional development, to meet district goals.
7. Effective school boards lead as a united team with the superintendent, each from their respective roles, with strong collaboration and mutual trust.
8. Effective school boards take part in team development and training, sometimes with their superintendents, to build shared knowledge, values, and commitments for their improvement efforts.

Nurturing the board and superintendent relationship is fundamental to developing an effective team. Professional development and training can help strengthen your governance team...especially when that training helps develop teamwork. Retreats can provide an opportunity for people to get to know one another and better understand the diversity of skills, personalities and interests as well as have meaningful conversations about roles, responsibilities, and expectations.

Maintaining this relationship of trust requires open and direct communication between all members of the board and the superintendent. All parties must decide together how the superintendent will communicate with the board and vice-versa. Boards may want to develop a communications agreement with their superintendent that establishes the framework for communicating within the governance team.

The school board should implement a self-evaluation tool and last, but perhaps most importantly, develop and implement a thoughtful and deliberate superintendent evaluation process. The board has an obligation to evaluate the individual to whom it has entrusted its most important assets; its children and financial support. And as an employer, the school board has an obligation to their superintendent to be clear about expectations and give feedback regarding performance.

The development of the superintendent performance evaluation is an engaged process and should be linked closely to the district's vision, goals, and policy as an extension of your district's overall planning process. The primary focus should be to assist the superintendent in achieving maximum effectiveness in working with the school board and managing the school district.

**Code of conduct.** The board also should adopt a code of conduct, as ethics and effectiveness are different concepts that go hand in hand. If your actions as a board are guided by a sound, ethical code of conduct, the chances are good that you will be an effective board that produces results. It is extremely important for the board to articulate, internalize, and document specific, mutually agreed

upon ethical principles and a set of norms to assist in the operation of the school board. Once developed, this document should be reviewed and discussed regularly. This is especially important when new board members are seated. Ideally, it should become part board policy (See Policy BCA, *Board Member Code of Ethics*).

Your code of conduct should signify your board's commitment to a high-quality public education. It should include a basic set of rules and expectations about how the board will conduct its work, expectations about information sharing and communications, and expectations for ethical board member behavior. The board should commit to self-evaluations, demonstrating for your district that evaluations are a priority.

There should be no surprises at the board meeting, and no personal attacks. Clarification of expectations about how information will be shared with the board as a whole, between the board and superintendent, among the board membership, and with the public should be codified. And finally, there should be statements addressing traditional ethics such as honesty, trust, fairness, and integrity such as:

- Members will not use the office for personal gain or the benefit of family, friends, or special interest groups;
- Members will recognize the limits of an individual member's authority;
- Members will not make promises without proper authority to citizens or staff; and
- Other items, etc.

**Board Self-Evaluation.** Another helpful tool for maintaining healthy governance team relationships and focus of the school board is to conduct regular self-evaluation. In most districts employees are held accountable and evaluated; the superintendent is held accountable and evaluated. It should be equally important for the board to take responsibility for its own accountability by evaluating itself. While accountability may take place at the ballot box, it is critical for a board to evaluate itself on their established goals so that appropriate interventions take place throughout your term in office. MSMA has sample self-evaluation tools for you to access. It is important to adopt a framework that includes your board and district goals in the instrument you utilize.

The critical factor is that the board makes time to identify the specific criteria that identifies success as a school board. Then thoughtfully, honestly, and respectfully the school board should assess and discuss their strengths and challenges against those criteria with an eye to continuous improvement. Board self-evaluations help establish a positive culture in your district. The superintendent and staff realize that you as a board are willing to take an inward look at your effectiveness and are willing to make adjustments for the benefit of the students in your schools.

## References

### Roles and Responsibilities of the Board and the Superintendent regarding Accountability:

#### *Key Work of School Boards*

The School Board	The Superintendent
1. Establishes an accountability process with measurable criteria, and assures an annual review.	A. Recommends an accountability process to the board based on the district's strategic plan, standards, and other important factors. B. Leads an annual review of the accountability process, and recommends changes based on student performance. C. Ensures data and accountability measures are used at district/school level to set instructional priorities. D. Ensures staff evaluations are linked to accountability measures. E. Requires professional development on the accountability process.
2. Participates in work sessions to understand accountability measures, including data analysis; and how the board, administration, and staff should use this information.	A. Plans periodic training for the board on accountability measures, including the use and application of data. B. Ensures staff training in use of data and other accountability measures.
3. Ensures that the superintendent's evaluation includes accountability measures.	A. Works with the board to identify accountability measures to be used in the superintendent's evaluation.
4. Recognizes and rewards teachers who consistently produce greater-than-average student improvement gains.	A. Identifies a program to recognize teachers who consistently produce greater-than-average gains. B. Carries out the recognition program.
5. Supports the superintendent's recommendation for dismissal or nonrenewal when warranted.	A. Develops a process to identify teachers whose students consistently fail to make expected gains.
6. Ensures effective and timely communications on the accountability system and progress.	A. Analyzes data and other accountability measures and presents explanation in a "user friendly" way to the board and to the community. B. Communicates, through the district's communications plan, use of and progress with, accountability measures to improve student achievement. C. Assures an annual report is developed containing data on student achievement and district performance data related to goals and standards.
7. Ensures funding to implement accountability measures.	A. Presents budget recommendations and rationale to the board.

8. Evaluates itself on board goals related to student achievement.	A. Works with board to develop its evaluation process.
9. Uses student achievement results to drive decision-making.	A. Reports all information related to improved student achievement and makes recommendations for needed changes.
10. Ensures compliance to state accountability measures.	A. Makes the board aware of any state-mandated reporting requirements for student learning. B. Ensures adherence at district and school levels. C. Shares data concerning state mandates with the board.
11. Ensures that parents receive annual, personalized data on their children's achievement.	A. Develops a system for providing parents with cumulative data that clearly trace individual progress from year-to-year and show progress in comparison with district standards. B. Ensures a system to provide parents whose students fail with information on district resources and available alternatives to help their student meet district standards.
12. Approves standards for student learning that reflect community expectations.	A. Develops a system for providing parents with cumulative data that clearly trace individual progress from year-to-year and show progress in comparison with district standards.
13. Ensures that curriculum, instruction, and assessments are aligned with student achievement standards.	A. Recommends standards for student learning based on state standards. B. Recommends changes to the board as needed. C. Implements alignment of curriculum, instruction, and assessments with student standards.
14. Adopts policies to support standards and student learning goals.	A. Recommends policies needed to support standards. B. Conducts periodic review with the board to identify additional policies or review existing ones.

## DUTIES AND RESPONSIBILITIES OF SCHOOL BOARDS

***PLEASE NOTE: LEGAL REFERENCES ARE UPDATED THROUGHOUT THE SECOND SESSION OF THE 131<sup>ST</sup> LEGISLATURE, 2024.***

### 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 School 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. School 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 - Maine law 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 they 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. School Board Meeting Public Comment Period – A school board shall provide the opportunity for the public to comment on school and educational matters. The board may establish reasonable standards for the public comment period, including time limits and conduct standards. For purposes of this section, “school board meeting” means a full meeting of the school board and does not include meetings of subcommittees. (1 MRSA § 1001(20).
3. 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).
4. 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).

5. 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 their 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 AND INSTRUCTION

As one of its duties, the school board shall adopt the school unit's courses of study in alignment with the system of Learning Results (20-A MRSA §1001(6)). "Course of study" means a planned program of learning designed to prepare students to meet the content standards of the system of Learning Results for each grade span (Ch. 125, 127 (Me. Dept. of Ed. Rules)).

Boards are required by state laws and regulations to adopt policies related to curriculum. "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)).

Boards shall adopt a policy governing the selection of educational materials, and they may approve educational materials (20-A MRSA § 1001(10-A)).

The following provisions apply to the instructional program:

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 Studies: Instruction shall include Maine history, the Constitution of Maine, Maine's geography and environment, its natural, industrial, and economic resources, its culture and ethnic heritage. A required component of Maine studies is Wabanaki studies (20-A MRSA § 4706)(2)).
4. Required Subjects: Courses in the following subjects, shall be provided in separate or integrated study programs and 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, government, civics, and personal finance - 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. It must also include instruction that addresses the relationship between physical and mental health, and instruction on "affirmative consent" and communication and decision making regarding sexual activity. (20-A MRSA § 4723).
6. Child Sexual Abuse Prevention and Response - Beginning in the 2017-2018 school year, a school unit that operates a public preschool program or an elementary school shall adopt a written local policy for child sexual abuse prevention education and response that is consistent with a "model policy" based on nationally recognized best practices to be developed by July 1, 2016 by the Commissioner, in consultation with the Maine Department of Health and Human Services.
7. 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).
8. Use of Automated External Defibrillators (AEDs) and Cardiopulmonary Resuscitation (CPR) - In accordance with rules adopted by the DOE, schools shall offer training to students on how to perform CPR and use AEDs (20-A MRSA § 6304).
9. 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).
10. 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 shall use multiple assessment methods to measure student achievement of the learning results set forth in section 6209 and in department rules implementing that section, other curricular requirements and the requirements of a common core course of study.

Statewide, all students in grades 3-8 and the second year of high school are required to take the Maine Through Year Assessment in Mathematics and Reading in the fall and spring. Students in grades 5, 8 and the third year of high school are required to take the Maine Science Assessment.

Each school shall ensure sufficient opportunity and capacity through multiple pathways for all students to study and achieve proficiency in the eight content areas of the Learning Results set forth in 20-A MRSA § 6209. Students must be allowed to gain proficiency through multiple pathways and must be allowed to demonstrate proficiency by presenting multiple types of evidence, including but not limited to teacher-designed or student-designed assessments, portfolios, performance, exhibitions, projects, and community service (20-A MRSA § 4722-A(2)).

Each student must be assessed by means of a statewide assessment in the areas of reading, mathematics, and science (the “accountability standards” identified in § 6209(1-A)).

## 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. Teachers
  - 1) Individual Employment - The superintendent shall nominate all teachers, subject to such regulations governing salaries and the qualifications of teachers as the school board makes. Upon the approval of nominations by the school board, the superintendent may employ teachers so nominated and approved for such terms as the superintendent determines proper, subject to the approval of the school board. The superintendent,

subject to the approval of the school board, shall implement a program to support probationary teachers pursuant to section 13015 (20-A MRSA § 13201).

- 2) Teacher Contracts - Prior to May 15th before the expiration of a first or 2nd year probationary teacher's contract, the superintendent shall notify the teacher in writing of the superintendent's decision to nominate or not nominate that teacher for another teaching contract. If, after receiving a complaint from a teacher, the Commissioner finds that the superintendent has failed to notify a teacher of a decision not to nominate that teacher, the school administrative unit shall pay forfeiture to the teacher. The amount of that forfeiture must be equal to the teacher's per diem salary rate times the number of days between the notification deadline and the date on which notification is made or on which the complaint is filed, whichever occurs first. In case the superintendent of schools and the school board fail to legally elect a teacher, the Commissioner has the authority to appoint a substitute teacher who serves until such election is made (20-A MRSA § 13201).

After a probationary period of 2 years, subsequent contracts of duly certified teachers must be for not less than 2 years. Unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract must be extended automatically for one year and similarly in subsequent years, except for duly certified teachers who received a summative effectiveness rating indicating ineffectiveness pursuant to chapter 508 for the preceding school year. The right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties. Unless a duly certified teacher who received a summative effectiveness rating indicating ineffectiveness pursuant to chapter 508 for the preceding school year receives written notice to the contrary from the superintendent not later than May 15th, the contract must be extended automatically for one year (20-A MRSA § 13201).

