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9:45-10:45 AM in Nevada Room

Bad Boards or Difficult Administrators?
Balancing Relationships and Authority in Difficult Circumstances

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Goals of the Presentation

- Help identify the tough issues and some typical scenarios that often strain relationships between boards and administrators
- Discuss the questions that you need to be asking yourself regarding your role and responsibility in your interactions
- Focus on how to avoid conflicts and problems
- Answer your questions

Superintendent: What are 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)
 - *Employees are supposed to take their "marching orders" from the Superintendent, not the Board.
 - *Observation: Superintendents tend to be very protective of this authority.

Board Roles: What are appropriate roles for board members?

- 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
 - * Observation: Board members generally are looking for avenues to effect positive change while staying within the limits of their authority.

Quiz Question 1: Assignments from Board Members

- The board president asks an associate superintendent to put together a report for the board meeting.
 - Is the board president out of line?
 - Should the associate superintendent just "grin and bear it" and do it?
 - What problems does this create for the superintendent? For the associate superintendent? For the board and district?
 - What would be the best practice for getting the desired information?

Quiz Question 1: Discussion

- Such requests blur the lines of authority
- Board members need to avoid such errors and mind those lines. Administrators should not assume that it is a form of micromanagement.
- Making such requests sets an expectation for future interactions.
- It leaves the superintendent in the dark.
- Intimidating? It may leave administrators feeling bullied or pulled in different directions.
- Best practices: Board needs to be careful and superintendent needs to diplomatically outline the proper protocols to the board for such requests.

Quiz Question 2: Superintendent in Executive Session

- A superintendent expects and insists that he/she be allowed to be present for all executive sessions of the board.
 - Is the superintendent's position correct?
 - Does it matter if the board is discussing the superintendent's contract or evaluation?
 - What about community members who ask the superintendent to put them on the executive session agenda?

Quiz Question 2: Discussion

- The board makes the rules for non-board members who attend executive session.
- The board can ask the superintendent or his/her staff to step out, regardless of the topic.
- The superintendent should not feel "bruised" or offended if asked to not be a participant.
- However, there may be very practical reasons for including the superintendent in most conversations.

Quiz Question 3: Board Member Special Access

- A board member wants to appear responsive to community needs and wants to begin regular school site visits. The board member starts making unannounced site visits.
 - Should the board member be doing this?
 - Are there any problems that this creates?
 - For the board member?
 - For the school?
 - For the principal and superintendent?
 - Should the administrator just give the tour and let it pass?
 - What about giving the board member a visitor pass and let him go where he pleases?

Quiz Question 3: Discussion

- A board member has no authority apart from that of the entire board. Therefore, there are no access rights that are different from the community.
- Disruption
 - Class time
 - Apparent authority; intimidating
- Perceived abuse of power
- Circumventing the superintendent
- Best practice: make the request of your superintendent; let such a visit be arranged

Quiz Question 4: Investigation of the Superintendent

- An allegation of serious misconduct is brought against the superintendent.
 - If the board knows or suspects the complaining employee is not trustworthy, should the board ignore the complaint?
 - Should the board conduct the investigation itself?
 - What about an outside investigator?
 - What should the board do with a report?
 - Should the superintendent be involved in the investigation?
 - Can an associate superintendent or site principal do the investigation to save some money?

Quiz Question 4: Discussion

- Serious allegations require a serious response.
- Failure to do so may affect your litigation outcomes.
- A board does not have investigatory expertise and no single board member can conduct such an investigation.
- An associate superintendent or principal is subject to the authority of the superintendent and is not a viable investigator.
- A superintendent should not interfere or in any way tamper with an investigation, including "lobbying" the board.
 - It certainly is permissible to answer questions by the board or an investigator.
- Best practices: Find a competent investigator with school experience, give him/her free rein, ask for a report that provides the Board with options, and follow through.

Quiz Question 5: Board Member Volunteers

- Newly elected board member has been volunteering in her child's class everyday since before the election and wants to keep doing so.
 - Should the board member be doing this?
 - What complications, if any, does this create?
 - Should the principal say something? Permit it to continue?
 - What is the superintendent's role?
 - Does the board have an oversight role?

