

**BOARD MEMBER
ADVOCACY:
EFFECTIVE, ETHICAL, LEGAL**

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Introduction

- ❑ Advocacy and equity in education is best achieved through diverse representation on the dais. This lively panel of attorneys will explore advocacy and equity issues ranging from payment of per diem for board service to ways in which board members can impact change, to tips for dealing with conflicting missions and board advocacy that goes beyond ethical or legal bounds.



What is the history of school boards in the United States?

- ❑ According to NSBA, "local democratic control of public education was a strongly rooted tradition in our country long before it became an independent nation. In 1647, the Massachusetts Bay Colony passed a law requiring towns to establish and maintain schools."
- ❑ "These early schools were administered by the citizens through their town meetings. As school matters became more complex, control was given to the citizens' elected representatives, the selectmen, and later to committees of townspeople who hired the schoolmaster, provided schoolhouses, and attended to other school-related matters."
- ❑ "In 1826 Massachusetts formally established the system of school committees by requiring each town to elect a separate school committee to have 'the general charge and superintendence' of all the public schools of the town. Over time, this model spread to the rest of the nation, insuring that local citizens would have a direct voice in the development and governance of their public schools."

<https://www.nsba.org/about-us/frequently-asked-questions>



SLIDO

- Using your personal technology device
- Login to www.slido.com
- Enter event code: WG03
- Answer this: What do each of these words mean to you?
 - Democracy?
 - Advocacy?
 - Political?
 - Nonpartisan?



Do effective school boards make a difference?

- According to NSBA, recent research shows that school boards have a significant impact on student achievement in their districts.

<https://www.nsba.org/about-us/frequently-asked-questions>



What makes a school board effective?

- According to NSBA, effective school boards:
 - Commit to a vision of high expectations for student achievement.
 - Have strong shared beliefs and values about students' ability to learn and of the system and its ability to teach all children at high levels.
 - Are accountability driven.
 - Have a collaborative relationship with staff and the community.
 - Are data-savvy.
 - Align and sustain resources to meet district goals.
 - Lead as a united team with the superintendent.
 - Take part in team development and training.

<https://www.nsba.org/about-us/frequently-asked-questions>



Can I afford to serve on the Board?

- The board should be representative of the community it serves.
- Board service should not be reserved for those with considerable financial means.
- As provided in NMSA 1978, § 22-5-5, Board members cannot be compensated for their service:
 - A. The members of a local school board shall serve without compensation.
 - B. No member of a local school board shall be employed in any capacity by a school district governed by that local school board during the term of office for which the member was elected or appointed.



SLIDO

- Using your personal technology device
- Login to www.slido.com
- Enter event code: WG03
- Answer this:
 - Can you get per diem for attending Board meetings?
 - Do you currently get per paid diem for attending Board meetings?



Per Diem Reimbursement

- Board members can be reimbursed (per diem or actual costs) within legal limits.
- State law allows per diem reimbursement "for each board or committee meeting attended." NMSA 1978, § 10-8-4(A)(1).
- Board members may elect to receive either:
 - (i) \$95.00 per meeting day for attending each board or committee meeting day; or
 - (ii) per diem rates in accordance with subsection B of this Section provided that the local governing body has not established a lesser rate. 2.42.2.8 (C)(1)(B) NMAC.
- State law also allows per diem "for each day spent in discharge of official duties for travel within the state but away from the officer's home." NMSA 1978, § 10-8-4(A)(2). The per diem is prorated and the calculation is strictly regulated.



Actual Reimbursement

- State law allows actual reimbursement for travel on official business in lieu of per diem. There are caps on meals (\$30.00 in-state, \$45.00 out-of-state).
- State law also allows reimbursement for other costs such as mileage, air fare, baggage fees, parking fees, taxi.



How do Board's Advocate?

- Adopt Policy
- Adopt Resolutions including in Support of or Opposition to Legislation
- Establish Committees including Advisory Committees to study issues
- Enter into Contracts, MOUs and MOAs
- Issue Press Releases
- Hear Grievances
- Provide Due Process
 - Student Discipline Hearing
 - Employee Discharge or Termination Hearing



How can the Board engage the community?

- According to NSBA, school board members engage community members in many informal ways:
 - they talk with parents, the media, and local organizations
 - they post information on school websites
 - they bring citizen groups together on a variety of issues
- School board members also engage the public in more formal ways:
 - study circles
 - focus groups
 - town meetings
 - polling
- School boards encourage community members to attend open school board meetings, and they establish procedures for people who wish to speak or ask questions during the public comment period.

<https://www.nsba.org/about-us/frequently-asked-questions>



How do Board's ensure advocacy is ethical and legal?

