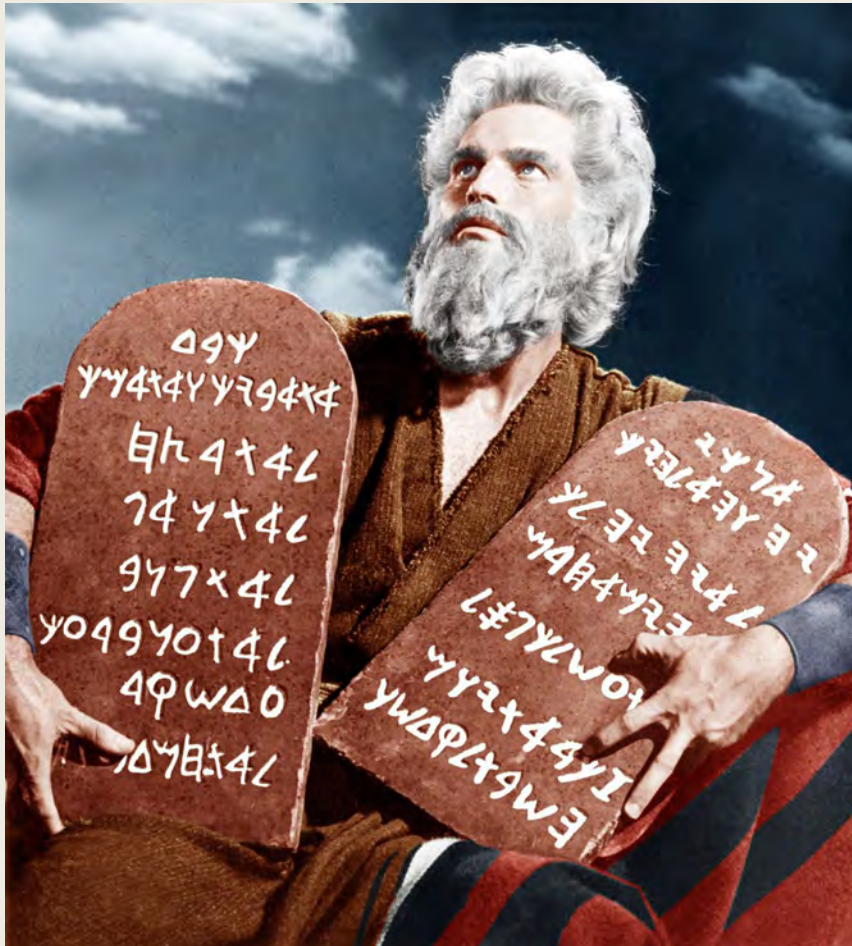


The background of the slide features a series of diagonal stripes in various colors including green, blue, yellow, and purple, creating a sense of motion and depth. A large, white, semi-transparent circle is positioned on the left side of the slide, serving as a container for the title text.

# **Dos and Don'ts At a Board Meeting**

Presented by Angie Stallbaumer,  
Deputy Director/General Counsel  
of KASB



## Thou Shall:

- Know when KOMA applies
- Project the manners you want from others
- Protect staff and student privacy
- Keep in mind whose meeting it is



# Do #1: Know When You're Meeting → Kansas Open Meetings Act ("KOMA")

The act was designed to ensure government business is conducted in the open where interested citizens have access to the proceedings and the written records of the public body. (See K.S.A. 75-4317 *et seq.*)

If you get that feeling you are being watched...you are.





## #thoughtexchange

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Meetings under KOMA have 3 Elements:

1. An **interactive communication**;  
Ø Interactive communication would include, but may not be limited to, e-mails, chat rooms, instant messaging, Facebook messaging and wall posts, and text messages.



## #simplemajority

2. The communication must include a **majority of the membership** of the board.
- Ø With seven members on the board, four or more members would constitute a majority.



#socialmedia=openmeeting?

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3. The majority of the board **must be discussing school business.**

Ø Does it require a vote before the board?



# Scenario: School Year Kickoff

Your board wants to be more engaged with the schools and the kids. All board members plan to attend your Books and Breakfast program for your elementary school and then take a guided tour around the elementary school with the principal. Is this a meeting?



# Serial Meetings

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- **Collectively involve four** or more board members
- Share a **common topic of discussion** concerning school business, and
- Are **intended** by any or all of the participants to **reach agreement** on a **matter that would require binding action** to be taken by the board.







## Scenario: Felicia's FYI

A disgruntled employee, Felicia, is retiring and going scorched earth on the way out. She emails the full board on her last day, letting them know about every instance when she felt they failed her in her 30 years with the district. Several board members Reply All to the email, some with the standard “thanks for your service” line, but others get defensive and justify their decisions in past years. Is there anything to watch out for here?

