

# GOVERNANCE & BEST PRACTICES

FOR HIGHLY EFFECTIVE CHARTER SCHOOL BOARDS

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Charter School Association of Nevada  
October 24, 2019



# Presenters

- YVONNE NEVAREZ, Esq.,
  - Executive Director, Nevada Commission on Ethics
- RYAN HERRICK, Esq.,
  - General Counsel, State Public Charter School Authority
- JOHN HAWK, Ed.D.,
  - Chief Operations Officer, Nevada State High School
- JIM HAGER, Ph.D.,
  - Executive Mentor/Advisor

# Schedule

TIME	EVENT	PRESENTER
8:50 am - 9:00 am	Welcome and Introduction of special guests	John Hawk
9:00 am - 9:10 am	Overview and Purpose of PD	Jim Hager
9:10 am - 9:50 am	Ethics Training	Yvonne Nevarez
9:50 am - 10:30 am	Open Meeting Law Training	Ryan Herrick
10:30 am - 10:45 am	BREAK	
10:45 am - 11:40 am	Governance, Protocols & Best Practices	Jim Hager
11:40 am - 12:00 pm	Q&A	Presenters
12:10 pm	Closure	John Hawk

# Purpose

- Address Charter School Options to OAG's Findings of Fact and Conclusions of Law per "Open Meeting Law Complaint, OAG File No. 13897-322
- Provide Professional Development specifically centering on Ethics in Government Law: NRS 281A, Public Officers and Employees
- Provide Professional Development specifically centering on Nevada's Open Meeting Law
- Provide Professional Development specifically centering on Governance and Best Practices for Highly Effective Charter School Boards

# Basic Bargain

- "Every charter school statute embodies a legislature's intent to give school organizers a relatively free hand in managing individual schools in return for accepting increased responsibility for student performance. This is the "basic bargain" of charter school legislation: autonomy for accountability." If the goals of the school set forth in the charter are not reached, the school's charter may be revoked or not renewed.
  - Autonomy, Accountability, and the Values of Public Education: a comparative assessment of charter school statutes leading to model legislation Marc Dean Millot September, 1996, SPCSA
- The SPCSA improves and influences public education in Nevada by sponsoring public charter schools that prepare all students for college and career success and by modeling best practices in charter school sponsorship.

# Effective Board of Directors and Success

“Time and again, there is an irrefutable connection between the effectiveness of the board of directors and the success of the school.”

CharterBoardPartners

# A Legal Responsibility

By law, charter school boards are held accountable by the authorizer, the state, the federal government, and the public to ensure that the school is operating in accordance with its original purpose and doing so in a responsible manner. Legally, the buck stops with the board, and, therefore, ensuring board competency is not just the right thing to do-

**IT'S A LEGAL RESPONSIBILITY**

CharterBoardPartners

# Exemplary Governance Practices

...a charter school board cannot be truly effective and meet all Charter Board Partners' standards unless it has also focused on exemplary governance practices.

CharterBoardPartners



# Ethics in Government Law: NRS 281A Public Officers and Employees



Presented by:

**Yvonne M. Nevarez-Goodson, Esq.**

*Executive Director*

Nevada Commission on Ethics



# What is the Nevada Commission on Ethics?

- The Commission
  - The Ethics Commission consists of 8 members appointed to serve 4-year terms
    - 4 members appointed by the Governor
    - 4 members appointed by the Legislative Commission
  - Interpret and enforce the Ethics In Government Law – NRS 281A
    - “*Conflicts of Interest*” for Public Officers and Public Employees



# Nevada Commission on Ethics

- Our Mission
  - To enhance the public's faith and confidence in government and uphold the public trust by ensuring that public officers and public employees commit themselves to avoiding conflicts between their private interests and their public duties.

