



BOARD AND SUPERINTENDENT RELATIONSHIPS

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Goals of the Presentation

- Help you determine your role and limitations
- Review and discuss common areas that sour board and superintendent interaction
- Talk about resolutions for damaged relationships



Role of Counsel

Best Practices

- Advice offered today is similar to the way we train boards across New Mexico.
- Our advice is based on years of watching boards do things well and do things poorly.
- The advice is a combination of statute, policy, local concerns, and best practices.

Representation

- We are the school board's counsel.
- That can mean talking about limitations and mistakes by the board.
- Superintendent and counsel work together with an understanding that we represent the board.
- Access to Counsel: Board 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 Annotated (NMSA) states role as:

- **Chief Executive Officer for the district**
- **Administer and supervise school district**
- **Employ, fix salaries, assign, terminate and discharge**

* Statute places general administrative and all employment functions in the hands of the administration (HB212, passed in 2003).



What are the appropriate roles for members of the board?

The Power of Five
versus
the Power of One

Section 22-5-4 of the NMSA defines the board's scope as:

- Focus on setting policy direction
- Budgets
- Limited role in employment matters, as a reviewing body
- Acquire, lease and dispose of property, including eminent domain right
- Except for salaries, contract for expenditure of money



If you get sued as a board member or superintendent, are they getting into your pockets?

-Generally the NM Public School Insurance Authority provides a defense for most claims involving money damages as long as you are acting “within the course and scope of your duties.”

-But stupid or careless actions in the course and scope still cost the district and the public money.

-Not all legal matters are covered by insurance



Does your functionality as a board matter?

Social science research on this indicates the most effective boards that have an impact on overall achievement of the district are:

- Highly functional, data-driven with shared goals
- Hold cohesive working relationships with administration
- Keep true to mission

Conversely, dysfunctional leadership can have the opposite effect and often waste money on “adult issues” instead of students as a priority.

Source: 8 Habits of Highly Effective Boards

Open Meetings Act: Working with Your Superintendent

General Concept

- All discussion and decision-making on public matters must be done at an announced meeting with specific agenda topics.
- This is to permit public access and participation.

Meeting Specifics

- Creating Agendas
 - Roles, deadlines, specificity
- Regular, Special, or Emergency Meetings
- Public Comment
- The role of debate
- Do you need a super's recommendation
- Executive Session
 - Superintendent's presence

Common Violations

- Rolling quorum
- Vague agendas
- Wandering from agenda specifics
- “No fly zones”
 - Discussion of confidential information
 - Discussion of evaluation or other personnel matters

Ethics

Best Practices

- Measuring stick: “Are you in your lane?”
- Emphasis on treating your office and authority as a public trust
- Sources: Board Code of Ethics; New Mexico Governmental Conduct Act; Statutory Roles

Improper purpose for boards and superintendents

- Misusing Facilities/access
- Contracts to oneself or family; nepotism regarding board member family
- Encouraging sales or vendor use that assist friends or family; excluding vendors because they are not political allies
- Doing anything that appears or could appear to be self-dealing
- Undermining the set direction of the board or superintendent