Just cause for dismissal or nonrenewal is a negotiable item in accordance with the procedure set forth in Title 26, chapter 9-A for teachers who have served beyond the probationary period (20-A MRSA § 13201).

- 3) Non-renewal - After a probationary period of 3 years, any teacher who receives notice in accordance with this section that the teacher's 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 must be private except by mutual consent and except that either or both parties may be represented by counsel. That hearing must be granted within 30 days of the receipt of the teacher's request.

The right to terminate a contract, after due notice of 90 days, is reserved to the school board when changes in local conditions warrant the elimination of the teaching position for which the contract was made. The order of layoff and recall is a negotiable item in accordance with the procedures set forth in Title 26, chapter 9-A. In any negotiated agreement, the criteria negotiated by the school board and the bargaining agent to establish the order of layoff and recall must include the teacher's effectiveness rating pursuant to chapter 508 as a factor and may also include, but may not be limited to, seniority.

- 4) Dismissal - A school board, after investigation, due notice of hearing and hearing thereon, shall dismiss any teacher, although having the requisite certificate, who proves unfit to teach or whose services the board deems unprofitable to the school; and give to that teacher a certificate of dismissal and of the reasons for the dismissal, a copy of which the board shall retain. Such dismissal shall not deprive the teacher of compensation for previous services (20-A MRSA §13202).
- d. Evaluation/Educator Effectiveness - Each school unit is required to develop and implement a performance evaluation system and professional growth system (“PEPG”) for educators (defined as teachers and principals) that meet the criteria set forth in Maine law and Department of Education rules. The system is to be fully implemented in the 2016-2017 school year, although an individual school unit may implement it earlier, if ready (20-A MRSA § 13702).

A superintendent shall use effectiveness ratings of educators to inform decisions related to personnel, including but not limited to recruitment, selection, induction, mentoring, professional development, assignment, and dismissal (20-A MRSA § 13703).

Receipt of summative effectiveness ratings indicating that a teacher is ineffective for two consecutive years constitutes just cause for nonrenewal of a teacher’s contract unless the ratings are the result of bad faith (20-A MRSA § 13703).

- e. 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.
  - 1) 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).
  - 2) 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).
  - 3) 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 their 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).

- 4) 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).
- 5) 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, they 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 them unable to perform the functions of their 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 their 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 their 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)).

Schools are required to hold a lockdown drill each year (2015, Resolve Directing the DOE to Amend the School Emergency Drill Rules).

- 4) Comprehensive Health and Safety and Emergency Management Plan - Each school board shall annually approve a comprehensive health and safety and emergency management plan that meets nationally recognized practices and is developed by the school unit administration working collaboratively with appropriate stakeholders (20-A MRSA § 1001(16)). The approval of a comprehensive health and safety and emergency management plan under this subsection is public information. At the request of any school board member or full-time school employee, the school board shall form a steering committee composed of school employees, including a school employee designated by that employee's school as having oversight regarding school safety, school board members, parents and others. A majority of the school employees must be chosen by the local representatives of the applicable bargaining unit if the school employees are covered by a collective bargaining agreement. The steering committee shall regularly review and refine the comprehensive health and safety and emergency management plan.

The following information pertaining to a comprehensive health and safety and emergency management plan is public information:

- A. A description of the scope and purpose of the comprehensive health and safety and emergency management plan and the process used for developing and updating the plan; [PL 2021, c. 464, § 1 (AMD).]
- B. General information on auditing for safety and preparedness; [PL 2007, c. 408, § 1 (NEW).]
- C. Roles and responsibilities of school administrators, teachers, and staff and the designated chain of command during an emergency; and [PL 2007, c. 408, § 1 (NEW).]
- D. Strategies for conveying information to parents and the general public during an emergency. [PL 2007, c. 408, § 1 (NEW).]

Except as provided in paragraphs A to D, release of the contents of a comprehensive health and safety and emergency management plan approved under this subsection is subject to the limitations set forth in Title 1, section 402, subsection 3, paragraph L.

- 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. Operate as if School Administrative District.
- 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 Health Advisor - Each school board shall appoint one or more school physicians or family or pediatric nurse practitioners to act as school health advisor. The school health advisor 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) 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)).
- 3) Health Screening - 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) Dyslexia Screening - Beginning in the 2016-2017 school year, a school unit shall screen for dyslexia students from kindergarten to grade 2 who have difficulty, as identified by a classroom teacher, in an area identified in 20-A MRSA § 4710-B(2).
- 5) 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)).

A school may obtain a standing order for undesignated ready-to-use glucagon rescue therapy from a health care provider with the authority to prescribe it. A school nurse or trained unlicensed school personnel may administer an undesignated ready-to-use glucagon rescue therapy to a student with a known diagnosis of diabetes if the student's prescribed glucagon is not available on site or has expired. An undesignated ready-to-use glucagon rescue therapy may be used on school property, including the school building, playground and school bus, as well as during field trips or sanctioned excursions away from school property. (20-A MRSA § 6308).



- 6) Allergies - By September 1, 2016, the school board shall implement a protocol for the management of students with life-threatening allergies enrolled in the schools and make it publicly available on the school unit's website (20-A MRSA § 6305).

A school unit may authorize adoption of a collaborative practice agreement for the purposes of stocking and administering epinephrine autoinjectors (epi-pens) to allow the administration of an epi-pen to a student who does not have a prescription in an emergency when the student is experiencing anaphylaxis during school or a school sponsored activity. The epi-pen must be administered by the school nurse or other authorized unlicensed personnel who have received the training required by rule (Dept. of Education Rule Chapter 40) (20-A MRSA § 254(5); 6305).

- 7) Medical Marijuana - A child who holds a written certification for the use of medical marijuana may not be denied eligibility to attend school solely because they use medical marijuana in a non-smokeable form as a reasonable accommodation necessary for the child to attend school (20-A MRSA § 6306).

A primary caregiver designated pursuant to 22 MRSA § 2423-A(1)(E) may possess and administer marijuana in a non-smokeable form on a school bus and on the grounds of the preschool or primary or secondary school in which a minor patient is enrolled only if: a) a medical provider has provided the minor qualifying patient (i.e., the student) with a current written certification for the medical use of marijuana; and b) possession of marijuana in a non-smokeable form is for the purpose of administering it to the minor qualifying patient (22 MRSA § 2423-A(1)).

8. Naloxone or other opioid-reversing medication - A school unit may authorize adoption of a collaborative practice agreement for purposes of stocking, possessing, and administering naloxone hydrochloride or another opioid-reversing medication. Pursuant to a collaborative practice agreement, the school nurse or designated school personnel may administer naloxone hydrochloride or another opioid-reversing medication to students, staff, or visitors during school or a school-sponsored activity or otherwise on school grounds under emergency circumstances involving an opioid overdose or apparent opioid overdose. (20-A MRSA § 6307).

- 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, including cyberbullying, harassment, and sexual harassment (20-A MRSA § 1001(15)(H)).
- j. Student Suspensions/Expulsions - The school board shall expel any student, except a student who is enrolled in grade five or below, 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. 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).

- o. Chronic Absenteeism - Maine law (20-A MRSA § 5171) requires the establishment of an attendance review team to review chronic absence for the school district if:
- The school unit (as a whole) has a chronic absenteeism rate of 10% or higher;
  - The school unit has under its jurisdiction a school with a chronic absenteeism rate of 15% or more;
  - The school unit has under its jurisdiction more than one school with a school chronic absenteeism rate of 15% or higher; or
  - The school unit (as a whole) has a chronic absenteeism rate of 10% or higher and has one or more schools under its jurisdiction with a chronic absenteeism rate of 15% or higher.

The Superintendent/designee will be responsible for appointing members to the attendance review team. The attendance review team may include school administrators, guidance counselors, school counselors, school social workers, and teachers.

The attendance review team is responsible for reviewing the cases of chronically absent or truant students, discussing school interventions and referrals for such students, and making additional recommendations for such students and their parents.

- p. 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).

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, Indigenous Peoples' Day, Veterans Day, Thanksgiving Day, Christmas Day, Martin Luther King, Jr. Day, Patriots' Day, Memorial Day, and Juneteenth. 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 RSUs, see 20-A MRSA § 1476; 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.

## **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.

*Reaffirmed March 29, 2019*

\*MSMA SAMPLE POLICY\*

NEPN/NSBA Code: BCA

**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 made by the majority of the Board graciously.
- 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: \_\_\_\_\_

**PLEASE NOTE** MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are not intended for verbatim replication. Sample policies should be used as a starting point for a board's policy development on specific topics. Rarely does one board's policy serve exactly to address the concerns and needs of all other school units. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the application and suitability to the individual school system.

MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.



## 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.

**OFFICE OF THE  
ATTORNEY GENERAL**

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## *Memorandum*

TO: A. Pender Makin, Commissioner  
Maine Department of Education

FROM: Sarah Forster, Assistant Attorney General

DATE: January 3, 2020

SUBJECT: School Boards

Senator Millett and Representative Kornfield sent you a letter on April 9, 2019 requesting that "the Department, in consultation with the Attorney General's Office, develop guidance and provide direction to school boards on current state law and the responsiveness of school boards to the public." I understand that this request comes from a concern about training materials developed by the Maine School Boards Association and the law firm of DrummondWoodsum and specifically how they address school boards' "responsibilities for, and responsiveness to, their respective communities." After reviewing materials from DrummondWoodsum, I am not sure that any additional guidance or direction from you is needed.

The Maine Constitution affords control over education to the Maine Legislature. School boards are creatures of statute, with their duties and responsibilities described therein. The nexus of the concern about school boards' "responsibilities for, and responsiveness to, their respective communities" appears to be the statement, contained in a decision of Maine's Law Court that

. . . the [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.

*Shaw v. Small*, 124 Me. 36, 41 (1924). *Shaw's* instruction that a school board is responsible for faithfully applying the law, as opposed to considering the fairness of the law to their municipality' remains good law, and is not limited, as some have suggested, to its facts or to its

<sup>1</sup> In *Shaw*, the issue was the right of an orphan to attend school in the town where his guardian resided. The school committee denied him access to school because, among other things, they felt that too many wards of the state were being placed in their town, which was an "unequal burden that the town should not be obligated to bear." The Law

time. As explained by Attorney Donald Kopp in a 2006 article, unlike a representative body that is charged with legislative functions, a school board is an executive body with the collective responsibility of executing the laws enacted by the Legislature and governing the school administrative unit over which they are responsible. Thus, once elected, members of a school board function not as a representative of the town or ward that elected them, in the way that a member of the Legislature acts as a representative of his or her district, but as a member of an executive body that oversees a system of public education. The training materials provided to school boards appear to be consistent with that view: they prepare school board members to govern school administrative units in accordance with the governing law.

With respect to a related issue, public participation at school board meetings, the recent enactment of Chapter 293, An Act to Encourage Public Participation in School Board Meetings, puts to rest any concerns about the requirement that school boards receive public comment at their meetings. I have reviewed the model policy drafted by MSMA and believe that it fully complies with the public comment requirement.

SAF/pc

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Court, in ordering the student be admitted to school, held that the school committee was obligated to follow the law with respect to residency, not their views about the fairness of the law to their town.

## SECTION 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 governing 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, they are not simply an employee of the board. The superintendent's statutory duties cannot be performed by the board and vice versa. While the school is the governance team, the board and superintendent operate together as an educational leadership 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 what’s in the best interest of all 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 three-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 MSBA 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 [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. They 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 their 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 (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 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, they 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 (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 (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. There is no statute that addresses how, or what distance, transportation is provided in a RSU. Title 20-A MRSA § 1452 applies general law (core functions to a RSU) including "administration of transportation."
  - 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 their 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).

