



Feaster Charter School:

**Brown Act, Conflicts of Interest and Best Practices
for Board Members**

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Topics we'll cover

- A. Roles and Responsibilities of Board Members and Executive Director
- B. Running public meetings (Brown Act and Bylaws)
- C. Duty of Care – informed decision-making
- D. Duty of Financial Oversight
- E. Duty of Loyalty (conflicts)
- F. Questions?

Roles and Responsibilities

Independent charter schools are run by nonprofit corporations.

-Board of Directors has legal and fiduciary responsibility for the charter school.

Feaster is a “*dependent*” charter school

- The Board is responsible for providing fiscal accountability by approving and monitoring the budget. (Similar to nonprofit corporation.)
- Directors nominated in accordance with bylaws and relevant board policies

Board's Role, continued

Board ensures long-term viability of organization

- Responsible for assessing how the school is doing
- Board supports the overall health and performance of the charter
- Board monitors school performance and other data to inform its decisions
- CVESD Superintendent selects, compensates, and evaluates Executive Director
 - Board provides support and ratifies compensation

Board's Role, continued

- Board approves the “big stuff” consistent with charter:
 - Annual budget
 - Ratifying employment salary schedules and determinations
- Executive Director:
 - In charge of day-to-day operations

Board's Role, continued

- The Feaster Charter Board shall serve as the governing board and create site policies by working in collaboration with Administration. The Feaster Charter Board is responsible for:
 - a) approving the annual and interim budget reports and expenditures;
 - b) approving monitoring, and supporting progress toward the educational goals of the LCAP, based on a recommendation from the Administrative Team,
 - c) monitoring adherence to the Feaster Charter Petition;
 - d) approving compensation for staff with Charter Board employee members abstaining to comply with conflict of interest standards.

Brown Act: Holding meetings

- Boards take action at “meetings”
- What is a “meeting”?

“Any congregation of a majority of the members of a legislative body ... to hear, discuss, or deliberate, or take action on any item.”

You may not, “outside a meeting ... use a series of communications ... directly or through intermediaries, to discuss, deliberate, or take action” (Gov. Code sec. 54952.2)
- Avoid inadvertent serial meetings through email or text communications (e.g., avoid “reply all” to email)
- Charter says quorum is five (5) members
- Bylaws say quorum is 50% plus 1, which could be four (4) or five (5)

Holding Meetings

- Limited exceptions (*i.e.*, when *not* a “meeting”):
 - Conference or public gathering that involves a discussion of issues of general interest (e.g., CCSA annual conference), provided that directors do not discuss agency/school business amongst themselves
 - Open community meeting, another agency’s public meeting, or social or ceremonial occasions, provided that directors do not discuss agency/school business among themselves
- What about annual board retreat, strategic planning sessions, board study sessions?
 - These are all “meetings”

Board “Committee” meetings

- Brown Act applies to committees created by board, even if just advisory:
 - Applies to “standing” board committees (e.g., finance committee, audit committee, executive committee)
 - “Ad hoc” committees exempt, but must be board members only, less than quorum, limited existence (until purpose fulfilled)
 - Tip: Brown Act does not apply to *non-board* advisory groups. The Executive Director can set up his own advisory teams instead, which can also inform and ultimately advise the board.

Holding meetings

- Brown Act “types” of meetings
 - “Regular” meetings require 72 hours posting of notice
 - “Special” meetings require 24 hours notice
 - Teleconferencing
 - Notice in agenda
 - Identify teleconference location
 - Roll call vote
 - Effect of AB361

Holding meetings

- Brown Act limits meeting to posted agenda:
 - Brief general description of business to be transacted (20 words or less)
 - Post in publicly accessible place at/near location
- Must post agenda on website
- Record how members vote

Tip: If you miss 72-hour posting deadline to include an item on regular agenda, you can still post a special meeting agenda with 24 hours notice for same time and place.

Holding meetings—Closed Sessions

- Brown Act limits “closed” sessions:
 - Statutory basis must be identified, such as. . .
 - Litigation (identify matter)
 - Personnel evaluation, termination (identify position)
 - Not for budget discussions or general planning
- What happens in closed session, stays in closed session; no public disclosure

Holding meetings

- Rights of public:
 - Speak *before* action taken on any item (including closed session)
 - Publicly accessible location (with disabled access)
 - Public comment can (and should) be time-limited
 - At regular meeting to address board on something not on agenda
 - No non-agenda comment required at special meetings, but you can allow if you want to

Running Meetings

- Recurring questions/concerns:
 - “Local” community business Board member
 - Local means lives or works within Chula Vista only?
 - Charter lists qualification as: “Must submit a statement of interest form to Feaster Charter School within 10 school days of initial posting and have experience on fiscal matter.”
 - Bylaws does not use term “local” for community member
 - Managing agenda
 - “Trailing” or “tabling” items ok?
 - Alternates are not Board members unless/until they are
 - “Vacancies will be filled first by alternates or if needed by an election process.”
 - What is the quorum? Clarify charter number of five (5)?

Duties of directors

Board members owe certain duties to the organization—

- duty of care
- duty to provide financial oversight
- duty of loyalty

Feaster is not an independent corporation. But there are similar, parallel duties for dependent charter boards.

Duty of care for members of Board:

- Act with care, skill, prudence and diligence
- Under the circumstances
- Of a prudent person acting in a like capacity
- With familiarity with those matters, and
- Considering the background and experience of the board member

What a Board Member Needs to Know: Duty of Care

Be informed, stay informed and be proactive in your role.

- Ask questions to seek clarity before voting.
- Listen to all perspectives and test your understanding of information and implications.
- Duty to vote:
 - Yes—supports the motion or action
 - No—opposes the motion or action
 - Abstain—should be rare (must state why, e.g., conflict of interest)
 - Do not abstain to avoid a “yes” or “no”—your duty is to vote!

Duty of Care, cont.

- Feaster Charter has particular requirements:
 - Most Board business can be approved by simple majority
 - For benefits and compensation matters, only the parent and community board members may discuss and vote (but can be approved by 4 votes of that special subgroup of 5)
 - Ambiguity? Board can decide to clarify and adopt policy

What a Board Member Needs to Know: Duty of Financial Oversight

Charter School Finances

- Annual budget is blueprint for school year, setting spending priorities and goals
 - Throughout the year, Board monitors annual budget and finances
 - Financial reports are presented to the Board, such as balance sheet, income statement, cash flow
- Scrutiny of and adherence to sound financial policies is the norm

What a Board Member Needs to Know: Duty of Loyalty

Duty of Loyalty—avoid conflicts of interest

- Directors' duty of loyalty
 - Conflicts of interest must avoided
 - disclosure of personal financial interests

Charter Boards subject to Political Reform Act:

- Requires annual financial disclosures by designated officials (the “Form 700”)
- Requires disclosure, disqualification from any decision that may affect material financial interests
 - Interests of spouse and dependents count
 - Civil penalties for violation
 - No defense or indemnity by school or insurers

Charter School Governance Best Practices

Best Practices in Charter Schools

- Board helps recruit diversity of expertise and experience on Board
 - Political
 - Financial
 - Fundraising
 - Goal-setting/vision
 - Community outreach

Best Practices in Charter Schools

- Board meets monthly or less often (e.g., quarterly)
 - Varies with age/maturity of organization
 - New charter boards tend to meet more often
 - More mature boards tend to meet less often
- Board approves annual budget, which sets spending priorities, gets periodic updates

The End

- Any questions about these topics, or any other charter school topic?

Thank you!



Questions? Please contact me.

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