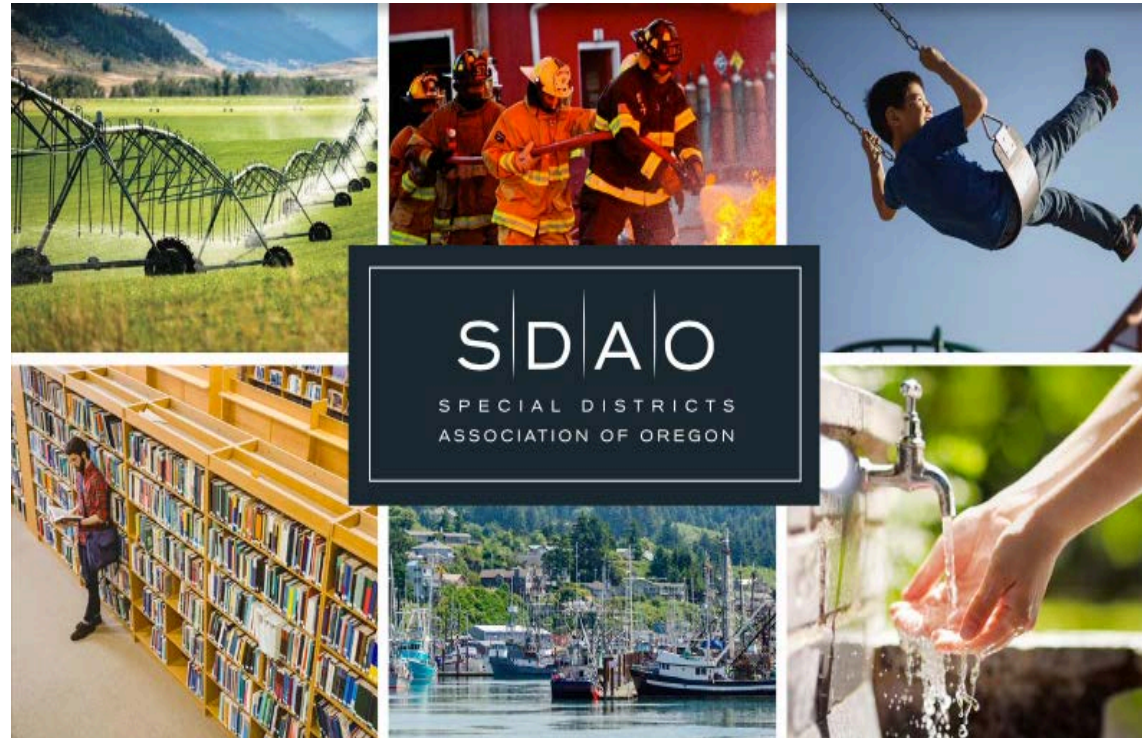




Board and Staff Training

Lane Transit District

December 1, 2021



Today's Topics

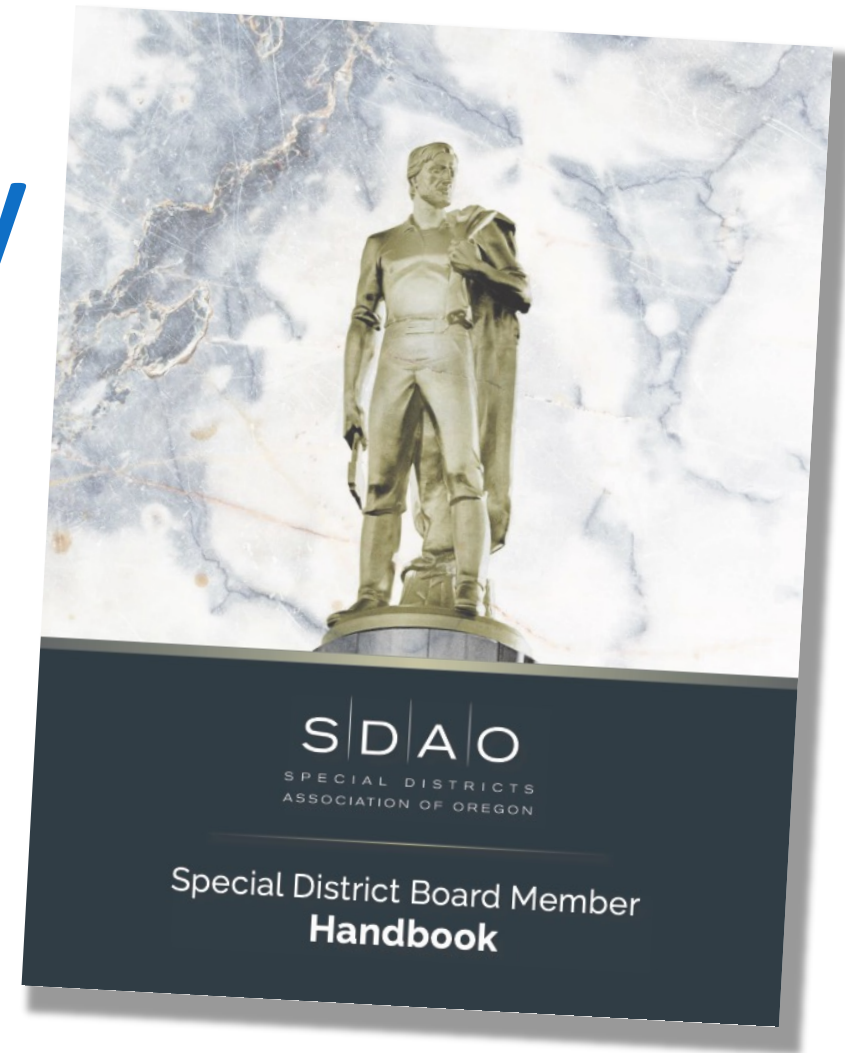
- District & Board Authority
- Public Meetings
- Ethics
- Board – Staff Expectations
- Future Training Opportunities
- Questions and Hopefully Answers



SDAO
SPECIAL DISTRICTS
ASSOCIATION OF OREGON

District & Board Authority

- District Authority
- Board Authority
- Board Member Rights & Duties



District & Board Authority

District Authority

Expressed powers as provided by statute:

- ORS Chapter 198
- Principal Act of District – ORS 266 Park and Recreation
- Other statutes, e.g.:
 - Elections (ORS Ch. 255)
 - Bonds (ORS Ch. 287A)
 - Contracts (ORS Ch. 279A, B, C)
- Administrative Rules
- Ordinances

District & Board Authority

District Authority

Implied powers to carry out expressed powers:

- Purchasing supplies
- Employing staff
- Entering contracts
- Incidental tasks relating to exercise of authority

District & Board Authority

Board Authority

- Sets policy and direction of District
- Serves the best interests of community and constituents
- Policy and direction set by Board Action
 - Must be at a properly called public meeting
 - Requires a quorum to be present
 - Generally requires approval by majority of the board
 - All votes must be taken publicly - no secret ballots



District & Board Authority

Board Authority

- Ordinance = local law
 - Authority to enforce
 - Formal adoption procedures
- Resolution = statement of policy
 - Governs internal operations
 - Simple adoption procedure

District & Board Authority

Board Authority



- All members are equals
 - Roles of Board officers
- Characteristics of effective boards
 - Clarity and alignment of vision, mission and values
 - Creative & collaborative partners
 - No secrets, no surprises
 - Assumes collective responsibility for Board conduct and District performance

District & Board Authority

Board Member Rights, Duties, and Policies

- Compensation
 - Statutory limit of \$50/day ... or portion thereof
 - Reimbursed for expenses
- Elected board members can be recalled ... but usually can't otherwise be removed

District & Board Authority

Board Member Rights, Duties, and Policies

- Understanding and adherence to District's Board Policies
 - Outlining Board Officer Duties
 - Outlining One Voice Guiding Principle
 - Handling Press, Who/When/How
 - Interaction with Staff
 - Representing Board/District
 - Personnel Evaluation/Review Schedule

