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Governance Brief

Defining Governance, Issue 1

Committed to strengthening local governance.

Why Governance Matters

"The first and never forgotten objective must be that every human product of our educational system must be given the training that will enable him to be an effective citizen, appreciating his opportunities and fully willing to assume his responsibilities in a great democracy."

John Hannah, President
Michigan State College, 1944

In a 2013 essay, *Reinventing Citizenship As Public Work: Citizen-Centered Democracy and the Empowerment Gap*, Harry C. Boyte proposes that our understanding of democratic citizenship must be recast as public work. He suggests that we must shift our concept of our role as citizens from consumers to producers. Our democratic society was built upon such agents of change—citizens who banded together to do what needed to be done: "build forts, roads, libraries and schools." What needs to be done now to solve the serious problems we face—hunger, poverty, inequality, and crime—make these initial challenges seem small by comparison.

The powers that must be brought to bear upon these challenges come in three forms: organized people, organized money and organized knowledge. K-12 schools and post-secondary institutions are the primary means through which our system of government and our culture's knowledge are communicat-

ed and advanced. Schools teach knowledge. They also teach students how elections work and the importance of voting, how laws are passed, and how the branches of government work together—or don't. Schools teach democracy. These are important and necessary, but not sufficient.

Schools, like the work place, also engage their participants in activities that parallel community-based organizing. Boyd suggests that the workplace furthers democratic citizenship by "convening strangers from diverse backgrounds and inducing them to work together toward shared objectives..." Schools also bring together students from different backgrounds, engaging them in cooperative efforts and instilling in them the "civic skills of participation, communication and compromise..." Schools can engage students in democracy.

Schools do even more than this: they model citizen-centered democracy through the governance of the institution itself. School governance is the practice of the very same kind of democracy established by our country's founding fathers and born in the Declaration of Independence. School board members provide citizen oversight of our public schools, and are called to model the kind of participative democracy that brought our nation so far in two short centuries, and must move our schools boldly into the future.

Our country desperately needs schools that are committed to teaching and engaging young people in the practice of democratic citizenship. The commitment to this vision and the allocation of local resources are decisions the board must make. The manner in which the board makes these decisions models citizen-centered democracy. Thus, the importance of a clear and coherent understanding of how local school governance can be most effective is directly related to one of our most

important goals as a free society—that every student can become “an effective citizen, appreciating his opportunities and fully willing to assume his responsibilities in a great democracy.”

Defining Governance

The purpose of the **Defining Governance** series is to summarize the attributes and practices of effective school boards identified in school governance research and literature for board members, educators, and local communities. As a first step, it is important to clarify what the term actually means. This issue focuses on establishing a definition of school governance. Subsequent issues of the series will explore four domains of effective governance that emerged from a review of governance research and literature. Effective boards are intentional about establishing and aligning these areas:

1. Governance commitments—Clarifying the board’s unifying agreements that serve as the foundation for a cohesive and effective governing board.
2. Governance practices—Observing specific governing activities that are expressions of their commitments and increase their capacity to make governing decisions.
3. Governance decisions—Taking action to provide direction, align resources, and ensure accountability.
4. Community engagement—Creating intentional processes to learn the interests of the communities they represent, engage them in district efforts, and report to them about district performance.

What is school governance?

A working definition emerges from a combination of concepts of governance in general, concepts about school governance, the purpose and complexity of K-12 education, the role of school boards, and the nature of school board authority defined in law.

How is governance generally defined?

Government, for-profit, and non-profit / philanthropic entities offer similar definitions for governance. For profit (corporate) governance has been described as “the framework of rules and practices by which a board

of directors ensures accountability, fairness, and transparency in a company’s relationship with its stakeholders.” The International Federation of Accountants published a 2001 report entitled *Governance in the Public Sector—A Governing Body Perspective* which offers that “Governance is concerned with structures and processes for decision-making, accountability, control, and behavior at the top of organizations.” A 2009 article in *Australian Philanthropy* defines governance as the “framework of rules, relationships, systems, and processes within and by which authority is exercised and controlled.”

