

Jefferson County Board of Education Jefferson County, Kentucky

School Board Governance



December 10, 2016

1: The Players

- ▶ **The Authority for and Structure of Public Education in Kentucky**
- ▶
- ▶ The Kentucky Constitution requires an “efficient” system of common schools throughout the state.
- ▶
- ▶ The Kentucky General Assembly has created a state-wide system of elementary and secondary schools.
- ▶
- ▶ In this state-wide system, local boards of education represent the community and provide local oversight.

Legal Environment of Local Boards

- ▶ Local boards of education:
- ▶ Must comply with federal and state constitutions, statutes and regulations.
- ▶ Are therefore subject to limitations and restrictions that do not apply to private industry.
- ▶ Have considerable discretion to make choices and decisions in the best interest of their districts.

The State Educational Hierarchy

The Kentucky Constitution

The Kentucky Constitution limits how school tax funds may be used.

- ▶ Examples of unconstitutional spending: school crossing guards; donating an unneeded school building for less than fair market value.
- ▶ The Kentucky Constitution prohibits local boards from acting in an “arbitrary” manner – all actions must be for educational purposes and must not be unconstitutional or discriminatory.

The State Educational Hierarchy (continued)

- ▶ General Assembly
 - ▶ Office of Education Accountability
- ▶ Governor
- ▶ State Board of Education
 - Department of Education
 - Commissioner of Education
- ▶ Local Boards of Education

The State Educational Hierarchy (continued)

- ▶ School – Based Decision Making (SBDM)
- ▶ Councils

2:The Local Board of Education

- ▶ Duties of a Local Board of Education
- ▶ The general powers and the duties of a local board of education are outlined in KRS 160.160 and 160.290.
- ▶ Additional duties of a local board of education are detailed in other statutes.

Duties of a Local Board of Education (continued)

- ▶ 1. Establish schools, acquire sites and erect buildings.
- ▶ 2. Adopt courses of study.
- ▶ 3. Provide necessary services to pupils.
- ▶ 4. Manage all funds and property.
- ▶ 5. Make appropriate rules, regulations, and bylaws.

Duties of a Local Board of Education (continued)

- ▶ 6. Appoint a superintendent of schools. (KRS 160.350)
- ▶ 7. Adopt a budget. (KRS 160.470)
- ▶ 8. Take necessary action to levy the taxes required by the budget. (KRS 160.460–160.500)
- ▶ 9. Assess individual student progress. (KRS 158.6453)

Duties of a Local Board of Education (continued)

- ▶ 10. Adopt a plan for immediate and long-term strategies to address school safety and discipline. (KRS 158.440 – 158.449)
- ▶ 11. Formulate a code of acceptable student behavior and discipline that applies to each school in the district. (KRS 160.295)

Board Member Qualifications

- ▶ Partial list of qualifications (KRS 160.180):
 - ▶ Has been a citizen of Kentucky for at least three years and is a voter of the district he/she is elected to represent.
 - ▶ Does not hold a state office requiring the constitutional oath and is not a member of the General Assembly.
 - ▶ Does not hold any civil or political office, deputyship, or agency under his/her city or county government.
 - ▶ Is not directly or indirectly involved in the sale to the school district of anything, including services, paid for with school funds.
 - ▶ Does not have relative employed by the school district.

Board Member Elections

- ▶ Seven board members (other Kentucky districts have five members)
 - ▶ Elected for four-year terms
 - ▶ Nonpartisan ballot
 - ▶ Terms are staggered
 - ▶ Elected from divisions within Jefferson County
-
- ▶ School board candidates cannot solicit or accept any political assessment, subscription, contribution, or service of any employee of the school district. (KRS 161.164)

Board Member In-Service Training

- ▶ Once elected, board members must meet annual in-service training requirements, based on years in office:
- ▶ 0–3 years 12 hours of annual training, including 3 hours finance, 1 hour ethics, 1 hour superintendent evaluation annually.
- ▶ 4–7 years 12 hours of annual training, including 2 hours finance, 1 hour ethics, 1 hour superintendent evaluation annually.
- ▶ 8–plus years 8 hours of annual training, including 1 hour finance, 1 hour ethics, 1 hour superintendent evaluation biennially.

Board Member Meeting Attendance

- ▶ Failure of a Board member to attend three consecutive regular meetings:
- ▶ Subject to removal from his/her office
- ▶ Unless the failure is excused by the Board
- ▶ The excuse must be reflected in the minutes.

The Board as a Corporate Body

- ▶ KRS 160.160: “Each Board of Education shall be a body politic and corporate with perpetual succession.”
- ▶ No member has authority to take action individually, or outside of legally called Board meetings.
- ▶ Only actions recorded in the minutes of a legally called Board meeting reflect the official actions of the Board.

