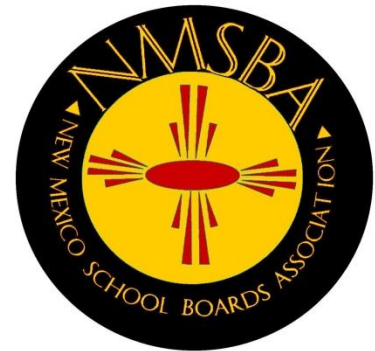


# NMSBA Spring 2016 Region 1 Meeting



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## School Board Member Misconduct— Evaluating Your Own School Board

Presented by:  
*Andrew M. Sanchez*



**CUDDY & McCARTHY, LLP**  
*Attorneys at Law*

# Board Member Oath

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- NMSA 1978, Section 22-5-9.1
  - All elected or appointed members of local school boards shall take the oath of office prescribed by Article XX, Section 1 of the constitution of New Mexico.
- Constitution of the State of New Mexico
  - Article XX, Section 1
    - Every person elected or appointed to any office shall, before entering upon his duties, take and subscribe to an oath or affirmation that he will support the constitution of the United States and the constitution and laws of this state, and that he will faithfully and impartially discharge the duties of his office to the best of his ability.

# Powers of the Board

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- NMSA 1978, Section 22-5-4:
- A local school board shall have the following powers or duties:
  - A. subject to the rules of the department, develop educational policies for the school district;
  - B. employ a local superintendent for the school district and fix the superintendent's salary;
  - C. review and approve the annual school district budget;
  - D. acquire, lease and dispose of property;
  - E. have the capacity to sue and be sued;

# Powers of the Board (Continued)

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□ Section 22-5-4 (cont.)

F. acquire property by eminent domain

G. issue general obligation bonds

H. provide for repair & maint. of property

I. subpoena witnesses for school hearings

J. contract for expenditure of funds, except for salaries

# Powers of the Board (Cont.)

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- Section 22-5-4 (cont.)

- K. adopt rules for administration of all powers and duties of the board

- L. accept or rejects gifts to the District

- M. pay rewards for information regarding theft, defacement or destruction to school property

# PED Regulations

## Powers of the Board (cont.)

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- NMAC 6.29.1.9(A)
  - Employ and evaluate the local superintendent NMAC 6.29.1.9(A)(2)
  - Delegate administrative and supervisory functions to the local superintendent  
NMAC 6.29.1.9(A)(4)
  - Refrain from involvement in delegated administrative functions  
NMAC 6.29.1.9(A) (5)
  - Ensure that district funds are appropriate managed and disbursed  
NMAC 6.29.1.9(A)(9)
  - Be responsible for oversight of revenue and expenditures within the district budget  
NMAC 6.29.1.9(A)(11)

# Communication

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## Open, Honest and Frank Communication

- ❑ Board and Supt.
- ❑ Individual board members and Supt.
- ❑ Between & among board members
- ❑ With Parents / Community / Employees
- ❑ Chain of Command with Employees



# Effective Boardmanship

(From NMSBA's Orientation Manual for New School Board Members)

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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.



# Effective Boardmanship

(From NMSBA's Orientation Manual for New School Board Members)

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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.

# Effective Boardmanship

(From NMSBA's Orientation Manual for New School Board Members)

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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.

# Effective Boardmanship

(From NMSBA's Orientation Manual for New School Board Members)

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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.

# Effective Boardmanship

(From NMSBA's Orientation Manual for New School Board Members)

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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.



# Board Self-Evaluation: Why?

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- ❑ Should be done as part of the District's overall system of evaluation;
- ❑ Board's must be accountable for the public trust placed in them.
- ❑ Increase Board cohesiveness and effectiveness
- ❑ Provide objective means of measuring performance

# Board Evaluation– Six Competencies

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- ❑ Contextual: Board understand and take into account culture and norms of organization
- ❑ Educational: Board ensures members well informed about the organization, profession, and the school board’s roles, responsibilities, and performance
- ❑ Interpersonal: Board nurtures development of its members as a group, attends to the board’s collective welfare, and fosters a sense of cohesiveness
- ❑ Analytical: Board recognizes complexities in issues it faces and draw upon multiple perspectives to dissect complex problems and synthesize appropriate responses
- ❑ Political: Board accepts as its primary responsibilities the need to develop and maintain healthy relationships among key constituencies
- ❑ Strategic: Board helps envision and shape institutional direction and helps ensure strategic approach to the organizations future. \*

\* Jackson, Douglas K. and Thomas P. Holland “Measuring the Effectiveness of Nonprofit Boards.” Non-Profit & Voluntary Sector Quarterly. (1998) 27:159-182; This material taken from publications of the North Dakota School Board’s Association with permission.



