



TO: Indiana Charter School Board Schools
FROM: James Betley, Executive Director
DATE: July 20, 2020
SUBJECT: Governing Board Requirements

The Indiana Charter School Board (“ICSB”) is responsible for ensuring that ICSB charter schools are in compliance with ICSB’s Accountability System and with state law. Among other things, Indiana Code (“IC”) 20-24-4-1 requires ICSB to hold charter schools accountable for “governing board performance and stewardship, including compliance with applicable laws, rules and regulations, and charter terms.”

Section 3.6 of ICSB’s Accountability System reflects this requirement. In order to meet this standard, charter school governing boards must materially comply with applicable laws, rules and regulations, and all relevant provisions of the charter agreement relating to governance of the school by the governing board, including, but not limited to:

- Operating in compliance with its articles of incorporation, by-laws, code of ethics, and conflict of interest policy.
- Being structurally independent from, properly oversee, and hold accountable, the schools Education Service Provider (if applicable).
- Meeting a minimum of four (4) times a year.
- Complying with Indiana’s Open Door and Access to Public Records laws.
- Being in good legal standing with the Internal Revenue Service and the State of Indiana.
- Being in legal compliance with all contractual obligations with third parties.

In addition, Section 3.7 of ICSB’s Accountability System requires schools to meet ICSB’s Annual [Reporting Requirements](#), including, but not limited to:

- Board Meeting Minutes for all meetings occurring during the year (four times a year).
- An annual Economic and Conflict of Interest Report (by September 9).
- Any amended governance documents (including, Articles, Bylaws, and Conflict of Interest policies, etc.) (by August 2).
- Notification of changes to the Board, including Resumes and Conflict of Interest Forms for New Board Members (by August 2).

The purpose of this memorandum is to provide information regarding the laws governing charter school organizer governing boards. Please do not hesitate to reach out to ICSB staff with any

specific questions.

COVID-19 Update

The Governor, in Executive Order 20-09 (March 23, 2020), suspended the Open Door Law (“ODL”) requirement to have any member physically present in order to hold a meeting. Charter board governing bodies may now meet completely by video or teleconference as long: 1) meeting notices and agendas are posted online forty-eight (48) hours prior to the meeting; 2) a quorum of members participate; and 3) boards use technology that allows all board members and all members of the public, to be able to hear each other in real time. All other ODL requirements, including voting and meeting memoranda, governing board meetings still apply, including the rules governing executive sessions. Note: these exceptions to the ODL apply only as long as the Executive Order remains in effect.

Memo Summary

In order to comply with state law and the terms of the charter agreement with ICSB, charter school governing boards must do the following:

- 1) Hold a minimum of four (4) meetings of the governing board per calendar year;
- 2) Ensure that all ODL notice and access requirements are met, including: i) posting notice of the meeting at least forty-eight (48) hours in advance at the “principal office” of the school and on the charter school’s website, ii) providing ICSB with forty-eight (48) hours’ notice for all governing board meetings, including executive sessions; iii) posting an agenda at the entrance of the meeting, if an agenda is used, iv) ensuring that the meeting is open to members of the public, including the provision of an electronic means of participation (at a minimum a phone with speaker capabilities, and v) ensuring that that all laws governing the use of “executive sessions” are met;
- 3) Ensure that all state and federal law meeting requirements are met, including: i) quorum, ii) electronic participation, iii) conflict-of-interest, and iii) voting;
- 4) Ensure that minutes of each board meeting are kept, including, at a minimum: i) the date, time, and place of the meeting, ii) the members of the governing body recorded as either present or absent, including whether the member is participating electronically, iii) the general substance of all matters proposed, discussed, or decided, and iv) a record of all votes taken, by individual members if there is a roll call;

Board meeting schedules, meeting notices, and copies of board minutes must be easily accessible and available to the public, preferably on the charter school’s website.

Specific information on each requirement may be found beginning on the next page.

ICSB Meeting Requirements

ICSB's Accountability System requires charter school governing boards to meet a minimum of four (4) times a year and to submit meeting minutes from each board meeting as evidence that the board is actively and effectively overseeing the school. Please refer to ICSB's [Reporting Requirements](#) for more information.

