Best Practices in Charter School Governance

Jeff Homan, Director of Education & Training
1. Educate charter board members about roles and responsibilities (this topic is required of all new board members in their first year of service)
2. Provide best practices for effective governance
3. Understand legal and regulatory requirements
4. Provide tools you can use to effectively govern
5. Understand best practices to increase your ability to make recommendations for improvement
Common Barriers to Effective Governance

- Dominated by a founder of the school
- Dominated by a management company
- Violations of the duty of loyalty
- Violations of the duty of oversight
- Violations of the duty of obedience
- Lack of internal cohesion
- Well-intentioned people but lacking capacity
- Excessive board member turnover
- Behaving unprofessionally toward the school’s staff
- Role confusion among parent-board members
- Individual board members acting outside the scope of their authority
Other Barriers...

- Micromanagement – failure to delegate authority to school leader
- Ineffective nominating committee
- No plan for rotation, succession, and transition
- Failure to remove unproductive members
- Board Size
- Lack of functioning committee structure
- No strategic plan or lack of participation by all Board members
- No plan for orientation of new and old members
- Shortage of time or Board member commitment to the process
- Holding on to the “old ways”
- Lack of clarity on board-staff roles and relationship (“not my job”)
- Lack of Preparation
- Unorganized, excessively long meetings
The Fundamentals...
Who Owns the School?

• The Board is NOT the owner…. Who is the owner?
The PUBLIC - parents, teachers, students, management, vendors, and the immediate community are the “owners”

• What do the owners (PUBLIC) expect? The Board’s primary responsibility is to be STEWARDS OF THE PUBLIC’S INTEREST and TRUST
Other Barriers...

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Whole Board Duties

• Creates and supports a clear mission, vision, and performance objectives
• Establish an accountability plan
  Educational program
  Fiscal Viability
  Compliance
• Reviews and maintains bylaws and establishes policies consistent with the mission
• Is accountable for fiscal health including capital assets, operating budgets, fundraising, and endowments
• Hires, supports, manages, and assesses the school leader
• Evaluates itself annually and develops itself through orientation, ongoing education, and leadership succession planning
• Establishes strategic plans
Whole Board Duties

• Keeps full and accurate records of meetings, committees, and policies
• Ensures all members are actively involved in the work of the board and committees
• Assures compliance with laws, regulations, and minimizes exposure
• Maintain a results-based dashboard
• Ensure effective organizational planning
• Ensure adequate resources are in place to execute the program with fidelity
• Manage resources effectively
• Enhance the charter school’s public image
Individual Member Duties

• Supports and promotes the school’s mission and vision
• Is knowledgeable about the charter, objectives, and current and historical operations and issues
• Attends meetings consistently, is well prepared and fully participates in all matters
• Does not become involved in specific management, personnel, or curricular issues
• Accepts and supports board decisions
• Respects board confidentiality
• Guards against conflict of interest, whether business or personal – takes care to separate interests of the school from specific needs of a child or constituency
• Supports the school leader and demonstrate support in the community
• Is vested in the board as a whole and reports issues to the school leader or whole board (doesn’t deal with potential issues individually)
• Contributes to the overall school program, including financial support and active involvement in annual and capital giving
• Accepts fiduciary responsibility
1. Duty of Care – means that a board member must exercise reasonable care when making a decision as a steward of the charter school.
   - Active participation
   - Committees
   - Board actions
   - In the best interests of the organization & students
   - With prudence
   - Devote time, attention, and resources to understand and oversee the affairs of the organization
   - Meeting minutes (accurate record keeping)
   - Protecting organizational property
   - Resource development
   - Investigations (warnings/grievances)
2. Duty of Loyalty - means a board member will put the good of the charter school first and avoid engaging in transactions with the school from which the member will benefit.

- Set aside personal or conflicting interests
- Have a written policy to avoid conflicts
- Act solely in the best interest of the organization
- Avoid self-dealing
- Compliance with governing documents (by-laws)
3. Duty of Obedience – means that board members are not permitted to act in a way that is inconsistent with the school’s mission.

