10 Tips to Survive Your First Year

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10 Tips to Survive Your First Year

... to survive your first year...

1. Find Your “Circle of Trust”
2. Secure Public Records
3. Follow the Statutory “Recipe” – Levy Planning & Common Pitfalls
4. Hone Your HR and Communication Skills
5. Don’t Be Late! – Election Dates and Deadlines
6. “Over”-Prepare for Negotiations
7. Think Twice Before Naming that Stadium
8. Social Media Survival Skills
9. Let the Sun Shine In
10. Don’t Be Afraid to Call Your Lawyer
#1 Find Your “Circle of Trust”
Find Your “Circle of Trust”

• **Internal** –
  • Those who work for and alongside you
  • The Board of Education

• **External** –
  • Other treasurers and superintendents
#2 Secure Public Records
What Is a Public Record?

- **R.C. 149.011(G)** –
  - “‘Records’ includes any document, device, or item, *regardless of physical form or characteristic, including an electronic record* ... created or received by ... the state or its political subdivisions, *which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.*”

- **R.C. 149.43** –
  - A record is any record that is kept by a public office
Are Electronic Records “Public”? 

- Maybe.
- A document being “electronic” tells you nothing about whether you must maintain it as a “public” record.
- Just like paper, examine whether the record created or received by the District serves to document the “organization, functions, policies, decisions, procedures, operations or other activities of the office.”
- Remember to keep your records retention schedule flexible – “Paper or electronic”
E-mail and Texts

• Yes, these can be a public record, even if on your personal phone!
• Whether it’s public is governed by the content.
• Ask: What is your District doing to maintain e-mails/texts that are public records?

Examples include:
• Saving all email, incoming and outgoing, whether deleted or saved;
• Saving a snapshot of all e-mail accounts at particular point in time;
• Allowing District staff to determine what e-mails must be saved, and saving them by electronically storing copies; or
• Allowing District staff to determine what e-mails must be saved, and saving them by printing copies

• Are these acceptable?
Public or private?

- Board member 1 on the Superintendent:
  - “I vote fire him now!!!!!!!”

- Board member 2:
  - “LOL :O), omg this executive session is taking forever. And you have to sit next to that doofus. TTYL”

- Board member 1:
  - “I will not sit at the table any more with such a disrespectful superintendent.”
  - “He is just special ed in action!”

- Result?
System and Process

• Consider how the records will be stored and accessed.

• When a request is made, District must be capable of complying. That includes the ability to search and produce records.

• **Suggestions:**
  
  • E-record policy
  
  • Clear and descriptive lines for e-mail, and clear and descriptive document names for other e-records
  
  • If possible for e-mail and other e-records, store in a searchable database
Exceptions to Public Records

- Student records (R.C. 3319.321 & FERPA)
- Medical Records
- Social Security numbers
- Criminal background checks
- Photographic images of persons under 18
- Adoption information
- School safety plans
- Home addresses/phone numbers of public employees
- Other
Record Requests and Responses

- **Student records**
  - Public office MAY require identity / intended use if request is for student “directory information”
  - Public offices may not release student directory information for use in a profit-making plan or activity
Public Records Requests

- **Reasons for denial of request**
  - If denied (i.e., info requested is not a public record), requester must be provided with an explanation (in writing, if request in writing), including legal authority

- **Redaction**
  - Must redact if required by state or federal law
  - Must notify requester of redaction or make plainly visible
  - Deemed a denial of request unless required by law
  - Must provide rest of document if not exempt
District may ask for request to be put in writing and the requestor’s identity and motive, *but* only after disclosing the requested information is not mandatory *and* if that information will assist the district in responding to the requestor.
Ambiguous/Overly Broad Requests

- The district may deny the request but must give requestor an opportunity to revise the request by informing the requestor of the manner in which the records are maintained and accessed.
#3 Follow the Statutory “Recipe” – Levy Planning & Common Pitfalls
Levy options include, but are not limited to, the following:

- School District Income Tax
- Current Expense Property Tax
- “Emergency” Property Tax
- Substitute Levy
- Permanent Improvement Property Tax
- Millage/Dollar Incremental Property Tax
- Combination Options - Property Tax (Current Operating Expense and Permanent Improvements); Bond Issue and Property Tax; Property Tax and Income Tax; Bond Issue and School District Income Tax; Tax Levies and OSFC Projects
Levy Planning – Common “Ingredients”

