

## **SECTION II**

### **BOARD OF EDUCATION**

#### **2.1. STATEMENT OF VISION AND MISSION**

Vision: The Mountainair Public Schools will graduate students prepared with the knowledge and skills essential to function in a democratic society.

Mission: The Mountainair Public Schools will work with families and the community to provide sound academic programs, proficient staff, adequate support services, responsible fiscal management and safe facilities conducive to learning. We will support a vision of excellence that students may reach their fullest potential as educated citizens.

#### **2.2. BOARD MEMBERS**

The State has granted to the people the power to form school districts and elect Members to the Boards of Education, who are empowered by statute to operate the public schools. (See Local School Board Powers, Section 22-5-4 NMSA 1978).

##### **2.2.1. MEMBERSHIP**

Officers and membership of the Board of Education shall consist of five (5) members elected for four (4)-year staggered terms.

Board of Education public elections will be conducted on the first Tuesday after the first Monday in November of each odd-numbered year.

Board of Education members will be elected by position from at large districts within the school district.

##### **2.2.2. QUALIFICATIONS**

A candidate for membership on the School Board must be a qualified elector and a resident of the at large district in which he/she is a candidate.

##### **2.2.3. TERM OF OFFICE**

The full term of office of a member of the School Board shall be four (4) years from January 1 succeeding his/her election to office at a regular school district election.

Any member of the school Board whose term of office has expired shall continue in that office until his/her successor is elected and qualified.

#### **2.2.4. METHOD OF ELECTION**

A vacancy occurring in the membership of the school Board shall be filled at an open meeting at which a quorum of the membership is present, by a majority vote of the remaining members appointing a qualified person to fill the vacancy.

A qualified person appointed to fill a vacancy occurring in the membership of the school Board shall hold that office until the next regular school district election when an election shall be held to fill the vacancy for the unexpired term.

If a qualified person is not appointed to fill the vacancy within forty-five (45) days from the date the vacancy occurred, the Secretary of Education shall appoint a qualified person to fill the vacancy until the next regular school district election.

In the event vacancies occur in a majority of the full membership of the School Board, the Secretary of Education shall appoint qualified persons to fill the vacancies.

Those persons appointed shall hold office until the next regular or special school district election when an election shall be held to fill the vacancies for the unexpired terms.

#### **2.2.6. FILING OF CANDIDACY**

A candidate for membership on the local school Board shall file a declaration of candidacy in the office of the Torrance County Clerk during the period commencing at 9:00 a.m. on the third Tuesday in September of the even-numbered year immediately preceding the date of the regular school district election and ending at 5:00 p.m. on the same day.

A candidate for a school board position that will be filled at a special school district election shall file a declaration of candidacy with the proper filing officer during the period commencing at 9:00 a.m. on the forty-eighth day before the election and ending at 5:00 p.m. on the same day.

A candidate shall file for only one school board position during a filing period.

1. The declaration of candidacy shall contain the following:
2. The name, as shown on the affidavit of registration of the candidate, and address of the candidate;
3. The position or position number to which the candidate seeks election;

4. A statement by the candidate that he/she is a qualified elector of the State physically residing within the school district for which he/she seeks election;
5. A statement to the effect that the declaration of candidacy is an affidavit under oath and that any false statement made therein constitutes a fourth degree felony under the laws of New Mexico; and the signature of the candidate.

#### **2.2.7. DUTIES**

In accordance with New Mexico State Statutes, the following are functions of the local Board of Education: (22-5-4 NMSA 1978).

- Subject to the rules of the Public Education Department, develop educational policies for the school district;
- Employ a local superintendent for the school district and fix his/her salary;
- Review and approve the school district budget;
- Acquire and dispose of property;
- Have the capacity to sue and be sued;
- Attend all trainings necessary to accumulate at least 5 hours of training per year.
- Acquire property by eminent domain pursuant to the procedures provided in the Eminent Domain Code (42A-1-1 to 42A-1-33 NMSA 1978);
- Issue general obligation bonds of the school district;
- Provide for the repair and maintain all property belonging to the school district;
- For good cause and upon order of the district court, subpoena witnesses and documents in connection with a hearing concerning any powers or duties of the local school boards;
- Except for expenditures for salaries, contract for the expenditure of money according to the provisions of the Procurement Code [13-1-28 NMSA 1978];
- Adopt rules pertaining to the administration of all powers or duties of the local school Board;

- Accept or reject any charitable gift, grant, devise or bequest. The particular gift, grant, devise, or bequest accepted shall be considered an asset of the school district or the public school to which it is given; and
- Offer and, upon compliance with the conditions of such offer, pay rewards for information leading to the arrest and conviction (or other appropriate disciplinary disposition by the courts or juvenile authorities) of offenders in case of theft, defacement, or destruction of local school district property. All such rewards will be paid from school district funds in accordance with regulations promulgated by the Public Education Department.

In accordance with Public Education Department Standards for Excellent 6.30.2.10., the local Board of Education shall:

- Support the School District's NM DASH (Data, Accountability, Sustainability, and High Achievement) plan including each site's individual plan;
- Employ and evaluate the Superintendent of Schools on an annual basis in accordance with Section 22-10-3-1 NMSA 1978;
- Ensure that each Member of the Board participates in a planned program of training which will assist in the performance of specific duties;
- Delegate administrative and supervisory functions to the local Superintendent;
- Refrain from involvement in delegated administrative functions;
- Review, revise as needed, and submit policies to the Public Education Department on an annual basis;
- award diplomas to students who have successfully completed graduation requirements;
- Ensure the alignment of district curricula with Content Standards and Benchmarks;
- Ensure the district funds are appropriately managed and disbursed;
- Be responsible for oversight of revenue and expenditure within the district budget; and
- Accept responsibility for ensuring the success of each school in the district.