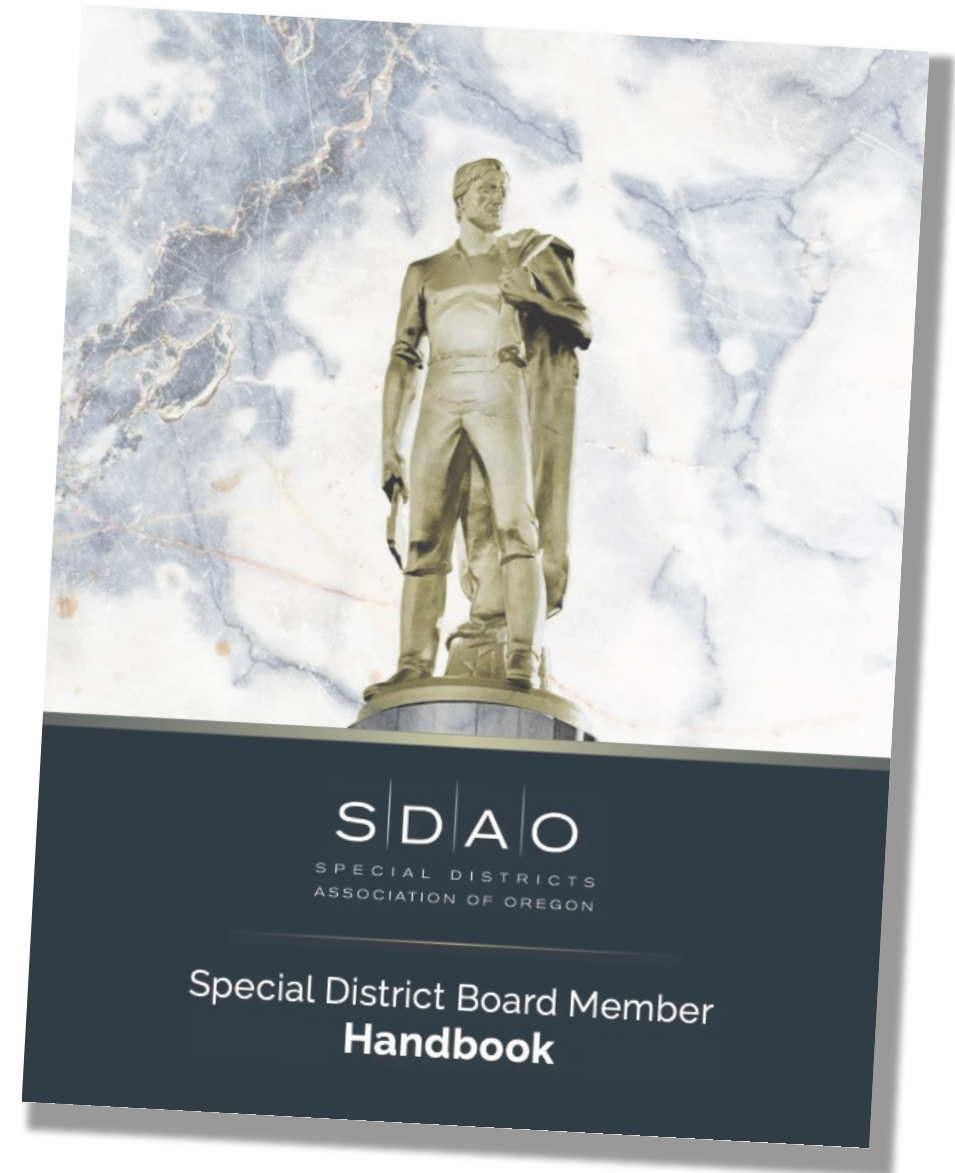
District & Board Authority

Board Member Rights & Duties

- Indemnity
 - Entitled to indemnity under OTCA for claims of negligence against Board
 - NOT entitled if acting outside “course and scope” of position
- Can be found personally liable for repayment of unlawful expenditure of public funds (ORS 294.100)
- Can become ineligible for public office if “a member of, or affiliated with, any organization which teaches the doctrine of, or advocates, the overthrow of the Government of the United States by force or violence.” (ORS 236.030)

Public Meetings

- Application of the Law
- Notice Requirements
- Agendas
- Executive Sessions
- Keys to Success



Public Meetings

Application of the Law

Purposes of Public Meetings Law

- To open meetings of governing bodies to the public
- To give notice of the time and place of meetings
- To make meetings accessible to those wishing to attend

