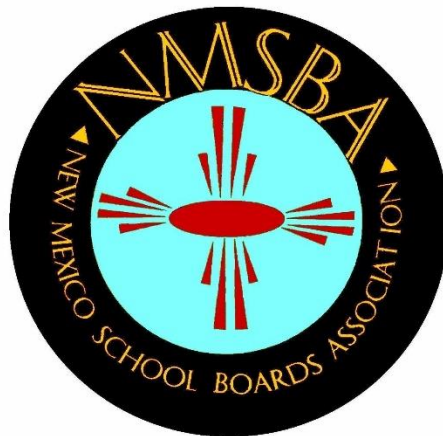


NEW MEXICO SCHOOL BOARD HANDBOOK



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School Board Member Handbook

In New Mexico, education represents one of the largest, if not the largest, business in any community. The Citizens in the 89 school districts in the state elect five to seven of their fellow citizens to represent the public on a board that has the responsibility of providing the best educational opportunities possible to all the children residing in the school district.

The responsibilities that you have accepted as a board member are awesome. Your decisions will affect, very directly, the lives of every individual in your community. Since education is the base of our form of government, the type of education provided will have an impact on our state and nation.

This handbook has been prepared not to answer all the problems that you may encounter as a board member, but as a frame work that may assist you in carrying out your responsibilities.

The main task the citizens have assigned to you is the education of the children in the community, so all board member activity should focus on good education.

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CHAPTER I

NEW MEXICO SCHOOL BOARDS ASSOCIATION

The New Mexico School Boards Association (NMSBA) was started in 1950 by a group of board members and administrators who felt a need for an organization that would work for school boards. Membership in the Association is for local boards rather than individual board members. It is a nonprofit, voluntary organization. Presently, all of the eighty-nine school districts are members of New Mexico School Boards Association. The organization is financed primarily through dues that are paid by the member districts. A portion of the dues that are paid by local boards is used to pay dues to the National School Boards Association (NSBA), which has its headquarters in Alexandria, Virginia.

The NMSBA is governed by a Board of Directors, elected by NMSBA members. The Board of Directors employs an Executive Director, who is the chief administrator of the Association.

The Association provides information to its members through publications, reports and its web site (www.nmsba.org); conducts training for and communicates with its membership at statewide, regional and individual district activities; represents its members in legislative and governmental matters, and advocates for public education and excellence in public school governance.

The Annual Convention, the School Law Conference, the Leaders' Retreat, the Region meetings and the Board Member Institute are all meetings sponsored by the Association.

The state is divided into eight regions. Two meetings per year are held in each region in Spring and Fall. The National School Boards Association (NSBA), of which NMSBA is a part, sponsors several nationwide conferences that are aimed at keeping board members informed.

You may contact your Association by writing or calling:

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CHAPTER II

LOCAL SCHOOL BOARDS

Section A. - School Board Structure & Variations

Section B. - School Board Elections

Section C. - Vacancies on the School Board

Section D. - Organization of the Board

Section E. - Powers and Duties

Section F. - Policy Making

Section G. - Compensation

Section H. - Effective Boardmanship

Section I. - Required Board Member Training

Chapter V of this manual describes the overall structure of the public elementary and secondary school system in New Mexico. This chapter focuses on the structure, functions and responsibilities of local school boards within that framework. There are eighty-nine local public school districts in New Mexico serving over 305,000 school children. These districts range in size from fewer than 100 students to about 90,000 in Albuquerque. Each district covers a defined geographical area and is governed by an elected local school board.

SECTION A - School Board Structure and Variations

The public elementary and secondary school system in New Mexico is established and governed by the state Public School Code, which is Chapter 22 of the New Mexico Statutes Annotated, 1978 Compilation (abbreviated NMSA 1978). Article 5 of the Public School Code governs the structure, powers and duties of local school boards. Depending on the size of a district and certain other choices, a local board may consist of either five or seven members and the members may be chosen either "at large" or from single-member election districts, depending on the size of the district.

Section 22-5-1, NMSA 1978, sets the size of a local school board at five members. However, Section 22-5-3 goes on to provide that any local board may increase its size to seven members by a resolution to that effect, subject to a possible veto by the voters at a special election. (The Albuquerque Board went to seven members by a direct election under a special provision of the state constitution that only applies to districts with a population of over 200,000.) Section 22-5-3.1 allows a seven-member board to revert back to five members by resolution, again subject to a possible veto by the vote at a special election.

Members of either five-member or seven-member boards must reside within the school district. Section 22-5-1.1, NMSA 1978, requires board members in districts with more than 16,000 population to live in and be elected from single-member districts. Boards in districts with less than 16,000 population have the option of establishing single-member board districts or continuing to elect members at large. (Some boards in this group have set up districts to settle voting rights lawsuits.) Boundaries for single-member districts must be updated once every 10 years after federal census figures are released.

SECTION B. - School Board Elections

Local school board members in New Mexico are elected for four-year staggered terms in elections held every two years. A regular school board election is held in each district on the first Tuesday in November of every odd-

Numbered year (e.g., November 5, 2019). Candidates must be qualified electors of the state who live within the school district, and, for districted boards, must live within the single-member district from which they are seeking election.

Procedures governing the conduct of school board elections are found in Article 22 of the Election Code, which is Chapter 1 of NMSA 1978.

All board members elected at regular elections in February take office on January 1. By law, outgoing members continue in office until their successors are elected and qualified, so a Board can continue to function with its old members in case of a contest over qualifications or election results.

Once on a board of education, a board member is expected to regularly attend meetings. In fact, Section 10-3-2, NMSA 1978, specifies that if any member misses four consecutive regular board meetings, the board may declare his/her position vacant by majority vote of the remaining members, and if the board member misses six consecutive regular meetings, his/her position is automatically vacated.

SECTION C. - Vacancies on the School Board

From time to time, vacancies occur on a local school board, and the statutes provide a mechanism for filling those vacancies. Section 22-5-9 of the Public School Code provides that vacancies can be filled by a majority vote of the remaining members of the local board. However, if this is not accomplished within 45 days from the date the vacancy occurs, the State Board of Education shall appoint a qualified person to fill the vacancy. In either case, the person appointed serves only until the next regular school board election, when an election is held to fill the vacancy for the remainder of the original term.

