Handouts: Memo from Attorney Drew Bracken, Summary: Administrative Compensation; Counsel and Data, Board Policy #307-Administrative Employee Compensation Plan, Total Administrative Compensation Assignments FY16-FY19 and Administrative Compensation Executive Summary and Plan-May 2010.

President Saint called the Board Work Session to order at 4:30 p.m.

Board Secretary Lloyd called roll.

Board Members Present: Directors: Ron Colling, David Gleiser, Dr. Mike McTaggart, Miyuki Nelson, Jeremy Saint and Jackie Warnstadt

Board Members Absent: Director Alarcon-Flory

Visitors: Dr. Paul Gausman (Superintendent), Cyndi Lloyd (Board Secretary), Dr. Kim Buryanek (Associate Superintendent), Dr. Rita Vannatta (Director of Human Resources), Jim Vanderloo (Director of Secondary Education), Dr. Brian Burnight (Director of Elementary Education), and District Attorney for Employee Matters, Drew Bracken (Ahlers Law Firm)

President Saint – Purpose for the work session: 1) What to include in the HR Board Report, and 2) What further actions need to be taken regarding the Administrative Employee Compensation Plan.

Attorney Drew Bracken:
- Board’s Responsibilities:
  - To run the best school district possible for the benefit of the children attending.
  - To provide high quality programs and services for students, and to do so within the means available.
  - To be as transparent as reasonably possible.
    - There are times when transparency and best practices conflict with one another.
      - Human Resources is one of those topics.
        - State Code includes laws about open meetings and access to public records.
  - Open records include matters such as:
    - Matters which pertain particularly to students.
    - Matters which pertain particularly to employees.
    - Protection of confidential personnel files.
      - Personnel files include staff evaluations, discipline, and personnel records.
        - Allows managers / supervisors to evaluate critically, discipline aggressively – but fairly, demote, or terminate without exposing an employee to public shame or humiliation.
    - Public information from a personnel point of view.
From the state open records law point of view: positions, contracts of employment, compensation, termination and/or resignation.
  • Public records under state public records law: Hiring, benefits, promotions, demotions, termination and/or resignation.
  • Annual evaluations, periodic discipline, leave of absences, etc.
    • Reason for “leave of absence” is considered confidential
  • State Code states the Board is supposed to approve all contracts; Board President to sign off on each (a 19th Century law).
    • Many Boards struggle to maintain this process.

Board Member Questions, Comments, or Concerns:
  • Core elements of employment: Name, Position, Compensation and perhaps Term of Contract.

Attorney Drew Bracken:
  • Teachers and other organized employees fall under collective bargaining contracts.
  • The Board approves collective bargaining contracts.
  • Individual employee contracts tend to be supervisors and/or managers
  • Individuals with variations within their contracts still include the core elements.
  • Both previous and current State Auditors are advocates of great transparency and recommend more detail.
  • State Auditor’s recommendations are not based on State Code, the Department of Education or any other mandate. They merely recommend practices to local governments (School Boards, City Councils, etc.).
  • Transparency v. how best to run the organization.
    • May include some critical review of an employee, disciplinary action, etc., which State Code says is not public information.
    • State Auditor did not consider the balancing act between transparency and efficiency in management (sometimes critical).

Board Member Questions, Comments, or Concerns:
  • What definitely does not need to be included in the HR Board Report?

Attorney Drew Bracken:
  • The Board authorizes some variance in levels of compensation among its Supervisors and Administrators.
  • Element of performance evaluation that goes into the Administrative Compensation Plan.
    • Similar to the private sector model.
  • If compensation is tied to performance and/or discipline, it becomes confidential.
  • Disseminating historical records for employees each year may or may not reveal an employee’s performance.
    • Gray area / stepping over the line.
    • Transparency v. critical view of employees.
    • Compromises the goal of empowering the Administration to make decisions based on performance and/or discipline that is reflected in compensation.
Board Member Questions, Comments, or Concerns:
- What is the difference between reports that are published in the local paper v. a District produced document?

