

School Board

School Board Meeting Procedure 1

Agenda

The School Board President is responsible for focusing the Board meeting agendas on appropriate content.² The Superintendent shall prepare agendas in consultation with the Board President. The President shall designate a portion of the agenda as a consent agenda for those items that usually do not require discussion or explanation before Board action. Upon the request of any Board member, an item will be withdrawn from the consent agenda and placed on the regular agenda for independent consideration.³

Each Board meeting agenda shall contain the general subject matter of any item that will be the subject of final action at the meeting.⁴ Items submitted by Board members to the Superintendent or the President shall be placed on the agenda for an upcoming meeting.⁵ District residents may suggest inclusions for the agenda.⁶ The Board will take final action only on items contained in the posted agenda; items not on the agenda may still be discussed.⁷

The Superintendent shall provide a copy of the agenda, with adequate data and background information, to each Board member at least 48 hours before each meeting, except a meeting held in the event of an emergency.⁸ The meeting agenda shall be posted in accordance with Board policy 2:200, *Types of School Board Meetings*.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State law requires boards to have a policy concerning: (1) the public's right to record meetings (5 ILCS 120/2.05), and (2) if applicable, attendance by video or audio means (5 ILCS 120/7). Boards are not mandated to have a policy on the remaining topics covered in this policy. The following items are matters of local discretion: agenda preparation and contents, process for board members to have items placed on agenda, receipt and handling of residents' requests for agenda inclusions, and order of business.

² Appropriate agenda content includes: establishing board processes, clarifying the district's purpose, delegating authority, defining operating limits, monitoring district progress, and taking legally required board action. See *IASB Foundational Principles of Effective Governance*.

³ To comply with the Open Meetings Act's mandate that minutes contain a "summary of discussion on all matters proposed, deliberated, or decided," a board should include a list of consent items in the agenda.

⁴ 5 ILCS 120/2.02(c) ~~amended by P.A. 97-827 (eff. 1-1-2013)~~. The Ill. Appellate Court held that the Open Meetings Act prohibits a board from voting on a matter at a regular meeting that is not on the pre-meeting published agenda (Rice v. Board of Trustees of Adams County, 762 N.E.2d 1205 (Ill.App.4, 2002)).

⁵ An alternative follows:

Any Board member may submit suggested agenda items to the Board President for his or her consideration.

⁶ See policy 2:230, *Public Participation at School Board Meetings and Petitions to the Board*. In districts governed by a board of school directors, an appointed board official must give a person requesting consideration of a matter by the board a formal written response no later than 60 days after receiving the request. The response must establish a meeting before the board or list the reasons for denying the request (105 ILCS 5/10-6).

Options follow to restrict the addition of new agenda items; the phrases between [] may be used together, separately, or eliminated.

Discussion items may be added to the agenda [at the beginning of a regular meeting] [upon unanimous approval of those Board members present].

⁷ An opinion from the Ill. Public Access Counselor found no violation of the OMA when a board removed an item from the agenda within the 48-hour notice time period (PAO 14-3). Removals inform the public that the board does not plan to proceed on the topic.

⁸ State law does not require this, except that 105 ILCS 5/10-16 requires members to receive a written notice of a special meeting that includes the meeting's purpose.

The Board President shall determine the order of business at regular Board meetings. Upon consent of a majority of members present, the order of business at any meeting may be changed.

Voting Method

Unless otherwise provided by law, when a vote is taken upon any measure before the Board, with a quorum being present, a majority of the votes cast shall determine its outcome. ⁹ A vote of *abstain* or *present*, or a vote other than *yea* or *nay*, or a failure to vote, is counted for the purposes of determining whether a quorum is present. A vote of *abstain* or *present*, or a vote other than *yea* or *nay*, or a failure to vote, however, is not counted in determining whether a measure has been passed by the Board, unless otherwise stated in law. The sequence for casting votes is rotated. ¹⁰

Comment [KAS2]: Law originated through IASB resolutions.