SECTION D. - Organization of the Board

Section 22-5-7, NMSA 1978, reads as follows: "From among its members, a local school board shall elect a president, vice-president, and a secretary." This provision permits a board, by local policy, to establish the term of office of its officers and the time for election of officers.

SECTION E. - Powers and Duties

A local school board shall have the following powers or duties:

- A. subject to the regulations of the department, develop educational policies for the school district.
- B. employ a superintendent of schools for the school district and fix his salary.
- C. review and approve the school budget.
- D. acquire, lease and dispose of property.
- E. have capacity to sue and be sued.
- F. acquire property by eminent domain as pursuant to the procedures provided in the Eminent Domain Code.
- G. issue general obligation bonds of the school district.
- H. provide for the repair of and maintain all property belonging to the school district.
- I. for good cause and upon order of the district court, subpoena witnesses and documents in connection with a hearing concerning any powers or duties of the local school board.
- J. except for expenditures for salaries, contract for the expenditure of money according to the provisions of the Procurement Code.
- K. adopt rules pertaining to the administration of all powers or duties of the local school board.

L. accept or reject any charitable gift, grant, devise, or bequest. The particular gift, grant, devise, or bequest accepted shall be considered an asset of the district or the public school to which it is given, and
M. offer and, upon compliance with the conditions of such offer, to pay rewards for information leading to the arrest and conviction, or other appropriate disciplinary disposition by the courts or juvenile authorities, of offenders in case of theft, defacement, or destruction of local school district property. All such rewards shall be paid from school district funds in accordance with rules promulgated by the department; and

N. give prior approval for any educational program in a public school in the school district that is to be conducted, sponsored, carried on or caused to be carried on by a private organization or agency.

The previous list covers only the basic powers and duties of local school boards as specified in Article V of the Public School Code. Numerous other provisions of state and federal laws and regulations set out further requirements that local boards must adhere to, but the foregoing provides a basic introduction for purposes of this publication.

A member of a board of education is a public officer, but has no power or authority individually. The law vests the power in the board and not in the members thereof, either singularly or otherwise, and these powers must be exercised by the board, at a regular or special board meeting, with action duly recorded in its minutes.

Almost all school board business is required by law to be conducted in meetings open to the public which have been properly advertised. There are some exceptions under the New Mexico Open Meetings Act, which will be discussed in another section.

School boards and their members are managers, at the local level, of one of the biggest businesses in New Mexico. New Mexico has continually ranked high nationally with regard to the percent of the per capita income being placed into education. In most New Mexico communities, the schools are the largest single employer, operate the largest budget, and manage the greatest capital investment. The schools also have the most direct contact with the public and affect more people than any other enterprise, public or private.

As managers, school board members must wear different hats:

1. As elected officials, members of the board of education are representatives of the people of the school district. Regular efforts should be made to ascertain public opinion on matters to be discussed at board meetings. This can be done by providing a specific time on the agenda when the public can appear and be heard; however, this must be controlled, and at times it may be appropriate to set definite time limits in advance on discussions to allow the board to handle the business at hand. Additionally, some school boards have effectively used advisory committees whose membership represent a cross-section of the community. Decisions must be based on the needs of all the people and the overall educational interests of each district's students. Problems should not be decided on the basis of geographic divisions, personal interests, the demands of special interest groups, political expediency, or bias or prejudice for or against specific individuals or groups.
2. As trustees, school board members are charged with seeing that the schools are well managed, tax dollars are wisely spent, and the investment and interests of the public are protected.

3. As employers, school board members are obligated to maintain fair and equitable employment practices for all employees in keeping with state and federal law, to seek their professional advice and judgment, to support and provide for their needs, and to promote good relationships and morale among the staff. See Appendix B for an introduction to the board's obligations to its employees under the New Mexico Public Employee [Collective] Bargaining Act, passed by the 1992 Legislature.

4. As educational policy-makers, school board members have an obligation to provide valuable learning experiences for all students, to strive to meet the unique and separate needs of the individuals, and to recognize and protect the rights and responsibilities of these young citizens. Since policy-making is a major task and a primary responsibility, the following section will be devoted to this topic.

SECTION F. - Policy Making

Policies are guidelines adopted by the board to chart a course of action. They tell what is wanted and may include why and how much. They should be broad enough to permit discretionary action by the administration in meeting day-to-day problems, and yet be specific enough to give clear guidance. Policy-making is the board's major task and primary responsibility. It is essential, therefore, for the board to think through the principles by which it wants the school district to be governed and to record them in the form of comprehensive written policies. The board creates, reinforces or negates policy every time it makes a decision. If a district has no written policies, or if they are not kept up-to-date, the board's direction of the operation of the district will be inconsistent and probably inequitable to the staff and the public. Ideally, policy should be consistent with, and a natural outgrowth of, the goals of the district. It then becomes a tool for effective management of the schools.

Policy is not created in a vacuum. Past practice, recommendations of the staff, experience of other school districts, legal requirements, anticipation of future problems and advice from outside agencies, such as the New Mexico School Boards Association, New Mexico School Administrators, and State Department of Education, can and should be used in developing policy.

It is often said that the board makes policy and the superintendent administers it. This is not the way in which effective boards operate. In actual practice, the superintendent generally initiates policy formulation and provides the evidence on which the board makes the decisions. The board considers the statement and the evidence and accepts, rejects, or revises the statement. Once a policy is adopted, the superintendent does administer it. The board, however, must continue to receive reports, to evaluate the results of the policy, and when indicated, to revise the policy in light of experience. The policies of a school district should be reviewed at regular intervals - in fact, an annual review is required by State Board of Educational Standards. The Standards further require that staff and others be involved in the policy-making. It is part of a board member's responsibility to see that policy is established, followed and revised when revision is needed.

Since one of the purposes of policy is to promote equitable treatment of students, employees, and members of the public, deviation from established board policy should be infrequent. Otherwise, the policy will be undermined.

SECTION G. - Compensation

Section 22-5-5, NMSA 1978, provides that school board members shall serve without compensation and that no member shall be employed in any capacity by the district during the entire term for which the member was elected, even if the board member resigns from the board before the end of the term. A board member, however, shall be entitled to per diem for in-state or out-of-state travel while performing official duties as a board member. Also, reimbursement for mileage is allowable. The rate to be paid shall be established by policy of the board and in accordance with the Per Diem and Mileage Act [10-8-1 et.seq., NMSA 1978].

