



PARLIAMENTARY PROCEDURE

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PARLIAMENTARY PROCEDURE

FIVE S.D. STATUTES ADDRESS

PARLIAMENTARY PROCEDURE WHICH

SCHOOL BOARDS ARE TO UTILIZE

DURING SCHOOL BOARD MEETINGS



SDCL 13-8-10

- **Special meetings may be held upon call of the president or in the president's absence by the vice-president, or a majority of the board members.**
- **Notice of a special meeting shall be given by the business manager to the board members either orally or in writing in sufficient time to permit their presence.**



SDCL 13-8-10

- **A majority of the members of the school board constitutes a quorum for the purpose of conducting business.**
- **Any board action may be taken if it is approved by the majority of the members voting.**



SDCL 1-25-1

**The official meetings of
political subdivisions
are open to the public**



SDCL 1-25-1

- *unless a specific law is cited*
- by the political subdivision
- to close the official meeting to the public
- violation is a criminal offense



SDCL 1-25-2

“...any official action concerning such [executive session] matters shall be made at an open official meeting. An executive or closed meeting shall be held only upon a majority vote of the members of such body present and voting, and discussion during the closed meeting is restricted to the purpose specified in the closure motion.”

[violation is a criminal offense]



SDCL 1-27-1.18

- **The governing body shall delay taking any official action on the recommendations, findings, or reports of a committee or other working group appointed by the governing body until the next meeting of the governing body.**



SDCL 6-13-2

After the governing board of a political subdivision has made a determination of surplus property pursuant to § 6-13-1, the governing board shall appoint three real property owners of the political subdivision to appraise the value of such property.



PARLIAMENTARY PROCEDURE

**MANY SCHOOL BOARDS HAVE
ADOPTED ROBERT'S RULES OF
ORDER AS THE RULES OF
PARLIAMENTARY PROCEDURE**



PARLIAMENTARY PROCEDURE

ADOPTED

- **BY SCHOOL BOARD POLICY...**

OR

- **THROUGH FORMAL MOTION AT ANNUAL REORGANIZATION MEETING**



PARLIAMENTARY PROCEDURE

- **SIMPLY ADOPTING ROBERT'S RULES OF ORDER MAY BE EASY AND INVITING**

- **BUT CONSIDER**



PARLIAMENTARY PROCEDURE

- **POLICY / MOTION MAY SAY**
- **BOARD WILL FOLLOW ROBERT'S RULES OF ORDER, OR**
- **ROBERT'S RULES OF ORDER WILL BE TAKEN AS AUTHORITY, OR**
- **BOARD WILL FOLLOW ROBERT'S RULES OF ORDER UNLESS MODIFIED BY SCHOOL BOARD POLICY**



PARLIAMENTARY PROCEDURE

- **SCHOOL BOARD POLICIES HAVE THE FULL FORCE AND EFFECT OF LAW AND MUST BE FOLLOWED BY THE SCHOOL BOARD**

***Wessington Springs Education Association v.
Wessington Springs School District #36-2
467 N.W.2d 101, 104 (S.D. 1991)***



PARLIAMENTARY PROCEDURE

CONSIDER ---

**FEW SCHOOL BOARD MEMBERS,
SUPERINTENDENTS AND BUSINESS
MANAGERS ARE PARLIAMENTARIANS
(EXPERTS) WHEN IT COMES TO
KNOWING ROBERT'S RULES OF ORDER**



PARLIAMENTARY PROCEDURE

CONSIDER ---

- **816 PAGES IN THE LATEST REVISION OF ROBERT'S RULES OF ORDER NEWLY REVISED (11th Edition)**
 - **COMPLICATED ??**
 - **DIFFICULT TO APPLY ??**



PARLIAMENTARY PROCEDURE

CONSIDER -

ROBERT'S RULES OF ORDER

WAS NOT WRITTEN

FOR LOCAL UNITS OF GOVERNMENT



PARLIAMENTARY PROCEDURE

ROBERT'S RULES OF ORDER

-- PUBLISHED IN 1876

-- WRITTEN BY AN ARMY ENGINEER

BRIG. GEN. HENRY MARTYN ROBERT

-- FOR USE BY NONGOVERNMENTAL
ASSEMBLIES/ENTITIES



PARLIAMENTARY PROCEDURE

ROBERT'S RULES OF ORDER

- **IS SOMETIMES INCONSISTENT WITH LAWS GOVERNING LOCAL SCHOOL BOARDS**
- **EXAMPLES**



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EXAMPLE # 1 - ROBERT'S RULES OF ORDER

- **says no member can be prohibited from voting because of an actual or perceived conflict of interest and merely says a member should not vote on a motion if a member has a direct personal or financial interest in a motion under consideration**

(RONR, 11th ed., p. 407, II. 21-31).



