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1. Local School Board Roles and Responsibilities

1:1. What is a board of education?

The hallmark of American public education is local control, and that local control expresses itself in local boards of education. Each board of education is made up of a group of local citizens whose selection is determined by state law. Nationally, there are nearly 15,000 local school districts ranging in size from districts with several dozen students to districts with several hundred thousand students.

In Maryland, there are 24 local school systems, one in each county and one in Baltimore City (Md. Code Ann., Ed. Art. § 3-102) and they range in size from the smallest, Kent County Public Schools, with less than 3000 students to the largest, Montgomery County Public Schools, with more than 140,000 students. In each such county school system there is a local county board of education (Md. Code Ann., Ed. Art. § 3-103). It should be noted that the legal definition of “county” and “county board”, specifically include Baltimore City (Md. Code Ann., Ed. Art. § 1-101(c) and (d)).

Each county board of education is a corporate body in Maryland, and as such has perpetual existence and may sue or be sued in a court of law (Md. Code Ann., Ed. Art. § 3-104).

1:2. What is the board of education role in public school governance?

A local board of education is charged with administering the operation of the schools within the boundaries of their district. A local board of education has tripartite jurisdiction and is thus charged with carrying out all three of the primary functions in the American system of government, namely executive, legislative and judicial roles.

Each county board of education in Maryland is placed in control of educational matters within their county, and is directed to seek ways to promote the interests of the schools within their counties (Md. Code Ann., Ed. Art. § 4-101).

1:3. How is a board of education formed?

Title 3 of the Education Article of the Annotated Code of Maryland, in separate Subtitles and Sections, contains the provisions for the establishment of each local board of education, including how board members are selected, the size of each board, and various other matters ranging from board officers and student members to board meetings and board member compensation.

1:4. What are the duties and responsibilities of a board of education?

There are four broad categories of duties for a county board of education set forth in § 4-108 of the Education Article of the Annotated Code of Maryland, including:

1. To the best of its ability carry out the applicable provisions of this article and the bylaws, rules, regulations, and policies of the State Board;
2. Maintain throughout its county a reasonably uniform system of public schools that is designed to provide quality education and equal educational opportunity for all children;
3. Subject to this article and the applicable bylaws, rules, and regulations of the State Board, determine, with the advice of the county superintendent, the educational policies of the county school system; and
4. Adopt, codify, and make available to the public bylaws, rules, and regulations not inconsistent with State law, for the conduct and management of the county public schools.

Among the major responsibilities of a county board of education is to establish curriculum guides and courses of study for the schools in their county, including appropriate programs for students with disabilities (Md. Code Ann., Ed. Art. § 4-111). Another of the most significant responsibilities of a county board is the appointment of a county superintendent of schools (Md. Code Ann., Ed. Art. § 4-201). Each county board is also required to prepare and publish an annual report on the condition, current accomplishments, and needs for improvement of the schools as well as a statement of the business and financial transactions of the county board, which is to be published before the end of the calendar year (Md. Code Ann., Ed. Art. § 5-111).

1:5. Are board of education members elected or appointed?

While the vast majority of local boards of education in the United States are elected rather than appointed, in Maryland, up until the mid-1990's, there was an equal division between elected and appointed boards with 12 of each. In recent years, the trend has clearly been toward elected boards with 18 of 24 currently in the elected category (as of the 2006 elections), including the following county boards; Allegany, Calvert, Carroll, Cecil, Charles, Dorchester, Frederick, Garrett, Howard, Kent, Prince George's, Montgomery, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, and Worcester (Md. Code Ann., Ed. Art. § 3-114). The remaining appointed county boards include, Anne Arundel, Baltimore City, Baltimore, Caroline, Harford, and Wicomico. In five of the six appointed county

boards, the Maryland Governor makes the appointment of a county resident (Md. Code Ann., Ed. Art. § 3-108), and in Baltimore City, the Governor and the Mayor of Baltimore City jointly appoint from a list of qualified individuals submitted by the State Board (Md. Code Ann., Ed. Art. § 3-108.1).

