



Recording the board's actions

Managing the board of education's minutes

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Ohio law requires boards of education to record the proceedings of their meetings. This document, which is more commonly known as the “minutes” of a meeting, constitutes the official record of all board actions and serves an important role in providing key information to members of the public.

The Supreme Court of Ohio wrote in *White v. Clinton Cty. Bd. of Commrs.*, 76 Ohio St.3d 416, 419-420 (1996), that minutes provide “rich detail as to the history and culture of our country,” “reflect the difficult decision-making process” that occurs at meetings of governing bodies and “bring the public to a better understanding of why unpopular decisions are sometimes necessary.” But despite their importance, there is relatively little guidance in the Ohio Revised Code (RC) about what these minutes must include or how they are to be recorded, adopted or amended. Fortunately, the courts, state agencies and general parliamentary procedures provide some assistance in answering common questions.

Treasurer's responsibility

Under RC 3313.26, a school district treasurer is required to attend board meetings and record and attest to the proceedings of those meetings. It is not appropriate for the treasurer to assign or delegate this responsibility to another employee on a regular basis.

If the treasurer will be absent from a meeting, RC 3313.23 requires the board of education to appoint one of its members to serve as a temporary substitute for the treasurer and take minutes for that meeting only. The

board is not permitted to appoint an assistant treasurer or administrative assistant to take minutes in the treasurer's absence. These responsibilities must be assigned to a board member.

Specificity of minutes

Ohio Revised Code does not provide details about what should be contained in a board's minutes. However, in *White v. Clinton Cty.*, a 1996 case considering the law requiring county commissioners to prepare a complete record of their proceedings, the Ohio Supreme Court held that minutes must be of sufficient specificity that an individual who was not present at the meeting could read them and understand and appreciate both the board's official actions and the rationale behind them.

In the opinion, the court recognized that most people's day-to-day schedules left them little time to attend government meetings. The court found tremendous value in providing Ohio's citizens with the opportunity to “examine a full and complete copy of the recordings of the proceedings” so they could stay informed about the actions and thoughts of their elected officials. Without defining what constitutes a full and complete copy of the recordings of the proceedings, the court held that minutes for a meeting must contain more than a simple listing of the resolutions that the board considered and the votes cast on each issue.

A board of education is not required to provide this level of specificity for the conversations that occur during an executive session. Under Ohio law, only the general subject matter of such discussions must be disclosed in the

minutes. A board may accomplish this by noting one or more permissible purposes for an executive session, listed under RC 121.22(G), in its minutes. There is no requirement for the minutes to provide any further specificity about what was discussed.

In fact, boards should be cautious of keeping detailed minutes of their executive session discussions, as disclosure of such records may be required as part of a public records request or during any subsequent litigation.

It is important that members' late arrivals or early departures be recorded in the minutes. An accurate record of who is present throughout the meeting is important for determining if a quorum exists and ascertaining the number of votes needed to pass resolutions as well as who was present or absent when actions or discussions occurred.

Occasionally, OSBA receives questions about how much of the discussion during the board's public comment period should be included in the minutes. According to Robert's Rules of Order, minutes are a record of the decisions made by the body and should contain mainly a record of what was *done* at the meeting, not what was *said* at the meeting. Many boards use their minutes to list the names of those who spoke during public participation and the general nature of the speakers' comments, but boards of education are not required to publish formal statements provided by members of the public during public participation as part of their minutes.

Medium on which minutes are kept
Ohio Revised Code does not prescribe a

particular method that a public entity must use to take its official meeting minutes. The Supreme Court has indicated that audio or videotaped recordings, as well as word-for-word transcripts and abstracts of the discussions which indicate the identity of the speakers and the chronology and substance of their statements, are all legitimate means of taking minutes under Ohio law.

In the absence of a prescribed method, a public body may decide for itself how it will record the proceedings of its meetings. Many boards of education ask their treasurer to prepare official written minutes during the meeting but then make a contemporaneous audio or videotaped recording to use as a backup. The Ohio attorney general has opined that such a recording constitutes a public record that the public body must make available for inspection upon request.

As boards of education consider their preferred method for taking and maintaining minutes, OSBA encourages them to keep two things in mind. First, RC 3313.26 requires the treasurer to “record the proceedings at each meeting in a book to be provided by the board for that purpose.” The requirement to record minutes “in a book” became effective in 1979 and has not been revised or amended since its initial enactment. While a court may find other media of record keeping compliant, especially since those media typically provide for greater transparency and public access, boards of education should consult with board counsel prior to recording and retaining their official minutes in a format other than “in a book.” Second, most records retention schedules require boards to retain their minutes permanently. If your board elects to take and maintain minutes electronically, it should recognize that today’s technology will eventually be replaced by something else. The board should be prepared to migrate and transfer its minutes to whatever subsequent medium proves most suitable in the future.

‘Promptly preparing’ the minutes
Ohio’s Open Meetings Act requires the

minutes of any public body to be “promptly prepared, filed and maintained.” The term “promptly” is not defined, but at least one court has adopted the definition applied by courts to the Ohio public records act — “without delay and with reasonable speed, depending on the facts of each case.” Another court found that a board had failed to “promptly prepare” its minutes after it neglected to approve minutes from four meetings that occurred during a two-month period.

Approving the minutes

RC 3313.26 requires that minutes of a board meeting be read at the succeeding meeting, corrected and approved. One Ohio court wrote that the legislature intended minutes to be read, corrected and approved at the very next meeting of the board, be it special or regular meeting, because that is the time when the matter of the whole proceedings is fresh in the minds of board members and the time when they are best able to make corrections and an informed approval.

A board may waive the actual reading of the minutes so long as the following conditions are met: the board takes action to waive the reading of the record via a board resolution; the minutes have been distributed to members of the board at least two days prior to the date of the next succeeding meeting; and copies of the minutes are made available to the public and news media. The board’s resolution to waive the reading of the record remains in full force and effect until it is amended or rescinded by the board.

Once the board approves the minutes, the board president must sign the record and the treasurer must attest to the accuracy of the information contained in the record. The treasurer’s attestation does not serve as authorization or execution of any action taken or not taken during the meeting.

Amending the minutes
Minutes may be corrected whenever an

error is found, regardless of how much time has elapsed. Typically, when the minutes are presented for approval, the board president will ask if there are any corrections to the minutes. Corrections, when proposed, are usually adopted or rejected by unanimous consent, but if any board member objects to a proposed correction, the usual rules governing consideration of amendments to a main motion are applicable. The minutes would then be “approved as read” or “approved as corrected,” as applicable. The board can also make corrections to the minutes after they have been approved using the motion to amend something previously adopted. This motion requires a two-thirds vote of the board.

Boards should keep in mind that minutes are intended to be an official record of what transpired at a meeting, not what one wishes had transpired. If a board member voted “no” at the previous meeting and now wishes to change the vote to “yes,” the board member may not do so by amending the minutes to reflect something other than what occurred. If the board member wishes to change the vote, the board member could state at the subsequent meeting that they have changed their opinion and would now vote “yes” if given the opportunity. The board member could also use parliamentary procedure, such as a motion to rescind the previous action, to bring the matter before the board again. In short, amendments to the minutes should be made only to correct matters that were inaccurately recorded.

OSBA’s Division of Legal Services is available to help with additional questions you may have about taking, adopting, amending or maintaining minutes. Please give us a call at (855) OSBA-LAW. ■

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