

AASB School Law Basics: The ABCs of School Law



Clinton M. Campion / Lon Garrison (AASB)
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We take the law seriously, not ourselves!

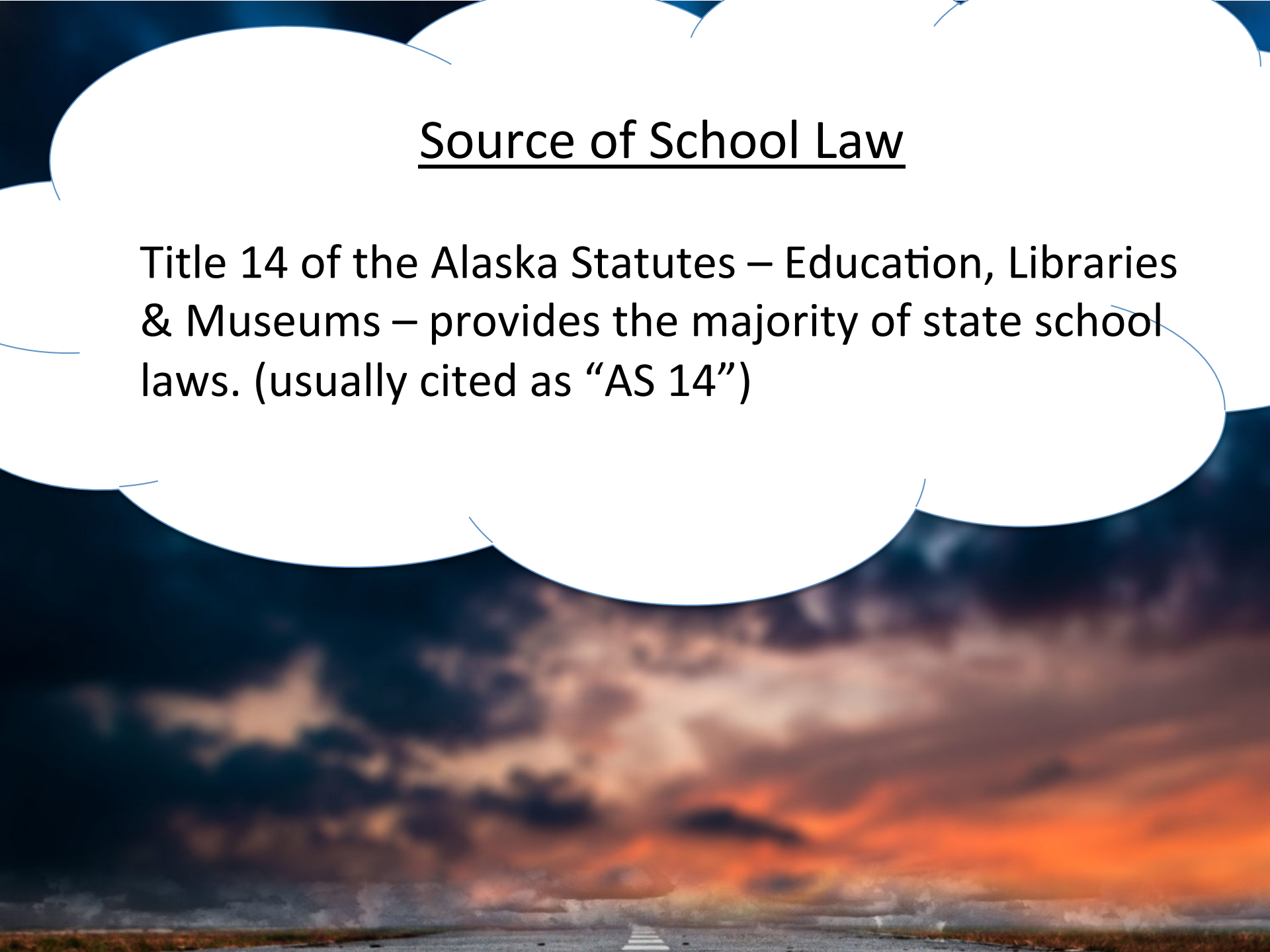


DISCLAIMER:

This presentation is educational only and does not constitute legal advice. If related legal advice is wanted, you would need to contact me through appropriate District procedures with the specifics of the request.

