

BOARD PRESIDENT 101

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Introduction

- ❑ The Board President is key to the effective preparation and conduct of school board meetings and, ultimately, to serving district students. This session will focus on issues that commonly arise for Board Presidents, including setting an inclusive and lawful agenda, handling typical meeting motions, managing public comment, and ensuring the proper keeping of minutes. Experienced Board Attorney, Elena M. Gallegos, and Former Board President, Linda Trujillo, will facilitate an interactive discussion to help you understand and improve your leadership skills.



1. I Am Interested In Becoming Board President: How And When?

- ☐ “From among its members, a local school board shall elect a president, a vice-president and a secretary.” NMSA 1978, § 22-5-7(A).
- ☐ When?
 - ☐ First Regular Meeting in March?
 - ☐ First Regular Meeting in January?
 - ☐ Other.



2. Job Description

- ❑ Where do I find my job description?
 - a. Board Policy?
 - b. The Law?
 - c. Robert's Rules of Order?
 - d. All of the above?



Typical Duties

- ☐ Preside over and maintain order at meetings;
- ☐ Conduct meetings in accordance with New Mexico law, Secretary of Public Education rules and policies of the District;
- ☐ Call special or emergency meetings;
- ☐ Participate in agenda setting; and
- ☐ Perform other duties as assigned by the Board or required by law.



What Is Not Included In The Job Description?

- ❑ Undelegated authority outside of a board meeting
- ❑ See NMSBA Board Member Code of 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.”
 - ❑ “I will...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.”

What Are Some Other Duties Which May Be Assigned?

□ Let's Brainstorm



3. Agenda Setting

- ☐ Who does it?
 - a. Superintendent
 - b. Board President
 - c. Driven by a Master Calendar
 - d. All of the above
 - e. Other



Policy

❑ NMSBA Policy

- ❑ The Superintendent will prepare Board meeting agendas in consultation with the Board President.
- ❑ The Superintendent or Board members may place items on the agenda. Items of business may be suggested by Board members, staff, administrations, or patrons of the district. Any Board member desiring to place an item on the agenda will notify the Superintendent of the particular item of business at least five (5) central office working days before the meeting agenda is finalized (at least eight (8) days prior to the meeting). Inclusion on the next agenda will depend upon the amount of time necessary to provide information to the Board for deliberation and decision making. The Superintendent will make this decision in consultation with the Board President.

Let's Brainstorm.

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Agenda Setting Parameters: Content and Timeline

- ❑ “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.” NMSA 1978 § 10 - 15-1 (F).
- ❑ “Except in the case of an emergency or in the case of a public body that ordinarily meets more frequently than once per week, at least seventy-two (72) hours prior to the meeting, the agenda shall be available to the public and posted on the public body’s web site, if one is maintained.” NMSA 1978 § 10 -15-1 (F).
- ❑ “The 72-hour requirement applies regardless of whether it includes a Saturday, Sunday or holiday.” OMA Guide, page 16.

Agenda Setting Parameters: Specify

- ❑ “A public body should avoid describing agenda items in general, broad or vague terms, which might be interpreted as an attempt to mislead the public about the business the public body intends to transact. This is an especially important consideration when a public body intends to act on an agenda item.” OMA Guide, page 17.
- ❑ “The requirement for a list of specific items of business ensures that interested members of the public are given reasonable notice about the topics a public body plans on discussing or addressing at a meeting.” OMA Guide, page 17.



Once the Agenda has been set...

- ☐ How far in advance do Board members want to receive information related to the agenda?
- ☐ What type of information does the Board expect to have in advance in order to be able to make a decision?



4. Decorum and Structure

- ☐ Call to Order
- ☐ Roll Call
- ☐ The Pledge of Allegiance
 - ☐ English only?
 - ☐ English and Spanish?
 - ☐ Salute to the New Mexico Flag?
- ☐ Adoption of agenda
 - ☐ Reorder an item?
 - ☐ Delete an item?
 - ☐ Add an item?
- ☐ Approval of consent agenda items



Decorum and Structure (continued)

- ❑ Committee updates
 - ❑ Finance Committee
 - ❑ Statutorily required
 - ❑ One of its purposes is to make recommendations to the Board
 - ❑ Audit Committee
 - ❑ Statutorily required
 - ❑ One of its purposes is to track and report progress on the status of the most recent audit findings and advise the local school board on policy changes needed to address audit findings
 - ❑ Another purpose is to provide other advice and assistance as requested by the local school board



Decorum and Structure (continued)

- ❑ Presentation and approval of minutes.
 - ❑ The board, commission or other policymaking body shall keep written minutes of all its meetings.
 - ❑ The minutes shall include at a minimum:
 - ❑ the date, time and place of the meeting,
 - ❑ the names of members in attendance and those absent,
 - ❑ the substance of the proposals considered, and
 - ❑ a record of any decisions and votes taken that show how each member voted.
 - ❑ Draft minutes shall be approved, amended or disapproved at the next meeting where a quorum is present and are not official until approved.

See NMSA 1978, §10-15-1(G).



