

RSU 5 BOARD RETREAT

Navigating Contentious Times

August 25, 2021

THE POWERS AND DUTIES OF MAINE SCHOOL L BOARDS

According to the Maine Supreme Judicial Court

A school committee “acts as a public board. It in no sense represents the town. Its members are chosen by 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)

This is dicta – meaning that it is not the holding of the case.

But enough people think it is persuasive authority so that in 2019 there was a move to change this by statute in LD 63

“Be it enacted by the People of the State of Maine as follows: 2 Sec. 1. 20-A MRSA §1001, sub-§20 is enacted to read: 3 20. Accountability to the public. A school board is accountable to the residents who live within the boundaries of the school board's district, who are the school board's constituents.”

This did NOT pass

And it makes sense to define "constituents" more broadly when you are in charge of the entire community's education

- Students
- Employees
- Parents and Guardians
- Community Members

Sources of the Obligations of a School Committee

1. Statutes (Title 20-A Education, Title 1 Freedom of Access Act)
2. School Board policies

Law vs. Policy

Is there a difference and does it matter?

- Policies are your law so it is important to know them and follow them

A School Board Has Different Roles

(which you can find primarily in 20-A M.R.S. Sec. 1001 and SC Policy BBA)

1. School Board as a legislative body and policy maker

- Adopt policies, including nondiscriminatory hiring, safeguard against communicable disease, bomb threat response, bullying, staff bullying
- Adopt budget
- Adopt a course of study in alignment with learning results
- Adopt student code of conduct, emergency management plan, concussion management, etc.

2. School Board as a judicial body

- Student expulsions
- Teacher/principal nonrenewals and dismissals

3. School Board as employer

- Select and hire superintendent 20-A M.R.S. Sections 1001(3) and 1051 (2)
- Approve teacher/principal nominations 20-A M.R.S. Secs. 13201 and 13302(1)
- Eliminate teacher/principal positions 20-M.R.S. Secs. 13201 and 13305

Powers and Duties of the Superintendent

20-A M.R.S. Sec. 1055

Superintendent is responsible for the ongoing administration of the SAU and for ensuring operation of the schools conforms to policies and rules adopted by the school board and to state laws and rules.

Role of the Board Chair

Policy BDB

- Consult with the Superintendent in the planning of the Board meeting agendas
- Confer with the Superintendent on crucial matters that may occur between Board meetings
- Be the public spokesperson for the Board at all times except as this responsibility is specifically delegated to others

SOCIAL MEDIA AND ELECTRONIC COMMUNICATION

PITFALLS TO BE AWARE OF

- FOAA issues?
- First Amendment (Section 1983) liability
- Tort liability (defamation)
- Embarrassment

MAKING YOUR SCHOOL COMMITTEE OPERATE EFFECTIVELY

It All Starts with What it Means to be a School Committee

- You are the governing body of the School Unit
- You are a part of team
- You have a duty of loyalty to:
 - Students
 - Employees
 - Fellow School Board members

Policy BCA

School Committee Code of Ethics

Three Themes

1. Do what is right for students
2. Work well together
3. Honor the appropriate process and be professional

Do What is Right for Kids

Each Board member shall:

- A. View service on the Board of Directors as an opportunity to serve their community, state, and nation because of the belief that public education is the best means to promote the welfare of our people and to preserve our democratic way of life.

- B. at all times think of children first and base their decisions on how they will affect children, their education, and their training.

- F. seek to provide education for all children in the community commensurate with their needs and abilities.

Work Well Together and be Kind

The Policy includes these commitments:

C. make no disparaging remarks, in or out of the Board of Directors meetings, about other members of the Board or their opinions.

H. abide by a decision graciously once it has been made by the majority of the Board of Directors.

J. make decisions openly after all facts bearing on a question have been presented and discussed.

K. Refuse to make promises as to how they will vote on a matter that should properly come before the Board of Directors as a whole.

Honor the Process and be Professional

- D. remember at all times that as an individual they have no legal authority outside the meetings of the Board of Directors, and that they will conduct their relationships with the school staff, the local citizenry, and all media of communications on the basis of this fact.
- E. recognize that their responsibility is not to operate the schools but to see that they are well operated.
- G. 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.
- I. not criticize employees publicly, but will make such criticism to the Superintendent for investigation and action, if necessary.
- L. Not discuss the confidential business of the Board of Directors at home, on the street, at work, or any location other than during a Board of Directors executive session.
- M/.confine his/her Board of Directors action to policy making, planning, and appraisal, leaving the administration of the schools to the Superintendent.

BCA requires

that the Board read the policy at the beginning of each school year, but it can provide the answers to navigating troubled waters throughout the year.

Read it, learn it, embrace it and you can't go wrong!

Thank you



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