

STRANG, PATTESON  
RENNING, LEWIS & LACY

**WISCONSIN ASSOCIATION OF  
SCHOOL SUPERINTENDENT  
ASSISTANTS**

**WORKING WITH SCHOOL BOARDS AND  
SCHOOL BOARD MEMBERS**

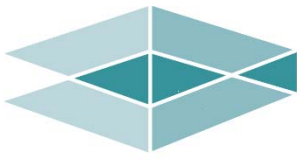
*October 12, 2017*

*Presented by Shana R. Lewis*

*Direct Toll Free Phone: (844) 626-0902*

*Email: [slewis@strangpatteson.com](mailto:slewis@strangpatteson.com)*

GREEN BAY OFFICE: 205 Doty Street, Suite 201, Green Bay, Wisconsin 54301 • Toll Free: 844-833-0830  
MADISON OFFICE: 660 West Washington Avenue, Suite 303, Madison, Wisconsin 53703 • Toll Free: 844-626-0901  
SERVICE CENTERS IN MILWAUKEE AND OSHKOSH, WISCONSIN



STRANG, PATTESON  
RENNING, LEWIS & LACY



## **Shana R. Lewis**

Attorney Shareholder

*Madison*

*Direct Toll Free Phone: (844) 626-0902*

*Email: [slewis@strangpatteson.com](mailto:slewis@strangpatteson.com)*

Michelle A. Keene

Legal Assistant

*Direct Toll Free Phone: (844) 626-0903*

## **Practice Areas**

- Labor and Employment
- School and Higher Education Law

---

## **Education**

- J.D., University of Wisconsin Law School
- B.A., Political Science, University of Wisconsin
- Certificate in Women's Studies, University of Wisconsin

---

Shana has extensive experience in labor and employment law, school and higher education law, and municipal law. She represents private and public sector employers in a broad range of labor and employment law matters, including family and medical leave, harassment, employment contracts, and collective bargaining. Shana's practice focuses on representing school districts throughout Wisconsin on issues ranging from labor and employment matters to pupil discipline, open meetings, public records, and other matters of import to Wisconsin schools. She also has significant experience conducting investigations for private and public sector entities concerning allegations of harassment, bullying, and discrimination involving staff and/or students.

---

## Recognitions

- *Best Lawyers® in America* - Education Law, Employment Law – Management, Labor Law – Management, and Litigation – Labor and Employment (2013-2018)
  - *Best Lawyers’* 2018 Labor Law - Management “Lawyer of the Year” for Green Bay, WI
  - *Best Lawyers’* 2016 Labor Law - Management “Lawyer of the Year” for Green Bay, WI
  - *Best Lawyers’* 2016 Employment Law - Management “Lawyer of the Year” for Green Bay, WI
- 40 Under 40 List - Greater Madison InBusiness Magazine (2005, 2012)
- Named “Wisconsin Rising Star” by Super Lawyers Magazine (2006 - 2013)
- Rated BV® Distinguished™ by Martindale-Hubbell®
- Top Lawyer, Madison Magazine (2009)
- ATHENA Young Professional Award Nominee (2008)
- 2016 Women to Watch, *Brava Magazine*

---

## Professional Activities

- Member, State Bar of Wisconsin
- Member, Dane County Bar Association
- Member, Legal Association for Women
- Member, Council of School Attorneys
- Board Member, Wisconsin School Attorneys Association
- Adjunct Faculty, Edgewood College

---

## Community Involvement

- President, Board of Directors, Theatre LILA
- Secretary, Greenridge Park Neighborhood Association
- Lifelong Ambassador, A Fund for Women
- Recording Secretary, Board of Directors, TEMPO Madison
- Marketing Committee Member, Operation Fresh Start

**I. LEGAL AUTHORITY OF THE SCHOOL BOARD**

- A. Duties and powers of school boards (Wis. Stat. § 118.001).** The statutory duties and powers of school boards shall be broadly construed to authorize any school board action that is within the comprehensive meaning of the terms of the duties and powers, if the action is not prohibited by the laws of the federal government or of this state.
  
- B. Purpose (Wis. Stat. § 118.01(1)).** Public education is a fundamental responsibility of the state. The constitution vests in the state superintendent the supervision of public instruction and directs the legislature to provide for the establishment of district schools. The effective operation of the public schools is dependent upon a common understanding of what public schools should be and do. Establishing such goals and expectations is a necessary and proper complement to the state's financial contribution to education. Each school board should provide curriculum, course requirements and instruction consistent with the goals and expectations established under sub. (2) [Educational Goals]. Parents and guardians of pupils enrolled in the school district share with the state and school board the responsibility for pupils meeting the goals and expectations under sub. (2) [Educational Goals].
  