Attorney Drew Bracken:
- The District is mandated to publish salaries on a yearly basis.
  - If published on a year-to-year basis, it may call attention to an employee.
- If evaluations are not considered "confidential", it inhibits the Manager and/or Supervisor from being critical or taking disciplinary action.
  - State Code and public records laws recognizes this.
- Goal is to empower the Administration to make decisions based on performance.

Board Member Questions, Comments, or Concerns:
- What, beyond the three required items, do Board members want included on the report?
- How many years' salary should be published?

Attorney Drew Bracken:
- Include salaries of which the Board is approving at that time.
- Important to point out promotions in cases where an employee gets a boost in salary.
- Code requires Board approval of all contracts.
- Unnecessary to call out benefits for each individual employee if benefit plans are the same for all employees.
- Important to point out any substantial differences among employees.
- Standardized vacation payouts approved by the Board do not need to be called out individually.
- Important to share with the Board any rare circumstances involving benefits.
- The Board approves all expenditures.

Dr. Gausman stated the District does not have divergent benefit packages. By employee group, they are all the same.

Board Member Questions, Comments, or Concerns:
- If uniform, call out only those items that deviate from the uniform rule.
- If it is important, it should be included in policy.
- Does the Board want to see more data or comparative data in the HR Board Report?
- Is there a way to build in financial oversight while being transparent in a manner that is effective and efficient?
- What is the difference between someone from the public requesting a record v. the Board requesting that same data?
- While the Board’s number one goal is to provide kids with the best services and supports, it is hard to do so when there is a shadow of doubt in the community at the level of transparency.
- Does the Board want to see more data on the report from one year to another?
  - Are you referring to a separate “confidential” report?
    - Once a record is created, is it not a public record?
Attorney Drew Bracken:
- Not necessarily - Board members can review any personnel file of an individual or student at any time, but must remain confidential with that Board member.

Board Member Questions, Comments, or Concerns:
- Board member(s) can access personnel files, but with justification, correct?

Attorney Drew Bracken:
- The Board can request and receive a more comprehensive “confidential” report, but that report must be kept confidential from public disclosure.

Board Member Questions, Comments, or Concerns:
- Policy allows the Superintendent to evaluate Administrators – Yes.
- Uniform benefits for all Administrators – Yes.

Attorney Drew Bracken:
- The Administrative Compensation Plan was approved by the Board and has been in place for many years, but was not elevated to policy. It is his recommendation to put this in policy.

Board Member Questions, Comments, or Concerns:
- Currently publish the required Employee Name, Salary and Position. If Board members want to see a more precise comparative, which could potentially cause harm to our employees, that report is and should remain confidential.

Attorney Drew Bracken:
- That additional report should be looked at confidentially.
- When a Board member digs too deep, are they crossing the line?
  - This information should be shared confidentially with all Board members.

Board Member Questions, Comments, or Concerns:
- In a situation where the Administrative Compensation Plan has gone unchecked by the Board, and we do not know what we do not know.
- Reasons for request of a partial audit:
  - To get a sense of what has been going on.
  - To better understand what is going on with top management.
  - To make certain the amount expended is the amount the Board approved.
- On what basis does the Board have to approve the recommended “number”, based on confidential evaluations?
- What does it mean for the Board to approve a number without the underlying data?
- When approving the plan, how does the Board know they are making an informed decision on something without the underlying data?

Attorney Drew Bracken:
- The Board has 2 controls; 1) Budget process (anticipated salary changes, policy on individual compensation, and approval of contracts), and 2) Personnel records.
- State Auditor does not look at the market; only concerned with increases.
- Some supervisor salaries criticized by the State Auditor were previously way below market.
• Salaries were increased to keep competitive with the market.
• Board’s #1 Goal - high quality instructional services for students. District has to pay market rates in order to attract and retain good people. The missing data point is what does the market say we should compensate individuals for?

