



NEW BOARD MEMBER TRAINING AND ISSUES

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TONY F. ORTIZ

ORTIZ & ZAMORA, LLC

GOAL OF THE PRESENTATION

- ▶ Answer your questions
- ▶ Help you determine your role, limitations.
- ▶ Set reasonable expectations
- ▶ Try to get at the issues specific your district and its current changes and challenges

Role of Counsel

- Advice offered today is similar to how we train boards across NM
- Based on years of watching boards do things well and do things poorly
 - Combination of statute, policy, local concerns, and “best practices”
- We are the school board’s counsel. That can mean talking about limitations and mistakes by the board.
- Superintendent. We work together but there is an understanding that we are still board counsel
- Access to Counsel: President and Superintendent, with access for other members through board protocol

What are the lawful and appropriate roles for the Superintendent?

- ▶ Section 22-5-14 of the New Mexico Statutes: Superintendent Authority
 - ▶ Chief Executive Officer
 - ▶ Administer and supervise the school district
 - ▶ Employ, fix salaries, assign, terminate and discharge
- *Statute places general administrative and all employment functions in the hands of the administration (HB 212)

Board Roles: What are appropriate roles for board members?

- ▶ Power of 5, versus the power of 1.
- ▶ Section 22-5-4 of the New Mexico Statutes defines the scope of Board Authority:
 - ▶ Focuses on setting policy direction
 - ▶ Budgets
 - ▶ *Limited* role in employment matters as a reviewing body
 - ▶ Acquire, lease and dispose of property
 - ▶ Except for salaries, contract for expenditure of money
 - ▶ Acquire property by eminent domain

Does your functionality matter?

- ▶ Social science on this indicates that a highly functional, data driven board with shared goals, cohesive working relationships with administration, and that keeps to its mission, can impact the overall achievement of the district.
- ▶ Conversely, dysfunctional leadership can do the opposite and often waste money on “adult problems” and not kid issues.

Norms of Conduct

- ▶ What the board fairly expect of each other.
 - ▶ Respectful treatment and communication
 - ▶ Adherence to roles: “stay in your lane”
 - ▶ Compliance with rules/policies/best practices
 - ▶ Respectful self-monitoring
 - ▶ The “kindergarten rules”

Chain of Command

- ▶ What exactly is the board's place on these issues?
 - ▶ Student/parent complaints
 - ▶ Staff concerns
 - ▶ School operations

Access to and Role With Administrative Team

- ▶ “Visiting” with associate superintendents, directors, coordinators, or site administrators.
- ▶ Interference with Superintendent
- ▶ Being seen as siding with certain administrators
- ▶ Best Practices: distance, giving the superintendent clear control, avoiding incorrect public perception of having a role; only accessing staff when clearly permitted by the superintendent.

HR Decisions

- ▶ Board: opinion without pressure or even perceived pressure
- ▶ Superintendent: final call on hiring, firing, salaries, evaluation, contracts; these areas are not for the board.
- ▶ Includes how to manage people pursuant to COVID needs and state/federal law
- ▶ Risks to the Relationship: Board interference or making the superintendent feel like the board is threatening his/her position over HR matters.
- ▶ Conflicts

Board Community Role

- ▶ Help the superintendent anticipate problems
- ▶ Be the “ears and eyes” of the district, not the legs, hands, and mouth.
- ▶ Do not directly communicate with employees or community members regarding confidential problems or issues that fall within the chain of command;
- ▶ Remember that the superintendent is the CEO; all information should flow through him/her.
- ▶ Board Member: “I’m hearing all kinds of complaints about”

Other Typical Board Problem Areas

- ▶ PTA or other school groups
- ▶ Athletics/Student Groups
- ▶ Unannounced school visits
- ▶ Board Criticism of staff
- ▶ Board meeting decorum; managing public interaction
- ▶ Public Statements

COVID

Board/Superintendent Issues

- ▶ Almost all COVID “action” is administrative, day-to-day operations
 - ▶ Teachers/union
 - ▶ This includes complaints and concerns
 - ▶ Cleaning/facilities
 - ▶ Equipment/Access
 - ▶ Food service
 - ▶ Health/Safety compliance
 - ▶ Administrative directives

COVID

Board/Superintendent Issues (continued)

- ▶ Board Role
 - ▶ Possible policy adjustments or CBA Adjustments; but rare; example of “bonuses”.
 - ▶ Lobbying and legislative influence
 - ▶ Eyes/Ears in the community (but not the problem solver!)
 - ▶ Budgeting and contracting for any unusual needs
 - ▶ Calming influence in the community

Quiz Question on Roles: Political Pressure

- Board Member complains to superintendent that students/staff should not have to wear masks anymore.
- What are the issues?
 - What is the board's position? What authority does it have?
 - What is the law?
 - Assuming that the board does not like existing legal standards, what can it do?