SECTION H. - Effective Boardmanship

The job of being a good board member is very complex, and there are no hard and fast rules that deal with all aspects of the job. Experienced board members state that it takes about two years to learn the job. If the statement is true, it behooves new board members to observe how the system works. Within the system, there are ways of bringing about change without the need for a revolution or chaos before change takes place. The following are intended as hints, or guides, that may help you in being an effective board member:

An effective board member

1. Attends all meetings of the board.
2. Is legally a board member only when the board of education is in session. No one person, unless authorized, should speak on behalf of the board.
3. Recognizes his responsibility is not to run the schools, but to see that they are run well by others.
4. Is well acquainted with school policies.
5. Voices opinions frankly in board meetings and votes for what is in the best interest for the children of the district.
6. is flexible and realizes there are times when changes must be made, when tradition cannot be honored, and when pressure must be ignored.
7. Remembers that board business, at times, requires confidentiality, especially in processes involving personnel, legal matters, and land acquisition.
8. is interested in obtaining facts, but remembers that the administration has the responsibility of operating the schools, not spending a great deal of time gathering data or making reports to the individual board member.
9. Knows that the reputation of the entire school district is reflected in his/her behavior and attitude.
10. is able to sift fact from fiction, to sort out rumors from realism, and to know the difference.
11. Refers, as far as possible, all complaints and requests to the appropriate administrative officer.
12. maintains harmonious relations with other board members when harmonious relations are consistent with his/her obligations to the schools.
13. Uses good ethical and moral judgment in all decisions that he/she makes.

SECTION I. - Required Board Member Training

22-5-13 LOCAL SCHOOL BOARD TRAINING –The department shall develop a mandatory training course for local school board members that explains state board rules, department policies and procedures, statutory powers and duties of local school boards, legal concepts pertaining to public schools, finance and budget and other matters deemed relevant by the department. The department shall notify local school board members of the dates of the training course, the last of which shall not be later than three months after a local school board election.

The State Board of Education's Educational Standards, Chapter One, A.1.1.1.aa states that a function of the local board of education is to:

"Ensure that each member of the board participates in a planned program of training on an annual basis which will assist in the performance of functions outlined".

In implementing this regulation, the State Board of Education has listed the following:

1. Training must address one or more of the functions stated in Educational Standard A.1.1.1.
2. Training must be planned to meet needs of an individual board member or needs defined by the board as a whole.
3. Specific training may be required by SBE as a result of routine monitoring processes.
4. Training can be conducted by consultants contracted by the board, New Mexico School Boards Association, state agency staff or others deemed qualified by the local board. Attendance at regional, state, or national conferences can be acceptable training.
5. Records of training for each board member shall be maintained in the files of the local district.

CHAPTER III SUPERINTENDENTS

SECTION A. - Board-Superintendent Relationship The strength of the school program lies in the superintendent's skill and the trust and understanding that exists between the superintendent and the school board. Harmonious relations are enhanced by a clear understanding concerning the functions of the superintendent and the board. As the school board makes policies and the superintendent implements them, communications between these two must be thorough.

Harmony establishes an atmosphere in which free discussions are encouraged, and the adoption of defensive positions, difficult to abandon, is discouraged. Honest differences of opinion, however, must be openly acknowledged and constant efforts should be made to conduct the business of the district in ways that will not emphasize those differences or lead to antagonism. Both the superintendent and the board need to give credit where credit is due and, when necessary, to admit errors.

SECTION B. - Expectations Placed on the Superintendent

It is equally important in a successful board-superintendent relationship for both parties to know what is expected of the superintendent. It is then fair that a board would expect that the superintendent will:

1. Operate in a fair, open, and ethical manner at all times.
2. Work with board members on an equal basis and not show undue preference to individual members of the board.
3. Strictly enforce the policies set forth by the board and operate within the established procedure.
4. Keep the board fully informed on all matters of its concern.
5. Interpret accurately to the public the needs of the school system.
6. Work toward the improvement of the instructional program and staff relations.
7. At board meetings, avoid unexpected or surprise issues, topics, and areas of action so the board can have adequate time to respond after being fully advised of all the facts.
8. Operate the system in a fiscally sound manner.
9. Support board decisions at all times.
10. Evaluate the staff on a regular basis and in a fair and objective manner.

11. Keep the board advised of changes, innovations, and trends in education that might be applicable to the system.
12. Function as the board's chief executive officer.

SECTION C. - Critical Period in Board-Superintendent Relationship

The first few weeks following the February school board election usually is a critical period in the board-superintendent relationship. The superintendent is placed in a position of providing orientation and training for the newly elected member(s). It is a delicate matter for the superintendent to define roles for these new members. Also, this time of the year is hectic, to say the least, as far as the operation of the school district is concerned. This is the time that staff relations can be somewhat strained with personnel evaluations and disagreements over budgetary matters.

Immediately following an election can be a frustrating time for the newly elected board member as well. Normally, new candidates do not know a great deal about the operation of the school district. Most successful candidates feel that they have received some kind of mandate, via the election, from the school patrons. In attempting to zero in on problems, they are often bombarded with reasons why certain things cannot be done. . They are often unfamiliar with the manner in which the board operates and if they demand deviation from that mode of operation problems will be inevitable. Thus, the members of the board, both new and returning, are encouraged to meet frequently with the superintendent during this period to assure open communication and continued efficient operation.

CHAPTER IV

PROCEDURES FOR CONDUCT OF LOCAL SCHOOL BOARD MEETINGS

- Section A. - Regular Meeting
- Section B. - Special or Emergency Meetings
- Section C. - Organizational Meeting
- Section D. - Public Notice
- Section E. - Agenda
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- Section G. - Public Address to the Board
- Section H. - Open and Closed Meetings
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- Section R. - Renewal of Motions
- Section S. - Withdrawal of Motion
- Section T. - Duty to Vote
- Section U. - Public Hearings
- Section V. - Minutes
- Section W. - Appointments
- Section X. - Reference to Robert's Rules of Order (RRO)

The rules of procedure set forth below are designed for use by the local board of education. Essentially, the rules are a modified version of Robert's Rules of Order, Revised (hereinafter referred to as RRO). RRO is intended to guide the deliberations of a large legislative body; consequently, its rules are not always appropriate for a school board. A small board can afford to do some things that are not practical for a large body, and in some cases, the procedure prescribed by RRO is unnecessarily cumbersome. RRO was modified with these principles in mind:

1. The board must act as a body.
2. The board should proceed in the most efficient manner possible.
3. The board must act by at least a majority of a quorum of its members.
4. All members should have an equal opportunity to participate in decision-making.
5. The board's action should result from a decision on the merits rather than a manipulation of the procedural rules.