On all questions involving the expenditure of money and on all questions involving the closing of a meeting to the public, a roll call vote shall be taken and entered in the Board's minutes. An individual Board member may request that a roll call vote be taken on any other matter; the President or other

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⁹ In most situations, the failure of a member to vote has the effect of acquiescence or concurrence with the majority of votes cast. Prosser v. Village of Fox Lake, 438 N.E.2d 134 (Ill., 1982); People v. Bertrand, 2012 IL App (1st) 111419 (9-28-2012) 978 N.E.2d 681 (Ill.App.1, 2012). For example, a motion passes with a vote of ~~2-two~~ yeas, ~~1-one~~ nay, and ~~4-four~~ abstentions. A motion fails with a vote of ~~2-two~~ yeas, ~~3-three~~ nays, and ~~2-two~~ abstentions. A motion fails with a vote of ~~3-three~~ yeas, ~~3-three~~ nays, and one *abstain* because there is no majority. Exceptions include when a statute requires the *affirmative vote* of a majority or extra. Statutory exceptions include the following board actions:

1. Dismissing a teacher for any reason other than reduction of staff or elimination of that position requires approval by the majority of all members (105 ILCS 5/24-12).
2. Directing the sale of district real property or buildings thereon must be approved by at least 2/3 of the board members (105 ILCS 5/5-22, amended by P.A. 99-794, eff. 1-1-17, unless the sale is residential property constructed or renovated by students as part of a curricular program, in which case, the board could engage the services of a licensed real estate broker to sell the property for a commission not to exceed 7%, contingent upon the public listing of the property on a multiple listing service for a minimum of 14 calendar days and a sale of the property happens within 120 days.
3. Making or renewing a lease of school property to another school district or municipality or body politic and incorporate for a term longer than ~~40-ten~~ years, or to alter the terms of such a lease whose unexpired term exceeds 10 years, requires approval by at least 2/3 of the board's full membership (105 ILCS 5/10-22.11).
4. Leasing any building, rooms, grounds, and appurtenances to be used by the district for school or administration purposes for a term longer than ~~40-ten~~ years, or to alter the terms of such a lease whose unexpired term exceeds ~~40-ten~~ years, requires approval by at least 2/3 of the board's full membership (105 ILCS 5/10-22.12).
5. Obtaining personal property by lease or installment contract requires approval by an affirmative vote of at least 2/3 of the board members. *Personal property* includes computer hardware and software and all equipment, fixtures, and improvements to existing district facilities to accommodate computers (105 ILCS 5/10-22.25a).
6. Adopting a supplemental budget after a successful referendum requires approval by a majority of the full board (105 ILCS 5/17-3.2).
7. Petitioning the circuit court for an emergency election requires approval by a majority of the members (10 ILCS 5/2A-1.4).
8. Expending funds in emergency situation in the absence of required bidding requires approval by at least 3/4 of the board (105 ILCS 5/10-20.21).
9. Exchanging school building sites requires approval by at least a 2/3 majority of the board (105 ILCS 5/5-23).
10. Waiving the administrative cost cap requires approval by an affirmative vote of at least 2/3 of the board (105 ILCS 5/17-1.5).
11. Authorizing an advisory question of public policy to be placed on the ballot at the next regularly scheduled election requires approval by a majority of the board (105 ILCS 5/9-1.5).

¹⁰ Voting sequence is at the board's discretion. A board may indicate how frequently it changes the voting sequence by adding *after each vote*, *monthly*, or *annually* to the end of the sentence. All board members, including officers, may make motions and vote.

presiding officer may approve or deny the request but a denial is subject to being overturned by a majority vote of the members present.¹¹

Minutes

The Board Secretary shall keep written minutes of all Board meetings (whether open or closed), which shall be signed by the President and the Secretary.¹² The minutes include: ¹³

1. The meeting's date, time, and place;
2. Board members recorded as either present or absent;
3. A summary of the discussion on all matters proposed, deliberated, or decided, and a record of any votes taken;
4. On all matters requiring a roll call vote, a record of who voted *yea* and *nay*;
5. If the meeting is adjourned to another date, the time and place of the adjourned meeting;
6. The vote of each member present when a vote is taken to hold a closed meeting or portion of a meeting, and the reason for the closed meeting with a citation to the specific exception contained in the Open Meetings Act authorizing the closed meeting;
7. A record of all motions, including individuals making and seconding motions;
8. Upon request by a Board member, a record of how he or she voted on a particular motion;¹⁴ and
9. The type of meeting, including any notices and, if a reconvened meeting, the original meeting's date.