No obligation to let the public talk

- Difference between “public meeting” and “public hearing”
- Difference between “public comment” and “public discussion”

Public Meetings

Application of the Law

A Public Meeting is:

- Any meeting where a quorum of the decision-making body is present and is discussing or “deliberating toward” a matter of business
- Any meeting of a body formed to advise a public body is a public meeting

Public Meetings

Application of the Law

- Q. For a five-member board, which of the following is NOT a public meeting?
- A. All five members meet at a bar to watch the big game.
 - B. Two members call a third one on the phone, to discuss an upcoming district ballot measure.
 - C. One board member e-mails the other four to find out how they plan to vote at next week's board meeting.
 - D. Three members attend a work session at the home of the board chair, to hammer out some personnel policies.

Public Meetings

Application of the Law

Case Law (January 2011):

- ***Dumdi v. Handy, Sorenson, Fleenor (individuals) and the Lane County Board of Commissioners*** (Lane County Circuit Court, filed Jan. 18, 2011). [Gist of claim was attempt to invalidate decision approving Supplemental Budget.]
- Key findings include “serial meetings” as violation of public meetings law, i.e., there can be a violation even if a quorum of decision-makers are not in the same place at the same time. Whether there is intent to circumvent the law is a key consideration.
- Also, this court found that illegal public meetings can include meetings held by email, and even those who passively read but don’t participate may be found liable.

Public Meetings

Notice Requirements

Public notice is required for all public meetings and must ...

- Be provided for all regular, special and emergency meetings, and executive sessions
- Be provided for all advisory groups and subcommittee meetings
- Be provided to public officials of body holding the meeting
- Include the time and place of meeting, and list of principal subjects (agenda)
- Include notice to general public and interested persons –
 - Public: Posting at building entrance, website, bulletin boards, press releases
 - Interested Persons: Mailing lists
 - Paid advertising is NOT required
- Be provided no less than 24 hours prior to start of meeting

Public Meetings Agendas

- Agenda Planning
 - Board Chair/President consults with CEO/General Manager
- Agenda Elements
 - Meeting Place, Date and Time
 - Approval of Minutes of Previous Meeting
 - Financial Report
 - Comments from Public on Agenda Items
 - Staff Reports/Committee Reports
 - Unfinished Business
 - New Business
 - Comments from Public on Non-Agenda Items
 - Good of the Order / Board Member Reports
 - Next Meeting Date

Public Meetings

Executive Sessions

Executive sessions can be called only for topics defined in ORS 192.660:

- To discuss employment of individual employees or agents (vacancy advertised, regular procedures have been adopted, and, for “officers,” opportunity for public comment)
- To discuss discipline or discharge of an employee, or to hear complaints against the employee (employee may request open session)
- To conduct employee performance evaluations (employee may request open session)
- To consult with the District’s labor negotiator (media may be excluded)
- To conduct labor negotiations (if both sides request executive session)

Public Meetings

Executive Sessions

Executive sessions can be called only for topics defined in ORS 192.660:

- To consult regarding specific real estate transaction for the District
- To discuss a public record exempt from disclosure
- To meet with legal counsel to discuss litigation filed or likely to be filed
- To conduct negotiations with private persons or businesses regarding public investments
- To discuss information relating to security programs relating to specific matters, including electricity, water and sewer supply.

Public Meetings

Executive Sessions

Key things to remember about executive sessions:

- Publish notice, citing the applicable statutory authority
- Include the media
- Instruct the media
- Cite the authority into the minutes when opening session
- Announce if / when general session will reopen
- Reconvene regular session to make any final decision
- Take minutes

Public Meetings

Executive Sessions

Q: What happens if we don't follow the rules for executive sessions?