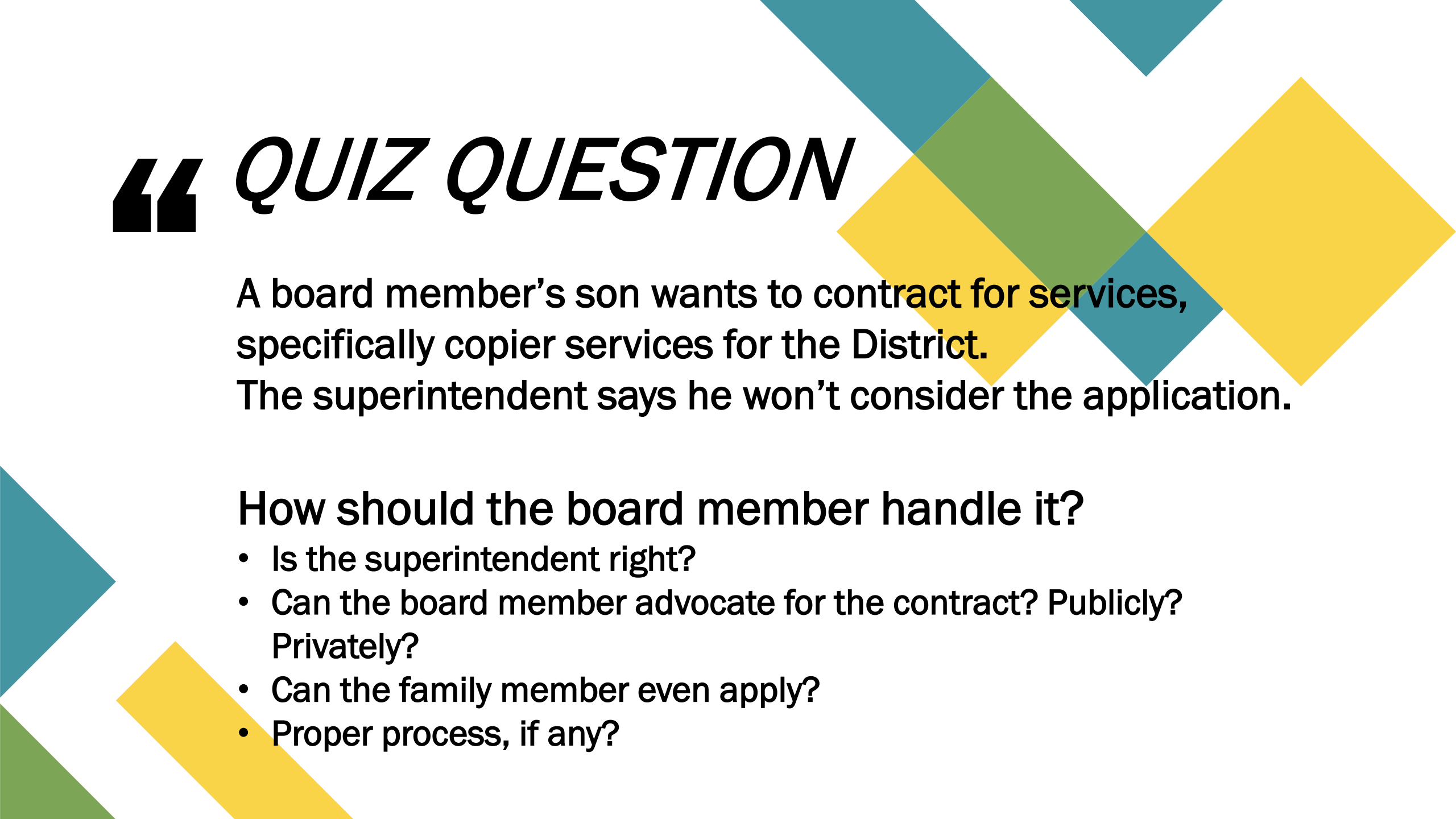
Access to and Role with Administrative Team

Best Practices

- Giving the Superintendent clear control
- Avoiding incorrect public perception of the board's role with staff
- Only accessing staff when clearly permitted by the Superintendent
- Superintendent unreasonably withholding access

Cautions

- “Visiting” with associate superintendents, directors, coordinators, or site administrators
- Interference with Superintendent or keeping the Superintendent in the dark
- Presentations at board meetings
 - Access to administrative staff is at the discretion of the Superintendent



“ *QUIZ QUESTION* ”

A board member's son wants to contract for services, specifically copier services for the District. The superintendent says he won't consider the application.

How should the board member handle it?

- Is the superintendent right?
- Can the board member advocate for the contract? Publicly? Privately?
- Can the family member even apply?
- Proper process, if any?

Human Resources Decisions

Roles

- Board: opinion without pressure or even perceived pressure
- Superintendent: final call on hiring, firing, salaries, evaluations, contracts of employees
 - These are areas outside of the scope of the board's roles
 - Should the super invite board member opinions?
 - Are there risks to “shared governance”?