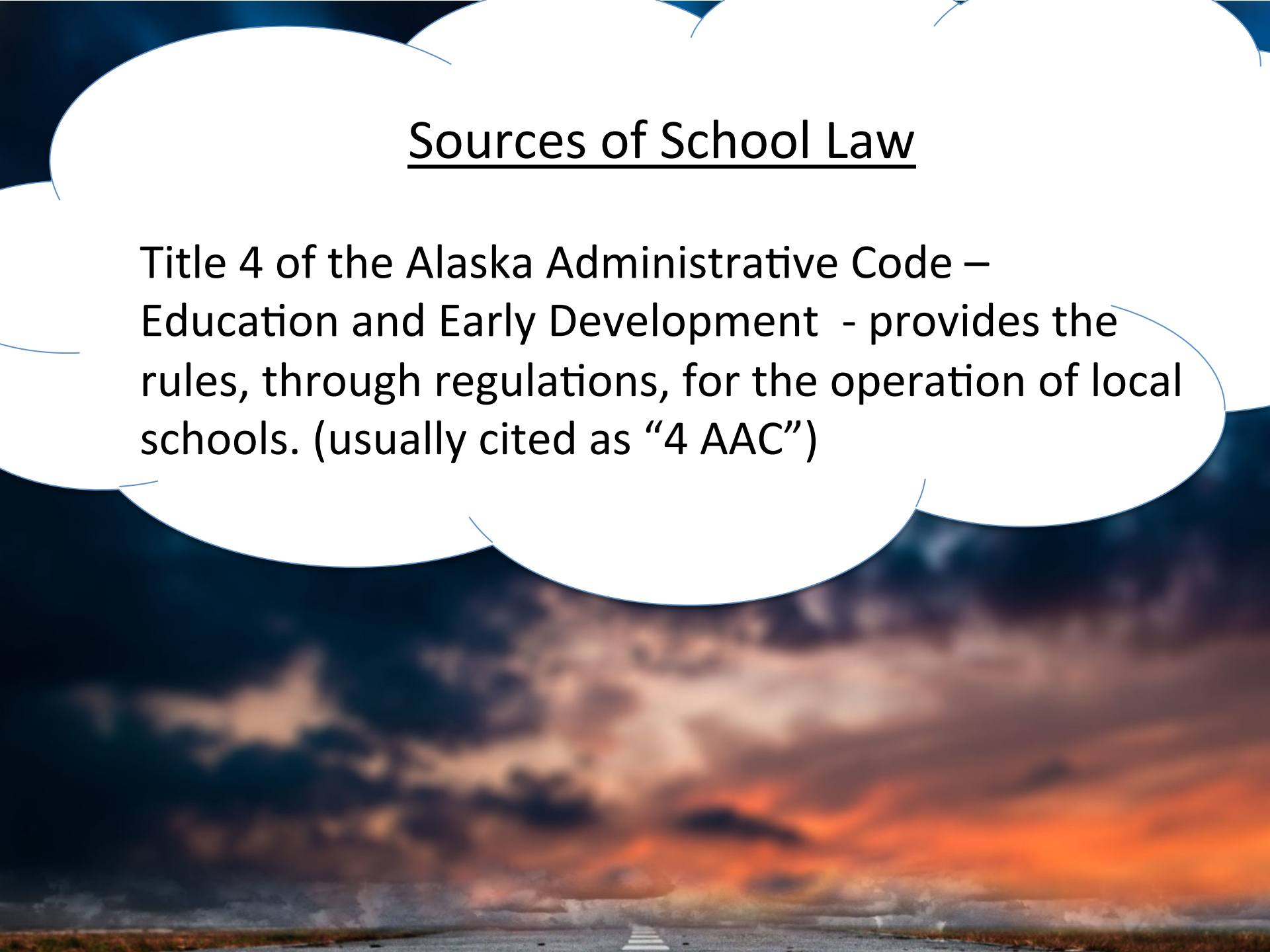
Source of School Law

Title 14 of the Alaska Statutes – Education, Libraries & Museums – provides the majority of state school laws. (usually cited as “AS 14”)



Sources of School Law

Title 4 of the Alaska Administrative Code – Education and Early Development - provides the rules, through regulations, for the operation of local schools. (usually cited as “4 AAC”)



