



THE A-B-C'S OF BEING AN EFFECTIVE BOARD MEMBER

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PRIMARY CHARACTERISTICS OF EFFECTIVE BOARD MEMBERS:

AN ATTORNEY'S VIEW

- **WISDOM:** Knowledge of role; understanding of fiduciary duty; sense of duty to the larger aims; able to manage complexity; real sense of how board's can make things better or make them worse.
- **COURAGE:** staying within role, especially when it is hard; not bowing to political pressure to take actions outside of board roles; not allowing personal benefit or relationships to control actions.
- So.... The Wisdom to know what is right, and the Courage to do it.

AN ATTORNEY'S VIEW (CONTINUED)

- Every board member has the courage of their conviction, but does he/she have the courage to put their convictions down when it does not align with the interests of the District?
- Time and money wasted on “adult issues” and not “kid issues”. Which are you focusing on?
 - Entrenched fights between board members or between board members and superintendents

DOES HOW YOU CONDUCT YOUR WORK MATTER FOR STUDENT ACHIEVEMENT?

- From the research, it is clear that school boards in high-achieving districts exhibit habits and characteristics that are markedly different from boards in low-achieving districts.
- In the most dramatic examples from this research, scholars compared districts with similar levels of poverty and disadvantage to determine factors that separate high-performing districts from those with low performance.

RESEARCH: WHAT MAKES A BOARD EFFECTIVE?

- Eight Characteristics of an Effective School Board
- 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.

WHAT MAKES A BOARD EFFECTIVE (CONTINUED)?

- 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.

SUPERINTENDENT: WHAT ARE APPROPRIATE ROLES FOR THE SUPERINTENDENT?

- Section 22-5-14 of the New Mexico Statutes: Superintendent Authority
 - Chief Executive Officer
 - Administer and supervise the school district
 - Employ, fix salaries, assign, terminate and discharge
 - Statute places general administrative and all employment functions in the hands of the administration (HB 212)
 - *Employees are supposed to take their “marching orders” from the Superintendent, not the Board.

BOARD ROLES: WHAT ARE APPROPRIATE ROLES FOR BOARD MEMBERS?

- Section 22-5-4 of the New Mexico Statutes defines the scope of Board Authority:
 - Focuses on setting policy direction
 - Budgets
 - *Limited* role in employment matters as a reviewing body
 - Acquire, lease and dispose of property
 - Except for salaries, contract for expenditure of money
 - Acquire property by eminent domain

ROLE OF COUNSEL

- Board counsel
- Attorney – client obligations are between the board and attorney
- Superintendent is a “team member” but is not the specific client
- Individual board members generally do not have the authority to direct counsel, unless provided for by policy (Board President).

BOARD/SUPERINTENDENT RELATIONSHIPS---

ARE YOU A MICROMANAGER?

- A board member wants the superintendent's assistant to take more detailed minutes of the meetings, calling the assistant to go over suggested changes.
 - Who is the board's employee?
 - Who is that assistant's supervisor?
 - Should the superintendent just let it go?
 - What problems does this create for the superintendent? For the assistant? For the board and district?
 - What about designating an assistant to the board?
 - What would be the best practice for getting the desired result?

MICROMANAGEMENT DISCUSSION

- Is this a wisdom or courage issue? Where does this fit in the 8 Characteristics of Effective Boards?
- Such requests blur the lines of authority
- Board members need to avoid such errors and mind those lines. Administrators should not assume that it is a form of micromanagement.
- Making such requests sets an expectation for future interactions.
- It leaves the superintendent in the dark.
- Intimidating? It may leave staff feeling bullied or pulled in different directions.
- Best practices: Board needs to be careful and superintendent needs to diplomatically outline the proper protocols to the board for such requests.
 - What norms and protocols does the Board want to follow?
 - Access with notice?
 - All requests through the Superintendent?
 - Maintaining lists of all requests?
 - Requiring the Board to authorize all requests?
 - Factual requests versus compilation of data?
 - IPRA

BOARD/SUPERINTENDENT RELATIONSHIPS--- EMPLOYMENT MATTERS

- A board member wants the superintendent to hire/fire a particular coach. He places pressure on the superintendent to do so.
 - Is there authority for an individual board member to do this? The full board?
 - Is there an approach that might be okay?
 - What about renewal questions?
 - What about board employment “updates”?

