

DESCRIPTOR TERM: School District Organization and Governance	Millard District Policy File Code: 1000 Approved: 06-11-20
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**SCHOOL BOARD LEGAL STATUS, QUALIFICATIONS, AUTHORITY,
POWERS AND RESPONSIBILITIES**

A. Purpose & Philosophy

In the State of Utah, local school boards are created by the state legislature under authority granted in Article X of the Utah Constitution. Directly accountable to the people, local school boards are the educational policymakers for the public schools in local communities and may serve as the final appeal body in school administrative matters. The Board of Education of Millard School District is a representative body elected by the citizens of Millard County to provide for and oversee the operation of public schools in Millard County.

B. Definitions

1. "Meeting" as defined in this policy, means the convening of the board, with a quorum present, whether in person or by means of electronic equipment, for the purpose of discussing or acting upon a matter over which the board has jurisdiction or advisory power.
2. "Quorum" as defined in this policy, means a simple majority of the board members (i.e. at least three (3)).

C. Legal Status

The Board of Education of a school district is a body corporate under the name of the "Board of Education of Millard School District".

The Board of Education may:

1. **Promote Education**
The Board has the legal power and duty to do all things necessary for the maintenance, prosperity and success of the schools and for the promotion of education and to exercise all powers given by statute. The Board's legal powers and duties include the actions set forth in this policy, but are not necessarily limited to the listed powers and duties.
[Utah Code § 53G-4-402\(20\) \(2019\)](#)
2. **Govern**
The Board of Education recognizes that under Utah law "it is the province of the Board of Education to determine what things are detrimental to the successful management, good order, and discipline of the schools and the rules required to produce successful management, good order, and discipline in the schools."
Beard v. Board of Education, 16 P.2d 900 (Utah 1932)

3. **Adopt Rules**
Adopt such policies, regulations, and bylaws as the Board deems proper for the operation of the Board and for the control and management of the District's schools.
[Utah Code § 53G-4-402\(14\), \(15\) \(2019\)](#)
4. **Levy Taxes**
Establish tax rates each year and submit the proposed rate to the county legislative body in which the District is located according to statutory procedures:
[Utah Code § 53F-8-201 \(2019\)](#)
[Utah Code § 53F-8-401 \(2018\)](#)
[Utah Code § 53F-8-202 \(2018\)](#)
[Utah Code § 53F-8-402 \(2019\)](#)
5. **Annual Budget**
Prepare, adopt, and file a budget for the next succeeding fiscal year with the county legislative body in which the District is located as required by statute.
[Utah Code § 53F-8-201 \(2019\)](#)
6. **Bequests**
Receive bequests and donations or other monies or funds which are made for educational purposes.
[Utah Code § 53G-4-402\(12\) \(2019\)](#)
7. **Acquisition and Ownership of Property**
Acquire and hold real and personal property in the name of the District, inclusive of all rights and titles, and lease and lease with an option to purchase property. The Board of Education has the direction and control of all school property in the district.
[Utah Code § 53G-4-401\(4\) \(2019\)](#)
8. **Eminent Domain**
Exercise the right of eminent domain to acquire property.
Board of Education of South Sanpete School District v. Barton, 617 P.2d 347 (Utah 1980).
Olsen v. Board of Education of the Granite School District, 571 P.2d 1336 (Utah 1977).
9. **Employ Personnel**
Employ by contract a Superintendent, Business Administrator, Principal(s), teacher(s), or other executive officer(s) and set salary schedules therefor.
[Utah Code § 53G-11-202 \(2018\)](#)
[Utah Code § 53G-4-301 \(2018\)](#)
[Utah Code § 53G-4-302 \(2012\)](#)
10. **Close Schools and Change School Boundaries**
Close schools or suspend operation of schools or change school attendance area boundaries as determined to be appropriate by the Board

of Education after appropriate public notice and hearing as required by statute.

