



South Dakota Business Managers Convention #412

Jessica Filler and Jim Holbeck
ASBSD





Everything you ever wanted to know about how to get along with school board members!

***No guarantees.**



Jessica

- **Been practicing law for 15 years**
- **Spent first 10 years defending schools against claims and lawsuits and was local counsel for several schools**
- **Spent next 4 years working for State of SD-Administration**
- **Joined ASBSD in October 2020 as Director of Policy and Legal Services**



Jim

- **29 years as a school superintendent**
- **Retired in 2019 from Harrisburg**
- **Attended over 500 school board meetings as a superintendent**
- **In second year of doing ASBSD Board Trainings as well as in-services.**
- **Still learning**



5 major trainings for GAVEL

- Governance
- Fiscal
- Strategic Planning
- Building Projects
- Negotiations

- Willing to do any other requests (within reason)



Darla's requests

There have been various questions from business managers that has led your leadership to request this training to help answer some of those questions.

We will leave some time for questions at the end, however if you want something clarified while we are on topic, don't be afraid to ask. This is your training.

I'm sure you have heard "You should consult your school attorney". We are here to give some guidance and advice, but in no means are looking to take away from your legal advice that your own school attorney gives you.

But Jessica is free!



All levels of experience here

Guessing some of this is old hat for some of you. But it has surprised me how many different answers I get from business managers (as well as superintendents and board members) when I do a training.

I sincerely believe the best way to learn is through other's experiences.

That concept was conceived by another famous Greek.



Socrates



No one can teach, if by teaching we mean the transmission of knowledge, in any mechanical fashion, from one person to another. The most that can be done is that one person who is more knowledgeable than another can, by asking a series of questions, stimulate the other to think, and so cause him to learn for himself.

AZ QUOTES

So, really, who do you work for?

In most schools, the business manager works directly under the superintendent. However, there are many schools where the business manager works directly for the board

Pros and Cons of both.

Personal (district) preference.



Regardless who you work for....

Whether you work directly under the school board or not, you know that many times during meetings, administration and board members turn to you for advice.

Handout laminated cards on parliamentary procedure and on reasons/requirements to go into executive session.



General Responsibilities of School Boards

- Levy taxes and borrow money.
- Employ necessary personnel.
- Lease real and personal property.
- Carry liability and other insurance.
- Purchase all necessary books and equipment.
- Purchase real property and erect necessary buildings for the operation of the school district
- Develop policies to provide guidance for operation of the school district.
- Ensure the district adheres to state and federal education law.



But in simpler terms....

- **Boards have three major roles:**
 - **To Make Policy**
 - **To Approve the Budgets**
 - **To hire, evaluate, and fire, if necessary, the superintendent (business manager)**

- **That doesn't mean they won't try to take on more responsibilities!**



AREAS WE WILL COVER TODAY

- **Virtual Meetings and roll call**
- **Minute taking responsibilities**
- **Role of BM in hiring superintendents**
- **Role of the BM at meetings: Setting the agenda, open meetings, public meetings, public forum, consent agenda, conflicts of interest, executive sessions.**
- **Chain of Command and handling complaints and issues between board members and staff.**



Virtual Board Meetings

- **“Teleconference”** information exchanged by audio, video, or electronic means including the internet
- **“Official Meeting”** -any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided, whether in person or by teleconference



Virtual Meetings

- Any official meeting may be conducted by teleconference
- Roll call (member answers 'present') to establish quorum
- Each vote [at official meeting held by teleconference] shall be taken by roll call

~SDCL 1-25-1.5



Change in Law

- **Effective July 1, 2021**
- **Each vote at an official meeting held by teleconference may be taken by voice vote. If any member votes in the negative, the vote shall be taken as a roll call vote**



Public Participation

If meeting is conducted by teleconference-

- Must provide one or more places at which the public may listen and participate in the meeting
- If have less than a quorum present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet

Must reserve at every regularly scheduled meeting a period for public comment. Even if meeting is held by teleconference.



Meeting Materials

- If materials are prepared for the school to review in 'open session' at school board meeting and are distributed before the meeting to all board members, the materials have to be made available to the public by:
 - Posting on school website OR
 - Available at the business office at least 24 hours prior to the meeting or when material is distributed to board, whichever is later
- If material is not posted to the website, at least one copy of the materials shall be available in the meeting room for inspection.



Settlement Agreements

Schools cannot enter into a settlement agreement to any civil action or proceeding involving a claim for money damages or non-monetary relief in which the settlement agreement requires nondisclosure or confidentiality of the terms of the settlement.



Recording Minutes Correctly and What to Include

- A school board speaks through its records
- Minutes do not need to be formal or technical
- Show what actions were taken by the board
- Show that the board acted within the requirements of the statutes
- Show that the required number of votes were cast in favor of each proposal adopted or approved
- If amend agenda, be specific in minutes



Quorum and Vote

- A majority of the members of the school board constitutes a quorum for the purpose of conducting business. Any board action may be taken if it is approved by the majority of the members voting.
- Many schools' policies require motion to be passed by the majority of the members elect.
- Check your policies-is a motion's passage determined by number of members present/voting or by majority of members elect?