Open Door Law

All governing board meetings are subject to the ODL. This means that all meetings, unless they meet the limited exceptions available for "executive sessions," must be conducted in the open, so that members of the public may observe and record them. Public notice of a meeting (including an executive session) must be given forty-eight (48) hours in advance, excluding Saturdays, Sundays and legal holidays, and must state the time, date, and location of the meeting. Notice must be posted at the "principal office" of the school, and if no such office exists, at the place where the meeting is to be held, and on the website of the charter school. If the board plans to hold an executive session, the public notice must also include the subject matter by reference to the specific statutory exception and language of the exception under which an executive session may be held.

A governing body of a public agency is not required to use an agenda, but if it chooses to utilize one, the governing body must post a copy of the agenda at the entrance to the location of the meeting prior to the meeting.

Board Meetings

A board may not take action unless a quorum is present. Generally, a quorum may be no fewer than the greater of one-third (1/3) of the total voting power of the board or two (2) directors. If a quorum exists, action on a matter is approved if the votes cast favoring the action exceed the votes cast opposing the action unless this organizer's articles of incorporation or bylaws require a greater number of affirmative votes. Voting by proxy is not permitted. A charter school may not take action without a meeting. Special quorum and voting requirements apply if one or more members is participating electronically. All board actions must be recorded in the meeting minutes (memoranda).

Board Meetings for Organizers or Governing Board with Multiple Schools [NEW]

After conferring with the Public Access Counselor, the following modified processes must be adopted by all organizers or governing boards who hold governing board meetings that include items involving more than one school.

1. The meeting notice must include a list of all charter schools being discussed during the meeting.

2. The meeting notice must include an agenda listing the order in which the schools are to be discussed, and the topic of discussion. The notice does not need to include a specific time when each school is being discussed or for how long.

Electronic Participation in Board Meetings

Note: Some of these rules have been temporarily suspended by Executive Order 20-09. Please see above.

A board member who is not physically present at a meeting, but who communicates electronically, may not participate in any final action or be considered present unless the board adopts an electronic participation policy and complies with the requirements of IC 5-14-1.5-3.6. Specifically, the following requirements must be met before any board member may participate electronically at a charter school board meeting:

- The governing board must adopt an electronic participation policy that meets the requirements of IC 5-14-1.5-3.6(g). The policy must be posted on the charter school's website.
- The greater of: (1) two (2) members of the board; or (2) one-third (1/3) of all members of the board must be physically present in order to conduct a board meeting at which a member will be participating electronically. All members are required to physically attend at least one (1) meeting of the board annually.
- Any member participating electronically must use a means of communication that permits all other members and members of the public to simultaneously communicate with each other during the meeting.
- All votes must be taken by roll call vote.

Meeting Minutes

IC 5-14-1.5-4 requires a charter school board to keep a "memoranda" with the following information: (1) the date, time, and place of the meeting; (2) the members of the governing body recorded as either present or absent; (3) the general substance of all matters proposed, discussed, or decided; and (4) a record of all votes taken. The record of votes must be by individual members if there is a roll call. Indiana's nonprofit law requires a charter school board to assign to one board member the responsibility to prepare and keep minutes. IC 23-17-14-1(b). ICSB requires charter school boards to prepare and to submit minutes as part of ICSB's Reporting Requirements.

Meeting minutes are a formal recording of transactions that happened at a particular time and place. Minutes are a record of what was done at the meeting, not what was said by members. Minutes should be brief and easy to read. At a minimum, minutes should include:

1. The date, time, and location of the meeting.
2. Whether it is a special or regular meeting.
3. A list, using full names, of those present and absent, identifying those members who are participating electronically.
4. The approval of the minutes of the previous meeting.

5. A record of what transpires during the meeting, in order.
6. A brief summary of the main points of discussion, including major problems stated and suggestions proposed, and conflicting points of view for clarification of action.
7. A record of all motions made, including whether the motion failed or carried. Note abstentions and recusals, including a brief description of the reason for the recusal.
8. The time of adjournment.

Resources

- <https://www.irs.gov/charities-non-profits/charitable-organizations>.
- <http://iga.in.gov/legislative/laws/2019/ic/titles/023#23-17>
- <http://iga.in.gov/legislative/laws/2019/ic/titles/020#20-24>
- <https://www.in.gov/pac/files/PAC%20Handbook%202017.pdf>