

# NEW SCHOOL BOARD MEMBER HANDBOOK

A Guide to Surviving Your First Year



New York State  
School Boards  
Association



# **NEW SCHOOL BOARD MEMBER HANDBOOK**

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## INTRODUCTION

The *New School Board Member Handbook: A Guide to Surviving Your First Year* provides new school board members with many of the basics of school board service. It answers questions that new board members commonly ask when they begin school board service. It's written in a question-and-answer format for quick reading and includes a glossary of common education terms that new board members will find helpful. Please note that throughout this text the terms "president" and "vice president" refer to the officers of a school board.

The *New School Board Member Handbook* draws on the deep well of knowledge and expertise of the New York State School Boards Association (NYSSBA). It includes references to NYSSBA's premier handbook, *School Law* 40th Edition, as well as the varied programs and services NYSSBA offers members.

We hope you'll find the *New School Board Member Handbook* a helpful reference as you begin your school board service. If you need NYSSBA for assistance at any time during your term, please contact us at 800-342-3360 or 518-783-0200, or visit our website at [nyssba.org](http://nyssba.org).

### 1.1. I've been elected. What now?

Congratulations! You've joined the ranks of more than 5,000 locally elected officials in New York dedicated to helping their communities' students succeed and ultimately become productive citizens. As a trustee, you have three roles:

- An individual school board member.
- A member of a board made up of fellow members.
- A member of the district governance team composed of school board members and the superintendent.

As a school board member, you serve as a representative of your community and a leader of your district. You are a steward for the education of the district's children and its financial resources as well as an advocate for all students, public education and an educated public.

### 1.2. What are some of the powers and duties of the board?

New York Education Law defines a school board's general powers and duties. In broad terms, the responsibility of a school board involves overseeing the district's operations including student education, transportation, personnel and the district's properties. Chapter 6 provides more information on this.

### 1.3. What exactly does a school board do?

School boards are in a unique leadership position to oversee the affairs of the school district and help establish the conditions for districtwide success. A school board:

- Collaboratively develops the district's shared vision, values and strategic goals to guide student achievement and district success.
- Creates, adopts and revises policies that govern the operations of schools and the district.
- Hires and annually evaluates the performance of the superintendent, ensuring strong district leadership and alignment with district goals.
- Oversees the financial management and operations of the district including, but not limited to, approving the budget and monitoring financial reports to ensure responsible use of tax dollars and district resources.
- Promotes student achievement by supporting programs, curriculum and initiatives that enhance student learning and equitable outcomes.
- Supports equity and inclusion by ensuring all students have access to high-quality education, resources and opportunities regardless of background or ability.
- Monitors student performance data, reports and feedback to achieve the goal of enhancing student achievement and closing achievement gaps between subgroups of students.
- Engages the community by fostering open communication and establishing partnerships with families, local organizations and community members.
- Maintains school facilities by overseeing the maintenance, safety and improvement of school buildings and their infrastructure.
- Adopts curriculum and approves textbooks that align with the State's learning standards.

Effective school board members understand that it is not their job to run the district but to ensure the district runs effectively and efficiently. In other words, the board oversees the education of students and is responsible for school district operations but does not directly run the district's day-to-day operations.

### 1.4. Now that I'm a board member, what does my community expect of me?

As a new board member, you will be responsible for making decisions on issues that affect the students, district, staff and community. You will be asked to vote publicly on matters that you may be unfamiliar with. As with every new job, you need to take the time to learn about the position, district matters and issues impacting public education – all while carrying out your duties. Some of the activities and responsibilities expected of you are:

- attending board meetings and participating on committees.
- attending school functions.
- keeping yourself informed about issues.
- pursuing professional development opportunities for yourself.

- collaborating with your fellow board members and the superintendent.

School board service requires a significant amount of time, but it is time well spent when you consider that you are helping to shape the future of the children in your community.

School board members are publicly elected officials who are expected to carry out their responsibilities with a high degree of professional decorum and ethical behavior. As leaders of the district, school board members should use their service as an opportunity to model proper civility and the basic tenets of democracy for their students and community.

### **1:5.** I'm overwhelmed. How do I learn my job?

With help. Within your first year in office, you will be required to complete two mandatory training courses. New York State law requires newly elected school district and BOCES board members to complete a six-hour course on fiscal oversight and a course on school board governance designed to orient new members to the powers, functions and duties of boards of education.<sup>1</sup> To help you satisfy the mandatory training requirement, NYSSBA offers the New School Board Member Academy at regional in-person workshops, as a live, virtual training or as a self-paced, online program. The training includes two courses, Essentials of School Board Governance and Fiscal Oversight Fundamentals. Through these two courses, you will fulfill all required state training while learning board roles and responsibilities, the importance of governance and your fiscal duties.

Even if you haven't yet been sworn in, your superintendent or district clerk can register you as a board member-elect for these and other NYSSBA leadership development trainings through our website, [nyssba.org](http://nyssba.org). A full listing of workshops can be found under "Training and Events." Most importantly, don't hesitate to ask questions. Nobody expects you to have all the answers, and most boards and superintendents welcome the opportunity to get you up to speed.

### **1:6.** How much time can I expect to spend on school board responsibilities?

The time you spend on your school board responsibilities will likely vary by time of year. It depends on how many meetings are scheduled, which committees you serve on and what issues are going on in the district. For example, if the district is in the midst of a building project, hiring a superintendent or conducting negotiations with employee bargaining units,

board meetings may last longer than usual. In addition to board meetings, most board members spend at least six hours a week on board service.<sup>2</sup>

### **1:7.** How do the school board's responsibilities differ from the superintendent's?

The school board is the district's board of directors and is responsible for hiring and evaluating the superintendent, establishing the direction of the district by developing a shared vision and goals, setting policy, and adopting a budget for voter approval. The superintendent, the district's chief executive officer, works for the school board and translates policy into action. Consistent with the goals established by the school board, the superintendent and staff make the day-to-day decisions that affect the operation of the school district, deployment of resources, assignment of staff and documentation of results.

### **1:8.** Are school boards required to have officers? What are their duties?

A school board is required by law to elect a president and may, at its discretion, elect a vice president.<sup>3</sup>

Board presidents are responsible for leading and facilitating effective, efficient meetings. In this leadership position, they play a pivotal role in planning, organizing and motivating the board. They preside over meetings by managing the agenda, maintaining order and announcing decisions. Board presidents also promote deliberations and civil discourse by ensuring all members have an equal voice at the table. Additionally, they serve as the primary spokesperson for the board's collective voice and work to build board unity and positive relations among members and the superintendent. Board presidents may be conferred further duties/authority through board resolutions or policy.

The vice president often works closely with the president and superintendent and will preside at board meetings when the president is not present. The vice president exercises the duties of the president in case of that officer's absence or disability. If the office of president becomes vacant, the vice president acts as president until a new president is elected.<sup>4</sup>

### **1:9.** Where, or to whom, do I go to for information?

The board president is a great source of information and can answer your questions on protocols or operating procedures,

<sup>1</sup> See Educ. Law § 2102-a.

<sup>2</sup> Fact Finders, Inc. NYSSBA Survey of Members, 2015.

<sup>3</sup> Educ. Law § 1701.

<sup>4</sup> *Id.*

as well as issues facing the board. The superintendent and other board members are also good resources. NYSSBA is also an excellent source of information and has staff specialists ready to answer your questions or provide guidance. Visit NYSSBA's website ([nyssba.org](http://nyssba.org)) for in-depth information on board training, school policy and legal and legislative issues.

**1:10.** How do I translate all the educational jargon I hear at each board meeting?

Educational terms, abbreviations and acronyms can often be confusing. A glossary of common education terms can be found at the end of this handbook. For jargon or acronyms that are not included, consider asking your superintendent or other board members.

**1:11.** What is the board's role when there are problems with an employee?

The only employee who answers directly to the school board is the superintendent. Accordingly, if there are concerns about an employee's performance, the board should raise these concerns with the superintendent in executive session. It is the superintendent's responsibility to handle these issues. Be cautious not to cross the line into micromanaging the work or performance of employees. It's the superintendent's job to lead and manage the employees in the district.

If there is a problem with the superintendent, the board needs to address the problem through the annual performance evaluation or through informal feedback via the president. Depending on the circumstance, the board may also want to consult with legal counsel.

**2:1.** Is it all right to contact the superintendent?

You need to establish a productive working relationship with your superintendent. If you have questions, it is better to discuss them before the board meeting rather than surprise the superintendent at a public meeting. If there are pressing questions or concerns related to negative feelings or issues stemming from the community, the superintendent will appreciate knowing about them in advance in order to come prepared to address them at the meeting. It is appropriate to call the superintendent, set up a meeting to discuss questions or even email simple questions or requests.

**2:2.** If I disagree with board members or the superintendent, what is the best way to let them know what I think?

Always treat your fellow board members, superintendent and other administrators with respect but don't be afraid to disagree on an issue. Listen and consider other perspectives and opinions with an open mind. Engaging in a professional discussion about an issue that reflects two or more views often results in a better decision than if everyone agrees with the first solution offered. Remember to debate the issue, not the person. Demeaning comments or angry discussions do not facilitate effective decision-making.