- Board members can be held *personally* liable for abusing the executive session privilege
- Can be liable for civil penalties and attorney's fees, and up to \$1,000 per violation under Oregon's Ethics laws

Public Meetings

Keys to Success

Tips for preparing for a legal and effective board meeting:

- Plan the meeting ... develop the agenda and organize the content
- Review the material in advance ... be prepared
 - Ask clarifying questions of staff in advance if possible
- Know and follow public meetings law
 - Satisfy notice requirements
 - No obligation to give members of the public the right to speak
- Treat members of public and other board members with respect
 - Limit “public debate” with members of public
 - Board Members should avoid public squabbles

Public Meetings

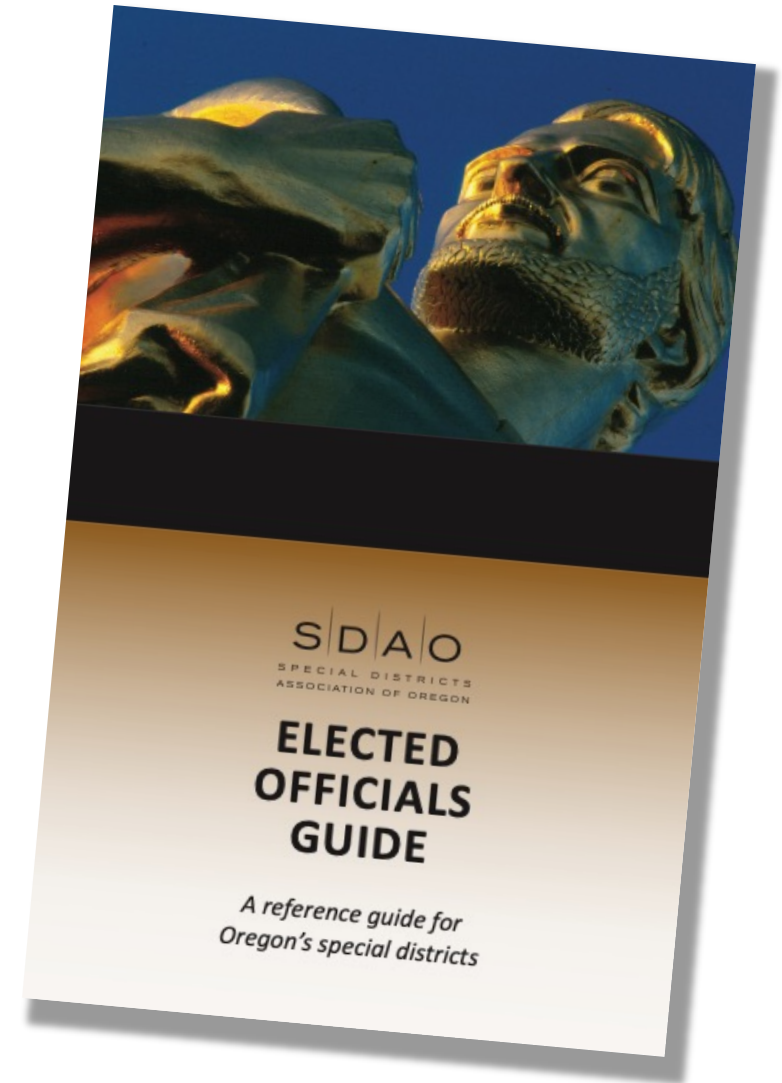
Keys to Success

Tips for conducting a legal and effective board meeting:

- Have a leader - be a leader
 - Board Chair/President calls meeting to order and conducts the meeting
 - Follow the agenda
- Rules of Order
 - Staff report
 - Motions & seconds for all Board Actions
 - Discussion / dialog / deliberations; seek comments from all Board Members
 - Call for votes; publicly state your vote
 - Move on
- Keep accurate minutes

Ethics

- Application of the Law
- Financial Gain
- Gifts
- Conflicts of Interest
- Other Considerations & Limitations
- Penalties



Ethics

Application of the Law

- Government Ethics Commission
 - Governor Appointed (Peers)
- Local governments subject to municipal audit law are charged a fee to help fund the GEC

Ethics

Application of the Law

Laws apply to all “Public Officials”

- Elected (before or during office, i.e., includes candidates)
- Appointed
- Volunteers
- Employees
- Relatives

Ethics

Application of the Law

Relatives:

- Spouse; parent, stepparent, child, sibling, stepsibling, son-in-law, daughter-in-law of the public official, or of the public official's spouse; any individual for whom the public official has a legal support obligation; or who benefits financially from the public official's employment with the public entity

Ethics

Application of the Law

No nepotism:

- A public official may not appoint, employ, or promote a relative to a paying position within the public body on which the official serves, unless the official complies with conflict-of-interest procedures
- A public official cannot directly supervise a relative

Ethics

Financial Gain

Public Officials may NOT:

- Use or attempt to use their official position or office to obtain a financial gain or to avoid financial detriment that would not otherwise be available but for their holding the official position or office. Includes relatives, household members, businesses. Examples: Use of district equipment and/or facilities; accepting discounts from district vendors.