# Commission Jurisdiction (2 years)

- Public Officers
- Public Employees
- State Legislators
  - Exceptions
- Former Public Officers and Employees
- Exceptions:
  - Judicial Officers
  - Advisory Board Members



# Nevada Commission on Ethics

- 3 Primary Functions:
  - Advisory Opinions (Confidential)
  - Ethics Complaints (Investigation Confidential)
  - Outreach/Education
    - AB 70
    - Exempts Ethics Training from OML
- Acknowledgment of Statutory Ethical Standards Form
  - Appointed: 30 days of appointment/reappointment; January 15 each even-numbered year for appointed officer who doesn't have definite term.
  - Elected: January 15 after General election; 30 days after special election

# Private Interests

- “Pecuniary” (NRS 281A.139)
- “Commitments in a Private Capacity” (NRS 281A.065)
  - Family/Relatives – 3rd Degree of Consanguinity/Affinity
  - Employers
  - Business Relationships
  - Household Members
  - Substantially Similar Relationships
    - Fiduciary Positions – Nonprofit Boards of Directors

# PROHIBITED CONDUCT

- GIFTS...
  - (Improper Influence)



NRS 281A.400(1)

# PROHIBITED CONDUCT

- IMPROPER USE OF POSITION
  - Unwarranted Benefits



NRS 281A.400(2)



# PROHIBITED CONDUCT

- IMPROPER USE OF POSITION
  - Improper Contracts/Employment
    - (Negotiating/Entering)
- New Limitations
  - SB 129 (2019)
  - Contracts with agency



NRS 281A.400(3,10); 281A.430

# PROHIBITED CONDUCT

- IMPROPER USE OF POSITION
  - Additional Compensation – Private Source



NRS 281A.400(4)

# PROHIBITED CONDUCT

- IMPROPER USE OF POSITION
  - Using/Suppressing Non-public Government Information



NRS 281A.400(5,6)

# PROHIBITED CONDUCT

- MISUSE GOVERNMENT RESOURCES
  - Limited Use Exceptions



NRS 281A.400(7)

# **PROHIBITED CONDUCT**

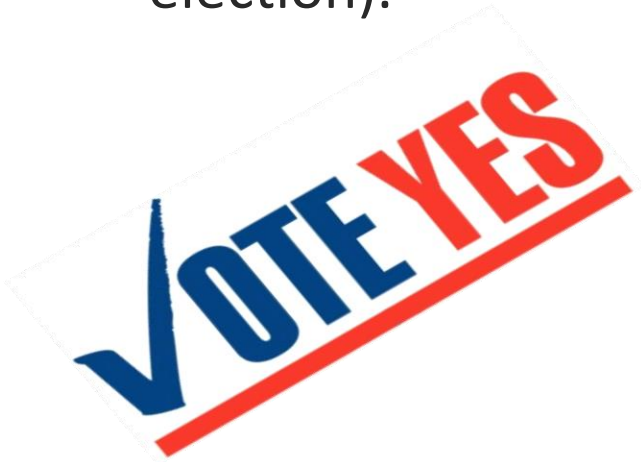
- MISUSE GOVERNMENT RESOURCES
  - Influencing Subordinate – Personal Purpose



NRS 281A.400(9)

# PROHIBITED CONDUCT

- Honoraria for performing your public duty
- Causing a governmental entity to make an expenditure to support or oppose a ballot question or candidate (during period between candidate filing and election).



NRS 281A.510 and NRS 281A.520

# “Cooling-Off” Prohibitions

- One-year cooling off period to seek or accept employment or certain private representations after leaving public service (certain exceptions)
- NRS 281A.550(3) – Prohibits Executive Branch officers/employees of State Government from employment by regulated business/industry
- NRS 281A.550(5) – Prohibits certain public officer/employee from employment with vendors of agency. (State/Local)
- NRS 281A.410 – Prohibits any public officer/employee from representing or counseling private persons/entities on issues that were before the agency.
- Relief **MAY** be granted from the strict application of NRS 281A.550(3 & 5). (NRS 281A.550(6))