Personal Liability

- ▶ Board members are generally held to be immune from personal liability for actions taken by the Board, providing they act in good faith, and without illegal motive, fraud, collusion or gross negligence.
- ▶ State law allows school boards to purchase insurance to protect their members when they act in their official capacity.

Board Officers

- ▶ The Board appoints officers:
- ▶ Chair, Vice Chair, Superintendent, Secretary, Treasurer, Board Attorney.

Board Officers (continued)

▶ **Board Chair**

- ▶ Presides over Board meetings
- ▶ Facilitates discussion at Board meetings
- ▶ Can make motions and votes
- ▶ Signs most official board documents
- ▶ Serves a term of no more than two years
- ▶ The JCBE elects a Chair and Vice–Chair at its first meeting in January (one–year term)

▶ **Vice–Chair**

- ▶ Presides in the absence of the Chair.

Board Officers (continued)

- ▶ **Board Secretary**
- ▶ KRS 160.440 provides that the Secretary is:
- ▶ Appointed by the Board for a term of 1 – 4 years
- ▶ Cannot be a member of the Board
- ▶ Attends all meetings (with one exception)
- ▶ Records all official proceedings
- ▶ Keeps the Board's minutes according to law
- ▶ Calls a special meeting when requested by the Chair or by three Board members
- ▶ The Superintendent serves as the Secretary of the JCBE

Board Officers (continued)

Treasurer

- ▶ KRS 160.560 provides that the Treasurer:
- ▶ Is elected by the Board
- ▶ Pays all bills of the Board
- ▶ Receives all money due the school district
- ▶ Deposits funds in a Board–designated depository
- ▶ Is responsible for all funds of the school district
- ▶ Keeps accurate record of receipts/disbursements
- ▶ Prepares periodic reports/financial statements

Board attorney (KRS 160.170)

Board Member Expenses

- ▶ Board members receive no salary for Board service.
- ▶ Per diem of \$75 for each Board meeting attended, not to exceed \$3,000 per calendar year.
- ▶ Expenses reimbursed for attending each Board meeting – not to exceed \$3,000 per calendar year for in-district meetings.
- ▶ Per diem for attending required in-service training up to the hours required by statute.

Board Member Expenses (continued)

- ▶ Outside the district:
- ▶ Reimbursed for actual and necessary expenses incurred while performing school district duties, if authorized by the Board.
- ▶ Expenses incurred outside the school district are not calculated in the \$3,000 calendar-year limitation for in-district expenses.

Conflicts of Interest and Consequences

- ▶ A financial conflict of interest exists when a board member receives, directly or indirectly, any financial benefit from the district other than permitted per diems and expenses. Examples:
- ▶ Member who rented a building to the board for Superintendent's office.
- ▶ Candidate elected to the board who had an interest in the sale of school bus services.

Conflicts of Interest and Consequences (continued)

- ▶ Member who was the president of a company that sold merchandise to the school district.
- ▶ Member who was a sales representative of a company that sold paint to the district and received a commission on the sales.
- ▶ Member who owned a firm selling insurance or supplies to the district.

Incompatible Offices

- ▶ The Kentucky Constitution provides that no person shall, at the same time, be a state officer and an officer or employee of any county, city, town, or other municipality. School board members are state officers.
- ▶ Other offices that are not permitted:
 - ▶ Member of a county board of health
 - ▶ City council member
 - ▶ County election or tax commissioner
 - ▶ Magistrate or Deputy sheriff

Incompatible Offices (continued)

- ▶ A school board member can be a state employee (inspector in the state DMV, state parole officer, and state maintenance supervisor)
- ▶ But a school board member cannot hold another office that requires taking the state constitutional oath.
- ▶ A school board member can be a candidate for another political office, but if elected must resign from the school board.

Board Member Removal

- ▶ The Attorney General may file an action in circuit court to remove a school board member from office.
- ▶ The Commissioner of Education may recommend removal of a school board member to the state Board of Education when the Commissioner has reason to believe the board member is guilty of immorality, misconduct in office, incompetence, willful neglect of duty, or nonfeasance.
- ▶ The State Board must hold a hearing and its decision can be appealed to the courts.

4: Board Meetings

- ▶ **Board meeting requirements**
- ▶ A board of education must meet at least once a month in a regular board meeting at a place and time set by the board. (KRS 160.270)
- ▶ Whenever a quorum of the JCBE (four Board members) gathers to discuss Board business, that is a meeting subject to the Kentucky Open Meetings Act, KRS 61.800 to 61.848.

Board Meeting Requirements (continued)

The Kentucky Open Meetings Act provides that meetings require timely notice and must be open to the public.