The local Board of Education shall also:

- Set and publish Board educational goals for the school district;

- Ensure adopted Board policies are available to employees and patrons of the school district;
- Publish annually in a newspaper of general circulation in the school district an accountability report of the school district (22-2C-11 NMSA 1978); and
- Adopt an annual resolution specifying what notice of School Board meetings shall be given to the public, and conduct all School Board meetings in accordance with the Open Meetings Act. (10-15-1 through 10-15-4 NMSA 1978)

## **2.2.8. BOARD MEMBER CODE OF ETHICS**

As a member of the Mountainair Board of Education, and recognizing that my actions will directly influence the children in this school district, I will:

1. Strive toward ideal conditions for most effective school Board service to my community.
2. Devise time, thought and study to the duties and responsibilities of a School Board member, enabling effective and creditable service.
3. Work with fellow Board members in a spirit of harmony and cooperation, respecting their rights and views. Make no critical remarks, in or out of meetings, about other members of the Board or their opinions.
4. Keep an open mind and carefully consider all available facts in every situation before reaching a decision.
5. Render all decisions in open, public meetings.
6. Accept and support majority decisions of the Board.
7. Recognize that there is no authority of an individual Board member either expressed or implied other than during legally constituted sessions of the Board or when representing the Board officially.
8. Welcome and encourage active cooperation of sincerely interested individuals, organizations, school personnel and media representatives.
9. Confine the Board's functions to policy making, planning and appraisal.
10. Delegate administrative and supervisory functions to the Superintendent of Schools.
11. Work through the Superintendent. Make criticisms of school administration and/or personnel only to him.

12. Take appropriate action regarding employee termination or discharge in hearings before the Board pursuant to Sections 22-10A-24 or 22-10A-27 NMSA 1978, respectively.
13. Resist every temptation and outside pressure to use the position of a School Board member for personal benefit, or for the benefit of any individual, agency or special interest group(s) apart from the total interest of the school district.

### **Confidential Conditions**

The Board of Education recognizes that confidential information will be brought to the attention of individual Board members as a whole pertaining to, but not limited to, the following:

1. Matters relating to the employment or dismissal of, or charges against specific district personnel;
2. Matters relating to the litigation or proposed litigation in which the Board is or may become a party, or attorney-client privileged communications;
3. Consideration of the acceptance of gifts, bequests or donations where confidentiality has been requested by the donor;
4. Consideration of wages and benefits during salary discussions;
5. Consideration of suspension, expulsion or disciplinary action in connection with a student; and
6. Matters relating to the security of students, personnel, visitors, and or school property.
7. The Board further recognizes that public disclosure of such information may result in injury to individuals or potential harm and possible liability to the school district; therefore, Board members are honor-bound by the Code of Ethics for New Mexico School Board members to respect the confidentiality of information that is privileged under applicable law. It is the policy of the Board that Board members shall discuss or disclose confidential information only in connection with legitimate school district business and only with individuals with a legitimate right to know. All information discussed or documents provided to Members of the Board which fall within the categories listed above or which are presented to Members of the Board in executive session, authorized to be closed by the Open Meetings Act (10-15-1 NMSA 1978) shall be kept confidential unless the Board authorizes disclosure.
8. It shall be the duty of each Board member to voluntarily excuse himself/herself from discussion of confidential information and abstain from voting on matters in which the Board member has a personal or financial interest; including an interest

by a member of the Board member's immediate family, or where the Board member's participation will or may compromise the confidential nature of the discussion. Where a Board member fails or refuses to voluntarily excuse himself/herself from such discussions and confidential information is disclosed as a result, the Board may enforce this policy by requiring the Board member to excuse himself/herself from future discussions of the same or similar matters and abstain from voting; publicly censuring the Board member; or by such other

## **2.2.9. BOARDSMANSHIP**

Board Members:

- Recognize that their responsibility is not to run the schools, but to see that they are well run.
- Function as a part of a policy-forming and policy-control Board, rather than as part of an administrative Board.
- Refer, as far as possible, all complaints and requests to the Superintendent of Schools.
- Familiarize themselves in a broad and non-technical manner with the problems of the school system.
- Try to interpret to the school staff the attitudes, wishes and needs of the people of the district, and try to interpret to the people the needs, problems and progress of the schools.
- Voice opinions frankly in Board meetings and vote for what seems best for the children of the district.
- Recognize fully that the appropriate administrative officer is entirely responsible for carrying out a particular policy in accordance with state law and local regulations.
- Help to frame policies and plans only after considering the recommendations of the appropriate administrative officer, together with his/her reasons for making such recommendations.
- Require oral and written reports for the purpose of keeping the Board properly informed on school matters.
- Give all school officials authority in keeping with their responsibilities.
- Maintain harmonious relations with other Board members when harmonious

relations are consistent with their obligations to the schools remedies available under applicable state law.

- Visit the schools to gain a clearer understanding of school problems, but not to interfere in the day-to-day administration of the schools.
- Establish criteria for evaluating the efficiency of the Superintendent of Schools.
- Present personal criticisms of school employees only to the Superintendent of Schools.
- Support and protect school officials in the performance of their duties.
- Give friendly counsel and advice to the Superintendent of Schools.

