

PRINCIPLES OF EFFECTIVE CHARTER SCHOOL GOVERNANCE

Kelly Cadman

Vice President, School Services
kcadman@gacharters.org

Elisa A. Falco

Director, Education & Training
efalco@gacharters.org



State Charter Schools Commission of Georgia
School Governance Training

Purpose of This Training

- 1. Educate Charter Board Members About the Basics of Board Governance Responsibilities and Roles**
- 2. Provide Best Practices for Effective Governance**
- 3. Provide tools you can use in effectively governing**
- 4. Discuss current practice and make recommendations for improvement**

Table of Contents

- ◆ **Common Barriers to Effective Governance**
- ◆ **The Fundamentals**
- ◆ **Staying Out of Hot Water!**
- ◆ **Board Constitution and Roles**
- ◆ **Quality Board Leadership**

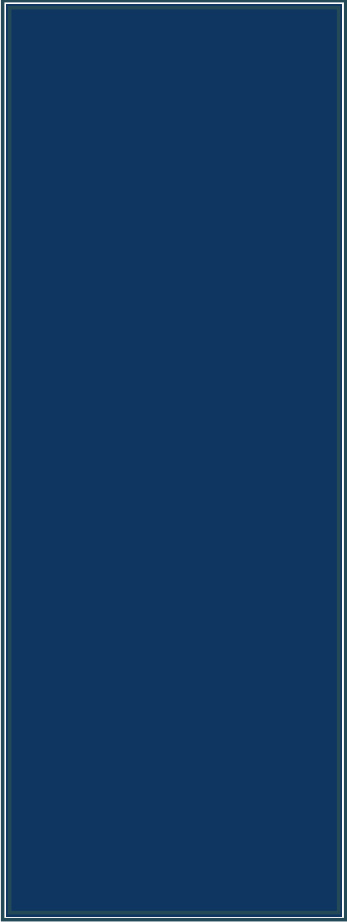
Common Barriers to Effective Governance

- ◆ Dominated by a founder of the school
- ◆ Dominated by a management company
- ◆ Violations of the duty of loyalty
- ◆ Violations of the duty of oversight
- ◆ Violations of the duty of obedience
- ◆ Lack of internal cohesion
- ◆ Well-intentioned people but lacking capacity
- ◆ Excessive board member turnover
- ◆ Behaving unprofessionally toward the school's staff
- ◆ Role confusion among parent-board members
- ◆ Individual board members acting outside the scope of their authority

Other Barriers to Board Effectiveness

- ❑ Micromanagement – failure to delegate authority to school leader
- ❑ Ineffective nominating committee/process
- ❑ Failure to transition from founding to governing board
- ❑ No plan for rotation, succession, on-boarding and transition (including founding to governing board)
- ❑ Failure to remove unproductive members
- ❑ Board Size
- ❑ Lack of functioning committee structure
- ❑ No strategic plan
- ❑ Shortage of time or Board member commitment to the process
- ❑ Avoidance of managed risk taking
- ❑ Holding on to the “old ways”
- ❑ Lack of clarity on board-staff roles and relationship (“not my job” or “all my job”)
- ❑ Lack of Preparation
- ❑ Unorganized, excessively long meetings, lack of focus, preparation and follow-through

Reflect on Current Practice

- 
- ◆ Which, if any, of these barriers are most problematic and prevalent in your governance practice?
 - ◆ Which barriers can be eliminated by changing behavior(s)?
 - ◆ What processes/systems are necessary to eliminate additional barriers?
 - ◆ Are any policies needed to mitigate barriers?

THE FUNDAMENTALS

Who Owns the School?

- ◆ The Board is not the owner....

The **PUBLIC** - parents, teachers, students, management, vendors, and the immediate community are the “owners”

- ◆ What do the owners (PUBLIC) expect?

