

Weston Board of Education Workshop

Monday, August 28, 2023 12:00 PM

Central Office Annex Conference Room, 24 School Road, Weston CT, 06883, 24
School Road, Weston, CT 06883-1623

I. Call to Order, Verification of Quorum

II. Board member roles and responsibilities

III. Communication

IV. District goals/state of our schools

V. Board committees

VI. Board of Education regular meeting schedule

VII. Building project/EOC

VIII. Adjournment

The logo for Shipman, featuring the word "SHIPMAN" in white, bold, uppercase letters on a blue rectangular background. The background of the entire slide is a blurred office scene with a person's profile on the right, a laptop displaying financial data, and a hand holding a smartphone with a QR code in the foreground.

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Board of Education Service: Laws, Insights, and Practical Tips

Presented by Jessica Richman Smith

Weston Board of Education

August 28, 2023

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Agenda

Topics to be discussed



- 1. Board Roles and Responsibilities**
- 2. Freedom of Information Act**
- 3. Communication and Information-Sharing**

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Board Roles and Responsibilities

Responsibilities of the Board (examples)



- Implement State's educational interests as agent of the State
- Employ and act through Superintendent, who serves as "chief executive officer" – Board's only employee
- Establish policies

Responsibilities of the Board (examples cont.)



- Establish budget and allocate resources
- Adjudication (“quasi-judicial” function)
- Negotiations
- Strategic planning
- Facilities review

Role and Responsibilities of Individual Board Members



- Authority at meetings only (otherwise same rights as other citizens)
- One member of a team
- Follow communication norms
- Act ethically

Scenario 1

The Board receives a lengthy email from a parent describing in detail the wrongs that her child has faced in school at the hands of other students as well as staff members. Specifically, the parent alleges that her child has been the victim of microaggressions and race-based bullying for years; staff have been aware of these concerns; and nothing has been done to address the situation. The parent implores the Board to take action and threatens to raise the issue with the State Board of Education if nothing is done. She claims her child is in imminent danger of physical and emotional harm.

- **Should the Board respond? If so, who should respond, and how?**
- **What else should the Board do?**
- **What can the Superintendent tell you about the situation?**

Scenario 2

The Board is convened in a public meeting and the topic of discussion is school security. You are very much in favor of more police presence in schools, having lived through too many school shootings in your time. You have polled your friends and neighbors before the meeting, and based on the results of that poll, you have concluded that your schools must receive maximum police protection and you promised your friends and neighbors you would deliver. Although you share your views passionately at the Board table, the Board votes 5-2 against more police presence. You are outraged, and you have let your constituents down.

The next day, you and the other Board member who voted with you publish a co-authored opinion piece on your respective public Facebook pages explaining why both of you wholeheartedly disagree with the majority vote and encouraging likeminded members of the public to start a petition in favor of your position. This issue, after all, is a matter of life and death and “majority rule” be darned.

Three Board members who voted with the majority publish a joint response to your piece on their public Facebook pages. A fourth Board member writes the same comment on all the posts: “I want the public to know that I do not support this after-the-fact, illegal, quasi-Board discussion and grandstanding via social media. I stand by my vote but I denounce this bad behavior.”

The Chair stays silent.

- Did anyone do anything wrong here?
- As you reflect on what has unfolded, what, if anything, could or should you have done differently?
- What about the First Amendment?

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Role of the Chairperson



- Preside over meetings
- Represent the Board (including in public communications)
- Organize committees
- Liaise with Superintendent
- Perform other duties so delegated
- Not responsible for managing Superintendent or solving problems

Role of Committees



- Perform responsibilities as delegated
- Maximize efficiency of Board work
- Bring recommendations to the Board for Board action
- Not obligated to seek full Board feedback until Board must take action, but may do so as appropriate (*e.g.*, prior to mediation)
- Must comply with FOIA as “public agencies”

Scenario 3

You have significant concerns about digital footprints and the risk that your children – and other children – will be haunted by data stored electronically in school-based digital tools for years to come. You are not on the Policy Committee, but you want to propose a new policy to address data privacy as well as modifications to the survey policy requiring that students take surveys on sensitive topics (mental health, drug use) using paper and pencil.

You attend a Policy Committee meeting and submit your proposals to the Policy Committee. You request (insist, actually) that the Policy Committee provide your suggestions to Board counsel for review and feedback, and then elevate them to the full Board for consideration.

- How should the Policy Committee proceed?
- What can you expect?
- How can you move your agenda forward?

Scenario 4

You are frustrated that the Policy Committee did nothing with your policy proposal and you're convinced they are trying to keep you out of their business. Your suspicions are confirmed when you see the agenda packet for the next Board meeting and there's a draft Curriculum Review Policy that, in your view, is replete with big problems. For starters, you don't like how many decisions have been delegated to the administration. The list goes on.

As outraged as you are at the content of the proposed policy, you are even more outraged that nobody consulted you along the way. After all, you are a Board member! You feel blindsided and plan to say so at the public Board meeting.