Any procedural rules adopted by a governing board must, of course, follow any requirements specifically prescribed by law for that board; but so long as that is done and the board adheres to the general principles just listed, it has a free hand in designing its own method of procedure. Most of these rules are merely suggested procedures, and the board should feel free to change them to suit local needs and customs.

For example, one rule eliminates the requirement of a second to a motion. The board may or may not adopt that rule. Whatever the rules adopted, the board must follow them consistently, unless the rules are properly suspended.

These rules refer to the Open Meetings Act and since all boards are sworn to uphold the laws of the state, adherence to the Open Meetings Act is mandatory.

A quorum of the board must be present in order to convene and conduct any official meeting. A quorum is three for five-member boards and four for seven-member boards. Once a quorum is present, action may be taken by majority vote of the members constituting a quorum.

A good board meeting begins on time, ends on time, and moves efficiently through the agenda with homework done in advance by all concerned. The board meeting is the time for planning for the adoption of school policies and the appraisal of the school system.

RECOMMENDED RULES OF PROCEDURE

SECTION A. - Regular Meeting

Under the provisions of Section 22-5-12 [A], NMSA 1978, the board must hold at least one regular meeting each calendar month. The date, time, and place of the regular board meeting shall be established by board action which shall be announced to the public pursuant to the requirements of the Open Meetings Act. (See section D, "Public Notice", below)

SECTION B. - Special or Emergency Meetings

The board president or superintendent may call a special meeting at any time by giving actual notice to each board member of the time and place of the meeting and the subjects to be considered. If reasonable efforts to give each member actual notice do not succeed, written notice in advance should be given to each member. Public notice of special meetings shall be given as required by the Open Meetings Act and local policy.

SECTION C. - Organizational Meeting

Board elections are held on the first Tuesday in February of each odd-numbered year. New board members shall take the oath of office on March 1 or at the first meeting of the board in the month of March. Reorganization of the board, at which the officers thereof are chosen, may occur at any board meeting, unless the board restricts its right to re-organize by board policy.

'COMMENT: Each local board may establish, by local policy, how often and in what manner it shall be organized.

SECTION D. - Public Notice

The New Mexico Open Meetings Act, Section 10-15-1, NMSA 1978, provides that any meeting of a quorum of the members of a school board held for the purpose of formulating public policy discussing public business, or taking action within the authority of the board, or at which the discussion or adoption of any proposed resolution, rule, regulation, or formal action occurs shall be held only after reasonable notice to the public. In accordance with the Open Meetings Act, the board shall establish, at least annually, what constitutes reasonable notice of its meetings.

'COMMENT: Boards of education must have a local policy which provides what is reasonable public notice for all regular, special, or emergency meetings of the board. The Open Meetings Act requires the policy to be readopted annually at a public meeting. This provides a yearly opportunity to refine the policy if experience indicates that changes are needed.

SECTION E. - Agenda

The board president, in cooperation with the superintendent, shall prepare an agenda for each meeting. Any board member may, by a timely request, have an item placed on the agenda. Meeting notices shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda. Except in the case of an emergency, the agenda shall be available to the public at least twenty-four hours prior to the meeting. Except for emergency matters, a public body shall take action only on items appearing on the agenda. For purposes of this subsection, an "emergency" refers to unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body.

It shall be the practice of the board for each board member to receive a copy of the agenda, and for the agenda to be available for public inspection and/or distribution when it is distributed to the board members. At the meeting, the board may, by majority vote delete an item on the agenda and may only add items to the agenda 72 hours in advance of the meeting.

It shall be the duty of the superintendent to have information related to agenda items sent to board members in advance of the meeting so that the meeting itself can be utilized for discussion and action rather than reading.

SECTION F. - Order of Business

COMMENT: This section lists points to consider in developing a policy rather than the text of a policy. A good board meeting is one that proceeds routinely, smoothly, and without delay. A definite order of business helps to produce this kind of meeting. It is suggested that something like the following categories be on each board agenda, but with the recognition that agenda may be structured in a way that meets the specific needs of the District or the particular meeting:

1. Call to Order and Roll Call
2. Approval & Signing of Minutes
3. Approval of Agenda
4. Financial Report
5. Public Hearings (if any)
6. Superintendent's Report
7. Unfinished Business
8. New Business
9. Public Comment
11. Adjournment

It is suggested that the policy allow items to be considered out of order by the consent of the board president or board vote on approval of the agenda.

SECTION G. - Public Address to the Board

Any individual or group, desiring to address the board shall ask the superintendent to place his/her/its name on the agenda. However, the board shall determine, at the meeting, whether it will hear the individual or group. Such determinations will be made on the basis of the Board's need for efficiency in the conduct of the Board's business and is justified by the Board's authority to control the time, place and manner of such "public comment" at Board meetings. Any restrictions or refusal to allow a particular request shall be based on legitimate, non-discriminatory reasons and shall not infringe the First Amendment rights of the attendees.

COMMENT: Although the Open Meetings Act requires only that the public be permitted to attend and listen to the proceedings of the board, the board may decide, as a matter of policy, to set aside part of each meeting for citizens to address the board. This suggested rule allows any individual or group to request to appear on the agenda but permits the board to decide whether, when, and how such comment will be heard, so long as its reasons for doing so are not improper.