The Board's primary responsibility is to be

STEWARDS OF THE PUBLIC'S INTEREST & TRUST

Governing Board Duties...(1)

- ◆ Creates and supports a clear mission, vision, and performance objectives
- ◆ Establishes an accountability plan
 - Educational program
 - Fiscal Viability
 - Compliance
- ◆ Reviews and maintains By-laws and establishes policies consistent with the mission
- ◆ Is accountable for fiscal health including capital assets, operating budgets, fundraising, and endowments
- ◆ Hires, supports, manages, develops, and assesses the school leader
- ◆ Evaluates itself annually and develops itself through orientation, ongoing education, and leadership succession planning
- ◆ Establishes strategic plans

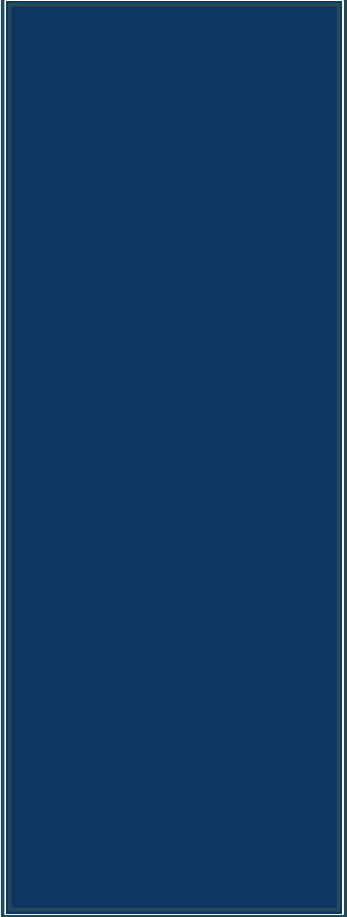
Governing Board Duties...(2)

- ◆ Keeps full and accurate records of meetings, committees, and policies and follows Sunshine Laws
- ◆ Ensures all members are actively involved in the work of the board and committees
- ◆ Assures compliance with laws, regulations, and minimizes exposure
- ◆ Maintains a results dashboard and uses for monitoring
- ◆ Ensures effective organizational planning
- ◆ Ensures adequate resources are in place to execute the schools programs with fidelity
- ◆ Manages resources effectively
- ◆ Enhances the charter school's public image and leverages image to build support and resources

Individual Member Duties...

- ◆ Supports and promotes the school's mission and vision
- ◆ Is knowledgeable about the charter, objectives, and current and historical operations and issues
- ◆ Attends meetings consistently, is well prepared and fully participates in all matters
- ◆ Does not become involved in specific management, personnel, or curricular issues
- ◆ Accepts and supports board decisions
- ◆ Respects board confidentiality
- ◆ Guards against conflict of interest, whether business or personal – takes care to separate interests of the school from specific needs of a child or constituency
- ◆ Supports the school head and demonstrate support in the community
- ◆ Is vested in the board as a whole and reports issues to the school leader or whole board (doesn't deal with individually)
- ◆ Contributes to the overall school program, including financial support and active involvement in annual and capital giving
- ◆ Accepts fiduciary responsibility

Reflect on Current Practice

- 
- ◆ Consider the “Fundamentals” presented thus far. What are your board’s strengths and weaknesses in terms of the following?
 - ★ Supporting and monitoring the mission
 - ★ Developing an accountability plan
 - ★ Systematic review of by-laws
 - ★ Policy development and enforcement
 - ★ Fiscal health monitoring and status
 - ★ Oversight processes for the school leader

Fiduciary Duties of Boards (1)

1. **Duty of Care** - Duty of care means that a board member must exercise reasonable care when making a decision as a steward of the charter school.
 - Active participation
 - Committees
 - Board actions
 - In the best interests of the organization & students
 - With prudence
 - Devote time, attention, and resources necessary to fulfill director obligations
 - Meeting minutes (accurate record keeping and transparency)
 - Protecting organizational property
 - Resource development
 - Investigations (warnings/grievances)

Fiduciary Duties of Boards (2)

2. **Duty of Loyalty** - Duty of loyalty means a board member will put the good of the charter school first and avoid engaging in transactions with the school from which the member will benefit.
 - Set aside personal or conflicting interests
 - Have a written policy to avoid conflicts
 - Act solely in the best interest of the organization
 - Avoid self-dealing
 - Compliance with governing documents (by-laws)

Fiduciary Duties of Boards (3)

3. **Duty of Obedience** - Duty of obedience means that board members are not permitted to act in a way that is inconsistent with the school's mission.
 - Ensure compliance with state and federal statutes
 - Filing requirements (990), annual report, audit
 - Obey all laws, rules, and regulations pertaining to charter schools
 - Act in furtherance of the organization's charitable purposes (education)

Accountability of Boards

□ Market Accountability

- ◆ As schools of “choice”, a market is created
- ◆ Funding is dependent on needs of the market being met and sustaining enrollment and a competent staff
- ◆ Key questions when making board level decisions...
 - How will this impact our enrollment?
 - How will this impact staff morale?