## SECTION 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 4-6, for a review of the important provisions of the law.

**FOA Mandatory Training** – Elected officials and superintendents must complete a course of training on the Freedom of Access Law. For more information go to [www.maine.gov/foaa/faq](http://www.maine.gov/foaa/faq).

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 4-6, 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 their 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 they have 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 at any time. School boards must allow time for public comment—

within established parameters designed to ensure order as described within MSMA sample policy BEDH. We have included a copy of *Public Comment at Board Meetings* on page 4-13 and MSMA's sample policy on public comment in 4-D, *Public Comment at School 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

All public proceedings must be open to the public and any person must be permitted to attend a public meeting.

While Maine’s Freedom of Access Law in itself does not guarantee public comment access, 20-A MRSA § 1001(20) specifically requires school boards to provide the opportunity for the public to comment on school and education matters, at full meetings of the Board. Boards may impose reasonable standards for the public comment period including time limits and conduct standards, to ensure that the Board’s business meeting is not disrupted and to ensure compliance with confidentiality and privacy laws. The statute does not specify where the public comment period should be placed on the agenda or how much public comment should be allowed. For efficiency, it may make sense to place the public comment early in the agenda, or perhaps after the report of the superintendent or chair on the chance questions members of the public may have could be answered through information reported by the superintendent or chair. (See MSMA sample policy BEDH, *Public Comment at School Board Meetings* in Section 4 of this Handbook.)



#### § 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 on page 4-9.

#### § 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, any person may inspect (at no charge) or copy a public record during reasonable office hours or may request the agency or official to provide a copy. A request for a copy does not need to be in person or in writing.

The agency or official having custody of the public record shall acknowledge receipt of the request within 5 working days of receiving the request and may request clarification concerning which public record(s) are being requested. *Within a reasonable time* of receiving the request, the agency or official shall provide a good faith, nonbinding estimate of the time frame within which the agency or official will comply with the request and a cost estimate of fulfilling the request.

If the agency or official having custody of any public record refuses permission to inspect or copy a public record, the agency or official shall provide, within 5 working days of receipt of the request, written notice of the denial, stating the reason for the denial or the expectation that the request will be denied in full or in part following a review.

An agency or official may charge a reasonable cost to cover the cost of copying. By statute, a reasonable fee to cover the cost of copying is no more than 10 cents per page for a standard 8 ½ inches by 11 inches black and white copy of a record. A per-page copy may not be charged for records provided electronically.

The agency or official may charge a fee to cover the actual cost of searching for, retrieving, and compiling the requested public record. Compiling the public record includes reviewing and redacting confidential information. The agency or official may not charge a fee for the first two hours of staff time per request. After the first two hours of staff time, the agency or official may charge a fee of no more than \$25 per hour.

If the estimate of the total cost is more than \$50, the agency or official will inform the requestor before proceeding. Advance payment of all or a portion of the estimated costs to complete the request may be required if the estimated total cost exceeds \$100.

§ 409 - Appeals

Any person aggrieved by a failure to provide access to a public record may appeal to the Superior Court within 30 days of receipt of the written denial of their request.

§ 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. Superintendent's Report
- H. Board Chair's Report
- I. Committee Reports
- J. Public Participation\*
- 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 Comment at School Board Meetings

Adopted:       \_\_\_\_\_

**[\*NOTE: Boards may choose to offer opportunities for public comment prior to Board consideration of individual agenda items and must offer this opportunity during a period set aside for more general public comment related to school and education matters. If so, we suggest that the “open” comment 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 comment be placed on the agenda in any particular location. We have inserted it here to remind boards that there must be at least one opportunity for public comment on school and education matters during full meetings of the school board.]**

## PUBLIC COMMENT AT BOARD MEETINGS

### 4-D

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 full meetings of your board, except for properly called executive sessions. It is helpful to remember that while 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 a statutory requirement that boards provide the opportunity for the public to comment on *school and education matters* at a school board meeting. Nothing in the statute restricts a school board from establishing *reasonable standards* for the public comment period, including time limits and conduct standards (10-A MRSA § 1001(20)). Allowing members of the public to speak in an orderly and non-disruptive manner provides a legitimate and practical way for the board to receive input, to demonstrate respect for community needs and concerns, and to increase support for the schools.

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 comment must not occur in such a way as to disrupt or to prevent the board from getting its work done. Public comment can be controlled by having (and fairly enforcing) an effective policy addressing PUBLIC COMMENT AT SCHOOL 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.

Public Comment at School 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 they are allowed to speak—such as information cards or a sign-up sheet for each speaker to give name, address, and topic. Public comments are to be on school and education matters and are to be viewpoint neutral.
- 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.

**[NOTE: School Boards are required by current law to provide an opportunity for public comment, limited to school and education matters, at full meetings of the Board (20-A MRS § 1001(20). Boards may impose reasonable time, place and manner restrictions on expressive activity during the public comment period to ensure that the Board's business meeting is not disrupted and to ensure compliance with confidentiality and privacy laws.**

**Boards should check other related policies (such as those pertaining to agenda preparation, Board meetings, agenda format, etc.) to ensure that there are no inconsistencies with revisions to this policy, and update those policies and all cross references, as necessary.]**

### **PUBLIC COMMENT AT SCHOOL BOARD MEETINGS**

The primary purpose of School Board meetings is to conduct the business of the Board related to Board policies, programs, and operations. The Board encourages residents to attend Board meetings so that they may become acquainted with the operations and programs of the schools.

The Board also recognizes the value of public comments on school and educational matters. To permit fair and orderly expression of public comments at Board business meetings while still allowing the Board to conduct its business efficiently, the Board has established the procedure below for regular business meetings.

At special, emergency, or workshop meetings, public comments will be limited to the topic(s) of the particular meeting.

**[NOTE: The public comment law simply refers to “full meetings of the board,” without making a distinction between the various kinds of meetings that are typically held. MSMA/DW believe that it is acceptable to limit public comment at special, emergency, and workshop meetings to the topic(s) for which the meeting is held. Boards may delete the above sentence if they wish to allow general comments. The law makes it clear that public comment is not required at subcommittee meetings.]**

In addition to speaking during the designated public comment portion of the agenda at Board meetings, members of the public are welcome to submit written comments on school and educational matters to the Board and Superintendent.

**[NOTE: The law does not specify where the public comment period should be placed on the agenda or how much public comment should be allowed. For efficiency, it may make sense to place the public comment early in the agenda.]**

1. The Board will include a public comment period, not to exceed 30 minutes **[Or: \_\_\_\_ minutes]** on the agenda of its regular business meetings. Comments by individuals are limited to a maximum of three (3) minutes **[OR: \_\_\_\_ minutes]** at a meeting. Individuals may not relinquish a portion of their allotted time to another speaker. The time limits in this paragraph may be modified at a particular meeting at the discretion of the Board.

**[NOTE: Boards have the option of prioritizing comments from residents of the school unit. There are two options below that Boards may wish to consider. MSMA/DW suggest having a sign-in form for individuals to speak, which includes the individual's name and town/city of residence. Boards may also choose not to have a sign-in form, or only to use one in circumstances where there are many individuals wishing to speak at a regular meeting.]**

2. **[OPTION 1]** Individuals who wish to speak during the public comment period are required to fill out the sign-in form available at each Board meeting, prior to the beginning of the public comment period, and to review a copy of this policy. Each individual will be required to state their name and town/city of residence before beginning their remarks.

**[OPTION 2]** The Board will hear public comments from residents of the school unit first. If there is time remaining in the public comment period once all residents have had the opportunity to speak, the Board will permit comments from non-residents. Individuals who wish to speak are required to fill out the sign-in form available at each Board meeting, prior to the beginning of the public comment period, and review a copy of this policy. Each individual will be required to state their name and town/city of residence before beginning their remarks.

3. The Board Chair is responsible for ensuring the orderly conduct of Board meetings and for ensuring compliance with this policy, including the following rules of order:

- a. Speakers will be recognized by the Board Chair, and comments should be addressed to the Board Chair. Requests for information or concerns that require further research may be referred to the superintendent for further action, if necessary;
- b. Speakers are expected to follow rules of common etiquette and decorum, including refraining from using vulgar and/or obscene language, yelling, threatening others using words or by other actions, making defamatory comments, or otherwise engaging in any activity that disrupts orderly meeting progress. Examples of disruptive conduct include, but are not limited to, exceeding the allotted time limits, talking over or interrupting others, offering repetitive comments, and offering comment on matters unrelated to the school unit's programs, policies, or operations.

- c. Discussion of personnel matters is not permitted during the public comment period due to the privacy, confidentiality and due process rights of school unit employees. For purposes of this policy, “discussion of a personnel matter” means any discussion of job performance or conduct of a school unit employee, including complaints or positive/complimentary comments about them.
- d. Discussion of matters involving individual students are also not permitted during the public comment period due to the privacy, confidentiality, and due process rights of the school unit’s students.
- e. Any concerns about personnel matters and/or student matters should be directed to the Superintendent or another appropriate administrator outside of Board meetings so that they can be addressed through an alternative channel and in a manner consistent with privacy, confidentiality, and due process rights of the individuals involved.
- f. The Board Chair will stop any public comment that is contrary to these rules.
- g. Individuals who disrupt a Board meeting may be asked to leave in order to allow the Board to conduct its business in an orderly manner. The Board Chair may request the assistance of law enforcement if necessary to address disruptions or safety concerns.

Legal Reference: 20-A MRSA § 1001(20)  
20-A MRSA § 6101  
1 MRSA § 405

Cross Reference: BE – School Board Meetings  
BEDB – Agenda  
BEDB-R – Agenda Format  
BEC – Executive Sessions  
KE – Public Concerns and Complaints

Adopted \_\_\_\_\_

## 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* (12<sup>th</sup> edition, 2020) 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 former executive director of the South Carolina School Boards Association, was 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 *Robert's* 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 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 other 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.

## SECTION 5

# CONFLICTS OF INTEREST

As elected officials, school board members are obligated to protect the public interest and to serve the public good. Contracts and other actions taken by Board vote made in violation of this duty are not in the public interest and may be voidable (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(6)). 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 their 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.

*The following text from the statute was in effect from 2021-2024. It is anticipated that an attempt will be made to reinstate it during the next Legislative session:*

**A. (TEXT EFFECTIVE UNTIL 7/01/24) (TEXT REPEALED 7/01/24)** A school board may, but is not required to, permit the spouse of a member of the school board to serve as a stipend employee on a contractual basis when that action is in the best interest of students and a summation of potential conflicts of interest is documented and a priori mitigations are described in the signed contract. A school board may adopt a written policy on nepotism that includes hiring practices for school-sanctioned stipend positions, discourages favoritism and political patronage, considers the needs of the school system and provides that all qualified applicants have a fair and equal opportunity to be selected on merit, with priority consideration given to the best interest of students without restrictions based solely on family association. *This paragraph was repealed July 1, 2024.*

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.

*The following text from the statute was in effect from 2021-2024. It is anticipated that an attempt will be made to reinstate it during the next Legislative session:*

**B. (TEXT EFFECTIVE UNTIL 7/01/24) (TEXT REPEALED 7/01/24) Permissive volunteer placement by school administrative unit, school union, academy.** Notwithstanding [subsection 2-A](#), a school board may, but is not required to, permit a school board member's spouse to serve as a volunteer. A school board may adopt a written policy on nepotism to discourage favoritism and political patronage, consider the needs of the school system and provide that all volunteers have a fair and equal opportunity to be selected on merit, with priority consideration given to the best interest of students without restrictions based solely on family association. *This subsection is repealed July 1, 2024.*

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 their service as a board member, if the position was created or the compensation increased by action of the school board during their term.

