

## Bylaw 9100: Organization

Status: ADOPTED

Original Adopted Date: ~~08/25/2009~~09/01/1992 | Last Revised Date: ~~12/14/2021~~09/01/2022 | Last Reviewed Date: ~~12/14/2021~~09/01/2022

~~The District's Governing Board shall hold an annual organizational meeting within the time limits prescribed by law. (Education Code 35143)~~

~~At the annual organizational meeting the Board shall:~~

~~-~~

~~1.~~

~~Each year, the Governing Board shall hold an annual organizational meeting. In any year in which a regular election of district Board members is conducted, the organizational meeting shall be held within 15 days following the second Friday in December after the regular election. During all other years, the meeting may be held on any date in December, but no later than December 20th. (Education Code 35143)~~

~~During any year in which a regular election is conducted, the Board, at the regular meeting held immediately prior to the second Friday in December, shall select the day and time of the organizational meeting. For any other year, the day and time of the organizational meeting shall be selected at the last regular meeting held immediately before the annual meeting. On behalf of the Board, the Superintendent shall notify the County Superintendent of Schools of the day and time selected. Within 15 days prior to the date of the annual meeting, the Superintendent shall notify in writing all Board members and members-elect of the date and time selected for the meeting. (Education Code 35143)~~

~~At this meeting the Board shall:~~

~~1. Elect a president and a clerk and/or vice president from its members~~

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~~2. Appoint the Superintendent as secretary to the Board;~~

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~~(cf. 9122 – Secretary)~~

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~~3. 2- Authorize signatures;~~

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~~4. 3- Approve a Board calendar and schedule of regular meetings for the year; and a Board governance calendar stating the time when the Board will address important governance matters~~

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5. 4- Designate Board representatives to serve on committees or commissions of the district, other public agencies, or organizations with which the district partners or collaborates.

6.

(cf. 9140--Review and/or consider resources that define and clarify the Board's governance and leadership roles and responsibilities including, but not limited to, governance standards, meeting protocols, Board rules and bylaws, and other Board development materials

### Election of Officers

**OPTION 1:** The Board shall each year elect one of its members to be (clerk)/(vice president). This member shall be one who previously has not served in office, unless all the Board's members have previously served in office. After serving one year as (clerk)/(vice president), the elected member shall serve one year as president of the Board.

**OPTION 1 ENDS HERE**

**OPTION 2:** The Board shall each year elect its entire slate of officers.

**OPTION 2 ENDS HERE**

No Board member shall serve more than  consecutive year(s) in the same office.

The election of Board officers shall be conducted during an open session of the annual organizational meeting.

Board Representatives)

Election of Officers

Each year, the Board shall elect a full slate of officers.

The District's Governing Board believes that Board members should annually rotate through the Board's offices.

(cf. 9121—President, Vice President) (cf. 9123—Clerk)

The Board believes that the rotation of Board officers benefits the professional development of Board members by providing an opportunity for them to develop a broad range of skills. The Board further believes that the rotation of Board officers maximizes the Board's ability to provide equal consideration to all viewpoints on the Board over time.

Accordingly, in open session at its annual organizational meeting the Board shall elect one of its members to serve one year as Clerk. This member shall be one who previously has not held Board office, unless all Board members have previously held Board office or all members who have not previously held Board office decline their nominations.

A member who serves as Clerk shall serve the following year as Vice President. A member who serves as Vice President shall serve the following year as President.

In the event that the Vice President does not serve as President following the expiration of his/her term as Vice President, because s/he either declines the position or will no longer be a member of the Board, the Clerk shall serve one year as President and the Board shall elect a member to serve one year as Vice President.

~~In the event that the Clerk does not accede to a higher office following the expiration of his/her term as Clerk because s/he either declines the nomination or will no longer be a member of the Board, the Board shall elect a member to serve in the vacant office for one year.~~

~~If neither the Clerk nor Vice President can accede to the next office, the Board shall elect a full slate of officers. The most recent Board President shall not be eligible for election as Clerk, Vice President, or President.~~

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**Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

**State**

Ed. Code 35143

**Description**

Annual organizational meetings; date and notice

Ed. Code 35145

Public meetings

Ed. Code 5017

Term of office

Gov. Code 54953

Meetings to be open and public; attendance

**Management Resources**

Attorney General Opinion

**Description**

59 Ops.Cal.Atty.Gen. 619 (1976)

Attorney General Opinion

68 Ops.Cal.Atty.Gen. 65 (1985)

Website

[CSBA District and County Office of Education Legal Services](#)

**Cross References****Code**

9000

**Description**

~~Role Of The Board~~[Role Of The Board](#)

9005

~~Governance Standards~~[Governance Standards](#)

