



Tina McCoy <t.mccoy@sau33.com>

question from our Board Chair

8 messages

Tina McCoy <t.mccoy@sau33.com>
To: "Atty. Diane Gorrow" <gorrow@soulefirm.com>

Fri, Mar 19, 2021 at 9:51 AM

Hi Diane,

I have a question (that was passed on to me):d Can a School Board have a Policy that says that the Chair can't make a 'motion'? Ex. The attached Policy implies that the Chair cannot make a motion. Is that the case?

Tina

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Tina H. McCoy, Ed.D. - Superintendent of Schools
School Administrative Unit #33
Raymond, New Hampshire

 **bedd_rules_of_order.pdf**
46K

Atty. Diane Gorrow <gorrow@soulefirm.com>
To: Tina McCoy <t.mccoy@sau33.com>
Cc: "Atty. Diane Gorrow" <gorrow@soulefirm.com>

Fri, Mar 19, 2021 at 10:51 AM

Good morning Tina,

The statutes and regulations do not mandate any particular rules of order. The School Board can adopt rules of order and can also change those rules at anytime. The rules of order can provide that the Chair does not make motions. Even with formal rules of order such as Policy BEDD, the School Board can conduct its meetings contrary to what is stated in the rules and that is considered a waiver of the rules. As you stated, the rules seem to imply that the Chair may not make a motion. However, if the Chair makes a motion and it passes, that action is still valid. If you have any other questions, please let me know.

Diane M. Gorrow, Esquire

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SOULE, LESLIE, KIDDER, SAYWARD & LOUGHMAN P.L.L.C.

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Tina McCoy <t.mccoy@sau33.com>
To: Joseph Saulnier <j.saulnier@sau33.com>

Fri, Mar 19, 2021 at 10:55 AM

Hi Joe - See below...

T.

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Joseph Saulnier <j.saulnier@sau33.com>
To: Tina McCoy <t.mccoy@sau33.com>

Fri, Mar 19, 2021 at 1:31 PM

So I have a couple of questions.

- 1) Is it legal for any local board rules to limit the ability for any board member to make a motion or second a motion considering that is part of the voting process?
- 2) If the chair makes a motion is it legally binding as a motion on the floor, no matter what the rules state and if seconded must be voted on?

Joe

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Tina McCoy <t.mccoy@sau33.com>
To: "Atty. Diane Gorrow" <gorrow@soulefirm.com>

Fri, Mar 19, 2021 at 2:00 PM

Hi Diane-

Please see follow up questions from the Board Chair. If you can answer these as well, I'd appreciate it. Thanks for your assistance.

Tina

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Atty. Diane Gorrow <gorrow@soulefirm.com>
To: Tina McCoy <t.mccoy@sau33.com>
Cc: "Atty. Diane Gorrow" <gorrow@soulefirm.com>

Fri, Mar 19, 2021 at 2:41 PM

Good afternoon Tina,

Generally, under Robert's Rules of Order, the Chair does not make or second motions. It is not illegal for a School Board to limit the Chair from making motions or seconding a motion. However, as the Chair points out the Chair should be part

of the voting process. Also, the rule does not make sense especially with small boards. There is nothing in the law that prohibits a Chair from making or seconding motions unless it involves a matter with which the Chair has a conflict. It would, however, be illegal to prevent the Chair or any other member from voting or discussing a motion.

If the Chair makes a motion and the motion is adopted, it is legal regardless of any rule. As I said earlier, since the rule is not required by law, the Board can waive the rule and does not need to explicitly state that it is doing so. Passage of a motion by the Chair is a waiver of the rule.

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Tina McCoy <t.mccoy@sau33.com>
To: "Atty. Diane Gorrow" <gorrow@soulefirm.com>

Fri, Mar 19, 2021 at 3:07 PM

Thanks!

Tina
[Quoted text hidden]

Tina McCoy <t.mccoy@sau33.com>
To: Joseph Saulnier <j.saulnier@sau33.com>

Fri, Mar 19, 2021 at 3:10 PM

Hi Joe -

See below the answers to your follow up questions. Let me know if I can help in any other way!

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2 attachments

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 SOULE, LESLIE, KIDDER, SAYWARD & LOUGHMAN, P.C. **image004.jpg** 11K

RULES OF ORDER

Unless changed by the members of the board, the Chairperson will use the following rules of procedure to conduct the meetings of the board. The main purpose of these rules is to keep the meeting moving, and not get bogged down in procedural quagmires. The Chairperson will not follow Robert's Rules of Order.

1. The Superintendent of Schools, with approval of the Chairperson and Vice-Chairperson, will prepare and distribute an agenda prior to every meeting.
2. The Chairperson will take agenda items in the order that they appear on the agenda unless the Chairperson announces the intent to take agenda items out of order.
3. The members will consider each agenda item as follows:
 - a. The Chairperson will announce the agenda item being considered.
 - b. The Chairperson will recognize a member or officer to explain the agenda item.
 - c. The Chairperson will entertain a motion to approve or act on the agenda item. If the motion is seconded, the meeting will debate and then vote on the agenda item.
4. The Chairperson will allow only one motion on the floor at a time. There is one exception to this rule: A motion to amend the pending motion is allowed.
5. The Chairperson will not accept negative motions, which are motions that require a "no" vote to vote in the affirmative such as "I move that we not adopt the budget."
6. Non-members of the board may speak at the meeting with the permission of the board. All speakers must be courteous. The Chairperson will not allow personal attacks or inappropriate language.
7. The presiding officer may rule any member or other person out of order if such person disrupts the orderly conduct of a meeting, behaves in a disorderly manner, makes unlawful threats, willfully violates any of these rules of order/procedure, or engages in any unprotected speech. If the board member or other person continues such behavior after being ordered by the presiding officer to cease, the presiding officer is authorized to request that a police officer warn and then remove such person from the meeting and meeting location.
8. The Chairperson will accept motions to reconsider an agenda item only during the same meeting, and only if made by someone who voted on the prevailing side of the vote to be reconsidered.
9. The Chairperson may vote on all agenda items.
10. No item may be discussed or decided upon in non-public session except as provided under RSA 91-A:2 and 3. See also Board Policy BEC.
11. By majority vote, the members can change these rules or overrule any procedural decision that the Chairperson makes at a board meeting.

Adopted: October 6, 2004

Revised: November 6, 2019