SECTION H. - Open and Closed Meetings

In addition to requiring public notice of board meetings (see Section D), the Open Meetings Act requires all board meetings to be open to the public at all times unless an exception found in the Act permits a closed meeting. The following types of issues may be dealt with in executive session:

1. Meetings pertaining to issuance, suspension, renewal or revocation of a license, except that a hearing at which evidences is offered or rebutted shall be open. All final actions on the issuance, suspension, renewal or revocation of a license shall be taken at an open meeting;
2. Limited personnel matters; provided that for purposes of the Open Meetings Act, "limited personnel matters" means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee; provided further that this subsection is not to be construed as to exempt final actions on personnel from being taken at open public meetings; nor does it preclude an aggrieved public employee from demanding a public hearing.
3. Deliberations by a public body in connection with an administrative adjudicatory proceeding. For purposes of this paragraph, an "administrative adjudicatory proceeding" means a proceeding brought by or against a person before a public body in which individual legal rights, duties or privileges are required by law to be determined by the public body after an opportunity for a trial-type hearing. Except as otherwise provided in this section, the actual administrative adjudicatory proceeding at which evidence is offered or rebutted and any final action taken as a result of the proceeding shall occur in an open meeting;
4. The discussion of personally identifiable information about any individual student, unless the student, his parent or guardian request otherwise;
5. Meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the policymaking body and a bargaining unit representing the employees of that policymaking body and collective bargaining sessions at which the policymaking body and the representatives of the collective bargaining unit are present;
6. That portion of meetings at which a decision concerning purchases in an amount exceeding two thousand five hundred dollars (\$2,500) that can be made only from one source and that portion of meetings at which the contents of competitive sealed proposals solicited pursuant to the Procurement Code are discussed during the contract negotiations process. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting;
7. Meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant;
8. Meetings for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body.

If any meeting is closed pursuant to the exclusions, the closure:

1. If made in an open meeting, shall be approved by a majority vote of a quorum of the board; the authority for the closure and the subject to be discussed shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting; the vote shall be taken in an open meeting; and the vote of each individual member shall be recorded in the minutes. Only those subjects announced or voted upon prior to closure by the policymaking body may be discussed in a closed meeting; and
2. If called for when the board is not in an open meeting, shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting and stating with reasonable specificity the subject to be discussed, is given to the members and to the general public. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting. This statement shall be approved by the board as part of the minutes.

SECTION I. - Presiding Officer

The president shall preside at board meetings. To address the board, a member must be recognized by the president. The president shall have the following powers:

1. To rule motions in or out of order, including the right to rule out of order any motions patently offered for obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his/her remarks and to entertain and rule on objections from other members on this ground;
3. To entertain and answer questions of parliamentary law or procedure;
4. To call a brief recess at any time;
5. To adjourn in an emergency.

COMMENT: The procedural powers given to the presiding officer in this rule are intended to replace the question of order and appeal in RRO. This rule increases the presiding officer's authority in that his/her decisions regarding decorum in debate and rules of parliamentary procedure are final and cannot be appealed to the membership. Also, whereas in RRO a recess can be taken only on a motion and vote by the members, this rule gives the president the concurrent authority to call a recess when necessary to "clear the air" and thus reduce friction among the members.

SECTION J. - Presiding Officer When the President is in Active Debate

The president shall preside at board meetings, unless he/she becomes actively engaged in debate on a particular proposal, in which case he/she may designate another board member to preside over the debate. The president shall resume the duty to preside as soon as action on the matter is concluded.

COMMENT: Good leadership depends, to a certain extent, on not taking sides during debate. On a small board, this may not always be feasible or desirable; yet an unfair advantage occurs to the side whose advocate controls access to the floor. This rule is designed to ensure even-handed treatment to both sides during a heated debate. Ordinarily, the president should ask the vice-president to preside in this situation, but if that person is also engaged in the debate, the president should feel free to call on someone else in order to achieve the purpose of this rule.

SECTION K. - Action by the Board

The board shall proceed by motion. Any member, including the president, may make a motion.

COMMENT: Traditionally, if the president wishes to have a motion made, instead of making it himself/herself, he/she states, "The Chair will entertain a motion that . . .". This rule does not prevent such a practice; it merely makes clear that being president does not prevent one from making a motion. The board may want to follow the procedure set forth in Section J. if the president's motion is a controversial one.

SECTION L. - Second not required

A motion need not be seconded.

COMMENT: The philosophy underlying the requirement of a second is that if a proposal is not supported by at least two members, it is not worth the time required to consider the matter. This concept is not applicable to a small board whose consideration of a proposal that initially has the support of only one member would not seriously impair efficient use of the board's time.

SECTION M. - One Motion at a Time

A member may make only one motion at a time.

SECTION N. - Substantive Motion

A substantive motion is out of order while another substantive motion is pending.

COMMENT: This rule sets forth the basic principle of parliamentary procedure that distinct issues will be considered and dealt with one at a time, and a new proposal may not be put forth until action on the preceding one has been concluded.

RRO does not specifically refer to substantive motions; instead it uses such adjectives as "main" or "principal." The words "substantive motion" are used here to underscore the distinction between it and the various procedural motions listed in Rule 15 of RRO. Basically, a substantive motion is any motion other than the procedural motions listed in Rule 15. The possible subject matter of a substantive motion is coextensive with the board's legal powers, duties and responsibilities.

Indeed, in view of the fact that Rule 9 of RRO provides that the board shall proceed by motion, the substantive motion is the board's exclusive mode of action. The procedural motions detailed in the succeeding rules set forth the board's various options in disposing of substantive motions.

SECTION O. - Adoption by Majority Vote

A motion is adopted upon the affirmative vote of a majority of the quorum of members present at the meeting, unless otherwise required or permitted by these rules or the laws of the State of New Mexico. The president is permitted to vote on all motions.

SECTION P. - Debate

The president shall state the motion and then open the floor to debate on it. The president shall preside over the debate according to the following general principles:

1. The introducer (the member who makes the motion) is entitled to speak first;
2. A member who has not spoken on the issue shall be recognized before someone who has already spoken;
3. To the extent possible, the debate shall alternate between opponents and proponents of the measure.

SECTION Q. - Procedural Motions

In addition to substantive proposals, the following procedural motions and no others shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

COMMENT: This rule is a substantial departure from RRO. Each procedural motion in RRO was reviewed to determine whether it was appropriate for use by a local school board; substantial modifications and deletions were the result. The following enumeration of procedural motions is exhaustive; if a procedural option is not on the list, it is not available.

While a substantive motion is out of order if another substantive motion is pending, under both RRO and these rules several procedural motions may be entertained in succession without necessarily disposing of the immediately pending one. The order of priority establishes which procedural motion may be made and considered while another one is pending.