- C. School board duties (Wis. Stat. § 120.12).** School boards have responsibilities relating to:

|  |  |
|--|--|
| (1) Management of school district.               | (2) General supervision.   |
| (2m) Educator effectiveness.                     | (3) Tax for operation and maintenance.                                   |
| (4) Tax for debt retirement.                     | (4m) Calculation of total base wages increase for collective bargaining. |
| (5) Repair of school buildings.                  | (6) Insurance on school property.  |
| (7) Depository.                                  | (9) Discussion of public questions.                                      |
| (11) Indigent children.                          | (12) Sanitary facilities.  |
| (13) Declaration of Educational Standards.       | (14) Course of study.  |
| (15) School hours.                               | (16) Immunization of children.   |
| (17) University of Wisconsin System tuition.     | (18) Continuity of educational programming.                              |
| (19) Initiative to provide coordinated services. | (19m) Sale of property.  |
| (20) Prohibition of tobacco.                     | (21) Consideration of effects on historic properties.                    |
| (22) Advanced placement examinations.            | (23) Pupil participation in school activities.                           |
| (24) Health care benefits.                       | (25) Early admission to kindergarten and first grade.                    |
| (27) School closings and reopenings.             | (28) School board vacancies.   |

**D. School board powers (Wis. Stat. § 120.13).** School boards may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, which includes powers relating to all of the following:

|  |  |
|--|--|
| (1) School government rules; suspension; expulsion.                      | (2) Insurance.   |
| (3) Agreements with governmental units.                                  | (4) On-farm training to veterans.  |
| (5) Books, material and equipment.                                       | (6) Federal aid.   |
| (7) Exchange teachers and administrators.                                | (8) Funds for rewards.   |
| (9) Architects and engineers.  | (9m) Legal services.   |
| (10) School food service.  | (11) Nurses and dentists.  |
| (12) Historical records.   | (13) Prekindergarten classes.  |
| (14) Child care programs.  | (15) Special high school courses.  |
| (16) School board organization; fee.                                     | (17) Temporary use of school property.                                     |
| (18) Property for ecological, agricultural or vocational instruction.    | (18m) Renewable resource facilities.                                       |
| (19) Community programs and services.                                    | (20) Options to purchase real property.                                    |
| (21) Lectures.   | (22) Cable television and data processing services.                        |
| (23) Bonds for officers and employees.                                   | (24) Contracts with other governmental units.                              |
| (25) Lease school property.  | (26) Contracts with private education services.                            |
| (26m) Contracts with county children with disabilities education boards. | (26r) Contracts for mental health and developmental disabilities services. |
| (27) Transportation of persons who are not pupils.                       | (27m) Transportation of indigent pupils.                                   |
| (28) Records custodian.  | (29) Borrowing.  |
| (30) Hunter education programs.  | (31) School crossing guards.   |
| (32) School board orientation.   | (33) Spending authority.   |
| (34) Street trade and child labor permit officer.                        | (35) Presence in school buildings.   |
| (36) Prekindergarten and kindergarten program agreements.                | (37) Awarding high school diplomas to veterans.                            |
| (37m) Single-sex schools and courses.                                    | (38) Hunting in school forests.  |

**E. Powers of the Electors in a Common or Union High School District – Wis. Stat. § 120.08 and § 120.10.**

1. Wis. Stat. § 120.08.

(1) Annual meeting.

(a) Common school districts shall hold an annual meeting on the 4th Monday in July at 8 p.m. and union high school districts shall hold an annual meeting on the 3rd Monday in July at 8 p.m. unless the electors at one annual meeting determine to thereafter hold the annual meeting on a different date or hour, or authorize the school board to establish a different date or hour. No annual meeting may be held before May 15 or after October 31. The first school district meeting in a common or union high school district created under s. 117.08, 117.09, or 117.27 shall be considered an annual meeting.

(b) The place of the annual meeting shall be in a schoolhouse in the school district. If a schoolhouse which will accommodate the electors is not available, the place of the annual meeting shall be the nearest available place designated by the school board.

(c) The school district clerk shall publish a class 2 notice, under ch. 985, of the time and place of the annual meeting, the last insertion to be not more than 8 days nor less than one day before the annual meeting. The school district clerk shall give like notice for any adjourned meeting, if the adjournment is for more than 30 days. No annual meeting shall be deemed illegal for want of notice.

(2) Special meeting.

(a) Upon petition filed with the school district clerk signed by 3 percent of the electors residing in the school district or 100 electors, whichever is fewer, or upon the motion of the school board in a common or union high school district, a special meeting shall be called by the school district clerk or, in his or her absence, by the school district president or school district treasurer. If the petition includes a subject beyond the power of the special meeting to transact, the school district clerk shall reject such subject and so notify each elector signing the petition.

(b) Notice of a special meeting shall be published as a class 2 notice, under ch. 985. The last insertion shall be not more than 8 days nor less than one day before the day of the special meeting. If no hour for the special meeting is fixed in the notice, it shall be held at 8 p.m.

