

Davis School District Policy and Procedures

Subject: 1B-010 Qualifications, Authority, Power, and Responsibilities

Index: Board of Education

Revised: June 4, 2019

1. PURPOSE AND PHILOSOPHY

In Utah, local school boards are created by the state legislature under authority granted in Article X of the Utah Constitution. Directly accountable to the people, local school boards are the educational policymakers for the public schools in local communities and may serve as the final appeal body in school administrative matters. The Board of Education of Davis School District (Board) is a representative body elected by the citizens of Davis County to provide for and oversee the operation of public schools in Davis County.

2. LEGAL STATUS

- 2.1. The Board is a political subdivision of the state, and individual Board members are state officials and derive their authority from state statute.
- 2.2. The Board is a body corporate under the name of "Board of Education of Davis School District," and has an official seal required for the authentication of all official Board business.
- 2.3. The Board may sue and be sued, and may hold, lease, sell, and convey real and personal property as the interests of the schools may require.
- 2.4. The Board may establish, locate, and maintain elementary, secondary, and applied technology schools.
- 2.5. The Board may levy taxes to fulfill its obligation to provide for public schools within the Davis School District (District).

3. BOARD MEMBER QUALIFICATIONS

3.1. Declaration of Candidacy

An individual may become a candidate for the Board by, filing a declaration of candidacy with the Davis County Clerk, on or after the second Friday in March, and before 5 pm on the third Thursday in March, before the next regular general election, and paying the filing fee as required by Utah Code Ann. §20A-9-202.

3.2. Residency

An individual seeking election for the Board must be a resident of the school district for at least one year immediately preceding the day of the election at which the Board position will be filled.

3.3. Term of Office

The term of office for an individual elected to the Board is four (4) years, beginning on the first Monday in January after the election. A member of the Board shall serve until a successor is elected or appointed and qualified.

3.4. Oath of Office

A member of the Board is "qualified" when the member takes or signs the constitutional oath of office, which shall be administered at the first Board meeting in January following a regular School Board election.

3.5. Statutory Qualifications

Each member of the Board shall:

- 3.5.1. be and remain a registered voter in the local school board district from which the

member is elected or appointed;

- 3.5.2. maintain member's primary residence within the board district from which the member is elected or appointed during the member's term of office;
- 3.5.3. not serve as an employee of the Board during the member's term of office; and
- 3.5.4. not have been convicted of a "grievous sexual offense," as defined in [Utah Code Ann. §76-1-601](#)

4. **COMPENSATION FOR SERVICES**

- 4.1. Each member of the Board, except the student member, shall receive compensation for services and for necessary expenses in accordance with the Board compensation schedules adopted by the Board in accordance with the provisions of [Utah Code Ann. §53G-4-204](#).
- 4.2. As required by State Retirement statute, the District designates Board members as part-time elected officials.

5. **INDIVIDUAL BOARD MEMBER AUTHORITY**

5.1. **Individual Authority Over District Affairs**

Because all the powers of the Board lie in its actions as a legal entity, i.e., a corporate and political body, individual Board members exercise authority over the District only as they vote to take official action at a legal meeting of the Board.

- 5.1.1. Individual Board members hold an office of shared authority and responsibility. They collectively constitute a government agency with powers, responsibilities, and duties that only legally can be exercised by a quorum of the Board, and only when the Board is officially in session.
- 5.1.2. In situations outside official Board meetings an individual Board member has authority only to the extent the Board has lawfully delegated specific authority to him or her.
- 5.1.3. The Board will not be bound in any way by any action or statement on the part of an individual Board member except when such statement or action is made consistent with specific instructions or delegated authority from the Board.

5.2. **Communicating with District Employees**

Whereas the Board is a policymaking body, it is the responsibility of the Superintendent of Schools and school personnel to administer the policies. Individual Board members may communicate with District employees to ask questions, etc., but shall address administrative concerns to the superintendent. Individual members will not give orders to any subordinates of the superintendent either publicly or privately, but they may take appropriate suggestions and recommendations to the superintendent.

5.3. **Voting and the Common Good**

As publicly elected officials, all individual Board members are obligated to represent the best interests of all children and all the schools in the District. Board members have the responsibility and authority to suggest problems or concerns for Board consideration, inform themselves about school matters, take part in Board deliberations, arrive at well-reasoned opinions independently, and vote as they choose.

5.4. **Communication and Information**

In order to arrive at well-informed and reasoned decisions, Board members need appropriate information and materials from the District and District personnel. It is understood that certain informal lines of communication exist between District staff and Board members, and this policy is not intended to interfere with these lines of communication. However, all formal requests for information, particularly information contained in private student or personnel records, shall be directed to the superintendent.