In order of priority (if applicable), the procedural motions are as follows:

1. To adjourn. The motion to adjourn may be made only when action on a pending matter concludes; it may not interrupt deliberation of a pending matter.

COMMENT: This motion differs from the RRO motion in several respects. According to RRO, it is not debatable or amendable and can be made at any time, thus interrupting substantive deliberations. Because the number of members is small and procedures to limit debate are available, this rule allows debate and amendment of the motion to adjourn but allows the motion to adjourn only when action on a pending matter concludes.

The motion to defer consideration or to postpone to a certain time or day may be used first if the board wants to adjourn before completing final action on the matter.

2. To take a recess

COMMENT: RRO does not allow debate on this motion, but because the number of members is small and procedures to limit debate are available, this rule allows debate on the motion. As in RRO, the motion is in order at any time. Under these rules, the board president also has the power to call a brief recess, without board action.

3. Call to follow the agenda. The motion must be made at the first reasonable opportunity or it is waived.

COMMENT: This motion is patterned after the call for the orders of the day in RRO. It differs in that it may be debated and must be made as soon as an item of business that deviates from the agenda is proposed or the right to insist upon following the agenda is waived for that item.

4. To suspend the rules. For adoption, the motion requires a vote equal to the number required for a quorum.

COMMENT: This motion is the same as RRO's motion of the same name except that it is debatable and amendable and the number of necessary votes is a quorum, rather than two-thirds. This means that if a board has five members, three members (the number required for a quorum) must vote for the motion; if only three members are present at a particular meeting, all three must vote for the motion in order to adopt it. It is in order when the board wishes to do something that it may legally do but cannot accomplish without violating its own rules, unless the rules are suspended.

Frequent use of the motion to prevent one member from presenting his proposals to the board or from speaking on an issue before the board is of doubtful legality.

5. To divide a complex motion and consider it by paragraph.

COMMENT: This motion is the same as the motion to divide a question and consider it by paragraph in RRO except it is debatable.

6. To defer consideration. The board may vote to defer action or consideration of a pending matter indefinitely. A substantive motion consideration of which has been deferred expires 100 days thereafter unless a motion to revive consideration is adopted.

COMMENT: This motion replaces the motion to lay on the table in RRO and was renamed to avoid confusion. It allows the board temporarily to defer consideration of a proposal. It differs from the RRO motion in that it may be debated and amended. It also differs from RRO in that a motion that has been deferred, dies if it is not taken up by the board (via a motion to revive consideration) within 100 days of the vote to defer consideration, whereas in RRO a motion that has been laid on the table dies at the end of the session in which it was introduced. One hundred (100) days is merely a suggested period of time.

7. Call of the previous question. The motion is not in order until there has been debate and every member has had an opportunity to speak.

COMMENT: This motion differs from the motion of the same name in RRO. The RRO motion is always in order, is not debatable or amendable, and requires a two-thirds vote for adoption. Thus, it may be used to compel an immediate vote on a proposal without any debate on the issue. Such a device may be necessary to preserve efficiency in a large assembly. However, because there are so few members, a minimum period of debate on every proposal that comes before the board of education strikes a better balance between efficiency and effective representation by all board members. Since every member will have an opportunity to speak, the debate may be ended by a majority vote.

8. To postpone to a certain time or day.

COMMENT: This motion allows the board to defer consideration to a specified time or day and is appropriate when more information is needed or the deliberations are likely to be lengthy.

9. To refer to a committee. Sixty days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire board, regardless of whether the committee has reported the matter back to the board.

COMMENT: This motion is the same as RRO's motion of the same name except that the introducer's right to compel consideration by the full board after a specified period of time prevents its use as a mechanism to defeat a proposal by referring it to a committee that is willing to sit on it. If the board does not use committees, this rule is unnecessary.

10. To amend. An amendment to a motion must be pertinent to the subject matter of the motion, but it may achieve the opposite of the motion's intent. The motion may be amended, and an amendment may be amended, but no further amendments may be made.

COMMENT: This motion is identical to the motion of the same name in RRO.

11. To revive consideration. The motion is in order anytime for 100 days after a vote to defer consideration. A substantive motion whose consideration has been deferred expires 100 days thereafter unless a motion to revive consideration is adopted.

COMMENT: This motion replaces the motion to take up from the table in RRO and was renamed to avoid confusion. This motion may be debated and amended, whereas the motion in RRO may not. If the motion to revive consideration does not succeed within 100 days of the date on which consideration was deferred, the substantive motion expires. The subject matter of the motion may be brought forward again by a new motion.

12. To reconsider. The motion must be made by a member who voted with the prevailing side. It must be made at the same meeting as the vote was taken, it cannot interrupt deliberation on a pending matter but is in order at anytime before actual adjournment.

COMMENT: According to RRO, the motion may be made at the same meeting as the vote was taken or on the next legal day, and it may interrupt deliberation on another matter. To avoid placing a measure in limbo, the availability of the motion has been restricted to the same meeting as the original vote.

13. To rescind or repeal.

COMMENT: This motion is in order only for those measures adopted by the board that may legally be repealed or rescinded; it is not intended to suggest that the board may unilaterally rescind a binding contract.

14. To ratify.

COMMENT: This motion appears in RRO on the principle that an assembly may later ratify that which it could have authorized. To the extent the board may legally do so, the option is retained by these rules.

15. To prevent reconsideration for six months. The motion is in order immediately following the defeat of a substantive motion and at no other time. For adoption, the motion must receive a vote equal to the number required for a quorum. It is valid for six months or until a new board member is appointed, whichever occurs first.

COMMENT: This is a clincher motion to prevent the same motion from being continually introduced when the subject has been thoroughly considered. RRO contains no comparable motion, although the objection to considering a question accomplishes much the same purpose. Because this motion curtails a member's right to bring a matter before the board, a vote equal to a quorum is required to adopt it. As with every other motion, a clincher motion may be, in effect, dissolved by a motion to suspend the rules. Six months is merely a suggested period of time; however, in order to give a new board a clean slate, the motion should not be effective beyond the terms of the current members.

SECTION R. - Renewal of Motion

A motion that is defeated may be renewed at any subsequent meeting unless a motion to prevent reconsideration has been adopted. *SECTION S. - Withdrawal of Motion*

A motion may be withdrawn by the introducer at any time before a vote.