Ethics

Financial Gain

Public Officials may NOT:

- Participate in any personnel action taken by the public agency that would impact the employment of a relative, if the hire is a direct conflict of interest. Must comply with conflict-of-interest requirements in any case.
- **Accept gifts** that exceed \$50 from a source that has a **legislative or administrative interest** in the public official's governmental agency
 - GIFT: "Something given to a public official, or a relative of the public official, when there is no payment, or payment is for a discounted price, and the opportunity (gift) is not available to others who are not public officials on the same terms or conditions."
 - LEGISLATIVE/ADMINISTRATIVE INTEREST: With respect to the public body, can the giver:
 - ...sell things?
 - ...submit bids?
 - ...get a license or permit?
 - ...advocate for legislative outcomes (i.e., lobby)?
 - ...be affected by employment decisions?

Ethics

Conflicts of Interest

- Potential Conflict
 - You and/or a close family member may benefit
- Actual Conflict
 - You and/or a close family member will benefit
- As a board member you must disclose actual and potential conflicts of interest. If actual, do not vote or participate in discussion.

Ethics

Other Considerations

Public Officials MAY:

- Request and accept the reimbursement of expenses from their public employer for expenses incurred while on official business
- Accept unsolicited awards for professional achievement
- Accept gifts from a source when it is reasonable to believe that the source does not have a legislative or administrative interest in the public official's governmental agency

Ethics

Other Considerations

Public Officials MAY:

- Accept food and beverages provided when acting in an official capacity
- Have reasonable food, lodging, and travel expenses paid for public official and accompanying relative when acting in official capacity
- Accept gifts when the item or event is a specific exception from the definition of “gift” as described in ORS 244.020(5)(b)
- Accept contributions to their legal expense trust fund established under ORS 244.209