We have included a copy of MSMA's sample *Board Member Conflict of Interest* policy for your review (see 5-A, *Conflict of Interest*, beginning on page 5-4).

## | 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, they are deemed to have resigned the first office at the time they are sworn in to the second office.

**5-A**

**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 their 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 they or a member of their 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 they have 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 their 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 they have 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.

## **Code of Conduct for Federally Funded Projects**

When a Board member participates in the selection, award or administration of a contract that is supported by a federal award, the Board member shall also comply with the Board's policy DJH – Purchasing and Contracting: Procurement Staff Code of Conduct.

## **Appearance of Conflict of Interest**

A Board member should do nothing to give the impression that their 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.

### **[OPTIONAL:]**

**As permitted by 20-A MRSA §1002(2)(A), and in compliance with the Board's policy BCC–Nepotism, the spouse of a Board member may be permitted to serve as a stipend employee on a contractual basis when this action is in the best interest of students and a summation of potential conflicts of interests is documented and mitigations are described in the signed contract. This exception is for the 2021-2022, 2022-2023, and 2023-2024 school years only.]**

**[NOTE: 20-A MRSA §1002(2)(A) “sunsets” July 1, 2024 unless extended by the Maine Legislature.]**

## **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.

### **[OPTIONAL ADDITIONAL LANGUAGE:**

**For the 2021-2022, 2022-2023, and 2023-2024 school years, as permitted by 20-A MRSA §1002(2-B) and the Board's policy BCC – Nepotism, a spouse of a Board member may be permitted to serve as a volunteer in any capacity, the same as other school volunteers. ]**

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.

**[NOTE: 20-A MRSA §1002(2-B) “sunsets” July 1, 2024 unless extended by the Maine Legislature.]**

## **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. “Stipend employee” means a person who receives limited monetary payment of benefits, through a series of payments or in a lump sum, for personal services performed in an advisory, mentoring, or coaching capacity for a school administrative unit.

- C. “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 (SAD’s)  
30-A M.R.S.A. § 2604-2606

Cross Reference: BCA – Board Member Code of Ethics  
BCC – Nepotism  
DJH – Purchasing and Contracting: Procurement Staff Code of Conduct

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 their immediate family, nor in a position in which they are supervised or evaluated, in whole or in part, by a member of their 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 they have 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 MRSA § 1002

Cross Reference: BCB - Board Member Conflict of Interest

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

## SECTION 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 provide oversight to see that the schools are well operated. 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 effective school management.

See 6-A, *Why Do We Need Policies?* beginning on page 6-3, 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 6-4, 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 6-5).

Document 6-D on page 6-10, *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 6-11, *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* (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)

## SECTION 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).
- To the extent that the State provides adequate start-up funding, they may operate public preschool programs or provide for students to participate in such programs (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, Science and Engineering, 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 7-4.)

## 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 or Multiple Tiers of Student Support (MTSS) 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 all 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 their 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 they are 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 their 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 IJJ on *Instructional and Library-Media Materials Selection* starting on page 7-7 for your review. This policy contains a procedure and form boards may use to address curricular challenges fairly. A sample *Challenge of Instructional Materials Form* can be found beginning on page 7-13. 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 have been 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 7-6. More information regarding the state's system of [Learning Results](#) can be found on the DOE website.

## **Measuring Student Achievement**

The Commissioner of Education shall establish a statewide assessment program to measure and evaluate on a continuing basis the academic achievements of students in grades 3 to 12 on the accountability standards set forth in section 6209 and in department rules implementing that section and other curricular requirements. The commissioner may elect to provide for the use of alternative measures of student achievement in grades 9 to 12. This assessment applies to students in the public elementary and secondary

schools, in public charter schools, as that term is defined in section 2401, subsection 9, and in all private schools approved for tuition whose school enrollments include at least 60% publicly funded students, as determined by the previous school year's October and April average enrollment. The assessment program must be adapted to meet the needs of children with disabilities as defined in section 7001, subsection 1-A or other students as defined under rules by the commissioner. The assessment program may not include the use of the standardized test known as "the SAT" as a method for assessing student performance. (20-A MRSA § 6202).

## **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 their 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 their 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/DVD  
☐ Audio Recording ☐ Software/Application ("App")  
Other (Please specify) \_\_\_\_\_

Author /Creator (if known) \_\_\_\_\_

Title \_\_\_\_\_

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

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

Phone \_\_\_\_\_ Email \_\_\_\_\_ Address \_\_\_\_\_

Complainant represents: ☐ Myself  
☐ Group/Organization \_\_\_\_\_

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

## SECTION 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 school community stakeholders, 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 stakeholders in town—not just those who may have supported you. These stakeholders include parents (who may have different interests at different grade levels), students, school staff, senior citizens, municipal officials, 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 stakeholders. As a board member, you took an oath to uphold the laws of Maine, the Constitution, 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 (these are your constituents). 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 stakeholder group—is probably not serving their 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 stakeholder 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 stakeholders 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 8-7, for your review. MSMA’s sample policy KEB, *Complaints about School Personnel* can be viewed in 8-E, found on page 8-8.

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 Congresswomen/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 their commitment to the process. There is a constant balancing act between listening to stakeholders 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 Public 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 stakeholder 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 their 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  
                           KEB – Complaints About School Personnel

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

## COMPLAINTS ABOUT SCHOOL PERSONNEL

The Board believes that constructive criticism, when it is motivated by a sincere desire to improve the quality of our educational programs, assists school personnel in performing their responsibilities more effectively. At the same time, the Board places its trust in the school unit's employees and desires to support their actions in such a manner that employees are not subjected to unnecessary, spiteful, or frivolous complaints.

Complaints about school employees should be resolved at the lowest possible level and in a manner that ensures that the facts are gathered, applicable due process rights are respected, and the privacy rights of personnel and students are honored. Any complaint presented to the Board as a whole or to individual Board members will be referred to the school administration so that the concern can be processed in accordance with this policy. The Board will not hear or review complaints until such complaints have been brought forth through the appropriate and applicable administrative channels and the Superintendent or designee has had a reasonable opportunity to consider and seek to resolve the complaint.

### Steps in the Complaint Procedure

Step 1: Generally, the first step in the complaint procedure is for the complainant to discuss the matter directly with the employee against whom the complaint is registered **[OR: who is the subject of the complaint]**. If this is clearly inappropriate because of the nature or severity of the complaint, the person making the complaint may request a conference with the employee's principal/assistant principal/immediate supervisor.

Step 2: If the complaint cannot be resolved following a discussion with the employee, the person initiating the complaint may appeal to the employee's immediate supervisor. The principal/assistant principal/immediate supervisor of designee will look into the complaint and communicate with **[OR: respond to]** the person making the complaint.

Step 3: If the complaint cannot be resolved at the supervisory level, it may be presented to the Superintendent. The person requesting the Superintendent's review must submit their complaint in writing, setting forth the specific facts on which the complaint is based, and attaching all documents in support of the complaint. The Superintendent will provide a copy of the written complaint to the person against whom the complaint is made.

Step 4: If the complaint remains unresolved at the Superintendent's level, the person making the complaint may contact the Board Chair to request that the matter be placed on the Board's agenda. The Board Chair, at their sole discretion, will determine whether the complaint will be placed on a future Board agenda. If the complaint is not placed on the agenda, the Superintendent's determination on the complaint shall be considered final. If the complaint is placed on the agenda, the Superintendent or Board Chair will invite the complainant and the person against whom the complaint is made to attend the meeting and will provide Board members with a copy of the complaint and supporting documents.

The Board will determine the procedural rules for any meeting to hear a complaint. Any such meeting will be held in executive session. Only if the Board elects to record the meeting will any recording of the meeting by others be permitted. If a group submits a complaint that is placed on the agenda, a delegation of no more than two individuals must be designated to represent the group and to present the complaint to the Board. If the Board acts upon the complaint, the Board's decision shall be final.

#### Complaints Against the Superintendent

Complaints about the Superintendent may be presented directly to the Board Chair, but only after reasonable efforts have been made by the complaining party to resolve their complaint directly with the Superintendent. If the Board Chair receives a complaint about the Superintendent, the Board Chair will consult with legal counsel as necessary to determine how best to proceed.

#### Complaints by Employees Concerning Terms and Conditions of Employment

It is not the intent of this policy to address and cover complaints made by employees about their terms and conditions of employment. These complaints should be brought forward by unionized employees through the informal, and if necessary, formal steps of the contractual grievance procedure, if any. However, this policy shall not be interpreted in a manner that expands the scope of matters that may be processed under the contractual grievance process.

For non-unionized employees, these complaints should follow the chain of command; complaints should first be presented to the employee's immediate supervisor, and if a complaint is unresolved, it may be raised through the building principal level to the superintendent.

Cross Reference: KE – Public Concerns and Complaints

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

## SECTION 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

### **Know what Hat you are wearing!**

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 Relationships and Communications with Staff* (see 9-A, beginning on page 9-7) 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;
- Supervising and 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 their contract renewed or to be provided with the reasons why they was not nominated. The superintendent has total discretion in deciding whether to nominate a probationary teacher to the board, while being aware and cautious concerning areas that could lead to a charge of discrimination. 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 their employment, and the steps necessary to non-renew or dismiss then 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 MPELRL, 26 MRSA § 961-976, 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. The “Meet and Consult” obligation is embedded in 26 MRSA § 965 (1-A).

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 9-11.

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, with two exceptions, is the responsibility of the board. The board should be careful not to give up educational policy making rights to the collective bargaining process. The exceptions include planning and preparation time and transfers of teachers, which became permissive subjects of bargaining within the 130<sup>th</sup> Session of the Maine Legislature, Sec. 1. 26 MRSA § 965, sub-§ 1, C. Remember, these exceptions are permissive subjects and as a Board you do not need to agree to bargain these topics.

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 9-11, 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 9-10, to illustrate the balance of staff involvement in decision making with the board's responsibilities.

## **BOARD RELATIONSHIPS AND 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.

### **RELATIONSHIPS**

#### **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 governing body of the school unit and has the responsibility for adopting policies and providing for the care and management of the schools.

The Superintendent is the ex officio secretary of the Board and the chief administrative officer. The Superintendent is responsible for the day to day administration of the school unit and for ensuring that the operations of the school unit conform to Board policies and applicable law. 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 school 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. Their 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 and other School Employees**

The relationship of the teacher to the Board is indirect. The teacher is directly responsible to the Principal/Assistant Principal and through the Principal/Assistant Principal to the Superintendent, and then to the Board.

Other school employees, depending on their position, are directly responsible to the Principal/Assistant Principal or to the supervisor to whom the employee reports, and through the Principal or supervisor to the Superintendent, and then to the Board.

Direct access between employees and the Board may be obtained through channels established for grievances or through applicable Board policies

### **BOARD COMMUNICATIONS WITH STAFF**

The Board will communicate regularly with school staff on matters of current interest and importance to the school community at such times and through such methods as the Board deems appropriate.

**[NOTE: Methods to consider might include periodic newsletters, postings or notices on the school unit's website or social media, minutes of Board meetings, Board workshops, and/or opportunities for staff to serve as representatives on advisory committees to the Board, etc.]**

Individual employees and employee organizations are expected to utilize communication channels established through Board policies, administrative procedures, and collective bargaining agreements and not to circumvent the chain of command and their direct supervisors.