**2:3.** How do I approach my superintendent or board if I have a suggestion for a change?

If your suggestion needs to be discussed and voted on by the entire board, it should be added to an upcoming board agenda. Review your district policy or board operations manual on agenda-setting to understand how to do this. Contact the superintendent or the president to discuss your idea and request it be put on the meeting agenda for discussion or referred to the appropriate committee.

**2:4.** Is it all right to talk to district administrators and staff?

In addition to the superintendent, you will come in contact with district employees, including administrators, teachers

and other staff members. There is nothing wrong with having a casual conversation with district staff, but individual board members do not have the authority to give directives, interview staff or take action on their own.<sup>1</sup> Keep in mind that complaints should follow board policy and the chain of command. For example, teachers report to principals; principals report to the superintendent; the superintendent reports to the board.

If you have a request for information, you should ask the superintendent unless he or she indicates otherwise.

**2:5.** Can I talk to board members outside of board meetings?

Yes. The state's Open Meetings Law generally permits you to converse with your fellow board members outside of board meetings. As with the superintendent, you should try to establish productive relations with each of the other board members. Talking with them in social situations or at school sporting events, for example, will give you an opportunity to learn about them outside of the school board. Be careful that you do not discuss any school board matters if you have a quorum – a simple majority (more than half) of the total number of members on your board. This would constitute a meeting in violation of the Open Meetings Law. It is also important to remember that informal chats with another member of the board do not substitute for deliberation of issues in a properly convened board meeting where the public can observe such discussions.

**2:6.** What information is considered confidential, and what is an "executive session"?

The commissioner of education has stated that "confidential" encompasses "information that is meant to be kept secret."<sup>2</sup> Most employee personnel issues and information contained in student educational records are considered confidential.<sup>3</sup> Also, the information discussed in a closed board meeting, more commonly known as an executive session, is confidential.<sup>4</sup> A board may call an executive session only on the following subjects:

<sup>1</sup> Gen. Constr. Law § 41; Educ Law §§ 1606(1), 1710, 1804(1), 1805, 1903(1), 2502(1), 2503(1), 2554(1); *Downey v. Onteora CSD*, 2009 WL 2259086 (N.D.N.Y. July 29, 2009); *Coughlan v. Cowan*, 21 Misc.2d 667 (Sup. Ct. Suffolk Cnty. 1959); *Appeal of Silano*, 33 Ed Dept Rep 20 (1993), *petition dismissed*, *Silano v. Sobol* (Supt. Ct. Albany Cnty. Jan. 10, 1994); *Matter of Bruno*, 4 Ed Dept Rep 14 (1964).

<sup>2</sup> *Appeal of Rivers*, 60 Ed Dept Rep, Dec. No. 17989 (2021); *Application of the Bd. of Educ. of the City Sch. Dist. of the City of Buffalo*, 57 Ed Dep Rep, Dec. No. 17,147 (2017), *aff'd*, *Paladino v. Bd. of Educ. for the City of Buffalo Pub. Sch. Dist.*, 183 A.D.3d 1043 (3d Dep't 2020).

<sup>3</sup> See 20 USC § 1232-g; 34 CFR Part 99; Educ. Law § 2-d; Pub. Off. Law §§ 87 (2)(b), 89(2), (3).

<sup>4</sup> *Application of the Bd. of Educ. of the City Sch. Dist. of the City of Buffalo*, 57 Ed Dept Rep, Dec. No. 17,147 (2017), *aff'd*, *Paladino v. Bd. of Educ. for the City of Buffalo Pub. Sch. Dist.*, 183 A.D.3d 1043 (3d Dep't 2020); *Application of Nett and Raby*, 45 Ed Dept Rep 259 (2005).



- Matters that would imperil public safety if disclosed.
- Any matter that may disclose the identity of a law enforcement agent or informer.
- Information relating to current or future investigation or prosecution of a criminal offense that would imperil effective law enforcement if disclosed.
- Discussions involving proposed, pending or current litigation.
- Collective bargaining pursuant to Article 14 of the Civil Service Law.
- The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.
- The preparation, grading or administration of exams.
- The proposed acquisition, sale or lease of real property or the proposed acquisition, sale or exchange of securities, but only when their value would be substantially affected by publicity.<sup>5</sup>

## 2:7. What can I say, or not say, to parents and friends about school issues?

School board business that is discussed in executive session or relates to confidential matters (such as employee personnel or student discipline issues) should never be discussed with anyone other than another board member, the superintendent or the school district's attorney. In contrast, "information available to the general public" is not considered confidential.<sup>6</sup>

A good rule of thumb is to discuss only items that have been made public at a school board meeting. Adhering to this rule goes a long way in maintaining trust with the superintendent and the other board members and protecting the privacy of students and staff.

## 2:8. I have children in school. How can I talk with their teachers now that I am on the school board?

This is a tricky area. No matter what you say about "speaking as a parent, not a board member," it is difficult for some teachers to separate your role on the school board from your role as a parent. It's not surprising that some teachers may be

somewhat intimidated by your role as a board member. Some board members have indicated that their spouses, the child's other parent or another family member frequently take the lead in speaking to their children's teachers.

Make sure you are not using your position as a school board member to secure special treatment for your child. Your child should be treated the same as other students and be subject to the same rules and requirements. If there are issues you wish to discuss with a teacher, you should follow the normal procedures for contacting your child's teacher to discuss them.

Keep in mind you do not relinquish your parental rights now that you are a school board member. You are always a parent first and a board member second.

## 2:9. As a board member, may I visit the schools?

You have the same right as a parent or community member to visit the schools in your district, so long as you follow whatever policy and procedures your district has for visitors. As a school board member, you may also visit the schools in an official capacity, only with the board's authority, for specific purposes such as building inspections.<sup>7</sup>

As a school board member, you should use school visits to build good working relations with building principals and staff, to celebrate the positive accomplishments of the schools and to show your pride as a member of the board. Look for opportunities to visit when a school is hosting a special event or recognition program for students and staff. When attending an event, the best practice is to notify the superintendent and/or principal in advance of your visit.

## 2:10. How do I respond to a community member who questions the school board's decisions?

It is normal to hear questions about the board's decisions. You will at times find yourself dealing with controversial, complex issues, and the board's final decision may be unpopular. Explain the thought process that went into the decision and why the board arrived at the conclusion it did, even if you personally disagreed. Be sure to answer honestly and without negative emotion. Constructive dialogue that respects the board's decisions helps foster trust and the integrity of the decision-making process. One of your roles as a school board member is to be an advocate for the district. Being asked about board decisions provides an opportunity

<sup>5</sup> Pub. Off. Law § 105.

<sup>6</sup> *Application of Doe*, 61 Ed Dept Rep, Dec. No. 18,052 (2021).

<sup>7</sup> *Appeal of Silano*, 33 Ed Dept Rep 20 (1993), *petition dismissed*, *Silano v. Sobol* (Supt. Ct. Albany Cnty. Jan. 10, 1994); *Matter of Bruno*, 4 Ed Dept Rep 14 (1964).

to promote the positive activities that are occurring in your schools while at the same time responding to community questions.

### **2:11.** How do I respond to questions from the media?

Your board has probably already adopted, at least informally, a policy for responding to the media. Particularly on sensitive issues, a single spokesperson – usually the president – may be designated to speak on behalf of the board. If members of the media are waiting to do an interview following a board meeting, then it is appropriate to refer the question to the president or the superintendent.

If an individual board member decides to speak to the media, it is important for that person to state that their comments represent their personal opinion and not that of the district or the board as a whole.<sup>8</sup> Members are allowed to share how they voted on a particular issue but should vocalize support for the board's decision when in the minority. If you are contacted by a local reporter and you're not prepared or don't have the relevant information, don't say, "No comment." Instead, tell the reporter you'll get an answer and follow up. Ask what the reporter's deadline is and then promptly follow through.

In all situations, be honest – never lie! Communicate clearly and directly in short, quotable sentences that stay on message. Be sure to answer the question that was asked. Support board decisions and present both the board and district in a positive light. Don't feel compelled to offer more information than needed to answer the question. Be friendly and warm. If you are on camera, remember that body language is as important as what you say.

### **2:12.** How should I respond to parental complaints?

First, be familiar with your board policy on public complaints as well as the district's organizational chart. The best way to respond to parental complaints is to be a good listener. This allows you to ask questions to understand the situation better. Be careful parents do not interpret your questions or comments as a guarantee that you will help solve their issues or of future board action. Once a parent has shared a complaint, provide guidance on how to get it addressed through the proper channels, perhaps by referring to the public complaint

policy or organizational chart (chain of command). It is safe to say that most of the complaints you will hear are administrative in nature and not policy issues. As such, they don't belong on the board's table.

It is not your responsibility, nor do you have the authority, to solve each parent's problem. Listen to their concerns but direct them to the appropriate staff member or the next person in the chain of command. Avoid getting involved, as it may compromise your impartiality if the issue rises to the level of an appeal to the board.

Allow the superintendent and staff the opportunity to address complaints without micromanaging the situation. If a parent's concerns remain unresolved, they may follow up with you; however, be sure to direct them to the next person in the chain of command. For serious concerns brought to a board member's attention, the complaint should be immediately shared with the superintendent so they may investigate it appropriately.