- Ensure compliance with state and federal statutes
- Filing requirements (990)
- Obey all laws pertaining to charter schools
- Act in furtherance of the organization’s charitable purposes (education)
Market Accountability

- As schools of “choice,” a market is created
- Funding is dependent on needs of the market being met and sustaining enrollment and competent staff
- Key questions when making board level decisions…
  - How will this impact our enrollment?
  - How will this impact staff morale?”
- **How to stay accountable to the market?**
  1. Make informed policy.
  2. Create strategy that forwards the school’s mission and aligns with stakeholder expectations.
  3. Monitor governance practice and school leadership to accomplish 1 & 2.
Authorizer Accountability

• A charter is a PRIVILEGE granted in exchange for increased accountability
  Measureable student performance at a defined level
  Proper financial management
  Complies with applicable state and federal laws
• Failure to meet these expectations can mean revocation of the charter.
• How to stay accountable to the authorizer?
  1. EVERY board member should KNOW and UNDERSTAND your charter performance objectives.
  2. Cultivate a relationship with your authorizer – be a partner, not a pain.
## Risk Management

### Component of Organization

<table>
<thead>
<tr>
<th>Sources of Risk</th>
<th>Type of Insurance or Ways to Manage Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Board</strong></td>
<td></td>
</tr>
<tr>
<td>Self dealing</td>
<td>Directors &amp; Officers (D&amp;O)</td>
</tr>
<tr>
<td>Tax penalties</td>
<td>Association &amp; professional liability</td>
</tr>
<tr>
<td>Executive decisions</td>
<td>Policies</td>
</tr>
<tr>
<td>Regulations</td>
<td>Board training</td>
</tr>
<tr>
<td>Fiduciary duties</td>
<td>Competent CFO</td>
</tr>
<tr>
<td>Confidentiality</td>
<td>Legal counsel</td>
</tr>
<tr>
<td></td>
<td></td>
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<tr>
<td><strong>Services</strong></td>
<td></td>
</tr>
<tr>
<td>Common torts (negligence)</td>
<td>General liability</td>
</tr>
<tr>
<td>Malpractice</td>
<td>Errors and Omissions</td>
</tr>
<tr>
<td></td>
<td>Professional liability</td>
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<td>Competent and qualified staff</td>
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<td>Legal counsel</td>
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<tr>
<td><strong>Employees</strong></td>
<td></td>
</tr>
<tr>
<td>Injury</td>
<td>Policies</td>
</tr>
<tr>
<td>Wrongful termination</td>
<td>Procedures</td>
</tr>
<tr>
<td>Civil rights</td>
<td>Adequate management</td>
</tr>
<tr>
<td>Confidentiality</td>
<td>Workers Compensation</td>
</tr>
<tr>
<td>Conduct towards students/staff</td>
<td>Some general liability policies</td>
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<tr>
<td>Volunteers</td>
<td>Injury</td>
<td>Policies</td>
</tr>
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<td>Confidentiality</td>
<td>Procedures</td>
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<tr>
<td></td>
<td>Conduct towards students</td>
<td>Volunteer training programs</td>
</tr>
<tr>
<td>Transportation</td>
<td>Accident</td>
<td>Vehicular coverage</td>
</tr>
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<td></td>
<td></td>
<td>Policies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Equipment maintenance</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Qualified drivers</td>
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<td></td>
<td></td>
<td>Driver training programs</td>
</tr>
<tr>
<td>Money</td>
<td>Theft</td>
<td>Policies ensuring segregation of duties</td>
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<td>Embezzlement</td>
<td>Adequate management and oversight</td>
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<td>Property insurance</td>
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<td>Bonds</td>
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<td>Allergy</td>
<td>Policies and procedures</td>
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<td>Illness</td>
<td>Inspections</td>
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<td><strong>Reputation</strong></td>
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<td>Building community trust</td>
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Conflicts of Interest