DISCUSSION

- The board may not, either as single members or as a whole, attempt to control the superintendent's decisions regarding employment.
- Micromanagement? Encroaching on the superintendent's authority?
 - Are you creating a possible issue in any disagreement with the superintendent?
- Employment process problems
 - Early board interference may undermine an appeal hearing
 - May lead to arguments that particular board members should recuse.
- Best practices: A superintendent really should only be sharing basic hiring/firing/employment information to the degree that board members need it (ie. Managing calls from the public or the media). Superintendent can and should frame this in the board members' and district's best interests.
- Is this a wisdom or courage issue for boards? Where does this fit in the 8 Characteristics of Effective Boards?

BOARD/SUPERINTENDENT RELATIONSHIPS---

WHAT IS YOUR ROLE WHEN THERE ARE ALLEGATIONS OF MISCONDUCT?

- An allegation of serious misconduct is brought against the superintendent.
 - If the board knows or suspects the complaining employee is not trustworthy, should the board ignore the complaint?
 - Should the board conduct the investigation itself?
 - What about an outside investigator?
 - What should the board do with a report?
 - Should the superintendent be involved in the investigation?
 - Can an associate superintendent or site principal do the investigation to save some money?
 - What if the allegation is against a different employee? What is your role?

DISCUSSION

- Serious allegations require a serious response.
- Failure to do so may affect your litigation outcomes.
- A board does not have investigatory expertise and no single board member can conduct such an investigation.
- An associate superintendent or principal is subject to the authority of the superintendent and is not a viable investigator.
- Best practices: Find a competent investigator with school experience, give him/her free rein, ask for a report that provides the Board with options, and follow through.
- And if it is another employee....?
- Is this a wisdom or courage issue? Where does this fit in the 8 Characteristics of Effective Boards?

BOARD/SUPERINTENDENT RELATIONSHIPS--- SUPERINTENDENT TERMINATION

- A board member wants to explore parting ways with the superintendent.
 - What should the board be considering before going this route?
 - What are the potential problems for relationships of putting this option “out there”?
 - What other options have been explored with the superintendent short of termination or buy out?
 - What risks does this path create for your district?

DISCUSSION

- Considerations: Cost, disruption, continuity, prior steps (evaluation, discipline), PED role.
 - Role of Annual (or more frequent) evaluation.
 - How much time needed to competently evaluate.
 - Superintendent's entitlement to due process and/or contract protections
- Risks in Proposing: this may forever harm the relationship. There is no taking it back.
- Other options: More thorough evaluation, retreats, 360 evaluations, climate study, and frank conversation
- District risk: waste of resources, energy, time; possibility of individual agendas ahead of district interests; costs associated with replacement.
- Best practices: There should be a great deal of "fence mending" and mutual attempts to work together before this option is invoked.

BOARD EFFICIENCIES

- Setting limits on discussion time by topic?
- Setting meeting time limits?
- Lowering the number of meetings and study sessions?
- Controlling time allotments for public comment?
- Board involvement in committees?
- Board “prep” sessions.

BOARD AND COMMUNITY---

BOARD MEMBER SPECIAL ACCESS

- A board member wants to appear responsive to community needs and wants to begin regular school site visits. The board member starts making unannounced site visits.
 - Should the board member be doing this?
 - Are there any problems that this creates?
 - For the board member?
 - For the school?
 - For the principal and superintendent?
 - Should the administrator just give the tour and let it pass?
 - What about giving the board member a visitor pass and let him go where he pleases?