### **2:13.** Can I use email, text messages or social media to communicate with my board colleagues?

It depends. School board members may use email and other methods to communicate with each other, but cannot use them to discuss board business as a way of circumventing the Open Meetings Law.

You should be particularly careful to avoid sequential emails, texts or social media conversations that result in a collective decision. While you may email or "direct message" another board member with a question, it is not appropriate to engage in contemporaneous (i.e., simultaneous) online discussions with a majority of the board.<sup>9</sup> Email, text messages and social media communications that preclude the community from hearing the board debate important issues are problematic. The intent of the Open Meetings Law is to allow the public to "observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy."<sup>10</sup>

Be forewarned, emails and text messages related to the business of the school board are considered records under the Freedom of Information Law (FOIL), even if you use a personal email account or cell phone.<sup>11</sup> Under FOIL's provisions the content of a requested record determines whether it must

<sup>8</sup> See *Appeal of Wallace*, 46 Ed Dept Rep 347 (2007); see also *Appeal of Koehler*, 52 Ed Dept Rep, Dec. No. 16,373 (2012).

<sup>9</sup> NYS Department of State, Committee on Open Government, OML-AO-5205 (Nov. 18, 2011); OML-AO-4534 (Dec. 14, 2007).

<sup>10</sup> Pub. Off. Law § 100.

<sup>11</sup> Pub. Off. Law § 87; NYS Department of State, Committee on Open Government, FOIL-AO-19673 (June 15, 2018); FOIL-AO-19429 (May 3, 2016); FOIL-AO-18052 (Nov. 24, 2010); FOIL-AO-16969 (Jan. 30, 2008).

be released. Records retention laws and rules of discovery also apply to any email account utilized for board business.<sup>12</sup> If the school district asks board members to use a school email for board business, it is helpful to do so in order to comply with those laws and rules.

School board members should be cautious and use best judgment when using social media. For elected officials, social media posts can be publicly scrutinized, even when privacy settings are set to 'friends only.' Posts that are insensitive, controversial or intended to be a joke can damage the reputation of a board member. Additionally, always present your personal opinions as such, and not official positions of the board. To build and maintain trust with the board and community in which you serve, use social media wisely to reflect yourself and your district in a positive light.

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<sup>12</sup> See Arts and Cult. Aff. Law §§ 57:19, 57:25; 8 NYCRR § 185.15, Appendix L, Records Retention and Disposition Schedule LGS-1.

### 3:1. What should I expect at my first board meeting?

If you have never participated in a board meeting, you may be overwhelmed at first. There are basic rules of parliamentary procedure that should be followed, but each board operates in its own way. There will be a meeting agenda and protocol.

Talk with the president before attending your first meeting to ask basic questions such as:

- Where should I sit?
- How is the agenda set up?
- How long do the meetings usually last?
- When should I speak?

Ask for an orientation if you haven't yet had one. You should also receive your board packet containing the agenda and any supporting information several days before the meeting. Be sure you go through the material carefully and take the time to call the superintendent or president to ask questions about anything you don't understand. Become familiar with your board policies as well, as that can provide further information on procedures and other items.

Remember, this is a meeting of the board of education in public, not a public meeting. Staff and community members are invited to observe and may comment if a public comment period is established. But this is your board's opportunity to conduct business. As such, the board should remain in control of the meeting at all times.

### 3:2. Where should I sit?

Many boards have their rooms set up in a consistent configuration for board meetings, with name plates for each person at the table. Some boards have assigned seats that do not change from meeting to meeting. Other boards mix the seats up each time. And others do not have name tags or assigned seats. To feel comfortable prior to attending your first meeting, contact the president and ask if there are any "traditions or protocols" that you should know about in advance of the meeting.

### 3:3. What is considered an acceptable dress code at board meetings?

Your board decides how formal or informal the meeting should be. Dressing appropriately for a business meeting is a good rule of thumb, as board meetings are business meetings. Remember that the public and media may attend as well. Your dress should reflect the professional approach that your school board takes in overseeing the operations of the district.

### 3:4. How does being on TV affect board members?

Any time you are video recorded or are in the public eye, it is normal to feel more self-conscious and nervous. Some boards broadcast live, stream online or video record their meetings for later broadcast on a video sharing service like YouTube or a local cable access station. Naturally, the first time you participate in a recorded board meeting you may find that you are less articulate and forget some of what you want to say. After you attend a few meetings, you should become comfortable and may even forget you are being video recorded. Periodically reviewing a video to see how the board is presenting itself is a good idea. Board members are often surprised by their unconscious body language, which may or may not accurately communicate their feelings.

### 3:5. How professionally must a board meeting be run? What is considered too lax or too formal?

All board meetings need to follow some set of "rules of order," often based on parliamentary procedure. The method that your board selects should be identified in policy. Some boards elect to follow Robert's Rules of Order. Other boards may specifically elect not to follow Robert's Rules but prefer a basic version of parliamentary procedure. Your school board can be as relaxed or as formal as it chooses, as long as policy identifies the method you will employ, and this method does not violate the Open Meetings Law.

All school boards must adhere to New York State law even where it differs from Robert's Rules. For example, under Robert's Rules of Order, action can be taken by a majority of those present or voting. Under state law, an action can be taken only with a vote by the majority of the entire board, regardless of vacancies or absences.<sup>1</sup>

<sup>1</sup> Educ. Law §§ 1606, 1710, 1804(1), 1903(1), 2502(1), 2503(1), 2554(1); Gen. Constr. Law § 41.

### 3:6. How often does my board meet, and are there consequences if I don't attend?

Education Law requires city school district boards to meet at least monthly and all other school boards to meet at least quarterly.<sup>2</sup> Most boards, however, meet once or twice a month. Consistent attendance at board meetings is required. If a board member fails to attend three consecutive meetings without a valid excuse, the board may declare the seat vacant.<sup>3</sup> Most boards are required to hold an annual organizational meeting in July to elect and appoint officers for the coming year.<sup>4</sup> Individual board members can also call a special meeting to address a particular item.<sup>5</sup>

### 3:7. What are the legal requirements for school board meetings?

School boards must meet in compliance with the Open Meetings Law and make public records available as defined by the Freedom of Information Law. The Open Meetings Law requires that all school board meetings, including most committee meetings, be open to the public.<sup>6</sup> Proper notice must be given to announce regularly scheduled and special meetings.<sup>7</sup> Minutes of the meetings must be taken and include specific information required by law.<sup>8</sup>

### 3:8. What is the Open Meetings Law?

The basic intent of the state Open Meetings Law is to strengthen the right of all New York State citizens to know what goes on in government by requiring public bodies to conduct nearly all business at open meetings. For more information about the Open Meetings Law, see *School Law*, 40th Edition, Chapter 14.

### 3:9. How can a board have good exploratory discussions given the restrictions of the Open Meetings Law?

The Open Meetings Law does not preclude good exploratory discussions. You may find it awkward to talk about some topics openly, but the board is obligated to

conduct all discussions in open session except during the limited situations that permit executive sessions.<sup>9</sup> All board votes must be conducted in public at an official meeting of the board, with the exception of voting on disciplinary charges against a tenured teacher or administrator.<sup>10</sup>

### 3:10. Can board members meet socially or as a group at training conferences without violating the Open Meetings Law?

Yes. Social gatherings and conferences, including retreats, are not considered school board meetings, even if a quorum is present, so long as the board members in attendance do not discuss school business or arrive at decisions about an issue.

### 3:11. What role does the superintendent play at school board meetings?

The superintendent is a key person at all school board meetings. Generally, the superintendent and board president collaboratively plan the meeting agenda (check your board policy). The superintendent, in conjunction with staff, makes certain the meeting room is set up as required and all tools that are needed are available. This includes audio or visual technology for presentations or recording equipment, an easel, a microphone, etc. The president introduces each item on the agenda. However, for discussion or action items, the superintendent or a designee is often asked to explain the issue. The superintendent's opinion or recommendation should be solicited before a vote is taken.

### 3:12. How do I get assigned to a board committee?

The president is typically responsible for assigning board members to committees if your board uses them. If you have an interest in a particular committee, let the president know prior to identifying committee assignments. This is usually done at or shortly after the organizational meeting in July.

<sup>2</sup> Educ. Law §§ 1708(1), 1804(1), 2504(3), 2563(2), 2590-b(1)(b), 2590-e(14).

<sup>3</sup> Educ. Law §§ 2109, 2502(8), 2553(8), 2590-b(8)(g), 2590-c(6)(a); *Appeal of Butler*, 58 Ed Dep Rep, Dec. No. 17,544 (2018); *Appeal of McQuaid Kaplan*, 50 Ed Dept Rep, Dec. No. 16,113 (2010).

<sup>4</sup> Educ. Law §§ 1707, 1804(1), 1904, 2502(9-a)(a), 2504(1); but see Educ. Law §§ 2553(9)(f), 2553 (10)(a), 2563(1) for different timeframes in large city districts.