Allen v. Board of Education Weber County School District 236 P.2d 756 (Utah 1951)

Save Our Schools v. Board of Education of Salt Lake City, 2005 UT 55

[Utah Code § 53G-4-402\(21\) \(2019\)](#)

11. Sue and be sued
Sue and be sued in the name of the District.
[Utah Code § 53G-4-401\(4\) \(2019\)](#)
12. Fulfill other statutory duties and exercise other statutory powers
The Board also has the duty to comply with such other duties as are set forth in the laws and regulations of Utah and the United States, and also may exercise the powers and authorities established by such laws and regulations.

D. Board Member Qualifications

The Millard School District Board of Education shall consist of five members elected from five representative districts according to law. On the first Tuesday after the first Monday of November of the year hereinafter designated, there shall be elected in Millard School District, members of the Board of Education from school representative districts beginning in the years, and for the terms designated in the following schedule:

Representative District No.	Areas in District	Year	Term
#1	Fillmore #1 Fillmore #2	2012	4 Years
#2	Meadow #3 Kanosh #4 Holden #8	Scipio #9 Flowell #25	2012 4 Years
#3	Oak City #6 Leamington #7 Abraham #14	Garrison #16 Lynndyl #19 Sutherland #20	2012 4 Years
#4	Hinckley #11 Delta #17	2014	4 Years
#5	Deseret-Oasis #5 Delta #18	2014	4 Years

E. Declaration of Candidacy

An individual may become a candidate for the board by filing a declaration of candidacy with the Millard County Clerk and paying the filing fee as required by Utah Code Ann. § 20A-9-202.

F. Oath of Office

1. A member of the board is “qualified” when the member takes or signs the constitutional oath of office, which shall be administered at the first board meeting in January following a regular school board election or at the first board meeting after they have been appointed to fill a vacancy for an outgoing board member.
2. “I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of Utah, and that I will discharge the duties of my office with fidelity.”
[Utah Constitution Art. IV, Sec. X](#)
[Utah Code § 53G-4-201 \(2019\)](#)
[Utah Code § 20A-14-202\(3\) \(2019\)](#)

G. Statutory Qualifications

Each member of the board shall:

1. Be and remain a registered voter in the local school board district from which the member is elected or appointed.
2. Maintain his or her primary residence within the board district from which the member is elected or appointed.

Each member of the board shall not:

1. During the member’s term in office, also serve as an employee of that board. [Utah Code Ann. 20A-14-202.4](#)

H. Individual Board Member Authority

Individual Authority Over District Affairs

1. Because all the powers of the board lie in its actions as a legal entity, i.e. a corporate and political body, individual board members exercise authority over the district only as they vote to take official action at a legal meeting of the board.
2. Individual board members hold an office of shared authority and responsibility. They collectively constitute a government agency with

powers, responsibilities, and duties that can only be legally exercised by a quorum of the board, and only when the board is officially in session.

3. In situations outside the official board a meeting, an individual board member has authority only to the extent the board has lawfully delegated specific authority to him or her.
4. The board will not be bound in any way by any action or statement on the part of an individual board member except when such statement or action is made consistent with specific instructions or delegated authority from the board.

I. Communicating with District Employees

Whereas the board is the policymaking body, it is the responsibility of the Superintendent of Schools and school personnel to administer the policies. Individual board members may communicate with district employees to ask questions, etc., but shall address administrative concerns to the superintendent or to the board. Individual members will not give orders to any subordinates of the superintendent either publicly or privately, but they may take appropriate suggestions and recommendations to the superintendent.

J. Voting and the Common Good

As publicly elected officials, all individual board members are obligated to represent the best interest of all children and all the schools in the district. Board members have the responsibility and authority to suggest problems, or concerns for the board consideration, inform themselves about school matters, take part in board deliberations, arrive at well-reasoned opinions independently, and vote as they choose.

K. Communication and Information

In order to arrive at well-informed and reasoned decisions, board members need appropriate information and materials from the district and district personnel. It is understood that certain informal lines of communication exist between district staff and board members, and this policy is not intended to interfere with these lines of communication. However, all formal requests for information, particularly information contained in private student or personnel records, shall be directed to the superintendent.