COMMENT: RRO provides that once a motion has been stated by the Chair for debate, it may not be withdrawn without the assembly's consent. Such a procedure is necessary for a small board.

SECTION T. - Duty to Vote

Every member must vote unless excused by the remaining members. A member who wishes to be excused from voting shall so inform the president, who shall take a vote of the remaining members present. No member shall be excused from voting except on matters involving his own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present or has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.

COMMENT: A board member who refuses to vote without a legal excuse, avoids his responsibility to make the decisions he was elected or appointed to make. Therefore, this rule takes the position that a member must vote, and it counts his vote as affirmative if he attempts to abstain. Note that it is impossible not to count the effect of an abstention: Without this rule, if a member does not vote for a proposal, in effect, he votes against it.

SECTION U. - Public Hearings

Public hearings required by law or deemed advisable by the board shall be organized by a special order, which is adopted by a majority vote that sets forth the subject, date, place and time of the hearing as well as any rules regarding the length of time of each speaker, etc. At the appointed time the president or his designee shall call the hearing to order and then preside over it, unless a hearing officer is chosen to preside. When the allotted time expires or when no one wishes to speak who has not already done so, the president or his designee shall declare the hearing ended.

COMMENT: A public hearing is typically called for the purpose of adjudicating the rights of individuals and deciding issues within the jurisdiction of the local board.

The specific procedures for most hearings held by the board will be found in statutes or regulations, and must be scrupulously followed. Those procedures, where applicable, will supersede this paragraph and any inconsistent local policy.

SECTION V. - Minutes

Pursuant to the New Mexico Open Meetings Act, written minutes shall be kept of all public school board meetings and all minutes shall be open to public inspection. Draft minutes shall be prepared within 10 working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Draft minutes may be inspected by members of the public after completion in final draft form but shall not become official until approved by the board.

Minutes shall include the following:

1. The nature of the meeting (regular, special or emergency), the date, time, place, members present, and members absent.
2. The substance of all proposals considered.
3. A record of any decisions made.
4. A record of all votes taken which shows how each member voted.

COMMENT: The minutes of the meetings of the board of education constitute the written record of board action. For most purposes, the board speaks only through the minutes, and it is by the minutes that the record of what the board has done, or not done, is proven. Regardless of the importance of any discussion at the meeting, official action of the board may only occur through motion and a vote by a majority of members present, which action is recorded in the minutes. Mere discussions do not constitute board action and are in no way binding.

Members who are late should be marked absent on the roll call and a note inserted immediately after the roll call indicating the approximate place on the agenda where the member entered. It is important that the entry of late members and the withdrawal of members be recorded. Proper recording of these events can prevent confusion. The clerk, or secretary, should attempt to include the wording of a motion, the name of the member making the motion, the name of the member seconding it, if applicable, the record of the vote on the motion, and the declaration of that presiding officer that the motion passed or failed, attested to by the clerk. These minutes must be available for public inspection in the school district offices after they have been approved. Draft minutes should be made available if requested after they have been completed in draft form, but with the understanding that they will not become official until the board has approved them.

SECTION W. - Appointments

The board shall use the following procedure to make appointments to various subordinate offices:

The president shall open the floor to nominations. At this time, the names of possible appointees shall be put forward by the members and debated. When the debate ends, the president shall call the roll of the members, and each member shall cast his vote. The votes shall not be tallied until all members have voted.

SINGLE APPOINTMENT

OPTION 1. The nominee who receives the highest number of votes shall be appointed; or

OPTION 2. The voting shall continue until one nominee receives a majority of the votes cast, whereupon he/she shall be appointed.

MULTIPLE APPOINTMENTS

OPTION 1. If more than one appointee is to be selected, each member shall have as many votes as there are positions to be filled. A member must cast all of his votes and cast them for different nominees; or

OPTION 2. If more than one appointee is to be selected, each member shall have as many votes as there are positions to be filled. A member need not cast all of his/her votes.

COMMENT: This procedure is not applicable to the employment of personnel by the board. The options, presented above, detail the various methods that may be used to make appointments. Some school boards use an appointment committee. The committee receives nominations from other board members, reviews the nominees' qualifications, and reports its recommendations to the full board.

SECTION X. - Reference to Robert's Rules of Order (RRO)

To the extent not provided for in these rules and to the extent that the reference does not conflict with the spirit of these rules, the board shall refer to Robert's Rules of Order, Revised for unresolved procedural questions.

COMMENT: RRO was designed to govern a large legislative assembly, and many of its provisions may be inappropriate for small boards. Nevertheless, it is the best source of parliamentary procedure; care should simply be taken to adjust RRO to meet the needs of small governing boards.

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CHAPTER V EDUCATIONAL STRUCTURE IN NEW MEXICO

New Mexico is somewhat unique in its educational structure and governance. The Constitution does not fully outline the framework of organization and administration of the public school system, thus, leaving much to the Legislature to define. The schools are regulated by the Secretary of Education, the Public Education Department and the State Legislature. The educational structure might appear schematically as follows:

PEOPLE OF NEW MEXICO
LEGISLATURE
SECRETARY OF EDUCATION
PUBLIC EDUCATION DEPARTMENT
ALL PUBLIC SCHOOL DISTRICTS
ALL LOCAL PUBLIC SCHOOL DISTRICTS

SECTION A. - Public Education Commission (PEC)

Article XII, Section 6 of the New Mexico Constitution created the Public Education Department and the Public Education Commission. The Public Education Commission's powers and duties are set forth in statute Section 22-2-2.2 of the Public School Code. The Public Education Commission includes ten members elected from districts for staggered four-year terms. (Public Education Commission districts do not correspond to NMSBA regions.)

22-2-2.2. Commission; duties.

A. The commission shall work with the department to develop the five-year strategic plan for public elementary and secondary education in the state. The strategic plan shall be updated at least biennially. The commission shall solicit the input of persons who have an interest in public school policy, including local school boards, school districts and school employees; home schooling associations; parent-teacher associations; educational organizations; the commission on higher education; colleges, universities and vocational schools; state agencies responsible for educating resident children; juvenile justice agencies; work force development providers; and business organizations.