Executive Session

- **Agenda and Minutes:**
 - **State purpose of Executive Session on agenda and minutes (six reasons set by law)**
 - **Motion to go into executive session (upon majority of members present and voting)**
 - **Minutes have time entered and exited executive session**
 - **No official action or minutes from executive session occur**
 - **Any official action (IF NEEDED) is taken in regular session after exec session**



Minutes

- **Unapproved draft minutes must be available for inspection by any person within 10 business days after the meeting**
 - **Unless an audio or video recording is on the school's website within 5 days after the meeting**



Minutes (cont.)

- **Within 20 days after a board meeting, publish in the legal newspaper:**
 - Full account of unapproved proceedings
 - Detailed statement of all expenditures of money, names to whom payment is made, services or goods provided, detailed statement of receipts, and balance on hand
- **Business manager signs the legal publication provided to the newspaper**
- **If minutes are modified after publication, changes must be reflected in the minutes of the meeting at which the modification is made**



Minutes (cont.)

- **School board must approve the minutes within 45 days after the meeting**
- **Presiding officer and business manager must sign minutes of all meetings after they have been approved**



Let's turn it over to Jim



Role of the Business Manager in Hiring a Superintendent

- **Certainly this is a local decision, with no statewide guidance.**
- **Pros of having the BM involved:**
 - **The superintendent and the business manager work closely together**
 - **Boards need some direction from the administration, and if the past supt is not involved, there is a need**
 - **Business managers have a network of resources to call for references on applicants**
 - **The expertise of the business manager helps in deciphering interview answers about budget and finance**



Hiring Continued

Cons of having the business manager involved in the hiring process:

If the superintendent is the supervisor over the business manager, should people be involved in hiring their bosses?

You are part of the group that owns the decision, which sometimes doesn't work out well

Confidential information sometimes comes out in interviews



Setting the Agenda

It is the district's bias on who will set the agenda. Some put more weight on the board chair, some on the superintendent, and some on the business manager.

The big questions are where you put certain items, such as public forum, adopting the agenda and executive session.

The other major question I get is when can you amend the agenda? During the meeting prior to the adoption of the agenda? Or not at all at the meeting?

Posted according to law at least 24 hours unless an emergency.



Open Meeting Laws

- **Whenever a quorum exists, board members cannot conduct school business unless a meeting is called.**
- **Chance or social gatherings.**
- **What the public perceives are what the board members are talking about when they are together.**
- **No one board member has any authority! All authority from the board must be done as a collective action by the board.**
- **How about “responding to all” through emails?**
- **Use of board committees is a solution to some needs here.**



Public Meeting

- The meetings of the board must be open to the public unless there is a legal reason to go into closed executive session.
- However the public does not have the right to interfere with the business or conduct of the meeting. It is punishable by law. Important for the board chair to control those meetings, but doesn't always happen.
- Meeting should be welcoming. Copies of the agenda available. Seating so that the public and board can see each other.
- Meetings can be recorded by others.



Open Forum

- I have found some confusion on this one. Can a school require that the public contact the school prior to the meeting to request to be at the public forum?
- It is not needed other than at regular school board meetings.
- Have a policy on time limits and what is allowed to discuss and then stick to it!
- Have a copy of the policy for others to see when they come to the meeting. Also a sign up sheet is a benefit in most districts.



Consent Agenda

- Meant to speed up a meeting.
- Not required.
- Usually used for approval of minutes, bills and financial statements. Some do contract approvals.
- If you are going to use it, then use it the correct way.

Board chair asks for a motion to approve, asks for a second, and then asks for the vote. No discussion. If someone wants to discuss something, it should be taken off the consent agenda and voted on separately.



Conflicts of Interest (Pecuniary)

- Yearly and per meeting
- More scrutiny since Gear Up—Conflict of Interest has been around a long time
- Who is affected
- Direct or Indirect Benefits
- Spouses too
- \$5000 baseline now. Board members still can't be paid to teach
- Just recuse yourself!



Executive Session

- 6 major reasons to go into
- Can go in for multiple reasons or multiple topics/people under each reason
- However can't talk about other areas if you did not go in for that reason
- No recording of minutes, no votes, and should be confidential



Handling Complaints

- Often this is more in the wheelhouse of the superintendent, but as you all know, you can be drug into it.
- Conflicts can arise between board members. Try to not take sides. Need to talk through trust issues. Executive session?
- Board members can be fired. Rare.
- Conflicts between board and superintendent.
- Conflicts between board and other administration.
- Conflicts between board and staff members. (can anyone say “basketball coach”).



Chain of Command

- Seems like every board knows about this procedure.
- Then we really shouldn't have any problems, right?
- It is policy. What happens if someone doesn't follow policy? Is that a firing offense?
- Carrying others' water or taking the monkey off their backs.
- Small town connections (relations) run deep.
- "Do gooders".
- Often administration are Gypsies.



Will be around for questions.

**Thanks for your
service!**