<sup>5</sup> Educ. Law §§ 1606(3), 1710; *Appeal of Campbell*, 50 Ed Dept Rep, Dec. No. 16,246 (2011); *Application of Bean*, 42 Ed Dept Rep 171 (2002); *Matter of Felicio*, 19 Ed Dept Rep 414 (1980), *petition dismissed sub nom. Arthus v. Ambach* (Sup. Ct. Albany Cnty. Apr. 18, 1980).

<sup>6</sup> Pub. Off. Law § 103.

<sup>7</sup> Pub. Off. Law § 104.

<sup>8</sup> Pub. Off. Law §§ 87(3)(a), 103-a(2)(e), 106(1).

<sup>9</sup> Pub. Off. Law § 105.

<sup>10</sup> Educ. Law §§ 1708(3), 3020-a(2); 8 NYCRR § 82-3.3(c); *Sanna v. Lindenhurst Bd. of Educ.*, 85 A.D.2d 157 (2d Dep't), *aff'd*, 58 N.Y.2d 626 (1982); *United Teachers of Northport v. Northport UFSD*, 50 A.D.2d 897 (2d Dep't 1975); *Formal Opn. of Counsel No. 239*, 16 Ed Dept Rep 457 (1976).

### 3:13. Who is responsible for setting the agenda?

The superintendent and board president are responsible for setting the agenda according to most board policies. In some districts, the vice president also participates in the pre-agenda meeting. This enables the vice president to be ready for the board meeting, suggest topics to be covered and be prepared to act as president if needed. It is helpful to familiarize yourself with the policy on agenda-setting in your district.

### 3:14. How can I get my issues onto the board agenda?

The best way to get an item onto the board agenda is to follow your board policy and protocols – usually by contacting the president. In some districts, it can be done by contacting either the president or superintendent prior to the agenda-setting meeting. If you have an issue that comes up after the agenda has been distributed, you may still be able to have it added to the agenda the night of the meeting, depending on your district's policies. If a decision is not needed immediately, it is better to have the topic added to the agenda for a subsequent meeting, giving your colleagues sufficient time to prepare for discussion.

### 3:15. Does public comment pertain only to agenda items?

Although school board meetings must be open to the public, there is no requirement that the public be allowed to speak. This decision is left up to the individual board. If the board decides to allow public comment, as most do, it may set rules that restrict topics and the duration of each presentation. For more information on public comment periods, please see *School Law*, 40th Edition, 14:34-14:38.

### 3:16. What if a member of the public complains at a board meeting?

The grocery store isn't the only place board members might hear complaints. If an individual raises a complaint during a board-established public comment period, it is best to listen and allow the board president to respond. The president can indicate the board will take the issue under advisement or refer the individual as appropriate. The individual may be referred to the public complaint policy or the relevant person to handle the complaint, i.e. the superintendent or other staff member.

The board president should be in control of the meeting at all times and ensure the speaker's comments adhere to the

board's policy on public comment. Individual board members should refrain from engaging in back-and-forth dialogue or debate with the speaker during the meeting. Members should also be cognizant of their body language to avoid sending unintended messages to the speaker or audience.

### 3:17. What is a consent agenda?

A consent agenda is an item listed on the regular agenda that groups routine items under one agenda heading. Routine items (such as paying bills, approving minutes of the last meeting, approving the agenda, etc.) can thus be approved by a single unified motion and vote of the board. The purpose of the consent agenda is to expedite business and streamline the meeting. There is no discussion of items on a consent agenda. If clarification of an item is necessary, you can request that the item be removed from the consent agenda and considered by the board as a separate motion.

### 3:18. May I ask questions during the board meeting?

Absolutely! By now you should have taken time to review the materials in your board packet and asked for any clarifications from the superintendent or president prior to the meeting. As the discussion of an item ensues, other questions may occur to you that you have not previously asked.

### 3:19. How may I ask questions at a board meeting and still adhere to the "no surprises" rule?

If your question may blindside someone due to its controversial or sensitive nature, extend professional courtesy by notifying the superintendent and/or board president before the meeting. This allows them to prepare a response or determine how to best address the issue. During board discussions or presentations, it is appropriate to ask probing, thought-provoking or clarifying questions to better understand the topic or cast an informed vote. However, board members should refrain from asking questions in public related to executive session items due to confidentiality issues.

For questions requiring additional data or information, board members should follow their procedures and submit the request in advance of the meeting, giving the superintendent adequate time to gather the necessary details and share them with the full board. Remember, board members are not entitled to any and all information and should avoid making excessive or unreasonable requests that would divert district staff from their responsibilities.<sup>11</sup>

<sup>11</sup> See generally, 8 NYCRR Part 84; *Buffalo Teachers Fed. v. Buffalo Bd. of Educ.*, 157 A.D.2d 1027 (4th Dep't 1990); *Matter of Bruno*, 4 Ed Dept Rep 14 (1968).

**3:20.** How is voting done at a board meeting?

All votes taken at a school board meeting are a matter of public record and must be recorded in the minutes. Secret ballots are not permitted.<sup>12</sup> The vote must be taken in such a way that a person attending the meeting or reading the minutes can see how each board member voted.<sup>13</sup> This can be done by roll call vote, show of hands or any other method by which each board member's vote is made known to the public.

**3:21.** Do most school boards vote in a rotating order or consistent order, or does it not matter?

The manner in which your meeting is run is determined by your school board. How you vote – in a rotating order or the same order each time – doesn't matter. A rotating order allows for a different member of the board to be the first and last to vote. State law simply requires that the public be able to determine how each board member voted.<sup>14</sup>

**3:22.** When does the board president vote?

The president votes each time a vote is called. Some people think that the president votes only to break a tie, as the chair generally does under Robert's Rules of Order. This is not true. The president is expected to vote as a member of the board, in whatever sequence the board is following. Whether the vote is rotated each time or each member votes in the same sequence, the president votes in the same way as the other board members.

**3:23.** May a school board member vote by proxy, telephone, mail or email at regular or special board meetings?

No, it is not permissible for a board member to vote by proxy, telephone, mail or email. The Open Meetings Law requires that a board member be present physically or through the use of videoconferencing in order to lawfully cast a vote.<sup>15</sup>

**3:24.** May I abstain from a vote?

Yes. Understand, however, that while an abstention means neither a "yes" or "no" vote, it can have the effect of a "no" vote in that it makes it more difficult for the proponents of a motion to win a needed majority. The commissioner of education has ruled that board members cannot abstain from voting simply because they have philosophical problems with what they are being asked to vote upon, such as teacher tenure.<sup>16</sup>

**3:25.** What if I disagree with a board decision?

If you don't agree with a decision that the board has made, you may express your position during the meeting. However, even if you disagree with the final outcome of a vote, principles of good governance dictate you should support the board's final decision. The time to disagree is during the discussion and through your vote, which is public record. If you are asked about the decision, explain why the board voted the way that it did. You may say why and how you voted; however, you should do it in a way that does not undermine the board's majority decision. As long as your comments remain factual and are not critical of the board's action, you are showing support for the decision. You should also direct questions to the board's spokesperson, usually the board president.

**3:26.** May a board president offer motions?

Normally the president calls for the motions on agenda items. The president is a member of the board with the same voting rights, no more and no less. Although it is permissible for the president to offer a motion, it is preferable for other members of the board to offer and second a motion.

<sup>12</sup> Pub. Off. Law § 87(3)(a); *Smithson v. Ilion Housing Auth.*, 130 A.D.2d 965 (4th Dep't 1988), *aff'd*, 72 N.Y.2d 1034 (1988).

<sup>13</sup> Pub. Off. Law §§ 87(3)(e), 106.

<sup>14</sup> *Id.*

<sup>15</sup> Pub. Off. Law §§ 102-104; *Town of Eastchester v. NYS Bd. of Real Prop. Servs.*, 23 A.D.3d 484 (2d Dep't 2005); *City of White Plains v. NYS Office of Real Prop. Servs.*, 18 A.D.3d 549 (2d Dep't 2005); NYS Department of State, Committee on Open Government OML-AO-5575 (Mar. 6, 2018); OML-AO-5420 (Sept. 4, 2014).

<sup>16</sup> *Appeal of Craft*, 36 Ed Dept Rep 314 (1997).

### 4:1. Should I ask for a mentor?

Many boards have a designated person who mentors new board members. Serving as mentor may be a defined responsibility for one of the officers, such as the vice president, or it may be a rotating position. A mentor will orient new board members prior to their first board meeting. The mentor will also check in with new board members periodically during the year to explain key activities, such as the processes for evaluating the superintendent or developing the budget. If you find your board does not have a person designated as mentor, you might suggest it, particularly if you prefer working this way.

### 4:2. When are issues serious enough to bring to the board?

You are the link between the school district and the community. You should be aware of issues confronting public education and those that could become an issue in your district. You must also filter what you bring to the board for consideration to be sure it truly requires board attention. If you are hearing concerns from community members, you might want to ask other board members whether they are hearing the same concerns. An issue or activity that is counter to board policy should be brought to the attention of the president or the superintendent. When in doubt, feel free to discuss concerns with the superintendent and the president. They can help decide if the board needs to be proactive about a particular issue.

### 4:3. What is the committee structure, function and role?

School boards operate in various ways. Some boards operate as a committee of the whole where all issues or activities are addressed by the entire board together. Members of boards that choose this method of operation generally receive the same information at the same time and have the authority to deliberate on each issue. Other boards function with a well-defined committee structure where board members serve on several committees and the committees first address issues or activities before making recommendations to the full board.