PARLIAMENTARY PROCEDURE

HOWEVER, IN SOUTH DAKOTA,

**NO GOVERNING BOARD MEMBER
CAN PARTICIPATE IN DISCUSSION
AND/OR VOTING IF THAT MEMBER
HAS A CONFLICT OF INTEREST**

SDCL 6-1-17; Hanig v. City of Winner (SD 2005)



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EXAMPLE # 2 - ROBERT'S RULES OF ORDER

- **SAYS VOTES CAN BE TAKEN IN EXECUTIVE SESSION**

(RONR, 11th ed., pp. 95-96.)



PARLIAMENTARY PROCEDURE

HOWEVER, IN SOUTH DAKOTA,

**SDCL 1-25-2 REQUIRES SCHOOL
BOARDS TO TAKE ANY OFFICIAL
ACTION RELATED TO EXECUTIVE
SESSION IN AN OPEN MEETING**



PARLIAMENTARY PROCEDURE

ASBSD -- SAMPLE POLICY

ROBERT'S RULES OF ORDER

- **IS A GUIDE TO BE FOLLOWED WHEN CONDUCTING SCHOOL BOARD BUSINESS**



PARLIAMENTARY PROCEDURE

ASBSD -- SAMPLE POLICY

... BUT IT IS NOT INTENDED NOR IS IT REQUIRED FOR THERE TO BE STRICT COMPLIANCE WITH ROBERT'S RULES OF ORDER.



PARLIAMENTARY PROCEDURE

ASBSD SAMPLE POLICY

- **PRESIDENT/CHAIRPERSON MAKES DECISIONS ON ISSUES THAT ARISE RELATED TO PARLIAMENTARY PROCEDURE,**
- **SUBJECT TO THE RIGHT OF ANY BOARD MEMBER TO APPEAL THAT DECISION TO THE FULL BOARD FOR A FINAL DECISION.**



PARLIAMENTARY PROCEDURES

PARLIAMENTARY PROCEDURES GUIDE



PARLIAMENTARY PROCEDURES GUIDE

1. Debate should follow, not precede, a main motion. The President/Chairperson may allow general informal discussion, but not debate, before the motion.



PARLIAMENTARY PROCEDURES GUIDE

- 2. To obtain the right to speak, address the chairperson and be recognized.**
- 3. To introduce a motion, say, "I move that..." (avoid "so move")**
- 4. There must be a second to the motion before debate on the motion.**



PARLIAMENTARY PROCEDURES GUIDE

5. A motion may be withdrawn by the maker with general consent of the person who seconded the motion or by a majority vote if there is an objection to withdraw the motion.



PARLIAMENTARY PROCEDURES GUIDE

6. Debate must be limited to the issue at hand. Speakers who wander or attempt to enter new matters should be ruled out of order.



PARLIAMENTARY PROCEDURES GUIDE

7. Main motions may be amended.

"I move to amend the motion by...."

Ways of amending are:



PARLIAMENTARY PROCEDURES GUIDE

7.

- a) Striking out parts of the motion;**
- b) Inserting one or more words; or**
- c) Striking out and inserting; or**
- d) Substituting an entirely new motion as a Substitute Motion**



PARLIAMENTARY PROCEDURES GUIDE

7.

Votes on amendments must be taken before a vote on the original motion.



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8. Before a vote on a main motion is taken, a board member may make a motion to:

a) to postpone indefinitely -- used to kill the motion under consideration without voting against the motion.



PARLIAMENTARY PROCEDURES GUIDE

8. ...

b) a motion to postpone to a certain time -- used when the intent is to make the decision after more information is available or for some other scheduling reason



PARLIAMENTARY PROCEDURES GUIDE

8. ...

c) lay it on the table -- used only when there urgent business to be addressed while a main motion is on the floor and debate is temporarily suspended and resumed during the current meeting or at the next meeting.



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9. The chair should avoid closing a discussion if members wish to speak.

10. A governing board member may seek to close discussion on a motion and have a vote on the pending motion by making a motion ("I move/call the previous question").



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10.

a. a motion to end debate requires a second to the motion;

b. the motion to end debate is not subject to debate;

c. if there is a second to the motion, immediately there is a vote on the motion to close debate;



PARLIAMENTARY PROCEDURES GUIDE

10. ...

d. a two-thirds majority vote is required to pass the motion to close debate;

e. if the motion to end debate passes, the President/Chairperson must put the pending motion to a vote without further debate.