- **Common Statutory Elements (“Ingredients”)**
  - Purpose clause, term of levy, etc.
  - Resolution of Necessity – “Resolution #1”
  - Intermediate certifications
  - Resolution to Proceed – “Resolution #2”
  - Filing with the Board of Elections
Levy Planning – Differences & Common Pitfalls

- Differences & Common Pitfalls
  - Duration of levy
  - Renewal possibilities
  - Direct borrowing authority
  - Board vote requirement
  - Filing deadlines
  - Application of HB 920
Levy Planning – Differences & Common Pitfalls

- **Timing**
  - “Intermediate deadlines” for initial resolution (addressed in Tip #5)
  - Renewal elections in advance of levy expiration
    - PI and current expense levies – general election in the year prior to the last year of collection, and any election during the last year of collection
    - Emergency levies – primary and general election in the year prior to the last year of collection, and any election during the last year of collection
    - Combining emergency levies – nuances
  - Permissible elections
  - Note elimination of February special elections
  - Not more than two elections in any calendar year, and if two, one of the two must be the general election – school district income tax levies, combination bond/school district income tax levy, and combination school district income tax levy/“necessary requirements” levy
**Permissible Terms**

- PI and current expense levies – any number of years up to five or for a continuing period of time (assuming PI levy is for “general permanent improvements”)

- Emergency levies – any number of years up to 10

- Incremental and substitute levies – any number of years up to 10 or for a continuing period of time (for dollar incremental levy, renewals only)

- “Necessary requirements” levy [5705.09] – a specified number of years or for a continuing period of time

- School district income taxes – a specified number of years or for a continuing period of time

- Bond issues – tied to weighted average life or period of usefulness of financed improvements
Levy Planning – Differences & Common Pitfalls

- **Board Vote Requirement - Voting Threshold**
  - At least two-thirds affirmative vote on second resolution – PI, current expense and substitute levies
  - At least two-thirds affirmative vote on both resolutions – combination bond issue/property tax levy [RC 5705.218], combination bond/school district income tax levy and combination school district income tax levy/“necessary requirements” levy
  - At least a majority affirmative vote – all others

- **Certifications**
  - County Auditor/Fiscal Officer – ad valorem property tax levies of all types
  - State Department of Taxation – school district income tax levies
  - Rounding concerns
  - Timing/turnaround concerns
Levy Planning – Differences & Common Pitfalls

- **Direct Borrowing Authority**
  - Current expense levy - 50% of estimated collections during first year of levy and before the first tax collection can be made; not to exceed 5 years or life of levy
  - Emergency levy - 100% of estimated collections during first year of levy and before the first tax collection can be made; not to exceed 5 years or life of levy
  - General or specific permanent improvements (temporary levy) - 50% of estimated remaining collections over 5 years after issuance
  - General, on-going permanent improvements (continuing period of time) - 50% of estimated collections over period of up to 10 years after issuance
#4 Hone Your HR Skills
Hone Your HR Skills

- **Know your District’s key documents**
  - Collective bargaining agreement(s)
  - Board policies and administrative guidelines
  - Written employment contracts
  - Benefits package(s)
  - Employee Code of Conduct/Handbook

- **Past practice**

- **The law**
Understanding Employee Contracts

- Executive
  - Superintendent (Ohio Revised Code 3319.01)
  - Treasurer (ORC 3319.22)

- Administrative
  - Assistant Superintendent (ORC 3319.02)
  - Principals and Assistant Principals (ORC 3319.02)
  - Other Administrators (ORC 3319.02)
Administrators’ Contracts: Timing

- Up to five years for superintendent and treasurer
- Other administrators: for the first three years anywhere from one to three years, after that between a two and five years with one exception.
  - You may put an administrator on a one-year contract once after he/she has been employed by the District for three years.
Administrators’ Contracts

- Executive non-renewals: **March 1**, with a one-year auto-renewal if you fail to properly non-renew
- Other administrators: **June 1**, with a one- or two- year auto-renewal
- Check you written contracts and policies!
- Remember, if an administrator is also a tenured teacher in your District, or in another District with two years in your District, upon non-renewal as an administrator, he/she still has teacher tenure eligibility
Administrators’ Contracts