Board members do not:

- Interfere with day-to-day routine of school administration and supervision.
- Refuse to support worthwhile school programs because of personal reasons.
- Show favoritism to relatives or friends.
- Make promises and commitments before the questions are fully discussed in the Board meetings.
- Join a clique to control Board action.
- Use Board membership for political or business advancement for themselves, their families, their relatives or their friends.
- Indulge in petty criticism of the administration of their schools.
- Divulge confidential information.
- Assume authority in school matters when the Board is not in session.
- Accept gifts from school suppliers or contractors, or make personal purchases through the schools to gain advantage of the school discount.

Effective Boardsmanship-A Board member:

- Is legally a Board member only when the Board of Education is in session. No one person, unless authorized, should speak on behalf of the Board.



- Avoids administrative decisions or attempting to second-guess the administration.
- Is well acquainted with school policies.
- Should vote at all times in the best interest of the school district.
- Is flexible and realizes there are times when changes must be made, when tradition cannot be honored and when pressure must be ignored.
- Remembers that Board business at times requires periods of confidentiality, especially in processes involving personnel and/or land acquisition.
- Is interested in obtaining facts, but remembers that the administration has the responsibility of operating the schools, not spending a great deal of time gathering data or making reports to the individual Board member.
- Knows that the reputation of the entire school district is reflected in his/her behavior and attitude.
- Is able to sift fact from fiction to sort out rumors from realism and to know the difference.

#### **2.2.10. NEW BOARD MEMBER ORIENTATION**

Membership on the Board will be determined by citizens of the School District in elections which will be conducted on odd-numbered years during the month of November. It will be the responsibility of the Superintendent to confer with the Torrance County Clerk to arrange for such elections and to comply with statutes governing such elections. Under the guidance of experienced Board members and the Superintendent, orientation will be provided to new Board members through activities such as:

- Workshop for new Board members conducted by state and area school Board associations.
- Discussions and visits with the Superintendent and/or other members of the staff.
- Provision of printed and audio-visual materials on School Board and administrative policies and procedures.

#### **2.2.11. BONDED MEMBERS**

Before assuming the duties of office, the President and Secretary of a local School Board

and the Superintendent of Schools of a school district shall each obtain an official bond payable to the school district and conditioned upon the faithful performance of their duties during their terms of office. The bonds shall be executed by a corporate surety company authorized to do business in this state. The amount of each bond required shall be fixed by the local school Board but shall not be less than five thousand dollars (\$5,000).

A local school Board may elect to obtain a schedule or blanket corporate surety bond covering all local school Board members, the school district administrators and employees for any period not exceed four years.

The cost of bonds obtained pursuant to this section shall be paid from the operational fund of the school district. The bonds shall be approved by the Director of the Public School Finance Division and filed with the Secretary of Finance and Administration. (22-5-7 NMSA 1978)

## **2.2.12. COMPENSATION AND EMPLOYMENT**

Members of the School Board shall serve without compensation.

No member of a local school Board shall be employed in any capacity by a school district governed by that local School Board during the term of office for which the member was elected or appointed. (22-5-5 NMSA 1978)

## **2.2.13. NEPOTISM**

### **I. PURPOSE**

The Board of Education prohibits the hiring of specified relatives of Board members or of the Superintendent of Schools.

### **II. POSITION**

- A. The Superintendent of Schools shall not initially employ or approve the initial employment in any capacity of a person who is the spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister or sister-in-law of any member of the Board or of the Superintendent. The Board of Education may waive this Policy and the nepotism rule set forth in New Mexico Statutes Annotated 22-5-6(2003), as amended or recoded in the future, for family members of the Superintendent.
- B. Nothing in this Policy shall prohibit the continued employment of a person employed on or before March 1, 2003 or of a person whose initial employment with the School District, regardless of position or status, did not violate this Policy.

- C. Should any provision of this Policy be inconsistent with any of the provisions of New Mexico Statutes Annotated 22-5-6(2003), as amended or recoded in the future, the provisions of the state statute shall control and are incorporated into this Policy as an operation of law. (Rev. 6/19/2012)

### **III. REVIEW**

This Policy shall be reviewed on an ongoing basis in accordance with the Board of Education policy review process. NMSA 22-5-6 (2003)

#### **2.2.14. CONFLICT OF INTEREST**

Conflicts of interest shall be handled in accordance with state statutes.

#### **2.2.15. BOARD MEMBERS' RELATIVES DOING BUSINESS WITH THE SCHOOL DISTRICT**

It is the intent of the Board of Education to allow lawful, open and fair bidding for all vendors wishing to do business with the District.

A. Where the vendor is a member of the immediate family of a School Board member as defined herein, both parties shall adhere to the following requirements:

- The family member and Board member(s) shall publicly disclose the relationship of the vendor to the Board member and shall sign an affidavit stating that the Board member has no financial interest in the business or transaction being considered and will not directly or indirectly profit from or receive compensation from the award of a contract.
- The Board member shall not participate in the discussion or vote regarding the award of the contract, nor shall they participate in the discussion or vote regarding payment of the contract.
- Action on such a contract shall be taken at a public meeting.