- Board Member Ethics
- I will...
 - Avoid being placed in a position of conflict of interest and refrain from using my board position for personal or partisan gain.
 - 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.



How do Board's ensure their advocacy is ethical and legal?

- By staying in their lane.
- What is the Board's lane?
 - Develop educational policies for the district; review annually; revise as needed. NMSA 1978, § 22-5-4(A); 6.29.1.9(A)(6) NMAC.
 - Employ and evaluate the superintendent. NMSA 1978, § 22-5-4(B); 6.29.1.9(A)(2) NMAC.
 - Have the capacity to sue and be sued. NMSA 1978, § 22-5-4(E).
 - Provide for the repair of and maintain all property belonging to the school district. NMSA 1978, § 22-5-4(H).
 - Review and approve the annual school district budget. NMSA 1978, § 22-5-4(C).



How do Board's ensure advocacy is ethical and legal?

- The Board's lane (continued)
 - Except for expenditures for salaries, contract for the expenditure of money according to the provisions of the Procurement Code. NMSA 1978, § 22-5-4(J).
 - Provide oversight of revenue and expenditures within the district budget. 6.29.1.9(A)(11) NMAC.
 - Ensure that district funds are appropriately managed and disbursed in accordance with laws, regulations and terms of grants. 6.29.1.9(A)(9) NMAC.
 - Delegate administrative and supervisory functions to the superintendent. 6.29.1.9(A)(4) NMAC.
 - Refrain from involvement in delegated administrative functions. 6.29.1.9(A)(5) NMAC.



Ripped from the Headlines—
Albuquerque Journal (7/20/18)

- ❑ **New Mexico loses education lawsuit**
- ❑ "New Mexico is violating the constitutional rights of at-risk students by failing to provide them with a sufficient education, a state judge ruled Friday in a blistering, landmark decision."
- ❑ "This consolidated lawsuit, filed by the New Mexico Center on Law and Poverty and the Mexican American Legal Defense and Education Fund, argued that the state's schools are inadequately funded."
- ❑ Plaintiffs included Gallup-McKinley County School District, Santa Fe Public School Board of Education, Moriarty-Edgewood School District Board of Education, Rio Rancho Public School District Board of Education, Lake Arthur Municipal School's Board of Education, Cuba Independent School's Board of Education.



Ripped from the Headlines—
Albuquerque Journal (7/20/18)

- ❑ **New Mexico loses education lawsuit**
- ❑ Did the plaintiff school boards engage in advocacy?
- ❑ Was it political? Was it partisan or nonpartisan?
- ❑ Did the plaintiff school boards act within their authority?



Ripped from the Headlines—
Chicago's Daily Herald (11/21/18)

- ❑ **District 220 criticized over vote on arming teachers**
- ❑ "Local members of a national group concerned about gun violence criticized Barrington Area Unit District 220 board members this week for supporting a proposal that would allow Illinois school districts to have armed teachers."
- ❑ "District 220 was among 179 districts to back a resolution before the Illinois Association of School Boards last week supporting a possible state law permitting teachers to carry firearms on campus. Two hundred and three districts opposed the resolution, leading to its defeat."



Ripped from the Headlines—
Chicago's Daily Herald (11/21/18)

- District 220 criticized over vote on arming teachers**
- Did the local school board engage in advocacy?
- Was it political? Was it partisan or nonpartisan?
- Were there legal limitations on what the local school board wanted to accomplish?
- Did the local school board act within its authority?



Ripped from the Headlines—Fox 5
(11/21/18)

- School principal issues apology after students say Pledge of Allegiance in Spanish**
- "A Fairfax County high school principal is apologizing after a plan to have students say the Pledge of Allegiance in different languages was not well received."
- "They had a native Spanish speaker read it Tuesday. End of the school day Tuesday afternoon, the principal comes on and said, 'He was sorry.' He was sorry and didn't want it to be offensive," said [a parent].
- "She says the school ended the program."



Ripped from the Headlines—Fox 5
(11/21/18)

- School principal issues apology after students say Pledge of Allegiance in Spanish**
- Is there a potential role for the school board in this situation?
- If the board wishes to insert itself into this situation, what would be considered inbounds and out of bounds in New Mexico?



Ripped from the Headlines—The Winchester Star (11/28/18)

- ❑ **City School Board approves expansion of dual-language program**
- ❑ "The School Board unanimously approved Monday night to expand the school system's fairly new dual-language program beginning August 2019."
- ❑ "The program will cost an extra \$20,000 per integrated classroom, and the funding will come from the textbook budget."



Ripped from the Headlines—The Winchester Star (11/28/18)

- ❑ **City School Board approves expansion of dual-language program**
- ❑ Is it proper for the Board to use the budget process to further its advocacy agenda?