Quiz Question on Proper Roles: Information Requests

- ▶ A board member continuously asks principals, associate superintendents, and the superintendent for reports and information.
- ▶ Is this a problem?
 - ▶ It depends on the lines you draw, but generally yes.
 - ▶ Can the board member require such information on his/her own?
 - ▶ What is the chain of command?
 - ▶ Does this create improper pressure on staff or confusion?
 - ▶ What impacts does this have on the board's relationship with the superintendent?

Quiz Questions: Personnel

- ▶ A board member complains to the superintendent that he/she has talked to a number of parents about how bad the elementary school principal is doing.

- ▶ What's the board member's role here?

*As a board member, you want to be hired as a contractor, or you want a relative to be eligible for hire. What should be your concerns?

*You have concerns about admin team functionality. What is your role?

Contracting for Services

- ▶ The board has the power to contract (for things other than personnel).
- ▶ Can an administrator just authorize a copier contract, purchase of a new scoreboard, or similar purchases without the board's approval?

Speaking for the District

- ▶ Determine what is the authorized message
- ▶ Who is authorized to give it?
- ▶ What is your opportunity to voice your opinion on board matters and votes?
- ▶ Appropriate social media:
 - ▶ Cheerleading
 - ▶ Informational

Internet/Technology Use

- ▶ Understand that you have no reasonable expectation of privacy to anything that you use that belongs to the school
- ▶ Do not download or store anything of questionable content
- ▶ Do not send or forward anything that you would not want everyone to see
- ▶ IPRA
 - ▶ Role of personal emails, texts, etc.

Board Members as Employees or Volunteers

- ▶ Employment Barred: Section 22-5-5
 - ▶ A. The members of a local school board shall serve without compensation.
 - ▶ B. No member of a local school board shall be employed **in any capacity** by a school district governed by that local school board during the term of office for which the member was elected or appointed.
- ▶ Volunteering: New Rules Distinguish Between “Regular” and “Spontaneous” Volunteers
 - ▶ Regular Volunteers
 - ▶ Regulations require interviews, supervision, evaluation, and training
 - ▶ Enforcement of Code of Ethics and Professional Standards (including dismissal)
 - ▶ Spontaneous Volunteers: The same rules do not apply but such volunteers still are to be “supervised” by school staff.
- ▶ Potential Problems:
 - ▶ Supervisory problems
 - ▶ Improper use of influence
 - ▶ Public Perception of a Board Member using his/her influence (coach example).
- ▶ Recommendation: No board members in schools on a regular basis, However, more flexibility about serving as spontaneous volunteers.

Open Meetings Act

- ▶ Creating Agendas
- ▶ Regular/special/emergency meetings
- ▶ Common OMA violations: rolling quorum, vague agendas.
- ▶ Public Comment: who is in charge?
- ▶ Executive Session: protections and confidentiality
- ▶ “No fly zones”: confidential information, evaluative discussions
- ▶ Action
- ▶ The role of debate

Creating Legal Risks

- ▶ IPRA (consider appointing an IPRA officer)
- ▶ Whistleblower
- ▶ Civil Rights Claims
- ▶ Board authority revocation
- ▶ Administrators have to monitor violations of policy, competent performance, and compliance with the chain of command; board members need to be careful not to undermine those processes.

Hot Button Conflicts

- How do you respond to an ethics concern about a board member?
- How do you ideally manage the concerns of a board member who believes the board or superintendent is violating law/policy?

Superintendent Evaluation:

- ▶ Evaluation issues
 - ▶ Fair criteria
 - ▶ Timing
 - ▶ Opportunity to correct
 - ▶ Not evaluating for areas that do not belong to the board
- ▶ Considering Termination
 - ▶ Common Error: tossing around threats/promises to fire a superintendent
 - ▶ The point of no return

Questions

Tony F. Ortiz

Ortiz & Zamora, LLC

tony@ortiz-zamora.com

(505) 986-2900