Board Member Questions, Comments, or Concerns:
• Concern with the following statements within the Administrative Compensation Plan:
  • As an additional piece of the district merit pool we recommend that a small amount of dollars be available each year for the Superintendent to make additional merit adjustments or one-time lump sum payments. These will be solely at the discretion of the Superintendent and may occur at any time throughout the year.
    • Example of something that needs to be called out if and when it occurs.
  • This has already been discussed along with other items such as FICA and IPERS if using a uniformity benefit plan and approving it as a whole.
    • Example - Termination and a one-time lump sum is paid out.
• A lump sum payout is different than FICA.
• All subject to the overall pool the Board approves. No additional costs than originally approved.
• Dr. Gausman: Example – When someone leaves the organization or takes a leave of absence and someone else has to pick up those additional duties. An employee who goes above and beyond their normal duties. This has been included in what the Board has approved to be expended to spend. The District has never spent more than the Board has authorized him to spend.
• This actually happened to one of the Board members when he was asked to serve as Principal at 2 schools while someone was out due to illness.
• Sometimes what you read in the paper is not what is really happening.
• Can you share some insight regarding the Mason City challenge?

Attorney Drew Bracken:
• They did not do a thorough investigation. They interviewed a few Board members, looked at Board meeting minutes and financial reports, and came to conclusions. Record keeping and information could probably have been better. Situation was not as bad as they claimed. Some individuals were not given a fair opportunity to explain what was going on from their point of view. He does not believe they interviewed the Superintendent as part of the report.

Board Member Questions, Comments, or Concerns:
• IASB suggests that Boards need to ask more questions and do more work.
• Board members may not get what they want. The Mason City Audit was crap. An audit is something that should be done with a great deal of care. A State Audit is not huge.

Attorney Drew Bracken:
• A State Audit is very good and can hone in on a specific item or area.
• The District is audited annually by their own auditor. The Board can commission an audit of a particular focus of concern at any time by their own auditor.
Board Member Questions, Comments, or Concerns:

- Code, Best Practice(s) and Oversight (Responsibilities of the Board).
- The Board: 1) Approves the budget, 2) Approves benefits, and 3) Approves the overall budget and expenditures.
  - Going above this would be an administrative action.
- Best Practice(s) include: 1) Approve a number for salary groups, and once dispersed, stay at or below that amount, 2) When conducting an audit, review processes from a Board’s standpoint and from an Administration standpoint.
- The Board: 1) Approves policy, the budget, and verifies that funds were spent as approved.
  - All that is left is to approve BP307.
- What do Board members want to see in the HR Report? Suggestions should be included in policy.
  - The percentage of increase plus the 3 normal items.
- The Board approves the budget, benefits and policies, all which are public. Could verifications and/or best practices be added as a public record to accompany the HR Report?
  - Request for consideration in policy or an Administrative Regulation (AR) that employees under the plan be given the opportunity to an appeal process if they disagree with the results of their performance review.
  - Request for consideration of a 360° review.
  - One Board member opposes the plan.
  - Include: Name, Position & Salary.
- The Board will have ample time to review the proposed policy and have discussions in two readings of the policy.
- To date, the Board has created a policy and currently conducting a work session. Ideas that come out of the work session will go through 2 readings and Board members will be given the opportunity to make changes at Mr. Bracken’s recommendation.
- The Board has requested that a Programmatic Review be conducted by the Administration. Board members will be given the opportunity to make revisions to policy once the Programmatic Review has been conducted prior to moving forward.

Dr. Gausman:

- Requests the Board allow him the opportunity to give them a clear understanding of what takes place behind the scenes regarding the Administrative Compensation Plan towards the end of the Programmatic Review before making any decisions going forward.
- Should he create a form (for Board members) who wish to review employee / student personnel files?

Attorney Drew Bracken:

- If Board members dig too far into the weeds regarding a student or staff member, Board members become bias to that individual should they ever appear before the Board for whatever reason.