- **Has the Policy Committee done anything wrong?**
- **Must the Board adopt the Curriculum Review Policy recommended by the Policy Committee? Should it?**
- **Can you write your own Curriculum Review Policy and present it to the Board? Should you?**
- **How can you get more involved with Board policy matters?**

Role of the Superintendent



- Chief Executive Officer
- Enforces laws, regulations, rules, policies
- Makes recommendations to the Board
- Carries out Board's mission
- Appoints certain staff

Scenario 5

You are active in the community and see it as your duty to liaise with the public about the business of the school district. You receive complaints, are open to suggestions, and sometimes try to help fulfill parent requests. One day, a parent approaches you and complains that the indoor air quality (IAQ) at the elementary school is toxic and her children have been suffering for months. You are appalled to hear this (it's been years since you had kids in elementary school) and you promise the parent you will do some IAQ testing pronto using the best independent expert in the area. Having gained traction with you, the parent then approaches another Board member for support, but to the parent's surprise, the other Board member (who actually has kids in the elementary school) insists the IAQ is as pure as mountain air (after all, his kids are absolutely fine), and says the Board would never waste money on something as unnecessary as extra IAQ testing. The parent then runs to the Superintendent citing the first Board member's approval and wants to know when the IAQ testing will begin. Meanwhile, both Board members have run immediately to the Director of Facilities and the Chief Financial Officer wanting to know what's going on with the IAQ at the elementary school and requesting a large volume of materials ranging from IAQ results dating back 15 years to facilities incident reports, student complaints, and staff complaints. One of the Board members also schedules a meeting to talk to the elementary principal about this important matter.

- **Did anything go wrong here?**
- **Can anything productive come of this?**
- **How could this have been handled differently?**

Scenario 5(a)

Other Board members get wind of the IAQ discussion and have their own perspectives. At the Board meeting last night, one Board member chimed in during public comment and announced that, as a Board member and a parent, she wholeheartedly supports more IAQ testing to help ensure the safety and well-being of our children. She shares publicly that her own children, who attend the elementary school, have been coming home with nose bleeds and she now wants to know if these nose bleeds are related to the IAQ in the school.

- **Was the Board member's comment appropriate?**
- **How could this Board member have handled her concerns regarding IAQ issues differently?**
- **How, if at all, should the rest of the Board responded to this comment at the time?**

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The Freedom of Information Act

Connecticut Freedom of Information Act

- State law that applies to public agencies
- Prescribes rules for meetings
- Provides that records maintained by public agencies are
 - public unless exempt
 - Subject to *prompt* inspection upon request

Importance of Meetings



Board is a collective body that only has authority to take action when gathered at a meeting



Individual members, unless expressly authorized by the Board, do not have authority to act on behalf of the Board



The meeting is the most visible aspect of the Board's communication with the public and its staff, as well as between its members

“Meeting”

What is a meeting under FOIA?



- ...Any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any **communication by or to a quorum** of a multimember public agency whether **in person or by means of electronic equipment**, to discuss or act upon a matter over which the public agency has supervision, control jurisdiction or advisory power.



Meeting Does NOT Include:



A meeting of a **personnel search committee** for an executive level candidate search (Board may appoint itself)



Any **chance meeting, or a social meeting**



Strategy or negotiations with respect to **collective bargaining**



A **caucus of members of a single political party**



Communications limited to **notice of meetings of a public agency or their agendas**

Meeting Does NOT Include (cont.):



An administrative or staff meeting of a **single-member public agency**



A quorum of the members of a public agency who are present at any event **which has been noticed and conducted as a meeting of another public agency under the provisions of the FOIA** shall not be deemed to be holding a meeting of the public agency of which they are members as a result of their presence at such event.

**Q. Are all meetings subject to FOIA?
Policy committee? Administrative or staff? Building committee?**

Emails, Text Messages, Voicemails

- Communications about Board business are NOT private communications and may be subject to disclosure under FOIA
- May be retrieved as part of routine monitoring, an investigation, or formal discovery process as part of litigation
- Retention of records is governed by retention laws, Board policy, legal hold obligations
- Board members must turn over their private emails and text messages for searching upon receipt of a FOIA request if they concern Board business

Exemptions from Disclosure

- Attorney-client privileged communications
- Records pertaining to strategy and negotiations with respect to pending claims or pending litigation against the school district
- Records pertaining to strategy and negotiations with respect to collective bargaining
- Records pertaining bidding until bid has been awarded
- Teacher evaluation records
- Education records as defined by FERPA

Scenario 6

The district has provided you with an email account on the district server, *i.e.*, name@westonps.org, which you know you are supposed to use to conduct Board business. But who does anything by email anymore? You are tied to your phone and you mostly use text messaging for almost everything, including your Board work. It's also helpful that your texts are on an automated deletion schedule, so you don't have to worry about any sensitive messages hanging around for more than 30 days.