□ How to stay accountable to the market?

1. Make informed policy
2. Create strategy that forwards the school’s mission and aligns with stakeholder expectations
3. Monitor the head of school in executing #1 and #2

Accountability of Boards

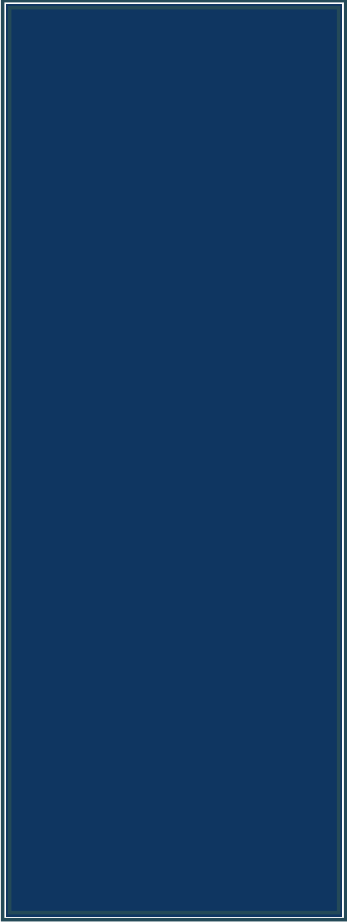
□ Authorizer Accountability

- ◆ A charter is a PRIVILEGE granted in exchange for accountability for:
 - Measureable student performance at a defined level
 - Proper financial management
 - Complies with applicable state and federal laws
- Failure to meet these expectations can mean revocation of the charter.

□ How to stay accountable to the authorizer?

1. EVERY board member should KNOW and UNDERSTAND your charter performance objectives
2. Cultivate a relationship with your authorizer – be a partner, not a pain

Reflect on Current Practice

- 
- ◆ Consider the fiduciary duties presented. What are your board strengths and weaknesses in terms of the following?

- ★ Duty of Care
- ★ Duty of Loyalty
- ★ Duty of Obedience
- ★ Accountability

GUIDELINES FOR AVOIDING:

- ★ Being organizationally or personally sued
- ★ Charter revocation
- ★ Untold nightmares to unravel and correct that cost:
 - time
 - money
 - energy
 - focus

STAYING OUT OF HOT WATER!

Risk Management (1)

Component of Organization	Sources of Risk	Type of Insurance or Ways to Manage Risk
Board	Self dealing Tax penalties Executive decisions Regulations Fiduciary duties Confidentiality	Directors & Officers (D&O) Association & professional liability Policies Board training Competent CFO Legal counsel
Services	Common torts (negligence) Malpractice	General liability Errors and Omissions Professional liability Competent and qualified staff Legal counsel
Employees	Injury Wrongful termination Civil rights Confidentiality Conduct towards students/staff	Policies Procedures Adequate management Workers Compensation Some general liability policies Directors & Officers (D&O)

Risk Management (2)

Component of Organization	Sources of Risk	Type of Insurance or Ways to Manage Risk
Volunteers	Injury Confidentiality Conduct towards students	Policies Procedures Volunteer training programs
Transportation	Accident	Vehicular coverage Policies Equipment maintenance Qualified drivers Driver training programs
Money	Theft Embezzlement	Policies ensuring segregation of duties Adequate management and oversight Bonding
Property	Theft Injury	Property insurance Bonds Property maintenance Security systems and processes

Risk Management (3)

Component of Organization	Sources of Risk	Type of Insurance or Ways to Manage Risk
Food Service	Injury Allergy Illness Equity	Adequate mgmt. and oversight Policies and procedures Inspections Compliance checks
Reputation	All other risk sources above Poor academic achievement Unsuccessful audit Grapevine	Transparency Preemptive measures Policies Adequate mgmt. and oversight Building community trust
Authorizer Relationship	All other risk sources above Poor academic achievement Unsuccessful audit Poor reporting Grapevine	Transparency Preemptive measures Policies Adequate mgmt. and oversight Building authorizer trust

Conflicts of Interest

Non-Profit board members have an ethical and legal obligation to protect the public interest