Generally, board members are appointed to standing committees by the president and serve one-year terms.

Ad hoc committees or task forces can also be established to deal with a one-time issue, and their length of term is often less than one year. Inviting staff and community members to serve on a task force allows them to offer their insights and/or special expertise on a particular issue.

The committee structure works best when the board fully trusts all the board members and is willing to consider the recommendation(s) of this smaller subset of the board. Committees comprised of less than a quorum of the board are advisory such that the full board may choose to accept a recommendation in full, in part or not at all. This does not mean the full board cannot ask questions prior to voting on a motion at a board meeting; in fact, all members need to become informed in order to vote responsibly. Rehashing the entire work of the committee, though, defeats the committee's purpose. Boards that use a committee structure believe it saves time and allows each board member to delve more deeply into fewer areas. Some boards find they are able to deal with more issues with this approach and each board meeting is more reasonable in length. Some committees may be required by law, such as the audit committee.<sup>1</sup> Other possible standing committees not required by law but frequently used in districts include: policy, finance, curriculum, buildings and grounds and personnel.

Keep in mind that committees or task forces report to the board, not to the community or media. They should not take on a life of their own.

One last point to be aware of is that committees can be subject to the Open Meetings Law requirements even when there is less than a quorum of board members on the committee.<sup>2</sup> See *School Law*, 40th Edition, 14:24, for further clarification.

### 4:4. How can I survive the politics?

Don't think of it as surviving politics. Instead, view it as cultivating relationships. You are now part of the largest body of elected officials in the state. School governance is founded on the belief that a group of diverse people representing various viewpoints in their district can make better decisions than any one person alone could. It is this diversity that serves as the strength of the school board.

It is best to be open-minded about the opinions of your fellow board members. Your goal should not be to convert them to your point of view. Rather, learn and explore the

<sup>1</sup> Educ. Law § 2116-c; 8 NYCRR § 170.12[d].

<sup>2</sup> Pub. Off. Law § 102; see also NYS Department of State, Committee on Open Government, OML-AO-5068 (Mar. 18, 2011); OML-AO-4158 (Mar. 15, 2006).



issue before the board, listen to all views to build consensus, and collaboratively determine the best solution by working together. You want the students to be the “winners” – not one board member or another.

#### 4:5. How can I best work with the team?

You may be joining a board with members who have been together for a number of years. As the “new kid on the block,” it will take you time to become part of the team. Talk with your new colleagues. Respect their expertise. Listen and observe. Ask questions. Do your homework. Make recommendations. It will likely take time and experience before you fully acclimate to your position on the board.

#### 4:6. What should a board do when it is not working well as a team?

Trust, open communication and ethical conduct are critical to the effective functioning of any governance team. If you believe issues are impacting your board’s performance, consider proposing a workshop or retreat. This setting allows the board to review and refine its operating procedures and protocols while addressing any interpersonal issues that may hinder its ability to function as a team. Developing a board handbook or an operating procedures manual, along with a code of conduct, can enhance board operations by providing clarity and consistency. Many boards benefit from the assistance of an independent facilitator, who can offer an impartial perspective and help improve performance. NYSSBA’s Custom Board Retreat service can support your board by tailoring the retreat to your board’s needs.

#### 4:7. How do school boards make decisions?

A school board can take action only during a legally convened meeting in which at least a quorum of members is present.<sup>3</sup> Therefore, it is important that board members do their ‘homework’ prior to the start of the meeting so they can participate responsibly and make informed decisions.

When making decisions, the board should seek the advice, where appropriate, of the district’s administrators, teachers, employees, community members and experts such as the school district’s legal counsel, financial advisor or auditor. Being informed and engaging in productive dialogue helps build trust and solidifies confidence in the decisions that are being made as well as with the leadership of the district.

#### 4:8. What is the most important consideration when making a decision?

The primary consideration is the tangible impact the decision will have on your district’s students. If you understand the facts, don’t allow outside forces to mislead or misinform your opinion, use relevant data and keep the needs of all students in mind when making decisions, you will be more likely to make good decisions. Remember, your first responsibility is to every student in your district. Keeping this in mind will greatly assist you in making the right decisions despite the pressures that certain constituent groups may exert.

#### 4:9. Is there any limitation on when and with whom school board members may discuss school business?

School board members will learn information that is confidential and should not be discussed outside of a board’s closed session with friends and family.<sup>4</sup> This does not limit discussions among school board members at appropriate times in conformity with the Open Meetings Law. Board members should know they can discuss issues among each other that are before and within the jurisdiction of the board.

#### 4:10. When I’m in the minority on the board, how can I influence the other board members to consider my point of view?

Genuinely listen to your colleagues. Don’t interrupt. Wait to be recognized, then make your point, but don’t deliver a monologue. Speak from fact, not emotion. Concisely identify the problem or the potential opportunity. Use facts to make the point that it is a districtwide problem or opportunity. State your recommendation and explain how it helps attain a district goal. Finally, be prepared to compromise.

#### 4:11. Should the board of education set goals for itself each year?

Yes, it is a good idea for a board to have goals for the effectiveness and efficiency of board operations and evaluate them on a yearly basis. In this way, you have a scheduled forum for discussing the efficacy of your board and how to improve it. Performing a board self-evaluation is an effective way to identify areas of improvement and establish board goals.

<sup>3</sup> Pub. Off. Law §§ 102(1), (2), 103; Gen. Constr. Law § 41.

<sup>4</sup> *Application of the Bd. of Educ. of the City Sch. Dist. of the City of Buffalo*, 57 Ed Dept Rep, Dec. No. 17,147 (2017), *aff’d*, *Paladino v. Bd. of Educ. for the City of Buffalo Pub. Sch. Dist.*, 183 A.D.3d 1043 (3d Dep’t 2020); *Application of Nett and Raby*, 45 Ed Dept Rep 259 (2005); see also questions 2:6-2:7.

**4:12.** Are there term limits for board members?

No, Education Law does not contain term limits for board service. Nor may a school board adopt term limits through a voter proposition.<sup>5</sup> The opportunity to make a change on the board occurs annually during the school board election when community members can choose to run for the board for seats whose terms are expiring. A board with both new and seasoned members can provide new thinking while maintaining institutional history. Similarly, limits cannot be placed on the president and vice president roles.

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<sup>5</sup> See *Appeal of Bakal*, 9 Ed Dept Rep 134 (1970).

### 5:1. What is the role of the superintendent relative to the school board?

Think of the superintendent as the chief executive officer of the school district. He or she reports to the board of directors, the school board. The superintendent is the only employee who is employed directly by the board. All other administrators, teachers and staff are hired by the superintendent, pending board approval. While the school board is responsible for setting the vision and goals for the district, it is the superintendent who implements the policies to attain the goals the board sets. The school board tells the superintendent what it wants done; the superintendent determines the best way to do it. The superintendent is also the board's principal advisor – identifying operational needs and recommending policies for board action.

### 5:2. How do I communicate with the superintendent?

You should feel free to communicate in any way both you and the superintendent are comfortable with. Usually, the superintendent is more than willing to meet with you, discuss issues on the phone or respond by email. The key is not the method of communication but ensuring that you do communicate, especially when you have questions about agenda items for your board meetings.

### 5:3. When and how does the board evaluate the superintendent?

The commissioner's regulations require the board to evaluate the superintendent annually according to procedures developed by the board in consultation with the superintendent. Whatever procedure the board chooses to use, it must be filed in the district office by September 10 of each year.<sup>1</sup>

The superintendent's evaluation should be a comprehensive and objective review of performance during the preceding year. The evaluation should be based on a consensus of the board's assessment of the superintendent's performance relative to the stated objectives for the position. The board should also consult the superintendent's contract to determine if it includes provisions related to evaluation.

The superintendent should be provided with a written copy of the board's evaluation and should discuss it with the board in executive session.

### 5:4. As a new board member, how should I approach the superintendent about making a change without being overly aggressive?

You should feel free to contact the superintendent or board president to share your ideas and request that they either be added to the agenda or referred to the appropriate committee. However, it's best to avoid trying to rehash previous decisions of the board as it can lead to unnecessary conflict and erode trust. Instead, learn why the decision was made, but understand your responsibility is to help the district move forward.

When raising questions about how the board operates, approach the topic tactfully and ask thoughtful, inquisitive questions. This approach will not only help you better understand the culture and operations of the board but also increase the likelihood your suggestions will be well-received. If you have questions about district operations, take a moment to reflect on whether you might be overstepping into the superintendent's domain of managing the district. It is natural for board members to be curious about district operations, but it's not their role to 'fix' how it operates. New board members typically learn about district operations during their orientation. When additional questions arise, reach out to the superintendent with the intent of learning while trusting the superintendent and administrators to handle the day-to-day.

### 5:5. How do I gain the respect of the superintendent and other administrators?

As with any relationship, trust starts at a base level and is built or earned over time. Respect the superintendent and district administrators. They are the education experts. Seek their advice. Listen to what they have to say. Ask thoughtful questions. Be open, honest and direct. Take time to learn about the school environment and issues that may be unique to your district prior to making suggestions and trying to effect change.