9121

~~President~~[President](#)

9123

~~Clerk~~[Clerk](#)

9140

~~Board Representatives~~[Board Representatives](#)

9223

~~Filling Vacancies~~[Filling Vacancies](#)

9224

~~Oath Or Affirmation~~[Oath Or Affirmation](#)

9230

~~Orientation~~[Orientation](#)

9240

~~Board Training~~[Board Training](#)

9320

~~Meetings And Notices~~[Meetings And Notices](#)

9323

~~Meeting Conduct~~[Meeting Conduct](#)

Bylaw 9100: Organization

Status: ADOPTED

Original Adopted Date: 08/25/2009 | Last Revised Date: | Last Reviewed Date:

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During any year in which a regular election is conducted, the Board, at the regular meeting held immediately prior to the second Friday in December, shall select the day and time of the organizational meeting. For any other year, the day and time of the organizational meeting shall be selected at the last regular meeting held immediately before the annual meeting. On behalf of the Board, the Superintendent shall notify the County Superintendent of Schools of the day and time selected. Within 15 days prior to the date of the annual meeting, the Superintendent shall notify in writing all Board members and members-elect of the date and time selected for the meeting. (Education Code 35143)

At this meeting the Board shall:

1. Elect a president and a clerk and/or vice president from its members
2. Appoint the Superintendent as secretary to the Board
3. Authorize signatures
4. Approve a schedule of regular meetings for the year and a Board governance calendar stating the time when the Board will address important governance matters
5. Designate Board representatives to serve on committees or commissions of the district, other public agencies, or organizations with which the district partners or collaborates
6. Review and/or consider resources that define and clarify the Board's governance and leadership roles and responsibilities including, but not limited to, governance standards, meeting protocols, Board rules and bylaws, and other Board development materials

#### Election of Officers

Each year, the Board shall elect a full slate of officers.

The District's Governing Board believes that Board members should annually rotate through the Board's offices.

The Board believes that the rotation of Board officers benefits the professional development of Board members by providing an opportunity for them to develop a broad range of skills. The Board further 4

believes that the rotation of Board officers maximizes the Board's ability to provide equal consideration to all viewpoints on the Board over time.

Accordingly, in open session at its annual organizational meeting the Board shall elect one of its members to serve one year as Clerk. This member shall be one who previously has not held Board office, unless all Board members have previously held Board office or all members who have not previously held Board office decline their nominations.

A member who serves as Clerk shall serve the following year as Vice President. A member who serves as Vice President shall serve the following year as President.

In the event that the Vice President does not serve as President following the expiration of his/her term as Vice President, because s/he either declines the position or will no longer be a member of the Board, the Clerk shall serve one year as President and the Board shall elect a member to serve one year as Vice President.

In the event that the Clerk does not accede to a higher office following the expiration of his/her term as Clerk because s/he either declines the nomination or will no longer be a member of the Board, the Board shall elect a member to serve in the vacant office for one year.

If neither the Clerk nor Vice President can accede to the next office, the Board shall elect a full slate of officers. The most recent Board President shall not be eligible for election as Clerk, Vice President, or President.

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State	Description
Ed. Code 35143	Annual organizational meetings; date and notice
Ed. Code 35145	Public meetings
Ed. Code 5017	Term of office
Gov. Code 54953	Meetings to be open and public; attendance
Management Resources	Description
Attorney General Opinion	59 Ops.Cal.Atty.Gen. 619 (1976)
Attorney General Opinion	68 Ops.Cal.Atty.Gen. 65 (1985)
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>

#### Cross References

Code	Description
9000	Role Of The Board
9005	Governance Standards
9121	President
9123	Clerk
9140	Board Representatives

9223	Filling Vacancies
9224	Oath Or Affirmation
9230	Orientation
9240	Board Training
9320	Meetings And Notices
9323	Meeting Conduct

**Bylaw 9150: Student Board Members****Status:**  
**ADOPTED****Original Adopted Date:** 08/25/2009 | **Last Revised Date:** 05/14/2019 | **Last Reviewed Date:** 05/14/2019**STUDENT BOARD MEMBERS**

In order to enhance communication and collaboration between the Governing Board and the student body and to teach students the importance of civic involvement, the Board supports the participation of high school students in district governance.