## DEATH BY MEETING



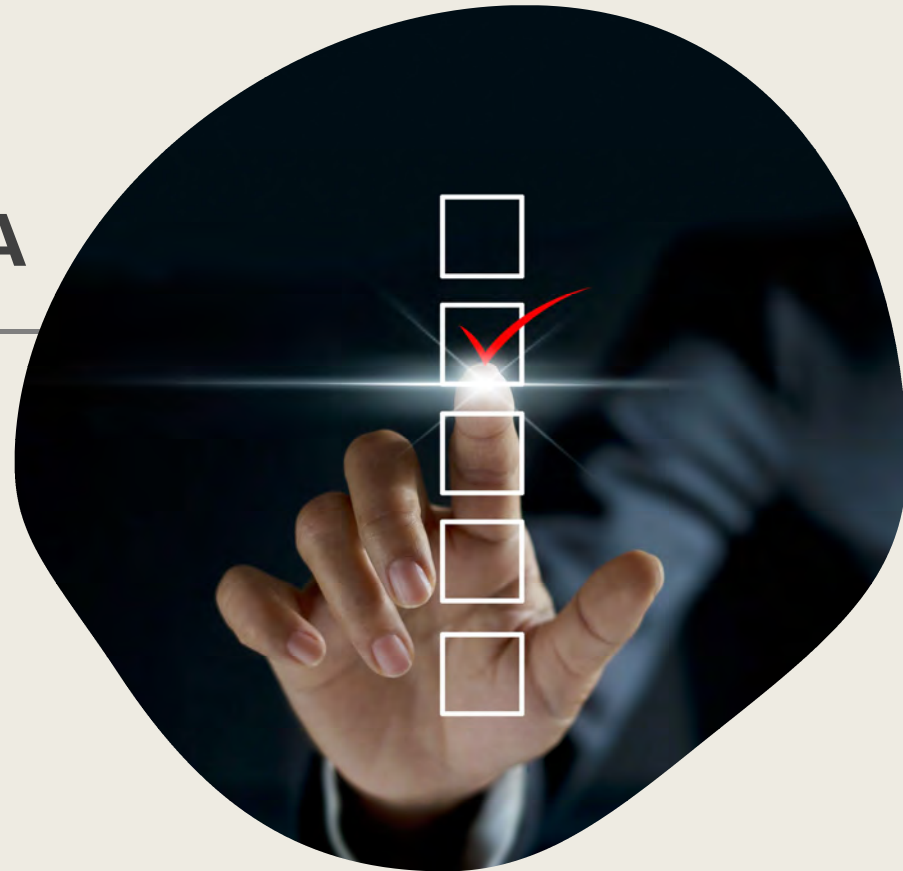
## Serial Meetings

- A majority of members do not have to be present at one time, nor do all of the communications have to take place at one time.
- As long as four or more board members are involved in the communications at some point, there is a common topic of discussion, and an agreement is reached, a serial meeting has taken place and must be open to the public to avoid a KOMA violation.

# Requirements of KOMA

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- Conduct business in open public meeting; no binding action by secret ballot
- Provide notice of date, time and place of meeting to those requesting notice
- Make agenda available, if one is made
- Recess to executive session only for statutorily allowed reasons







**Do #2: Project  
the Manners  
You Want From  
Others**

A man with dark hair and glasses, wearing a grey suit and a blue patterned tie, is sitting at a desk. He is holding a white telephone receiver to his mouth with his right hand and his left hand is near his mouth, looking suspiciously at a laptop screen. In the background, there is a wooden shelf with blue binders and a small trophy. The text "Do #3: Protect Staff and Student Privacy" is overlaid on the bottom right of the image.

**Do #3: Protect Staff  
and Student Privacy**

# Student and Employee Privacy Rights

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- For students, see Family Educational Rights and Privacy Act “FERPA”, 20 U.S.C.A. 1232g; K.S.A. 72-6311 *et seq.*
- For employees, most protections are in case law.





# CONFIDENTIALITY

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Where individual privacy rights are involved, such as confidential student or employee information, a staff or board member's discussion outside of executive session may result in the violation of the individual's privacy right.

Likewise, sharing an attorney-client privileged discussion may end up damaging a litigation position or waiving the attorney-client privilege, which belongs to the board as a whole, not the individual board member or any staff member.

# Post-Meeting Protocol

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With some exceptions based on leadership roles, the board members only hold power to act when sitting and acting as a board or when specifically directed by the full board to carry a message or do a task. A single board member acting independently has no greater access to school records, school staff, or district facilities and no greater authority to share messages on the board's behalf than a regular person.

We encourage the board to direct the superintendent to act and to leave the implementation of board wishes and discussion with staff to the chain of command already established within your administrative framework.



## Scenario: The Full Scoop

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You are approached by a parent at the local ice cream parlor. The parent wants to know what disciplinary action the board took against a staff member who was found to be bullying the parent's daughter.

What can you say?