# Board Self-Evaluation Based on Six Competencies

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Evaluation Questions based on these competencies.

# 1. Contextual Competency

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1. Board takes the time to learn about important issues facing schools through actions such as allowing teachers, students, and administrators to report at meetings.
2. Board discusses and researches events and trends in the larger community that may affect schools.
3. Board reviews district's mission statement.
4. Board recognizes the superintendent as chief executive officer and educational leader of the district.
5. I have been present at board meetings where discussions about values of the district were key factors in reaching a conclusion to a problem.



# Contextual Competency cont'd

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6. Board communicates its decisions to all affected by them.
7. Board keeps abreast of policies mandated by state/federal law, PED, AG opinions, case law
8. Board establishes and maintains a systematic plan for feedback on policies to determine effectiveness, their worth, and whether they need to be amended, modified, or canceled.
9. Board keeps informed about what children are learning through reports on scholastic achievement, vocational programs, and the impact of extracurricular activities.
10. Board stays aware of its debt limitations and sets priorities based on total financial needs of the system and maintaining an adequate financial reserve.



## 2. Educational Competency

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1. Board assigns new members a mentor to help them learn the ropes and provides new members with detailed explanation of the board's mission.
2. Board requests a decision be postponed until further information can be obtained.
3. Board conducts an explicit examination of its responsibilities, discussing its role in district management.
4. At least once every two years, the board has a retreat or special session to examine its performance.
5. Board is given and reads the agenda and background materials well in advance of meeting.

# Educational Competency cont'd

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6. Board participates in in-service programs at regional, state, and national levels.
7. I have participated in board discussions about what the board should do differently as a result of the mistakes made.
8. Board leadership goes out of its way to make sure that all members have the same information on important issues.
9. I read through the board's policies, procedures, and employee contracts.
10. Board has discussions about the effectiveness of its performance.



# 3. Interpersonal Competency

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1. Board's split decisions do not result in a split board.
2. Board members are able to hold confidential items in confidence.
3. Board president and superintendent confer so that differences of opinion are identified.
4. Board members are able to speak their minds without fear of being ostracized.
5. I have discussed with fellow members common interests we share outside the boardroom.

# Interpersonal Competency cont'd

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6. Once a decision is made, the board works together to see that it is accepted and carried out.
7. At our board meetings, there is at least as much dialogue among members as there is among members and staff.
8. Board has adopted some explicit goals for itself, distinct from district goals.
9. Board provides biographical information that helps members get to know one another better.
10. Board handles conflict openly and constructively.



## 4. Analytical Competency

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1. I have been in board meetings where subtleties of issues dealt with escaped the board.
2. Board explicitly examines the “downside” or possible pitfalls of any important decision it is about to make.
3. Board questions administrative proposals, requiring the superintendent to defend or reconsider his/her recommendations.
4. Board is attentive to how it reaches conclusions.
5. Decisions of the board on one issue tend to influence how it handles other issues.

# Analytical Competency cont'd

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6. When faced with an important issue, the board often “brainstorms,” generating a list of creative approaches or solutions to the problem.
7. Board seeks outside assistance from consultants or other districts when considering its work.
8. Board does not present new issues of a complex nature for immediate action.
9. Before reaching a decision on important issues, board requests input from students or staff likely to be affected by the decision.
10. Board handles issues that are ambiguous and complicated by appointing committees to conduct in-depth research.



# 5. Political Competency

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1. Board shows an awareness of the impact its decisions will have on the community.
2. Board encourages the public to attend board meetings.
3. Board actively cooperates with the news media to spread information about schools programs.
4. Board has formed ad hoc committees/task forces that include staff and community representatives as well as board members.
5. Board offers committees referenced in #4 opportunities to report at meetings.