Quiz Question 5: Discussion

- Potential Problems:
 - Supervisory problems
 - Improper use of influence
 - Public Perception of a Board Member using his/her influence
- 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.
- Recommendation: No board members as regular volunteers or spontaneous volunteers. However, more flexibility about serving as spontaneous volunteers.

Quiz Question 6: Board Member Inquiry on Employee

- A board member approaches the superintendent regarding an employee disciplinary matter, wanting information about recent infractions.
 - Is there authority for an individual board member inquiry?
 - Can the full board ask for information about the infraction?
 - Can the board direct the superintendent regarding the best disciplinary response?

Quiz Question 6: Discussion

- A single board member does not have authority for the request.
- The full board, in all likelihood, has no valid reason to request information prior to a hearing.
 - Early access may undermine an appeal hearing
 - May lead to arguments that particular board members should recuse.
- Micromanagement? Encroaching on the superintendent's authority?
- Best practices: A superintendent really should only be sharing basic disciplinary information to the degree that board members need it (ie. Managing calls from the public or the media). Superintendent can and should frame this in the board members' and district's best interests.

Quiz Question 7: Superintendent Termination

- The Board member wants to explore parting ways with the superintendent.
 - What should the board be considering before going this route?
 - What are the potential problems for relationships of putting this option "out there"?
 - What other options have been explored with the superintendent short of termination or buy out?
 - What risks does this path create for your district?

Quiz Question 7: Discussion

- Considerations: Cost, disruption, continuity, prior steps (evaluation, discipline), PED role.
- Risks in Proposing: this may forever harm the relationship. There is no taking it back.
- Other options: More thorough evaluation, retreats, 360 evaluations, climate study, and frank conversation
- District risk: waste of resources, energy, time; possibility of individual agendas ahead of district interests.
- Best practices: There should be a great deal of "fence mending" and mutual attempts to work together before this option is invoked.

Quiz Question 8: The Community Complaint

Board Member receives a complaint from a community member that an employee is touching kids inappropriately and comes to you for information and resolution.

- *Should the superintendent try to resolve it between himself and the board member?
- *Should the superintendent require a written complaint before acting?
- *Should the superintendent not involve law enforcement since the employee is a long term employee?

Quiz Question 8: Discussion

Two Words: Penn State. The worst response to such an allegation is to do nothing (or be perceived as not acting promptly).

Superintendent's response should involve immediate action to protect kids (possibly administrative leave) and contact with authorities.

-There needs to be consideration as to whether there are reasonable grounds, but a district should err on the side of reporting.

Board Communication: a superintendent should take steps to ensure that the Board knows that investigatory steps are under way and law enforcement steps have been made.

Quiz Question 9: Use of Counsel

- A superintendent feels like his administrative authority is not being honored by the Board, and he wants one of the attorneys for the District to be designated as the administration's counsel.
 - Is there any problem with this?
 - Who is the client?

Quiz Question 9: Discussion

- The attorneys "for the District" are actually attorneys for the board.
- The administration uses board counsel to the degree that those interests are consistent with the board's interests.
- If a board member is encroaching on superintendent authority, it becomes the entire board's responsibility to set those boundaries (along with counsel).
- Best practice: Superintendents need to know that their relationship with counsel is that of a "teammate". The board needs to understand that it is also counsel's job to remind the board of its limitations.

Quiz Question 10: Contract Offers

- A superintendent wants to offer his associate superintendents two year contracts and healthy raises, knowing that the Board does not favor such a move.
 - Is this within the superintendent's authority?
 - Can/should the board try to stop him?
 - What options are available to the board?
 - What should the superintendent consider?

Quiz Question 10: Discussion

- The superintendent can determine contract length and salary amounts.
- The board is limited to expressing its concern, but cannot discipline or terminate based on the superintendent's exercise of lawful discretion.
- The board can try to set budgetary limits that confine such decisions.
- The superintendent should consider harm to the district's financial interests as well as to his own long term viability.
- Best practices: Superintendent may want to seek some input on such decisions from the board and also consider asking counsel what types of contractual arrangements are in the District's best interests.

Working Together

- Superintendent and Administration:
 - Pursues board's agenda
 - But superintendent failures do not justify attempts by the board to do his/her job
- Board
 - Should support the superintendent and respect his/her discretion in how to accomplish the board's aims
 - But the superintendent must remain responsive

Questions

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