- You must evaluate administrators once each year; but
- He/she must receive a preliminary evaluation and a final evaluation in his/her final year of contract.
- If you fail to meet basic statutory timelines, you cannot lawfully non-renew
• Teaching contracts
• Non-teaching contracts
Teacher Contracts

- ORC 3319.08 through 3319.18
- Continuing: only terminated for cause
- Limited: limited to five years and upon expiration, Board can non-renew under ORC 3319.11
Teacher Contracts

- Extended Limited: Granted in lieu of a continuing contract if teacher is eligible for a continuing contract but there are performance or other issues
- Supplemental: contract granting additional pay for duties performed beyond those in base contract (e.g., athletic coach)
Continuing Contract Eligibility

- Look at CBA!
- ORC 3319.08 and 3319.11
- Eligibility based on licensure, degree and coursework, teaching experience
Limited Contract Teachers

- Limited contract if not continuing
- Non-renewal generally allowed through timely evaluation and notice to the teacher
- But, check your CBA
- Non-renewal deadline: June 1
Extended Limited

• In lieu of continuing contract
• One-time option where Board rejects by a ¾ vote of full membership the superintendent’s recommendation for tenure
• Extended limited not more than 2 years
Supplemental Contracts

- No non-renewal required, unless otherwise in CBA
- Board cannot reduce the terms of a multi-year supplemental contract during the term of the agreement
Nonteaching Contracts

- Non-teaching (non-civil service)
  - Initially hired for up to one year, and thereafter for two years
  - After that, continuing employment
  - Tip: remember, a partial year counts!
- Notice to non-renew: June 1
Nonteaching Contracts

- Civil service employees: A probationary period of 60 days to one year, and then permanent employment
Salary Notices

- Teachers: July 1
- Non-teaching: July 1 (salary means “rate of pay,” not rate of pay and hours)
Employee Misconduct

1. What’s the issue?
2. Refer to Board policy
3. Immediate measures needed?
4. Criminal issue?
5. Child abuse?
6. ODE Report?
Employee Misconduct

1. Identifying the investigator
2. Preparing to investigate
3. Witness interviews
4. Pause before concluding
5. The written report?
6. Consequences
   - For the employee
   - For the victim
   - For the school district
Letter of Findings

- Make the report chronological.
- Describe when first learned of the complaint.
- Provide exact details of the complaint.
- Note the documents reviewed.
- Describe the interviews.
  - For all witnesses, distinguish between firsthand knowledge and rumor.
- State conclusions as to whether misconduct occurred and provide specific justification. (*More likely than not that it occurred?*)
- Recommend corrective action.
- Recommend discipline.
Disciplinary Options

• For executives and administrators
• For teachers
• For non-teaching employees
#5 DON'T BE LATE! – Election Dates and Deadlines
### Election Dates and Deadlines for 2018

#### PRIMARY ELECTION – MAY 8, 2018
- 120th day prior to election is January 8, 2018 (Monday)
- 100th day prior to election is January 28, 2018 (Sunday)
- 98th day prior to election is January 30, 2018 (Tuesday)
- 95th day prior to election is February 2, 2018 (Friday)
- 90th day prior to election is February 7, 2018 (Wednesday)

#### SPECIAL ELECTION – AUGUST 7, 2018
- 120th day prior to election is April 9, 2018 (Monday)
- 100th day prior to election is April 29, 2018 (Sunday)
- 98th day prior to election is May 1, 2018 (Tuesday)
- 95th day prior to election is May 4, 2018 (Friday)
- 90th day prior to election is May 9, 2018 (Wednesday)

#### GENERAL ELECTION – NOVEMBER 6, 2018
- 120th day prior to election is July 9, 2018 (Monday)
- 100th day prior to election is July 29, 2018 (Sunday)
- 98th day prior to election is July 31, 2018 (Tuesday)
- 95th day prior to election is August 3, 2018 (Friday)
- 90th day prior to election is August 8, 2018 (Wednesday)

Please note that certain County Auditors may have additional requirements as to timing and documentation that school districts need to be aware of when planning.
Election Dates and Deadlines

Timing - “Intermediate deadlines”