# Political Competency cont'd

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6. Board and its members maintain channels of communication with key community leaders.
7. If the board thinks a group of constituents is likely to disagree with an action it's considering, it makes sure to learn how the public feels before rendering the decision.
8. Board has adopted a policy on parent and public relations/involvement, which it references and reviews.
9. Board withstands the pressure of special interest groups.
10. Board is actively involved in state and federal education legislation. Board is actively involved in state and federal education legislation.

## 6. Strategic Competency

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1. Board devotes more time to putting out fires than it devotes to preparing for the future.
2. Board sets clear organizational priorities for the year ahead.
3. At least once a year, board asks the superintendent to articulate his/her vision for the school district's future and offer strategies to realize that vision
4. Board discusses where the school district will be five years from now.
5. Within the past year, board has reviewed school district strategies for attaining long-term goals.

# Strategic Competency cont'd

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6. I have been at board meetings where discussion focused on identifying or overcoming school district weaknesses.
7. Board makes explicit use of long-term priorities of the school district in dealing with current issues.
8. Board compares reports on schools' progress with the district's long-term goals.
9. Board has a procedure in place for conducting superintendent evaluations.
10. Board is periodically advised of availability of outside funds, such as state and federal grants, special programs, community resources, research programs and special construction funds.

# Dealing with Board Member Misconduct

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- Communication
- School Attorney
- Insist on strict adherence to rules of order to prevent board member from hijacking meeting
- Censure: Board may vote to publicly censure member for misconduct
- Removal as Officer– Board may be able to use its rules to strip an officer position.

# Dealing with Board Member Misconduct

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- Removal From Board– Board has no independent authority to remove member from board unless:
  - § 22-2-14
    - B) The office of any member of a local school board, if the member misses four consecutive regular meetings, may be declared vacant by a majority vote of the remaining members of the local school board.
    - C. The office of any member of a local school board, if the member misses six consecutive regular meetings, shall be vacant.

# Dealing with Board Member Misconduct— Writ of Quo Warranto

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NMSA 1978 § 44-3-4

An action may be brought by the attorney general or district attorney in the name of the state, upon his information or upon the complaint of any private person, against the parties offending in the following cases:

A. when any person shall usurp, intrude into or unlawfully hold or exercise any public office...;

or,

B. when any public officer, ..., shall have done or suffered an act which, by the provisions of law, shall work a forfeiture of his office; or,....

The district attorneys in their respective judicial districts shall exercise the same power and right given by this section to the attorney general in cases which may be limited in their operation to the said district.

**When the attorney general or district attorney refuses to act, or when the office usurped pertains to a ... school district, such action may be brought in the name of the state by a private person on his own complaint.**

- Misuse of public funds held to be proper case for Quo Warranto removal from office.  
State ex rel. Martinez v. Padilla, 1980-NMSC-064, 94 N.M. 431, 433, 612 P.2d 223, 225



# LOCAL SCHOOL BOARD MEMBER RECALL

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Source of Power to Recall:

Article XII, Section 14, N.M. Constitution  
(Copy on CD)

Procedure for Recall:

The Local School Board Member Recall Act,  
NMSA 1978 Sections 22-7-1 to 22-7-16



# LOCAL SCHOOL BOARD MEMBER RECALL

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- Section 22-7-4: “Any elected member of the local school board of any school district may be recalled as provided in the Local School Board Member Recall Act.”
- Grounds for seeking recall: Specific charges which constitute misfeasance in office, malfeasance in office or violation of the Oath of Office. See Article XII, Section 14 and Section 22-7-8C.





# LOCAL SCHOOL BOARD MEMBER RECALL

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Under New Mexico law, recall of local school board member is for cause, not at will, and “the standards for justifying it must be sufficiently limited to avoid employing recall as a means of harassment or for purely political or personal purposes.”

CAPS V. Bd Members, 113 NM at 731



# LOCAL SCHOOL BOARD MEMBER RECALL

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## RECALL PROCEDURE – Special Elections (Continued):

- ❑ If recall succeeds, vacancy filled as provided in Section 22-5-9. (Recalled member barred from appointment for remainder of term of office for which he was elected.)

# CONTACT INFORMATION

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- **Andrew M. Sanchez**

- Cuddy & McCarthy, LLP  
[asanchez@cuddymccarthy.com](mailto:asanchez@cuddymccarthy.com)  
505-888-1335

7770 Jefferson N.E., Suite 102  
Albuquerque, New Mexico 87109



**CUDDY & MCCARTHY, LLP**  
*Attorneys at Law*