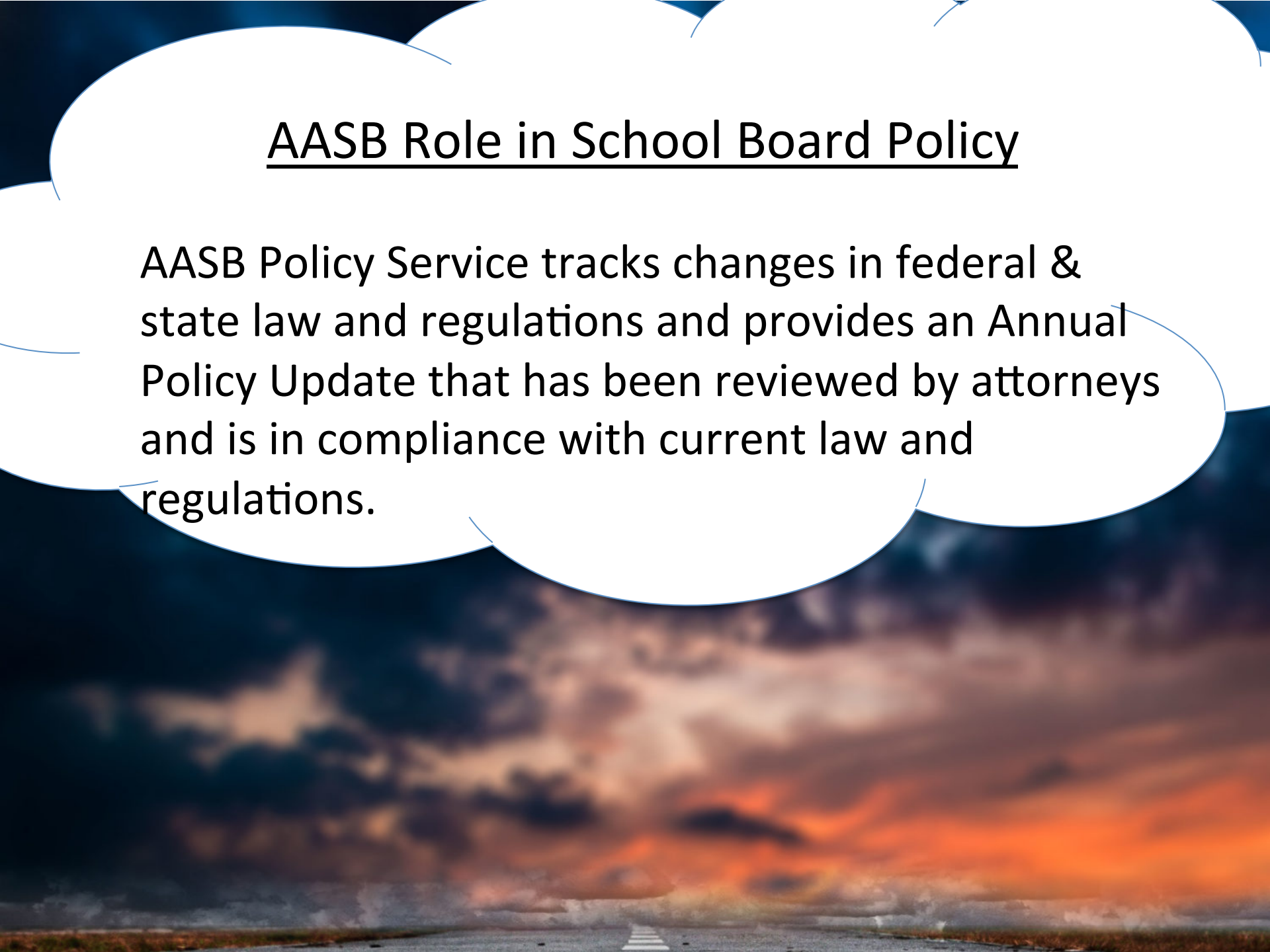
School Policies

School board policies are expressed in written bylaws formally adopted at regular school board meetings. AS § 14.14.100(a)



AASB Role in School Board Policy

AASB Policy Service tracks changes in federal & state law and regulations and provides an Annual Policy Update that has been reviewed by attorneys and is in compliance with current law and regulations.