L. Comment on Public Issues or Policy

1. When dealing with public issues or matters of district policy as an individual, outside official board meetings, board members should strive at all times to represent the board and the district to the public in a circumspect and diplomatic manner. In all individual communication on

public issues relating to the district, board members shall maintain the following posture:

- a. If questioned by someone about a matter on which district policy has been clearly defined, an individual board member should answer based on policy.
 - b. If questioned about a matter on which the board has no established policy, individual board members should not commit themselves to any position or promise other than a commitment to discuss the matter with the superintendent or to present it to the entire board for consideration.
2. Each board member has a responsibility to reach and support group decisions, which represent the best judgment of the board as a whole. Individual board members are not precluded from voicing minority viewpoints, either during or outside official board meetings, but should indicate that such viewpoints are personal, not board opinions.

M. Powers and Responsibilities of the Board

1. The Board of Education has various specific powers and responsibilities as articulated by state and federal law, and the board will exercise the full legal authority it possesses, as derived from the Utah Constitution, state and federal statute, regulations of the State Board of Education, and other state and federal agencies, Attorney General's opinions, and case law (court decisions).
2. The board has the authority to do all things necessary for the maintenance, prosperity and success of the schools and the promotion of education. All board policies shall be in writing, filed, and referenced for public access.
3. Federal Funds – The board may apply for, receive, and administer funds made available through programs of the federal government.
4. Grants and Gifts – The board may on its own behalf, or on behalf of an educational institution, for which the board is the direct governing body, accept private grants, loans, gifts, endowments, devices, or bequests that are made for educational purposes. All such gifts, endowments, and bequests become the property of the Millard School District.
5. Holidays – The board may hold school on legal holidays other than Sundays.
6. Contracts with other Governmental Entities – The board may contract and cooperate with local governmental entities in matters affecting the health, welfare, and convenience of the inhabitants within their respective

territorial limits. All such contracts and inter-governmental agreements shall comply with the provisions of the Utah Interlocal Cooperation Act.

7. Employment Contracts – The board may enter into a written employment contract for a term not to exceed five (5) years. Nothing in the terms of the contract shall restrict the power of the board to terminate the contract for cause at any time.
8. Board Vacancies – In the event of a vacancy on the board for any cause, the board shall have the power to appoint a new member to fill the unexpired term. Such member must come from the district in which the vacancy occurs. The appointment shall be made within thirty (30) days after the vacancy occurs. [Utah Code 20A-1-511\(1\)\(b\)](#)
9. The board also has those powers and responsibilities delegated pursuant to [Utah Code Ann. § 53A-3-402](#) or any successor statute that may be implemented in its place.

N. Public School Buildings as Civic Centers

1. Under Utah law, all public school buildings and grounds are civic centers and may be used by district residents for supervised recreational activities and meetings. By law, the board has the power to:
 - a. Manage, direct, control and adopt rules for the use of these civic centers.
 - b. Charge a reasonable fee for the use of school facilities as a civic center so that the district incurs no expense for that use.
 - c. Appoint a special functions officer under [Utah Code Ann. § 53-13-105](#) to have charge of the grounds and protect school property when used for civic center purposes.
 - d. Refuse the use of a civic center, for other than school purposes, if it determines the use inadvisable.

O. School District Budgets

1. Each year the board shall adopt a budget and make appropriations for the next fiscal year by the date specified under state law. If the tax rate in the proposed budget exceeds the certified tax rate defined in [Utah Code Ann. §59-2-924\(2\)](#), the board shall comply with the Tax Increase Disclosure Act in adopting the budget.
2. Prior to the adoption of a budget containing a tax rate which does not exceed the certified tax rate, the board shall hold a public hearing on the proposed budget. In addition to complying with title 52, Chapter 4, Open

and Public Meetings, in regards to the hearing, the board shall do the following:

- a. Publish the required newspaper notice at least one week prior to the hearing.
 - b. File a copy of the proposed budget with the board's business administrator for public inspection at least ten (10) days prior to the hearing.
3. The board shall file a copy of the adopted budget with the state auditor and the State Board of Education.

P. Eligibility for Utah Retirement System Benefits

Tier 2 elected officials are part-time and are ineligible for retirement benefits.