# Disclosure and Abstention for Public Officers and Employees

- Walking the Disclosure & Abstention tightrope





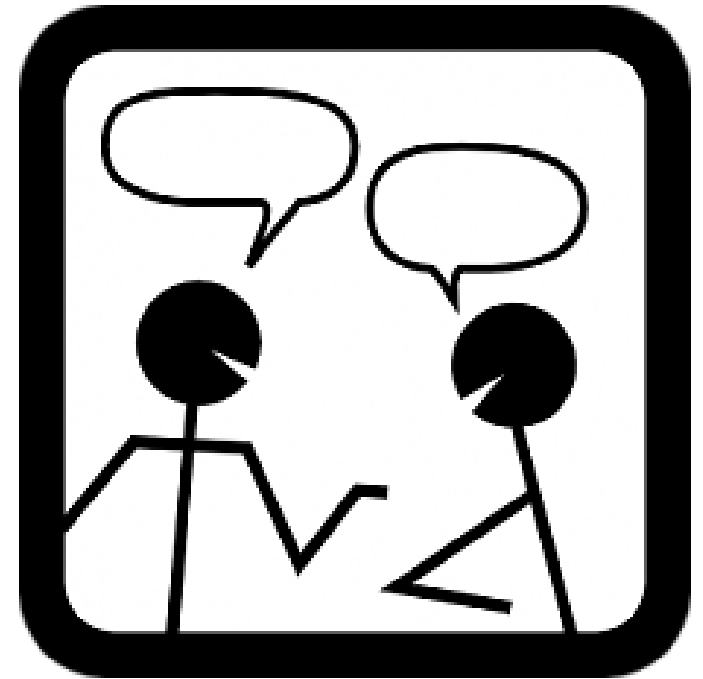
# Disclosures

- **Disclosure** is mandatory for any interest created by:
  - A gift or loan
  - A **substantial\*** pecuniary interest
  - A “commitment in a private capacity”
  - Representation of private client
- **Disclosure** must be made at the time the matter is considered.
- **Sufficient** to Inform Public – Nature and Scope

NRS 281A.420(1)

# Disclosure – Public Employees

- To supervisory head of organization
- Sufficient to inform public



# Voting & Abstention

- Abstention is ***required only*** in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected.
- This determination should be made by the public officer and explained ***on the record***.

NRS 281A.420(4)

# Voting & Abstention

- Voting is presumed permissible **if the resulting benefit/detriment to the public officer (or committed person) is no greater than the benefit/detriment to anyone else** affected by the matter.

NRS 281A.420(4)

# SAFE HARBOR PROVISIONS

- No willful violation **IF**:
- The public officer or employee relied in good faith upon the advice of the legal counsel retained by his or her the public body, agency or employer; and
- The legal advice was:
  - Provided before conduct; and
  - Not contrary to prior published opinions on Commission website.



# Commission Opinions & Other Resources

- Resources and Opinions of the Nevada Commission on Ethics are indexed on the NCOE website:

[www.ethics.nv.gov](http://www.ethics.nv.gov)

# Nevada Commission on Ethics

## Nevada Commission on Ethics

704 W. Nye Lane, Suite 204

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Nevada Commission on Ethics  
Ethics Training

**GOVERNANCE &  
BEST PRACTICES**  
FOR HIGHLY EFFECTIVE CHARTER SCHOOL BOARDS

# Nevada's Open Meeting Law: A Practical Guide



Presented by:

**Ryan Herrick, Esq.**

*General Counsel*

State Public Charter School Authority



# A Practical, Hands-On Guide to Holding a Public Meeting – The Basics!

- First: Open Meeting Law Requirements PRIOR to the public meeting
- Second: How to HOLD a public meeting
- Third: Open Meeting Law Requirements AFTER a public meeting
- Finally, a few exceptions, what happens when a violation occurs, and proposed changes to the Open Meeting Law

# First: Before the Public Meeting



Drafting the  
agenda

Supporting  
materials

Notice  
requirements

# Before the Public Meeting

- Drafting the Agenda

“Clear and  
complete”

Magic  
language

# Agenda items MUST be “clear and complete”

- Would your neighbor that knows nothing about public charter schools be able to read the agenda and understand what is being discussed?
- Avoid vague language: “Staff Reports” or “Principal’s Report” are disfavored



# Magic Language

Time, place, and  
location of meeting

Name and contact  
information from  
whom agenda and  
supporting materials  
can be obtained