How is the governance of schools described?

At first glance, the definitions above could be applied to school boards generally, but they do not account for the differences between school boards and other elected governing bodies or other for-profit and non-profit entities. A Wallace Foundation report, *Redefining and Improving School District Governance* (2006), posits a definition that applies to all levels of education from federal to local, that “...governance creates the framework through which high-quality leadership can be exercised throughout the educational system.” The National School Boards Association’s *Key Work of Boards Guidebook* (Gemberling et al., 2000) describes school governance as creating “the conditions under which excellent teaching and accelerated student performance will take place” This definition describes what boards must do: create conditions. Doug Eadie (2006) focuses on actions that boards take to create those conditions: “...making decisions and judgments... that actually determine the shape and direction of the district” in the areas of strategic direction, operations planning, and performance monitoring.

How does the purpose and complexity of K-12 education affect the definition of school governance?

The governance of any organization must be partly defined by its desired ends. One of the over-arching purposes of K-12 schools is to ensure that all students are prepared for post-high school success. Achieving this is the work of education professionals with special training. The requisite knowledge and skills have become more specialized over the decades and boards have increasingly looked to the expertise provided by the superintendent and staff, since this expertise is

not required or expected of board members. In addition, the business of schools has also become increasingly complex. It is “heavily statutorily regulated, usually unionized, responsible for large employment costs, policy-laden, and financially challenged” (Van Clay et al., 2009). As a result, boards have increasingly looked to the professional staff for research-based and field-tested practices that inform the board regarding what the district ought to do.

How do the roles of school board members affect the definition of school governance?

Board members often face conflicting role expectations that arise from the nature of representational governance and the laws pertaining to school governance in California. These differences create three lenses through which individuals and boards exercise their duties. (Kowalski, 2008)

Representative role

School boards are elected or appointed to serve the community, so individually and collectively board members have a responsibility to ensure that their governing work is informed by the values and interests that the community has for its schools. Community input is critical; it informs the board what the community wants the district to do for its students.

Trustee area representation within a district can confuse this role. Board members may be elected at large to represent a trustee area, or elected only by the residents of the trustee area. This can create tension, especially if trustees have different understandings and beliefs about this role. Regardless of this distinction, all board members have the same obligations: to understand their constituents interests. With trustee areas, each of the board members brings community perspective to the governing table so that all board members have a shared understanding of the unique needs and interests of each of the trustee areas. With this understanding, boards make decisions in the best interest of all students and the long-term stability of the district.

The representational role can be endangered by low voter turnout. In a recent election in Austin Texas, school board election turnout was less than three percent of registered voters (Rotherham, 2012, p. 12). With so few voters, local school board elec-

tions can be significantly shaped by special interest groups, who may exert a disproportionate influence on the outcome. A second challenge that communities face is a lack of clarity of the authority and role of local school boards, and the skills and characteristics that most often result in effective board service. The representational role of the board is strengthened when communities: 1) understand the role of the board, 2) help to identify high-quality candidates, and 3) participate in local elections. (Rotherham, 2012, p.6)

Enforcement role

There are some things that boards must do, regardless of public sentiment. California Education Code 35161 mandates that boards “...shall discharge any duty imposed by law upon it...” In this role, boards must ensure that the district is legally compliant with state and federal law, including ensuring that all district policies remain consistent with the California code as laws change. This can create a conflict for boards—when the local community supports a course of action that is inconsistent with legal requirements.

Fiduciary

Boards have a fiduciary obligation to ensure the financial health and long-term stability of the district. Boards must hold the assets and resources of the districts in trust—literally acting in the district’s best interests. The fiduciary role requires boards to balance costs for operations and change initiatives with district capacity. Therefore, one of the key responsibilities of the board is to monitor district revenues and expenditures throughout the year. The annual calendar for the board’s budget oversight activity is established in law including budget adoption, first and second interim reports, unaudited year-end financial reports, and an annual audit. This role focuses the board on what the district is able to do.