Decorum and Structure (continued)

- ☐ Public input
- ☐ Reports
 - ☐ What type of reports does the Board want to receive?
 - ☐ What type of format?
- ☐ Old Business
- ☐ New Business
- ☐ Executive Session
 - ☐ Or as a separate standalone?
 - ☐ What is the difference?
- ☐ Consideration of Action Regarding Executive Session Topics (must be specific!)
- ☐ Adjournment



Other Items to Consider as Part of Structure

- ❑ Designating action items
- ❑ Giving a report on executive session

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 public body under Subsection G of this section as part of the minutes.

5. Rules of Order

- ❑ Whose rules of order?
 - a. Robert's rules?
 - b. Our current President's rules?
 - c. Our Superintendent's rules?
 - d. Who is Robert?



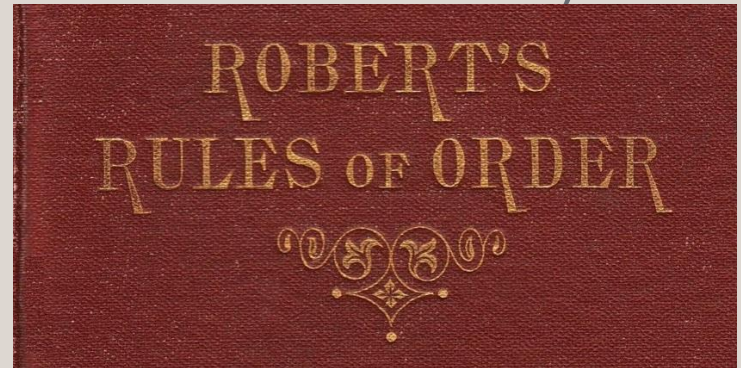
NMSBA Policy

- ❑ The Board prescribes rules for its meetings as follows:
 - ❑ It shall hold a regular meeting at least once each month during the year and may hold other meetings as often as called.
 - ❑ Each action item shall require a motion, and all motions shall require seconding.
 - ❑ The President may make or second motions, and may vote on all motions.
 - ❑ A motion to adjourn is in order at any time. Such a motion shall require a second and a majority vote. No discussion is in order.
 - ❑ A motion to table is in order at any time. Such a motion requires a second and is limited to being considered only once on any given agenda item. No discussion is in order.
 - ❑ Rules of order may be subject to suspension only upon a majority vote of the members of the Board present at a meeting.
 - ❑ In matters not covered by these rules and those referenced below the President may consult a manual on parliamentary procedure for small organizations.



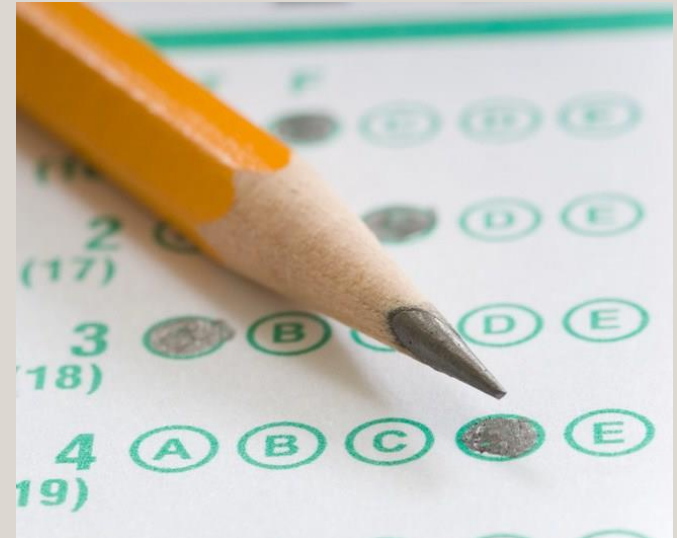
Hey Robert, What Do You Think?

- ☐ Main Motion
- ☐ Subsidiary Motions (relating to the main motion under consideration)
 - ☐ Postpone indefinitely
 - ☐ Amend
 - ☐ Amend the amendment
 - ☐ Commit or refer
 - ☐ Postpone definitely or postpone to a certain time
 - ☐ Limit or extend limits of debate
 - ☐ Previous question/or call the question
 - ☐ Lay on the table



6. Managing Public Comment

- ❑ Public comment a right?
 - a. Public comment is a right guaranteed by the constitution?
 - b. Public comment is guaranteed by OMA?
 - c. Public comment is guaranteed other laws?
 - d. All of the above
 - e. None of the above



Open Meetings Act

- ❑ OMA provides that “all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings.” NMSA 1978 § 10-15-1(A) (1999).
- ❑ Except for those portions of a meeting that are closed under OMA, a Board meeting is a limited public forum for the receipt of information. *Mesa v. White*, 197 F.3d 1041 (10th Cir. 1999).