- ◆ A conflict of interest exists when a conflicting interest is pursued over the interest of the organization's interest.
- ◆ Board members can be held PERSONALLY LIABLE for conflicts of interest – violates fiduciary duty
- ◆ Conflicts of interest relates **broadly to ethical behavior, not just financial** conflicts of interest
- ◆ 3 levels of ethical behavior:
 1. Obey the law
 2. Decision making when the right decision is clear and temptation interferes
 3. Decisions requiring a choice among competing options

Avoiding Conflicts of Interest

- **SELF MONITOR**
- **SYSTEM OF CHECKS AND BALANCES**
- **CONFLICTS OF INTEREST POLICY:**
 1. Full disclosure of personal and business connections
 - ◆ Annual disclosure kept on file
 - ◆ As situations arise
 2. Abstention from discussion, influencing, and voting when conflict or potential conflict exists

■ Sample conflict of interest policy suggested by the IRS (pg. 25):
<http://www.irs.gov/pub/irs-pdf/i1023.pdf>

Examples of Actual or Potential COI for LEA Charters

- EMO/ESP/CMO representative
- Family members - husband/wife serving
- Vendors to the school
- Staff
- Parents
 - Set up mechanisms to protect

Georgia Open Meetings Act – Operating in the Sunshine (1)

- **Open Government Guide:**
<http://www.rcfp.org/ogg/index.php?op=browse&state=GA>
- **MEETING** defined:
 - Gathering of a quorum of board members or committee of the members
 - Official business, policy or public matter is:
 - formulated
 - presented
 - discussed
 - voted upon

Georgia Open Meetings Act – Operating in the Sunshine (2)

◆ What is not a **MEETING**:

- Inspections of physical facilities or property
- State-wide meetings or trainings
- Meetings with other agencies
- Travel
- Social or ceremonial events

No official business is permitted at these gatherings.

Georgia Open Meetings Act – Operating in the Sunshine (3)

◆ Open access of meetings:

- ❑ Open to the public and the press.
- ❑ The public and the press can observe and record
- ❑ Public does not have the right to participate in the meeting, just to observe.
 - ❑ You can give them the right to participate through public comment.
- Votes taken in violation of the law are void.

Georgia Open Meetings Act – Operating in the Sunshine (4)

◆ Notice and Agenda:

- ❑ Establish a set schedule of meetings
- ❑ Post meeting dates in a conspicuous location (date, time, location)
- ❑ Post agendas not more than 2 weeks in advance but as soon as possible (at least 1 week)
- ❑ 24 hour notice for emergency called meetings must be posted and placed in a local news vehicle (e.g., paper). MUST state the reason for the emergency meeting in the notice.
- ❑ Agendas for meetings should be specific enough to advise the public of the matters expected to come before the board. Matters outside of the agenda can be addressed if they were not anticipated before the meeting by amending the agenda.
- Minutes must be kept of all Board Meetings including members present, description of motion or proposal, record of votes.

Georgia Open Meetings Act – Operating in the Sunshine (5)

◆ Minutes:

- Summary minutes, final minutes, and executive session minutes are required for every meeting. That includes committee meetings.
- Final minutes must state what agency members were present, describe each motion, and record all votes.
 - If the vote is not unanimous, the votes of participants must be recorded.
 - They must also show executive session votes, as the actual vote must take place in the open meeting.
- Executive session minutes are not released to the public. They are used in court if there is a dispute.

O.C.G.A. §§ 50-14-1(e)(2), 50-14-4(a)

Georgia Open Meetings Act – Operating in the Sunshine (6)

◆ Exceptions:

- ❑ Closed meetings may be held with counsel to get advice on actual or threatened litigation. If litigation is not involved (or if there is no tangible threat of litigation) then the discussion must be public.
- ❑ The mere presence of counsel does not make executive session proper.
- ❑ The acquisition or disposal or lease of real property may be considered and voted on in closed session. There must still be a subsequent public vote.

Georgia Open Meetings Act – Operating in the Sunshine (7)

◆ Personnel Exception:

□ Executive sessions shall be permitted for:

“Meetings when discussing or deliberating upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee or interviewing applicants for the position of the executive head of an agency. The vote on any matter covered in this paragraph shall be taken in public.”