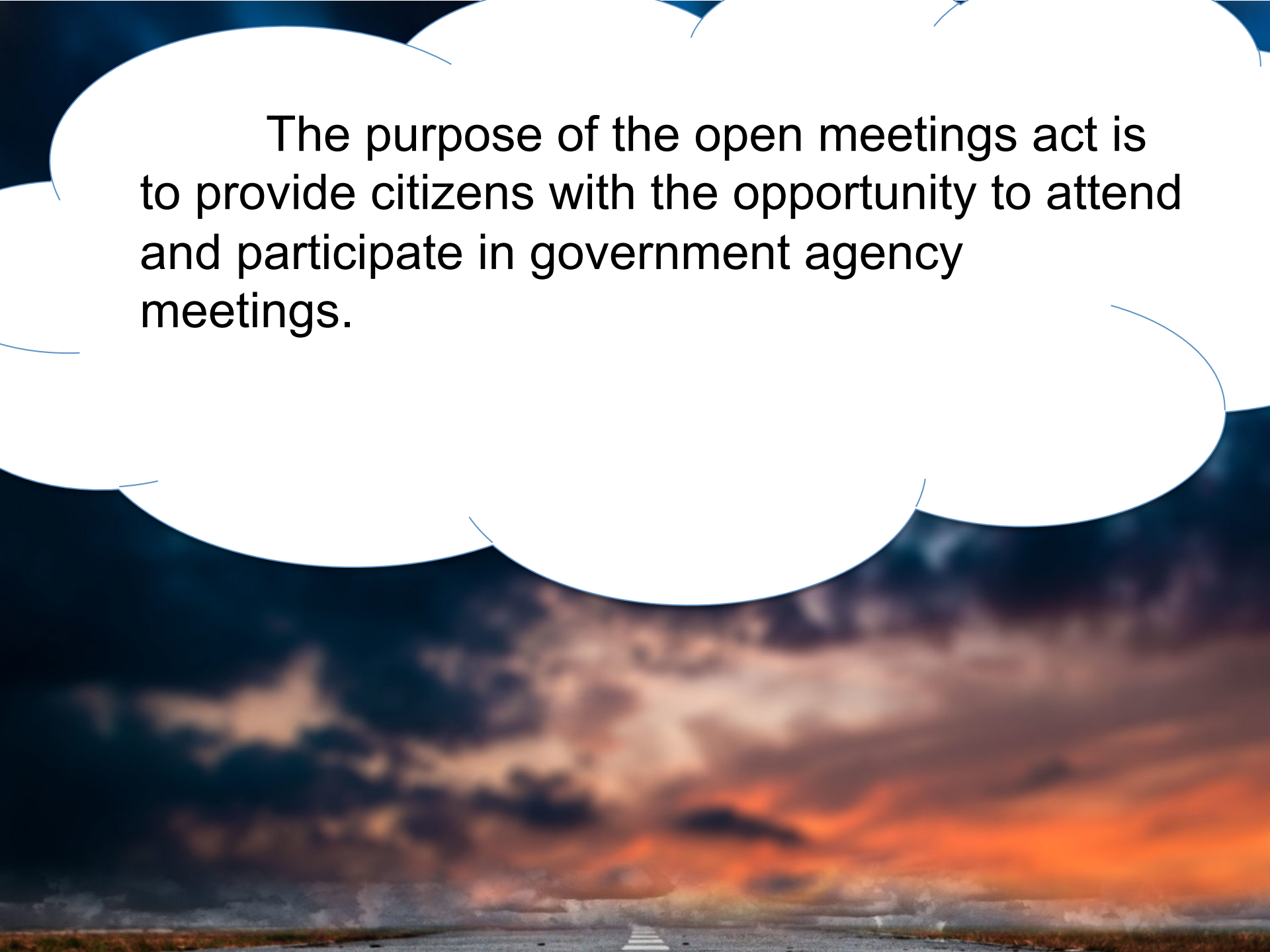
School Board Meetings

School Board meetings must comply with the open meetings act (OMA) which requires:

- Proper notice of the meeting
- Open to the public
- Minutes of the meeting.



The purpose of the open meetings act is to provide citizens with the opportunity to attend and participate in government agency meetings.



AS § 44.62.310

§ 44.62.310. Government meetings public

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken in this subsection.

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law.