Ripped from the Headlines—Belleville News (11/21/18)

- ❑ **O'Fallon school board rewrites its rules for transgender students**
- ❑ "The largest elementary school district in O'Fallon decided on Tuesday night to rewrite its rules for transgender students, allowing them to wear their preferred name on their school IDs."
- ❑ "Before the board met Tuesday, two state groups had suggested it revise the policy, with one saying it fell in 'unsettled areas of the law' and another saying it was 'pretty clearly in violation of three laws.'"
- ❑ "Board members have said their goal with the policy was to give school administrators directions to follow if another transgender student sought accommodations in the future, taking parents' concerns and state and federal laws into account."



Ripped from the Headlines—Belleville News (11/21/18)

- ❑ **O'Fallon school board rewrites its rules for transgender students**
- ❑ How should school boards approach "unsettled areas of the law."
- ❑ What is the role of the board's legal counsel in assisting the Board with its advocacy agenda?



Ripped from the Headlines—Marin Independent Journal (11/21/18)

- ❑ **Miwok tribe attests to Dixie name amid school district controversy**
- ❑ "The controversy over a proposed name change for the Dixie School District intensified in recent days with a revelation from a Miwok tribe member that her family name is Dixie."
- ❑ The accepted story has been that the original schoolhouse was named "Dixie on a dare from [the pioneer builder's] Confederacy-friendly construction crew when he built the one-room schoolhouse in 1864."
- ❑ "[N]ame change proponents contend that, no matter what the history books or Miwok tribe members say, Dixie is a racial slur to current African-American residents."
- ❑ "Name change proponents vow to file petitions for new names...when the school board will also welcome two newly elected members. The petitions could force a vote on the issue from the new board."



Ripped from the Headlines—Marin Independent Journal (11/21/18)

- ❑ **Miwok tribe attests to Dixie name amid school district controversy**
- ❑ What is the role of the community on divisive issues?
- ❑ What are some do's and don'ts for school boards when dealing with a divided community?



Ripped from the Headlines—Courier Express (12/2/18)

- Education Roundup--PFT president "optimistic" about new school board**
- "Philadelphia Federation of Teachers President Jerry Jordan called a meeting with the new Board of Education members 'a momentous occasion' after the event was held with City Council on Tuesday morning."
- "[Tuesday's] hearing was marked by a much more optimistic, less confrontational tone than years past," Jordan said in a statement. "I credit much of this change in atmosphere to a board that has clearly taken the time to listen to Philly's educators, parents and students to help them gain an understanding of the many challenges faced by our school district. This is a welcome change from the dismissive attitude we endured for 17 years under the state-controlled School Reform Commission."



Ripped from the Headlines—Courier Express (12/2/18)

- Education Roundup--PFT president "optimistic" about new school board**
- In New Mexico, what is the school board's role with respect to the union?



How can I influence an Advocacy Agenda on my Board?

- Board Member Ethics
- I will...
 - Attend all scheduled board meetings insofar as possible.
 - 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.



NSBA Resource Library

- Fostering Safer Schools: A Legal Guide for School Board Members on School Safety* (NSBA 2018)
- Navigating Student Walkouts and Mass Protests* (NSBA 2018)
- Coercion, Conscience, and the First Amendment: A Legal Guide for Public Schools on the Regulation of Student and Employee Speech* (NSBA 2018)
- Lifting the Lamp Beside the Schoolhouse Door: A Legal Guide to Serving Undocumented Students in Public Schools* (NSBA 2017)
- Transgender Students in Schools: Frequently Asked Questions and Answers for Public School Boards and Staff* (NSBA 2016)



Do the Board's actions align with their Advocacy Agenda?

- School Boards are charged with developing educational policies for the district. NMSA 1978, § 22-5-4(A).
- School Boards employ the superintendent. NMSA 1978, § 22-5-4(B).
- School Boards review and approve the annual school district budget. NMSA 1978, § 22-5-4(C).
- Except for expenditures for salaries, School Boards contract for the expenditure of money according to the provisions of the Procurement Code. NMSA 1978, § 22-5-4(J).
- School Boards are responsible for oversight of revenue and expenditures within the district budget. 6.29.1.9(A)(11).



What if I am in the minority with respect to my Advocacy Agenda?

- Board Member Ethics
- I will...
 - 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.



How should Boards respond to advocacy that goes beyond ethical or legal bounds?

- Adopt Board Norms
- Consider Public Censure
- Consider Making a Report to an Appropriate Agency
 - PED
 - State Auditor
 - Attorney General
 - Local Law Enforcement



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