Board Member Questions, Comments, or Concerns:

- Next steps?
- Request for an audit or partial audit is because as an elected official it is the Board’s responsibility to acknowledge the gap in this situation.
  - The Administration did put together a report that shows the amount expended is less than the Board approved.
Request for an audit or partial audit will identify material weaknesses or deficiencies in our processes. Current process does not do that, but an outside audit will. This is not an allegation of wrongdoing but a procedural matter to clean up the mess.

After going through this process, the Board sort of knows where the weaknesses are and are in the process of trying to clean up some things. Is it cost effective to call for an audit?

Spending taxpayer dollars on an audit to see how taxpayers’ dollars are being spent is worth it.

Recommendations:
- Add “best practice(s)” to the current process to verify the amounts approved by the Board were actually dispersed and paid out.
  - Referred to as: Verification of Administrative Pool / Uniformity or Salary Plan.
- The summary included in the May 22, 2019 Informational Update is a good starting point. May want to drill down more from an administrator’s standpoint for verification.
- Include the opportunity for employees to appeal the decision of an administrator.
- Add a 360° review.

How would the Board ever have a basis to judge someone in evaluating his/her performance?
- Meant to be included in policy or future AR; not part of the Board.
- Include in HR Report: Name, Position and Salary for the upcoming year.
- Wait for completion of the Programmatic Review before requesting an audit, if an audit is warranted;
  - Programmatic Review Guiding Questions:
    - Is it working?
    - Does it reward those performing well and does it incent those people who need to improve?
    - Do employees governed by the plan view it as fair and impartial?
    - What safe guards are in place to prevent abuse of the system?
- Can the Board see the exhibits referred to in the Administrative Compensation Plan?
  - Exhibits were previously shared with the Board.
- Can the Board see salary ranges for each group?
- The Plan refers to a bell-shaped curve of distribution after implementation. Can the Board see the distribution?
- The Plan calls for a 360° feedback inclusive of employees and students. Are we there yet?
  - Reviews have been done on administrators, with the exception of new hires.
- Disagreement with the bell curve stating that we are not pushing employees to do their best with this type of process.
  - Overtime, you would see it pushed to a bell curve.

Board members were asked if they wanted to see anything else relative to the Policy, Programmatic Review, or the Administrative Compensation Plan.
- Processes are already in place, the Board needs to justify what is currently in place.
- Budget procedure, approval process, verification process of verifying the approved amount is what was actually spent, only thing left to add is the policy, a verification form or report that will actually facilitate the verification of the expenditure that occurred.
- Proposed changes to Policy #307 - include an appeal process and a verification process.
- Policy #307 is scheduled to be brought forward to the full Board at its next meeting.
  - Do Board members approve the proposed policy as is until after the results of the Programmatic Review?
- Request for clarification regarding signatures.
Attorney Drew Bracken:
- Law states the Board is to approve all contracts made by the District, and the Board President is to sign each contract.
- State Auditor’s recommendation is that the Board President should sign all employee contracts, by hand.
- There is a modern section in the Code that speaks to electronic signatures on contracts.
- No reason why this does not apply to public and private institutions.
- His office recommends to their clients that electronic signatures are also valid on contracts, including personnel contracts.
- It is his hope that IASB will clarify the use of electronic signatures on contracts.

Board Member Questions, Comments, or Concerns:
- What does the State Auditor say about the level of review of language within each contract?

Attorney Drew Bracken:
- The Board President’s signature is really a ministerial function.
- The Board actually has to approve all contracts.
- The Board approves, the President signs.
- What is the Board’s level of approval to contract language?
  - It is an unreasonable demand to expect each Board member to review each contract on a line-by-line basis.
  - To proclaim it year-after-year, makes the evaluator a little more shy to evaluate appropriately, and to recruit and retain educators.

The Board Work Session ended at 5:57 p.m.