<sup>1</sup> 8 NYCRR § 100.2(o)(1)(vi).

### School Law Basics

**6:1.** What is the legal manner in which school boards make decisions?

School boards, acting in their corporate capacity, are required to transact their business in the same manner as the governing body of any corporation. Their acts are required to be authorized by resolutions or motions adopted or passed by a majority of the whole board.<sup>1</sup> Unless the board has taken official action to designate an individual member as the representative of the board for a particular purpose, an individual board member has no more authority than any other qualified voter of the district.<sup>2</sup>

**6:2.** What are the powers and duties of school boards?

Boards of education have no inherent powers and possess only those powers expressly delegated by statute or necessarily and reasonably implied therefrom.<sup>3</sup> The general powers and duties of school boards are outlined in Education Law, which assigns different powers and duties to different types of school districts, some of which are common to various types of districts and others of which are specific to a single type of district, for example, common, union free, central, small city and large city. See *School Law*, 40th Edition, Chapter 5.

**6:3.** What are the primary legal functions of school boards?

School boards adopt policies, consistent with state and federal law, which govern the affairs of their respective school districts.<sup>4</sup> Ultimately, school boards are responsible for educating the children of the school district. This responsibility can be broken down into a few general areas:<sup>5</sup>

#### Students

- adopting policies governing the admission, instruction, discipline and grading of the children residing in the district.

### Employees

- selecting, hiring and evaluating a superintendent.
- employing, managing and disciplining professional and support staff, in accordance with statutory procedures and in cooperation with the superintendent.
- setting parameters for collective negotiations and approving the collective bargaining agreements governing the employment of staff agreed upon by the district's negotiators and various unions.

### Overseeing school buildings, grounds and equipment

- providing the space where instruction occurs by purchasing, leasing, maintaining and insuring school buildings.
- providing the necessary equipment and supplies (e.g., computers, textbooks, desks).

### General Management

- School boards must annually adopt and present to the voters a proposed budget for the next school year that includes estimated expenditures to carry out the activities described above.<sup>6</sup> See the School District Finance section below for further information.

**6:4.** May a school board member be removed from office?

Yes. A board member may be removed from office in one of two ways, either by the commissioner of education or the school board. A school board's authority to remove one of its members from office is separate and distinct from the commissioner of education's authority to remove a board member.<sup>7</sup>

A school board may remove any of its members for "official misconduct." Official misconduct occurs when a board member engages in an unauthorized exercise of power or intentionally fails to exercise power to the detriment

<sup>1</sup> Gen. Constr. Law § 41.

<sup>2</sup> *Downey v. Onteora CSD*, 2009 WL 2259086 (N.D.N.Y. July 29, 2009); *Coughlan v. Cowan*, 21 Misc.2d 667 [Sup. Ct. Suffolk Cnty. 1959]; *Appeal of Silano*, 33 Ed Dept Rep 20 (1993) *petition dismissed*, [Supt. Ct. Albany Cnty. Jan. 10, 1994]; *Matter of Bruno*, 4 Ed Dept Rep 14 (1964).

<sup>3</sup> *Appeal of Woodarek*, 46 Ed Dept Rep 1 (2006); *petition dismissed sub nom Kelly Services, Inc. v. USNY*, [Sup. Ct. Albany Cnty. May 22, 2007]; *Appeal of McKenna*, 42 Ed Dept Rep 54 (2002); *Appeal of Rosenkranz*, 37 Ed Dept Rep 330 (1998).

<sup>4</sup> See, e.g., Educ. Law §§ 1709(1), (2), 2503(2).

<sup>5</sup> See generally Educ. Law § 1709.

<sup>6</sup> Educ. Law §§ 1608, 1716, 2022, 2601-a.

<sup>7</sup> Educ. Law §§ 306, 1709(18).

of the district.<sup>8</sup> A board's decision to remove a school board member from office may be reviewed by the commissioner on appeal.<sup>9</sup>

In general, the commissioner of education may remove a school board member from office for the willful violation or neglect of duty or the willful disobedience of a law or a decision, order, or regulation of the commissioner or rule of the Board of Regents.<sup>10</sup> To be considered willful, a school board member's actions must have been "intentional and with a wrongful purpose" to disregard a lawful duty or violate a legal requirement.<sup>11</sup> Generally, a board member who acts in good faith on the advice of counsel will not be found to have acted with the requisite willfulness to warrant removal from office.<sup>12</sup>

The commissioner considers removal "a drastic remedy that should be taken only in extreme circumstances."<sup>13</sup> The commissioner has removed a board member for behavior that interfered with the board's ability to function. In one case a board member threatened and initiated a physical altercation with another board member during a board meeting. Such conduct breached the board member's "duty to engage in constructive discussion" on matters affecting the governance of the district.<sup>14</sup> For more information, see *School Law*, 40th Edition, 6:40-6:54.

### Ethics and Conflicts of Interest

**6:5.** Must a school board adopt a code of ethics to govern the actions of the board and district employees?

Yes. The General Municipal Law requires all school boards to adopt a code of ethics for the guidance of its officers and employees that sets forth the standards of conduct reasonably expected of them.<sup>15</sup> For further information on the code of ethics see *School Law*, 40th Edition, 12:1-12:2.

**6:6.** What constitutes a conflict of interest on the part of school board members?

A conflict of interest exists when a school board member is in a position to benefit financially from a decision that members may make on behalf of the district. The state's General Municipal Law defines those situations and relationships that are, and are not, deemed to be a conflict of interest.<sup>16</sup> See *School Law*, 40th Edition, 12:6-12:13. For example, a board member is not deemed to have a prohibited conflict of interest on the basis of his or her spouse's employment with the district.<sup>17</sup>

Board members are required to publicly disclose in writing any interest they or their spouse may have, will have or later acquire based upon a contract or other agreement with the district.<sup>18</sup> For further information on making such disclosures see *School Law*, 40th Edition, 12:8.

### School District Finance

**6:7.** How is the school budget created?

The school board must ultimately approve the proposed school budget, but the school superintendent and school business official have a significant role in the preparation of the budget. Typically, the administration puts together a draft budget to frame the board's discussions. Changes are then made in accordance with the board's decisions.

In New York State there is no limit on school budget expenditures. However, there is a cap on the yearly growth of tax levies, commonly referred to as the property tax cap. The property tax cap limits the growth of a school district's tax levy to the lesser of 2 percent or the sum of one plus the inflation factor.<sup>19</sup> The allowable growth each year guides budget planning and influences a board's decisions on funding for budget priorities. See *School Law*, 40th Edition, Chapters 18-19 for further information.

<sup>8</sup> Educ. Law § 1709(18).

<sup>9</sup> *Appeal of Johnson*, 57 Ed Dept Rep, Dec. No. 17,263 (2017); *Appeal of Taber*, 42 Ed Dept Rep 251 (2003).

<sup>10</sup> Educ. Law §§ 306, 1706, 2559; *Application of Sailer*, 63 Ed Dept Rep, Dec. No. 18,362 (2023); *Application of Rickson*, 63 Ed Dept Rep, Dec. No. 18,347 (2023); *Application of E.S.*, 63 Ed Dept Rep, Dec. No. 18,302 (2023).

<sup>11</sup> *Application and Appeal of Moss III*, 58 Ed Dept Rep, Dec. No. 17,602 (2019); *Application of the Bd. of Educ. of the City Sch. Dist. of the City of Buffalo*, 57 Ed Dept Rep, Dec. No. 17,147 (2017), *aff'd*, *Paladino v. Bd. of Educ. for the City of Buffalo Pub. Sch. Dist.*, 183 A.D.3d 1043 (3d Dep't 2020); *Appeal of Christiano*, 50 Ed Dept Rep, Dec. No. 16,217 (2011).

<sup>12</sup> *Application of Rickson*, 63 Ed Dept Rep, Dec. No. 18,347 (2023); *Application of McCray*, 57 Ed Dept Rep, Dec. No. 17,307 (2018); *Application of Nett and Raby*, 45 Ed Dept Rep 259 (2005).

<sup>13</sup> *Application of Luciano*, 55 Ed Dept Rep, Dec. No. 16,828 (2015); *Application of Powell*, 50 Ed Dept Rep, Dec. No. 16,216 (2011); *Application of Carbone*, 46 Ed Dept Rep 215 (2006).

<sup>14</sup> *Appeal of Kozak*, 34 Ed Dept Rep 501 (1995).

<sup>15</sup> Gen. Mun. Law § 806.

<sup>16</sup> See Gen. Mun. Law §§ 800-802.

<sup>17</sup> Gen. Mun. Law § 800(3).

<sup>18</sup> Gen. Mun. Law § 803(1), (2).

<sup>19</sup> Educ. Law § 2023-a(1), (2)(a).