Communications with staff are the responsibility of the Board as a whole. Individual board members should refrain from initiating communications or conversations with staff members on their own.

Legal Reference: 20-A MRSA §§ 1(28); 1001(21); 1051; 13201-13202

Cross Reference: BEDH – Public Participation in Board Meetings  
KE – Public Concerns and Complaints  
KEB – Complaints About School Personnel

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 of Directors, 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 – Board 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.

In 2021, the Maine Legislature amended 26 MRSA § 965 (1-A) to include the several elements that are necessary to comply with the meet and consult obligation. The statute states:

- A. A public employer of teachers shall give written notice to the bargaining agent when a change in educational policy is planned by the public employer of teachers. Upon receipt of the written notice, the bargaining agent may initiate the meet and consult process by notifying the public employer of teachers, including the superintendent. The public employer of teachers may also initiate the meet and consult process by notifying the bargaining agent.
- B. The public employer of teachers shall, upon receipt of a request from the bargaining agent, provide to the bargaining agent information necessary for the bargaining agent and the employees to understand the planned change and make suggestions or express concerns about the planned change.
- C. When notice to initiate the meet and consult process is given under paragraph A, authorized representatives of the public employer of teachers and the bargaining agent shall meet and consult at reasonable times and places about the planned change. The parties shall meet and consult openly, honestly and in good faith, and the public employer of teachers shall consider the employees’ suggestions and concerns.
- D. The authorized representatives of the public employer of teachers shall give full and fair consideration to the employees’ suggestions and concerns before the change in educational policy is implemented, and the public employer of teachers shall decide in good faith whether employees’ suggestions or concerns can be accommodated.



- E. The bargaining agent may initiate the meet and consult process by notifying the public employer of teachers when an existing educational policy of the public employer is changed by practice or if the written notice required under paragraph A is inadvertently omitted.

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 initially prepared by Harry R. Pringle, Esq., of Drummond Woodsum and updated as changes get made. It is a summary of the more detailed explanation of the Municipal Public Employee Labor Relations Law that is contained in *Maine School Law 6th Ed.*, edited by Bruce W. Smith, and Ann S. Chapman and available through [www.SchoolLaw.com](http://www.SchoolLaw.com).

In addition to the law itself, the MLRB also publishes separate “[Rules and Procedures](#)”.

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.

Annually, MSMA collects and makes available to school board chairs and superintendents statewide and regional salary, wage, and fringe benefit data for their use.

## **Overview of the Municipal Public Employee Labor Relations Law**

At the heart of the Municipal Public Employees Labor Relations Law (“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 also contains 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; and temporary, seasonal or on-call employees.<sup>1</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>2</sup> Additionally, under certain circumstances, private companies performing services for public school systems can be determined to be “public employers.”<sup>3</sup>

### ***Right of public employees to join or refrain from joining labor organizations: 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 engaging in union activities and to be represented by unions.<sup>4</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>5</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;
- blacklisting employees; and
- requiring an employee to join a union or employee association and terminating or disciplining an employee for not paying dues or fees.

- **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;<sup>6</sup> and
- engaging in work stoppages, slowdowns, strikes or blacklisting.

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” (what are known in the private sector as “unfair labor practices”).

### ***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 (calendar) days after receipt of written notice requesting a meeting for bargaining, unless the parties have otherwise agreed in a prior written contract;<sup>7</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: (1) neither party is required to agree to a proposal or to make a concession; and (2) public employers of teachers “shall meet and consult but not negotiate with respect to educational policies”;<sup>8</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 obligation to bargain under the MPELRL also includes an obligation to “meet and consult, but not negotiate with respect to educational policies.” In 2021, the Legislature amended the MPELRL to codify

the steps that a public employer must take in order to comply with this obligation. The details are discussed further in the below discussion of “Meet and Consult” requirements.

### ***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 MLRB by filing a request on MLRB Form 5 with the Executive Director, with a copy to the opposing party.<sup>9</sup> The mediation process is required to be followed whenever either party requests such services prior to interest arbitration,<sup>10</sup> or at any time on motion of the MLRB. The cost of mediation is, by statute, split between parties to a bargaining dispute.<sup>11</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>12</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>13</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>14</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>15</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>16</sup> The MLRB 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>17</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>18</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>19</sup>

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

Maine law provides three methods for recognizing a public employee organization as the exclusive representative of a unit of public employees: voluntary recognition, majority sign-up, and election.<sup>20</sup> An election will not be conducted, however, if the Executive Director of the MLRB finds that a majority of the proposed bargaining unit members sign cards indicating that they wish to be represented by the union.<sup>21</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>22</sup>

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

The MLRB 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>23</sup> The MLRB appoints an executive director, which 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>24</sup> The powers of the MLRB in prohibited practice proceedings are extensive. The Board has 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>25</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.”

### ***Bargaining Agent Access: Section 975***

In 2019, the Maine Legislature passed a new law giving bargaining agents the right to enter school property and meet with employees in a bargaining unit for the purpose of conducting union activity.<sup>26</sup> Under this statute, a bargaining agent may meet with individuals on school premises to discuss workplace-related complaints or investigate grievances; conduct workplace meetings during lunch, breaks, and before and after the workday; meet with new employees for at least 30 minutes to discuss joining the union; and use the school’s email system to communicate with unit members regarding union business. This law also requires that public employers provide a bargaining agent with certain employee

information within 30 days after the employee accepts employment, though employees have the right to opt out of sharing their information. In 2023, the Legislature amended Section 975 to allow a bargaining agent to request such information for existing employees, but not more than quarterly, and to make related disputes subject to grievance.

### ***Step Increases Following Contract Expiration: Section 976***

In 2021, the Maine Legislature required that during the interim between the expiration of a collective bargaining agreement and before the effective date of a successor agreement, employees covered by the expired collective bargaining agreement remain eligible for and must receive step increases as though the previous contract had not expired. This is an exception to the general rule that the static status quo must be maintained during the period between contracts.

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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. § 962(7)(A)(1) and (2).

<sup>3</sup> *See Baker Bus Service, Inc. v. Keith*, 416 A.2d 727 (Me. 1980). 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>4</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>5</sup> *Churchill v. M.S.A.D. # 49 Teachers Association*, 380 A.2d 186 (Me. 1977). *See also Janus v. AFSCME, Council 31*, 138 S. Ct. 2448 (2018) holding that requiring non-consenting public employees to pay “agency” or “fair share” fees violates the First Amendment to the U.S. Constitution. In addition, insofar as Maine public school teachers are concerned, “fair share” provisions requiring financial support as a condition of continued employment would seem clearly to violate the statute, 20-A M.R.S.A. § 13201.

<sup>6</sup> 26 M.R.S.A. § 964(1), (2).

<sup>7</sup> 26 M.R.S.A. § 965(1)(B), but see possible exception in paragraph B-1.

<sup>8</sup> 26 M.R.S.A. § 965(1)(C).

<sup>9</sup> Maine Labor Relations Board Rules, Chapter 13, § 2.

<sup>10</sup> In *Valley Education Association v. Board of Directors*, No. 93-15 (Me.L.R.B. Aug. 19, 1993), *aff’d*, *Valley Education Association v. M.S.A.D. No. 43 and Maine Labor Relations Board*, 655 A.2d 348 (Me. 1995), the Maine Labor Relations Board expressly held that participation in mediation is required only prior to interest arbitration; thereafter, it is optional.

- 11 26 M.R.S.A. § 965(2)(C).
- 12 Maine Labor Relations Board Rules, Chapter 13, § 23.
- 13 26 M.R.S.A. § 965(3)(C).
- 14 *Mountain Valley Education Association v. M.S.A.D. No. 43 Labor Relations Board*,  
655 A.2d 348 (Me. 1995).
- 15 26 M.R.S.A. § 965(4).
- 16 26 M.R.S.A. § 966(2).
- 17 Maine Labor Relations Board Rules, Chapter 11, § 22.3. 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.
- 18 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).
- 19 26 M.R.S.A. § 966(4).
- 20 26 M.R.S.A. § 967.
- 21 26 M.R.S.A. § 967(1-A).
- 22 26 M.R.S.A. § 967(2). This statutory provision is the source of the Union’s so-called  
“representation,” under which the 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).
- 23 26 M.R.S.A. § 968(1).
- 24 26 M.R.S.A. § 968(2)-(5).
- 25 26 M.R.S.A. § 968(5)(C).
- 26 26 M.R.S.A. § 975.



## SECTION 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 Education Records and Information*, has been included for your review as 10-A, on page 10-4.

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: \_\_\_\_\_

## SECTION 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 their 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.

State voters in 2004 passed a law saying the state must fund 55 percent of the EPS number. This was first achieved during the 2022-2023 school year, 18 years later. 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. Here is the information used for fiscal year 2025: 15:1 for PreK-K; 17:1 for elementary school; 17:1 for middle school; and, 16:1 for high school.

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

There are other student-staff ratios that affect allocation including: education technicians at 114:1 for PreK-5, 312 for 6-8 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 PreK-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;
- An additional 5 percent increase (to total 1.20) for economically disadvantaged students;
- Limited English Proficiency students with a weight of 1.7, for a 70 percent increase.

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 2025 include:

- \$1,235 for operation and maintenance of the plant for PreK-8 and \$1,466 for high school;
- \$422 for supplies and equipment for PreK-8 and \$583 for high school;
- \$135 for system administration PreK-12;
- \$120 for technology for PreK-8 and \$360 for high school;
- \$72 for professional development PreK-12;
- \$45 for co-curricular and extra-curricular activities for K-8 and \$140 for high school;
- \$35 for instructional leadership support PreK-12.

The allocations for PreK-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. There is a formula now used to determine allocations to CTE regions and centers based on projected enrollment, approved programs and staffing, equipment and facility needs.

## **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, or you can access them yourself at the following website: [Your district’s ED 279](#).

## 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.**

## SECTION 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 1,800 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 very important, 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.

### Key Work of School Boards

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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 their 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. *The Key Works of School Boards*, a guidebook produced by the National School Boards Association (NSBA) outlines five key work areas that can ensure both excellence and equity in the public schools:

- **Vision**—setting the vision for education in the local community;
- **Accountability**—establishing academic standards to achieve the vision, assessing performance progress toward achieving the vision, and formulating strategies to help marginal or failing students;
- **Policy**—exercising power to serve students, establishing a set of cohesive guidelines to transform vision into reality.

- **Community Leadership**—sharing concerns and needs through public advocacy and strategic engagement with all stakeholders to implement the board’s vision.
- **Governance Team Relationships**—leading as a united team, school board and superintendent together, in an interconnected manner with strong collaboration and mutual trust.

### VISION

Ensuring that public education will meet emerging challenges requires a clear vision for the work and operations of our public schools. Vision is not about what we are, but about what we want to be. For school boards, it is about where the district is going and what kind of school systems we are trying to create.

**Objective:** To understand how school boards can develop and implement an effective vision that focuses on student achievement, guides district strategies, and involves the community.

The board's primary work is about creating a powerful, shared vision – a mental image of success. The vision is future-focused and seeks to shape events rather than simply let them happen. Positive and inspiring visions require the widespread involvement of those whose lives will be shaped by the vision. Powerful visions are the product of hours of discussion and dialogue among key stakeholders.