1:6. Are board of education elections partisan or non-partisan?

In Maryland, county boards of education are elected on a non-partisan basis. Thus, any registered voter may vote for county board members in primary elections regardless of party affiliation or lack thereof, and candidates for county boards of education elections file their candidacy and appear on the ballot without party affiliation (Md. Code Ann., Elect. Art. § 8-802).

1:7. What are the qualifications of a board of education member?

Subtitle 2 through Subtitle 14 of Title 3 of the Maryland Annotated Code, Education Article, provide for the qualifications of elected county boards on a county-by-county basis. In all counties, an adult board of education member is required to be a resident of the county in which they seek to serve, as well as a registered voter of that county. Among the qualifications that are set forth for various counties, but not necessarily others, are being a qualified voter and/or county resident for a certain minimum time, being a resident of a specific district or the county at large, not exceeding term limits, and nomination by registered voters. If at any time, a county board member ceases to live within that county or within a specific district of the county from which they were selected, then they are not permitted to continue their service on the county board.

1:8. How many members serve on a board of education?

The general rule (Md. Code Ann., Ed. Art. § 3-105) is that school systems with less than 50,000 students will have five members on the county board, these include Allegany, Calvert, Caroline, Carroll, Cecil, Garrett, Kent, Queen Anne's, St. Mary's, and Somerset. Exceptions with less than 50,000 students include Dorchester with six; Charles, Frederick, Harford, Howard, Talbot, Washington, Wicomico, and Worcester with seven. School systems with between 50,000 and 100,000 students will have seven members on the county board; this includes Anne Arundel, and Baltimore City is an exception with nine members. Finally, school systems with over 100,000 students will have nine members on the county board; this includes Prince George's. Montgomery with seven members and Baltimore County with eleven members are exceptions among the largest category of school systems.

In some counties, County Commissioners or County Council members serve as nonvoting, ex officio members of the county board (Md. Code Ann., Ed. Art., Title 3).

1:9. May current school system employees serve on a board of education?

Nearly always the answer is no. An individual that is subject to the authority of a county board may not be appointed in the seven counties that appoint members (Md. Code Ann., Ed. Art. § 3-108(b)(2)). As far as elected county boards are concerned, someone subject to the authority of a county board is likewise ineligible (Md. Code Ann., Ed. Art. § 3-114(b)), except that school bus contractors are allowed to serve in Worcester County only (Md. Code Ann., Ed. Art. § 3-1401(c)(3)).

1:10. May retired school system employees serve on a board of education?

Yes, there is no prohibition against a former school system employee serving on a county board; in fact, it is not an uncommon occurrence. Such former employees may need to occasionally abstain from voting on a matter that is of direct benefit to them as retirees.

1:11. Are there student members on boards of education?

Yes, but the selection methodology and authority of such student members, who are charged with advising county boards on the interests of students, vary widely and are set forth in Annotated Code of Maryland, Education Article, Title 3. Anne Arundel County currently boasts the only student board member in the United States with full voting rights on all matters. They may be called student members or student representatives depending upon the specific county. Most serve in a non-voting capacity, although several are permitted to cast opinion or preference votes that are recorded in the minutes but do not count as official votes. There are also several student board members that have limited voting rights; among those limitations may be votes on budgets, boundary lines, collective bargaining, student and teacher discipline, personnel matters, appeals, and closed session participation.

A number of counties also place qualification restrictions on their student members, including grade level, grade point average, good attendance and behavior records, and in the case of Worcester County the three student representatives each are chosen from one of the three county high schools.

1:12. May a person who holds another public office serve on a board of education?