O.C.G.A. §§ 50-14-3 (b)(3)

Georgia Open Meetings Act – Operating in the Sunshine (8)

◆ Executive Session Requirements:

- ❑ Requires a vote
- ❑ Regular minutes must show the specific reason for closing the meeting, those present, and those voting for closing the meeting
- ❑ Requires that the chair execute a sworn affidavit showing the basis for the executive session and that the closed part of the meeting was limited to these provisions
- ❑ Chair has the duty to keep the meeting limited to the proper purposes of the closed meeting, and if it is not, to adjourn the closed meeting

Georgia Open Meetings Act – Operating in the Sunshine (9)

◆ Telephonic Meetings:

- “Governing board, agencies, or committees with statewide jurisdiction may hold telephone conference call meetings, provided that public access is assured and the public notification provisions of the statute are followed.....”

Freedom of Information Act (FOIA) or Open Records Act of Georgia (1)

◆ What is a document?

- ❑ “Public record means **all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, data, data fields, or similar material** prepared and maintained or received by an agency or by a private person or entity in the performance of a service or function for or on behalf of an agency or when such documents have been transferred to a private person or entity by an agency for storage or future governmental use.”

O.C.G.A. §§ 50-18-70 (b)(2)

Freedom of Information Act (FOIA) or Open Records Act of Georgia (2)

- ◆ See details in **Open Government Guide**.
<http://www.rcfp.org/ogg/index.php?op=browse&state=GA>
- ◆ Grants any person the right to access public records
- ◆ Purpose for request is irrelevant
- ◆ Georgia law does not restrict the use of records obtained
- ◆ Limitations on costs that may be assessed per copy
- ◆ In most cases can't charge administrative fees
- ◆ Limited exemptions from public exemption (including, property acquisition papers, personal privacy info. such as social security number, mother's maiden name, banking, medical, vital records, etc....check the act for more details)
- ◆ Requests can be made verbally or in or in writing (in writing is advised). Only written requests can form the basis of an enforcement action.
- ◆ Must respond within 3 days

Seniority of Documents for Charters

- 1) Federal Education Laws (for example...)
 - 1) No Child Left Behind (NCLB)
 - 2) Freedom of Information Act (FOIA)
 - 3) Asbestos Hazard Emergency Response Act (AHERA)
- 2) State Statute Regarding Charter Schools, Non-Profits, and APPLICABLE Public School Laws & Rules
 - 1) Charter Petition and Other Authorizer Compliance Requirements
 - 2) School's By-Laws
 - 3) School's Board Approved Policies and Resolutions
 - 4) School's Agreements and Policies Between Board and Management
 - 5) School Procedures Contained in Handbooks

Reflect on Current Practice

- 
- ◆ Considering risk management, what are your board's strengths and weaknesses in terms of the following?
 - ★ Policy Development and Enforcement
 - ★ Managing Potential or Actual Conflicts
 - ★ Compliance with Open Meetings Act/Open Records Act
 - ★ Financial Monitoring

BOARD CONSTITUTION AND ROLES

How to Avoid “Who’s On First?”

Board Constitution and Roles (1)

◆ A charter school board must have:

□ Capacity to govern

Legal and regulatory	Fundraising
Financial reporting	Negotiating skills
Curriculum and Instruction	Political savvy
Governance	Marketing and media relations
Policy development	Buildings and grounds
Insurance and risk management	General business & education

□ Independence from one another or direct relationships with the school

- family members or potential school vendors

□ Ongoing development and capacity building

- speakers, articles, book studies, etc. can achieve this purpose

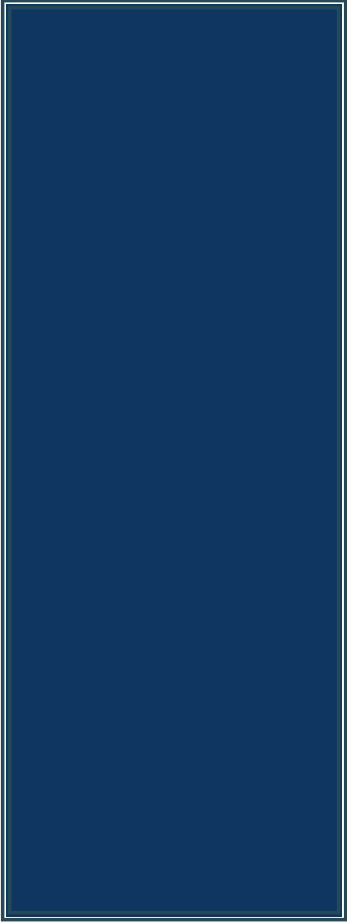
□ No compensated members

Board Constitution and Roles (2)

◆ Recommended practices:

- ❑ For significant deliberation, maintain at least 7 unrelated members
- ❑ By-laws should determine term limits, which should be carefully and strategically considered

Reflect on Current Practice

- 
- ◆ Describe your current practice as it relates to:
 - ★ Board composition & capacity
 - ★ Plans to address monitoring, evaluating and providing feedback to your school leader

QUALITY BOARD OVERSIGHT & DEVELOPMENT

Top Priorities for Boards (1)

1. Academic Achievement
2. Fiscal Health
3. Policy Development & Enforcement
4. Legal & Regulatory Compliance

At least 70% of your meeting time should be devoted to these topics; otherwise, you end up meddling in management and focusing on “administrivia.”