- ▶ “Serial meetings” are prohibited by the Act.
- ▶ Failure to observe the requirements of the Act can result in Board actions being set aside by a court and fines levied against individual Board members.

Types of Board Meetings

Regular Meetings

- ▶ The JCBE adopts a calendar of regular meetings
- ▶ The agenda for a regular meeting may be amended at the meeting

Special Meetings

- ▶ Meetings not listed on the adopted calendar
- ▶ The agenda must be delivered along with the notice
- ▶ Discussion and action are limited to the agenda, which cannot be amended during the meeting

Types of Board Meetings (continued)

- ▶ Notices of Special Board meetings:
- ▶ Each member must receive written notice of the meeting including agenda, date, time and place.
- ▶ Notice must be delivered as soon as possible in person, by fax or mail to each member, and all registered media organizations.
- ▶ Delivery may be by e-mail if so requested.
- ▶ Notice must be received at least 24 hours prior to the meeting.
- ▶ Notice must be posted in a conspicuous place at the meeting site in the JCPS central administration building.

Types of Board Meetings (continued)

- ▶ Emergency meetings
- ▶ May be called by the Chair or by the Secretary if requested by three members.
- ▶ Reasonable effort to notify members, media organizations and public of the meeting.
- ▶ Brief description at the meeting of circumstances that prevented compliance with normal notice.
- ▶ Discussion and action limited to the emergency.
- ▶ Called only when there is a threat to individuals' health or safety or there is a threat to the district.

Types of Board Meetings (continued)

Closed (“executive”) sessions (KRS 61.810)

- ▶ Meetings of the Board are open to the public with limited exceptions.
- ▶ Example: the Board may go into closed session for discussion of proposed or pending litigation.
- ▶ Another example: the personnel exception.
- ▶ Statutory procedures must be followed when going into or coming out of closed sessions.

Video Teleconferencing of Meetings

- ▶ Members may not participate in closed sessions via audio hook up or video teleconference.
- ▶ Members may participate in open sessions via video teleconference, but only if all requirements of KRS 61.826 are met.
- ▶ The public must be granted access to all video teleconference locations.

The Board Meeting Site (Attorney General Opinions)

- ▶ The meeting site should be as comfortable and pleasant as possible, both for the board and its visitors. Ample seating should be available. When possible, the board and the superintendent should be seated facing the audience.
- ▶ If a board meeting attracts an audience larger than the meeting room can accommodate, the board must make a good-faith effort to handle the overflow crowd.

Receiving the Public's Comments

- ▶ Kentucky law does not require a school board to allow public comments at meetings. However, the JCBE has established guidelines for hearing comments from the public.
- ▶ Jefferson County Policy *01.421 Public Participation in Open Meetings*

Parliamentary Procedure

- ▶ The JCBE has adopted *Robert's Rules of Order* to govern parliamentary procedure at Board meetings. See JCBE Policy 01.4.

Voting

- ▶ A majority of the Board (four members) constitutes a quorum for the transaction of business, but a concurring vote by a majority of the Board is still needed to take action, even if all seven members are not present.
- ▶ That means four votes are required to adopt most motions. (*Robert's Rules* may require five votes to adopt certain procedural motions).

Board Members and Personnel

- ▶ The Superintendent is responsible for personnel actions.
- ▶ Board members may not influence the hiring or appointment of employees, except the Superintendent, Board Attorney, Secretary and Treasurer. (KRS 160.170 and KRS 160.180)
- ▶ This prohibition does not apply to independent contractors.
- ▶ A violation may subject a Board member to removal.
- ▶ Board members sit in demotion hearings for certified employees.

Board Members and Personnel (continued)

- ▶ Board members create most school district positions and fix their compensation, but cannot become involved in who is employed.
- ▶ However, many Board decisions impact the personnel process, for example, policies, benefits, collective bargaining agreements, budget.
- ▶ Public employment grants District personnel certain rights that employees in private business may not hold.

Board Members and Personnel (continued)

- ▶ For example, if a certified employee is tenured, he/she will hold certain rights by statute, including a right of due process which may require a hearing before action affecting employment is taken.
- ▶ The Board cannot direct the Superintendent to remove a principal, but the Board can hold the Superintendent accountable for the failure of the school to progress.

Board Members and Personnel (continued)

- ▶ Some school district positions are required by law:
- ▶ Superintendent, principal or head teacher of a school, school media librarian, district finance officer and district director of pupil personnel.
- ▶ Otherwise, the Board creates school district positions and fixes the compensation for all positions.

5: Board Policies

- ▶ Policy making is one of the Board's three major areas of responsibility, the others being hiring the Superintendent and adopting the school district budget.
- ▶ A policy is a statement of the Board's intent to guide present and future actions and decisions.

