
2012 Annual Convention



School Law Basics for Board Members

Presented by:

***Haley Percell, Attorney
John Stellwagen, Attorney***

November 10, 2012



School Law Basics for Board Members

Presented by:
Haley Percell, Attorney
John Stellwagen, Attorney

Oregon School Boards Association



Origin and Scope of Authority

- Constitutional mandate that schools exist
- Scope of authority under Oregon law





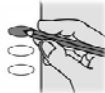
Scope of Authority

- Basic duties and authority
- Delegation of authority



Elections & Qualifications for Board Members

- Eligibility for election
 - ◆ Zones
- Termination of board service
 - ◆ Resignation
 - ◆ Forfeiture by missing meetings
 - ◆ Recall
- What to do with a vacancy?





Board Actions

- Capacity to Act
 - ◆ Must be as a quorum; no *individual* can act for the board unless that authority has been delegated
 - ◆ Public meetings laws
 - **What constitutes a meeting?**
 - **Quorum discussing official business**



Public Meetings Law

The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made.



Public Meetings (cont'd)

- Notice to the Public
 - ◆ Executive session
 - **As general rule everything must be done in public, but there are limited provisions for executive sessions where the public can be excluded**
 - ◆ Public participation?
 - **Not a meeting for the public**



Student Discipline

- Develop policies and guidelines for student conduct
 - ◆ Some laws mandate certain course of conduct (e.g. weapons)
- Involvement in student discipline
 - ◆ Expulsion Hearings
 - **This can be delegated to hearings officers**



Student Related Laws

- Family Educational Rights and Privacy Act (FERPA)
 - ◆ Prohibits disclosure of student's records without parental consent
 - ◆ Directory information





Other Student Related Laws (cont'd)

- Individuals with Disabilities Education Act (IDEA)
 - ◆ Must provide special education services to students to enable them to receive an educational benefit.
 - ◆ Individualized Education Program (IEP)



Other student related laws (cont'd)

- Section 504
 - ◆ Must provide equal access to school services for disabled students.
 - ◆ District will have 504 Handbook and Individual 504 plans



Employment Decisions

- Board must approve collective bargaining agreement ORS 332.075
 - ◆ The Board must hire and fire licensed staff
 - **Classified employees by superintendent**
 - ◆ March 15
 - **Teachers/administrators must be notified by this date of renewal or nonrenewal of their contracts**



Employee Discipline

Board often acts as neutral arbiter for disciplinary issues if there is an appeal of the superintendent's disciplinary decision





Financial Management

- Budget Process
 - ◆ Appoint budget committee
 - ◆ Adopt a budget based on budget committee's recommendation
 - ◆ Abide by the budget or authorize budget changes





Public Records

- What is a Public Record?
 - ◆ Every document regarding District business
- Public Records are open to inspection by anyone
 - ◆ Generally regardless of who or why they are requesting it





Public Records (cont'd)

- Numerous exceptions to public inspection (over 400, specifically)
 - ◆ Generally:
 - Personnel files and employee discipline
 - Student records
 - ◆ Most are conditional exceptions:
 - **Must balance desire to keep confidential with public interest in disclosure**



Ethics

- Prohibits gifts and use of office for financial gain except in limited circumstances
- Requires disclosure of conflicts of interest





Board Member and District Liability

- Basic forms of liability
 - ◆ State Law (Oregon Tort Claims Act)
 - ◆ Constitutional Liability under § 1983
- Immunity
 - ◆ Discretionary immunity for state law
 - ◆ Qualified immunity for § 1983 claims
 - ◆ Legislative



Board Member Liability

- Fines from Oregon Government Ethics Commission
 - ◆ Ethics violations
 - ◆ Executive session violations



Questions?

1-800-578-6722

Haley Percell hpercell@osba.org
John Stellwagen jstellwagen@osba.org