**6:8.** What kind of information must be included in the proposed district budget?

School districts must present a detailed statement in plain, easy to understand language laying out the amount of money that will be required for the coming school year for school purposes. This statement must include both estimated revenues and expenditures.<sup>20</sup> The budget is required to be presented in three component parts: program, capital and administrative.<sup>21</sup>

The program component must include all program expenditures of the school district such as salaries and benefits of teachers, programs for students with disabilities, school library and audio-visual, health services, interscholastic athletics and school district transportation services.<sup>22</sup>

The capital component of the budget includes all expenditures for facilities such as construction, renovation, improvements and rehabilitation of school buildings. Expenditures for custodial salaries and benefits, supplies, utilities and maintenance and repair of school facilities are also capital expenditures.<sup>23</sup>

The administrative component of the budget includes expenditures for salaries and benefits for all school administrators, expenditures associated with school board operations as well as the office of the superintendent.<sup>24</sup>

**6:9.** How and when is the proposed school budget voted on by the public?

After the proposed school budget is adopted by the board, it is placed on the ballot as part of the annual school board election and budget vote on the third Tuesday in May. The budget must be approved by a simple majority of the voters, unless the school board puts up a budget that exceeds the property tax cap. In such cases, the budget must be approved by at least 60 percent of the voters.<sup>25</sup>

Note, budgets are not voted upon by the public in the Big 5 city school districts (New York, Buffalo, Rochester, Syracuse and Yonkers). Those school boards do not possess independent taxing authority. Instead, the school district budget is part of the overall budget for the city.

**6:10.** After a budget is adopted by the voters, how are school taxes collected?

In order to collect school taxes, the school board must pass a resolution approving the tax roll, which includes a list of all real property in the school district, its assessed value and the amount of taxes each property owner must pay.<sup>26</sup> Once approved, school taxes become a lien on the properties.<sup>27</sup> Thereafter, a majority of the school board must sign the tax warrant which directs and empowers the tax collector to collect taxes in accordance with the tax roll.<sup>28</sup>

<sup>20</sup> Educ. Law §§ 1608(3), 1716(3), 2601-a(3); 8 NYCRR § 170.9.

<sup>21</sup> Educ. Law §§ 1608(4), 1716(4), 2601-a(3); 8 NYCRR § 170.8(a).

<sup>22</sup> Educ. Law §§ 1608(4), 1716(4), 2601-a(3); 8 NYCRR § 170.8(c).

<sup>23</sup> Educ. Law §§ 1608(4), 1716(4), 2601-a(3); 8 NYCRR § 170.8(d).

<sup>24</sup> Educ. Law §§ 1608(4), 1716(4), 2601-a(3); 8 NYCRR § 170.8(b).

<sup>25</sup> Educ. Law § 2023-a(6)(a), see *N.Y. State United Teachers v. State of N.Y.*, 46 Misc.3d 250 (Albany Cnty. 2014), *aff'd*, 140 A.D.3d 90 (3d Dep't 2016).

<sup>26</sup> Real Property Tax Law § 1306.

<sup>27</sup> Real Property Tax Law § 1312.

<sup>28</sup> Real Property Tax Law § 1318.

### 7:1. Is it important that I know every policy in the district's policy book?

Policies are the means by which a school board governs the school district; they guide its administration, staff, students, parents and the public, and they ensure accountability, consistency and fairness. While you can't expect to know every policy as you begin your board service, you'll find it helpful to read through the district policy manual at least once. A good starting point is to review your manual's Table of Contents. You'll also find that you become familiar with many policies as you go through the year.

### 7:2. How can I build my skills and knowledge to become a better board member?

First, take advantage of NYSSBA's training programs, including the New School Board Member Academy, the Annual Convention, regional workshops and webinars. You can find a schedule of NYSSBA's programs on the NYSSBA website at [nyssba.org](http://nyssba.org) under "Training and Events." Local school boards associations also offer events. Second, read *On Board*, an award-winning newspaper, and other publications on school board service. Third, watch and listen to your colleagues.

### 7:3. Is board development mandatory?

Newly elected school board members are required to complete two kinds of mandatory training: new member orientation on the powers, functions and duties of boards of education and six hours of fiscal oversight training.<sup>1</sup> To satisfy the mandatory training requirement, NYSSBA offers the state-mandated training in person through the New School Board Member Academy, which is held regionally throughout the state. NYSSBA also offers the state mandated training as a live, virtual training or as a self-paced, online program.

### 7:4. Do I pay for professional development programs or does the district?

The district does. It is legal and appropriate for the district to pay for board members' attendance at conventions, conferences, workshops, webinars and other developmental events that enhance the board's knowledge and ability to do

the district's business.<sup>2</sup> Payment must be authorized by a board resolution adopted prior to attendance, or the board may delegate authorization to an executive officer.<sup>3</sup> Because leaders are learners, it is prudent to include funds for board leadership training in the annual budget.

### 7:5. What services does NYSSBA offer?

NYSSBA provides advocacy, information, leadership development and custom services for member school boards to help students succeed. We advocate at local, state and federal levels – in government and in the courts. We provide information through *On Board*, *School Law*, a trusted resource for more than 70 years, other publications and our website [nyssba.org](http://nyssba.org). We offer a wide array of leadership development activities, including our Annual Convention and Education Expo, Leadership in Education Event, New School Board Member Academy, law conferences, regional workshops and seminars and webinars on a variety of topics. We deliver special programs and services, including custom board retreats, custom policy manuals, policy updates and e-policy. Visit our website, [nyssba.org](http://nyssba.org) for an in-depth look at how we can help your school board.

### 7:6. How do I manage the volume of reading that I have as a school board member?

Becoming a school board member is similar to going back to school because there are many continuing education courses available and "homework" that will help prepare you for board meetings. You'll have to do a lot of reading to be fully prepared to discuss and vote on issues.

As every student learns, don't wait until the last minute to do your homework. If you find you don't have enough time to review materials prior to your board meetings, ask if it is possible to get materials earlier. You'll find as you become more experienced that the material becomes more manageable and easier to absorb.

### 7:7. Where can I get comparative information relative to other schools?

The State Education Department (SED) posts School District Report Cards online at <http://data.nysed.gov>. For more information, call NYSSBA at 800-342-3360.

<sup>1</sup> See Educ. Law § 2102-a.

<sup>2</sup> Gen. Mun. Law § 77-b(2); See also *Matter of Cappa*, 18 Ed Dept Rep 373 (1978).

<sup>3</sup> Gen. Mun. Law § 77-b(2); see also *Opn. St. Comp. No. 93-12*, 27 *Opn. St. Comp. 74* (No. 71-246 (1971)).

**8:1.** With whom in the community should the board connect?

As taxpayers, community members are both the district's "owners" and its "clients." They pay for the district's products and services. Keep in mind that people support what they help create. If the district's stakeholders don't help to create the district's vision, goals, standards, plans, budgets, etc., they may feel no investment in them.

Although your board may not be able to engage every single group and community member, you should identify and engage key internal and external stakeholders. These individuals and groups can help or hinder the district in achieving its vision and goals. Key internal stakeholders may include students, faculty, staff, administrators, volunteers, PTA/PTO, etc. Key external stakeholders may include parents, taxpayers, unions, public officials, business/civic/social/religious leaders and representatives of higher education as well as health, social and youth services organizations.

**8:2.** How should the board engage the community?

Engage key stakeholders by inviting and appointing them to participate in standing and ad hoc committees, advisory panels, focus groups, forums and surveys. Their input is important in helping to define a vision for the district, set its goals, plan strategically, align resources with goals and other actions offering them an opportunity to learn about public education and to influence governance decisions.

Your board can also engage community members by using a variety of means to inform them about the district and better understand their interests, priorities and concerns. Print and electronic media, district social media and face-to-face conversations all play important roles in this ongoing district campaign to inform and to be informed. While accentuating the positive, student successes and district progress, don't neglect the negative. Be the first to let your community know about potential challenges facing the district and what you are doing to prepare for them. Board members and the superintendent can be effective ambassadors for the district, especially by scheduling dialogues with a cross-section of your community, preferably in their neighborhoods.

Part of your community engagement strategy should also encourage all members of the community to visit their schools.

Invite them to extracurricular activities and promote scheduled family days, tours and briefings. In public education, familiarity often breeds support.

All these actions and more should be in your district's community relations policy.

**8:3.** How do you bridge a gap between the community and the board?

Most gaps result from poor communication. Remember that communication is a team sport: both parties must have the opportunity to speak; both must actively listen. You should review your school board policy on community relations. If this policy does not exist, recommend the board develop one.

Check whether your policy provides a variety of methods for informing the community about the district. Does it use varied means of communication, print media, electronic media (perhaps the district website), social media and speaking engagements at community events? Does it provide various means for community members to inform the board and administration about their interests, priorities and concerns? Such means include opportunities to sit on district committees and advisory panels as well as participate in focus groups, polling and social media.

Does the policy seek to involve all elements of the community in district activities – e.g., encouraging volunteers, scheduling tours and briefings or inviting them to extracurricular events and special occasions? Transparency is key. If your district operates separately from the community, rifts will develop. When you bring the community into their schools and school information into the community, knowledge and trust will improve as the community senses that "your" schools are "their" schools and that their schools are in your good hands.

**8:4.** How can I make sure I represent community sentiment?

No community is a single, uniform entity. Every community is comprised of various subgroups. To represent your community, your first task is to identify the groups and subgroups that together compose your community. It's helpful to have a demographic and socioeconomic profile of community members served by your district. With it, you can check whether you really are aware of all community members and whether your data and analysis truly reflect the total community.