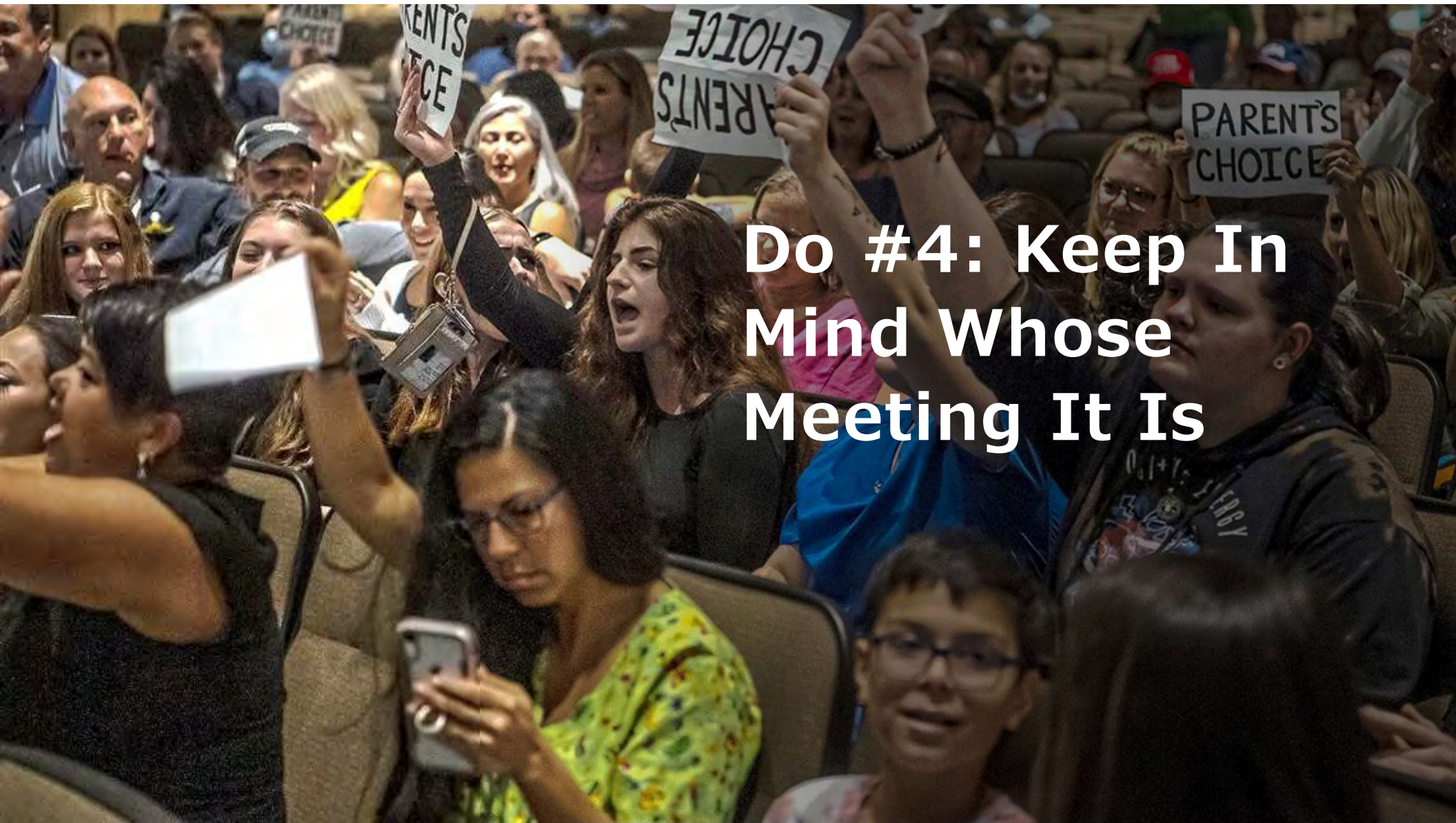


## Scenario: Show Me What You've Got

### PERSONNEL RECORDS

A board member came into the district office the day after the board meeting requesting copies of the superintendent's contract, medical records, leave use, and performance. The board extended the superintendent's contract last night, and she wanted to get a better feel for whether extending was in the board's best interest, or if they should rescind that motion. Do you allow her access to these files?