In the event a Board member has a financial interest in the contract or transaction, the Board of Education reserves the right to grant a waiver from unlawful employee participation pursuant to NMSA 1978, Sections 13-1-190 and 13-1-194 of the Procurement Code, upon making the following findings:

- The financial interest of the Board member has been publicly disclosed;
- The Board member will be able to perform their procurement functions without actual or apparent bias or favoritism;

- The Board member's participation is in the best interest of the school district; and
- The Board member abstains from discussion or vote on award of contract or payment under the contract after award.

Definitions - For the purpose of this policy, the following definitions apply:

- A Immediate Family- means a spouse, children, parents, brothers or sisters.
- A Financial Interest-means holding a position in a business as officer, director, trustee or partner or holding any position in management or ownership of more than five percent (5%) interest in a business.
- A Employee- means an individual receiving a salary, wages or per diem and mileage from a state agency or local public body whether elected or not and any non-compensated individual performing personal services as an elected or appointed official or otherwise for a state agency or a local public body.

## **2.2.16. SCHOLARSHIP AWARDS**

Scholarship awards will be paid directly to the appropriate educational institution upon receipt by the school district of official verification of enrollment of the student by the Registrar of a qualified educational institution.

## **2.3. BOARD OFFICERS**

The Board shall elect from its membership a president, a vice president, and a secretary.

### **2.3.1. METHOD OF ELECTION**

Public elections for the Board will be conducted on odd-numbered years.

Election of Board officers will be conducted during the regular January meeting each year.

### **2.3.2. DUTIES**

#### **A. President**

- To direct the development of agendas.
- To preside at meetings.
- To appoint committees except in case of formal action by the Board to the contrary.
- To call special meetings of the Board.
- To sign all contracts and such other documents as may be proper and applicable to his position.
- To perform other duties that properly pertain to the office or those duties that may be delegated to him by the Board.

B. Vice-President

- The vice president shall perform the duties of the president in the absence of the president.

C. Secretary

- To prepare, sign, or co-sign all legal documents, contracts, or checks as become the responsibility of his position.
- To perform such other duties as may be prescribed by law and policy of the Board.

## 2.4. **BOARD COMMITTEES**

When deemed necessary, for a specific task, a special committee may be appointed by the Board.

### 2.4.1. **STANDING COMMITTEES**

The Board shall not have standing committees.

### 2.4.2. **TEMPORARY COMMITTEES**

Temporary committees may be created by the Board for special assignment. When so created, such committees shall be terminated upon completing their assignments, or such

committees may be terminated by a vote of the Board. No action or decision of a special committee is legally binding or official unless authorized or approved by the Board in an official meeting. The special committee shall automatically be dissolved when it has performed its function.

#### **2.4.3. COMMITTEE OF THE WHOLE**

Except as provided, committees' work shall be done by members of the Board sitting as a committee of the whole. The committee of the whole may be called to meet by the president of the Board, when, in his opinion, it is desirable, or when requested by three members of the Board. The committee shall meet at such times and places as it may elect to consider any business relating to the district, and be consistent with open meetings law.

#### **2.5. BOARD-SUPERINTENDENT RELATIONS**

It is agreed by authorities in the field of education that the legislation of policies is the most important function of a school Board, and that the execution of the policies should then be the function of the Superintendent. Delegation by the Board of its executive powers provides freedom for the Superintendent to manage the schools within established policies. The Superintendent should then be held responsible by the Board for results.

The Board shall require the Superintendent to maintain an instructional program which will be broad and varied enough to meet the educational needs of all educable students as defined by state law and as being the responsibility of the district.

The Board shall require of the Superintendent a program of special education for exceptional children as is generally provided for and in accordance with policies and plans of the Public Education Department in accordance with the needs of the students of the district.

The Board shall hold its chief administrative and executive officer, the Superintendent, responsible for the efficient administration and supervision of the entire school system.

The Board, in cooperation with the Superintendent, shall develop an organizational chart, which assigns responsibilities to the Superintendent and staff in definite, but broad general terms.

The Board, in cooperation with the Superintendent, shall appraise and evaluate the results of the educational process.

Board members shall refer persons making complaints about the schools, or any phase of the total school operation, to the Superintendent.

Equally important in a successful Board-Superintendent relationship is for both parties to know what is expected of the Superintendent. In accordance with state law and the Public Education Department regulations, the local Superintendent shall:

- Carry out the educational policies and rules of the state board and local school board;
- Administer and supervise the school district;
- Employ, fix the salaries of, assign, terminate or discharge all employees of the school district;
- Prepare the school district budget based on each school site's recommendations for review and approval by the Board and the State Public Education Department. The Superintendent shall tell each school principal the approximate budget that may be available for his/her school and provide a school budget template to use in making school budget recommendations;
- Perform other duties required by law, the State Public Education Department, or the Board of Education including, but not limited to the following:
  - Administer local Board policies, state law and federal regulations;
  - Be accountable for student achievement, school district business, budget management, expenditure of funds, dissemination of information, district communications; and the development, implementation, and evaluation of the Educational Plan for Student Success;
  - Attend all Board meetings or, when necessary, designate a licensed administrator to attend;
  - Ensure that School District patrons and the public are informed and involved in the acquisition, planning, and development of school district facilities, and that students are provided with adequate facilities which conform to state and federal mandates;
  - Ensure that all students are supervised; and
  - Administer and implement the school district's approved staff accountability plan and procedures.