(c) A special meeting has the powers of the annual meeting. No more than 2 special meetings may be held between annual meetings to consider or act upon the same subject, except that in counties having a population of 500,000 or more no more than 4 such meetings may be held. No tax may be voted at a special meeting, unless notice thereof is included in the notice under par. (b). The amount of the tax proposed to be voted shall be set forth in the notice. The special meeting may vote a tax of a lesser amount than stated in the notice, but not a greater amount.

(3) Challenge. If a person attempting to vote at an annual or special meeting is challenged, the chairperson of the meeting shall state to the person challenged the qualifications necessary to vote at the meeting. If such person declares that he or she is eligible to vote and if such challenge is not withdrawn, the chairperson shall administer the following oath or affirmation to him or her: "You do solemnly swear (or affirm) that you are an actual resident of this school district and that you are qualified, according to law, to vote at this meeting". A person taking such oath or affirmation shall be permitted to vote, but if that person refuses to take such oath or affirmation that person may not vote.

2. Wis. Stat. § 120.10 sets out, for the most part, the powers of the electors at an annual or special meeting, which include:

(1) Chairperson and clerk. Elect a chairperson and, in the absence of the school district clerk, elect a person to act as the clerk of the meeting.

(2) Adjournment. Adjourn from time to time.

(3) Salaries of school board members. Vote annual salaries for school board members or an amount for each school board meeting the member actually attends.

(4) Reimbursement of school board members. Authorize the payment of actual and necessary expenses of a school board member when traveling in the performance of duties and the reimbursement of a school board member for actual loss of earnings when duties

require the school board member to be absent from regular employment.

(5) Building sites. Designate sites for school district buildings and provide for the erection of suitable buildings or for the lease of suitable buildings for a period not exceeding 20 years with annual rentals fixed by the lease.

(5m) Real estate. Authorize the school board to acquire, by purchase or condemnation under ch. 32, real estate and structures and facilities appurtenant to such real estate necessary for school district purposes.

(6) Tax for sites, buildings and maintenance. Vote a tax to purchase or lease suitable sites for school buildings, to build, rent, lease or purchase and furnish, equip and maintain school district buildings. The tax may be spread over as many years as are required to pay any obligations approved or authorized at the annual meeting including rental payments due in future years under an authorized lease.

(7) Tax for transportation vehicles. Vote a tax to purchase, operate and maintain transportation vehicles and to purchase liability insurance for such vehicles, and to finance contracts for the use and services of such vehicles.

(8) Tax for operation. Vote a tax for the operation of the schools of the school district.

(9) Tax for debts. Vote a tax necessary to discharge any debts or liabilities of the school district.

(10) School debt service fund. Vote a tax to create a fund for the purpose of paying all current bonded indebtedness for capital expenditures. All money raised through taxation or otherwise collected pursuant to this subsection shall be deposited by the school district treasurer in a segregated fund. Such money shall not be used for any other purpose, except as provided by s. 67.11 (1), or be transferred to any other fund except by authorization by a two-thirds majority vote of the total number of electors of the school district.

(10m) School capital expansion fund. Vote a tax to create a fund for the purpose of financing all current and future capital expenditures related to buildings and sites. All money raised through taxation or otherwise collected pursuant to this subsection shall be deposited by the school district treasurer in a segregated fund. Such money shall not be used for any other purpose or be transferred to any other fund



except by authorization by a majority vote of the electors present at a subsequent annual meeting and only if notice that the issue would be on the agenda was included in the notice of the subsequent annual meeting under s. 120.08 (1) (c).

(11) Tax for recreation authority. Vote a tax for the purposes specified in s. 66.0123.

(14) Legal proceedings. Direct and provide for the prosecution or defense of any action or proceedings in which the school district is interested.

(15) Textbooks. Authorize the school board to furnish textbooks under conditions prescribed by the annual meeting or by the school board. The authorization shall continue in effect until revoked by a subsequent annual meeting.

(16) School lunches. Direct the school board to furnish school lunches to the pupils of the school district and appropriate funds for that purpose.

(19) Consolidation of high schools. In a union high school district, vote to consolidate schools or to discontinue a school where more than one high school is operated by the school district.

*See also* Wis. Stat. § 120.13(2), which authorizes the electors at an annual or special meeting to pay for accident insurance for students with district funds. Wis. Stat. § 120.13(25), which requires the electors at an annual or special meeting to authorize the school board to lease property to any person. Wis. Stat. § 121.54, empowers the electors at an annual or special meeting to authorize transportation of public or private school students.

- F. Powers of the Board in a Unified School District – Wis. Stat. § 120.44.** (1) A unified school district is a body corporate with the power to sue and be sued, to levy and collect taxes, to acquire, hold and dispose of property and to do all other things reasonable for the performance of its functions in operating a system of public education. (2) The public schools of a unified school district shall be under the management, control and supervision of a school board. The school board shall have the powers and duties of the school board and annual meeting in a common school district. The officers of a unified school district have the powers and duties of the officers of a common school district. No annual meeting shall be held in a unified school district. The school board shall not, in the name of the school district, issue bonds or incur other indebtedness without approval of the electors of the school district in any instance where the school board of a common school district is not authorized to do so.