No, Article 35 of the Declaration of Rights of the Maryland Constitution provides, “That no person shall hold, at the same time, more than one office of profit, created by the Constitution or Laws of this State...” An office is to be considered public when it involves the exercise of government responsibility in an ongoing, rather than occasional, nature. An office of profit includes any office that results in the receipt of fees, a salary or other compensation, but the reimbursement of expenses alone does not trigger the prohibition.

1:13. What is the term of office for a board of education member?

In five of the six counties with appointed boards, terms are for a period of five years, except Baltimore City, which has a three-year term. All of the appointed boards are limited to a total of two terms. Conversely, in 17 of the 18 counties with elected boards, terms are for a period of four years, except Kent County, which has a six-year term. Notably, only two of the elected boards have any term limitation, Cecil (two-term limit) and Talbot (three-term limit) (Md. Code Ann., Ed. Art., Title 3).

1:14. Do board of education members have staggered terms of office?

The six counties with appointed boards all have the terms of their members staggered on an annual basis. Conversely, 17 of the 18 counties with elected boards have the terms of their members staggered on a two-year cycle, except that Charles County elects all seven of their board members in the same election year (Md. Code Ann., Ed. Art., Title 3).

1:15. What officers does a board of education have?

Each county board of education selects their own officers, and 18 county boards have a President and a Vice President. The remaining 6 county boards have a Chair or Chairman and a Vice Chair or Vice Chairman (Md. Code Ann., Ed. Art., Title 3). The county Superintendent of schools (Chief Executive Officer in Baltimore City and Prince George’s County) serves as the executive officer, secretary, and treasurer of each county board (Md. Code Ann., Ed. Art. § 4-102).

1:16. Are board members legally considered to be local or state officials?

In Maryland county board members are considered to be state officials. While local school districts are not considered to be state agencies in a majority of states, in Maryland, local school systems have been considered by both the Maryland

Court of Appeals and Maryland Federal District Court, in a number of cases, including *Jones v. Frederick County Board of Education*, 689 F. Supp. 535 (D. Md. 1988), to be state agencies. It should be noted though that a clear ruling from the Fourth Circuit Court of Appeals with regard to state agency status for a county board is lacking.

1:17. Do board of education members take an oath of office?

Yes, before taking on the duties of a board member, the following oath of office from the Maryland Constitution, Article I, Section 9 must be taken:

I, name of person, do swear or affirm, that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of Board of Education member, according to the Constitution and Laws of this State.

1:18. Must a board of education adopt ethics provisions?

Yes, all county boards in Maryland have adopted ethics policies and regulations pursuant to the requirements of State Government Article §§ 15-811 to 15-815. Each county board is required to submit such ethics provisions and any amendments to the State Ethics Commission for review and approval (Md. Code Ann., St. Gov't Art. § 15-815). Two model regulations, a long version and a shorter, more concise, version are provided as samples for county boards pursuant to the Code of Maryland Regulations (COMAR), Title 19A, Subtitle 05.

1:19. Are board of education members subject to conflict of interest restrictions?

Yes, the ethics provisions adopted by a county board must contain conflict of interest regulations that are similar to the State Ethics Law, but which may be modified in order to establish relevance to the prevention of conflicts of interest in that local school system (Md. Code Ann., St. Gov't Art. § 15-812).

1:20. What are some examples of prohibited conflicts of interest?

Prohibited conflicts of interest identified by county boards include: participating in a matter in which they, a relative, or affiliated business, have a direct financial interest; engaging in employment that interferes with their duties or embarrasses the school system; representing on a paid basis a party bringing a

claim against the school system; or soliciting or accepting a gift that exceeds a set dollar amount or could appear to impair the impartiality of the board member.

1:21. Are there any other ethics provisions applicable to board of education members?

Yes, the ethics provisions adopted by a county board must regulate the lobbying of its members by those who would seek to influence any official action of the board through the provision of food, entertainment or gifts (Md. Code Ann., St. Gov't Art. § 15-814).