In addition, the Superintendent of Schools shall:

- Operate in a fair, open, and ethical manner at all times;
- Work with Board members on an equal basis and not show undue preference to individual Members of the Board;

- Strictly enforce the policies set forth by the Board and operate within the established procedures;
- Keep the Board fully informed on all matters of its concern;
- Interpret accurately the needs of the school system to the public;
- Work toward the improvement of the instructional program and staff relations;
- Avoid unexpected issues, topics, and areas of action at Board meetings so the Board can have adequate time to respond after being fully advised of all the facts;
- Operate the system in a fiscally sound manner;
- Support Board decisions at all times;
- Evaluate the staff on a regular basis and in a fair and objective manner;
- Keep the Board advised of changes, innovations, and trends in education that might be applicable to the system; and
- Function as the Board's chief executive officer.

The Superintendent may apply to the Public Education Department for a waiver of certain provisions of the Public School Code relating to length of school day, staffing patterns, subject areas or the purchase of instructional materials for the purpose of implementing a collaborative school improvement program for an individual public school.

### **2.5.1. DELEGATION OF AUTHORITY**

The Board expressly delegates to the Superintendent the power:

1. To act as hearing officer or hearing authority for the purposes of hearing or reviewing facts, deciding appropriate disciplinary action or reviewing disciplinary actions of other designated or authorized administrators, consistent with procedures established by state law or regulations or Board policy. The Superintendent is also designated as the hearing authority, review authority, or disciplinarian in hearings involving the long-term suspension or expulsion of public school students. The Superintendent may designate other administrators to perform any of these functions.



2. To effect the immediate and temporary suspension with pay of public school employees, whether certified or non-certified, where the Superintendent in the exercise of his sole discretion determines such immediate action to be in the best interests of the school district, necessary to preserve the health, safety, or welfare of the students or other employees of the district, or to assure the continued efficient operation of the school district. No appeal to the Board from such action may be had unless the Superintendent also recommends Board action to suspend such employee without pay or to terminate or discharge such employee.
3. To act as the spokesperson to the media on behalf of the Board.

The delegation of authority provided herein may not be used in a manner contrary to state law or regulate on or to deny any student or employee rights to which he or she may otherwise be entitled. The Board may expand the delegation prescribed herein in appropriate circumstances. The enumeration of delegated authorities to the Superintendent shall not be construed to limit the authority of the Superintendent to take such further actions as may be necessary to administer school district programs or to execute School Board policy, unless such authority is reserved to the School Board by state law.

## **2.6. ACCESS TO LEGAL COUNSEL**

Legal counsel for the Mountainair Schools is appointed to serve the Board of Education. The Board President and the Superintendent are authorized to consult with the Board's attorney(s) as needed. In the event of any dispute between the Superintendent and the Board, it shall be clearly understood that the Board's attorney(s) shall represent the Board's interests.

If the Superintendent and Board President refuse to consult the Board's legal counsel on a matter raised by at least two members of the Board, the attorney(s) shall respond to a request for information made in writing to the firm by the two members. The response from the attorney(s) shall be made available to the Superintendent and the Board President. In all cases, no matter the source of the request for information, the attorney(s) shall notify the Superintendent and all Board members of the request and of the date of response by the firm. It shall be the duty of the Superintendent to share with Board members the attorney's response or a sufficient summary of it to keep the Board well informed.

No district employee may consult the Board's legal counsel without permission of the Superintendent. (Adopted 11-21-95)

## **2.7. CONSULTANTS**

The Board may employ consultants and contract for professional services to provide expertise in areas necessary or useful for the operation of the school district.

## **2.8. MEETINGS-PROCEDURES FOR CONDUCT**

Procedures followed by the Board in calling and conducting meetings will conform to statute, Public Education Department Regulations and adopted Board policies.

### **2.8.1. REGULAR MEETINGS**

Under the provisions of Section 10-3-2, NMSA 1978, the Board must hold at least one regular meeting each calendar month. The date, time, and place of the regular Board meeting shall be established by Board action which shall be announced to the public pursuant to the requirements of the Open Meetings Act. (See Section 2.8.4. A Public Notice, below.)

### **2.8.2. SPECIAL OR EMERGENCY MEETINGS**

The Board President or Superintendent may call a special meeting at any time by giving actual notice to each Board member of the time and place of the meeting and the subjects to be considered. If reasonable efforts to give each member actual notice do not succeed, written notice in advance should be given to each member. Public notice of special meetings shall be given as required by the Open Meetings Act and local policy.

A special meeting of the Board shall be published in a newspaper of general circulation at least once and no less than three (3) days prior to the holding of the special meeting. Place of meeting, if other than the Board room of the School Administration Building, to be included in the notice.

### **2.8.3. ORGANIZATIONAL MEETING**

Board elections are held on the first Tuesday after the first Monday in November of each odd-numbered year. New Board members shall take the oath of office at the first meeting of the Board in the month of January. Reorganization of the Board, at which the Officers thereof are chosen, may occur at any Board meeting. The Board may establish, by local policy how often and in what manner it shall be organized.

### **2.8.4. PUBLIC NOTICE**

Section 10-15-1, NMSA 1978, provides that any meeting of a quorum of the Members of a School Board held for the purpose of formulating public policy, discussing public business, or taking action within the authority of the Board, or at which the discussion or adoption of any proposed resolution, rule, regulation, or formal action occurs, shall be held only after reasonable notice to the public. In accordance with the Open Meetings Act, the Board shall establish, at least annually, what constitutes reasonable notice of its meetings. Boards of Education must have a local policy which provides what is reasonable public notice for all regular, special, or emergency meetings of the Board.