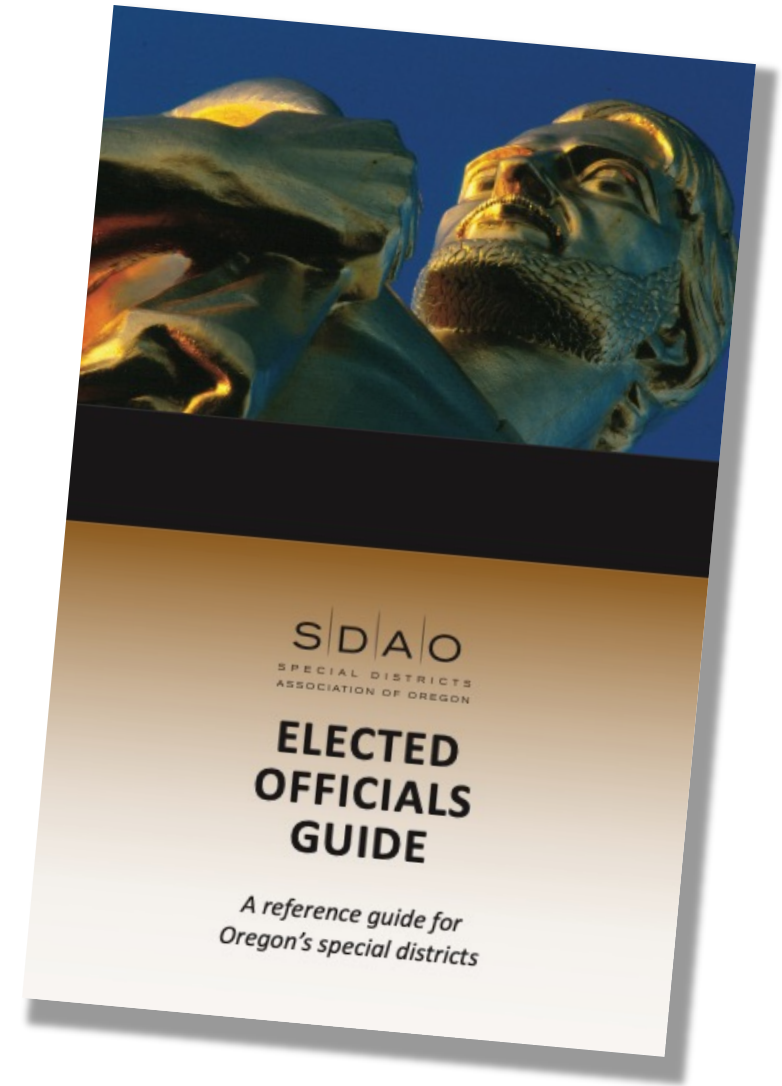
Ethics

Penalties

- Most penalties \$5,000 per violation
- Fine for violation of executive session law \$1,000, but excused if decision made in reliance on advice of public body's legal counsel
- No penalty if official or candidate relied in good faith on Ethics Manual or Ethics Commission opinion

