

POLICY BH

Board of Education Las Cruces Public Schools

Related Entries: BED, BEA, BEB, BEDCA, BEC, BEE

Responsible Office: Board of Education

BOARD MEMBER COMMUNICATIONS

I. PURPOSE

The Board of Education is committed to ensuring that all members understand and adhere to federal and state law, District policy, and Board expectations in communicating with one another, the Administration, District employees, and the community.

II. COMMUNICATING WITH OTHER BOARD MEMBERS

- A. Under the New Mexico Open Meetings Act, deliberation by a quorum (three or more) of Board members constitutes a meeting. All meetings of the Board must comply with the Open Meetings Act. Deliberation is defined as “movement toward a decision including, but not limited to, the sharing of an opinion regarding business over which the Board has supervision, control, or jurisdiction.” Unless otherwise permitted by law, no quorum of the Board may deliberate regarding Board matters or business outside of a properly noticed meeting. Board members will keep in mind that a quorum may occur even when the members are not physically present together at the same time and place. For example, a quorum could occur as a result of a series of one-on-one in-person meetings, telephone calls, emails, text messages, or social media posts in which three or more Board members share “an opinion regarding business over which the Board has supervision, control, or jurisdiction.” This is commonly referred to as a rolling quorum. To ensure compliance with the law, Board members should refrain from engaging in such activities.
- B. Outside of a properly noticed Board meeting, individual members of the Board may make requests of the Board President to place an item on the agenda or to exercise some other function delegated to the Board President such as seeking a legal opinion on a matter.
- C. Board Members who wish to share information relevant to District business or Board issues will submit such information to the Board President or Superintendent for distribution to all Board Members through such means as in the Superintendent’s weekly information update or as part of the Board packet, as appropriate. Once information is disseminated to a quorum, there may be no deliberation among a quorum of the Board regarding such information outside of a properly noticed Board meeting. Likewise, the Superintendent or other nonmember may not facilitate a rolling quorum by discussing with individual

Board members the positions of other Board members or otherwise try to develop a consensus.

- D. While such matters will normally be handled by the Superintendent or designee, a quorum of the Board may communicate with one another in connection with organizational duties such as scheduling. A quorum of the Board may also communicate with one another regarding non-District business, and may attend social functions together or socialize with one another so long as they are not meeting in their capacity as board members to conduct or deliberate regarding public business.

III. COMMUNICATING WITH DISTRICT EMPLOYEES

- A. Board Members will direct individual requests for information through the Superintendent or designee. Any information provided in response to such a request will be provided to all Board members, as appropriate.
- B. Board members should direct any District-related questions, concerns, or requests, including those for specific District personnel, through the Superintendent or designee. Board members may engage directly with administrative personnel at the invitation of the Superintendent, including when serving on a committee or task force by invitation or appointment.
- C. Official communications, policies, regulations, directives, Board or Board member concerns or questions, and Board action(s), as appropriate, will be communicated to employees by the Superintendent.
- D. Employees are expected to follow the proper grievance policies and administrative channels for resolution of complaints. Therefore, Employee complaints or grievances received by any Board member(s) should be referred to the Superintendent for investigation or resolution, as appropriate unless such complaint is about the Superintendent. Employee complaints received about the Superintendent should be referred to the Board President and/or the Board's legal counsel.
- E. Where a Board action is pending on a personnel matter, Board Members should not discuss such matters with the relevant employee outside of the Board hearing or other procedural process.
- F. Because the District is a public employer subject to the New Mexico Public Employee Labor Relations Act, when acting in their official capacity, Board Members must avoid conducting themselves in a manner that could be reasonably construed as frustrating the bargaining process, refusing to bargain in good faith with the exclusive representatives of union employees, or constituting interference with represented employees' right to organize and bargain. When LCPS is engaged in bargaining, Board members should not bypass the bargaining team or

discuss employment matters (wages, hours, other terms and conditions of employment) outside of negotiations or a properly noticed closed meeting.

IV. COMMUNICATING WITH THE COMMUNITY

- A. Unless otherwise authorized by a vote of the Board, only the Board President is the designated spokesperson for the Board on issues that require a Board response.
- B. The Superintendent of Schools or a designated staff member shall be the official spokesperson for the District to the media on District matters that relate to District operations.
- C. While individual Board members have the right to express their personal opinions to the community, in such communications, Board members must ensure that they make clear they are speaking only for themselves and not for the Board, unless authorized by Board action to do so in order to avoid creating confusion on the part of the public.
- D. Board members should keep in mind the Board Member Code of Ethics, set out in policy BCA, and refrain from negative comments about District personnel and other Board members in any public setting or venue, including all forms of social media.
- E. In order to promote and preserve the integrity of the Board, the Board Member Code of Ethics, under policy BCA, also obligates Board Members to support the Board once a legal decision has been made by a majority vote.
- F. Community complaints received by a Board member regarding matters related to the Superintendent's roles and responsibilities should be referred to the Superintendent to be addressed by the Administration, as set forth in the Board Code of Ethics. Community complaints received about the Superintendent should be referred to the Board President or the Board's legal counsel. Community complaints regarding matters related to the Board's roles and responsibilities may be referred to the Board President for placement on the agenda, as appropriate. Community members with concerns should also be directed to other appropriate channels such as the Board's public comment opportunities. Board members are encouraged to be available to the Community to receive and discuss concerns, observations, and opinions about what affects the well-being of LCPS students and the effectiveness of the educational opportunities available to them on matters within the Board's roles and responsibilities. Board members are encouraged to regularly explain the Board's responsibility under the Open Meetings Act to avoid engaging in any communications that could result in a "rolling quorum", to preserve the integrity of Board representation of the Community at large.

- G. A Board member retains the right to speak to any media representative as an individual but should keep in mind that comments made to that media representative may reasonably be perceived to be an “official” statement of the Board. Therefore, in such communications, an individual Board member:
1. Should clarify that he/she is speaking as an individual Board member and not for the Board or for any other Board member.
 2. Should remind the media representative(s) of the position or action of the Board as a whole on the issue in question.
- H. In their use of social media to communicate with the community, Board members should:
1. Avoid engaging other Board members in dialogue about District business over which the Board has supervision, control, or jurisdiction to avoid a potential or actual rolling quorum, in violation of the Open Meetings Act.
 2. Assume other Board members may be on the same social media site or have access to the posts and abide by the policy requirements for communicating with other Board members when communicating with the public in this manner.
 3. Not post information that is confidential or has not been made public by the District.
 4. On matters involving the Superintendent’s roles and responsibilities, respond to complaints or concerns expressed via social media in a manner consistent with the policy requirements for communicating with employees. For example, Employee complaints or grievances received by any Board member(s) including via social media should be referred to the Superintendent for investigation or resolution.
 5. Be clear that he or she is communicating as an individual, not on behalf of the Board, unless otherwise authorized by the Board.
 6. Remain mindful of the First Amendment risks of maintaining a fully open social media site for constituents to share their views. If a Board member chooses to open his or her social media site for public comments, he or she should not engage in viewpoint discrimination in violation of the First Amendment, including by blocking posts because of the viewpoints expressed.

V. REVIEW

This policy shall be reviewed on an ongoing basis in accordance with the Board of Education policy review process. Consequences for violation of this policy may include Board Censure as provided in Policy BCE



9/15/2020

Board of Education, President

Date Approved

History: New policy

Legal Reference: 10-7E-1, et. seq. NMSA 1978; 10-15-1 NMSA, et. seq. 1978.