## II. PRIMARY RESPONSIBILITIES OF THE SCHOOL BOARD

- A. **Mission.** The school board is responsible for determining the school district's mission, establishing its strategic direction and identifying and evaluating progress toward its goals.
- B. **Policymaking.** The school board is responsible for enacting, modifying, and repealing rules and regulations, which form the basis for school district operations. The school board is responsible for setting its goals and operational policies. The Superintendent is responsible for carrying out these goals and policies, and managing the day-to-day operations of the school district.
- C. **Student achievement.** The school board is responsible for adopting academic standards for pupils and establishes expectations for education in the District. The school board is responsible for monitoring student achievement and exercising general supervision over the schools.
- D. **Budget.** The school board is responsible for approving and adopting the annual budget for the District based on the educational plan of the District and the recommendations of the Superintendent. The school board is also responsible for supervising the execution of the budget, reviewing school district accounts and business procedures, and participating in the annual audit of the accounts. The school board is the fiscal fiduciary of the school district.
- E. **School board as an employer.** The school board is an employer that hires and evaluates the Superintendent. The school board must determine staffing levels, approve job descriptions and determine the compensation and benefits for all District employees. The Superintendent is responsible for evaluating all other personnel and serving as the supervisor of other District staff.
- F. **Public relations.** The school board is responsible for building understanding and support for public education in the community, which includes communicating with the public about the needs and demands of the school district and helping to establish a climate for change when it is necessary.
- G. **Political relations.** The school board is responsible for keeping abreast of the actions of other governmental bodies and agencies that impact the delivery of public education. School board members should be willing to participate in the system, where appropriate, and serve as an advocate for public education.
- H. **Ethical leadership.** The school board is responsible for creating an environment that promotes legal compliance and ethical integrity. The school board should hold its administration and staff to the same standards.

### **III. RESPONSIBILITIES OF INDIVIDUAL SCHOOL BOARD MEMBERS**

#### **A. Individual School Board Members.**

1. Individual board members are not vested with powers outside their role as a member of the local school board, although the board is often vested with power to ratify the actions of its members, agents, or employees if the ratification vote occurs in an official board meeting and is documented in the official minutes of the board.
2. Board Member Job Description Examples:
  - a. Monona Grove School Board Policy 143. Authority of Members. Individual members of the Board do not possess the powers that reside in the Board of Education. The Board speaks as a whole and not through its individual members. An act of the Board shall not be valid unless approved at an official meeting by at least a majority vote of the members present or as otherwise may be required by law. The Board's minutes are the official record of its meetings, including action taken.
  - b. Hayward School Board Member Job Description: Performance Responsibilities:
    1. Conforms to the ethics of the Wisconsin State School Boards Association and reflects the opinions of the community on policy, programs, and fiscal issues. The Board will schedule a period of time during each meeting for public participation.
    2. Attends regular meetings and specially called meetings of the Board of Education.
    3. Observes the Board's adopted rules and procedures for conducting and participation in the board meetings.
    4. Makes rules for the organization, gradation and government of the schools of the district, including rules pertaining to conduct and dress of pupils, and maintaining a favorable academic atmosphere.
    5. Approves the rules made by the district administration for the various positions.
    6. Carefully reviews budget calendar, budget reports and financial aspects of the district.

7. Gives policy direction for the operation of the district.
8. Makes final hiring decisions.
9. Demands the use of the chain of command.
10. Approves all major plans and operations of the school district in agreement with the Board committees.
11. Establishes all policy of the district.
12. Encourages and assists administrators, teachers and staff members in their professional development. Such development may include, but is not limited to, conferences, workshops, conventions and other activities designed to promote educational growth.

c. Pecatonica School Board Policy: BOARD/DISTRICT ADMINISTRATOR RELATIONS:

... Members shall refrain from involving themselves in administrative matters and from asking the district administrator for personal considerations. Board members shall refer all non-action matters and criticisms to the district administrator.

d. Stevens Point School Board Policy 161: BOARD AND BOARD MEMBER POWERS AND DUTIES.

The Stevens Point Area Public School District School Board is a corporate entity entrusted by the public to govern and lead the Stevens Point Area Public School District. Complete and final authority and responsibility for matters pertaining to the educational system are vested by statute in the school board.

The Stevens Point Area Public School District School Board shall govern the district according to all state and federal laws.

It shall maintain the care, control, and management of the property and affairs of the district, as prescribed for unified school districts by Wisconsin statutes.

Individual board members have no authority over the district in their own right.

The expression of the board authority can only be in the context of the board as a whole.

The board can take official action only when its individual members meet together in legal session.

No board member by virtue of his/her office, shall exercise any administrative responsibility with respect to the schools or, as an individual, command the services of any school employee.

Generally, the superintendent is the authorized spokesperson for the school board and the school district on matters of district concern.