Top Priorities for Boards (2)

◆ **Academic Achievement / Educational Program**

- ❑ CEO/Principal is responsible for communicating info. related to academic achievement
- ❑ Board should be able to understand the data and how it is impacting the mission or strategic plan goals
- ❑ Appropriate discussion on topics such as:
 1. Standardized testing
 2. Alternative assessment methods
 3. Curriculum and its positive or negative impact on student achievement
 4. Research studies or articles and their relevance to the school's performance or the charter sector as a whole
 5. Pedagogy

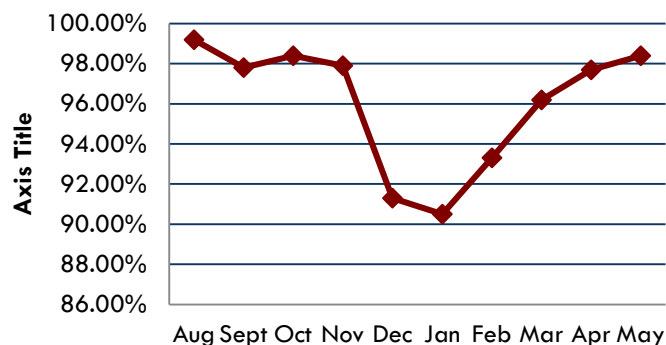
Top Priorities for Boards (3)

◆ **Academic Achievement / Educational Program**

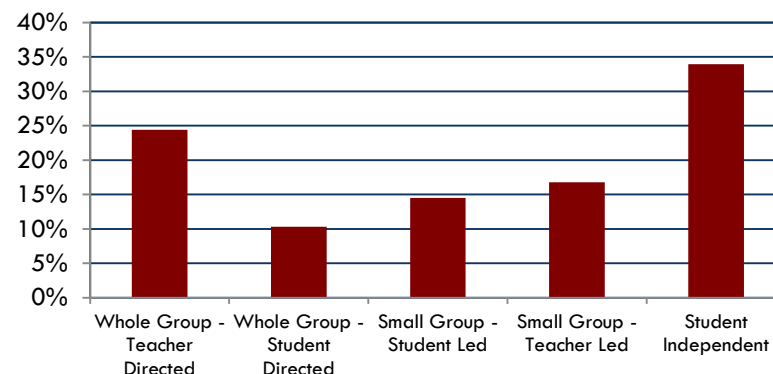
1. How SPED students are being accommodated in the school
2. How student assessment data is being used in other schools
3. ESEA legislation and its impact on the school
4. Special initiatives being used to improve instruction or academic achievement
5. Instruction time (maximizing)
6. Attendance / retention rates
7. Family engagement
8. Personnel review data
9. Mechanisms in place to measure mission, goals, etc.

Sample Dashboards Related to Mission (Process Measures)

