


Minutes Matters

Presented by Kathy Boyd, Senior Staff Attorney
North Carolina School Boards Association
February 9, 2023

1

The information in this presentation is for educational purposes only and does not constitute legal advice. No attorney-client relationship is created or intended through this presentation or through receipt or review of these materials. For advice on specific matters, please consult with your board attorney or other legal counsel.

© This presentation is copyrighted by the North Carolina School Boards Association. Unauthorized copying or distribution is prohibited.



2

Sample Minutes Exercise

- Find at least three “problems” with the sample minutes, i.e., where the minutes fail to follow legal requirements and/or best practices.
- Find at least three examples of good practices in the minutes.
- Work with a partner(s) if you like.



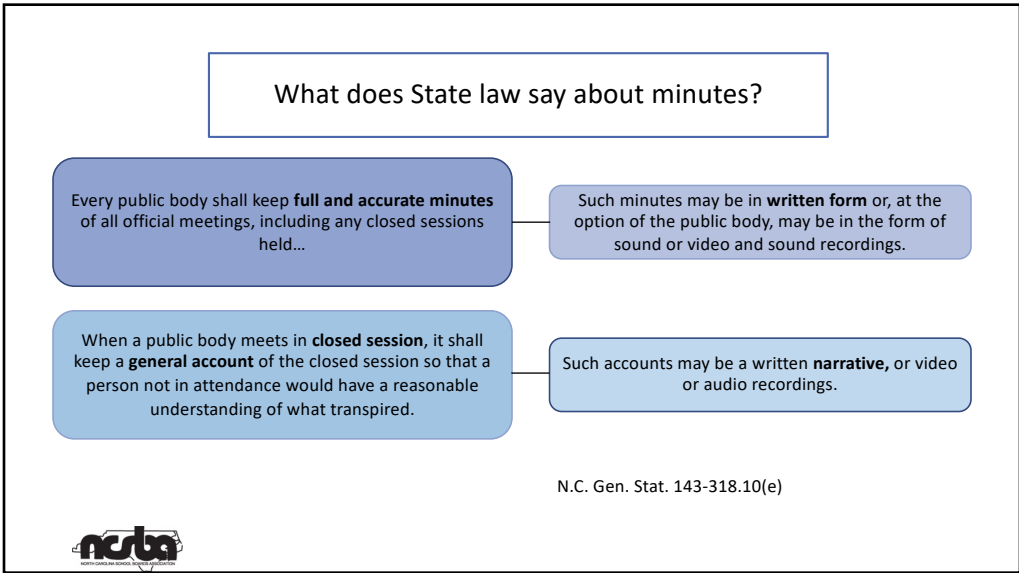
3

What meetings require minutes?

- Board meetings
- Board committee meetings
- Board panel hearings
- Meetings of any committee or council appointed by the board to make recommendations to the board or to carry out any function of the board, e.g., advisory councils, ad hoc board committees
- School Improvement Team meetings
- NOT meetings comprised solely of the professional staff of the public body



4




5

- “Every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held...”

What are “full and accurate” minutes?

N.C. Gen. Stat. 143-318.10(e)



6

What should be included in minutes, according to North Carolina courts?

- A public body's minutes "should contain mainly a record of what was *done* at the meeting, not what was *said* by the members."
- Minutes should "reflect matters such as **motions made, the movant, points of order, and appeals**—not . . . show discussion or the absence of action."
- The purpose of minutes is "to provide **a record of the actions taken** by a board and evidence that the **actions were taken according to proper procedures.**"

Maready v. City of Winston-Salem, 342 N.C. 708

(1996)



7

What should be included in minutes, according to *Robert's*?

- Generally, "minutes should contain mainly a record of what was *done* at a meeting, not what was *said* by the members."
- Minutes should not contain your personal opinion on anything said or done.

Robert's Rules of Order, Newly Revised (11th ed.)



8

What should be included in minutes, according to the State Archives of North Carolina (NCDNCR)?

Per state officials, the following items are necessary to document in the minutes of public bodies

- Date of the meeting and time it was called to order*
- Names of meeting participants (plus any absentees), including indication of whether a quorum is present
- Corrections/amendments to previous meeting minutes
- Actions taken or agreed to be taken, including motions, voting, **rationale**, and next steps
- Attachments necessary for decision-making at the meeting
- Open discussion/public participation
- Time of adjournment and date and time of next meeting

Source: *Minutes of Public Bodies*, The G.S. 132 Files [official records management blog of the State Archives of N.C.] (Feb. 26, 2018)

* caveat: best practice is to include type of meeting, too



9

- “When a public body meets in closed session, it shall keep a **general account** of the closed session so that a person not in attendance would have a reasonable understanding of what transpired.”