The minutes shall be submitted to the Board for approval or modification at its next regularly scheduled open meeting. Minutes for open meetings must be approved within 30 days after the meeting or at the second subsequent regular meeting, whichever is later. ¹⁵

At least semi-annually in an open meeting, the Board: (1) reviews minutes from all closed meetings that are currently unavailable for public release, and (2) decides which, if any, no longer require confidential treatment and are available for public inspection.¹⁶ The Board may meet in a prior closed

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¹¹ This paragraph's first sentence contains the requirements in 105 ILCS 5/10-7. The second sentence is optional and may be deleted or amended. Other optional provisions include:

Option 1: Any Board member may include a written explanation of his or her vote in the District file containing individual Board member statements; the explanation will not be part of the minutes.

Option 2: Any Board member may request that his or her vote be changed before the President announces the result.

¹² 105 ILCS 5/10-7 and 5 ILCS 120/2.06. The minutes are the only record showing that the board took official action, including necessary prerequisites to make such action legally sufficient. A non-member recording secretary or clerk may be given these responsibilities (105 ILCS 5/10-14).

¹³ All items listed are required to be recorded in minutes **except** items 7-9; other items may be included at the board's discretion (5 ILCS 120/2.06 and 120/2a; 105 ILCS 5/10-7). The Ill. Public Access Counselor found a board's vague reference to a *personnel matter* insufficient to meet the requirements of #3 (PAO 13-07).

¹⁴ The intent behind this optional item is to give an individual member a means of recording his or her support or opposition to a motion that was taken by oral vote; it will record that the individual took an alternative position to that of the majority without having the minutes recite unnecessary detail.

¹⁵ Required by 5 ILCS 120/2.06(b).

¹⁶ Required by 5 ILCS 120/2.06(c). While board notes from closed sessions may be confidential under the Freedom of Information Act, they may be discoverable by the opposing party in a lawsuit. Bobkoski v. Cary School Dist. 26, 141 F.R.D. 88 (N.D. Ill., 1992).

The failure to strictly comply with the semi-annual review does not cause the written minutes or related verbatim record to become public, provided that the board, within 60 days of discovering its failure to strictly comply, reviews the closed session minutes and reports the result of that review in open session (5 ILCS 120/2.06).

session to review the minutes from closed meetings that are currently unavailable for public release. 17

The Board's meeting minutes must be submitted to the Board Treasurer at such times as the Treasurer may require. 18

The official minutes are in the custody of the Board Secretary.19 Open meeting minutes are available for inspection during regular office hours within ten days after the Board's approval;20 they may be inspected in the District's main office, in the presence of the Secretary, the Superintendent or designee, or any Board member.

Minutes from closed meetings are likewise available, but only if the Board has released them for public inspection, except that Board members may access closed session minutes not yet released for public inspection (1) in the District's administrative offices or their official storage location, and (2) in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member.21 The minutes, whether reviewed by members of the public or the Board, shall not be removed from the District's administrative offices or their official storage location Superintendent's office except by vote of the Board or by court order.22

The Board's open meeting minutes shall be posted on the District website within ten days after the Board approves them; the minutes will remain posted for at least 60 days. 23

Verbatim Record of Closed Meetings

The Superintendent, or the Board Secretary when the Superintendent is absent, shall audio record all closed meetings.24 If neither is present, the Board President or presiding officer shall assume this responsibility. After the closed meeting, the person making the audio recording shall label the recording with the date and store it in a secure location. The Superintendent shall ensure that: (1) an audio recording device and all necessary accompanying items are available to the Board for every closed meeting, and (2) a secure location for storing closed meeting audio recordings is maintained close to the Board's regular meeting location. 25

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17 5 ILCS 120/2 allows boards to discuss the confidentiality needs of closed meeting minutes in closed meetings.