• 120th day prior to election – delivery of initial materials to State for bond issues requiring “4% consents” or a “special needs” designation

• 105th day prior to election – delivery of initial resolution for combination bond/school district income tax levy [RC 5748.08]

• 100th day prior to election – delivery of initial resolution for school district income tax levies [RC 5748.02] and combination school district income tax levy/“necessary requirements” levy [RC 5748.09]

• 98th day prior to election – delivery of final materials to State for bond issues requiring “4% consents” or a “special needs” designation

• Emergency and substitute levies – some ambiguity

• Case study – combo income tax levy and bond issue (requiring “4% consents”)
#6 “Over” - Prepare for Negotiations
The 3-Minute Overview

- Mandatory subjects of bargaining
- Good faith
- Fact finding
- Mediation
- Arbitration
- Strikes
“Over”-Preparation v. “Under”

- Identifying your goals
- The importance of trust and confidence
- The financial presentation and forecast
“Over”-Preparation v. “Under” (cont’d)

A sample of the potential data required:

- Cost of a step (including benefits) for teachers
- Cost of a step (including benefits) for everyone else
- Cost of a 1% cost-of-living increase (including benefits) for teachers
- Cost of a 1% increase (including benefits) for all other staff
- Cost 1% increase in premium pay for medical, dental, prescription
- Cost of one per diem day (including benefits)
- Total cost spent on substitute teachers (last three years)
- Chart for longevity payments/severance payments
Some conflict is inevitable, but it is key to identify areas of dispute, and ways to deal with administrator-Board disagreement.

Conflict can be especially damaging during negotiations.

Communication with District leadership team is crucial.
Bargaining Preparation

- Keep a running list of issues.
- Monitor legislative changes.
- Identify key issues.
  - Health insurance
  - Working conditions (class size, planning and conference, professional development, etc.)
  - OTES/evaluation/RIF
  - Filling vacancies
  - Subcontracting/privatization
  - Leaves
Selecting a Model for Negotiations

- Traditional
- IBB (issues/problem solving)
  - Do you have the time and trust?
  - Do you have the relationships?
- Compressed
- Modified
- Homegrown
- Whatever the process, be sure ground rules are clear before bargaining begins.
#7 Think Twice Before Naming that Stadium
Interest on most school district obligations is exempt from federal income taxation

- School districts can issue taxable obligations, but at relatively higher interest rates; issued when federal law requirements cannot be met, or when meeting the requirements exceeds the interest rate benefit

There are federal tax requirements related to the issuance of tax-exempt obligations, and requirements that apply after issuance

- Expenditure of Proceeds - Rebate / Arbitrage
- Use of Facilities - Management contracts, leases, arrangements such as naming rights, cell tower and wind generation agreements

School district likely has written procedures to be reviewed annually
Post-Issuance Compliance – Securities Law

Issues

- Anti-Fraud Provisions (10b-5)
- Rule 15c2-12, Primary Offering Disclosure and Official Statements
- Rule 15c2-12, Continuing Disclosure
  - Annual Information Statements
  - Audited financial statements
  - Certain specified events
Post-Issuance Compliance –
Federal Tax Considerations

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#8 Learn Social Media Survival Skills
Best Practices

• DO have strict privacy settings.
• DO understand there's no such thing as a truly "private" post.
• DO understand free speech rights are limited.
• DO learn ODE's Licensure Code of Professional Conduct.
• DO know your District's Acceptable Use Policy.
Best Practices

• DO keep work and play separate.
• DO monitor your Internet presence.
• DON’T use profanity, obscenity or anything that depicts you in an unfavorable light, including, but certainly not limited to, any images with you drinking, using drugs, in questionable settings, with disreputable companions, in inappropriate attire, or engaging in illegal activities.
• DON’T vent online and tell work stories.
• DON’T post anything about a student/counsel a student online.
• DON’T accept a relationship with someone you don’t know.
• DON’T join groups that are unprofessional or inappropriate.
Social Media and Hiring

- Consider whether the data you are collecting is job-related, or has unintended consequences.
- Protected characteristics, like age, disability, race, etc.
The Atheist Applicant Example
• Is this discrimination?
  • Yes. Had the employer not made the decision to view the applicant on Facebook then the applicant would have been hired. This is discrimination based upon the applicant’s religious depictions (and commentary) posted on Facebook.
  • Even if the impermissible information is not used in making the employment decision, the mere fact that the employer accessed the information may infer improper motive.
Designate “Cybervets”

- In attempts to avoid a claim of discrimination by an applicant, employers should separate the employees who “cybervet” from those who are involved in making employment decisions to reduce the risk that “protected characteristics” are known by the decision-makers.