Restrictions on Speech

❑ In a limited public forum, a Board may restrict speech if the restrictions are:

1. Viewpoint neutral, and
2. Reasonable in light of the purpose served by meetings of the Board.

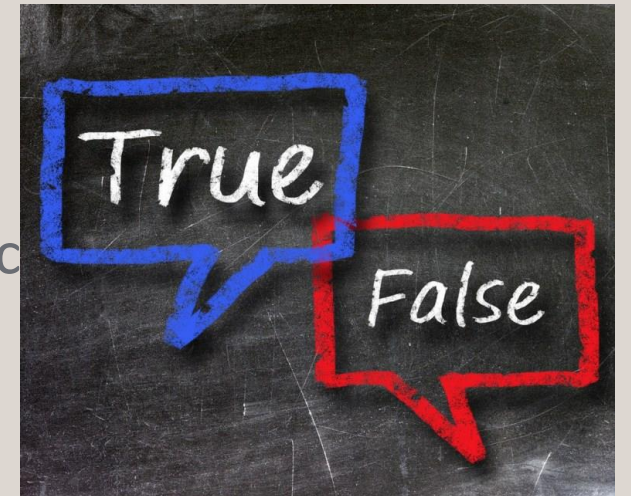
See Shero v. City of Grove, Okla., 510 F.3d 1196 (10th Cir. 2007).



7. Committees

☐ True or False

- a. The Board President appoints committee members
- b. All committee meetings are subject to OMA
- c. Only audit and finance committee meetings are subject to OMA
- d. Committee meetings are never subject to OMA



Finance Committee

- ❑ Each local school board shall appoint at least two members of the board as a finance subcommittee to assist the board in carrying out its budget and finance duties. See NMSA 1978, § 22-8-12.3(B).
- ❑ The finance subcommittee shall:
 - (1) make recommendations to the board in the following areas:
 - (1) financial planning, including reviews of the district's revenue and expenditure projections;
 - (2) Review of financial statements and periodic monitoring of revenues and expenses;
 - (3) annual budget preparation and oversight; and
 - (4) procurement; and
 - (2) serve as an external monitoring committee on budget and other financial matters.

See NMSA 1978, § 22-8-12.3(C).



Audit Committee

- ❑ Each local school board shall appoint an audit committee that consists of:
 - (1) Two board members,
 - (2) One volunteer member who is a parent of a student attending that school district; and
 - (3) One volunteer member who has experience in accounting or financial matters.
- ❑ The superintendent and the district business manager shall serve as ex-officio members.
- ❑ A local school board with more than five members may appoint more than two board members to its audit committee.

See NMSA 1978, § 22-8-12.3(D).

Role of Audit Committee

- (1) Evaluate the request for proposal for annual financial audit services;
- (2) Recommend the selection of the financial auditor;
- (3) Attend the entrance and exit conferences for annual and special audits;
- (4) Meet with external financial auditors at least monthly after audit field work begins until the conclusion of the audit;
- (5) Be accessible to the external financial auditors as requested to facilitate communication with the board and the superintendent;
- (6) Track and report progress on the status of the most recent audit findings and advise the local school board on policy changes needed to address audit findings;
- (7) Provide other advice and assistance as requested by the local school board; and
- (8) Be subject to the same requirements regarding the confidentiality of audit information as those imposed upon the local school board by the Audit Act¹ and rules of the state auditor.

See NMSA 1978, § 22-8-12.3(D).



8. Contacting Legal Counsel

- ☐ Who can contact?
- ☐ How is advice communicated?
- ☐ To whom is advice communicated?
- ☐ What happens if there is a dispute between the Board and Superintendent?
- ☐ What happens if there is a dispute between the rest of the Board and the Board President/Superintendent?



OMA challenges

- ❑ OMA exception for going into executive session is narrow: “meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant...” NMSA 10-15-1 (H)(7).
- ❑ What alternatives?
 - ❑ “There is no exception allowing a public body to rely generally on the attorney client privilege to close a meeting. Aside from discussions with its attorney that are otherwise excepted from the Act, the public body will either have to hold discussions with its attorney in an open meeting or rely on other means to protect its communications with its attorney that do not violate the Act. For example, the attorney might communicate with each member of the public body individually through one-on-one conversations or letters. Keep in mind, however, that if the attorney’s advice is discussed among a quorum of the public body’s members—in person, by e-mail, by telephone or otherwise-- the discussion must be conducted in accordance with the Act, including the requirements for a public meeting, unless it falls within one of the Act’s exceptions.” OMA Guide, page 29.

9. Addressing Board Member Misbehavior

- ☐ Within a Meeting
 - ☐ Call for Orders of the Day
 - ☐ Raise a Question of Privilege
 - ☐ Tap the gavel
 - ☐ Adopting a Board Norm
 - ☐ Censure
- ☐ Outside of a Meeting (without violating OMA)
 - ☐ Seeking a legal opinion to be shared with the entire board
 - ☐ One-on-one conversation
 - ☐ Other



10. Other Functions

- ☐ Mentoring?
- ☐ Advising?
- ☐ Supervisory type functions?
- ☐ Signing documents (certificates, contracts, other legal documents)



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The information in this presentation was prepared by Walsh Gallegos Treviño Russo & Kyle P.C. It is intended to be used for general information only and is not to be considered specific legal advice. If specific legal advice is sought, consult an attorney.

