

The Board Report

A Board Member's Practical Guide to the Issues Facing School Boards Today.

The Board Report is a new service brought to you by Maiello Brungo & Maiello, LLP. It is intended to serve as a practical tool customized particularly for Western PA School Board Members. We at MB&M are well aware of the numerous complex and overwhelming issues facing Board Members today. It is easy to be inundated with a flood of information which, although intended to be helpful, raises more questions than provides answers.

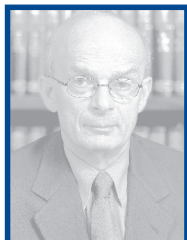
As its name implies, *The Board Report* is an informative summary of relevant and timely issues which confront Board Members and require Board action. It will be presented in a simplified report and/or checklist format for easy reference. You will receive it as an insert as part of your Maiello Brungo & Maiello, LLP Education Newsletter, as it is today, or if a matter is time sensitive or of an urgent nature, it may also be provided as an individual update in future mailings.

In addition, you may find *The Board Report* online at www.mbm-law.net. Click on *The Board Room* on the homepage. Here you will find all of the information from this and future Board Reports and much more, including links to our MB&M Education Newsletters and other relevant updates.

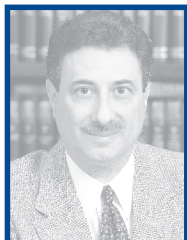
We encourage you to share *The Board Report* with other Board Members, whether newly elected or veterans. In addition, we welcome your valuable feedback and inquiries on matters of importance to you. Please forward them to Michele at mp@mbm-law.net. Upon request, as a service to your District, MB&M will provide additional copies of *The Board Report* for your use.

MAIELLO BRUNGO & MAIELLO, LLP EDUCATION LAW TEAM

As an ongoing service to School Districts in Western Pennsylvania, the Education Law Practice Group of Maiello Brungo & Maiello, LLP is available to respond to your questions, comments or concerns. You may contact any member of our Education Law Team at 412.242.4400 or at the below e-mail addresses.



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SUNSHINE ACT COMPLIANCE IN A PAPERLESS WORLD

If your Board is considering moving to a paperless Board Meeting, problems may arise in providing the public with sufficient notice of the actions which will be taken by the Board at their Meeting.

The public participation section of the Sunshine Act (65 Pa.C.S. 710.1(a)) provides that “the Board ... shall provide a reasonable opportunity at each advertised regular meeting ... for residents ... or for taxpayers ... or for both to comment on matters of concern, official action or deliberation which are or may be before the Board ... prior to taking official action.” Although there is no statutory requirement in the Sunshine Act that the Meeting Agenda be distributed to the public, customarily, this notice has been provided by making the Board’s Agenda, which includes each Motion item, available to the public. If the public Agenda generated in a paperless Board Meeting is in outline form only and does not identify the various specific Motions which are before the Board for official action, it will be impossible for members of the public to provide relevant comments as they will have no knowledge of the actions which the Board will be considering. Conceivably, a member of the public could legitimately request that the Board identify all matters which the Board will be considering at the Meeting. If the public is not made aware of the specific items which are before the Board for a vote prior to the Motions being made, members of the public could legitimately require that each item be read at the time the Motion is made and then demand the opportunity to make public comment on each item before the vote is taken. This would be disruptive and delay the business portion of the meeting. Further, if a member of the public desires to make comment during the public participation portion of the meeting and the topic which they raise is not a matter on the Agenda, it will be difficult to restrict the comment since the public will be unaware of the items before the Board for consideration.

Therefore, although not specifically statutorily required, as was common practice prior to moving to a paperless Board Meeting, the best practice is for the Agendas provided to the public to include and list the specific Motions under each Committee/category. The public will then have an opportunity to comment prior to the Board taking official action.

THE LEGACY OF ACT 1 – IT’S TIME TO THINK BUDGET

Act 1 of Special Session 2006 continues to impact School District operations. The Act marked a milestone this past school year. It was the first year that School Districts received payment from the Property Tax Relief Fund created by the legalization of slot machines in Pennsylvania. Of course, the funds come with strings attached. School Boards must determine the value of the homestead/farmstead exclusion rates in their District and determine whether or not to accept the gaming funds. Act 1 also sets indexes for millage rate increases and a procedure for approval if those rates must be exceeded.

In every odd-numbered year, beginning with calendar year 2009, there are additional opportunities for Boards to reconsider a “front-end” referendum asking voters if they want to increase the School District’s Earned Income Tax or, for some School Districts, establish that tax, or convert an existing Earned Income Tax to a Personal Income Tax for the purpose of providing property tax relief over and above that provided by the gaming funds. In 2007, voters in only nine school districts statewide approved the referendum. Districts interested in placing a referendum on the ballot in 2009 must go through the same procedures from 2007, including the formation of a tax study commission, adopting a Resolution supporting the placement of the question on the ballot and required advertising. One major difference is that the 2009 referendum will occur at the general election in November rather than the primary election as in 2007. Any changes to the local tax structure approved in November 2009 would become effective on July 1, 2010.

Revenue from an increase in the earned income tax rate must be used in combination with gaming revenue to fund the district’s homestead/farmstead exclusion. The one exception is that up to 2% of the revenue from the increased tax can be used for School District operations in the first year in which the new tax rate is effective. Districts that find themselves with more revenue than they need to fund the maximum homestead/farmstead exclusion can either reduce the rate of the income tax so that it produces less revenue or retain the homestead/farmstead exclusions for all property (including commercial property) that is subject to the property tax in the District.

As a service to Western Pennsylvania School Districts, Maiello, Brungo & Maiello, LLP has provided two Act 1 timelines for 2008-09 on our website at www.mbm-law.net. The first is for the usual deadlines which all Districts must follow, and the second includes the additional deadlines for Districts that choose to put a referendum question on the ballot to increase, establish or convert a local Earned Income Tax.