

Introduction

Through the years, myths have developed about what is supposed to occur at the organizational meeting of boards of education. Some practices are appropriate and others are not. Some, in fact, are not in compliance with Ohio law. The purpose of this brochure is to suggest procedures that are legally correct and efficient for conducting the board's organizational meeting.

The election

After the election campaign, voters select those who will represent them on the board of education for the next two or four years, depending upon circumstances (all terms are four years, but if a vacancy occurs in mid-term, the remaining two years of the term may require an election).

No one is officially elected until he or she has been certified as elected by the county board of elections. This usually happens approximately 10 days after the election. Newly certified board members have no official role from that point until Jan. 1 when the new term begins.

However, many boards of education make it a practice to involve newly elected board members from the time of their election until they officially take office. Ohio Revised Code Section (RC) 3315.15 provides that a board of education may spend money from its service fund for expenses of members-elect actually incurred in connection with their training and orientation to their duties before they take office.

Newly elected board members, not being officially in office, may meet individually or collectively prior to assuming office without violating Ohio's Sunshine Law.

The swearing-in

While it is common practice to administer the oath of office to newly elected board members as part of the organizational meeting, it is not mandatory that the ceremony take place at that time. In fact, an elected official can take the oath of office at any time after he or she has been officially certified as elected by the board of elections. Board members can be "officially" sworn in prior to the organizational meeting, and participate in a ceremonial swearing in during the meeting if they desire. However, the law prohibits the official from serving in the new term until Jan. 1.

A major question is who may administer the oath of office. The law states that the treasurer, any member of the board or any person qualified to administer oaths may do so. It is the opinion of OSBA that any Ohio elected official, judge or notary public is qualified. The superintendent of schools is not qualified to administer the oath.

The interim

An issue that confronts board members and administrators concerns which board members have authority to transact business during the "gap" of time between Dec. 31 and the board's organizational meeting in January. A preliminary suggestion is that the organizational meeting be held at the earliest possible time in order to minimize the problem (see "The organizational meeting" elsewhere in this brochure).

A departing board member is without powers of office after Dec. 31 if a successor has been qualified. The Ohio Auditor of State Office Bureau of Inspection and Supervision has taken the position that a member is "duly qualified" when the board of elections certifies the election results. Therefore, if a successor has been elected and certified, a board member

whose term expired would have no authority as a board member after Dec. 31. If a qualified successor moves from the district or dies, a board vacancy would be created and the board would have the responsibility to appoint a replacement in accordance with RC 3313.11 (see the OSBA brochure *Filling Board of Education Vacancies*).

Winding up the year

There is a common misconception that the old board must meet in January to wind up last year's business. Some boards have recessed a December meeting to a date in January for this purpose. At this meeting they handle the old business and then adjourn. This practice is of doubtful legality, since the authority of the old board members ends on Dec. 31.

Perhaps the best approach is for the board to meet in December to conduct any necessary business and name a person who will be a member in January to preside initially at the organizational meeting. This eliminates the awkward situation at that meeting of having no one to call the meeting to order and to preside until a new president is elected. The person selected can be last year's president (if that person will still be on the board), the most senior board member or any other member of the board. It cannot be the treasurer or the superintendent. After adjourning the December meeting, it becomes the responsibility of the treasurer to poll the new board (newly elected and reelected members and those whose terms did not expire) and establish a date, time and place for the organizational meeting.

A board of education is legally an ongoing entity regardless of any changes in membership. The new board is clearly authorized to act on any and all items that are deemed "old business," including the approval

of the minutes from the December or earlier meetings.

The organizational meeting

By statute, city, local, exempted village and joint vocational school (JVS) boards may organize any time within the first 15 days of January. Educational service center (ESC) governing boards have until the end of the month. Prudence would dictate that the meeting be held at the earliest possible time since the operation of the district must continue. It is helpful if the ESC, city, local and exempted village board organizational meetings precede the JVS organizational meeting. If so, the JVS board can be at full strength for important duties, such as the election of officers.