Effective school boards commit to a vision of high expectations for student learning, quality instruction, and equity for all students that is rooted in strong shared beliefs and values about what's possible for students and their ability to learn and succeed; the system and its ability to teach all children at high levels; and a shared mission or purpose. Those beliefs and values ensure the board's vision is realized through the development of a strategic plan with specific goals, priorities, and objectives and through the establishment of policies for implementation and accountability.

The board's community leadership function involves developing a shared vision for student outcomes and equity that reflects those common values and core beliefs of a school community. This shared vision not only directs board and staff actions but also gains the commitment of the community to improving achievement for all students. Engaging the entire community in creating the vision generates support for getting the resources – both financial and human capital – necessary to make it a reality.

The more clearly people within the organization can see this vision and describe it to others, the more compelling the vision becomes. People in leadership positions cannot be everywhere in the organization. Leadership must rely on a shared vision to permeate the organization. An explicit vision, developed and embraced by everyone with a stake in the outcome, guides and shapes an organization because of its power to motivate, unify, and direct individual purposes and behaviors to achieve common goals. The vision becomes the guiding principle that directs the actions of every person with a stake in achieving it. A powerful vision is an internal and intrinsic motivator that evokes leadership behavior throughout the organization.

Boards exercise leadership by holding themselves and staff accountable for monitoring

student achievement, evaluating board and district programs in light of student learning and equity goals, providing appropriate training opportunities, and keeping the public informed about the status of education programs and student progress. Boards need to lead as united teams with their superintendents to ensure the vision is implemented.

## **ACCOUNTABILITY**

School board accountability means taking responsibility for student outcomes by holding yourselves and the entire system accountable for making consistent progress toward your vision. Being accountable means answering not only for actions but also for the results of those actions.

**Objective:** To understand how school boards ensure progress toward the district's vision by focusing on accountability for results.

Higher standards and greater accountability are crucial elements of a world-class education system. For school boards as well as superintendents, principals, teachers, and others, the emphasis on outcomes has evolved over the past two decades. Board members must engage the community to gain support for a shared understanding of expectations, roles and responsibilities, and standards. Accountability also means a willingness to consider new ideas, accept constructive criticism, and make decisions.

The demand for improvement means school boards must stay on top of changes in learning methods and curriculum. Board must keep up with technology, staffing models, data systems, measurements of progress, and other best practices that help schools educate our students. While this has always been the province of school boards, there is more scrutiny and much more data than ever before.

The school board needs to establish a clear accountability framework for assessing the quality of its schools based on progress over time. This framework needs to go beyond test scores to include monitoring results in terms of citizenship, safety, and the arts, so all children graduate as well-rounded citizens.

Future-ready school boards focus on measurements of student progress over time. These boards use resources from state



departments of education, universities, foundations, and state school boards associations to analyze data. With the data in hand, they tailor solutions based on the needs and strengths of each school and community. They recognize that sustained or pervasive underperformance cannot be tolerated. They support graduated, flexible systems of intervention such as response to intervention (RTI) or multi-tiered system of support (MTSS) to achieve high student performance.

The word *accountability* means different things to different people. Most agree, though, that the goal of accountability is ensuring students achieve at the highest levels.

## **POLICY**

Policy permeates and dominates all aspects of school operations. It also presents the most powerful lever for the exercise of leadership.

**Objective:** To understand how effective school boards use policy to remain accountable to citizens for the governance and management of schools, and to explore how visionary policy can support the district's educational vision and mission.

The school board's purpose is to establish policies, programs, and procedures that create the foundation for achieving its vision for student achievement and learning and for managing district resources wisely. Ultimately, the board is accountable to its community for both.

Board members fulfill these responsibilities in two main ways: functioning as a deliberative body that articulates and adopts policy to drive the vision and monitor operations, and selecting a superintendent to implement that policy. Effective school boards evaluate the results of their efforts and openly pursue their functions, seeking the involvement and contributions of the public, students, and staff in the decision-making process.

A school board's primary role is to adopt a vision, and an effective board is accountable to multiple stakeholders for achieving that vision. However, vision without action is a dream, and action without vision is aimless. Board policy represents the intersection of vision and

accountability. Implemented well and in context, board policy directs other elements of the *Key Work* as well – community leadership and board-superintendent relationships.

## **What is Board Policy?**

Developing visionary board policies is important school board work. Policies, at their core, are statements of values about what the board expects the district to accomplish and how it expects the district to operate. These written documents guide the direction of the district and provide tools that prompt prudent change. The board is accountable to its citizens for the way schools are governed and managed, and ultimately, the results achieved.

Specific board policies exist for several reasons. Many policies are derived from legal precedents, federal and state statutes, or mandated rules. However, policies can and should reflect local values and principles designed to address local needs and what the board cares about. Most are drafted as preemptive guidance, anticipating the myriad challenges a district may face. A smaller number are developed in response to an unanticipated threat or emerging opportunity.

Regardless of the motivation, in terms of governance, boards who lead by policy are more likely to address the most significant issues. Leadership through policy offers the opportunity to:

- Align the school district's actions to meet the board's vision.
- Consider the big picture for your district.
- Lead others to think big about how to drive student achievement – the primary work of school boards.

Governing through policy is not simply updating the policy manual once every few years. Boards have constant opportunities to shape, mold, and modify their district's future through discussion, debate, and thoughtful consideration of important issues contained in board policy. Boards with a thorough understanding of policy development and implementation can be powerfully effective.

On the other hand, a board that neglects the evolution of its policies, is not keenly mindful of their value, or fails to clearly communicate its

policies will diminish its leadership potential. That board also essentially abdicates its authority.

## **COMMUNITY LEADERSHIP**

Effective boards recognize public education's impact on the community and understand how strong connections mean everyone is invested in successful schools.

**Objective:** To understand the board's unique role as liaison to the community through advocacy and strategic engagement for the district's schools.

Community engagement is central to the school board's role. Governance in the age of public accountability cannot use the script, "We're the professionals. Trust us. We will tell you what you need to know." As the governors of the school district, board members should come into office knowing that they represent the entire community. Effective boards make deliberate, ongoing efforts to establish and maintain processes that actively seek the community's voice and enlist commitment to their public schools.

Community engagement is the means by which the board conveys its concerns and actions to the public and hears the public's concerns and expectations in return. It involves building the support necessary to implement the board's vision. Board members should always be better informed about school issues than the public and make decisions based on facts and data. And because they are better informed, they can help the community understand why those decisions are made. Effective school boards are liaisons to the community. They also establish a strong communications structure to inform and engage both internal and external stakeholders in setting and achieving district goals. They are masterful in two dimensions of community leadership: advocating for their school districts and developing and maintaining strong strategic partnerships.

### **The Board's Advocacy Role**

Board member service is grounded in a commitment to ensuring that all students receive a high-quality public education. You serve a

leadership role in governing school systems, demanding an understanding of what is necessary to provide, sustain, and improve the quality of public education. At a time when competing messages and interests vie for attention, the voice of those representing what is best for public school students must be heard. You have an important message to deliver. School Board members must, therefore, learn the tactics of politics and lobbying if they are going to be successful advocates.

Do you use your clout? As a board member, you have firsthand knowledge of an insider while maintaining your position as a regular citizen. You have an important message to deliver, and you have credibility with other elected officials. This provides you with an opportunity to be more assertive in identifying, supporting, and testifying on legislative issues.

Advocacy is defined as the act of speaking or writing in favor of a position, cause, or belief. School Board members must be advocates for children, public education, lifelong learning, excellence and equity, and parent and community involvement. At all times, you must focus on what's best for children. Effective advocates stay abreast of local, state, and national news by seeking out a wide range of information and diverse opinions from newspapers, magazines, television, and social media. Board members should recognize the essential link between educational excellence and the community's economic and social health. They should be the catalyst for community discussion and action on issues affecting children and youth.

School boards are unique because their mission is solely devoted to student learning. Education is not just a line item in your budget, it's the only item. This is a claim that state legislators, mayors, county commissioners, and other elected officials can't make. Unlike corporations and nonprofit associations, school boards have statutory authority and responsibility. In many states, boards raise tax revenue with the public's consent.

Over time, however, state and federal mandates increasingly have eroded the authority of local officials to make decisions on behalf of their schools. That's why becoming a better advocate for your schools and your students is so critical. You must capitalize on your influence as

a public official and show you are a champion of public education, not just for your district or for special interests, but for all students.

Whether it is state legislators, local county executives, mayors, commissioners, council members, or U.S. senators and representatives in Washington, D.C., it is important to be familiar with the elected officials and the roles they play regarding public education. School boards typically do and certainly should conduct legislative meetings with local, state, and federal elected officials.

Proactive boards commonly hold frequent meetings with local officials focusing on funding issues and annual meetings with state legislators to review and discuss legislative priorities. Being an effective advocate at the state level requires you to know three things: the legislators, the legislation, and the process. Be an accurate and credible source of information. Know the whole issue by calculating who it affects inside and outside the school community and what impact it will make in the future – both positive and negative – in your district and statewide.

A legislator's time is limited, so you must go prepared. Know the issues and have the facts available to support your position. Get to the core of the issue and present your information clearly and concisely. Explain what you want and why.

In presenting your board's position, consider these central messages:

1. Schools have changed. Many things that legislators say people want are already happening.
2. The accountability process is working. Parents are involved. Goals are being set and met. Progress is being assessed.
3. Inadequate funding leads to inadequate facilities and programs. While successes need to be shown, so do the problems: the things we want to change.
4. Anywhere from 80 percent to 85 percent of a district's budget is tied to salaries and benefits, leaving little discretionary funding for facilities and programs.
5. Board members strongly support local control and represent the electorate.

Understanding how a bill becomes a law is critical in your advocacy efforts. Your input can be valuable when bills are proposed; during committee discussions, floor debate, and conference committee consideration; and when the bill reaches the governor's desk. Be careful to target your best efforts to the right person at the right time. Your state association has resources to support your efforts and is a strong ally for your advocacy.

## GOVERNANCE TEAM RELATIONSHIPS

To develop a productive partnership, the board and superintendent must draw on, and respect, the backgrounds and abilities of everyone involved.

**Objective:** To understand how healthy, productive relationships between the board and superintendent and among members of the board are essential to achieving the district's mission and providing effective leadership.

"United we stand, divided we fall." These words are fitting for the most important relationship a school board and superintendent must develop.

A board cannot be effective unless the superintendent is fulfilling their responsibilities. Conversely, the superintendent functions best when the board develops the district's vision and establishes clear expectations and direction.

In most public schools, citizens elect school boards, which in turn hire superintendents as chief executive officers. Further, most states have laws that say citizens who sit on school boards are responsible for adopting policies and any specific responsibilities as designated by state law. The professionals they hire as superintendents are supposed to administer the district, serve as the preeminent education advisors to the board, and translate board policy into action.

In practice, however, the relationship between the board and the superintendent differs from district to district. It differs on various issues within a district, and it may diverge at different phases of a particular relationship. The relationship also may vary according to local customs, personalities, state law, or local policy.

Both the board and the superintendent have essential leadership roles. The school board

governs the district, which is administered by the superintendent. The conventional way of expressing this distinction is to say that boards make policy and superintendents administer policy. What's important in a district is not that people use these descriptions but that the board and superintendent develop an understanding of their respective roles. The district suffers when either attempts to exercise the responsibilities of the other. The board abandons its leadership role when it gets involved in administration. Becoming involved in management activities distracts the board from its essential leadership functions or governance responsibilities: articulating the vision, assuring accountability, policymaking, and community leadership.

School districts work best through the coordinated efforts of boards and superintendents. The jobs of the board and superintendent are complementary and interactive. Their goals are, or should be, the same.