1:22. Must board of education members disclose personal financial interests?

Yes, the ethics provisions adopted by a county board must require annual financial disclosure by board members of matters such as landholdings within the county; interests in, debts to, or gifts from entities that do business with the county school system; and whether someone in the immediate family of the board member is employed by the county school system (Md. Code Ann., St. Gov't Art. § 15-813).

1:23. May a spouse or other relative of a board of education member be employed by the school system?

Yes, provided that such employment is disclosed, that the board member does not participate in a matter that would provide a direct financial benefit to said spouse or relative, or that such employment is not prohibited in the respective county. For example, in Frederick County, an individual who is married to a teacher or administrator of the county school system is not eligible serve on the county board (Md. Code Ann., Ed. Art. § 3-5B-02).

1:24. May a board of education member resign from office?

Yes, and when a county board member resigns from an appointed board, a replacement to serve out the remaining term of office is appointed by the same method as an initial appointment. In the case of a resignation from an elected board, the method for choosing a replacement differs county by county, from appointment by the governor, various county government officials or government bodies, or by the remaining county board members (Md. Code Ann., Ed. Art., Title 3).

1:25. May a board of education remove one of its members?

No, a board of education does not have the authority to remove one of its own members. The authority to remove a local board member rests with the State Board of Education in the case of elected boards, except that the Governor must concur in Charles and Prince George’s County and the removal authority in Montgomery County rests with the county council. The authority to remove a member of an appointed board rests with the State Superintendent upon approval of the Governor, and for Baltimore City, with the approval of the Mayor as well (Md. Code Ann., Ed. Art., Title 3).

1:26. What are the grounds for removal of a board of education member?

There are four primary grounds for the removal of a member of an elected board; immorality, misconduct in office, incompetency, or willful neglect of duty. In addition, in Calvert, Cecil, Dorchester, Talbot, and Worcester County, a member may also be removed for failing, without good cause, to attend at least 75 percent of the scheduled meetings of the county board in any one calendar year, and/or missing three consecutive scheduled meetings. The same four primary grounds for removal also apply to appointed boards and a fifth is added, that of failure to attend without good cause, at least half of the scheduled meetings of the board in any one calendar year. Finally, whether elected or appointed, a member that ceases to meet the residency requirements or is otherwise removed is to be replaced in the same manner as set forth above in **1:24** (Md. Code Ann., Ed. Art., Title 3).

1:27. What is the process for removing a board of education member?

Regardless of whether a board member serves on an elected or appointed board, and regardless of where the authority for removal rests (see **1:24**) before being removed, a local board member must receive essentially the same due process. The entity with removal authority is required to send the member a copy of the charges against them and give the member an opportunity within 10 days to request a hearing before said entity. If the member requests a hearing, one must be held before the entity with removal authority with an opportunity to be heard publicly in the member’s own defense, either in person or by counsel. A member so removed also has the right of an appeal to the Circuit Court of their county (Md. Code Ann., Ed. Art., Title 3).

1:28. May a board of education member be censured or reprimanded?

A county board of education is without power to discipline its members, but an Attorney General Opinion states that a county board is free to pass a resolution,

without any formal legal effect as a sanction, that expresses the county board's disapproval of the action of a board member (Op. Att'y Gen. No. 65-347 (1980)).

1:29. Can board of education members be paid for their services as board members?

Yes, under Maryland law, local board members may receive compensation and/or expense reimbursement for their services. The compensation varies widely by county, and ranges from minimal compensation up to approximately \$20,000.00 per year in Montgomery and Prince George's County, with most county boards being in the \$3000.00 to \$6000.00 range. The available amount for reimbursement of expenses varies from a low of less than \$1000.00 per year to a high of \$7000.00 per year, with most county boards being in the \$2000.00 to \$4000.00 range. A relatively recent trend has been for a few county boards to become eligible for health insurance and/or other fringe benefits provided to other county school system employees (Md. Code Ann., Ed. Art. § 4-107 and Title 3).