The board's major roles are policymaking, goals, mission, vision, and strategic directions. The board formulates and adopts policies including, but not limited to, staff employment, educational programs, rules governing students, physical plant and equipment, finances, public information, and school board operations.

Except as otherwise provided for by board action, administration and execution of board policies shall be assigned to the superintendent as the chief administrative officer. The district policies, goals, mission, vision, and strategic direction should be those that reflect the community's values.

When an official action of the school board is under discussion, the board president shall be the authorized spokesperson for the board.

When an action of a school board committee is under discussion, the chairperson of that committee shall be the authorized spokesperson for that committee.

The board speaks with one voice by adopting motions. Board members may provide input to staff recognizing they are speaking as individuals.

#### RULE:

In pursuit of continuous improvement, the charge of the board shall be as follows.

1. Set vision and mission statement for the district.
2. Establish standards of expected student achievement.
3. Develop and approve district goals.
4. Employ and evaluate the superintendent.

5. Monitor and evaluate district performance.
6. Establish and review district policy on a regular basis.
7. Advocate for continuous improvement in public education.
8. Foster good relationships with stakeholders.
9. Review and adopt annual budget.
10. Oversee the community's investment in school properties and facilities as good stewards.
11. Keep informed about current educational issues by individual study and through participation in programs providing needed information, such as those sponsored by state and national school boards' associations.

**B. Election of school board members; oath of office (Wis. Stats. §§ 120.06; 19.01).**

1. **Wis. Stat. § 120.06(4).** School board members elected for regular or unexpired terms shall take office, provided they have taken and filed the official oath, on the 4th Monday in April.
2. **Wis. Stat. § 120.06(10).** On or prior to the day provided for taking office, a school board member shall take and file the official oath.
3. **Wis. Stat. § 19.01.**

(1) Every official oath required by article IV, section 28, of the constitution or by any statute shall be in writing, subscribed and sworn to and except as provided otherwise by s. 757.02 and SCR 40.15, shall be in substantially the following form:

State of Wisconsin,

County of ....

I, the undersigned, who have been elected (or appointed) to the office of ....., but have not yet entered upon the duties thereof, swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin, and will faithfully discharge the duties of said office to the best of my ability. So help me God.

.....

Subscribed and sworn to before me this .... day of ....., ....  
(year)

....(Signature)....,

(1m) Form of oral oath. If it is desired to administer the official oath orally in addition to the written oath prescribed above, it shall be in substantially the following form:

I, ....., swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin, and will faithfully and impartially discharge the duties of the office of .... to the best of my ability. So help me God.

**C. School board officer-specific responsibilities:**

**1. President.**

a. Wis. Stat. § 120.15. The school district president of a common or union high school district shall:

(1) Countersign all checks, share drafts or other drafts for disbursement of school district moneys.

(2) Defend on behalf of the school district all actions brought against the school district.

(3) Prosecute, when authorized by an annual meeting or the school board, actions brought by the school district.

(4) Prosecute an action for the recovery of any forfeiture incurred under chs. 115 to 121 in which the school district is interested. . . .

(5) Act as chairperson of school board meetings and see that minutes of the meetings are properly recorded, approved and signed. . . .

b. Often, the President is also responsible for:

(1) Serving as the District/Board spokesperson.

(2) Filling a Board vacancy if the vacancy persists for more than sixty (60) days.

- (3) Setting the Board meeting agenda.
  - (4) Assigning Board members to committees.
  - (5) Monitoring Board member behavior to ensure that it is consistent with laws, regulations and the Board's own rules and policies.
  - (6) Compiling and facilitating the Board's summative evaluation of the Superintendent/Superintendent.
2. **Vice president (Wis. Stat. § 120.11(1); § 120.15(5)).** The Vice President primarily performs certain duties of the president when the president is absent.
3. **Clerk (Wis. Stat. § 120.17).** The school district clerk of a common or union high school district shall:
- (1) Report the name and post-office address of each officer of the school district, within 10 days after the election or appointment of the officer, to the clerk and treasurer of each municipality having territory within the school district.
  - (2) Act as clerk and record the proceedings of annual and special meetings.
  - (3) Enter in the record book provided by the school board the minutes of its meetings, orders, resolutions and other proceedings.
  - (4) Enter in the record book copies of all the school district clerk's reports to the municipal clerks and the certificate of the proceedings of a meeting returned by a temporary school district clerk.
  - (5) Draw orders on the school district treasurer as directed by an annual or special meeting or the school board and record all orders drawn on the school district treasurer.
  - (7) Furnish each teacher with a copy of the contract between the teacher and the school board.
  - (8)
    - (a) Annually on or before November 10, deliver to the clerk of each municipality having territory within the school district a certified statement showing that proportion of the amount of taxes voted and not before reported, and that



proportion of the amount of tax to be collected in such year, if any, for the annual payment of any loan to be assessed on that part of the school district territory lying within the municipality. . . .