18 Required by 105 ILCS 5/10-7.

19 Optional provision: "A copy of the minutes is kept in a secure location appropriate for valuables."

20 Required by 5 ILCS 120/2.06.

21 5 ILCS 120/2.06(e), amended by P.A. 99-515. The listed individuals in the statute are matched to the titles in the IASB Policy Reference Manual. If the board wishes to mirror the statutory language, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: "a records secretary, an administrative official of the public body, or any elected official of the public body."

See the discussion in paragraph two of f/n 27 below about what in the presence of means.

22 Id.

23 Posting on the website is required *only if* the district has a website that is maintained by a full-time staff member; if not, this sentence may be omitted (5 ILCS 120/2.06(b)).

24 Boards must keep a verbatim record of their closed meetings in the form of an audio or video recording (5 ILCS 120/2.06, amended by P.A. 99-515). This sample policy uses audio recording only; a board that uses a video recording should amend this policy and exhibit 2:220-E1, Board Treatment of Closed Meeting Verbatim Recordings and Minutes.

The interests of continuity, efficiency, and ease of holding someone accountable suggest that the superintendent be made responsible for making and storing the verbatim recordings. If the superintendent is not present, e.g., during discussions concerning the superintendent's contract, the tasks should be given to a board member.

25 Alternatively, use: "is maintained within the District's administrative main offices or their official storage location."

After 18 months have passed since being made, the audio recording of a closed meeting is destroyed provided the Board approved: (1) its destruction, and (2) minutes of the particular closed meeting. ²⁶

Individual Board members may access ~~listen to~~ verbatim recordings in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member.²⁷ Access to the verbatim recordings is available at the District's administrative offices or the verbatim recording's official storage location.²⁸ Requests shall be made to the Superintendent or Board President, ~~when that action is~~ While a Board member is listening to a verbatim recording, it shall not be re-recorded or removed from the District's main office or official storage location, except by vote of the Board or by court order.²⁹

Before making such requests, Board members should consider whether such requests are germane to their responsibilities, service to District, and/or Oath of Office in policy 2:80, Board Member Oath and Conduct. In the interest of encouraging free and open expression by Board members during closed meetings, the recordings of closed meetings should not be used by Board members to confirm or dispute the accuracy of recollections. ³⁰

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²⁶ This paragraph paraphrases 5 ILCS 120/2.06(c). No notification to, or the approval of, a records commission or the State Archivist is needed if a recording is destroyed under the conditions listed.

²⁷ 5 ILCS 120/2.06(e), amended by P.A. 99-515. The listed individuals align with the other titles used in the IASB Policy Reference Manual. If the board wishes to mirror the statute, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: "a records secretary, an administrative official of the public body, or any elected official of the public body."

The intent of the *in the presence of* language is meant to protect both (1) the verbatim recordings/closed session minutes (see f/n 21 above), and (2) the board members requesting access to them. It ensures that a school district official is present at all times when a requesting board member accesses the verbatim recording/closed session minutes. The requirement is meant to prevent misuse and removal of the verbatim recording/closed session minutes from the district offices or official storage location. It is also meant to protect the board member who requests the access from being alone and in a situation where he or she could potentially be accused of tampering with or taking the verbatim recording/closed session minutes.

Consult the board attorney about:

1. The practice of sending an *appointed* board member to be present with a board member who requests access to verbatim recordings/closed session minutes. 105 ILCS 120/2.06(e) states, "any *elected* member of the Board;" appointed is not listed but is mentioned elsewhere in the language of this section of the law;
2. Access to verbatim recordings/closed session minutes by other officials employed by the district, e.g., superintendent or other high-level administrators and even the board attorney; and
3. How this law affects the sharing of closed session minutes with board members prior to a meeting at which the closed session minutes will be approved.

The intent of P.A. 99-515 was to manage a board member's individual request for access to these items in his or her individual capacity (see 2:80, Board Member Oath and Conduct), not change prior practices in regard to other officials and board attorneys or the required work of school boards under various laws. While many attorneys do not interpret the new law to restrict access or change procedures for these other high-level school officials and attorneys employed by the district, some attorneys do and it is important to obtain legal advice on this specific issue.