DISCUSSION

- Is this a wisdom or courage issue? Where does this fit in the 8 Characteristics of Effective Boards?
- A board member has no authority apart from that of the entire board. Therefore, there are no access rights that are different from the community.
- Disruption
 - Class time
 - Apparent authority; intimidating
- Perceived abuse of power
- Circumventing the superintendent
 - “evaluating” the school or employees
- Best practice: make the request of your superintendent; let such a visit be arranged
 - What about invitations from the site or students?
 - What about public events?
 - What norms and protocols does the Board want to adopt for itself?

BOARD AND COMMUNITY --- BOARD MEMBER VOLUNTEERS

- Newly elected board member has been volunteering as a coach since before the election and wants to keep doing so.
 - Should the board member be doing this?
 - What complications, if any, does this create?
 - Should the principal say something? Permit it to continue?
 - What is the superintendent's role?
 - Does the board have an oversight role?

DISCUSSION

- Potential Problems:
 - Supervisory problems
 - Improper use of influence
 - Public Perception of a Board Member using his/her influence
- Volunteering: New Rules Distinguish Between “Regular” and “Spontaneous” Volunteers
 - Regular Volunteers
 - Regulations require interviews, supervision, evaluation, and training
 - Enforcement of Code of Ethics and Professional Standards (including dismissal)
 - Spontaneous Volunteers: The same rules do not apply but such volunteers still are to be “supervised” by school staff.
- Recommendation: No board members as regular volunteers. However, more flexibility about serving as spontaneous volunteers.
- Is this a wisdom or courage issue? Where does this fit in the 8 Characteristics of Effective Boards?

BOARD AND COMMUNITY

THE COMMUNITY COMPLAINT

Board Member receives a complaint from a community member that an employee is being unfair to that person's child and comes to you for information and resolution.

What is your role?

What is the process you should be encouraging?

How do you handle the exchange with the parent?

DISCUSSION

- Eyes, ears of the District. Not the feet, hands or mouth.
- Refer to the correct process.
- Alert the superintendent.
- Board Communication: a superintendent should take steps to ensure that the Board knows that investigatory steps are under way
- What about serious allegations? Abuse?
- What about employees who are unhappy?

Is this a wisdom or courage issue for boards? Where does this fit in the 8 Characteristics of Effective Boards?

BOARD COMMUNICATION--- PERSONAL CONFLICTS

- Any group of 5 is going to have conflicts.
- Challenge is not to personalize
- Challenge is not to air them in front of the public
 - What are the impacts for the board?
- Norms in this area?
 - Ideas: meet privately; resolve not to publicly address the other; mediation.
 - Rogue Board Members: meet; board president intervention (with counsel); board action (censure); recall (instituted by public).

EMAIL

- Use of email communications by Board members to each other, to administrators, to members of the public is generally considered public information.
- Use of your home email versus a district account.
- “Reply All”
- What should you be asking?
 - Any discussion of school business?
 - Is there authority to make this communication?
 - Is there a quorum or rolling quorum?
 - Is this a public record?
 - Risk for accusation of impropriety?

CONFIDENTIALITY

- Employment Discharge Hearings are frequently high profile items for the press and community.
- Review of student appeals may also involve conduct that is high profile.
- What you say may affect the outcome of the proceedings and generate unnecessary civil rights claims.
- Do not talk to the press or members of the public on the issue.
- Parents of students who may have been the victim in the event for which another student is being disciplined do not have any greater right to know than the general public.
- After the Board has made a decision, your discussions in executive session must also remain confidential.

BOARD AND COMMUNITY--- SPEAKING TO THE PRESS

- What questions should you be asking yourself?
 - What is your authority to act or speak on behalf of the Board?
 - Is there a possibility that your individual opinion may be misconstrued as the position of the Board?
 - Are you speaking on issues that may create liability?
 - Are you speaking on issues that touch on executive session topics or identifiable student/employee matters?
 - Are you undermining the board majority?
 - So how do you make your position clear?

TRENDING LITIGATION RISKS

- Employee Investigations/IPRA
- Whistleblower Complaints/1st Amendment Retaliation
- Employee Discrimination Claims
- Governmental Conduct Act

QUESTIONS

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