5.5. **Comment on Public Issues or Policy**

When dealing with public issues or matters of District policy as an individual, outside official Board meetings, Board members should strive at all times to represent the Board and the District to the public in a circumspect and diplomatic manner. In all individual communications on public issues relating to the District, Board members shall maintain the following posture:

- 5.5.1. If questioned by someone about a matter on which District policy has been clearly defined, an individual Board member should answer based on policy.
- 5.5.2. If questioned about a matter on which the Board has no established policy, individual Board members should not commit themselves to any position or promise other than a commitment to discuss the matter with the superintendent or to present it to the entire Board for consideration.
- 5.5.3. Each Board member has a responsibility to reach and support group decisions which represent the best judgment of the Board as a whole. Individual Board members are not precluded from voicing minority viewpoints, either during or outside official Board meetings, but should indicate that such viewpoints are personal, not Board, opinions.

6. **POWERS AND RESPONSIBILITIES OF THE BOARD**

- 6.1. The Board has various specific powers and responsibilities as articulated by state and federal law, and the Board will exercise the full legal authority it possesses, as derived from the Utah Constitution, state and federal statute, regulations of the state board and other state and federal agencies, Attorney General's opinions, and case law (court decisions).
- 6.2. The Board has the authority to do all things necessary for the maintenance, prosperity, and success of the schools and the promotion of education. All Board rules and policies shall be in writing, filed, and referenced for public access.
- 6.3. **Federal Funds**
The Board shall administer and implement federal educational programs in accordance with [Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs Act](#).
- 6.4. **Grants and Gifts**
The Board may on its own behalf, or on behalf of an educational institution, for which the Board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes. All such gifts, endowments, and bequests become the property of the Davis School District.

6.5. Holidays

The Board may hold school on legal holidays other than Sundays.

6.6. Contracts with other Governmental Entities

The Board may contract and cooperate with local governmental entities in matters affecting the health, welfare, and convenience of the inhabitants within their respective territorial limits. All such contracts and inter-governmental agreements shall comply with the provisions of the Utah Interlocal Cooperation Act.

6.7. Employment Contracts

The Board may enter into a written employment contract for a term not to exceed five (5) years. Nothing in the terms of the contract shall restrict the power of the Board to terminate the contract for cause at any time.

7. SCHOOL DISTRICT BUDGETS

7.1. Adoption of Budget

Each year, the Board shall adopt a budget and make appropriations for the next fiscal year by the date specified in state law. If the tax rate in the proposed budget exceeds the certified tax rate defined in Utah Code Ann. § 59-2-924(3), the Board shall comply with the notice and public hearing requirements for tax increases in adopting the budget.

7.2. Public Hearing

Prior to the adoption of a budget containing a tax rate which does not exceed the certified tax rate, the Board shall hold a public hearing on the proposed budget. In addition to complying with Title 52, Chapter 4, Open and Public Meetings, in regards to the hearing, the Board shall do the following at least ten days prior to the hearing:

- 7.2.1. publish the required newspaper notice;
- 7.2.2. publish the notice electronically in accordance with Utah Code Ann. §45-1-101;
- 7.2.3. file a copy of the proposed budget with the Board's business administrator for public inspection at least ten days prior to the hearing; and
- 7.2.4. post the proposed budget on the District's website.

7.3. Filing of Budget

The Board shall file a copy of the adopted budget with the state auditor and the state board.

DEFINITIONS

“**Meeting**,” as defined in this policy, means the convening of the Board, with a quorum present, whether in person or by means of electronic equipment, for the purpose of discussing or acting upon a matter over which the Board has jurisdiction or advisory power.

“**Quorum**,” as defined in this policy, means a simple majority of the Board members. Quorum does not include a meeting of two elected officials by themselves when no action, either formal or informal is taken.

“**State board**” means the State Board of Education.

REFERENCES

Utah Constitution Article X. Education

[Utah Code Ann. Title 11, Chapter 13](#)– Utah Interlocal Cooperation Act.

[Utah Code Ann. §45-1-101](#) – Legal notice publication requirements.

[Utah Code Ann. Title 53E, Chapter 3, Part 8](#) – Implementing Federal or National Education Programs Act.

[Utah Code Ann. §53G-4-204](#) – Compensation for services

[Utah Code Ann. §53G-4-402](#) – Powers and duties generally.

[Utah Code Ann. §§-53G-7-302 to 53G-7-303](#) – Local governing board budget procedures.

[Utah Code Ann. §20A-2-101.5](#) – Convicted felons – Restoration of right to vote and right to hold office.

[Utah Code Ann. §20A-14-202](#) – Local Board of Education – Membership -- When elected -- Qualifications.

[Utah Code Ann. §20A-14-203](#) – Becoming a member of a local board of education – Declaration of candidacy -- Election.

DOCUMENT HISTORY:

Adopted: February 16, 1999

Revised: May 1, 2008 – Technical changes in accordance with state law – added residency requirement, changes in use of public buildings as civic centers.

Revised: May 19, 2009 – Periodic Review. Technical changes no substantive changes.

Revised: December 6, 2011 (by consent) – Non-substantive changes to comply with legislation.

Revised: August 26, 2013 – Minor revisions consistent with changes in law and rule.

Revised: September 2, 2014 – As part of a five year review made changes in legal requirements for a public hearing and posting proposed budget on website.

March 8, 2018 - Education code references updated in accordance with 2018 recodification.

Revised: June 4, 2019 (by consent) - Five-year review and changes to comply with changes in State law SB 33.