- Non-Profit board members have an ethical and legal obligation to protect the public interest
- A conflict of interest exists when a conflicting interest is pursued over that of the organization
- Board members can be held PERSONALLY LIABLE for conflicts of interest – violates your fiduciary duty
- Conflicts of interest relates broadly to ethical behavior, not just financial conflicts of interest
- 4 levels of ethical behavior:
  1. Obey the law
  2. Decision making when the right decision is clear and temptation interferes
  3. Decisions requiring a choice among competing options
  4. Hold each other accountable!
Conflicts of Interest

- **Self monitor** – every Board Member is responsible for safeguarding
- Establish a **system of checks and balances** with well-defined policies
- Create a carefully-written **conflict of interest policy** that includes three important elements:
  1. Full disclosure of personal and business connections – should be provided at least annually at a minimum or when specific circumstances arise. Have the governance committee review these forms.
  2. Abstention from voting and discussion when conflict or potential conflict exists
  3. Abstention from decision making when conflict or potential conflict exists

Sample conflict of interest policy suggested by the IRS (pg. 25):
Conflicts of Interest

- Management company / vendor representative on board
- Family members
- Vendors to the school
- Staff members (can only be ex officio members of the board)
- Parents (set up mechanisms to protect against self-dealing)
Georgia Open Meetings Act
“Sunshine Laws”
Most Common Violations

- Amending the agenda when changes are made
- Posting the agenda to the website for regular board meetings and committee meetings
- Posting board meeting and committee meeting (approved) minutes within 48 hours of the meeting when they were approved
- Posting a summary of actions within 48 hours of a meeting where actions were taken
- Properly posting emergency / special called meetings
- Executing the sworn affidavit for every executive session
- Properly recording the minutes
- Taking actions in a meeting that is not held in accordance with the law
The language included in O.C.G.A 50-14-1 is relatively straightforward; however, in practice, charter boards sometimes lack the systems to ensure consistent compliance with the law.

- A meeting is defined as:
  - A gathering of a quorum of board members or committee of the members
  - Official business, policy or public matter is: formulated, presented, discussed and/or voted upon
Boards may gather a quorum, under very special circumstances, and it is not considered a meeting. These special circumstances are limited to:

- Inspections of physical facilities or property,
- State-wide meetings or trainings,
- Meetings with other agencies,
- Travel, or
- Social or ceremonial events
Notice and Access

- **Open access** of meetings:
  - Meetings must be open to the public and the press
  - The public and the press can observe and record
  - The public does not have the right to participate in the meeting, just to observe
    - You can give them the right to participate through public comment
Establish a schedule of meetings for the year

Post meeting dates in a conspicuous location at the school and on the website (Attorney General’s guide to the GA Open Meetings act requires that notice and agenda be posted to the website when the organization / agenda has a website in use)

Include the date, time and location

Post agendas at least one week prior to the meeting (this applies to committee meetings as well)

24-hour notice is required for special called meetings. Notice for these meetings must be posted in the local news vehicle (legal organ) of the county where the school is located. The notice MUST state the general reason for the emergency / special called meeting

Agendas for meetings should be specific enough to advise the public of the matters expected to come before the board. Matters outside of the agenda can be addressed if they were not anticipated before the meeting by amending the agenda
Well planned agendas lead to more strategic, efficient, and compliant meetings. Agendas are an opportunity, not a chore.
Meeting Minutes

- Minutes must be kept of all board meetings, committee meetings and executive sessions (executive session minutes are not made public).
- Minutes should include members present, absent, descriptions of motions or proposals, and a record of votes.
- When votes are not unanimous, each member’s vote must be recorded.
- Approved meeting minutes must be posted to the school’s website *immediately after* the board meeting where they were approved.
- A summary of all actions taken at a board meeting must be posted within 48 hours of the meeting.
- The minutes must reflect names of individuals who arrive late and depart the meeting early.
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Meeting minutes are a reflection of your board’s governance practice. Well executed minutes driven by effective agendas lead to better oversight. Proper oversight leads to increased public trust in your school.