N.C. Gen. Stat.
143-318.10(e)

What is a “general account” and how is it different from “full and accurate” minutes?



10

What should be included in general accounts of closed sessions?

Both minutes and a general account of the closed session are required. They may be combined into a single “closed session minutes” record in this way:

1. Document the subject matter of closed session discussion and say enough about the discussion to provide a person who was not present a reasonable understanding of what transpired.
2. You may omit detailed accounts of what individual board members said about the matters under consideration.
3. Record any decisions or actions taken by the board.



11

What should be included in general accounts of closed sessions?

- (1) What was the board told and by whom?**
- (2) What discussion followed?**
- (3) What decisions or actions were taken, if any?**



12

(Example - Closed Meeting Minutes)

ITEM DISCUSSED pursuant to NCGS § 143-318.11(a)(1),(3) and NCGS § 115C-321
CONSULT WITH ATTORNEY/CONFIDENTIAL PERSONNEL INFORMATION – *Schmow v. Unicorn County Board of Education*

Attorney Pare E. Mason informed the Board that the Board has been sued by former employee Joe Schmow for wrongful discharge. Attorney Mason explained the basis for the lawsuit and the results of his investigation into Mr. Schmow's discharge.

There was discussion about possible defenses to the lawsuit. It was the consensus of the Board to direct Attorney Mason to assert all defenses for which there is a reasonable basis in fact.

Attorney Mason then explained that the lawsuit is now in the discovery phase. He laid out an anticipated timeline for how the lawsuit will proceed.

There was discussion about possible settlement before trial. It was the consensus of the Board to wait for discovery to be completed before considering any settlement proposal, as recommended by Attorney Mason.



13

Comparison

Open Session Minutes

- Must record all actions taken by the board but need not record discussions.
- Should also include any info needed to demonstrate that such actions were legally valid (e.g., evidence of a quorum).

Closed Session Minutes

- Actions taken
- Statute authorizing closed session/law making info confidential/parties to lawsuit
- A "narrative that describes in general terms the discussion that takes place so there is some record of the meeting even if no official action is taken."
- Kept separately from open session (typically sealed).



14

What should not or need not be included in the minutes?

Personal opinions, judgments, or interpretations of actions

Discussion (do include summary for closed session)

Motions that were withdrawn

Remarks of guest speakers

Reports to the board in detail (unless requested/required by board)

Name of person who seconded a motion

Flowery language

Transcripts of the meeting



15

Who is responsible for keeping the minutes of the board?

- The **superintendent** is the “ex officio secretary” to the board, who “shall record all proceedings of the board” and “shall see that the minutes of the meetings of the board of education are promptly and accurately recorded in the minute book which shall be kept in the office of the board of education and open at all times to public inspection.”
G.S. 115C-276(b)
- In practice, this role is almost always delegated to the board assistant.
- Principals or other staff may be designated to keep minutes for SITs and/or other school-level public bodies.



16

Minutes checklist for board assistants

Minutes Checklist*

Adapted from T. Allen, "Full and Accurate Minutes: A Primer, Local Government Law Bulletin, Jan. 2019 (UNC School of Government)

I. Basic Meeting Information

- Meeting date, time, and location
- Meeting type (regular, special, emergency, recessed, closed)
- For a special meeting, copies of the posted notice and the notice sent to the sunshine list
- For an emergency meeting, a copy of any written notice provided to media organizations
- If all members participated remotely during a state of emergency, a motion to that effect, and:
 - Identity of official who declared the state of emergency (Governor, General Assembly)
 - The website address or other link where the public could access the livestream (Simultaneous live streaming is required for remote meetings held during a declared emergency)
 - Other means provided for the public to access the meeting, if any
 - Method used to provide for simultaneous communication between members (conference telephone, conference video, other electronic means)

II. Attendance

- Names of all members present and whether they constituted a quorum
- Names of any absent members
- Names of any member(s) who participated remotely
 - Method used to provide simultaneous communication with other members
 - A description of any restrictions placed on the member's participation
 - Note any interruption to or discontinuation of the member's participation, including beginning/ending time
- Name of chair and secretary (only if those who substituted for them, if not present)
- Name of any member who left early and time of departure

III. Action Taken on Previous Minutes (approval as is or corrected)

IV. Public Comment Period (if applicable)

- Beginning and end times and number of people who spoke

V. Motions

- Make and precise wording of each motion w/ amendments (as restated by the Chair when applicable)
- If a second was required, whether it was received
- Disposition of each motion (approved, failed, died for lack of second, referred, postponed indefinitely, laid on table)

VI. Results of All Votes Taken

- Whether the motion passed or failed (numeric vote totals preferred)
- How each member voted, if required by local policy or if written ballot was used
- If applicable if the minutes record an affirmative vote based on a member's unrecorded failure to vote, a notation to that effect

VII. Disposition of Other Agenda Items Not Already Addressed (e.g., presentations/information items)

VIII. Any Notice Given at the Meeting (e.g., previous notice for actions to rescind/amend a prior action)

IX. Copies of Contracts, Bids, Reports, etc. Presented in Open Session (or note location if not attached)

X. All Points of Order (question whether proper procedure is being followed) and **Appeals and Their Outcomes**

XI. Time of Adjournment

- If closed session is held, the board must keep a general account of the session. The minutes may serve as the general account if they include a general narrative of the discussion sufficient that a person not in attendance would have a reasonable idea of what transpired.

