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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 and may be cited as the "Local Election Act".

All board members elected at regular elections in November 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 Boardsmanship*

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.