(bm) If the equalized valuation of that part of a municipality lying within a school district is reduced due to the removal of property from the tax roll because the imposition of the property tax on that property is found unconstitutional, the school district clerk shall notify the supervisor of equalization. . . .

(c) If an order of school district reorganization under ch. 117 is effective after January 1 and before July 1 of any year, the school district clerks of the school districts affected shall prepare the statement under par. (a) based on the equalized valuation of the school districts as altered by the order and related to the equalized valuation of the year upon which the tax levy is required to be made. . . .

(9) Within 5 days after receipt of notification from the school board of the name of a new school, notify the proper postmaster of the name and location of the school and the number of the school district. . . .

(10) Have authority to administer the oath of office to school board members.

4. **Treasurer (Wis. Stat. § 120.16).** The school district treasurer of a common or union high school district shall:

(2) Apply for, receive and sue for all money appropriated to or collected for the school district and disburse the same in accordance with this subsection and s. 66.0607. . . .

(3) Enter in the treasurer's account books all money received and disbursed by the treasurer, specifying the source from which it was received, the person to whom it was paid and the object for which it was paid.

(4) Present to the annual meeting a written statement of all money received and disbursed by the treasurer during the preceding year.

(5) Immediately upon receipt, deposit the funds of the school district in the name of the school district in a public depository deposit designated by the school board . . . .

(6) Withdraw funds of the school district deposited in savings or time deposits . . . .

**D. Access to records.**

1. Individual school board members have access to school district records, which are necessary to perform the functions of the position of school board member.
  - a. School board members must have a legitimate educational interest to access pupil records.
  - b. School board members must have a legitimate operational reason to access personnel records, especially employee medical records.
2. Individual school board members have access to school district records that are available to members of the public through the Public Records Law.

**E. Conflicts of interest/incompatibility of office/positions.**

1. Code of Ethics for Local Public Officials. Wis. Stat. § 19.59.

(1)

(a) No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. A violation of this paragraph includes the acceptance of free or discounted admissions to a professional baseball or football game by a member of the district board of a local professional baseball park district created under subch. III of ch. 229 or a local professional football stadium district created under subch. IV of ch. 229. This paragraph does not prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by ch. 11.

(b) No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official. This paragraph does not prohibit a local public official from engaging in outside employment.

(br) No local public official or candidate for local public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under s. 11.05, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.

(c) Except as otherwise provided in par. (d), no local public official may:

1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.
2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

(d) Paragraph (c) does not prohibit a local public official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit a local public official from taking official action with respect to any proposal to modify a county or municipal ordinance.

(6) Any county corporation counsel, attorney for a local governmental unit or statewide association of local governmental units may request the board to issue an opinion concerning the interpretation of this section. The board shall review such a request and may advise the person making the request.

(7)

(a) Any person who violates sub. (1) may be required to forfeit not more than \$1,000 for each violation, and, if the court determines that the accused has violated sub. (1) (br), the court may, in addition,

order the accused to forfeit an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained.

(b) Any person who violates sub. (1) may be required to forfeit not more than \$1,000 for each violation, and, if the court determines that a local public official has violated sub. (1) (br) and no political contribution, service or other thing of value was obtained, the court may, in addition, order the accused to forfeit an amount equal to the maximum contribution authorized under s. 11.26 (1) for the office held or sought by the official, whichever amount is greater.

(8)

(a) Subsection (1) shall be enforced in the name and on behalf of the state by action of the district attorney of any county wherein a violation may occur, upon the verified complaint of any person.

(b) In addition and supplementary to the remedy provided in sub. (7), the district attorney may commence an action, separately or in conjunction with an action brought to obtain the remedy provided in sub. (7), to obtain such other legal or equitable relief, including but not limited to mandamus, injunction or declaratory judgment, as may be appropriate under the circumstances.

(c) If the district attorney fails to commence an action to enforce sub. (1) (a), (b), or (c) to (g) within 20 days after receiving a verified complaint or if the district attorney refuses to commence such an action, the person making the complaint may petition the attorney general to act upon the complaint. The attorney general may then bring an action under par. (a) or (b), or both.

(cm) No complaint alleging a violation of sub. (1) (br) may be filed during the period beginning 120 days before a general or spring election, or during the period commencing on the date of the order of a special election under s. 8.50, and ending on the date of that election, against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

(cn) If the district attorney for the county in which a violation of sub. (1) (br) is alleged to occur receives a verified complaint alleging a violation of sub. (1) (br), the district attorney shall, within 30 days after receipt of the complaint, either commence an investigation of the allegations contained in the complaint or dismiss the complaint. If the district attorney dismisses the complaint, with or without investigation, the district attorney shall notify the complainant in

writing. Upon receiving notification of the dismissal, the complainant may then file the complaint with the attorney general or the district attorney for a county that is adjacent to the county in which the violation is alleged to occur. The attorney general or district attorney may then investigate the allegations contained in the complaint and commence a prosecution.

