

# Board Member Training

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# Overview

- Roles and Responsibilities
- Closed Session
- Open Session
- Public Records
- Email Communication
- Grievance Process
- Employee and Parent Communications

# Roles and Responsibilities

- Governance is the Board's Job
- Day to day operations is the Managing Director's Job
- Only person board evaluates is the Managing Director

# What Does a Board Do?

- The school's **academic program is successful**, measured by both internal and external assessments.
- The school's **operational programs are faithful to the terms of its charter**, including compliance with statutory and regulatory requirements.
- The school is a **viable organization**, which includes, among other things, that it is **financially solvent and has a competent professional staff**.



# Forest Not Trees

- **BOARD FOCUSES ON BIG PICTURE, NOT DAY TO DAY.**
- **Know where you are and where your are going.**
- **Use board reports and board engagement:**
  - Your Director should be providing you with a report for every board meeting that let you know if objectives are being met.
  - Academics: How well is academics going? Are there problems on the horizon?
  - Compliance: Is the school in compliance legally? Any issues that have arisen?
  - Financials: At every board meeting, board should get financials so that the board knows how well the school is operating.

# Board and Managing Director

## Managing Director/Head of School:

- Hired by the Board through a clear, thoughtful hiring process
- Has a Contract
- Subject to annual review process by the Board
- Only school employee evaluated and accountable to the board

## Head of School responsibilities:

- Charged with day to day operation of the school
- Hires all employees subject to Board sign off
- Provides regular communication to the board regarding school goals, academics, operations and finances

# One Voice; Equal Partners

- **Board speaks in one voice or not at all.**
- Every board member must have equal access to information.
- No board member should have more information.
  - All board members need to be operating from the same playbook, with the same information.
  - If board member has more information, must share with the whole board.
- No board member has more power than another.

# Open Session Laws Apply

- **N.C. Open Meetings Law** – N.C.G.S. § 143-318.9, *et seq.* applies to NC Charter Schools.
- Behave and communicate as though meeting will be recorded and disseminated to the public and the press.
- Be aware that discussions can have legal implications.
- Decisions must be made during open session even if discussion is permitted to be held in closed session.
- Public Comment
  - Have a process
  - Listen

# Notice and Types of Meetings

## **For Regular meetings**

- Two Forms of Written notice of time and place of the official meeting
  - (1) on bulletin board; and
  - (2) on website
  - The schedule of meetings must be posted

## **For Special meetings\***

- Three Forms of Written notice of time and place of the official meeting
  - (1) on bulletin board;
  - (2) on website; and
  - (3) to any media with standing request.
  - 48 hours' notice; must state purpose of meeting. If 48 hours is over a weekend must have notice in a place public can see during that 48 hours

## **For Emergency Meetings\***

- (1) to any media with standing request.
- only for “generally unexpected circumstances” that “require immediate consideration”

**\* Except for regular meetings, the meeting notice must state purpose of the meeting and can only discuss that stated purpose.**

# Voting

- Voting **must** be in open session (only a couple of exceptions)
- No secret voting
- The number of votes required for a motion to pass depends on your bylaws, i.e., majority, supermajority
- Minutes must reflect the voting

# Closed Session Is Limited

## Board Meets Open Unless:

### **Exceptions listed in N.C.G.S. §143-318.11**

- Discuss records deemed confidential by statute (student matters)
- Consultation with an attorney
- School location or expansion
- Real estate purchase
- Negotiation or bargaining positions regarding employment contracts
- Certain personnel matters (must be specific not general)
- Investigations (Criminal)
- School violence response plans
- Anti-terrorism plans

# Personnel Exception

Closed session permitted for three types of personal related matters:

1. Consider/establish/give instructions regarding board's position regarding compensation and terms of employment contract.
2. Consider qualifications, competence, performance, character, fitness, or conditions of initial appointment of an employee.
3. Hearing or investigation of a complaint, charge or grievance by or against an employee.



# Board's Role in Hiring Decision

- Board's role is to confirm all candidates recommended for hire:
  - Went through hiring process and vetted
  - Qualified
  - Position is needed
  - Sufficient money in the budget

# Personnel Discussion Open Session

- General discussion of personnel policies must occur in open session.
- Discussion of hiring practices are open session discussion.
- Vote to hire recommended candidates in open session.

# Public Records Act Applies

- **N.C. Public Records Act** – N.C.G.S. §132-1, *et seq.*
  - ***Personnel Records*** – N.C.G.S. §115C-319
  - ***Students “Official Records”*** – N.C.G.S. §§ 115C-402 and 115C-114
- Requires that schools preserve and permit inspection of public records.
- **Public Record**
  - Any document, regardless of form, made or received in connection with public business.
  - Includes: e-mail, tapes, pictures, computer files

# Exception to Public Records

- **Attorney-client communications** – related to claims or lawsuits involving the school; NOTE: this expires after 3 years.
  - Attorney bills?
- **Trial preparation materials** – so long as the trial or proceeding is ongoing; NOTE: after that it is a public record.
- **Closed session minutes** – expires once confidentiality is no longer necessary to fulfill the purpose for keeping the meeting closed.
- **Emergency response plans / security plans**
- **Social Security Numbers – Personally Identifying Information on Websites**
  - You would redact this information
- **Volunteer records**
- **Personnel Records, with certain exceptions (NC law)**
- **Student “Educational Records” (FERPA)**
- **Student “Official Record” (NC law)**

# How to Produce Documents Containing Public and Non-Public Information?

## **What if the records contains public and confidential information?**

If the record contains confidential information, but is otherwise a public record, it is the school's responsibility to redact the information and provide the redacted record for public inspection.

- This can be costly

# Some Personnel Information Subject to Public Records Request

**Must keep list of the following information, which is subject to public inspection:**

- Employee Name
- Age
- Dates of employment
- Terms of contract
- Position and title
- Salary, benefits, bonuses, pay, and other forms of comp
- Dates, description, and reasons for promotions, dismissals, suspensions, or disciplinary action

# Be Careful With Email Communication

- Limit email communication
- Reply all=board meeting (if substantive)
- Emails are public records unless subject to an exception, i.e., attorney-client communication or student information.
  - Can be costly to produce in response to a request
- Attorney-client email communications generally must be from attorney to client.

# Understand and Abide by Your Grievance Process

- Every charter is required to have a grievance process of employees and parents/students.
- Not all complaints constitute a grievance that is reviewable by the board.
- Your policy should:
  - Define what a grievance is.
  - Provide clear and realistic timelines
  - Set out a clear process



# Grievance Defined

**Definition of a grievance:** a grievance is defined as a formal written complaint by an employee stating that a specific action has violated a **School policy, board policy, or law/regulation.** Complaints that do not raise an alleged violation of School policy, board policy or law/regulation do not raise grievance issue and are not subject to these procedures. In addition, **a grievance does not include: the non-renewal or termination of employment, disagreements on day to day operation issue, employee discipline or employee reviews.** And, a **grievance does not include a complaint of sexual harassment, discrimination or retaliation,** which shall be handled pursuant to the Discrimination, Harassment and Sexual Harassment policy in the Employee Handbook and consistent with state or federal laws.

# Questions?

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