Considerations

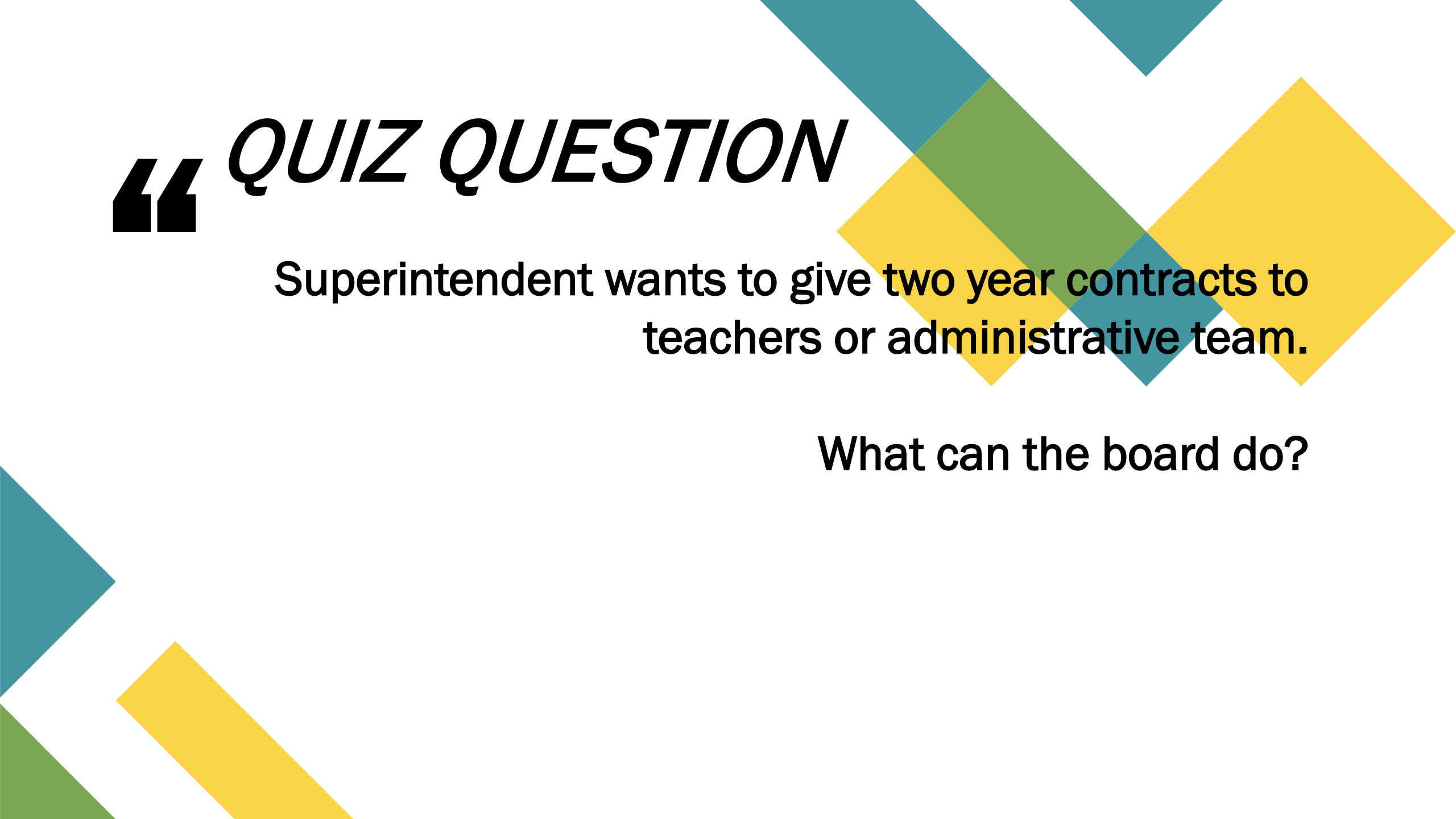
- Board access to employee records
- Blurring authority lines
- Risks to Relationship
 - Board interference
 - Making Superintendent feel as though the board is threatening his/her position over HR matters

→ What about volunteering??

“ *QUIZ QUESTION* ”

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. She wants to give the Superintendent her extensive notes on the complaints. She also suggests that the board may have some good ideas for replacements.

What is the board member's role here?
What are the appropriate boundaries for the Superintendent to set with the board? How?



“ *QUIZ QUESTION* ”

Superintendent wants to give two year contracts to teachers or administrative team.

What can the board do?

Community Complaints

Best Practices

- Help the Superintendent anticipate problems
- Be the “eyes and ears” of the District, not the legs, hands, and mouth
- Remember that the Superintendent is the CEO
- All information should flow through the District Superintendent

Caution

- Do not directly communicate with employees or community members regarding confidential problems or issues that fall within the administrative chain of command
- These may include:
 - students, parents, or staff complaints
 - day-to-day operations
- Coffee shop example



Quiz Question: A superintendent signs a contract for a new \$50k scoreboard. Problem?

Board has the power of the purse for expenditures not involving salaries.

- **Pay for contractors, services, goods generally must come to the board (and of course, some are subject to RFP/procurement).**
- **Does your super have a spending limit?**



*How do you handle conflicts
between board members?*

- Should you ask the superintendent to intervene?
- Options:
 - Lowest level resolution?
 - Retreats?
 - Letters from counsel
 - Norms for the board.
 - Censure

Internet/Technology Use

Best Practices

- Do not download or store anything of questionable content
- Do not send or forward anything that you would not want everyone else to see
- Refrain from use of personal emails

Caution

- Understand that you have no reasonable expectation of privacy to anything that you use that belongs to the District
- This may include:
 - email
 - phone, including voicemail
 - texts
- Inspection of Public Records Act (IPRA)
 - District business
 - Failing to acknowledge

Superintendent Evaluation

Evaluation Issues

- Fairness of criteria
- Timing: when is the right time?
- Opportunity to correct
- Evaluating for areas that do not belong to the Board

Termination Considerations

- Common error:
 - Tossing around threats/promises to fire Superintendent
- The Point of No Return



Questions? Thank you!

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