B. In addition to the duty provided in Subsection A of this section, the commission shall:

(1) solicit input from local school boards, school districts and the public on policy and governance issues and report its findings and recommendations to the secretary and the legislature; and

(2) Recommend to the secretary conduct and process guidelines and training curricula for local school boards.

SECTION B. - Secretary of Education (22-2-1)

A. The secretary is the governing authority and shall have control, management and direction of all public schools, except as otherwise provided by law.

B. The department may:

- (1) Adopt, promulgate and enforce rules to exercise its authority and the authority of the secretary;
- (2) enter into contracts to carry out its duties;
- (3) apply to the district court for an injunction, writ of mandamus or other appropriate relief to enforce the provisions of the Public School Code or rules promulgated pursuant to the Public School Code; and
- (4) Waive provisions of the Public School Code as authorized by law.

SECTION C. - Public Education Department

The department shall:

A. properly and uniformly enforce the provisions of the Public School Code;

B. determine policy for the operation of all public schools and vocational education programs in the state, including vocational programs that are part of a juvenile construction industries initiative for juveniles who are committed to the custody of the children, youth and families department;

C. supervise all schools and school officials coming under its jurisdiction, including taking over the control and management of a public school or school district that has failed to meet requirements of law or department rules or standards, and, until such time as requirements of law, standards or rules have been met and compliance is ensured, the powers and duties of the local school board and local superintendent shall be suspended;

D. schools seeking state accreditation and for the educational programs conducted in state institutions other than the New Mexico military institute;

E. provide technical assistance to local school boards and school districts;

F. assess and evaluate public schools for accreditation purposes to determine the adequacy of student gain in standards-required subject matter, adequacy of student activities, functional feasibility of public school and school district organization, adequacy of staff preparation and other matters bearing upon the education of the students;

G. assess and evaluate all state institutions and those private schools that desire state accreditation;

H. enforce requirements for home schools. Upon finding that a home school is not in compliance with law, the department may order that a student attend a public school or a private school;

I. require periodic reports on forms prescribed by it from all public schools and attendance reports from private schools;

J. determine the qualifications for and issue licenses to teachers, instructional support providers and school administrators according to law and according to a system of classification adopted and promulgated by rules of the department;

K. deny, suspend or revoke a license according to law for incompetency, moral turpitude or any other good and just cause;

L. approve or disapprove all rules promulgated by an association or organization attempting to regulate a public school activity and invalidate any rule in conflict with any rule promulgated by the department.

The department shall require an association or organization attempting to regulate a public school activity to comply with the provisions of the Open Meetings Act and be subject to the inspection provisions of the Public Records Act. The department may require performance and financial audits of an association or organization attempting to regulate a public school activity. The department shall have

- no power or control over the rules or the bylaws governing the administration of the internal organization of the association or organization;
- M. review decisions made by the governing board or officials of an organization or association regulating a public school activity, and any decision of the department shall be final in respect thereto;
- N. require a public school under its jurisdiction that sponsors athletic programs involving sports to mandate that the participating student obtain catastrophic health and accident insurance coverage, such coverage to be offered through the school and issued by an insurance company duly licensed pursuant to the laws of New Mexico;
- O. establish and maintain regional centers, at its discretion, for conducting cooperative services between public schools and school districts within and among those regions and for facilitating regulation and evaluation of school programs;
- P. approve education curricula and programs offered in all two-year public post-secondary educational institutions, except those in Chapter 21, Article 12 NMSA 1978, that lead to alternative licenses for degreed persons pursuant to Section 22-10A-8 NMSA 1978 or licensure for educational assistants;
- Q. withhold program approval from a college of education or teacher preparation program that fails to offer a course on teaching reading that:
- (1) Is based upon current scientifically based reading research;
 - (2) Aligns with department-adopted reading standards;
 - (3) Includes strategies and assessment measures to ensure that beginning teachers are proficient in teaching reading; and
 - (4) As designed after seeking input from experts in the education field;
- R. annually, prior to December 1, prepare and publish a report on public and private education in the state and distribute the report to the governor and the legislature;
- S. solicit input from local school boards and school districts in the formulation and implementation of department rules; and
- T. report to the legislature or any of its committees as requested and report findings of any educational research study made with public money to the legislature through its appropriate interim or standing committees.

SECTION D. - School Budget Planning Unit (Formerly the School Finance Division)

School Budget Planning Unit in the Public Education Department, of the School Management Division, has the responsibility for directing all phases of public school finance. This office prescribes the forms for, and supervises and controls the preparation of all budgets of all public schools and school districts. Probably one of the most far-reaching and important tasks of the office is to compile and publish a manual prescribing detailed regulations for a uniform system of accounting and budgeting funds for all public schools.

Additionally, the School Budget Planning Unit has the statutory duty to approve school district budgets before the first Monday of September of each year. This is done after the local school board has fixed the estimated budget at a public hearing and submitted the district's budget package to the Public Education Department for review and approval.

Code of Ethics

The citizens in my community have elected me to represent them. As a member of my local board of education, I will strive to improve public education for all children, and to that end, I will:

- ⊕ Attend all scheduled board meetings insofar as possible;
- ⊕ Recognize that I have no legal authority outside the board meetings, and that all decisions of the board will be made at a public meeting where a quorum of the board is present and only after a thorough review of the available information;
- ⊕ Work in harmony with the rest of the board members to always promote and preserve the integrity of the board;
- ⊕ Avoid speaking on behalf of the board except at those times when the board, by official action authorizes me to do so, and respect the confidentiality of information that is privileged under applicable law;
- ⊕ Upgrade my performance as a board member by informing myself about current educational issues by individual study and through participation in programs provided by the local school district and by the state and national school boards associations;
- ⊕ Support the employment of those persons best qualified to serve as school staff and make every effort to ascertain that all employees are properly remunerated for their services, and that they are dealt with fairly in the performance of their duties;
- ⊕ Avoid being placed in a position of conflict of interest and refrain from using my board position for personal or partisan gain;
- ⊕ Accept that my primary function is to establish policy by which schools are administered; and that the actual administration of the education program is delegated to the superintendent and his/her staff;
- ⊕ Welcome and encourage active participation by citizens for better understanding of their needs and improvement of relations with the public that I serve;
- ⊕ Strive to promote and perpetuate our democratic way of life;
- ⊕ Remember that my first and greatest concern must be the fair and equal educational opportunities for all students attending public school.