- Is this legal?
- Are there any problems with this?

Scenario 7

You are preparing for the Board meeting in which SROs will be discussed and you want to ensure you have your ducks in a row. You reach out to a fellow Board member by text message and ask what she's thinking about the issues on the table. That Board member responds, and suggests you reach out to a third Board member (different political party). You do, and then inform the second Board member of what the third Board member said. You similarly inform the third Board member of what the second Board member said.

- Any issues?
- What if you reach out to a fourth Board member?
- Would it make a difference if you were all members of the same political party?

FOIA and Electronic Messages



E-mails by a quorum of Board members may be an illegal meeting of the Board.

- Caucus is limited to members of the Board
- Communications at Board meetings must be open to the public
- Electronic communications by Board members are subject to disclosure under the FOIA

Electronic Communications



- Email communication on Board business (but not discussion) by Board members to each other (or to or from the Superintendent to Board members) **is permissible**
- Such emails typically will be subject to public disclosure unless exempt (personally identifiable student info, attorney/client information), even if on personal computer or personal email

Electronic Communications



- Where email communication is *unilateral*, it will likely not be considered a “meeting” that would trigger FOIA concerns
- Where such a communication generates responses that are shared with a quorum of the Board, it is possible that a “discussion” (and hence a “meeting” in violation of the FOIA) will be found

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Communication and Information-Sharing

Scenario 8

Some Board members are more engaged than others, and they ask the Superintendent and other administrators (cabinet members, principals) for *a lot of* information. Not all of these requests, or the information provided in response to them, make their way to every Board member. In addition, the Superintendent is receiving complaints from some principals that they are spending all their time creating paperwork for, and meeting with, Board members and don't have time to deal with urgent matters at their schools. At last night's Board meeting, one Board member stood up and pounded her fists when she saw another Board member reviewing a budget spreadsheet that she had never received.

- **If it ain't broke, don't fix it. Is that where we are here?**
- **How could this Board improve upon Board/administration communications?**

Communications with the Superintendent

- Agenda packet
 - Questions addressed to Superintendent and copied to Board
 - Apprise Superintendent of questions and comments in advance of meeting
- Regular updates from Superintendent
 - Apprises the Board of ongoing work
 - Not intended to solicit excessive feedback or questions



Communications with Staff



- Work primarily through Superintendent to address administrative matters
 - Work directly with Administration/staff only as necessary and appropriate
 - Avoid directing Administration/staff to perform any work
 - Information requests that may be burdensome may be considered by Board
- Refrain from private fact-finding or soliciting off-line information from employees
- Superintendent communicates Board's information to staff

Communications with Community



- Fiduciary responsibility to support Board positions once approved
- Avoid “problem-solving” and direct public questions and concerns to follow communication chain
- Maintain confidentiality
 - Executive sessions are privileged
 - Personnel matters are confidential
 - Contested issues require due process
- Share substantive issues with Board and Superintendent as appropriate

Communications with Community



- Avoid or limit side communications with Board “hat” on
- Avoid contributing to Board discussions with parent “hat” on (e.g., “I’m asking as a parent”)
- Chair responds to emails from the public
- Superintendent and Chair respond to media requests
- Use district email for Board business
- Avoid posting about Board business on personal social media accounts
- Avoid engaging directly with speakers during public comment

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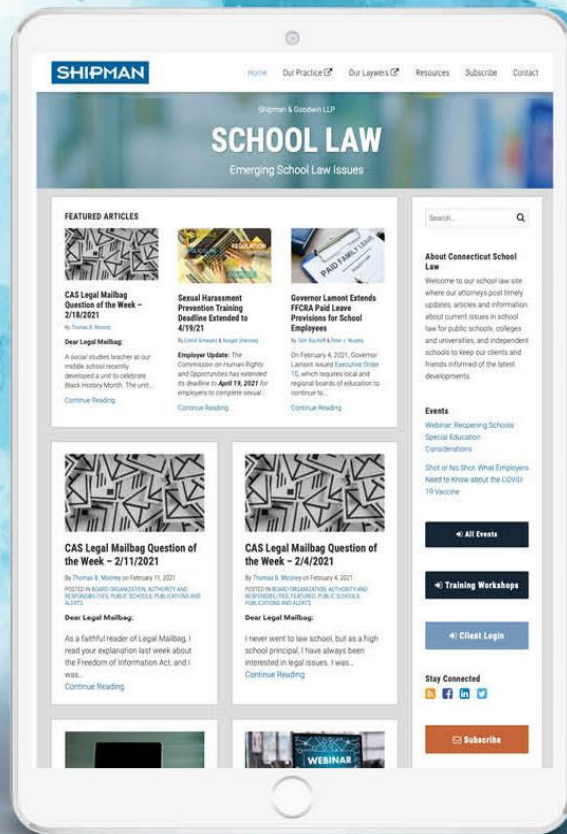
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