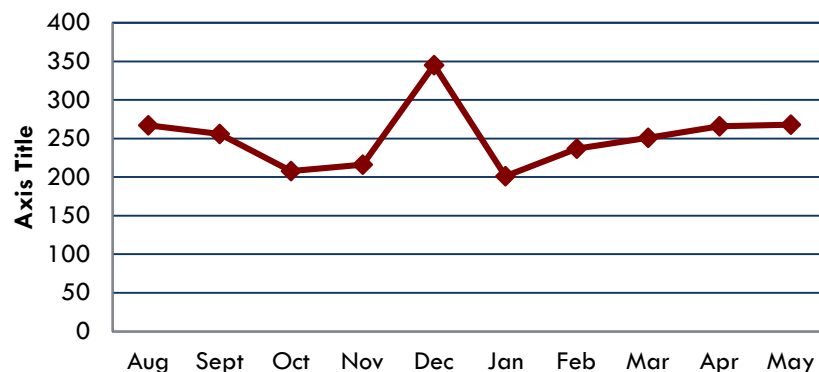
Student Attendance



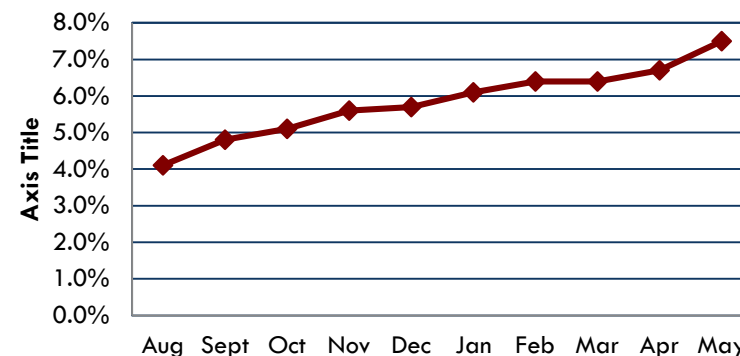
Teaching Method



Parents Volunteering/Participating

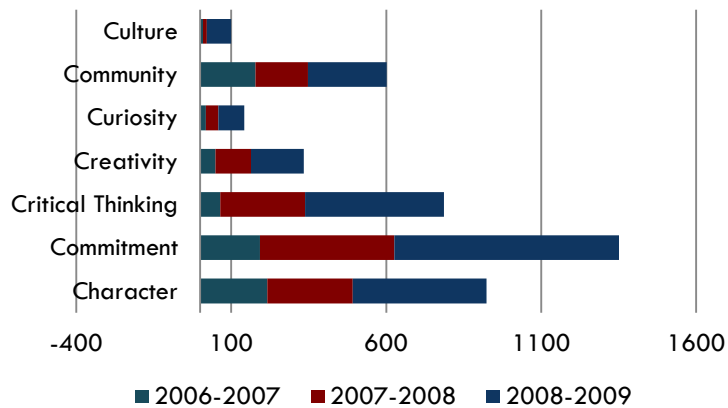


Percentage of Time on Self Paced Reading Tutorials

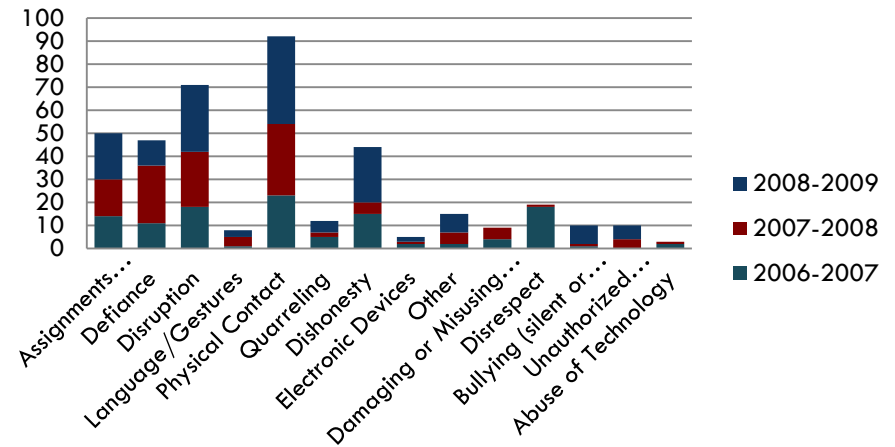


Sample Dashboards Related to Mission (Outcome Measures)

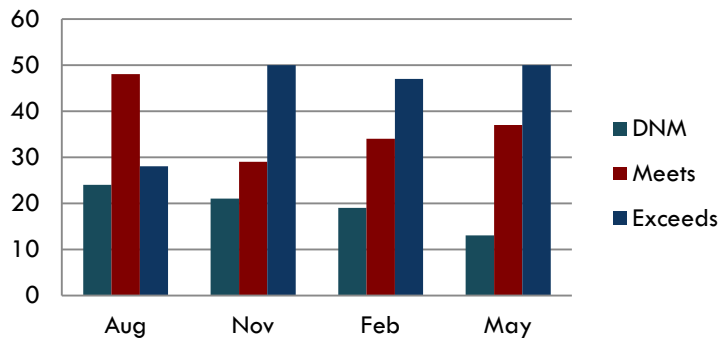
Monitoring Students' Positive Character Displays