(d) If the district attorney prevails in such an action, the court shall award any forfeiture recovered together with reasonable costs to the county wherein the violation occurs. If the attorney general prevails in such an action, the court shall award any forfeiture recovered together with reasonable costs to the state.

2. Wis. Stat. § 946.10. Bribery of public officers and employees. Whoever does either of the following is guilty of a Class H felony:

- (1) Whoever, with intent to influence the conduct of any public officer or public employee in relation to any matter which by law is pending or might come before the officer or employee in the officer's or employee's capacity as such officer or employee or with intent to induce the officer or employee to do or omit to do any act in violation of the officer's or employee's lawful duty transfers or promises to the officer or employee or on the officer's or employee's behalf any property or any personal advantage which the officer or employee is not authorized to receive; or

- (2) Any public officer or public employee who directly or indirectly accepts or offers to accept any property or any personal advantage, which the officer or employee is not authorized to receive, pursuant to an understanding that the officer or employee will act in a certain manner in relation to any matter which by law is pending or might come before the officer or employee in the officer's or employee's capacity as such officer or employee or that the officer or employee will do or omit to do any act in violation of the officer's or employee's lawful duty.

3. Wis. Stat. § 946.12. Misconduct in public office. Any public officer or public employee who does any of the following is guilty of a Class I felony:

- (1) Intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the officer's or employee's office or employment within the time or in the manner required by law; or

(2) In the officer's or employee's capacity as such officer or employee, does an act which the officer or employee knows is in excess of the officer's or employee's lawful authority or which the officer or employee knows the officer or employee is forbidden by law to do in the officer's or employee's official capacity; or

(3) Whether by act of commission or omission, in the officer's or employee's capacity as such officer or employee exercises a discretionary power in a manner inconsistent with the duties of the officer's or employee's office or employment or the rights of others and with intent to obtain a dishonest advantage for the officer or employee or another; or

(4) In the officer's or employee's capacity as such officer or employee, makes an entry in an account or record book or return, certificate, report or statement which in a material respect the officer or employee intentionally falsifies; or

(5) Under color of the officer's or employee's office or employment, intentionally solicits or accepts for the performance of any service or duty anything of value which the officer or employee knows is greater or less than is fixed by law.

4. Wis. Stat. § 946.13. Private interest in public contract prohibited.

(1) Any public officer or public employee who does any of the following is guilty of a Class I felony:

(a) In the officer's or employee's private capacity, negotiates or bids for or enters into a contract in which the officer or employee has a private pecuniary interest, direct or indirect, if at the same time the officer or employee is authorized or required by law to participate in the officer's or employee's capacity as such officer or employee in the making of that contract or to perform in regard to that contract some official function requiring the exercise of discretion on the officer's or employee's part; or

(b) In the officer's or employee's capacity as such officer or employee, participates in the making of a contract in which the officer or employee has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on the officer's or employee's part.

(2) Subsection (1) does not apply to any of the following:

(a) Contracts in which any single public officer or employee is privately interested that do not involve receipts and disbursements by the state or its political subdivision aggregating more than \$15,000 in any year.

(3) A contract entered into in violation of this section is void and the state or the political subdivision in whose behalf the contract was made incurs no liability thereon.

(4) In this section “contract” includes a conveyance.

(5) Subsection (1) (b) shall not apply to a public officer or public employee by reason of his or her holding not more than 2% of the outstanding capital stock of a corporate body involved in such contract.

(6) Subsection (3) shall not apply to contracts creating a public debt, as defined in s. 18.01 (4), if the requirements of s. 18.14 (1) have been met. No evidence of indebtedness, as defined in s. 18.01 (3), shall be invalidated on account of a violation of this section by a public officer or public employee, but such officer or employee and the surety on the officer’s or employee’s official bond shall be liable to the state for any loss to it occasioned by such violation.

(7) Subsection (1) shall not apply to any public officer or public employee, who receives compensation for the officer’s or employee’s services as such officer or employee, exclusive of advances or reimbursements for expenses, of less than \$10,000 per year, merely by reason of his or her being a director, officer, employee, agent or attorney of or for a state or national bank, savings bank or trust company, or any holding company thereof. This subsection shall not apply to any such person whose compensation by such financial institution is directly dependent upon procuring public business. Compensation determined by longevity, general quality of work or the overall performance and condition of such financial institution shall not be deemed compensation directly dependent upon procuring public business.

5. Incompatibility of offices doctrine.

- a. The Attorney General has stated: “two offices are incompatible if there is a conflict of interest or duties, so that the incumbent of one office cannot discharge with fidelity and propriety the duties of both. Incompatibility is not simply a physical impossibility to

discharge the duties of both offices at the same time, but is an inconsistency in the functions of the two offices.” 58 Wis. Op. Att’y. Gen. 247 (1969).