**Do #4: Keep In  
Mind Whose  
Meeting It Is**

# “HOME RULE”

## ➔ K.S.A. 72-1138

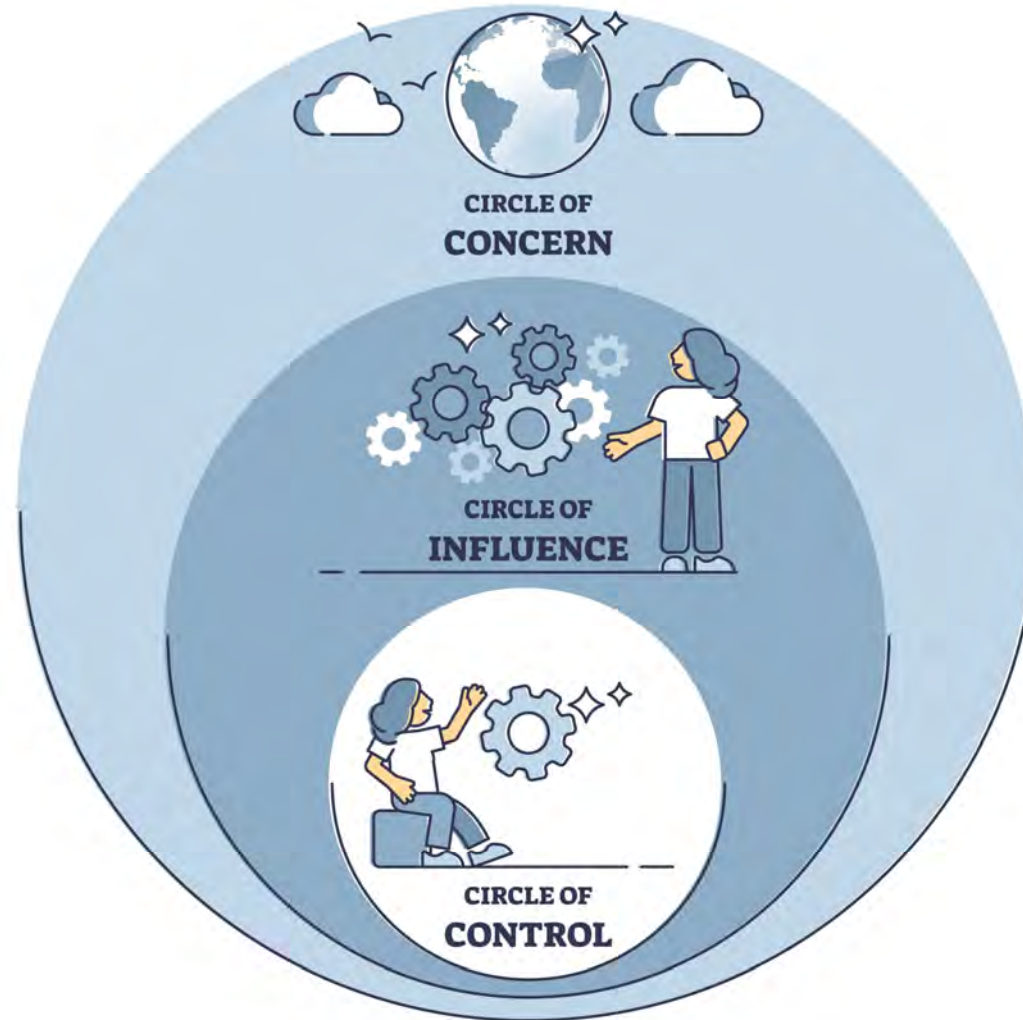
(e) (1) The board may transact all school district business and adopt policies that the board deems appropriate to perform its constitutional duty to maintain, develop and operate local public schools.

(2) The power granted by this subsection shall not be construed to relieve a board from compliance with state law.

The power granted by this subsection shall not be construed to relieve any other unit of government of its duties and responsibilities which are prescribed by law, nor to create any responsibility on the part of a school district to assume the duties or responsibilities which are required of another unit of government.









## The Board's Meetings are Required to be Accessible to the Public

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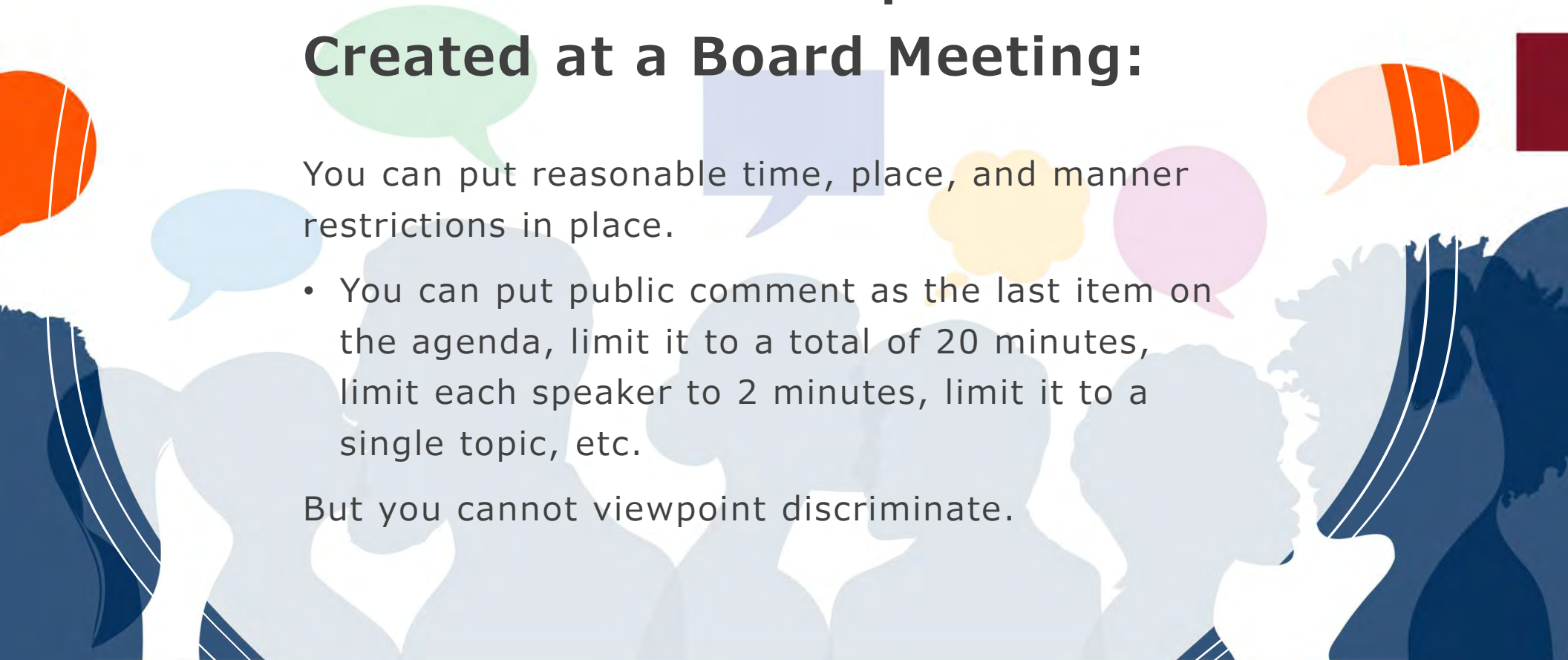
- Notice to those requesting it must be given within a reasonable time
- Public participation is not guaranteed
- It is a right to watch, not a right to speak

## Once a Forum for Speech is Created at a Board Meeting:

You can put reasonable time, place, and manner restrictions in place.

