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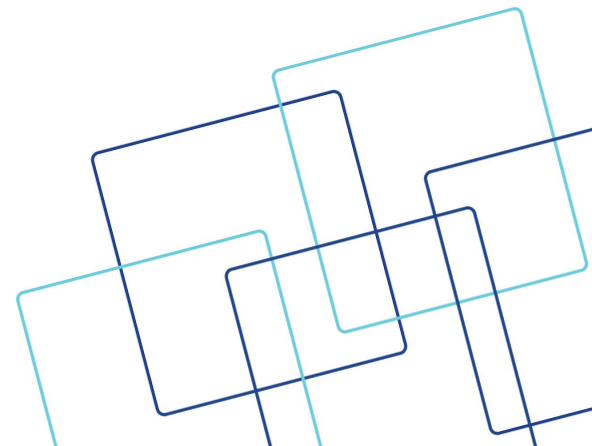
2024 WORKSHOP SERIES for School Board Candidates

Board Governance Part I – Roles and Responsibilities of Board Members

Presented by: Harold M. Freiman

Marin County Office of Education

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Board Roles & Responsibilities

Roles

“The Governing Board believes that its primary responsibility is to act in the best interests of **every** student in the district. The Board also has major commitments to parents/guardians, **all** members of the community, employees, the State of California, laws pertaining to public education, and established policies of the districts. To maximize Board effectiveness and public confidence in district governance, Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.”

- CSBA Model Board Bylaw 9005

The Power of an Individual Board Member

- Individual Board members exercise power only when acting as a collective body at lawfully called Board meetings.
- Outside of Board meetings, Board members have the same power as ordinary citizens – no more and no less.
- But ... others *perceive* Board members as having power.



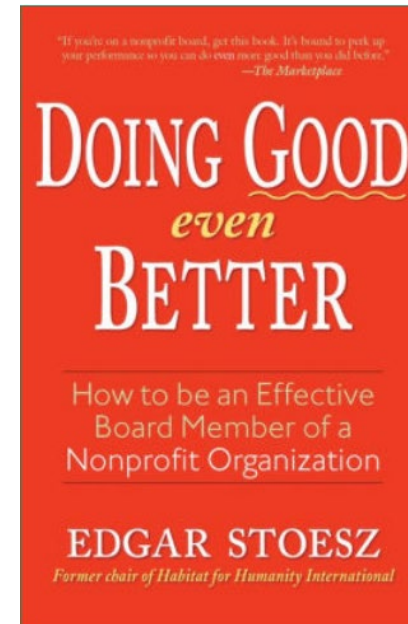
Roles

- Board members generally have been “doers” – volunteers, leaders, activists.
- Once elected, Board members leave that role and become “decision makers”.
- Limitations on doing, volunteering, ‘getting in the trenches’.

Roles

“Board Work is headwork; hands are optional.”

- E. Stoesz, Doing Good Even Better



Roles

CSBA Model Board Bylaw 9005

- “Keep the district focused on learning and achievement for all students.”



Focus

Roles

“Whereas the board decides *ends* (outcomes), management is responsible for the *means* by which ends are achieved.”

- E. Stoesz, Doing Good Even Better



Roles

“There are important distinctions to be made between the Board’s role and that of the superintendent and staff. **The role of the School Board is not to run the schools, but to see that the schools are well run.**”

- Governance Handbook Example

Roles

CSBA Model Board Bylaw 9005

- “Understand the distinction between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent and staff.”



Roles

- The Board determines **policies** that define the operations of the district:
 - Hiring personnel
 - Adopting curriculum
 - Establishing budget priorities
 - Directing collective bargaining
- The Board hires the superintendent to **implement** its policies

Roles

- Stepping out of one's role and overlapping these responsibilities results in ineffective management.
- A lack of understanding regarding the role and function of the board and superintendent results in **confusion** and **misunderstanding** among board members, superintendent, staff, and the community.

Roles

“Failure to make this distinction results in over burdening the board, while management is demoralized and uncertain about its role. Boards which are involved in operations at the expense of their governance function are an impediment and perpetually on the verge of exhaustion.”

- E. Stoesz, Doing Good Even Better

Roles

- Your role as a Board member is to “see the big picture” and is not the day-to-day management of the district.



Roles

“When you want to manage an organization by paying extreme attention to small details, you have become a micromanager. In crossing that line into detailed management of the district, you have intruded rather rudely into the school administration’s job and thereby have become a terrible school board member.”

- R. Mayer, [How Not to Be a Terrible School Board Member](#)



Roles

“You were not elected to administer the district. You were elected to oversee the administration of the district. By staying on your side of the line between oversight and actual management, you can avoid becoming a terrible school board member.”

- R. Mayer, [How Not to Be a Terrible School Board Member](#)

Roles

The Superintendent's Life

- If a Superintendent receives **2** email inquiries a day from each Board member, that is **10** inquiries a day, **50** inquiries a week, roughly **200** inquiries a month, and roughly **2,400** inquiries a year.
- When is the Superintendent going to do the rest of his/her work?