(b) If permitted subjects are to be discussed, the meeting must first be convened as a public meeting. An executive session to discuss matters that are listed in § 44.62.310 requires a majority vote of the governmental body. The subjects must be clearly and with specificity described in the motion for the executive session.

without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

AS § 44.62.310

§ 44.62.3

(h) In this section,

(2) “meeting” means a gathering of members of a governmental body when
(A) more than three members or a majority of the members [meet].

(1) “governmental body” means an assembly, council, board, committee, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; “governmental body” includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;

(2) “meeting” means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity, or

There is a regularly-scheduled School Board meeting next week. One of the items on the agenda is a proposed expenditure of \$500,000 to repair the playground equipment at an elementary school.

You are at home trying to figure out how the price of swing sets got to be so high. A neighbor with elementary-aged kids stops by and begins to discuss the need for the playground repairs with you. Shortly thereafter, a parent of high-school-aged children stops by and argues against the playground expenditure in these difficult fiscal times.

Before you know it, five or six of your neighbors have joined in this friendly afternoon debate. Then a fellow Board Member arrives unexpectedly and joins in the discussion. During the debate, you decide to vote for the expenditure. **Have you violated the Open Meetings Act?**



§ 44.62.310. Government meetings public, AK ST § 44.62.310

(h) In this section,

(1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;

(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the members have authority to establish policies or make decisions for a public entity; or

(B) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body has only authority to advise or make recommendations is considered by the members collectively, and the members have authority to establish policies or make decisions for the public entity;

(3) "public entity" means an entity of the state or of a political subdivision of the state, including the University of Alaska, a public authority or governmental unit of the state or a political subdivision of the state, or a branch of state government.

Credits

SLA 1959, art VI, ch. 1, ch. 143, § 1; SLA 1966, ch. 48, § 1; SLA 1968, ch. 100, § 2; SLA 1972, ch. 100, § 2; SLA 1976, ch. 189, § 1; SLA 1985, ch. 74, § 7; SLA 1994, ch. 69, §§ 2-8; SLA 2000, ch. 54, § 7. Amended by SLA

Notes of Decisions (86)

AS § 44.62.310, AK ST § 44.62.310
Current with Chapters 2-17, 19-24, 27, 33, 42-43, 52-53 and 55 from the 2016-2017

End of Document

"meeting" means a gathering of members of a governmental body when:

More than three members, or a majority of the members [meet]



The OMA applies to:

Regular Meetings

Executive Sessions

Special Meetings

Work Session Meetings

AS § 44.62.310

§ 44.62.310. Government meetings public

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to posting notice of a meeting on the Alaska Online Public Notice System as required by [AS 44.62.175\(a\)](#), the notice may be given using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal

Reasonable Public Notice?

AASB's model Board Bylaws recommend:

- An annual calendar listing the time, date and place for each meeting.
- Notice of regular meetings and a tentative agenda posted at least five days before meeting.
- 24 hour notice for special meetings.
- Contact local media for emergency meetings.

Title 44. State Government

Chapter 62. Administrative Procedure Act

Section 310. Government Meetings Public.

previous: Section 305. Judicial Relief in Administrative Matters.
next: Section 312. State Policy Regarding Meetings.

AS 44.62.310. Government Meetings Public.

- (a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.
- (b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Motion may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.
- (c) The following subjects may be considered in an executive session:
- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
 - (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
 - (3) matters which by law, municipal charter, or ordinance are required to be confidential;
 - (4) matters involving consideration of government records that by law are not subject to public disclosure.
- This section does not apply to

Executive Sessions

A majority of the board must vote to go into executive session.

Subjects for executive session:

- (1) Have an adverse impact on the finances of the school district.
- (2) Prejudice to the reputation and character of a person.
- (3) Matters confidential by law.
- (4) Government records not subject to public disclosure.

Executive Sessions

A school board may not take action during an executive session except to give direction to an attorney or labor negotiator.

AASB Meetings

Can I attend an AASB meeting
with three or more of my fellow
school board members?

AS § 44.62.310

§ 44.62.310. Government meetings public

The following subjects may be considered in an executive session:
(1) matters, the immediate knowledge of which would be detrimental to the interests of the public entity;
(2) matters involving the finances of the public entity;
(3) subjects that tend to prejudice the reputation and character of a person who may request a public discussion;
(4) matters which by law, municipal charter, or ordinance are confidential;
(5) matters involving consideration of government records for public disclosure.