Reasonable  
accommodations

Any time limits on  
public comment

# Before the Public Meeting and Supporting Materials

MUST be made available to the public at the time supporting materials are provided to the public body



BUT this does not mean that supporting materials must be posted three working days prior to the meeting! Instead, if requested by a member of the public, the public body must provide a copy of the supporting materials at the time the supporting materials are provided to the public body

# Before the Public Meeting

- Notice Requirements

- **When?**

- Agenda must be posted no later than 9:00 am three business days prior to the public meeting

- **Where?**

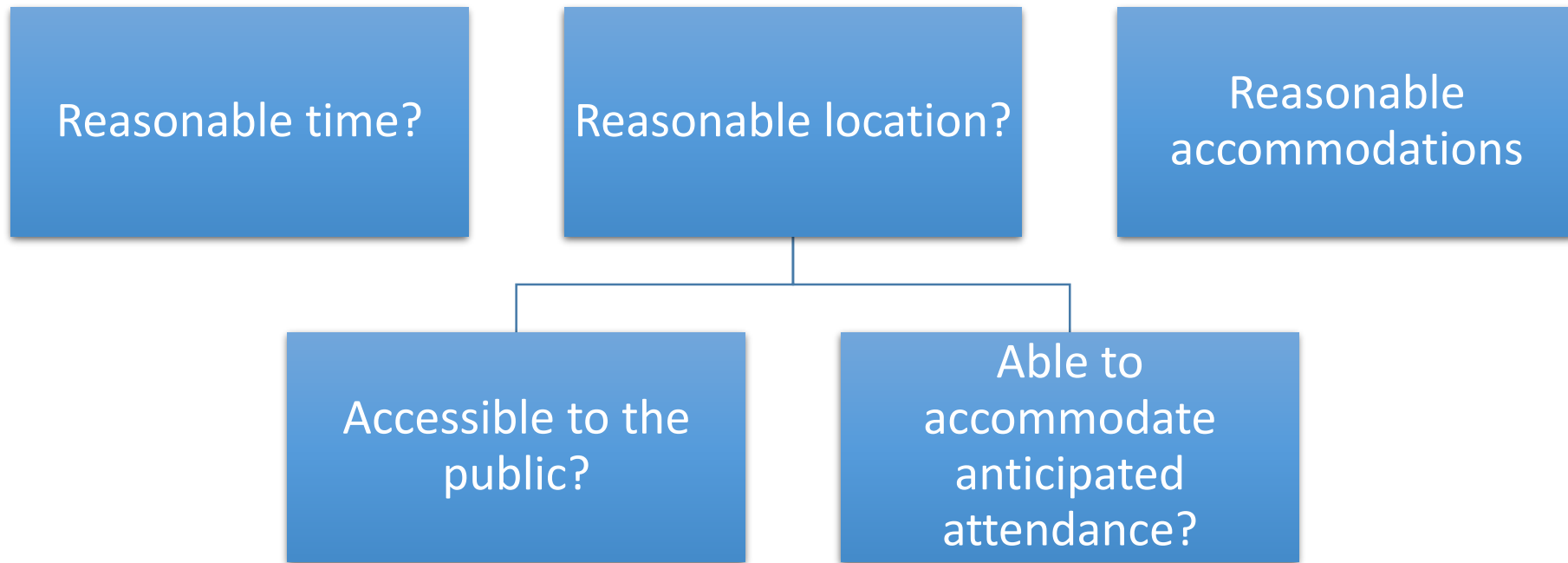
- Principal place of the public body OR the location where the meeting is to be held
    - Three other “prominent” places
    - Public body’s website
    - Official State of Nevada notice website: <https://notice.nv.gov>
    - Must provide a copy of the agenda to any member of the public that has requested notice

# Second: How to Hold a Public Meeting

- Reasonable time, location, and reasonable accommodations
  - Public comment
  - Copy of agenda and supporting materials
  - Recording or transcription
- 
- Stick to the agenda!