- You can put public comment as the last item on the agenda, limit it to a total of 20 minutes, limit each speaker to 2 minutes, limit it to a single topic, etc.

But you cannot viewpoint discriminate.



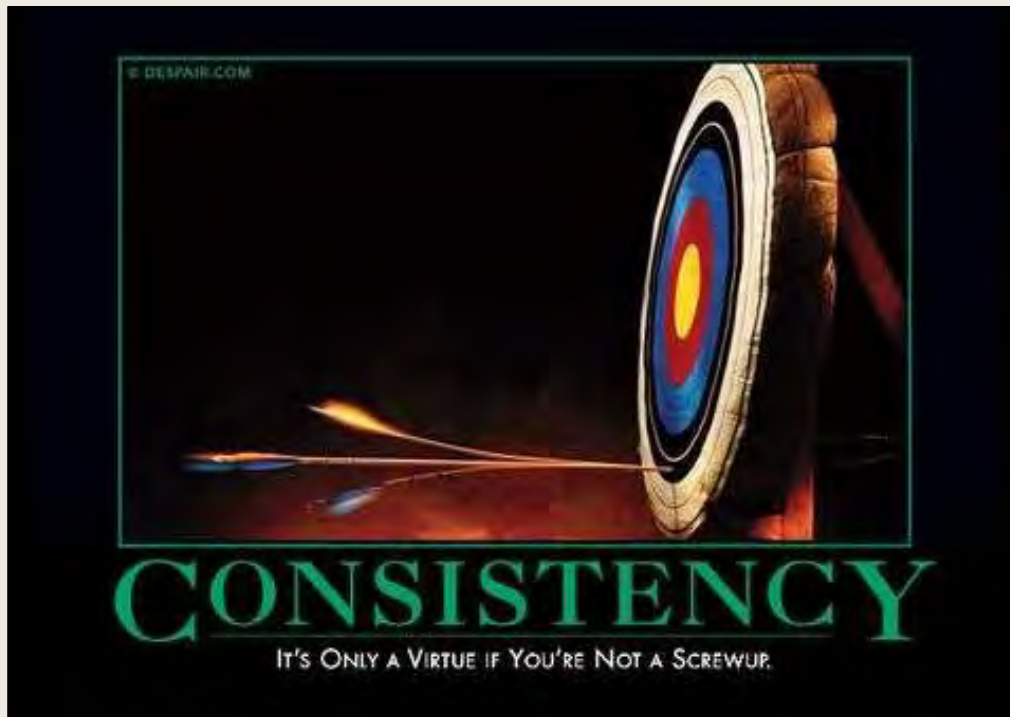


## Staff Participation at Board Meetings

The president runs the meeting, and any board member wishing to speak should get the attention of the president. Generally staff members only participate in the meeting when directly asked to speak or to perform a role/lead discussion they are assigned in the meeting agenda.

As it is a meeting of the board and not a staff meeting or public meeting, any participants that are not board members must be invited to participate. While it is common the superintendent will provide needed context on issues for board action, participation of other staff members is rare unless called upon for specific input.





## Thou Shalt Not:

- Misuse Executive Session
- Circumvent your policy and procedures
- Write, type, or say something you would not want on a billboard with your face on it
- Forget Meeting and Voting Procedures

# Don't #1: Misuse Executive Session

- Recess, not adjourn into it
- Motion:
  - *Ms. President, I move we go into executive session [fill in subject] pursuant to [fill in justification], and the open meeting will resume in the board room at [fill in time].*
- No one except the board has a right to attend; others join by invitation
- The complete motion must be recorded in minutes and maintained as permanent record.