#### **2.8.5. AGENDA**

The Board President, in conjunction with the Superintendent, shall prepare an agenda for each meeting in accordance with the Open Meetings Act.

Any Board member may, by Wednesday noon (the Wednesday before a Board meeting) have an item placed on the agenda.

It shall be the practice of the Board for each Board member to receive a copy of the agenda, and for the agenda to be available for public inspection and/or distribution at least twenty-four (24) hours prior to a noticed meeting. The agenda will not be amended or modified within twenty-four (24) hours prior to a regular or special Board meeting.

It shall be the duty of the Superintendent to have information related to agenda items provided to Board members in advance of the meeting so that the meeting itself can be utilized for discussion and action, rather than reading.

#### **2.8.6. QUORUM**

The Board can transact business that is binding on the School District only when it is in session with a quorum present or participating telephonically as defined under the Open Meetings Act. An electronic recording or written minutes must be maintained for all regular, special or emergency meetings of the Board.

##### **2.8.6.1. Telephonic Participation By Board Members**

A member of the Board may participate in a meeting of the Board by means of a telephonic conference or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the Board who speaks during the meeting.

#### **2.8.7. ORDER OF BUSINESS**

A good Board meeting is one that proceeds routinely, smoothly, and without delay.

Agenda items may be considered out of sequence by a majority vote of the Board to amend the agenda. Agenda items may also be deleted by motion to amend; however, action items cannot be added to the agenda during the Board meeting.

### **2.8.8. PUBLIC ADDRESS TO THE BOARD**

The Mountainair Board of Education conducts its regularly scheduled Board meetings to receive information and make decisions that serve the needs of the students of the Mountainair School District. The Board President or presiding officer will conduct these meetings in an orderly manner.

The public is invited and encouraged to attend Board of Education meetings; however, there is no requirement or obligation on the part of the board to allow or recognize comments from the audience.

The Mountainair Board of Education provides a designated portion of the agenda of regularly scheduled monthly meetings for public comment. Any group wishing to speak under Public Comment shall designate a spokesperson. The individual or spokesperson desiring to address the Board shall complete the sign-in sheet provided in the Board Room prior to the start of the meeting.

Public comment will be limited to three (3) minutes per individual speaker and five (5) minutes for each group spokesperson. The Board President or presiding officer may further restrict or waive these time limits.

The Board President or presiding officer retains the authority to rule on the appropriateness of the subject matter being discussed. Disorderly or inappropriate conduct will not be allowed.

The Board will not generally answer questions or respond to issues brought forth under Public Comment. Members of the Board, the Superintendent or administrative staff are under no obligation to answer or respond to issues brought forth during or subsequent to the meeting.

The Board of Education does not prohibit public comment upon personnel matters. However, any person making public comments shall be *solely* responsible for the content of his or her comments. The Board of Education neither adopts nor assumes responsibility for any comments made by individuals during the A Public Comments section at board meetings. The Board of Education shall not make comment, endorse, sanction, or act upon any comments made during the A Public Comments section of board meetings.

### **2.8.9. OPEN AND CLOSED MEETINGS**

The Open Meetings Act requires all Board meetings to be open to the public at all times unless an exception found in the Act permits a closed executive meeting. A closed executive meeting may be held to discuss:

1. Issuance, suspension, renewal, or revocation of a license. Final actions shall be taken at an open meeting.

2. Limited personnel matters means the discussion of hiring, promotion, demotion, dismissal, assignment, or resignation of or the investigation or consideration of complaints or charges against any individual public employee. Final actions on personnel which the Board is lawfully authorized to take shall be taken at an open public meeting.
3. Administrative adjudicatory proceeding which means a proceeding brought by or against a person before a public body in which individual legal rights, duties or privileges are required by law to be determined by the public body after an opportunity for a trial-type hearing. Final action which the Board is lawfully authorized to take as a result of the proceeding shall occur in an open meeting.
4. Personally identifiable information about any individual student, unless the student, his parent or guardian requests otherwise.
5. Purchases exceeding two thousand five hundred dollars (\$2,500) that can be made only from one source, and the contents of competitive sealed proposals solicited pursuant to the Procurement Code during the contract negotiation process. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting.
6. Threatened or pending litigation in which the Board is or may become a participant.

The purchase, acquisition, or disposal of real property or water rights.

In order to conduct a closed executive session, the Board shall follow the following procedure:

1. If a convened open meeting is to be closed, a majority roll call vote by the Board, based on a motion which states the reason for closing the meeting, is necessary. The vote of each member shall be noted in the minutes.
2. If a closed meeting is to be called when the Board is not otherwise in session, the board shall give notice according to its public notice policy. Such notice shall give the reason for closing the meeting.

#### **2.8.10. PARLIAMENTARY PROCEDURE**

The Board desires to use rules of procedure for its meetings which assist in the achievement of the following:

1. Meetings proceed efficiently.
2. The Board acts by the decision of a majority of a quorum of its members, but with equal opportunity for all members to participate fully, whether in the majority on a given issue or not.

3. Decisions are made on the merits as determined by the voted conviction of a majority rather than from a manipulation of the procedural rules.