This section does not apply to
(1) a governmental body performing a judicial or quasi-judicial function;
(2) a meeting solely to make a decision in an adjudicatory proceeding;
(3) juries;
(4) parole or pardon boards;

- (5) meetings of a hospital medical staff;
- (6) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges, or discipline;
- (7) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents;

(8) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings; or
(9) meetings of municipal service area boards established under AS 29.35.450--solely to act on matters that are administrative or managerial in nature.

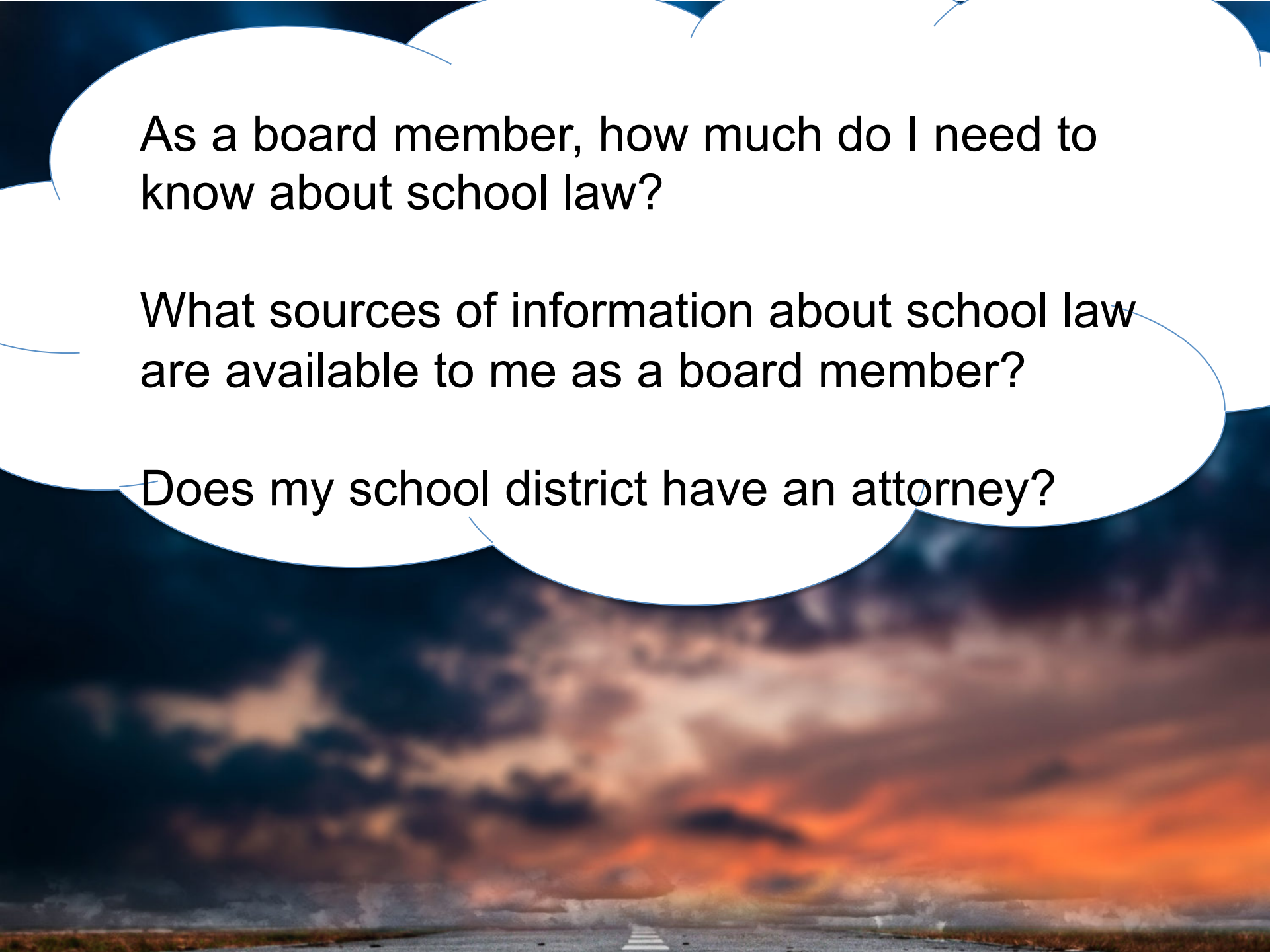
(7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings;



As a board member, how much do I need to know about school law?