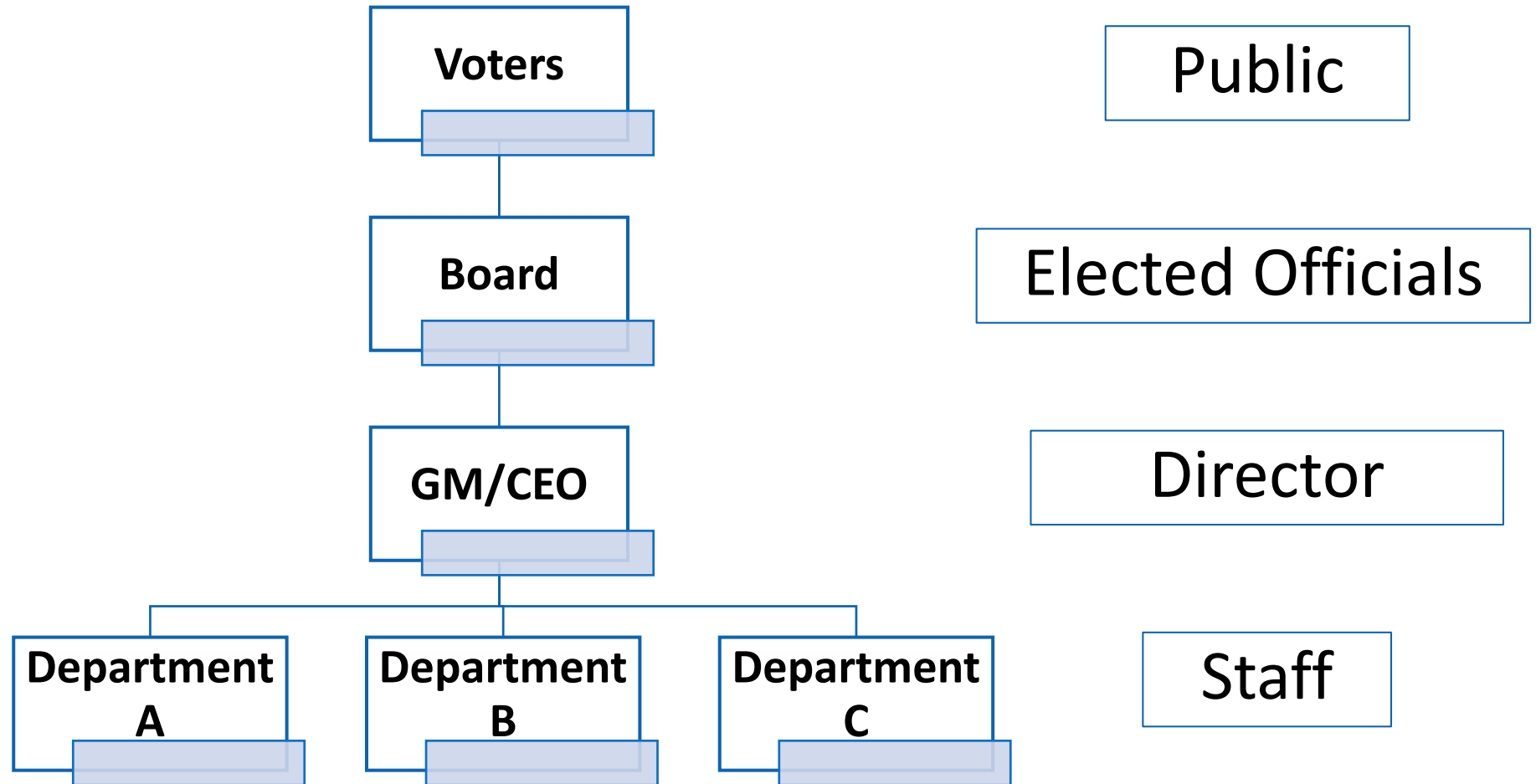
Board-Staff Expectations

- The Framework
- Expectations of Elected Officials
- Expectations of GM/CEO



Board-Staff Expectations

The Framework – It Seems So Easy



Board-Staff Expectations

The Framework – Guiding Principles

1. The Board is accountable to the voters
 - *The Board's authority comes from the public -*
2. The GM/CEO is accountable to the Board
 - *The Board has one employee -*
3. The Staff is accountable to the GM/CEO
 - *Staff works for the GM/CEO -*

Board-Staff Expectations

Expectations of Elected Officials

- Get Oriented ... understand the organization and policies
- Be Prepared and Informed ... for every meeting
- Be Honest, Courteous & On Time ... all the time
- Be Respectful ... of other Board Members and Organization
- Be Friendly
- Represent Board Positions and Board Actions
- Understand Roles and Responsibilities ... work through GM

Board-Staff Expectations

Expectations of GM/CEO

- Be Prepared and Informed ... for every meeting
- Provide Options ... not direction
- Provide Recommendations ... not decisions
- Provide Organized Board Packets ... support the Board
- Communicate ... no secrets, no surprises
- Be Honest, Courteous & On Time ... all the time
- Represent Board Positions and Board Actions
- Understand Roles and Responsibilities

Future Training Opportunities

Future Training Opportunities

SDAO Regional Training (Completed for 2021)

- Full-day training tailored to special district board members and management staff
- Presented by attorney Eileen Eakins and SDAO Senior Consultant George Dunkel
- Includes comprehensive overview of laws and regulations governing Oregon's special districts and the public officials that represent them

Dates and Locations

August 17 | Ontario – Four Rivers Cultural Center

August 18 | Boardman – Port of Morrow

August 31 | Astoria – Holiday Inn Astoria

September 2 | Salem – Chemeketa Eola

September 7 | Klamath Falls – Running Y Ranch Resort

September 9 | Brookings – Salmon Run Golf Course

Future Training Opportunities

SDAO Online Training, Webinars & Resources

- Online risk management training series
- First Thursday 20-minute webinars on wide range of workplace topics
 - Workers' compensation; facility maintenance; insurance claims; HR audits; goal-setting; COVID-19 ... and much more
- SDAO Human Resources Training Series
- Extensive archive of previous presentations and webinars
- Best Practices credit eligible training
 - Incident response preparedness, technology services, security awareness
 - SDAO/SDIS credit of 2% if one board member, staff or volunteer attend training
- See: www.sdao.com for details

Future Training Opportunities

SDAO Annual Conference

The 2022 SDAO Annual Conference will take place February 10-13 in Eugene at the Graduate (Hilton)

- *20 Breakout Sessions*
- *Caucus Meetings & SDAO Board Member Nominations*
- *Exhibitor Trade Show*
- *Annual Business Meeting & Board Member Elections*
- *SDAO Awards Program*

Wrap Up

Make the Most of Your Opportunity

- Decisions, direction and policy are made by the Board – not individuals
- Board has one employee – the general manager/CEO
- Take the time to get oriented – understand roles, duties and policies
- Be prepared and informed – for all meetings
- Be fair, friendly, and organized – with Board members and outside groups
- Practice preventative maintenance – invest in Board members & staff
- Maintain a commitment to accountability – by Board members & staff
- Communicate, communicate, communicate – with Board, CEO, citizens

Q&A
Discussion