

**SPECIAL MEETING OF THE BOARD OF EDUCATION
SCHOOL DISTRICT OF BELOIT
June 26, 2017
Workshop**

The Board of Education held a special board meeting-workshop on June 26, 2017 at the Kolak Education Center in Room 106. President Endres called the meeting to order at 5:34 p.m.

Members Present: Lisa Anderson-Levy, Dennis Baskin, Pam Charles, Shelly Cronin, Laurie Endres, Kris Klobucar and Wendy Sanchez. Also present: Tom Johnson, Attorney Mary Gerbig and Attorney Robert Burns from Davis & Kuelthau.

Board members reviewed best practices and legal requirements for board member roles and responsibilities. The attorneys reviewed the roles of board members and the administrator as well as how the two support each other. Other items included walking quorums, email among members, liability that can be incurred as a board member and how to make the board functional and operational within legal parameters.

The attorneys reviewed characteristics of a highly functional board, those of a dysfunctional board, the legal foundation for leadership, including such things as the Board of Education is a statutorily recognized authority and individual members typically have no authority unless delegated by the Board of Education. If an individual is doing something, they are doing it as a private citizen.

Setting goals for both the Board and the district were discussed because unless the governing body has goals on how they operate, it will get stuck with achieving the district goals. The attorneys stated that it is difficult to set board goals if you do not have district goals first. Consensus was discussed and in order for it to work there needs to be a level of trust with each board member and with administrators, as well as when the door opens, all members need to be on the same page, even if all do not agree. Districts that can achieve this, can see progress. Members have to give up some control to get over larger issues and start building trust. (Example: "If you focus on one twig or branch that does not meet a personal goal or agenda, then you may miss the bigger picture that addresses the personal goal or agenda as a whole. Too much dialogue bogs you down and you will not move forward. It is not a win/lose conversation. If everyone can get behind the goals, then you can have success.)

It was also noted that perceived authority can cause you to incur liability as an individual board member and as a board. You should speak as a board collectively to protect yourselves as a group. Individual action could cause someone to believe that promises made cannot be kept by the board. If there is harm done, then there can be individual action. They have seen a rise of discrimination claims and civil rights violated claims. (WI SS Section 19.83 - individuals or entire boards can be named in actionable suits.)

A Walking Quorum is defined as addressing issues outside of properly noticed Board proceedings/meetings. If you are having private conversations how does that serve the public? If you are talking about a topic and it becomes a dialogue from board member to board member then stop and put it on an agenda.

If committee of the board, it is under the same public meeting rules as the full board. Members cannot coordinate to reach an outcome. (Example: Two policy/personnel members gather to write a policy – violation of open meetings law). Another dangerous situation is the "reply all" feature on email which creates a dialogue. If a document is sent to all members with respond only to me, it can still be dangerous, better to say, note your comments and bring them to the meeting.

A member asked how a new board member is able to check information coming to them from administration to verify if it is what is best for achievement when he/she does not have the training or expertise and has not learned all the legal rules. The attorneys stated that members do not have to have all

the knowledge which is why they work as a team with administration and why legislature worked to ensure administrators are properly licensed, etc.

Open records, minutes, both open and closed were also discussed. Attorney Burns indicated he is a minute's minimalist. Minutes should contain action only. It is okay to vote on expulsions in closed session and makes the students less identifiable. Can make action only published proceedings and use statement that the full version is available through open records request provided it meets all legal requirements.

A members asked about a board member acting as board member vs an individual citizen. Attorney Gerbig said it's important to make it clear to people around you that you are or are not wearing your board member hat and the best practice is to make the statement upfront that says "I'm commenting as my own opinion and not on behalf of the board."

The attorneys stated that when setting goals walk through can we agree to this as a board; what can we agree to in terms of how we operate. If there are Board statements that are agreed to, individuals will not make statements on their own. There was discussion about the town hall meeting and a member's letter in the Beloit Daily News. The attorneys stated that perhaps the proper tool was not used for the solution; more meetings are rarely the fix to the problem. They suggested having a focus to the discussion, having a plan and coming back to the purpose as to why you are here. Yes, there can be unhappiness out there, but it cannot detract and distract you from the mission. The board still needs to make the public understand that you have heard and are listening to them, but need to prioritize the work. All members get calls, but you cannot let community members dictate agendas and determine what the board does.

Attorney Burns explained that emails in the district system have the potential to be public records and if they are, then they have to be under scrutiny to be released. They are subject to the same retention obligation as paper documents. He further stated that text messages are being reviewed in Madison and have not made it to the Supreme Court yet. He clarified that email is the property of the district. Texting, emailing and social media are all creating records nowadays. Their strong suggestion is to pare down what you use electronic tools for as well as keeping district email completely separate from personal servers and personal email.

When asked if a board member should be notified about an open records request, it was stated that it would depend on the subject matter requested. (Example: if the elected official's emails are requested regarding a school project, then no. However, if emails are between two parties and the subject is the elected official or board member, then the member should be notified and given the opportunity to augment the information, which means to provide an explanation of the information. They further stated that cases for personal liability are on the rise. If board members are operating within the policy, negligence - immunities can protect them. When acting outside the policies easier to show blatant disregard.

The attorneys also indicated that the Board, as a whole, does not really have any power to fine or punish a member; only the power to censure in some rare instances. In terms of internal disciplinary action, the public is really the only one who can take you out of office. Board members can be held to the policies they put in place. Attorney Gerbig said if you are concerned about your own privacy and private life, do not use personal email for board business and do not use board email for personal business, you are at a greater risk for liability.

Michelle Shope, Board Secretary

Approved at the Regular Business Meeting on July 25, 2017

Laurie Endres, President