These three roles, combined with complexity of the K-12 education, create a framework of four perspectives within which boards govern:

- the community perspective: what stakeholders *want the schools to do*;
- the legal perspective: what the law says the schools *must do*;

- the professional perspective: what educators say the schools *ought to do*; and,
- the fiduciary perspective: what the schools are *able to do*.

How does state law impact the definition of school governance?

Boards of education in California’s K-12 school districts and county offices of education receive their governing authority from state law. California law specifies what board must do, may do, and may not do. These are contained in multiple education and government codes too numerous to summarize or analyze here. There are, however, three specific codes that establish the general scope of school board authority.

- Education Code 35160: “On and after January 1, 1976, the governing board of any school district may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.”
- Education Code 35160.1(b): “...It is the intent of the Legislature that Section 35160 be *liberally construed* to effect this objective.”
- Education Code 35161: “The board...
 - » *may execute* any powers delegated by law to it...
 - » *shall discharge* any duty imposed by law upon it...
 - » *may delegate* to an officer or employee of the district any of those powers or duties. The governing board, however, *retains ultimate responsibility* over the performance of those powers or duties so delegated.”

Governance is generally best practiced at a very high-level of review, focusing on long-term strategy and systemic performance and accountability. Training for school board members often encourage boards to operate “at 30,000 feet.” However, Education Code also requires California school boards to review and approve a wide range of operational decisions—moving board activity closer to “ground level,” much closer to the district operations. Boards are encouraged not to micro-

manage, yet the board is asked to approve managerial level decisions. Examples are often found on the consent agenda—where the board is asked to approve a series of routine district business matters. This tension will be explored more fully later in the series, but it is important to note that boards practice different levels of direction and oversight—often within a single meeting.

While California code provides broad authority for boards to act, it also very narrowly defines how and when boards exercise these governing powers. Boards are authorized to:

- Take action only at meetings open to the public. [Education Code 35145, with some exceptions outlined in Government Code 54954.2]
- Take action only on items listed on the board’s agenda—posted 72 hours in advance. [Government Code 54954.2 with some exceptions for emergencies and other qualifying criteria.]
- Take action only by a formal vote of the board majority. [Education Code 35163-4]

It is important to clarify that neither California Education Code nor Government Code grant any authority to individual school board members. The board’s power is collective only, and only when they convene at publicly-noticed meetings that are open to the public.

Definition

By combining the general concepts of governance, the purpose of K-12 education, the professional and operational complexity of K-12 education, the various roles of board members, and the nature of school board authority granted in state law, a possible definition emerges.

School boards ensure success for all students by making decisions that fulfill legal mandates and align district systems and resources to ensure the long-term fiscal stability of the district. Boards must act collectively and openly, be guided by community interests, and informed by recommendations of the superintendent and professional staff.

Definition language	Definition elements (criteria)
School boards ensure success for all students	Boards ensure the ultimate purpose (mission and vision) of the district.
by making decisions	Boards are granted broad decision-making authority in California Education Code.
that fulfill legal mandates and	Boards have an enforcement role.
align district systems and resources to ensure long-term fiscal stability of the district.	Boards have a fiduciary role to hold the best interests of the district and students in trust.
Boards must act collectively and openly,	Boards have only collective authority. Board meetings are open to the public (with certain exceptions permitted in law).
be guided by community interests, and	Boards have a representative role.
informed by recommendations of the superintendent and professional staff.	Boards rely on the professional judgment of educational leaders.

How can boards use the Defining Governance series?

This series can provide a structure for conversations at board meetings and between board members and the community to raise awareness and increase understanding about what school governance means. Suggestions:

- Add board development to your regular board agenda. Set aside 10 to 15 minutes for board members to discuss the series and its implications for your local governing board.
- Post a copy or link to the series on the district website for parents and community members.
- Share it with district partners, local government agencies, and other local groups.
- Ask for it to be placed on the agenda of your county school boards association for discussion.

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California Government Code section 54954.2

California Education Codes sections 35145; 35163-4;
35160