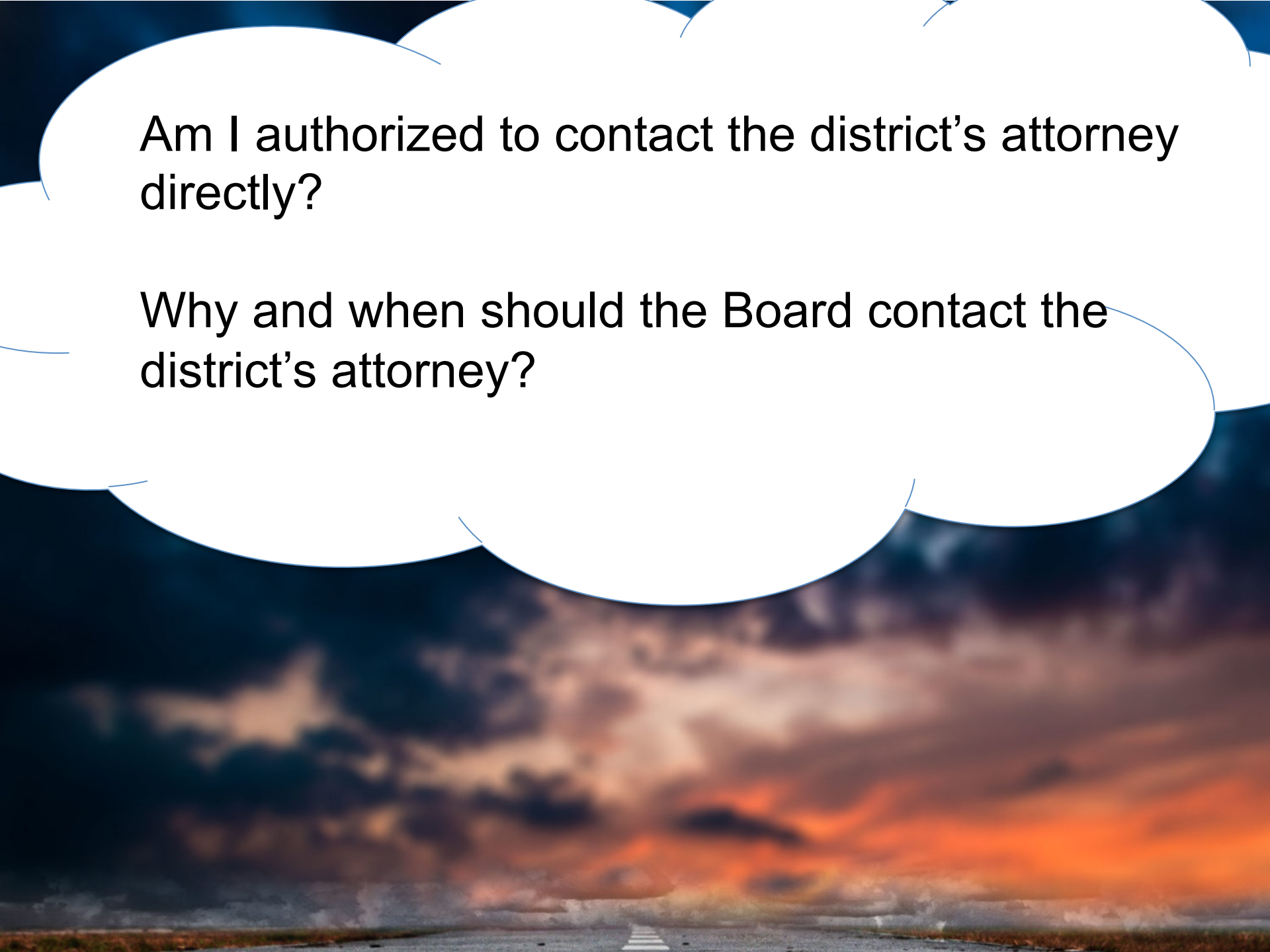
What sources of information about school law are available to me as a board member?

Does my school district have an attorney?



Am I authorized to contact the district's attorney directly?

Why and when should the Board contact the district's attorney?



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Clinton M. Campion

SEDOR WENDLANDT EVANS FILIPPI