# How to Hold a Public Meeting Time, location, and reasonable accommodations



# How to Hold a Public Meeting

## Public Comment

Two options

At the beginning AND end  
of the meeting, or

After each action item

“Reasonable” restrictions on  
public comment

Time limits

Unduly repetitive

BUT NO limitations based on  
viewpoint

# How to Hold a Public Meeting

## Copy of agenda and supporting materials

- The public body must have at least one copy of the agenda and supporting materials available at the public meeting



# How to Hold a Public Meeting Recording or Transcripts

- The Public Meeting must be recorded by video or audio, or be transcribed

**“Good faith” effort**

# How to Hold a Public Meeting

## Stick to the Agenda

“Clear and complete”  
description of  
the agenda  
item

Many Open  
Meeting Law  
violations are the  
result of public  
bodies straying  
from the agenda

# Third: What Happens After a Public Meeting?

- Minutes
  - Must contain:
    - Date, time, and location of the meeting
    - The members of the public body that were present or absent
    - The substance of any discussion by the public body
    - A record of each member's vote
    - The substance of any public comment
  - Must be available to the public within 30 business days
  - Must be approved at the next meeting or within 45 days (whichever is later)
- Recording or transcript
  - Must be made available to the public
  - Must be retained for one year

# Finally: Exceptions, Violations, and Potential Changes

- Exceptions
  - Committees and subcommittees are not exempted!
- Violations
  - Void actions, civil and criminal penalties
- Potential changes: Assembly Bill 70 (2019)

# Exceptions to the Open Meeting Law

- Closed sessions
  - NRS 241.030
- Emergency meetings
- “Unforeseen circumstances”
- “Non-meetings”
  - Attorney-client conferences
- Social functions and conferences





# Quorums

- Statutory quorum for the SPCSA Board = 4 members
  - Gathering of less than a quorum means that the Open Meeting Law is not implicated
- “Deliberation”
- Serial communications, constructive quorums, or “walking quorums”

# Violations of the Open Meeting Law

- Enforcement by the Attorney General's office or private lawsuit
- Civil and criminal penalties
- ***Voids any action taken at the public meeting (or the offending item)***
- Encouraged to take corrective action as soon as the violation is known



# Changes to Nevada's Open Meeting Law: Assembly Bill 70

- Allows public bodies to receive training outside the Open Meeting Law
- Explicitly requires committees and subcommittees to comply with the Open Meeting Law
  - Defines a “subcommittee” as a group that consists of a majority of members of the public body or staff OR
  - Any subcommittee or working group that makes a recommendation to the public body that the public body may take action on
- Defines “supporting materials” as anything provided to a quorum of the public body that the public body may reasonably rely on to make a decision

# Nevada's Open Meeting Law

- NRS Chapter 241
  - <https://www.leg.state.nv.us/NRS/NRS-241.html>
- Attorney General's Open Meeting Law Manual
  - [http://ag.nv.gov/uploadedFiles/agnv.gov/Content/About/Governmental\\_Affairs/OML\\_Portal/2016-01-25\\_OML\\_12TH\\_AGOMANUAL.pdf](http://ag.nv.gov/uploadedFiles/agnv.gov/Content/About/Governmental_Affairs/OML_Portal/2016-01-25_OML_12TH_AGOMANUAL.pdf)
- Attorney General Open Meeting Law Opinions
  - [http://ag.nv.gov/About/Governmental\\_Affairs/OML\\_Opinions/](http://ag.nv.gov/About/Governmental_Affairs/OML_Opinions/)
- Attorney General's Open Meeting Law Hotline
  - Phone (775) 684-1100 or (702) 486-3420
- SPCSA's or public charter school's legal counsel

# State Public Charter School Authority

## State Public Charter School Authority

1749 North Stewart Street Suite 40

Carson City, Nevada 89706

775- 687-9159 (Office)

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Ryan Herrick

General Counsel

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# Board Focus

- A high performing charter school board focuses on student achievement, acts strategically, recruits an exceptional school leader, raises and uses resources wisely, and fulfills all compliance expectations, but it only manages two things