17

What documents should be attached to the minutes?

- Attachments necessary for decision-making
- Anything required by law or local policy

Examples:*

- Board policies adopted or revised
- Copies of executed employment contracts and/or amendments for Superintendent or Deputy/Associate/Assistant Superintendent(s)
- Other contracts voted on
- Budget Resolution

*See chart for more complete list of statutorily required minutes entries and entries required by PLS policies

NON-EXHAUSTIVE LIST OF STATUTES DIRECTING CONDITIONS TO BE RECORDED IN THE MINUTES

Topic	Minutes Must Record
1133C-4706	Student Fees
1133C-4706A	The board approval of bills, charges, and substitutions
1133C-4706B	Board's decision re: Teacher duties
1133C-389.1	Volunteer Records
	Board's finding as to the compelling reason supporting its decision to temporarily suspend for a particular school the duties, among the non-employment duties of teacher's duties (1) Board's determination that release of information from a column 1 file is essential to maintaining the integrity of the board or to maintaining the level or quality of services provided by the board; or (2) the board's finding that there is a substantial showing of the criteria in (1)
1133C-275	Acting Superintendent
	Resolutions assigning duties of the superintendent to an acting employee in the absence of a permanent or temporary replacement
1133C-360.1	Teacher paid above the salary schedule
	The amount and reason that a teacher is paid above the schedule by the board's decision
1133C-325.7	Personnel meetings
	All a hearing for dismissal, demotion, or reduction to part-time employment for disciplinary reasons, the board's findings that justify the admission of new evidence
1133C-401	Budget Resolution
1133C-402	Expenditures from authorized Contingency Appropriations
	The budget resolution and superintendent's report of expenditures
1133C-403	Budget Transfer
	Transfer of money from one appropriation to another in the same fund
1133C-441	Board approval of claim or bill
	Resolution approving payment and the names of the members voting in favor of the resolution
149-1270a	Construction and Repair Contracts
	Board approval of contracts in excess of \$500,000
149-1270g	Regarding Purchase Contracts
	Board's determination that using the previous entity's contract terms is in the best interest of the school system; Board's approval of the contract
DO NOT RECORD	
1133C-385.37	School Improvement Plans
	Summary statement of the plan or findings on the safety component

OTHER INFORMATION REQUIRED BY NCBA'S PLS POLICIES TO BE INCLUDED WITH MINUTES

Policy Number	Title	What Minutes Must Include
7420	Director's Employment Contract	Policy adopted by the board
7420	Superintendent's Employment Contract	Copy of the executive employment contract or any amendments made to the contract of the Superintendent
7420	Deputy/Associate/Assistant Superintendent's Employment Contract	Copy of the executive employment contract or any amendments made to the contract of a Deputy, Associate, or Assistant Superintendent
84617430	Gifts and the Purchasing Function	Gifts recorded in minutes after opening

18

Approval of the Minutes

- Best practice – approve at the next meeting or as soon thereafter as possible.
- “Official” when voted on by the public body.
 - Typically dated and signed by chair and/or secretary (though not legally required).
- Minutes can be corrected after approval through a “motion to amend something previously adopted.” Unless notice is provided to the board in advance, this motion requires a 2/3 vote of members present or a majority of the full board.
- Minutes and general accounts are public records. So are **drafts** of these.
- BUT closed session minutes and accounts may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session.



19

How long should board meeting minutes be maintained?

Minutes must be retained in the board office **permanently.**

- Traditionally via a 3-ring notebook kept in the Superintendent's office

Minutes must also have a “**preservation duplicate**”

20

Preservation of Minutes

- NCDNCR has determined that preservation copies of minutes must be “human-readable.” This means the only acceptable formats are **paper or microfilm.**

2021 General Records Schedule for Local Government Agencies, page iv

- NCDNCR provides microfilming services and storage with the State Archives
 - See handout for details



21



NCSBA Legal/Policy Services
919.841.4040



22

Wrap-Up

- Revisit the sample minutes....
- What problems did you find?
- What examples of good practices did you find?
- Did you learn anything that you need to change in your minutes practices going forward, or did you confirm you are on the right track?

