



# Policy Advisor

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## BOARD MEMBERS' ROLE IN POLICY DEVELOPMENT

With the November election in 2020, many school boards have new board members beginning terms in January. As a primer for newly elected school board members and a reminder for veteran school board members, this article will address an important function of a school board and its members – that of policymakers. A school board's major function is to adopt policies to guide the operation of the school corporation. Policy development is one of, if not, the most important function of the school board.

School board policies are statements that set forth the purposes and prescribe in general terms the organization and program of a school corporation. Policy statements guide the board in making decisions and assigning authority to the school administration. They create a framework or direction within which the superintendent and the staff can carry out their assigned duties. Policies establish a defined course of action to guide present and future decisionmaking while allowing for flexibility in the daily operations of the school corporation.

School board policies need to be in writing as written policy demonstrates a business-like operation, provides credibility

to board action, creates a record for insurance and other legal matters, clarifies board and administrative functions, and provides consistency to the operations of the school corporation.

Written board policies also serve as transitional aids to new board members and provide clear notice of expectations of conduct by school employees and students. The individual policies adopted by the board should be placed in a policy manual organized by general topic areas such as Bylaws, Administration, Personnel, Students, Instruction, Financial Management, Property Management, School-Community Relations. Every board member and school administrator should be given a copy of the policy manual. Policy manuals should also be distributed to other school employees, the local public libraries, and the school libraries, in addition to being posted on the school corporation website.



Regulations or rules are often needed to implement the board's intentions expressed in its policies by specifying a required action or describing administrative arrangements. The formulation of rules, regulations, procedures, and/or guidelines is generally the responsibility of the superintendent and/or the administrative



staff. Regulations and rules may be included in the policy manual if designated as such or in a separate administrative procedures manual to be used by the school administrators.

### **DIFFERENCE BETWEEN BOARD POLICY AND REGULATIONS OR RULES**

School board members need to know the difference between policy and rules. [Rules are also referred to as administrative regulations or procedures but all serve the same function.] The National School Boards Association (NSBA) definitions for policy and regulations provide clarity on the difference between these concepts. NSBA defines policies as “guidelines adopted by the board to chart a course of action.” Well-written policies will tell what the board wants to see happen and will explain why it should happen. Policies should be broad enough to allow for discretionary action by the administration when addressing issues on a daily basis, yet be specific enough to give clear guidance. NSBA defines regulations or rules as “detailed directions developed by the administration to put [board] policy into practice. They tell how, by whom, where, and when things are to be done.”

The following questions could be asked to determine what a policy statement is; if it is a policy statement, the answers to these questions will be yes.

1. Does it communicate the expectations of the board?
2. Does it give direction(s) to the superintendent?
3. Does it inform the public of the board’s intent?
4. Does it tell the superintendent how to do it?

The following questions could be asked to determine what a regulation is; if it is a regulation, the answers to these questions will be yes.

1. Does it establish the mechanics for implementation of the policy?
2. Does it list the steps to be followed?
3. Does it contain important detail?
4. Does it allow the superintendent to make changes?

### **PARAMETERS OF BOARD POLICY**

The content of board policy is shaped by federal and state constitutions, federal laws and regulations, state statutes and regulations, and state and federal judicial decisions. Some policies are required to be adopted by school boards by federal or state laws or agency regulations. The ISBA has a list of the policies a school board is required to adopt by law.

Other than the policies required by law, the school board ultimately determines whether or not a policy is adopted based upon the local needs of the school corporation. School board members should keep in mind board policies carry the weight of law and establish a legal record for the school board and the school corporation. The board’s policies must be current and effective, constantly monitored, and communicated and distributed to school employees, students, parents, and the school community; they should be easily accessible and conveniently located.

The policy-making process is one of the best ways to provide public involvement and to ensure policies are responsive to the needs they are designed to meet. When the board is engaging in

the policymaking process, the following steps should be taken:

- 1) study and consideration;
- 2) proposal and recommendation;
- 3) board deliberation and action;
- 4) administrative implementation and feedback; and
- 5) review of policies.

While following these steps, the board should keep in mind policy development is a cooperative effort. Not only should the board be involved, but also the appropriate stakeholders such as administrators, employees, employee organizations, and interested members of the community. Adopting, amending, and developing policy is a continual process for the school board and school administration. A school board's policy manual is not a completed work, and it is always changing with new and amended policies being added and out-of-date policies being removed.

### **1. Study and Consideration**

In this first step, the school board will begin by determining whether a policy is needed on a specific topic. One of the first questions the board should ask is how often does the board address the subject matter? If it is on a frequent basis, approximately six to twelve times a year, a policy is probably needed. But if the frequency is only once a year or every couple of years, then the board does not necessarily need to develop a policy on the subject. If a policy is required by state or federal law, the board has no choice but to adopt the policy.

If a board determines it needs a policy on the subject matter, it needs to research and consider its options. This is done by requesting input from the people whose activity it will affect, soliciting and obtaining ideas and views from as many people as possible, reviewing professional literature on the specific topic, and seeking advice from experts. This is where the cooperative effort of the board may take place by inviting the appropriate members of the school community and the public to provide input and ideas for the concepts to be included in the policy. Surrounding school corporations could be consulted to determine if and how they have addressed the issue and if they are willing to share their policy with your school board. The board should always consult with legal counsel to determine any legal considerations needed to be addressed. ISBA is a resource that can be used for any of the above information. In addition, ISBA can provide sample policies from around Indiana and other states for a school board on the requested topic.