The rules of procedure on the following page are adopted for use. The President is authorized to declare the Board's approval of the minutes, the agenda and adjournment when it is evident that no change or objection is being proposed. Similarly, the President may declare a recess or rule a motion out of order. After the agenda has been approved by the Board, it must be followed unless a motion to consider something out of order is approved by a majority vote. The maker of a motion shall have the right to withdraw the motion at any time prior to a vote being taken by the President.

The President of the Board surrenders none of the privileges of being a member by virtue of office. The President may discuss business, make motions and seconds, and is expected to cast votes on action matters.

#### **2.8.10.1. Parliamentary Procedure At A Glance**

(See Attached Sheet)

#### **2.8.11. PUBLIC HEARINGS**

A public hearing is typically called for the purpose of adjudicating the rights of individuals and deciding issues within the jurisdiction of the local Board.

Public hearings required by law or deemed advisable by the Board shall be organized by a special order, which is adopted by a majority vote, that sets forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time of each speaker, etc. Prior to the beginning of a hearing, the Board President will explain the procedures to be followed. The President or his designee shall call the hearing to order and then preside over it, unless a hearing officer is chosen to preside. When the allotted time expires or when no one wishes to speak who has not already done so, the President or his designee shall declare the hearing ended.

The specific procedures for most hearings held by the board will be found in statutes or regulations, and must be scrupulously followed. Those procedures, where applicable, will supersede this paragraph and any inconsistent local policy.

#### **2.8.12. PROCEDURES FOR CONDUCTING BOARD HEARINGS**

These rules shall apply to all formal hearings before the Board in contested cases, except procedures concerning certified school instructors or certified school administrators, which proceedings shall be governed by the state statutes and rules and regulations of the Public Education Department, and except proceedings regarding student discipline which shall be

governed by the Hearing Authority procedures set forth in Board Policy. Said rules shall not apply to conferences or other informal investigations or proceedings at or upon which no formal ruling or decision is made, or to any proceeding in a non-contested case.

1. Hearings or Appeals

- All requests for hearings or appeals shall be in writing to the President of the Board or the Superintendent.
- Appeals or requests for hearing shall include a statement of the issues to be presented in said appeal or hearing.
- All requests for appeals or hearings shall be made within 30 days of the decision or event of which a hearing or appeal is requested, unless governed otherwise by law.
- The school district, through its attorney, shall outline a counter statement of charges and/or issues, if any, involved in the proceeding and serve that on the opposing party with a copy to be filed with the Superintendent.

2. Notice of Hearing

- In personnel actions, notice of hearing shall meet all conditions and timelines as set forth by Public Education Department rules and regulations and State Statutes. The hearing may be closed by either the Board of Education or the person requesting the hearing.
- In all other cases involving appeals or hearings, written notice of date of hearing shall be sent by the President of the Board, or his designee, to all interested parties within 30 days of receipt of the request for an appeal or hearing and not less than ten (10) days prior to the hearing.

3. Parties Representation

- A Party includes any person or agency named or admitted as a party. Any person or agency may be admitted as a party for limited purposes upon the satisfactory demonstration of the nature and extent of its interest to the Board.
- All parties appearing at formal hearings shall have the right to appear in proper person or with counsel. All such parties shall have the right to be accompanied, represented, and advised by counsel.

#### 4. Records Transcript

- The Board shall prepare, except when expressly prohibited by statute, an official record and file it with the Superintendent, which shall include all pleadings, recording or transcript of the hearing, exhibits, and other memoranda or material filed in the proceeding.
- A stenographic record or electronic recording of the hearing shall be made at the expense of the Board. Cost of copying the electronic recording or copies of any documents and pleadings shall be paid by the party requesting such copy.

#### 5. Presiding Officer

- Duties and Authority-Each hearing shall be held before not less than a quorum of the Board. The President, or in his absence, the Vice President, and in the absence of both, a member designated by the President, shall be the presiding officer and shall have charge of the hearing, with authority to permit the examination of witnesses, admit evidence, rule on the admissibility of evidence, and adjourn or recess the hearing from time to time. The presiding officer shall cause an oath to be administered to all witnesses testifying in the proceedings.

#### 6. Order of Procedure

The order in which the parties shall present their case shall be determined by the presiding officer as follows:

- In a hearing, the party requesting the hearing shall proceed first.
- In all appeals, the appellant shall proceed first.
- Each party shall have the right to present rebuttal evidence after both parties have presented their case.

#### 7. Evidence

- Each party may make an opening statement outlining what they intend to prove and state what the case is about
- The strict judicial rules of evidence shall not be applicable to hearings conducted hereunder, and, in each case, the Board may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent men in the conduct of serious affairs. The Board may in its discretion exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Documentary evidence may



be received in the form of copies or excerpts. The Board may take notice of judicially cognizable facts. The parties shall be notified either before or during the hearing of the material so noticed and shall be afforded an opportunity to contest the facts so noticed. Depositions may be taken and used as in civil proceedings.

- Counsel for any party may submit evidence, examine and cross-examine witnesses, and file objections, exceptions, and motions; provided, however, that where a party is not represented by counsel, all such submission of evidence, examination and cross-examination of witnesses, and filing of objections, exceptions, and motions shall be done and presented by the party.
- The presiding officer, or any person designated for that purpose, may examine all witnesses called by any party. He may call as a witness any person whose testimony may be relevant. Any Board Member may examine any witness.

#### 8. Briefs

- Any party may submit briefs of the issues of fact and law involved in the hearing in such form as the presiding officer may designate.