- This way, all characteristics that are not relevant to the job are filtered from the person making the ultimate decision.
Social Media and Employee Discipline

- Whether a school district can discipline an individual based on their social media use (or misuse) is, at its core, the same issue schools frequently deal with for “simple” disciplinary questions.

- Schools must review applicable collective bargaining agreements, school policy, the Licensure Code of Professional Conduct, and law to determine the procedures for discipline, as well as the grounds.
As with in-school conduct, you must ask questions like:

- Is it conduct unbecoming the teaching profession where you have a duty to report?
- Is it “just cause” for termination? What is the individual’s disciplinary history?
- What is the nexus to school?
The Big Picture

- FMLA Leave, or a vacation?
Out-of-School Speech

• The First Amendment generally prevents the government – including school boards – from prohibiting speech because of the ideas presented.
• That includes speech made on social media sites.
• But, the right to free speech is not limitless.
Community Concerns

- The dreaded “comments” section:

  - Margot707
    - SUPER USER • 215 Fans
    - "Liberal" is not a dirty word
    - When she ridicules her students, she deserves whatever repercussions may come.
      12 NOV 2012 1:15 PM
      ▼ REPLY • FAVE • SHARE • MORE

  - Jciernick
    - 242 Fans
    - Don’t take life so seriously it makes you look old
    - That’s dumb to suspend a teacher because of her facebook comments. I hate this country.
      12 NOV 2012 1:17 PM
      ▼ REPLY • FAVE • SHARE • MORE
• A vocal group of parents who disagree with a staff member’s personal choices, in and of itself, does not create a substantial impact on the school environment or create grounds for discipline.

• School employees are public employees and discretion must be used when posting comments on a blog or other social media sites.

• BUT, employees do have right to a life outside of school.
#9 Let the Sun Shine In
• The Sunshine Law requires that "meetings" of a public body, and of its committees, be open to the public unless a specific statutory exception permits a closed-door "executive session."

• “This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.” Ohio Revised Code Section 121.22(A)
Purposes for Executive Session

- To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or to consider the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the employee, official, licensee, or regulated individual requests a public hearing.

- To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest.
• Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action.

• Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment.
Purposes for Executive Session (cont’d)

- Matters required to be kept confidential by federal law or regulations or state statutes.
- Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office.
Entering Executive Session

- There must be a motion and a second to go into executive session, followed by a roll call vote.
- The motion must state which of the statutory purposes is the reason for executive session.
- The actual wording of the resolution should **incorporate the words found in RC 121.22.**
A meeting is “any prearranged discussion of the public business of the public body by a majority of its members.” Ohio Revised Code Section 121.22(B)(2)

Workshops...retreats?
Meeting Notices

- Regular meetings of the board are set at the organizational meeting.
- The board must issue notice of the time and place of those meetings.
- For special meetings (any meeting not set at the organizational meeting), the notice must provide the time, place and purpose(s) of the meeting and be sent at least 24 hours in advance to news media that have requested notification. Written notice must be provided to each board member at least two days prior to the meeting date.
How to Take Minutes

• It’s your job! (ORC 3313.26)

• The minutes of a meeting have sufficient detail to permit the public to understand and appreciate the rationale behind the board’s decisions.

• No specific method is required by statute, but something approaching a verbatim record is required by the courts.

• The Ohio Supreme Court has ok’d: audio or videotape recordings, word-for-word transcripts, or narrative summaries indicating the identity of speakers and the order and substance of their statements.
Don’t Be Afraid to Call Your Lawyer

- Get legal counsel involved early
  - Grievances, threatened legal actions, etc.
  - Saves time, money
  - Protects merits and best interest of district
Don’t Be Afraid to Call Your Lawyer Cont.

- Review the background on the legal issue first
  - Present the facts...all of them!
- Get in the habit of keeping detailed notes
  - Save notes and related documents in a safe place
10 Tips to Survive Your First Year

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