## The School Leader Itself

CharterBoardPartners

# Basic Principles of Board/Administrative Leadership Team Governance

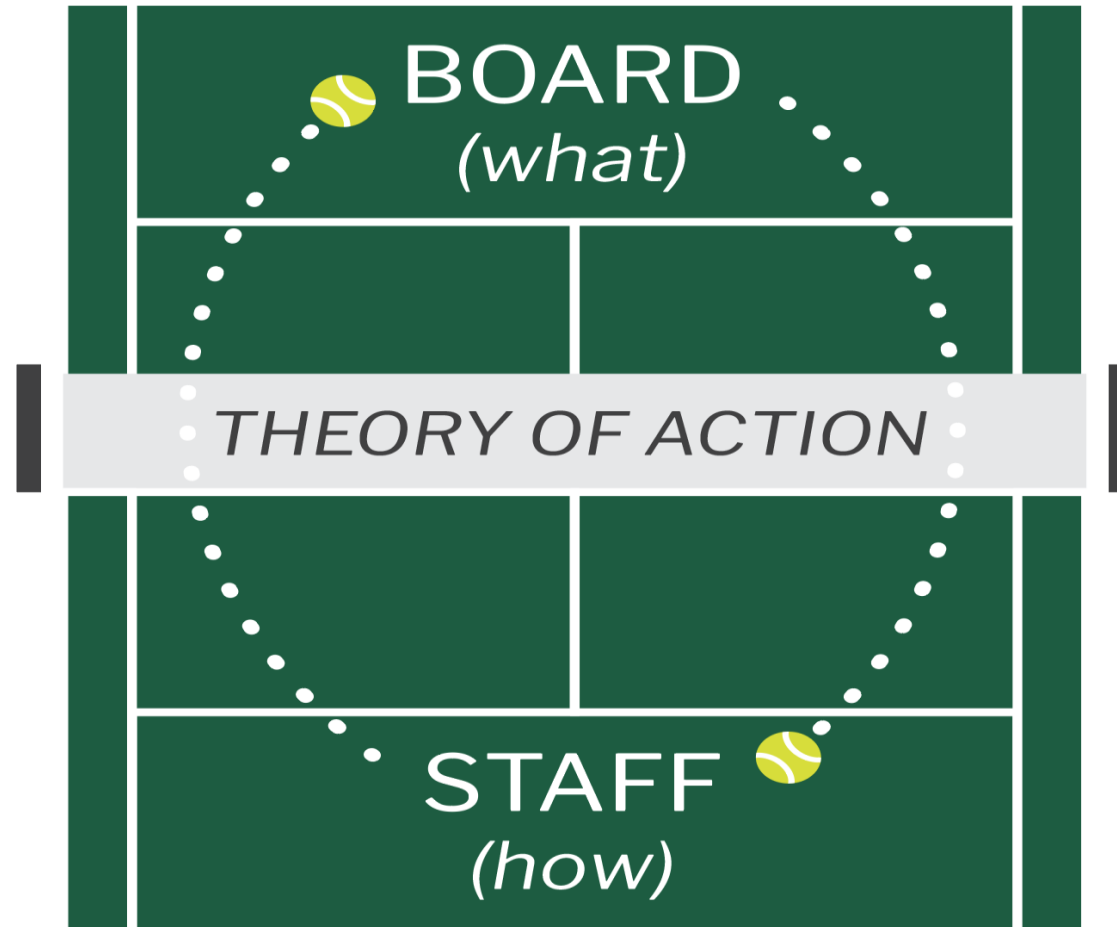
- By law, charter school boards are held accountable by the authorizer, the state, the federal government, and the public to ensure that the school is operating in accordance with its original purpose and doing so in a responsible manner
- Board employs a Chief Executive, to whom it delegates day-to-day leadership and management of Charter
- Chief Executive is the only Charter employee who reports to and receives direction from the board
- Board speaks with one voice or not at all. Individual members have no authority over Charter. Once a vote is taken, decisions must be supported.
- Board prescribes the ends but stays out of the means to as great extent as possible.

# Bringing it Together





# Governance



# Are Boards trying to Manage

- Noticing more and more that elected school boards who are charged with creating policy and overseeing the major components of School Districts are bleeding into attempting to manage the day to day – there is a clear line of authority – or is there?