Occasionally, boards wish to meet prior to the organizational meeting. Although it seems the organizational meeting was intended to be the board's first meeting of the year, there is no specific prohibition of an earlier meeting. Unless there is an emergency, however, it seems prudent to have the organizational meeting be the board's first meeting of the year.

The meeting should be called to order, and opening ceremonies (such as the Pledge of Allegiance) conducted. This should immediately be followed by administration of the oath of office to new members (if the oath has been administered previously, it should be so stated for the record as to when, where and by whom).

Once all members are officially seated in compliance with law, the treasurer should call the roll and the election of officers should take place. The president pro tem continues to preside over the meeting at this point. Any member of the board may nominate someone for office. In fact, members may nominate themselves. It should be noted that nominations do not require seconds.

If more than one person is nominated for the position of president or vice president, the treasurer shall publicly call the roll of the board and ask the members to vote for the person of their choice. Secret ballots would be a violation of the Sunshine Law. Ohio law requires a majority vote of all members of the board to elect an officer. Once the officers have been elected and sworn in, the meeting should proceed with the newly elected president presiding.

Among items that should be considered at the first meeting are establishment of the regular meeting schedule and appointment of the treasurer, if appropriate. Normally, purchase of liability insurance for individual board members and the board as an entity, renewing OSBA membership and routine business are disposed of at this meeting. As with all other meetings of the board, this meeting must be announced in advance and open to the public to comply with the Sunshine Law.

Some boards have held an organizational meeting followed immediately by another board meeting. One reason for doing so, may be to create a meeting for which members may be paid for attending. There do not appear to be any prohibitions of this practice, as long as the Sunshine Law is followed with regard to both meetings. However, RC 3313.12 appears to authorize payment for attending the organizational meeting, and there is no restriction on the business that may be conducted during the organizational meeting, so any reason to have a second meeting on the same day is unclear.

Board member compensation

Board member compensation is discussed in this brochure because many boards have traditionally dealt with this subject at the

organizational meeting. Although boards may act to set compensation at the organizational meeting, or any meeting, due to the restrictions of Article II, Section 20 of the Ohio Constitution, board members are prohibited from changing their salaries during a term of office. Therefore, a board that wishes to change its compensation would be wise to consider doing so prior to the end of the year, rather than waiting for the organizational meeting, particularly when going from an odd- to an even-numbered year. By acting in December of an odd-numbered year, just prior to the end of some board members' terms, the board can speed the effective date of the change in compensation by approximately two years.

RC 3313.12 provides that members of boards of education may be paid at a rate not to exceed \$125 per meeting attended. ESC and JVS board members also may be reimbursed for mileage at a rate set by the board for attendance at all board meetings.

There is no limitation on the number of meetings per year for which a board member may be compensated. Members of some boards of education choose to voluntarily set a maximum number of meetings for which they will receive compensation.

Because of the constitutional restriction against in-term changes in compensation, any change made by a board in the compensation for its members can become effective for each member only as he or she begins a new term of office. This usually occurs in January of even-numbered years. However, members appointed to fill vacancies are treated as if they are starting a new term and may receive any compensation changes previously adopted by the board. It should be noted that the prohibition against changes in compensation applies to both increases and decreases. It

applies to the per-meeting rate of pay, mileage allowances and the number of meetings per year for which compensation will be authorized.

As a result of Senate Bill 187, (effective Sept. 20, 2002) board members also may be compensated for attending an approved training program. The maximum compensation authorized is \$60 a day for a training program of three hours or less and \$125 a day for a training program longer than three hours. A board could choose to pay its members less than the statutory maximums specified in the law.

For related information, see *Voting Makes a Difference* and *Understanding Ohio's Sunshine Law*. Both brochures can be obtained from OSBA at the address below or by visiting the association's Web site at: www.osba-ohio.org/brochures.htm

Caution: *The information in this pamphlet is designed to provide authoritative general information. It should not be relied upon as legal advice. If legal advice is required, the services of an attorney should be obtained.*

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Conducting the school board organizational meeting