



## **Juggling More than One Role as a Board Member**

*Published online in [TASB School Law eSource](#)*

An interesting thing about board members is that in everyday life, most of them are not just board members. Many board members retain their “day jobs” as business people, parents, community members, chairs of non-profit groups, employees of other entities, siblings or parents to current school district employees, and other various hats that board members are expected to wear at any given time.

At times statutory provisions provide guidance and regulation on the duties and responsibilities of school board members, ethical standards that a board member should follow, and penalties when a board member deviates from what is legally acceptable. Additionally, board members can refer to statutes and legal authority that address conflicts of interest and dual office holding. However, there are many combinations of roles that a board member might serve during her tenure on the board (i.e., board member/parent) that do not come with statutory guidelines or regulations. This lack of guidance may leave a board member wondering, *what is acceptable?* This article will explore the most common dual roles that board members may find themselves playing and provide guidance and practical tips on how to avoid pitfalls or legal issues that may accompany such roles.

### **Role as a Board Member**

Various sections of the Texas Education Code address the duties and responsibilities of a board member. Section 11.051 provides, “An independent school district is governed by a board of trustees who, as a body corporate, shall oversee the management of the district.” Tex. Educ. Code § 11.051(a)(1). Additionally, Section 11.151 specifies that the “trustees as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district.” Tex. Educ. Code § 11.151(b).

Furthermore, boards generally adopt local ethical standards which specifically outline the behavior board members will be expected to follow during meetings, dealings with school district staff, communications with members of the public, and while working with fellow board members. Common examples of board ethics are to be fair and impartial, make no personal promise or take private action that may compromise performance or responsibilities, and not disclose information that is confidential by law or that would harm the district if disclosed. See your district policy BBF(LOCAL) for more information.

There are restrictions on certain activities and relationships that board members may have with vendors in the community or employees within the school district. These issues are known as conflicts of interest and nepotism. Each issue is addressed in detail in various TASB Legal Services publications that may be found on the [TASB School Law eSource](#) website.

### **Board Members as Parents**

A common issue for board members relates to the boundaries that exist while they serve on the board with a child enrolled in school. A parent might run for the school board to make a difference, have a hand in forming the future of the community's youth, or set an example of civic duty for her children. Following her election and swearing in, she is now a board member, but remains a parent, too. She must take this into consideration when going about her daily life, especially when issues related to her child arise at school.

A board member/parent can prove to be very useful to the rest of the board by providing unique perspectives and insight. However, it is important to recognize that the public will almost always perceive a board member as a public official first. The public may not realize that she is also a parent, or may know that she is a parent and feel that her parent role should be shut off completely when executing board duties. As the public may not fully understand the complex workings of a governing body, or the legal requirements a governing body must adhere to in executing duties, the public may feel uncomfortable with a board member/parent hearing a level three grievance involving the football coach when that board member's son is on the football team.

While a board member/parent is not required to recuse herself from participating in the deliberation of official business merely because her child attends school within the district, there are times when it is best practice for a board member/parent to voluntarily recuse herself from the deliberation process when her participation might create an undue bias in the situation, or create a public perception of impropriety.

For example, if a board member/parent brings forth a grievance about one of her son's teachers, that board member/parent now harbors a personal interest in this matter and, most likely, a conflict of interest. Following the district's policy on grievances and allowing administrators to handle the grievance at the different levels is very important. It might be tempting to go around the process and request that the grievance be heard immediately before the rest of the board, but the better practice is to follow policy and maintain the chain of command.

After the board member/parent has moved through the appropriate channels in the grievance process and the grievance reaches the board level, the conflicted board member/parent should recuse herself from deliberating and voting with her fellow board members on the outcome of this grievance. The board member/parent is not legally required to leave the room during a closed session grievance hearing, as long as she does not participate in the deliberation or vote in open session. However, the attorney general strongly recommends that a board member

with a conflict of interest excuse herself from the closed session proceedings when she is not testifying on the grievance. See Tex. Att’y Gen. Op. No. GA-334 (2005) (clarifying that attendance at a session does not count as participation, but that it is wise for an interested public officer to refrain from attending meetings that address the matter of her interest).

In many circumstances, there is no “bright line” telling a board member whether she should recuse herself. It should be the goal of each individual board member to ensure that his or her personal issues or agendas do not interfere with this responsibility of being a public official and upholding the public’s trust. If a question or doubt should arise regarding a certain situation and whether a board member should abstain from discussion, deliberation, or voting, the board member may wish to discuss the matter with the board president and may consider seeking legal counsel.

### **Board Members as Community Members**

Many times, board members are concerned that by becoming a public official they shed their ability to remain a member of the community and participate in other non-profit organizations or volunteer for the school. This concern is largely unfounded. A board member may participate in community roles, with a few restrictions.