### **The Roles of the Board and Superintendent**

Developing a productive partnership requires the boards and the superintendent to draw on, and respect, the backgrounds and abilities of everyone involved. A board can adopt or revise policies that specify what it can expect from the superintendent and what the superintendent can expect of the board. The superintendent generally brings professional training and experience to the job. Board members bring an understanding of the public's expectations, as well as personal knowledge and experience.

When defining roles, a board can be as specific or as general as it sees fit. Specific policies allow less room for misunderstanding, but even specific policies should leave room for administrative flexibility. The board also should permit the superintendent to take practical risks – and allow opportunities for corrective action when mistakes are made – without excessive interference, criticism, or supervision.

To clarify roles, some governance teams find it helpful to work through various scenarios that require decisions in such areas as personnel, finance, curriculum, community relations, and school operations. A list of scenarios can be drawn from actual circumstances and help to better illustrate the division of roles and the

authority of the superintendent. Together, the members of the governance team can discuss and come to agreement on the level of authority granted to the superintendent to decide and act without board approval. The team may determine that some decisions are the board's alone, though superintendent recommendations are often requested.

This discussion may reveal philosophical differences among board members and between the board and superintendent regarding who has authority over different aspects of the district's operations. The final outcome may be consensus on some items, but when consensus can't be reached, the board must decide who should have authority for various aspects of school operations. And while every scenario a governance team might encounter can't be covered in an exercise like this, the activity will improve communications between the board and the superintendent and among board members and provide guidance for the future. NSBA's *Becoming a Better Board Member* includes a "Degrees of Authority" exercise with sample scenarios that may be useful in these discussions.

## **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 intelligent questions, evaluate the responses you get, answer questions when they arise, and help make board decisions.

### **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.

## 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?
- 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.

## 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 decisions for the school district.

## 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?**

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 their 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.

*-Pennsylvania School Board Association 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 their administration or the president and their 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 Blake Shelton – is to perform in the way they think their public will find most appealing while at the same time drawing as much attention to themselves as possible.

## Public Comment

Another important result of not being solely representatives is that school boards are required to let members of the public speak at its meetings on school and education matters at all full meetings of the school board. The Freedom of Access Act<sup>4</sup> requires that school boards conduct the public session of their meetings in public (20-A M.R.S.A. §1001(20)). (In a few instances the education laws require that a school board seek any public input.<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) provide public comment as allowed within a full meeting of a school board, (3) to vote for school board members, and (4) to vote on the school budget and referenda.

Members of the public have a right to speak at full meetings of the school board following the law change in 2019. The town meeting tradition in Maine is well established and many members of the public express their right to express their views and ask questions at school board meetings. 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 voting responsibilities and are there to express their opinion during a public comment section of the agenda while otherwise being there to watch and listen.

School boards are required to conduct the open portion of their meetings in public. School boards have found that policies providing how and when 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. MSMA's sample policy is BEDH, *Public Comment at School Board Meetings*. It is important to have a well-outlined Public Comment policy that provides for the allowable restrictions within the statute regarding time limits and conduct standards.

## 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. Updated to reflect the law changes regarding Public Comment at School Board Meetings (2019).

### **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. 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.

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## *Memorandum*

TO: A. Pender Makin, Commissioner  
Maine Department of Education

FROM: Sarah Forster, Assistant Attorney General

DATE: January 3, 2020

SUBJECT: School Boards

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Senator Millett and Representative Kornfield sent you a letter on April 9, 2019 requesting that “the Department, in consultation with the Attorney General’s Office, develop guidance and provide direction to school boards on current state law and the responsiveness of school boards to the public.” I understand that this request comes from a concern about training materials developed by the Maine School Boards Association and the law firm of Drummond Woodsum and specifically how they address school boards’ “responsibilities for, and responsiveness to, their respective communities.” After reviewing materials from Drummond Woodsum, I am not sure that any additional guidance or direction from you is needed.

The Maine Constitution affords control over education to the Maine Legislature. School boards are creatures of statute, with their duties and responsibilities described therein. The nexus of the concern about school boards’ “responsibilities for, and responsiveness to, their respective communities” appears to be the statement, contained in a decision of Maine’s Law Court that

...the [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.

*Shaw v. Small*, 124 Me. 36, 41 (1924). *Shaw*’s instruction that a school board is responsible for faithfully applying the law, as opposed to considering the fairness of the law to their municipality<sup>1</sup>

remains good law, and is not limited, as some have suggested, to its facts or to its time. As explained by Attorney Donald Kopp in a 2006 article, unlike a representative body that is charged with legislative functions, a school board is an executive body with the collective responsibility of executing the laws enacted by the Legislature and governing the school administrative unit over which they are responsible. Thus, once elected, members of a school board function not as a representative of his or her district, but as a member of an executive body that oversees a system of public education. The training materials provided to school boards appear to be consistent with that view: they prepare school board members to govern school administrative units in accordance with the governing law.

With respect to a related issue, public participation at school board meetings, the recent enactment of Chapter 293, An Act to Encourage Public Participation in School Board Meetings, puts to rest any concerns about the requirement that school boards receive public comment at their meetings. I have reviewed the model policy drafted by MSMA and believe that it fully complies with the public comment requirement.

SAF/pc

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<sup>1</sup>In *Shaw*, the issue was the right of an orphan to attend school in the town where their guardian resided. The school committee denied them access to school because, among other things, they felt that too many wards of the state were being placed in their town, which was an “unequal burden that the town should not be obligated to bear.” The Law Court, in ordering the student be admitted to school, held that the school committee was obligated to follow the law with respect to residency, not their views about the fairness of the law to their town.

## **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.

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 (updated in 2020). 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).

## **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, former NSBA executive director and Michael Resnick, former associate executive director of NSBA.*

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## **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 a 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 chair 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 *Pennsylvania School Board Association 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 they 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 *Oklahoma School Board Association 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 that superintendents and school boards can undermine each other**

*By Harry R. Pringle, Esq.*

Earlier this year, I was asked to give a presentation to a school board on the roles and responsibilities of school board members. It is a presentation I always enjoy giving because of my interest in what produces a high performing organization. When school boards and superintendents work together in a respectful fashion, great things can happen. When they do not, however, it is hard for a school district to move forward at all.

At this particular workshop, what was unique was that the superintendent had taken the time to put down, in writing, some ways in which board members could, by their conduct, unknowingly undermine a superintendent. Struck by the universality of that list, I asked for and received permission to reprint it here, without attribution.

Thinking that the superintendent's list might be nicely complimented by a similar list prepared by a school board member, I then contacted a highly respected former school committee chair. The chair agreed to prepare a list from the perspective of school board members, and it is reprinted below as well.

Here are those lists.

### **Ten ways a board member might *unknowingly* undermine a superintendent**

1. By soliciting parent complaints – because it bypasses the chain of command and ignores the critical role teachers and administrators play in resolving school issues;
2. By emailing an entire board about an upcoming issue, thereby encouraging decision making outside of a board meeting and undercutting the board's responsibility to do its business in public;
3. By raising unscheduled agenda items at board meetings without prior notice to the superintendent or chair, thereby depriving the board of the opportunity to be appropriately prepared for a healthy discussion on a particular issue;
4. By meeting with school staff about an issue without first consulting the superintendent, because this undermines the supervisory authority of the superintendent;
5. By allowing board members to criticize the superintendent in public, thereby creating the impression that the superintendent lacks the confidence of the board;
6. By allowing individuals to demand that the superintendent research issues of particular interest to that board member, thereby reducing the time the superintendent has to focus on issues of concern to the entire board;
7. By not respecting the role of the board chair in working closely with the superintendent, which is necessary for effective board governance;
8. By using their position on the board to promote issues which directly affect that board member's children, since it undermines the need for the board to work for the best interests of all students;

9. By being absent from a critical board or committee meeting and not respecting the decisions made by the board or the committee at that meeting; and
10. By working towards individual goals rather than those agreed upon by the entire board and the superintendent, thereby limiting the board's ability to improve education for all students.

### **Ten ways a superintendent might *unknowingly* undermine a Board**

1. By opening criticizing the board, or individual members of the board, either in public or in discussions with school staff or local officials;
2. By not providing prior notice to board members of sensitive issues that will appear in the media, or that will be raised at board meetings by parents, staff or other community members;
3. By communicating new initiatives through the media before informing the board members;
4. By not providing timely, clear and complete documentation supporting agenda items brought before the board;
5. By not making honest and complete responses to questions which involve controversial or difficult issues facing the board;
6. By not taking responsibility for the actions of other district administrators and staff;
7. By assuming that the board chair is prepared to speak for the board on issues that have not been the subject of prior discussion and deliberation;
8. By spending time and resources on addressing the requests of individual board members, without obtaining approval by a majority of the board;
9. By not clearly communicating constraints, tradeoffs and alternatives to critical issues which come before the board; and
10. By emailing staff, local officials or community members on issues raised by board members and others, and including the text of all prior communications.

What is striking about these two lists is that, while they are by no means mirror images of each other, they contain the same themes: taking responsibility for one's actions; acting for the good of the school rather than individual interests; demonstrating leadership; and maintaining good communications. As Don Kopp points out in his excellent article about why Maine school boards are so unique<sup>1</sup>, what school boards must remember is that they are part of a *governing team* – and that they have duties towards and responsibilities for the *entire* team. Conversely, what superintendents must remember is that they are the chief executive officers supporting their respective governing teams, with a responsibility to work with and lead those teams forward. When these important and complementary roles are both understood and adhered to, school districts can become exciting and high performing organizations indeed. ■

*Endnote*

1. “Maine School Boards are Unique: Understanding that Uniqueness is Important,” *School Law Advisory*, Fall 2005.

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# 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 they receive a request from the Board of Directors, when they receive a petition signed by 10% of the voters who voted in the last gubernatorial election, or if they determine 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, they 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. Career and Technical Education Programs - The Commissioner may contract with a private school for the conduct of career and technical education courses and reimburse private schools for part of the cost of conducting approved career and technical education 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, hereinafter referred to as the 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**  
**MISSION**

The mission of the Association 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.

**ARTICLE III**  
**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 IV 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 within elections of officers, directors, and resolutions and formal involvement in the Association's policy adoption process for the policies that govern the work of the Association.

- b) Associate Memberships

Career and Technical Regions - Any cooperative board of a Career and Technical 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.

Education Service Centers - Education Service Centers, as defined in Title 20-A M.R.S.A., Chapter 123, §3801, 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 duly elected or appointed member of a Maine School Board, which itself is not an active member of the Association, shall be considered an individual member 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.

- 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. This membership shall not allow voting rights, nor shall it entitle the member to labor relations and legal services.

## ARTICLE V OFFICERS

Section 1. Officers - The officers of the Association shall be a President, President-Elect, and Vice President.

Section 2. Succession - The current President-Elect shall automatically assume the office of the President for one (1) year following their term as President-Elect.

Section 3. Elections - President-Elect and Vice President, for the following year, shall be elected annually at the Delegate Assembly for a term of one (1) year. If the President-Elect is unable to assume the office of the President, the President shall also be elected at the annual meeting of the Delegate Assembly for a term of one (1) year.

Section 4. 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 President-Elect and the Vice President shall render the President assistance as needed in carrying out the work of the Association. In cases of absence for any reason of the President, the President-Elect shall serve in that capacity, and in cases of absence for any reason of the President-Elect, the Vice President shall serve in that capacity.