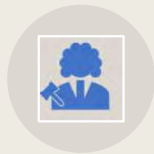


## JUSTIFICATIONS FOR EXECUTIVE SESSION MOTION

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NON-ELECTED  
PERSONNEL



CONSULTATION  
WITH  
ATTORNEY ON  
MATTERS  
DEEMED  
ATTORNEY-  
CLIENT  
PRIVILEGED



ACTIONS  
ADVERSELY OR  
FAVORABLY  
AFFECTING A  
STUDENT



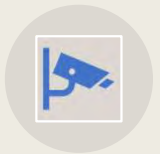
DATA  
RELATING TO  
FINANCIAL  
AFFAIRS OR  
TRADE  
SECRETS



EMPLOYER-  
EMPLOYEE  
NEGOTIATIONS



PRELIMINARY  
DISCUSSIONS  
OF THE  
ACQUISITION  
OF REAL  
PROPERTY



SCHOOL  
SECURITY  
MATTERS TO  
ENSURE THE  
SECURITY OF  
THE SCHOOL

EXAMPLES OF SUBJECTS	JUSTIFICATION
<p>To discuss an individual employee's performance; or</p> <p>To discuss an individual employee's contract; or</p> <p>To discuss evaluation of an employee</p>	<p>The non-elected personnel exception under KOMA</p>
<p>To discuss a student issue; or</p> <p>To hold an appeal hearing for a student</p>	<p>The exception relating to actions affecting a student under KOMA</p>
<p>To discuss coding mechanisms Powerschool uses to secure student data with Powerschool representatives</p>	<p>The exception for data relating to the financial affairs or trade secrets of a business under KOMA</p>
<p>To discuss potential litigation with our legal counsel</p>	<p>The exception for matters which would be deemed privileged in the attorney-client relationship under KOMA</p>
<p>To discuss the latest proposal for increasing the base pay from the teachers; or</p> <p>To discuss items noticed or to be noticed negotiation; or</p> <p>To discuss the board's position on teacher benefits</p>	<p>The exception for employer-employee negotiations under KOMA</p>
<p>To discuss potential properties for a new middle school</p>	<p>The KOMA exception for preliminary discussion of the acquisition of real property</p>
<p>To discuss the high school crisis plan;</p> <p>To discuss exact placement of security cameras and alarms in the school buildings</p>	<p>The KOMA exception for discussion of security measures</p>



# Scenario: Trailers for Sale or Rent

Years ago, you acquired property on the edge of town for future expansion. Now that you're talking about clearing the property for more parking at the high school, you need to get rid of some trailer houses. The board would like to discuss this in executive session. Is this okay?



## KEEP IT CONFIDENTIAL

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Board members—and anyone invited to executive session—must not disclose matters discussed in the session to anyone.

Executive session under KOMA exists to protect either a public interest or the privacy interest of a particular individual.

Any improper disclosure erodes public trust.

# Scenario: Negotiation Station

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One of your best friends from high school is the lead negotiator for the teachers. You bump into her at the gas station, and she asks what you think the board's ceiling is on an increase in base pay. Since you've done all the figures on increases after the meeting, you are read in on this one. What do you do here?



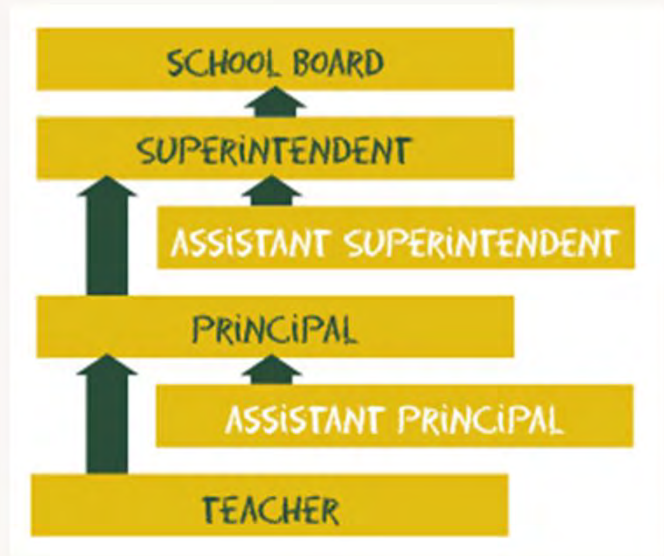


**Don't #2: Circumventing Your Policy  
and Procedures, Especially When  
Wrestling with a Complaint**



# What is the chain of command?

In an organizational structure, “chain of command” refers to a district’s hierarchy of reporting relationships -- from the bottom to the top of the district, who must answer to whom. The chain of command not only establishes accountability, it lays out a district’s lines of authority and decision-making power.



# Just because they come to you doesn't mean you are the one that has to handle it at that time.

- Do they want to speak in open forum? (BCBI) → Meeting in public not public meeting; Board President may elect not to allow
- Do they want to go into executive session to discuss staff and/or students? (BCBK)
  - From BCBI: "Any patron wishing to speak to the board shall first notify the superintendent seven days prior to the meeting and state the reason(s) for the request. The superintendent shall determine whether said request can be solved by the staff without appearance of the patron before the board."
- Do they want to file a complaint? (KN or other policy depending on nature of complaint)
  - From BCBI: "Only in those cases where satisfactory adjustment cannot be made by a principal or the superintendent, shall the superintendent refer complaints to the board."

# Might it have to do with banning books?

When asking Beulah if she wants to take it outside seems like an inappropriate option...

Board Policy IF says, in part:

- *Any person having a complaint about textbooks, media center or other instructional materials shall meet with the principal. If the matter cannot be resolved, the principal shall notify the superintendent and ask the complainant to use a request for review form which is available through building principals or at the district office. After receiving the completed form, the superintendent shall meet with the complainant to discuss the complaint.*
- *If the complaint is not resolved at the meeting with the superintendent, the complainant may request that the board consider the complaint. If the board chooses to consider the complaint, it shall forward all appropriate written materials to a review committee...*