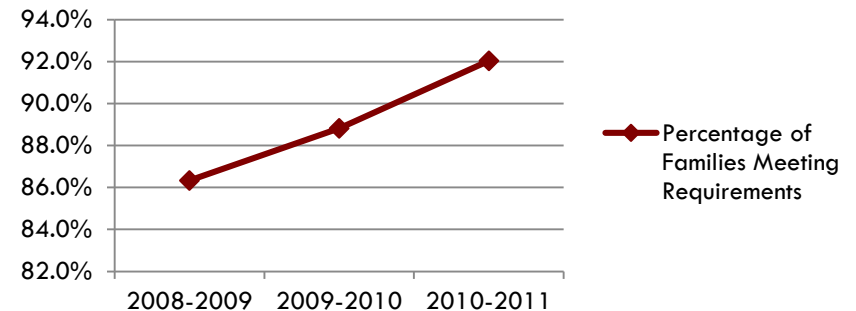
Behavior Infractions



Reading Benchmark Results Grade 11



Percentage of Families Meeting Involvement Goals



Top Priorities for Boards (4)

◆ Fiscal Health

- ❑ Board CAN NOT delegate fiscal responsibility.
- ❑ Board MUST NOT count on one individual on the board to entrust financial oversight
- ❑ Can monitor fiscal health with financial reports

1. The Balance Sheet

- Tells you school's net worth
- School's assets should equal (to the penny) the sum of the liabilities and retained earnings
- Board goal should be to produce positive net worth

2. The Statement of Cash Flow

- Tells you how much cash you have throughout the course of a year
- "Without cash, you crash."

3. The Statement of Income and Expense

- Shows how much money came into the school and the expenses paid during a given reporting period
- Line item transactions
- Helps you monitor whether your monthly expenses are higher than your monthly revenue

4. The Budget vs. Actual Report

- Use with the Statement of Income and Expense to help monitor how carefully the management is operating the school according to the budget
- Shows budget compared to what was spent in each category (year to date)

5. Cash Flow Projection (optional)

- Is a forecasting tool to help you predict what your cash situation will be in the future.
- Helps to identify potential problems several months or years away.

Effective Board Meetings

◆ Time management

- ❑ Include time estimates on board-meeting agendas
- ❑ Start and end on time
- ❑ Identify a timekeeper
- ❑ Develop a calendar of major board decisions
- ❑ Video or audio record meetings
- ❑ Vote using consent agendas
- ❑ Ensure the Board Chair follows the agenda and manages off task or interruptions

◆ Staying organized and informed

- ❑ Each board member should receive an agenda and packet of all documents to be reviewed during the meeting, at least **one week prior to the meeting**
- ❑ Develop a communication plan for internal and external purposes
- ❑ Use dashboards for monitoring charter goals and objectives and other areas

Board Member Orientation and Transition

- ◆ Founding to Governing Board
- ◆ Succession
- ◆ On-boarding
- ◆ Selection / Vetting
- ◆ Appointing vs. Voting in Members

Essential Board Committees

◆ **Governance**

- ❑ Board development, succession planning, by-law review, policy development

◆ **Accountability / Academic Achievement**

- ❑ Monitor academics, instructional quality, curriculum effectiveness

◆ **Finance / Fundraising**

- ❑ Monthly financial review, budgeting, setting financial policies, resource development

◆ **Community Outreach**

- ❑ Partnership development and monitoring, awareness

◆ **Personnel / Executive Committee**

- ❑ Review personnel performance, ratify hiring decisions, ensure due process, termination and employee discipline

Effective Use of Committees

- ◆ Set goals and expected outputs
- ◆ Set schedule of meetings for the year
- ◆ Understand roles & responsibilities
- ◆ Committee leadership
- ◆ Establish a reporting structure
- ◆ Follow Sunshine Laws - O.C.G.A. 50-14-(1-6) and 50-18-(70-74)

Reflect on Current Practice

◆ What are your boards strengths and weaknesses in the following areas?

- ★ Understanding the difference between management & governance
- ★ Effective meetings
- ★ Information flow
- ★ Following Protocol
- ★ Focusing on “top priorities”

1. Academic Achievement
2. Fiscal Health
3. Policy Development & Enforcement
4. Legal & Regulatory Compliance

Resources

- ◆ Drop Box

<http://www.dropbox.com>

- ◆ General Governance Tools

<http://charterschoolcenter.org>