One restriction applies to a board member wishing to address the rest of the board during the public comment portion of the meeting regarding an issue of public interest. Unfortunately, a board member cannot simultaneously serve as a board member and comment as a community member. A board member cannot simply separate herself of her office by standing in the audience section of the meeting room. *Hays Cnty. Water Planning P’ship v. Hays Cnty.*, 41 S.W.3d 174 (Tex. App.—Austin 2001, pet. denied).

Because she is a public servant subject to the Open Meetings Act, the appropriate course of action when items of school district business are open for discussion is to remain in her role as a board member. However, a board member does have a right to place an item on the agenda for discussion by the entire board (including herself) at a subsequent, properly posted board meeting. Tex. Gov’t Code § 551.042; Tex. Att’y Gen. Op. No. DM-228 (1993).

Another consideration applies to board members who already, or wish to, serve on the board of another community organization that interacts with the school district. For example, a board member may also serve on the board of a local youth organization that occasionally utilizes district facilities. In general, a local public official, including a school board member, may lawfully serve on the board of directors for a non-profit entity or private corporation as long as no compensation or other remuneration is received. Tex. Loc. Gov’t Code § 171.009. However, a board member should verify that the statutes, regulations, and bylaws governing the non-profit or private corporation do not restrict a public official from maintaining both positions at the same time. In addition, the board member must use her best judgment, in accordance with the board’s code of ethics, to determine whether the board member should participate in board decisions that relate to the non-profit organization.

## **Board Members as Volunteers**

Another restriction applies to a board member seeking to serve as a volunteer for the school district. The common-law incompatibility doctrine, which prohibits a board member from serving as a teacher in the same district, does not clearly permit or prohibit volunteer activity. However, the Texas Attorney General has opined that a board member may serve as a volunteer in her own district *if* the volunteer duties are informal duties, that are not ordinarily performed by a compensated employee in a regular position and do not involve regular hours on specific days or a specific period of time agreed upon in advance. Tex. Att’y Gen. Op. No. JC-371 (2001). If the board member’s volunteer activities become routine, formalized, or compensated by the district in any way, the board member risks violating the incompatibility doctrine.

Additionally, as a practical matter, a board member should carefully consider the risk of creating potential governance problems if she will have a continued presence in one classroom or campus. If a board member gains a great deal of personal knowledge about a classroom or campus while serving as a volunteer, that knowledge may affect the board member’s ability to serve the district as a board member. A board member may also cause some unintentional stress or concerns among school district staff if she is a constant presence in the classrooms and on campus. The best practice is to discuss the matter with the district’s superintendent or the campus principal, to assure staff that it is the board member’s intent to be present simply as a parent or volunteer, and not to gather information or become entangled in campus issues.

As with all other community members, including parents, who may need to enter a school campus, board members must adhere to the identification procedures set forth by each campus, and must follow all rules in place regarding disruption of class and disorderly conduct. Most districts require visitors on school campuses to present an acceptable form of identification and wear a “Visitors” badge while remaining on the premises. Board members are not exempt from this requirement and should review TASB Model Policy GKC(LEGAL) and their district’s GKC(LOCAL) for more information.

For more information on volunteering, see TASB Legal Services’ article, [\*The Basics on Volunteers and Volunteering In Your School District.\*](#)

## **Board Members as Members of Booster Clubs and PTAs**

In light of the guidance on volunteering, board members should also be cautious about their involvement with school support organizations. It is certainly permissible to join, serve as a member, and attend events sponsored by a booster club or PTA. However, the more involvement the board member has in leadership roles for the booster club or PTA, the more difficult it may be for that board member to navigate her role with the board. The board member must walk a fine line to ensure that the organization is not given the mistaken impression that the board member can use her influence as a member of both to sway a school board decision to the advantage of the booster club.

Ideally, a board member should consider offering support to such organizations by volunteering time or attending events, but not by assuming a leadership role. Sometimes this may be difficult if the district is small and the organization has difficulty finding willing participants. If a board member finds herself involved in running a school-sponsored organization while on the school board, a dialogue should be opened with the superintendent and principal and legal counsel should be sought as needed.

## Conclusion

With long hours and no pay, serving in the capacity of school board member is a demanding enough duty. Board members may become overwhelmed when balancing the position with additional roles including parent, community member, volunteer, or business owner. Separating each role is important in both effectively executing duties as a board member and appropriately serving the school district. Finding that right balance between the roles a board member plays is a personal effort, but one that will pay off greatly for each member and his or her community.

This document is continually updated, and references to online resources are hyperlinked, at [tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Governance/documents/juggling\\_more\\_than\\_one\\_role\\_as\\_bd\\_mem.pdf](https://tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Governance/documents/juggling_more_than_one_role_as_bd_mem.pdf). For more information on this and other school law topics, visit TASB School Law eSource at [schollawesource.tasb.org](https://schollawesource.tasb.org).

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*Updated November 2018*