²⁸ Id.

²⁹ Id.

³⁰ This paragraph is optional. It provides boards an opportunity to discuss and encourage each member to carefully think about purposes for their requests to listen to verbatim recordings, which historically has been and should continue to be to "access information relevant to the exercise of duties" for the public body. Intra-board conflicts may escalate if the recording is used to confirm or dispute who-said-what. Prior to P.A. 99-515, the Open Meetings Act did (and still does) allow boards to release these types of information (5 ILCS 120/2.06(e)). Further, Att'y Gen. Op. 32, 1996, opined that board members cannot be denied access to information relevant to the exercise of his or her duties. Board members should evaluate whether their requests under P.A. 99-515 are "relevant to the exercise of their duties" before making such requests. Confirming or disputing who-said-what diverts resources away from operations of the district in educating its students. Additional considerations in listening to verbatim recordings may include personnel and student records confidentiality issues, which should be discussed with the board attorney.

Quorum and Participation by Audio or Video Means ³¹

A quorum of the Board must be physically present at all Board meetings. A majority of the full membership of the Board constitutes a quorum.

Provided a quorum is physically present, a Board member may attend a meeting by video or audio conference if he or she is prevented from physically attending because of: (1) personal illness or disability, (2) employment or District business, or (3) a family or other emergency. If a member wishes to attend a meeting by video or audio means, he or she must notify the recording secretary or Superintendent at least 24 hours before the meeting unless advance notice is impractical. The recording secretary or Superintendent will inform the Board President and make appropriate arrangements. A Board member who attends a meeting by audio or video means, as provided in this policy, may participate in all aspects of the Board meeting including voting on any item.

Rules of Order

Unless State law or Board-adopted rules apply, the Board President, as the presiding officer, will use Robert's Rules of Order, Newly Revised (10th Edition), as a guide when a question arises concerning procedure. ³²

Broadcasting and Recording Board Meetings

Any person may record or broadcast an open Board meeting.³³ Special requests to facilitate recording or broadcasting an open Board meeting, such as seating, writing surfaces, lighting, and access to electrical power, should be directed to the Superintendent at least 24 hours before the meeting.

Recording meetings shall not distract or disturb Board members, other meeting participants, or members of the public. The Board President may designate a location for recording equipment, may restrict the movements of individuals who are using recording equipment, or may take such other steps as are deemed necessary to preserve decorum and facilitate the meeting.

LEGAL REF.: 5 ILCS 120/2a, 120/2.02, 120/2.05, and 120/2.06.
105 ILCS 5/10-6, 5/10-7, 5/10-12, and 5/10-16.

CROSS REF.: [2:80 \(Board Member Oath and Conduct\)](#), 2:200 (Types of School Board Meetings), 2:150 (Committees), 2:210 (Organizational School Board Meeting), 2:230 (Public Participation at School Board Meetings and Petitions to the Board)

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³¹ 5 ILCS 120/2.01 and 120/7. See also 105 ILCS 5/10-6 and 5/10-12. In order to allow attendance by video or audio means, a board must adopt a policy conforming to the restrictions in the Open Meetings Act. The statute requires the board member who wishes to attend remotely to notify the "recording secretary or clerk of the public body." The policy includes the superintendent as a possible person to receive the notice. Everything in this section is required aside from provisions on the length of notification that is given the secretary and the process for accommodating the request. Alternatively, a board may: (1) prohibit members from participating by video or audio means by omitting this section, (2) add other requirements, or (3) alter the 24 hour notification. Note that the statute does not contemplate someone either *approving* or *denying* a request, only that the request be accommodated if the notification is provided.

³² Boards are not required to follow any particular rules of order. Rules, however, must be in writing and available for public inspection, in order to have any legal effect (105 ILCS 5/10-20.5).

³³ The public's right to record meetings must be addressed in board policy (5 ILCS 120/2.05). However, a provision requiring advance notice to record a meeting is invalid (PAO 12-10).