### **2. Proposal and Recommendation**

This step may also be referred to as the drafting stage. The entire board should not draft the policy; one person, whether a board member or an administrator, should be designated to draft the policy or be responsible for bringing a final draft to the school board for its consideration. There are many resources from which to obtain sample policies on a vast majority of topics, so it will be rare that a policy will have to be drafted from "scratch." Whether drafting a policy or reading the draft policy for the first time, the content should be void of verbosity, educational jargon, and legalese. The policy should be written clearly enough to give explicit guidance to school administrators and employees by using clear, concise, and precise language. A policy should be limited to one topic or subject matter. The policy must be consistent with board minutes and other policies. It should be practical and capable of administration and meet the current needs of the school corporation but also have a long-range perspective. A policy should not restate a statute or rule or paraphrase a statute or rule, as a board is required to follow all laws and the regulations of a federal or state agency.

It is at this step and prior to board adoption that school board policies should be given a legal review to be sure they are consistent with federal and state laws and regulations, are within the scope of the board's authority, and are clearly stated to avoid vagueness. All requirements and prohibitions in the policy should be reasonable and free from arbitrariness and capriciousness and avoid extending the school corporation's legal liability. Your local school attorney should conduct a legal review of the board's adopted policies. ISBA may also be consulted for such a review.

### **3. Board Deliberation and Action**

When the policy has been written and recommended for board approval, the entire board should review the policy together. The best way to do this is to have a system in place providing the entire board the opportunity to review the final policy. The most common system is to have two or three readings of the proposed policy in different public board meetings. The first reading is the opportunity for the board to read, digest, and discuss the policy. It is at this time the board may make minor changes to the policy. If the board makes major changes to the policy, it should go through the above steps before moving the policy to the next step in the adoption process.

The second or third reading of the policy, which should take place at a different board meeting, will be when the policy is



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adopted by the board. Only corrections to grammar, spelling, or legal references should be made at this time. The board then adopts the policy by motion, a second, and a vote of the board. The adoption of policy requires a majority of the board members present. The policy should go through at least two readings so the board has time to consider and think about the policy in between readings before adopting it.

#### **4. Administrative Implementation and Feedback**

Once a policy is adopted, the date of adoption and an effective date should be added to the end of the policy. A legal reference should also be included, if applicable. The legal reference should be a state or federal law or a state or federal agency regulation. Items such as case names, case citations, or any other documents need not be referenced in the legal reference section of the policy. The policy should be placed in the policy manual, which should contain a simple, subject-related codification system using a numerical code. When a policy is adopted or amended, it should be disseminated to the persons who have policy manuals with instructions as to the appropriate placement of the policy. If the school corporation's policy manual is on the corporation website, it should also be updated with the newly adopted policy.

The administration is responsible for implementing the policy and for providing the school board with feedback as to how effective the policy is. It is at this point the issue of developing rules or regulations for the policy should be addressed. As stated earlier, the administrators are usually responsible for drafting the rules to implement the policy. Regardless of whether the board or the administration drafts the rules, the board should review them to be sure the policy will be implemented as the board intended.

#### **5. Review of Policy and Policy Manual**

The policy manual is never a finished document; it is constantly changing. Thus, a school board should maintain a schedule of review of its policy manual on a continuing basis so that it is always updating its policy manual. State and federal laws will change so that a policy may need to be amended or added due to legislative action. When legislative action requires a revised or new policy, the board should act on such immediately and not wait for the scheduled review of the relevant chapter. The schedule of policy review should continue while the school board attends to the required action. Also, conditions may change within the school corporation, which may require a policy to be amended. Such events should be dealt with through an established system of policy

maintenance that ensures the manual is always up to date and reflects the current operations of the school corporation.

There are a variety of ways a board may review its policy manual. A committee may be formed to begin to review the policy manual or the specific chapter of the manual scheduled for review. This committee could consist of board members and/or school administrators. Or various administrators may be assigned to review specific chapters in the manual. The board may choose to assign the superintendent to determine how the policy manual will be reviewed.

During the review process, the policies in the manual or chapter need to be reviewed for accuracy. The following questions may be asked when reviewing a policy:

- Does the school corporation need the policy?
- Does the school corporation follow the policy or have circumstances changed in the corporation requiring the policy to be amended?
- Does the policy still comply with current laws or regulations?

The information resulting from asking the above questions should be shared with the board during its scheduled policy review at board meetings.

Reviewing the entire policy manual will take time. It is best to develop a schedule to do the entire manual over a period of time, i.e., a one, two, or three-year cycle wherein all chapters in the policy manual will be reviewed by the board. At least once a month, the board should have on its agenda an item for policy review and update.

### **ISBA POLICY SERVICES**

Board members are not alone in this task. ISBA will provide help and guidance through the process. ISBA will review any policy a board is considering for adoption and will provide sample policies for the school board to consider. ISBA will also distribute information on policies required by law and other updates to policies through this medium and/or e-mails to school board members and school superintendents. For additional information on policy development by school boards, see the following webpage: <https://www.isba-ind.org/policy.html>.

ISBA has a policy development service that provides more in-depth help to school boards on organizing and updating policies and policy manuals. For more information on this service, please see the following webpage: <https://www.isba-ind.org/cpms.html>.