Robert M. Avossa, Ed.D., Senior Vice President  
Publisher of Education Products, LRP Publication

# Peak Performing Governance Teams

- United in service to children
  - Members come to board with one pure motive – to serve the best interests of children
  - No other agendas
  - All meetings and discussions focus on what's best for students

# Peak Performing Governance Teams

- United in service to children
- Board and Superintendent/CEO have *interdependent* relationship
  - Not dependent, nor independent
  - Everyone understands the “ownership” role of the board
  - Everyone understands the “professional management” role of the superintendent/CEO
  - Mutual expectations

# Peak Performing Governance Teams

- United in service to children
- Board and Superintendent/CEO have *interdependent* relationship
- Indicators of Success established for district
  - Statements of mission, vision, guiding principles established
  - Determine how district success will be defined and measured
  - Appropriate roles in improvement process identified for board, staff and community

# Peak Performing Governance Teams

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- Relationships based on trust, loyalty and respect

# Peak Performing Governance Teams

- United in service to children
- Board and Superintendent/CEO have *interdependent* relationship
- Indicators of Success established for district
- Relationships based on trust, loyalty and respect
- Strong and durable linkages with community
  - Proactive, not reactive, in seeking community input on key decisions
  - Avenues established for regular, meaningful dialog regarding district directions

# Eight characteristics of effective school boards

- Effective school boards commit to a vision of high expectations for student achievement and quality instruction and define clear goals toward that vision. (Lighthouse I)
- Effective school boards have strong shared beliefs and values about what is possible for students and their ability to learn, and of the system and its ability to teach all children at high levels. (Lighthouse I)
- Effective school boards are accountability driven, spending less time on operational issues and more time focused on policies to improve student achievement.
- Effective school boards have a collaborative relationship with staff and the community and establish a strong communications structure to inform and engage both internal and external stakeholders in setting and achieving district goals.



# Eight characteristics of effective school boards

- Effective school boards are data savvy: it embraces and monitors data, even when the information is negative, and uses it to drive continuous improvement.
- Effective school boards align and sustain resources, such as professional development, to meet district goals. According to researchers LaRocque and Coleman, effective boards saw a responsibility to maintain high standards even in the midst of budget challenges.
- Effective school boards lead as a united team with the superintendent/CEO, each from their respective roles, with strong collaboration and mutual trust.
- Effective school boards take part in team development and training, sometimes with their superintendents, to build shared knowledge, values and commitments for their improvement efforts.

# Highly effective board characteristics

- A Charter school board becomes highly effective once it has effectively addressed the challenging issues that arise during the transition phase
- A highly effective board has sound governance practices in place that allow it to work efficiently and focus on that which matters most
- It has a high level of confidence and trust in the school leader and seeks a variety of ways to get information from multiple sources
- This board understands the value of recruiting a strategically composed and diverse board
- It has a strong, functioning committee and task force structure in place to advance the work of the board

# Highly effective board characteristics

- It adopts performance evaluation systems at all levels of the institution
- The highly functional board is no longer involved in the operations of the school and has created systems to allow it to effectively provide appropriate oversight
- It spends most of its time on strategic issues, building the schools reputation and fundraising
- It takes time to reflect, self evaluate, and implement changes in order to remain a high-performing board driven by mission

# Model Standards of Practice Governance Team

- Place the interests of children above all others in every decision that we make
- Uphold all applicable federal and state laws and regulations
- Abide by the policies of the Board, and work with fellow governance team members to change those policies as needed to improve student learning
- Maintain board focus on the achievement of all students regardless of race, class, ethnicity, or gender
- Not use our positions for personal or partisan gain
- Model continuous learning in our roles as members of the governance team
- Maintain a strategic plan for the district that clearly defines success and accountability for the board, the staff, and our students

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- Model continuous learning in our roles as members of the governance team
- Maintain a strategic plan for the district that clearly defines success and accountability for the board, the staff, and our students
- We will maintain fidelity to these commitments and will be held accountable by our fellow board members should any one of us fail to live up to these commitments.

# Q & A With Presenters

# Thank you!

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**Executive Director**

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**Nevada State Public  
Charter School  
Authority**

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