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11. There are four ways that the governing board can revisit a decision previously adopted:

- (1) rescind,**
- (2) renew,**
- (3) reconsider, and**
- (4) amend**



PARLIAMENTARY PROCEDURES GUIDE

Can the President/Chairperson make a motion?

- **Yes. Because of the impartiality required of the presiding officer when conducting a meeting, the President/Chairperson relinquishes the chair to the vice-president/ vice-chairperson should the President/ Chairperson wish to make a motion.**



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Can the President/Chairperson vote?

- **Yes - it is not true that the President/Chairperson can vote only to break a tie.**
- **The President/Chairperson has the same rights and privileges as all other members, including the right to make motions, to speak in debate, and to vote on all questions.**



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Does a quorum continue to exist if members leave during the meeting?

- **Depends. A quorum is required to conduct business. If a quorum no longer exists, a recess must be called and a time set a time for when the meeting is to resume or the meeting must be adjourned.**



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Do votes to abstain count when determining if a motion has passed?

- To abstain means to refrain from voting, so technically there is not a “vote to abstain.”
- An abstention can have a direct impact on the vote and decision before the governing board (i.e., 2-2-1 = motion fails).



PARLIAMENTARY PROCEDURES GUIDE

COMMON PARLIAMENTARY PROCEDURE ERRORS COMMITTED BY SCHOOL BOARDS:

- using motion to “table” when the intent is to “postpone to a certain time”
- using “so moved” when the motion should be specific
- thinking because a member “calls the question” debate must end and a vote must be taken on the pending motion.



PARLIAMENTARY PROCEDURES

... AND TWO PROCEDURE RELATED
STATUTES THAT SOME SCHOOL
BOARDS SEEM TO GIVE A PROBLEM
WITH DURING SCHOOL BOARD
MEETINGS

ARE



PARLIAMENTARY PROCEDURES

CLUE # 1



PARLIAMENTARY PROCEDURES

The following are from actual school board minutes:

- **“motion made by * and seconded by * to declare * surplus property and dispose of it.”**
- **“motion by-, second by -, to surplus the list provided by -, which has determined no longer necessary, useful or suitable for the purpose for which it was acquired. These items have been determined to be of no value or value less than \$500.”**
- **“motion by * seconded by * to surplus the following at a value of less the \$500 each: *** ”**



PARLIAMETARY PROCEDURES

THE ANSWER IS



PARLIAMENTARY PROCEDURES

SDCL 6-13-2. After the governing board of a political subdivision has made a determination of surplus property pursuant to § 6-13-1, the governing board shall appoint three real property owners of the political subdivision to appraise the value of such property.

[SDCL 6-13-3. Any improvements on land shall be appraised separately from the land... and property which is to be sold at public auction need not be appraised pursuant to this chapter.]



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CLUE # 2



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The following are from actual school board minutes.

“Motion by -, second by -, to move in to executive session at 8:01 p.m.”

“Motion by – seconded by – to go into executive session for a personnel issue.”

“Motion by – second by – to convene the board into executive session for Legal 1-25-2.3”

“Motion...to enter into Executive Session based on SDCL 1-23-2, Subsection 4, Contracts, Negotiations, at – p.m.”



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THE ANSWER IS



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SDCL 1-25-1

The official meetings of political subdivisions are open to the public unless a specific law is cited by the political subdivision to close the official meeting to the public



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- **SDCL 1-25-2(1) *[personnel]***
- **SDCL 1-25-2(2) *[student matters]***
- **SDCL 1-25-2(3) *[consult with/review communications from legal counsel]***
- **SDCL 1-25-2(4) *[negotiations]***
- **SDCL 1-25-2(5) *[discuss marketing or pricing strategies]***



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A VIOLATION OF SDCL 1-25-1

IS A CRIMINAL OFFENSE



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PARLIAMENTARY PROCEDURE: ASBSD Bulletin, (May 2014) & Policy Alert (August 24, 2014)

OTHER OPEN MEETINGS SERIES TOPICS:

- Legal or Illegal Meeting
- Open Forum
- Conflict of Interest
- Process of Executive Session
- Reasons for Executive Session
- Fair & Impartial Hearings
- Open Meetings Commission
- Annual or Reorg Meeting



Services of ASBSD

- Open Meeting Series - Legal or Illegal Meeting**
- Open Meeting Series - Open Forum**
- Open Meeting Series - Conflict of Interest**
- Open Meeting Series - Process of Executive Session**
- Open Meeting Series - Reasons for Executive Session**
- Open Meeting Series - Fair & Impartial Hearings**
- Open Meeting Series - Open Meetings Commission**
- Open Meeting Series – Annual or Reorg Meeting**



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THE END !!!!