Although individual board members may not be able to speak with everyone in the community about all issues, the board as a whole should be able to solicit valid input from a sound cross-section of community members. Varied approaches can be used. Committees, panels and forums that include the public may prove valuable. Some boards find it useful to rotate their meetings among various locations in the community. A telephone hotline, dedicated email address or social media feed where citizens can leave comments and questions can also strengthen your district's relationship with the community. Of course, all board members should make opportunities to converse with people throughout the community about district education. Listening is key.

### **8:5.** How does one encourage school board service?

Promoting school board service as a meaningful way to contribute to your community is an ongoing responsibility of school board members. Your actions, teamwork and enthusiasm for board service will influence people in your community to consider serving on the school board.

Attracting qualified and energetic candidates results from activities taking place year-round, not just at election time. By increasing community participation within the schools, you

can identify community members willing to consider school board service. Invite individuals to join ad hoc committees, to volunteer in the classroom, or simply to attend various events at school to strengthen their involvement. In this way, potential candidates can become more aware of the challenges facing their schools and the successes you have enjoyed.

NYSSBA designed the New School Board Member Experience website, [nyssba.org/nsbmx/](http://nyssba.org/nsbmx/) to provide a quick overview of school board service aimed at potential school board candidates.

### **8:6.** How can boards increase public participation and support at meetings?

The first way to encourage public participation at meetings is to review how you treat the public when they come to your board meetings. A pleasant environment, a few social amenities and a procedure by which the public can address the board not only contribute to good decision-making but foster good public attitudes about those decisions. The cardinal rule in building support for public education is to invite input and treat the public with respect. District policies and procedures should make people feel that they are a welcome part of the board meeting and resulting decisions.

This glossary includes definitions of commonly used educational terms and acronyms. The majority of the terms are not discussed within this handbook but are provided here to familiarize new board members with their meanings.

**Academic Intervention Services (AIS)** – Services required of the school district to provide extra help to students who are not yet meeting the learning standards.

**Accountability** – Requiring school districts and states to ensure that schools meet their goals/standards.

**Annual Professional Performance Review (APPR)** – An annual evaluation of teachers and principals that school boards and Boards of Cooperative Educational Services (BOCES) must ensure is conducted in accordance with law and the commissioner’s regulations. Each school board and BOCES must adopt an APPR plan to be filed in the district or BOCES office and made available for public review by September 10 of each year. APPR plans may be utilized through June 30, 2032.

**Appropriation** – An authorization from the board of education or voters to make expenditures and to incur monetary obligations for specific purposes.

**Assessed valuation** – The monetary worth of all property in the district as determined by the municipal assessor.

**Average daily attendance** – The aggregate days of attendance during a given reporting period divided by the number of days school is in session during that period.

**Basic Education Data System (BEDS)** – The State Education Department’s system for collecting basic information on all the state’s elementary and secondary schools.

**Block grants** – Federal or state funding distributed in a lump sum directly to states or localities to administer and direct programs.

**Boards of Cooperative Educational Services (BOCES)** – BOCES are formed by a voluntary cooperative association of school districts in a geographical area that band together to provide services, such as special education and vocational programs, to their component local school districts.

**BOCES aid** – State funds to reimburse a district for part of the cost of BOCES services.

**Categorical aid** – State or federal aid which is intended to finance or reimburse a specific category of expenses or to aid a particular target group of pupils.

**Charter school** – An “independent and autonomous public school” established under state charter school law, eligible for funding from both private and public local, state and federal monies.

**Commissioner of Education** – The chief executive officer of the Board of Regents and the State Education Department appointed by the Board of Regents to enforce laws and policies relating to the state education system.

**Committee on Open Government (COOG)** – A statutorily created committee that pursuant to law issues regulations and advisory opinions on the state’s Open Meetings Law, Freedom of Information Law and Personal Privacy Protection Law.

**Committee on Special Education/Committee on Preschool Special Education (CSE/CPSE)** – The team(s) established by the board of education in each school district that are responsible for, among other things, identifying, evaluating and recommending appropriate education placements and services for students with disabilities.

**Contingency budget** – The budget adopted by the board of education after a proposed budget or budget revote is defeated. A contingency budget is subject to statutory spending restrictions.

**Cooperative Service application (Co-Ser)** – A BOCES request to the commissioner of education for approval to operate a service.

**Core curriculum** – The body of knowledge that all students are expected to learn.

**Data-driven (or data-based) decision-making** – Analyzing varied forms of data to identify educational strengths and/or weaknesses to plan for and implement improvements in student achievement as well as monitoring trends and using this information to make decisions about the effectiveness of continuation or changes in district practices, curriculum, programs, procedures and policies.

**Demographic data** – Information describing the students and citizens of a school district; usually includes characteristics such as race, age, gender, income, educational level and profession.

**Dignity for All Students Act (DASA)** – A state law which prohibits student harassment and bullying on the basis of certain protected characteristics.

**Distance learning** – A mode of delivering education and instruction via the internet without a student physically attending the class.

**Elementary and Secondary Education Act (ESEA)** – A comprehensive federal law adopted in 1965 establishing the conditions under which states and school districts can access federal funding for education.

**Equalization rate** – The percentage of full value at which taxable real property in a county, city, town or village is assessed as determined by the commissioner of taxation and finance.

**Every Student Succeeds Act (ESSA)** – The most recent federal reauthorization of the Elementary and Secondary Education Act (ESEA).

**Executive session** – A portion of the school board meeting that is not open to the public.

**Family Educational Rights and Privacy Act (FERPA)** – A federal law protecting the privacy of, and access to, student records.

**Fiscal deficit** – The amount by which total expenditures exceed total revenues for the fiscal year.

**Foundation aid** – A state aid formula which provides that the majority of school aid is distributed by a clear and predictable stream of funding.

**Free Appropriate Public Education (FAPE)** – A FAPE consists of special education and related services provided to an eligible child with a disability at public expense under public supervision and direction.

**Freedom of Information Law (FOIL)** – A state law that gives the public access to government records, as a way to foster increased understanding of and participation in government. The law provides procedures for requests and a list of the kinds of records that are exempted.

**Governmental Accounting Standards Board (GASB)** – GASB sets the accounting rules for all governmental entities, including school districts.

**Inclusion** – Educating students with disabilities as appropriate in a regular classroom setting along with students without disabilities.

**Individuals with Disabilities Education Act (IDEA)** – A federal law that affords students with disabilities the right to a free appropriate public education in the least restrictive environment.

**Individualized Education Program (IEP)** – A written statement outlining the plan for providing an educational program for a disabled student based on the unique needs of that student.

**Least Restrictive Environment (LRE)** – Refers to the setting in which disabled students are educated and the obligation to ensure,

to the maximum extent appropriate, such students are not placed in separate schools or classes and participate in the regular educational environment.

**New York State Learning Standards** – The level of knowledge, skills and understanding that students should be able to demonstrate over time as a result of instruction or experience. There are two types of standards, according to the State Education Department: content standards (what children should know, understand and be able to do as a result of their schooling) and performance standards (acceptable levels of student achievement).

**NYCRR (New York Codes, Rules and Regulations)** – The compilation of all New York State regulations.

**Open Meetings Law (OML)** – A law that governs the conduct of board of education meetings. Part of New York’s Sunshine Laws; see also Freedom of Information Law.

**Parliamentary procedure** – A system of organizing a meeting to ensure an orderly, democratic process; Robert’s Rules of Order is most commonly used in New York.

**Performance-based assessment** – Tests which measure students’ abilities to perform tasks and solve problems rather than choosing answers from a number of possibilities.

**PILOT (Payment in Lieu of Taxes)** – An agreed upon payment that is made in place of taxes by a property owner who would not otherwise be liable for taxes based upon the exempt status of the real property.

**Public Employee Relations Board (PERB)** – A state agency that administers and enforces the Taylor Law.

**Standards-based Educator Evaluation and Professional Support Plans (STEPS)** – A systematic evaluation of teachers and building principals based upon the New York Teaching and Leadership standards, respectively. Such plans must utilize multiple measures to review and support the professional learning of teachers and principals. These plans replace APPR plans and must be approved by the commissioner of education for utilization no later than the 2032-33 school year.

**Student growth model** – An accountability system that tracks student performance over time.

**Taylor Law** – The common name for the Public Employees Fair Employment Act, a part of the Civil Service Law, which is a comprehensive labor relations statute covering all public employees in New York State.

**Tenure** – Guaranteed job security, granted by state law to teachers after a period of satisfactory probationary service, which cannot be rescinded except for cause.

**Title I** – A federal aid program under the Elementary and Secondary Education Act to provide schools with a high percentage of low-income families with additional funds to improve academic achievement.

**Triborough amendment** – An amendment to the Taylor Law, part of the Civil Service Law, that requires the terms of an expired collective bargaining agreement to remain in effect until a new one is negotiated. Named after the 1972 Triborough Bridge and Tunnel Authority PERB decision.

**Voucher** – A way to allocate and distribute education money directly to parents to pay for their children’s education in a public or private school.

**Wicks Law** – A section of the General Municipal Law that requires school districts to award separate contracts for plumbing, heating/air/ventilation and electrical work.









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