Best Practices Tip

Transparency + Communication = TRUST
Executive Session

- There are very limited exceptions to Open Meetings
- Closed meetings may be held with counsel to get advice on actual or threatened litigation
- If litigation is not involved (or if there is no tangible threat of litigation) then the discussion must be public
- There mere presence of counsel does not make the executive session proper
- The counsel must be representing the board (counsel in this context does not include board members who are practicing attorneys)
The acquisition or disposal or lease of real property may be considered and voted on in closed session. (Matters regarding property may be voted on in closed session, but a subsequent public vote must be taken mirroring the closed session vote)

Executive sessions shall be permitted for:

“Meetings when discussing or deliberating upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee or interviewing applicants for the position of the executive head of an agency. The vote on any matter covered in this paragraph shall be taken in public.” O.C.G.A. § 50-14-3(b)(3)

Executive session requires a vote in the open meeting

Regular minutes must show the specific reason for closing the meeting, those present, and those voting for closing the meeting

It is required that the chair execute a sworn affidavit showing the basis for the executive session and that the closed part of the meeting was limited to these provisions

The chair has the duty to keep the meeting limited to the proper purposes of the closed meeting
It is a common practice for charter schools (and school districts) to vote on general recommendations of personnel that do not detail the action taken regarding an individual. For example, governing boards often vote “to accept the personnel recommendations made by the superintendent.” This is not permitted under the Open Meetings Act. Charter school governing boards must provide sufficient detail to clearly allow the public to determine what action was taken with regard to an individual.
Can your board have a conference call board or committee meeting? *The short answer is, “No.”*

- Telephonic meetings:
  - Charter schools, even if they have statewide attendance zones, “do not have statewide powers” as defined by Georgia code
  - As a result, charter school may only conduct meetings if a quorum is present
  - Committee meetings are also subject to these provisions
Board Member Participation

- Board member participation via telephone
  - If a physical quorum is present a board member may participate via phone, but this is limited, by law, to two instances in a given year
Grants any person the right to access public records
Purpose for request is irrelevant
Georgia law does not restrict the use of records obtained
Limitations on costs that may be assessed per copy
In most cases can’t charge administrative fees
Limited exemptions from public exemption (including, property acquisition papers, personal privacy info. such as social security number, mother’s maiden name, banking, medical, vital records, etc….check the act for more details)
Requests can be made verbally or in or in writing (in writing is advised) - only written requests can form the basis of an enforcement action
Must respond within 3 days
Financial Monitoring and Disclosure

- School leader and CFO should sign off on all financial statements or forms (formally or in practice)
- Board formally approves all financial statements or forms
- Complete annual audit in a timely manner
- Disclose audited financial statements
- Institute a timeline or calendar for important financial reporting due dates
Other Ways to Avoid Exposure

- Grievance policy
- Whistleblower protection
- Investigate employee complaints and correct any problems immediately
- Understand school records retention requirements
- Have a written, mandatory document retention policy (include guidelines for electronic files and voicemail)
- Records destruction policies
Board Constitution and Roles
How to Avoid “Who’s on First?”
Boards must have the capacity to govern:

<table>
<thead>
<tr>
<th>Legal and Regulatory</th>
<th>Fundraising</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Reporting</td>
<td>Political Connections</td>
</tr>
<tr>
<td>Curriculum and Instruction</td>
<td>Negotiating Skills</td>
</tr>
<tr>
<td>Governance</td>
<td>Marketing and Media Relations</td>
</tr>
<tr>
<td>Policy Development</td>
<td>Facilities / Property Acquisition</td>
</tr>
<tr>
<td>Insurance &amp; Risk Management</td>
<td>General Business</td>
</tr>
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Board members need to be independent of one another or from businesses that will ultimately serve the school – e.g., no family members or potential school vendors.

Devote time regularly to expanding your board’s capacity – speakers, articles, book studies, etc. can achieve this purpose.