A Policy Should:

- ▶ Balance focus with broad applicability.
- ▶ Recognize limitations, such as legal constraints and available resources.
- ▶ Direct action by answering the questions of what is to be done, why and how much.
- ▶ Assign responsibility – who is responsible and to whom, in what manner and when?
- ▶ Provide information for stakeholders.
- ▶ Address accountability – monitoring, reporting and evaluating student achievement and reviewing and revising reports when necessary.
- ▶ Reflect the community's vision for its schools.

Legal Requirements

- ▶ Policies are required in the following areas:
 - Pupil transportation
 - Limitations or restrictions on use of school facilities
 - Conduct of meetings
 - Personnel matters
 - Selection of textbooks and instructional materials
 - Expenditures and accounting for school funds
 - School based decision-making
 - School safety and student discipline
- ▶ Board policies carry the force of law as long as they touch on issues within the Board's authority and do not conflict with state or federal laws.

Policy and Procedure: the Distinction

- ▶ A policy is a statement that describes an objective to be met.
- ▶ Policy statements are often supplemented by administrative procedures. Administrative procedures specify particular courses of action within the framework of policy.
- ▶ The Board reviews administrative procedures, but does not formally adopt or approve them. See JCBE Policy 01.51.

The Board and Policy Development

- ▶ State law requires the Superintendent to prepare, under the Board's direction, all rules, regulations, bylaws, and statements of policy for approval and adoption by the board.
- ▶ The JCBE has established a Policy Development Committee made up of three board members. The Committee reviews policy recommendations and, along with the Superintendent, makes recommendations to the full Board.

Board Policy and SBDM Council Policy

- ▶ *Board of Education of Boone County vs. Bushee*, 889 S.W. 2d 809 (Ky. 1994).
- ▶ A local board of education cannot require board approval of council policy in those site-based areas over which the council has responsibility by law.
- ▶ But a local board of education has authority to allocate funding, manage district property, appoint the superintendent, and fix compensation of district employees.

Jefferson County Board of Education

Operating Principles

Preamble

The Jefferson County Board of Education recognizes its role and responsibility to create and sustain a quality school district for the Louisville community, with the continuous improvement of student achievement as its primary goal. To develop and sustain high performance for Jefferson County Public Schools, the Board directs its work on policy making, planning, and evaluation of district performance.

Preamble

As elected officials, we work together, aligned to a common mission and shared goals. We expect high standards of behavior and performance from ourselves and from others in the JCPS community. To ensure unity and effective leadership, we use these operating principles to guide our conduct, practices and performance.

Board and Superintendent Leadership

To achieve our vision and best serve the students and community, the Jefferson County Board of Education and the Superintendent work as a leadership team. In complementary roles of policy governance and district management, we operate in collaborative partnership.

Therefore,

Board and Superintendent Leadership

1. We understand that the Board derives its authority only when it operates as a body. We will not take unilateral action.
2. We build and maintain a culture of trust and team work. Each should be honest and forthright in dealing with one another.
3. We adhere to a practice of 'no surprises' for Board members or the Superintendent.

Decision-Making

The Jefferson County Board of Education makes decisions that are first and foremost in the best interests of students and enhance the quality of programs and services in the Jefferson County Public Schools.

Therefore,

Decision-Making

4. We ask for and expect recommendations to the Board are based on evidence data and best practices.

5. We engage in robust deliberations to debate issues with one another and with the superintendent prior to making decisions. We ask hard questions and critically evaluate all implications of our decisions.

6. We honor and support decisions of the majority while respecting the right of individual members to express opposing viewpoints and vote their convictions.

Communication

The Jefferson County Board of Education understands that clear, consistent and frequent communication contributes to unity and synergy around shared goals for the district as a whole.

Therefore,

Communication

7. We work through the superintendent to address concerns, complaints and need for information. The entire Board will then be informed.

8. We expect that all Board members will be uniformly informed of matters pertinent to the Board's work, issues, and pending recommendations.

Communication

9. We recognize an official voice of the Board and allow the Board Chair, and in his/her absence, the Vice-Chair, to speak for and about the Board, its decisions, positions, and work. Individual Board members may always share their individual viewpoint but must clarify that they are speaking for themselves, rather than the entire Board.

10. To interact in a way with the media and public to preserve the integrity of Board processes and decisions.

Community Relations

The Jefferson County Board of Education recognizes that the community has aspirations for its school system. The Board, with the Superintendent, is the community's leading advocate for students, parents, staff, and the enterprise of the Jefferson County Public Schools.

Therefore,

Community Relations

11. We champion the work of the schools and are public education ambassadors.

12. We engage the community by soliciting input, listening to perspectives, and providing regular and relevant feedback to the community on the needs, achievements, and challenges facing the school district.

Approved:

December 12, 2011