Section 5. Vacancies - In the event that a vacancy occurs in one or more officer positions, the Executive Board of Directors may call a meeting for the purpose of appointing an interim officer to each position with a vacancy. The most senior officer present at the meeting or, in the case that no officer remains or is available, the Executive Director of the Association, shall preside. A person serving as Interim President-Elect shall not automatically assume the office of President at the beginning of the next term unless decided at the regular Delegate Assembly.

If more than eight months remain until the next regular Delegate Assembly, the Executive Board of Directors shall vote on whether to convene the Nominating Committee and call for a special Delegate Assembly to formally elect replacement officers for the duration of the term.

## ARTICLE VI 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, as a voting 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 their office, a Director ceases to be a member of their School Board, or their School Board ceases to be a member of the Maine School Boards Association, they 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 (d) of this Section.
- b) Annually, three of the nine regional Directors shall be elected for terms of three (3) years each with the exception of a Director elected to fill the unexpired portion of a vacant position at the Delegate Assembly.
- c) At-Large Directors shall be elected by ballot at the Delegate Assembly. Annually, two of the six At-Large Directors shall be elected at the Delegate Assembly for terms of three (3) years each with the exception of a director elected to fill the unexpired portion of a vacant position.
- 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 meeting of the Delegate Assembly at which time new Directors shall be elected to fill the unexpired terms.

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 Delegate 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 a majority of sitting directors and officers shall constitute a quorum.

## ARTICLE VII COMMITTEES

Section 1. Standing - The MSMA Policy Committee, the MSBA Nominating, Constitution and Bylaws, Legislative, and Resolutions Committees 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. MSMA Policy Committee

- a) The MSMA Policy Committee is the governing body of Maine School Management Association.
- b) The five-member Policy Committee shall consist of the President, President-Elect, and Immediate Past President of the Maine School Boards Association, and two members nominated and elected by and from the Executive Board of Directors. The two elected members will be elected for alternating two-year terms.
- c) 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 for the unexpired term.
- d) The full term of a Policy Committee member will begin immediately following the MSBA Delegate Assembly and will expire at the conclusion of the MSBA Delegate Assembly in the second year thereafter.

- e) The MSMA 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.
- f) 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 Delegate Assembly from member School Boards. Based on interviews of candidates, the Nominating Committee shall prepare a written ballot to recommend Officers and Directors to be elected at the Delegate Assembly. 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 on the ballot for write-in voting for Directors.
- b) Director Nominations - Nominations for regional and at-large Directors may be made in advance of the Delegate Assembly by the filing of written statements by at least two member School Boards submitted at least thirty (30) days prior to the Delegate Assembly. 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 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 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 Committee.
  - 5. No nominations from the floor or write-in candidates will be permitted for officer positions.

#### Section 6. Constitution and Bylaws Committee

- a) The Constitution and Bylaws Committee shall monitor the state of the Constitution and Bylaws and propose revisions, as needed, to the Executive Board of Directors, for ultimate consideration by the Delegate Assembly.



- b) The Committee shall be comprised of the Vice President, who shall serve as Chair of the Committee, and at least one (1) member from at least five (5) MSBA regions. Directors new to the Executive Board of Directors are encouraged to sign up for this committee.
- c) A quorum of membership from at least three (3) MSBA Regions is necessary to conduct business and vote.
- d) The Committee will meet annually, as needed.

#### Section 7. Legislative Committee

- a) The Committee shall review proposed legislation as printed and made available from the Maine Legislature. The Committee will recommend testimony based on adopted resolutions of MSBA.
- b) The Committee will meet as needed, once printed bills become available from the Legislature, and will continue to meet until all bills to be considered have been reviewed with the Legislative Session.
- c) The Committee shall be comprised of the President, who shall serve as Chair of the Committee and represent the MSBA region they are from, and one (1) member, if possible, from each of the other eight (8) MSBA Regions. These nine (9) members will be the voting members of the committee.
- d) An alternate from each region will be assigned (if possible) and will be able to vote should the assigned member not be present for the meeting. The alternates are invited to attend each meeting.
- e) A quorum of membership from at least five (5) MSBA Regions is necessary to conduct business and take votes on bills up for consideration.

#### Section 8. Resolutions Committee

- a) The Resolutions Committee shall annually review the previously adopted resolutions of the Association and meet to determine if there are new resolutions to present to the Executive Board of Directors, who would then present them to the Annual Delegate Assembly.
- b) The Committee shall be comprised of the President-Elect, who shall serve as Chair of the Committee and represent the MSBA region they are from, and one (1) member, if possible, from each of the other eight (8) MSBA Regions. These nine (9) members will be the voting members of the committee.
- c) An alternate from each region will be assigned (if possible) and will be able to vote should the assigned member not be present for the meeting. The alternates are invited to attend each meeting.
- d) A quorum of membership from at least five (5) MSBA Regions is necessary to conduct business and vote.

- e) The Committee will meet as needed, beginning in the winter of each Association year, following the election of officers at the Annual Delegate Assembly.

## ARTICLE VIII MEETINGS OF ASSOCIATION

Section 1. Annual - There shall be an annual meeting of the Delegate Assembly. All plans and arrangements for the meeting of the Delegate Assembly shall be the responsibility of the Executive Board of Directors. Quorum - Twenty (20) delegates or their alternates, with representation from at least five (5) MSBA regions present at any meeting of the Delegate Assembly shall constitute a quorum.

Section 2. Special - Special meetings of the Delegate Assembly may be called by the President or shall be called by the President upon the written request of six (6) members of the Executive Board of Directors. Quorum - Twenty (20) delegates or their alternates present at any meeting of the Delegate Assembly shall constitute a quorum.

Section 3. Members - Each member School Board and member CTE Region Board shall be entitled to be represented at annual and special meetings of the Delegate Assembly 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. No one individual shall represent more than one School Board or CTE Board.

Section 4. Duties - The Delegate Assembly shall:

- a) elect officers and directors as nominated,
- b) adopt policies and resolutions that express the beliefs and purposes of the Association, and
- c) 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 5. 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 amendments 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 amendments shall be circulated with the agenda prior to the Delegate 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 Delegate 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 MSBA member School Boards and CTE Regions, said vote to be taken by e-mailed ballots.

## **BYLAWS**

### **ARTICLE I FISCAL YEAR**

The fiscal year of the Association shall run from July 1 through 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 VOTING**

The Executive Board of Directors is authorized to conduct meetings with electronic participation by its members as long as there exists a quorum for the meeting. Members attending the meeting electronically shall have the right to full participation within the meeting.

Committees of the Executive Board of Directors of MSBA also shall operate as in the above paragraph with two exceptions as noted below.

There are four instances when voting by email will be allowed: 1) By the Legislative Committee of MSBA when a timely opinion is needed and testimony needs to be crafted to support or object to proposed Legislation; 2) to vote on replacement members for the Nominating Committee when circumstances require; 3) to conduct a vote on an emergency consideration of an Amendment to the MSBA Constitution, per Article IX, Amendments; and 4) to cast an initial vote on the MSBA dues at least ten (10) days prior to the MSBA Delegate Assembly. Said vote must be confirmed at the MSBA Board of Directors meeting held prior to the MSBA Delegate Assembly.

### **ARTICLE IV 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 (10) days before the annual meeting of the Delegate Assembly. However, the Delegate Assembly at their annual meeting 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 Delegate Assembly at their annual meeting.

### **ARTICLE V 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 Delegate Assembly at their annual meeting.

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.

## ARTICLE VI AMENDMENTS TO BYLAWS

These Bylaws may be amended by a two-thirds vote of those voting at any meeting of the Delegate Assembly.

## ARTICLE VII 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 career and technical 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 remotely the Saturday preceding 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, president-elect, vice president, 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/treasurer); 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, a CFO/Insurance Trusts Administrator, a Director of Policy and Research Services, a Director of Communications and Government Relations, 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 first Monday following the MSMA Annual Fall Conference. 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, 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 - emailed to all superintendents and school board members
  - a. *SCHOOL LAW NEWS*
  - b. *LABOR RELATIONS NEWS*
  - c. *POLICY DEVELOPMENT NEWS*
  - d. *LEGISLATIVE NEWS*
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 and Cultural Affairs Committee, Appropriations and Financial Affairs Committee, Labor and Housing Committee, State and Local Government Committee, and Taxation Committee.

MSMA lists all the bills that MSBA and MSSA are following on the “[bills we’re watching](#)” page on the MSMA website. MSMA may also issue alerts, to all board members and superintendents, during the session if additional action is warranted (i.e. notification regarding an upcoming public hearing on an important bill, a request to contact your representative/senator, etc.).

You also can check on the status of a bill on the [Legislature’s website](#) if you know its L.D. number. If you don’t know the L.D. number, you can search by “Phrase” or “Title Text”. 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 send an email, write a letter, or make a call to a legislator’s home. Linked below is the contact information for your legislators in the [House of Representatives](#) and [Senate](#) (you can search both lists by your town or city).

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

### **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](#). Enter the L.D. number and the bill information will appear at the bottom of the screen – click on the link and the public law version will be on the left-hand side of the screen under “Documents”. You can also check a law that already has been included in [Maine Statute](#). Title 20 and 20-A are the main bodies of law affecting education.

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*Memorandum*

TO: A. Pender Makin, Commissioner  
Maine Department of Education

FROM: Sarah Forster, Assistant Attorney General

DATE: January 3, 2020

SUBJECT: School Boards

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Senator Millett and Representative Kornfield sent you a letter on April 9, 2019 requesting that "the Department, in consultation with the Attorney General's Office, develop guidance and provide direction to school boards on current state law and the responsiveness of school boards to the public." I understand that this request comes from a concern about training materials developed by the Maine School Boards Association and the law firm of DrummondWoodsum and specifically how they address school boards' "responsibilities for, and responsiveness to, their respective communities." After reviewing materials from DrummondWoodsum, I am not sure that any additional guidance or direction from you is needed.

The Maine Constitution affords control over education to the Maine Legislature. School boards are creatures of statute, with their duties and responsibilities described therein. The nexus of the concern about school boards' "responsibilities for, and responsiveness to, their respective communities" appears to be the statement, contained in a decision of Maine's Law Court that

. . . the [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.

*Shaw v. Small*, 124 Me. 36, 41 (1924). *Shaw's* instruction that a school board is responsible for faithfully applying the law, as opposed to considering the fairness of the law to their municipality' remains good law, and is not limited, as some have suggested, to its facts or to its

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<sup>1</sup> In *Shaw*, the issue was the right of an orphan to attend school in the town where his guardian resided. The school committee denied him access to school because, among other things, they felt that too many wards of the state were being placed in their town, which was an "unequal burden that the town should not be obligated to bear." The Law

time. As explained by Attorney Donald Kopp in a 2006 article, unlike a representative body that is charged with legislative functions, a school board is an executive body with the collective responsibility of executing the laws enacted by the Legislature and governing the school administrative unit over which they are responsible. Thus, once elected, members of a school board function not as a representative of the town or ward that elected them, in the way that a member of the Legislature acts as a representative of his or her district, but as a member of an executive body that oversees a system of public education. The training materials provided to school boards appear to be consistent with that view: they prepare school board members to govern school administrative units in accordance with the governing law.

With respect to a related issue, public participation at school board meetings, the recent enactment of Chapter 293, An Act to Encourage Public Participation in School Board Meetings, puts to rest any concerns about the requirement that school boards receive public comment at their meetings. I have reviewed the model policy drafted by MSMA and believe that it fully complies with the public comment requirement.

SAF/pc

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Court, in ordering the student be admitted to school, held that the school committee was obligated to follow the law with respect to residency, not their views about the fairness of the law to their town.