Board members can not be compensated for board service.
Board Size and Term Limits

- Recommended practice: For significant deliberation, maintain at least 7-11 unrelated members
- Recommended practice: By-laws should determine term limits (no more than 3) and service of no more than 3 consecutive terms
Board Development Process

- Nominations & Recruitment
- Orientation
- Evaluation
- Training (full board)
- Recognition
Board Development Process

Create a board orientation and training manual

- By-laws
- Articles of incorporation
- Charter school contract
- Current budget / financial condition
- Last audit
- Strategic plan
- Board structure and policies
- List of board members and affiliations
Board Development Process

Board orientation and training manual (cont’d)

- Board member responsibilities
- List of committees with chairs & members
- Committee responsibilities
- Minutes for the previous year
- Charter school mission & vision
- School’s educational philosophy
- Educational programs
- Curriculum
- Assessment methods
Board orientation and training manual (cont’d)

- Learning outcomes for students
- Instructional methods
- School leader job description
- Organizational chart
- School leader performance review procedures
- Sample school newsletter/brochure
- Press articles on the school
- Decision making methods
- Data dashboard
- Calendar of important board decisions
Board Development Process

- Establish a standing Governance Committee
- Link board recruitment to the strategic plan
- Profile the current board
- Determine strategies to build board diversity
- Develop a list of prospective board members
  - Volunteers at the school
  - Prominent local organizations
  - Higher education
  - Service clubs
  - Civic associations
  - Alumni groups
  - GCSA Board Bank
- Conduct orientation with interested candidates
- Select a slate of new members for voting
Essential Board Committees

- Governance
- Accountability / Academic Achievement
- Finance

- Fundraising
- Community Outreach
- Personnel
Effective Board Committees

Typical reasons committees are ineffective:
1. Lack long-term or short-term agendas
2. Rely on poor or incomplete information
3. Failure to distinguish between board level and operational issues
4. Lack of understanding of role and level of authority

Ways to increase effectiveness of committees:
1. Write a committee description with expectations
2. Vote on committee members annually at a regular board meeting
3. Vote on committee goals and meeting schedule on an annual basis
4. Select an effective chairperson and members
5. Communicate level of authority and processes and orient new members
6. Ensure meetings are well-run
7. All committees should be chaired by board members
8. Create a calendar for major decisions and meetings
9. Use task forces and work groups
10. FOLLOW THE SUNSHINE LAWS!
Parliamentary Procedure is a set of rules for conducting meetings that allows everyone to be heard and to make decisions without confusion (Robert’s Rules of Order http://www.robertsrules.org/)

Organizations generally follow a fixed order of business:
• Call to order
• Roll call of members present (larger organizations)
• Reading and acceptance of minutes from last meeting
• Officer reports
• Committee reports
• Special orders (important business designation for consideration at this meeting)
• Unfinished business
• New business
• Announcements
• Public Comment
• Adjournment
Quality Board Oversight & Development
# Governance vs. Management

The delicate balance of power

<table>
<thead>
<tr>
<th>Board</th>
<th>School Leader</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Governance</td>
<td>• Management</td>
</tr>
<tr>
<td>• What</td>
<td>• How</td>
</tr>
<tr>
<td>• Ends</td>
<td>• Means</td>
</tr>
<tr>
<td>• Policy Creation</td>
<td>• Policy Implementation</td>
</tr>
<tr>
<td>• Macro Issues</td>
<td>• Micro Issues</td>
</tr>
<tr>
<td>• Doing right things</td>
<td>• Doing things right</td>
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<td>• Long Term</td>
<td>• Day-to-day</td>
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Top Priorities for Boards

1. Academic Achievement
2. Fiscal Health
3. Policy Development

As a rule, at least 70% of your meeting time should be devoted to these topics; otherwise, you end up meddling in management and focusing on “administrivia”
Top Priorities for Boards

