

# Establishing and using committees in the district

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Many school districts in Ohio rely on committees to help them accomplish their mission and vision. To help districts that may be interested in using committees, OSBA has developed resources that identify the types of committees frequently used by districts; best practices for making committee

appointments; and factors to consider when defining a committee's charge or purpose. These resources are available on OSBA's website at <http://links.ohioschoolboards.org/59395>. This article will focus on some of the legal considerations that are involved with a district's creation and use of committees.

First, it's important to recognize that some committees are subject to

the requirements of the Open Meetings Act (OMA). Ohio Revised Code (RC) 121.22 requires meetings of "public bodies" to be meetings open to the public at all times. Public bodies also are required to provide advance notice of their meetings and promptly prepare minutes following each meeting.

Under the statute, a "public body" not only includes the board itself but



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also any committee or subcommittee of the board. Although the statute does not define these terms, we have the following guidance through case law and various opinions of the Ohio attorney general:

- If the committee is required by law, rule or regulation, it is subject to OMA. For example, under RC 3313.821, each school district and ESC in Ohio is required to appoint a business advisory council. Because these committees are required by law, they are considered public bodies under RC 121.22 and are subject to the open meetings laws.

- If the committee has been created by the action of the public body itself, it is subject to OMA. The Ohio attorney general has held that “RC 121.22 requires a committee created by the board ... for the purpose of advising the board about matters which the board itself could discuss only in an open meeting, also to deliberate and formulate its advice about such matters only in public.” Though not required by law, many boards of education have acted to create policy, finance or audit committees. Because these committees are formed by action of the board of education for the purpose of advising the board with respect to their subject areas, these committees would be considered public bodies subject to the open meetings laws.

- If the committee has been created solely by the executive action of the superintendent, it is not a committee “of” the public body and is not subject to OMA. Superintendents typically use their advisory committees or councils to obtain the advice of district personnel, experts and consultants, and community members. Though not required by law, many superintendents have created community relations, technology and athletic committees. Since these committees are created solely by the executive action of the superintendent, these committees would not be considered public bodies subject to the open meetings laws.

Keep in mind that, under OMA, the number of board members serving on the committee is not the determinative

factor in whether the committee is subject to OMA. A board committee could have one, two or no board members serving on it and still be a committee to which the law applies.

As noted above, committees of the board are subject to all the requirements of OMA. In addition to meeting in public, the committee must provide notice of the time and place of all regular meetings and the time, place and purpose of all special meetings. The committee chair should appoint one member of the committee to take notes at each meeting so that minutes can be prepared for approval at the next meeting. Minutes do not need to be a verbatim record of the committee’s actions but should contain sufficient detail so that a person who was not present at the meeting could determine what occurred.

Second, remember that board committees may make recommendations for board action but do not have the authority to act for the board unless specifically authorized by the board. Committees typically serve in an advisory capacity only and provide recommendations to the full board based on their analysis of an issue. Boards of education should give careful consideration to the recommendations of their committees, but the final action and responsibility remains with the full board of education.

Occasionally, there may be times when the full board or a majority of its members is interested in the work of a specific committee. For example, the full board may be interested in serving on a search committee tasked with finding a new superintendent or treasurer or a new committee charged with enhancing the district’s community engagement or strategic planning efforts. Boards should be careful about committee meetings attended by a majority of the members of the board of education. Such a meeting could qualify as a meeting of the board. In instances when a majority of the board would like to participate in the discussion of an issue, boards of education should consider calling a

special meeting of the board instead of using a committee structure to accomplish the work. This would provide the information to all board members simultaneously, facilitate immediate discussion and allow all members to benefit from the input and collaboration of consultants, experts or members of the community.

Finally, board members should review their board policy manuals as they relate to board committees. Many boards of education have adopted policies that govern appointments to board committees. Typically this language provides that the board president shall appoint all committees at the board’s organizational meeting. This language means that the president shall select the persons to serve on committees; it does not mean that the president can unilaterally decide to appoint and assign a task to a group and thereby give it the status of a committee of the board. Although individual board members do not have the right to appoint themselves to committees, typically the board president will provide members with the opportunity to express their personal interests or relevant knowledge or experiences before making the appointments.

Under Robert’s Rules of Order, the board of education does not need to vote on the board president’s appointments. The only exception to this is if the board president appoints nonboard members to a committee and there is no prior authorization in the district’s policies for the chair to appoint nonboard members. The board president should announce the names of the committee members at a board meeting, naming the chair of the committee first.

When used well, committees can improve the overall efficiency and effectiveness of a board of education. If you have general questions about using board committees or your duties or responsibilities as a board member who serves on a board committee, please contact the OSBA Division of Legal Services at (855) OSBA-LAW or (614) 540-4000.