1:30. What are the powers of a board of education?

As has already been set forth in **1:4** above, a county board is responsible for the creation of educational policies regarding the conduct and management of a uniform system of public schools designed to provide a quality and equal educational opportunity for all children (Md. Code Ann., Ed. Art. § 4-108). Each county board is also placed in control of educational matters within their county, and is directed to seek ways to promote the interests of the schools within their counties (Md. Code Ann., Ed. Art. § 4-101).

1:31. What are some examples of powers of a board of education?

Among the specifically enumerated powers of a county board are: establishing curriculum guides and courses of study (Md. Code Ann., Ed. Art. § 4-111); taking a census of the school age children in the county (Md. Code Ann., Ed. Art. § 4-113); holding title to school system property (Md. Code Ann., Ed. Art. § 4-114); acquiring land for school sites and contracting for facility construction (Md. Code Ann., Ed. Art. § 4-115); employing architects (Md. Code Ann., Ed. Art. § 4-117); accepting donations (Md. Code Ann., Ed. Art. § 4-118); bringing condemnation proceedings to acquire needed land (Md. Code Ann., Ed. Art. § 4-119); arranging for the transportation of students (Md. Code Ann., Ed. Art. § 4-120); designating "drug free school zones" (Md. Code Ann., Ed. Art. § 4-124); appointing a county school superintendent and setting their salary and related expenses (Md. Code Ann., Ed. Art. §§ 4-201, 4-202, and 4-203); preparing and submitting the annual school system budget (Md. Code Ann., Ed. Art. §§ 5-101 and 5-102); providing an annual financial audit (Md. Code Ann., Ed. Art. § 5-109); making all reports

required by the State Board and State Superintendent (Md. Code Ann., Ed. Art. § 5-111); approving school system purchases in excess of \$25,000.00 (Md. Code Ann., Ed. Art. § 5-112); developing and implementing a comprehensive master plan for student and school accountability (Md. Code Ann., Ed. Art. § 5-401); employing school system personnel (Md. Code Ann., Ed. Art. § 6-201); suspending or dismissing school system personnel (Md. Code Ann., Ed. Art. § 6-202); negotiating with employee organizations (Md. Code Ann., Ed. Art. §§ 6-408 and 6-510); selecting and purchasing textbooks (Md. Code Ann., Ed. Art. § 7-106); and authorizing public charter schools (Md. Code Ann., Ed. Art. § 7-103).

1:32. What are some examples of powers that a board of education does not have?

Unlike boards of education in many other states, Maryland boards have no taxing authority or ability to conduct bond issues, and are thus fiscally dependent entities. They also lack the power to reduce the number of school days and hours required (Md. Code Ann., Ed. Art. § 7-103) and implement corporal punishment (Md. Code Ann., Ed. Art. § 7-306). In addition, county boards are prohibited from carrying a negative fund balance without statutory corrective matters being triggered (Md. Code Ann., Ed. Art. § 5-114).

1:33. What is the executive role of a board of education?

As with any executive role in government, the county board is charged with leading the county school system. This leadership does not extend to the day-to-day operations as that is the responsibility of the local superintendent, but the board oversees the superintendent and thus administers the work of the school system. The executive role in government typically also includes appointment authority, and the county board has the power to appoint the superintendent and professional staff. Another executive function of a county board is the oversight and approval of the expenditure of school system funds. Finally, the county board is responsible for implementing, supporting and enforcing the applicable federal, state, and local laws and the policies of the county board, which govern the operation of the school system.

1:34. What is the legislative role of a board of education?

While county boards do not pass laws, they do adopt policies that govern and guide the operation of the county school system. The policy role of the board is potentially their most important role, and local board policy provides the principles and rules under which the school system operates. Local board policy insures continuity, clarifies expectations, directs the superintendent, informs the public,