Academic Achievement / Educational Program
• School Leader is responsible for communicating information related to academic achievement
• Board should be able to understand the data and how it is impacting the mission or strategic planning goals
• Appropriate discussion on topics such as:
  1. Formative and summative testing
  2. Alternative assessment methods
  3. Curriculum and its positive or negative impact on student achievement
  4. Research studies or articles and their relevance to the school’s performance or the charter sector as a whole
  5. Pedagogy
Top Priorities for Boards

Academic Achievement / Educational Program

1. How exceptional students (IEP, ELL, Gifted) are being accommodated in the school
2. How student assessment data is being used in other schools
3. Current legislation and its impact on the school
4. Special initiatives being used to improve instruction or academic achievement
5. Instruction time (maximizing)
6. Attendance / retention rates
7. Family engagement
8. Personnel review data
9. Mechanisms in place to measure mission, vision, goals, etc…
Fiscal Health

- Board CAN NOT delegate fiscal responsibility
- Board MUST NOT count on one individual on the board to entrust financial oversight
- Can monitor fiscal health with financial reports:
  1. The Balance Sheet
  2. The Statement of Cash Flow
  3. The Statement of Income and Expense
  4. The Budget vs. Actual Report
  5. Cash Flow Projection (optional)
Top Priorities for Boards

Fiscal Health
• Can monitor fiscal health with other tactical, operational, and strategic indicators
  1. Examples of Tactical Indicators:
     Estimated vs. actual enrollment
     Budget vs. actual expenses
     Operating results
     Cash flow projection
     Operating revenues and expenses per student served
     Facilities cost as percentage of total operating expenses
     Facilities cost per student
     Fund balance as a percentage of operating expenses
     Months of cash on hand
Top Priorities for Boards

Fiscal Health
• Can monitor fiscal health with other tactical, operational, and strategic indicators
  2. Examples of Operational Indicators:
     Budget policies, review process and planning calendar
     Linking budget to educational priorities
     Facilities plan
     Financial policies and internal controls
     Accounting systems, records, and grants management
     Audit results
     Reporting data, board oversight, and monitoring
     Staff capacity to manage finance, accounting, and budgeting and related professional development plan
     Community partnerships to support financial processes
Top Priorities for Boards

Fiscal Health

- Can monitor fiscal health with other tactical, operational, and strategic indicators

  3. Examples of Strategic Indicators:
     - Environmental factors such as demographics, local and regional economy, local, state, and federal budgets, policy, quality of local schools
     - Enrollment data
     - Strategic financing plan, diversified revenue, use of existing resources, long term facilities plan
Effective Use of Board Time

- Follow the meeting agenda and manage outside participants and off-task topics
- Vote using consent agendas for routine items (full info. provided to board in advance of meetings)
- Packet with agenda, consent agenda, and info. provided to Board members prior to meetings…all members responsible for being prepared!
- Create an annual calendar for major Board decisions (e.g., budget, reviewing test scores, strategic plan, review of school leader, goal setting, evaluating the board, election of new members)
- Create a dashboard for feedback on the school’s performance against charter objectives and/or strategic plan goals
Effective Board Meetings

Time management
- Regular board meetings should not exceed two hours
- Include time estimates on board-meeting agendas
- Start and end on time
- Remind the board of time limits
- Develop a calendar of major board decisions
- Video or audio record meetings

Staying organized and informed
- Each board member should receive an agenda and packet of all documents to be reviewed during the meeting, at least one week prior to the meeting
- Develop a communication plan for internal and external purposes
Supporting Your School Leader

- Establish and communicate specific expectations and clearly define leader’s level of authority and role
- Recognize areas of weakness and establish a development plan for your leader
- Ensure on-going leadership development – opportunities and funding
- Provide open and frequent communication between board and leader – must be deliberate
- Delegate authority – don’t meddle in management
- Provide frequent feedback and expect the same
- Provide resources
- Reward and recognize accomplishments frequently
- Pay your leader what they’re worth
- As a board, be the kind of boss you’d want to have