- b. Incompatibility is generally understood to mean a conflict or inconsistency in the function of two (2) offices. It is almost always found to exist where one office is subordinate to another or subject to its supervision or control; where one office has the power of appointment or removal from the other; or where the exercise of authority in one office creates a conflict of interest related to the other office (i.e., salary negotiations, supervision and evaluation, auditing, etc.).
- c. When substantial conflicts of interest between two offices (or an office and employment) exist, the individual holding both cannot avoid incompatibility by abstaining from voting in certain areas. The doctrine of incompatibility of office is designed to avoid requiring an individual to make such decisions. *Otradovec v. City of Green Bay*, 118 Wis.2d 393 (Ct. App. 1984).
- d. School board members as volunteer coaches (2015 Wisconsin Act 92). A school board member in a common, union or unified school district may serve as a volunteer coach or a supervisor of an extra-curricular activity if all of the following apply:
  - (1) The school board member does not receive compensation for serving as a volunteer coach or supervisor.
  - (2) The school board member agrees to abstain from voting on any issue that comes before the school board that substantially and directly concerns the activity that he/she coaches or supervises while he/she is serving as a volunteer coach or supervisor (except that the school board member is not required to abstain from voting on the school district’s annual budget).
  - (3) The school board receives the results of a criminal background investigation of the school board member conducted by the Department of Justice or the Federal Bureau of Investigation.

#### **IV. COMMON MISTAKES MADE BY SCHOOL BOARD MEMBERS**

- A. Failing to have patience.**
- B. Engaging in poor or inappropriate behavior.**



- C. Undermining or challenging the board after a vote.**
- D. Acting like the “Lone Ranger.”**
- E. Forgetting that you are a member of a team.**
- F. Dropping a “bomb” at a board meeting.**
- G. Voting along party lines or putting politics before children.**
- H. Becoming a “ball carrier” for others with agendas.**
- I. Failing to respect the District’s chain of command.**
- J. Not being prepared.**
- K. Not listening.**
- L. Having a hidden agenda.**
- M. Refusing to understand and appreciate real and perceived bias.**
- N. Engaging in behavior that interferes with or impedes the board’s ability to perform its statutory and policy based duties.**
- O. Failing to see the forest for the trees.**
- P. Speaking about confidential issues outside of the District.**
- Q. Considering the Superintendent or the staff the “enemy”.**
- R. Ignoring policy (or worse yet, not reading the policies).**
- S. Failing to take into account open meetings and public records implications of everyday individual actions.**

**V. DEALING WITH A ROGUE BOARD MEMBER**

**A. What is a rogue board member?**

1. Rogue school board members are those members who often operate beyond any legal authority, using implied authority to bully and intimidate school district administration, staff and the public. Sometimes they start out with good intentions. Sometimes they push a personal agenda.

2. Typically, they refuse to support majority decisions of the board and they work both openly and behind the scenes to disrupt and undermine the board authority when it conflicts with his/her own interests or preferences.
3. Rogue school board members are often micromanagers, who interfere with the day-to-day operations of the school district, and disregard the organizational structure.
4. Rogue school board members typically behave counter to written and unwritten rules of conduct and breach the Board's Code of Ethics and the laws governing conflicts of interest.
5. Examples:
  - a. A school board member requests access to employee resignation letters and then contacts former employees to find out why they really left the employment of the District.
  - b. A school board member wants to approve every news release issued by the school district, and wants final editing rights on the school district newsletter.
  - c. A school board member shows up at football practice and "helps" the coaches run practice.
  - d. A restaurant owner elected to the school board begins his service on the board tenure by telling the Food Service Director what to serve in the school lunch program.
  - e. A school board member discloses the details of a closed session on strategies in litigation involving the school district.
  - f. A school board member requests a master key to the district's buildings so that he can randomly visit class rooms and school offices nights and weekends.
  - g. A school board member contacts the vendors who are likely to submit bids in response to an RFP to tell them her perspective on what they should include in the submission.
  - h. A school board member grants an interview to the local media to explain her perspective regarding the performance of the Superintendent.
  - i. A school board member contacts employees to investigate a rumor he heard about a Principal's misconduct.

- j. A school board member contacts the Director of Student Services to advocate on behalf of a student with a disability.
- k. A school board member directs the Executive Assistant to prepare a significant amount of information/documents for a topic that is not on the agenda of the Board or a Committee on which he serves.

**B. What can be done about a rogue board member?**

1. Review and revise, as necessary, the Board Member Code of Ethics.
2. Establish policies and guidelines for regulating Board member behavior.
3. Require Board member orientation.
4. Establish a Board professional development and organizational building plan.
5. Bring in external consultants and advisors, including legal counsel, WASB or WASDA representatives, retired Administrators.
6. Establish Board member peer, 360°, or community evaluations.
7. Appoint a mentor for the rogue Board member.
8. Consider whether to utilize the public, including the media, to examine the actions of the rogue board member.
9. Pursue public or private censure of the Board member by the remaining school board members.
10. Consider whether any of the Board member's actions violate the law and justify a complaint to the District Attorney or an administrative agency or removal by a judge.
11. Explore political opportunities, such as a recall effort or endorsing a candidate who opposes the rogue school board member.