# Who's Your Complainant?

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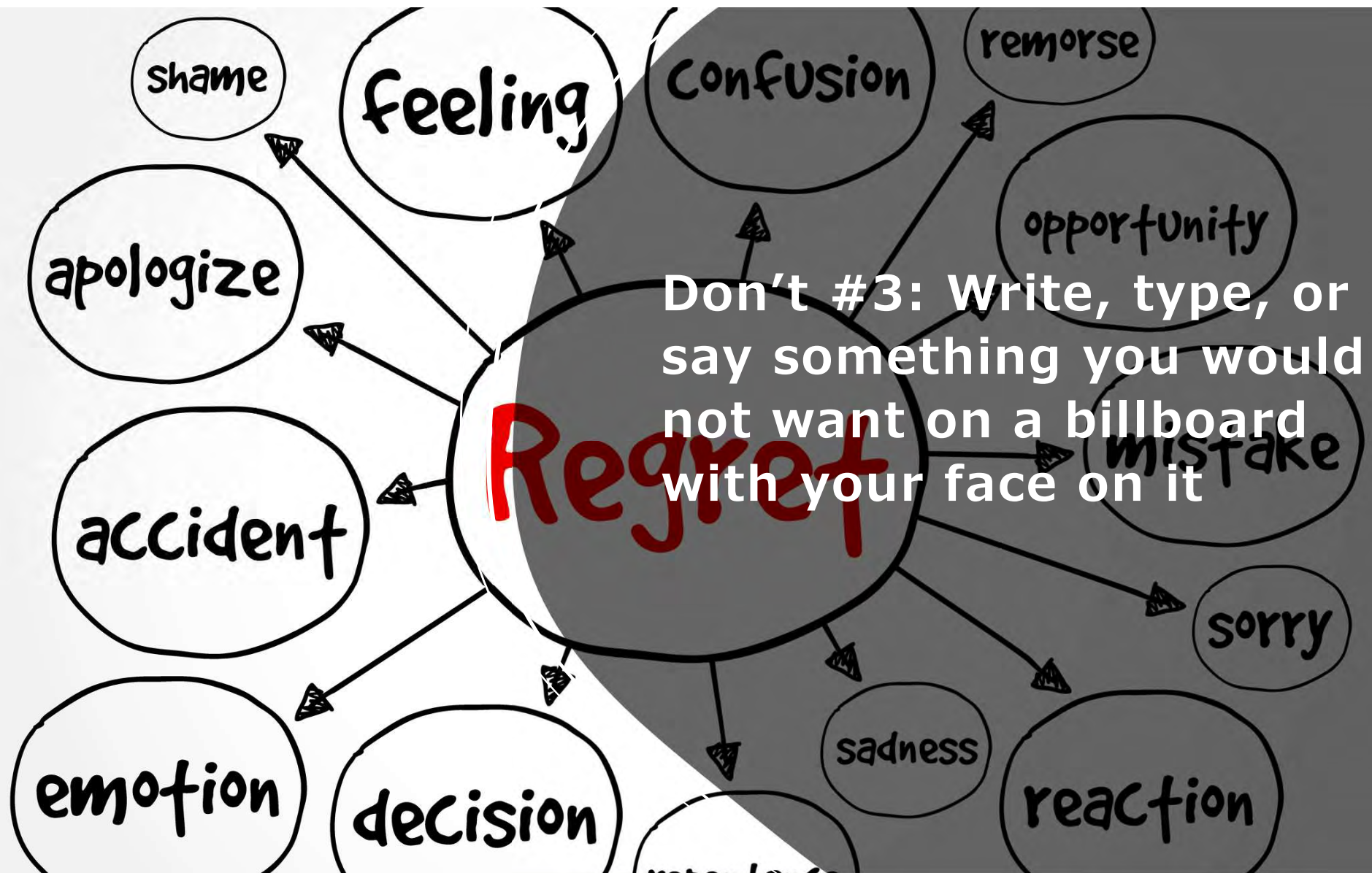
Employee:

- Is it a staff member covered by the negotiated agreement? If so, do grievance provisions apply?
- If not covered by negotiated language, do you have an employee complaints policy? (GAE)
- Does it involve sexual, racial, or disability harassment? (GAAB, GAAC, GAACA, KN)
- Does it involve bullying? (GA AE)
- Have you followed the chain of command in addressing the complaint?

# Tips On Handling Complaints

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- Know your policies and grievance language
- Don't disregard unwritten or emailed complaints
- Follow the timelines in policy and negotiated language
- Respect and follow the chain of command
- Investigation may be necessary
- Take prompt, remedial action to cure any wrongdoing, provide support to any victims, and discipline students/staff or deal with contractors/patrons responsible



# KANSAS OPEN RECORDS ACT (KORA)

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Requires any recorded information made or maintained by school district be accessible to public (lots of exceptions)

Most records are subject to KORA

Excluded are personal records made or held by individual school board members






# Keys to Remember About KORA

- When using your district-provided laptop, iPad, or email address, board members and staff members must be mindful that material posted therefrom or maintained thereon could be subject to disclosure given the right request.
- Similarly, there's always the chance that communications sent not from school equipment or emails but made in the capacity as a board member or staff member on topics related to the operation of the district will be requested to be disclosed.