#### 9. Counsel

- The presiding officer of the Board may request the Board attorney to participate in any hearing as counsel for the Board. Counsel separate from the Board attorney may be assigned to assist the District Administrator(s) at the hearing.

#### 10. Final Argument

- After both parties have presented their case and rebuttal evidence, if any, then the appellant or party requesting the hearing may make a final argument to the Board of his version of the facts and law applicable thereto.
- The other party may answer with his version of the facts and law applicable thereto.
- Then the appellant or party requesting the hearing may argue in rebuttal of the other party's answering argument.
- The presiding officer of the Board may limit final arguments to a certain amount of time that is reasonable.

#### 11. Decision and Order

- Each decision and order of the Board shall be delivered in writing within ten (10) days after the hearing, unless it shall immediately follow the hearing, in which case it shall be delivered orally and thereafter in writing with copies to all parties. Each decision and order shall be accompanied by findings of fact and specific disposition of the case and shall be provided to all parties. Formal action of the Board shall be taken publicly at a Board meeting following the hearing, but no other information will be released by the Board or school administration as noted above.

#### 12. Appeals

- Personnel who receive an adverse decision from the Board have a right of appeal under state law and should be given notice of that right to appeal that meets all conditions and timelines as set forth by the Public Education Department rules and regulations and State Statute.

#### 13. Reopening of Case

- At any time after the hearing and prior to the service of the Board's decision, the person aggrieved may request the Board to reopen the case to receive additional evidence or for other cause. The granting or refusing of such request shall be within the Board's discretion. The Board may reopen the case on its own motion at any time within thirty (30) days after service of the Board's decision.

### **2.8.13. MINUTES**

Pursuant to New Mexico Statute, written minutes shall be kept of all public school Board meetings. Draft minutes shall be prepared within ten (10) working days after the meeting. Board minutes will be finalized and approved at the next regular monthly Board meeting, at which point they become official.

At the time minutes are approved by the Board, any tape or electronic recording of the proceedings will be erased.

Minutes shall include the following:

1. The nature of the meeting (regular, special or emergency), the date, time, place, members present and members absent.
2. The substance of all proposals considered.
3. A record of any decisions made.

4. A record of all votes taken which shows how each member voted.

The minutes of the meeting of the Board of Education constitute the written record of the Board's action. For most purposes, the Board speaks only through the minutes, and it is by the minutes that the record of what the Board has done, or not done, is proven. Regardless of the importance of any discussion at the meeting, it is only that which is recorded in the minutes that become official.

Members who are late should be marked absent on the roll call. It is important that the entry of late members and the withdrawal of members present be recorded accurately in the minutes. Proper recording of these proceedings can prevent confusion.

The clerk, or secretary, should attempt to include the wording of the motion, the name of the member making the motion, the name of the member seconding it, if applicable, the record of the vote on the motion, and the declaration of the presiding officer that the motion passed or failed, attested to by the clerk. These minutes will be available for public inspection in the school district offices after they have been approved by the Board. Minutes shall be maintained in an official record book designated for said purpose.

#### **2.8.14. APPOINTMENTS**

The Board shall use the following procedure to make appointments to various subordinate offices:

The President shall open the floor to nominations. At this time, the names of possible appointees shall be put forward by the members and debated. When the debate ends, the President shall call the roll of the members, and each member shall cast his vote. The votes shall not be tallied until all members have voted.

The nominee who receives the highest number of votes shall be appointed.

[If more than one appointee is to be selected, each member shall have as many votes as there are positions to be filled. A member must cast all of his votes and cast them for different nominees.]

#### **2.8.15. REFERENCE TO ROBERT'S RULES OF ORDER**

To the extent not provided for in these rules and to the extent that the reference does not conflict with the spirit of these rules, the Board shall refer to Robert's Rules of Order, Revised, for unresolved procedural questions.

#### **2.8.16. MEDIA COVERAGE**

The Superintendent or designated representative will make provisions for adequate dissemination of information to the public concerning meetings and Board action. Accommodations for media coverage will be provided.

## **2.9. POLICIES OF THE BOARD OF EDUCATION**

Control of the schools by the Board shall be exercised through the formation of policies governing the operation of the schools and the work of the Board itself. The Board delegates to the Superintendent the determination of the procedures and regulations necessary to operate the schools. These procedures and regulations must be consistent with Board policy.

Board policies may be adopted, deleted, or revised after being reviewed at a previous public meeting of the Board of Education. If the Board determines that it is in the best interest of the district to take immediate action, the first reading may be waived in order to adopt, delete, or revise Board policies.

In emergency cases where action must be taken and where an adopted policy does not provide the needed direction, the Superintendent shall have the power to act, but the decision shall be subject to review by the Board. It shall be the duty of the Superintendent to inform the Board of such action and of the need for policy.

It shall be the duty of the Superintendent to advise the Board from time to time of the need for policy revision so that all Board policies are in conformance with state and federal laws and regulations. It is the duty of the Board to accept or reject or modify the Superintendent's recommendations in conformance with state and federal laws; and, as it sees fit, to seek external advice.

The Superintendent shall post written notice to district employees of policy changes made by the Board. Complete, current copies of the Board Policy Manual shall be available at each school's administration office, in each school library, and in each district work site. The administration is charged with the responsibility of making the policy manual accessible to all through utilization of currently available technology.

If any section, paragraph, clause or provision of this policy manual for any reason shall be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this manual or its application to other situations.