Board Role in Labor Negotiations





Why do we negotiate?



The District is required to meet and negotiate with the exclusive representatives of employee bargaining units upon request with regard to matters within the scope of representation (Gov. Code § 3543.3)

Direct Dealing

- “Direct dealing” between union and District during negotiations is prohibited
- Also know as “end run bargaining”
- Communication must flow through approved negotiators
- Direct dealing can lead to unfair labor practice findings, with sanctions imposed.



What's Negotiable?

Wages and Benefits

- Salary schedule structure
- COLA raises
- Step increases
- Basis for step placement
- Extra duty stipends, i.e. yearbook adviser, coaching, committee work, mentoring, etc.
- Pay for attendance at training sessions
- Medical, dental, vision, and life insurance benefits
- Retirement benefits above and beyond STRS
- Reimbursement for job-related expenses
- Parking fees
- Use of personal vehicles for job-related matters
- Note: unilaterally increasing wages or the level of benefits is a violation of the duty to bargain even though it benefits the employees.

Hours of Employment

- Start and end times of work day
- Start and end dates of work year
- Number of work days per year
- Distribution of workdays in a week
- Holidays and vacations
- Breaks and duty-free time
- Shift schedules
- Assignment of special duties
- Teacher instructional hours
- Extra hours assignments
- School calendar as it applies to employee work schedules
- Release time
- Preparation time

“Other terms and Conditions of Employment”

- Matters logically and reasonably related to hours, wages, or an enumerated term and condition of employment
- Subjects of such concern to both management and employees that conflict is likely to occur and the mediatory influence of collective negotiations is the appropriate means of resolving the conflict
- If obligation to negotiate would not significantly abridge freedom to exercise those managerial prerogatives, including matters of fundamental policy essential to the achievement of the employer’s mission

“Other Terms and Conditions of Employment”

- Examples of Other Terms and Conditions of Employment
- Impact of adding job duties not listed in job description or wages and hours
- Transferring work out of the unit, whether transferred to another unit, private contractor, or management
- Bidding procedures for bus routes
- Length of class periods
- Length of planning periods
- Length of lunch period
- Non-teaching duties assigned to teachers



Board Member Conduct & Liability



The Basic Rule

- When speaking as a Board member...speak as a Board member.
- When speaking as an individual...speak as an individual.

Ask Yourself:

1. Am I authorized to say this?
2. Am I creating risk for the District if I say this?
3. Am I creating personal liability if I say this?

A Word on Social Media:

- Who are you talking to?
- What role are you in – Board or personal?

Board Member Liability

- CSBA Model Board Bylaw 9260: “No Board member shall be liable for harm caused by his/her act or omission when acting within the scope of district responsibilities.”

Board Member Liability

- District must generally defend and indemnify if Board member acted within scope of their authority
 - Government Code §§ 825, 995.2

What is My Liability?

Statements made by Board members in conjunction with district proceedings are immune from tort liability so long as they are made within the course of official conduct.

What is My Liability?

Once statements are made outside of the Board member's official capacity, immunity is lost, and the Board member is exposed to personal liability (defamation, etc.).

What is My Liability?

A public entity may “refuse to provide for the defense of a civil action or proceeding” if the public employee or official was not acting “within the scope of his or her employment.” (Gov. Code, § 995.2(a).)

Liability & Confidentiality

Board Members Are
Responsible For
Maintaining the
Confidentiality Of Closed
Session Discussions

Board Member Liability

It is a misdemeanor to disclose confidential District information for “pecuniary gain”

- Government Code § 1098



Board Member Liability

Disclosure of confidential information can result in censure of the disclosing Board member, civil action against the Board member for defamation or invasion of privacy, criminal action for willful omission of the performance of a required duty or for disclosure of confidential information for pecuniary gain, or removal from office. Additional remedies include: injunctive relief, discipline of employees, referring Board members to the grand jury. (Gov. Code, § 54963.)

Board Member Liability

In addition to criminal liability, there are many possible negative consequences of revealing information discussed in closed session:

- If you discuss instructions given to your labor negotiators, it could impact negotiations and could be considered an indicia of bad faith bargaining.
- If you reveal information discussed with your attorney, it could result in a waiver of the attorney-client privilege even as to matters that have not been publicly revealed.
- If you reveal information regarding a personnel matter, you could be subject to a lawsuit for damages for invasion of privacy or defamation by the employee.

Board Member Liability

- If you reveal any information regarding a student, you may be sued for violation of privacy rights under both federal and state laws and jeopardize federal funding.
- If you discuss instructions given to your real property negotiators, it could result in your district having to pay more money for real property or receiving less money for property that the district is selling or leasing.



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comments about the presentation,
please feel free to contact:*

Harold M. Freiman

Partner

Tel: 925-953-1620

hfreiman@lozanosmith.com

*Or any of the attorneys
in one of our 8 offices.*

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LS



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