**And, there's always  
the chance you are  
being recorded.**



## Scenario 7: Operation Overshare

IEP Meetings are hard, and staff members are finding them exceptionally trying with one set of parents. The meetings are long, the emails between meetings are accusatory and demanding, and your staff members are experiencing a great deal of frustration with complying with all of the parents' requests for records and feedback. Recently, the parents spoke with the board in executive session, saying that if something doesn't improve, they are taking the district through due process proceedings. Still, you've been proud of how your board and staff has responded. That is, until the day Mom and Dad request all school records including their student's name. On your review of copious records in replying to this request, you come across an email chain where one board member emailed the superintendent referring to Mom as the Queen B (implying what you think) and commenting that she obviously wears the pants and keeps Dad's daddy parts in a jar (in a matter of speaking) since he won't stand up to her, either. Can we refuse to disclose this?



A photograph of a community meeting or workshop. A man in a green plaid shirt stands at the front, smiling and pointing towards the audience. The audience, consisting of people of various ages, is holding up numerous yellow cards. In the background, there is a white door with an "EXIT" sign, a large clock, and a colorful display of handprints. A semi-transparent circular graphic with a white outline is overlaid on the left side of the image, containing the text "Don't #4: Forget Voting and Meeting Procedures".

**Don't #4: Forget  
Voting and  
Meeting  
Procedures**





## **K.S.A. 72-1133: Board Leadership Selection**

The board shall elect a president and vice-president, both of whom shall be members of the board. The president and vice-president shall each serve for a term of one (1) year and until a successor is elected and qualified.

The president shall preside at meetings of the board and perform such other duties as are provided by law.

In the absence or inability to act of the president, the vice-president shall perform the duties of the president. In the absence or inability to act of both the president and vice-president, the remaining members shall select a member to act in the capacity of president.

# BOARD PRESIDENT

Has same authority to vote as the other six members

May make motion, second a motion, discuss a motion

Presides over the meeting and keeps the meeting moving (BCBF)

Other duties as assigned by law or policy, such as compiling the agenda with the superintendent (BCBD-R) and determining whether to allow public comment on an agenda item (BCBI)





*Special*

## Special Meetings

- President or three board members can call special meeting.
- Each board member entitled to two days' written notice of time, place and purpose of special meeting.
- Board member may waive right to receive advance written notice.
- Persons requesting notice entitled to receive personal notice of special board meetings.
- Notification should be given within reasonable time.

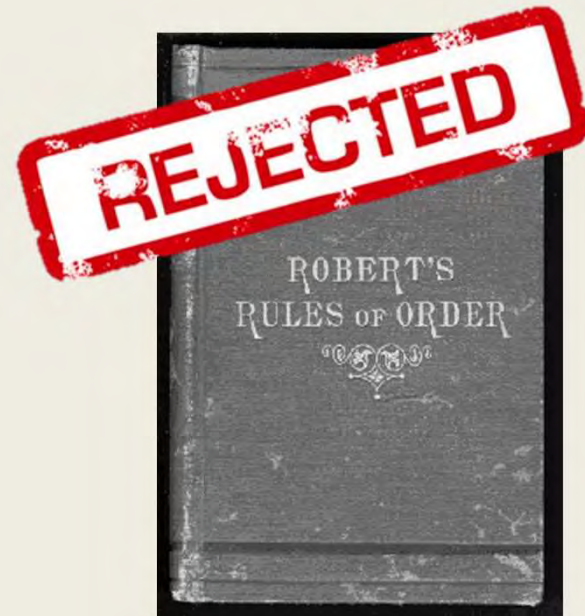
# QUORUM AND RULES OF ORDERS

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Four board members for  
quorum

Roberts Rules of Order not  
required or recommended

Four affirmative votes  
required to take any action





# VOTING PROCEDURES

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Voice vote, show of hands

Paper ballots not recommended

- *Ballot must be signed and maintained*

Public must be able to see or hear

No proxy or secret ballot

Policy BCBG says must be “yes” or “no” vote

K.S.A. 72-1138 states abstentions or remaining silent are “no” votes



# CONFLICTS OF INTEREST

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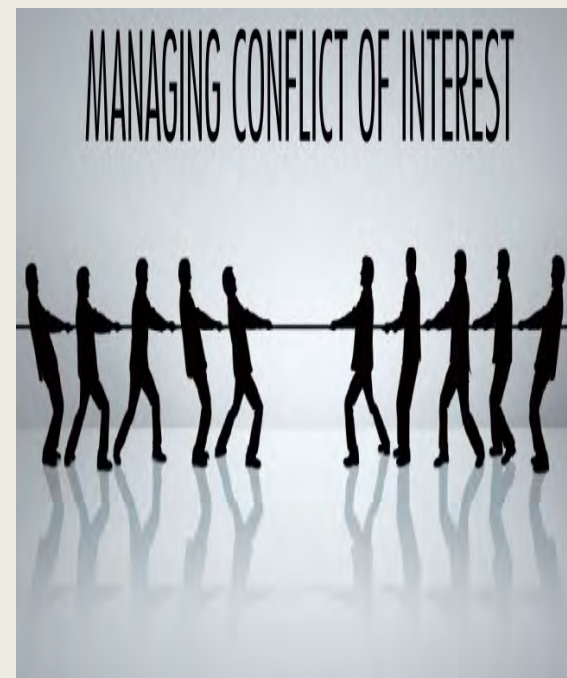
Legal or equitable interest

Announce conflict

Leave meeting

Member counted as not voting

Only member can decide  
to declare conflict





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800-432-2471