Student Board members may, at the Board's discretion, receive elective course credit for service as a student Board member based on the number of equivalent daily instructional minutes for the student Board member's services provided. (Education Code 35012, 35120)

Student Board member(s) shall be entitled to be reimbursed for mileage to the same extent as other members of the Board, but shall not receive monetary compensation for attendance at Board meetings. (Education Code 35012)

*(cf. 3350 - Travel Expenses)*

*(cf. 9250 - Remuneration, Reimbursement and Other Benefits)*

A student Board member shall not be liable for any acts of the Board. (Education Code 35012)

*(cf. 9323.2 - Actions by the Board)*

**Petition**

High school students may submit a petition to the Board requesting the appointment of at least one student Board member. (Education Code 35012)

To qualify for Board consideration, the petition for student representation shall contain the signatures of ~~no less than~~ at least 500 ~~regularly-enrolled high school~~ students or ~~no less than~~ 10 percent of the number of ~~regularly-enrolled high school~~ students regularly enrolled in district high schools, whichever is less. (Education Code 35012)

Within 60 days of receiving a student petition, or at the next regularly scheduled Board meeting if no meeting is held within those 60 days, the Board shall order the inclusion of at least one student member on the Board. (Education Code 35012)

**Election of****Choosing Student Board ~~Member~~ Members****Student**

A student Board member ~~positions~~ shall be filled ~~chosen~~ by ~~a vote of~~ students enrolled in the district's high ~~school(s)~~ schools in accordance with procedures prescribed by the Board. (Education Code 35012)

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 5121 - Grades/Evaluation of Student Achievement)  
(cf. 6145 - Extracurricular and Cocurricular Activities)

The term of student Board member(s) shall be one year, commencing on July 1. However, the Board may adjust the term of a student Board member only if a vacancy occurs or in order to give more students an opportunity to serve on the Board. (Education Code 35012)

BB 9150(b)

## **STUDENT BOARD MEMBERS (continued)**

### Role and Responsibilities of Student Board Members

Student Board members shall not be considered members of a legislative body for purposes of the Brown Act. (Education Code 35012)

A student Board member shall not be counted in determining the vote required to carry any measure before the Board or whether a quorum is in attendance at a Board meeting.

Student Board member(s) shall have the right to attend all Board meetings except closed ~~(executive)~~ sessions. (Education Code 35012)

(cf. 9321 - Closed Session)

All materials presented to Board members, except those related to closed sessions, shall be presented to student Board members at the same time they are presented to ~~voting~~other Board members. Student Board member(s) shall also be invited to attend staff briefings or be provided with a separate staff briefing within the same timeframe as the briefing of other Board members. ~~(Education Code 35012)~~In addition, all materials given to Board members by the district between meetings, except for materials that pertain to closed session items, shall be distributed to student Board members. (Education Code 35012)

(cf. 9322 - Agenda/Meeting Materials)

Student Board member(s) shall be recognized at Board meetings as full member(s), shall be seated with other members of the Board, and shall be allowed to participate in questioning witnesses and discussing issues. (Education Code 35012)

Student Board member(s) shall be allowed to cast preferential votes on all matters except those subject to closed session discussion. Preferential voting means a formal expression of opinion that is recorded in the minutes and cast before the official vote of the Board. Preferential votes shall not affect the final numerical outcome of a vote. (Education Code 35012)

(cf. 9324 - Minutes and Recordings)

Student Board member(s) may make motions that may be acted upon by the Board, except on matters dealing with employer-employee relations pursuant to Government Code 3540-3549.3. (Education Code 35012)



~~A student Board member shall not be liable for any acts of the Board. (Education Code 35012)~~  
Student Board ~~member(s)~~members shall be ~~entitled~~appointed to ~~be reimbursed for mileage to subcommittees of the Board in the same extent~~manner as other Board members, ~~and shall be made aware of the Board but shall not receive compensation for attendance at Board time commitment required to participate in subcommittee meetings, and work and of the right to decline~~  
an appointment.

BB 9150(c)

### STUDENT BOARD MEMBERS (continued)

The availability of all subcommittee members, including the availability of student Board members, may be considered when scheduling subcommittee meetings. (Education Code 35012)

(cf. 9130 - Board Committees)

Student Board members shall be invited to attend functions of the Board, such as forums, meetings with students and parents/guardians, and other general assemblies. (Education Code 35012)

### Student Board Member Development Training

The Superintendent or designee may, at district expense, provide learning opportunities to student Board members through trainings, workshops, and conferences, such as those offered by the California School Boards Association and other organizations, to enhance their knowledge, understanding, and performance of leadership skills and their Board responsibilities.

(cf. 9240 - Board Training)

The Superintendent or designee may periodically provide ~~an orientation for information to~~ student Board member candidates to give them an understanding of the position. Once chosen or appointed, incoming student Board members shall be provided an orientation designed to build knowledge of the district and an understanding of the responsibilities and expectations of the position.

(cf. 9230 - Orientation)

### Alternate Student Board Member

If the Board determines that the student Board member's duties are not being fulfilled, the Board may appoint another student to serve out the term of the student Board member. If an alternate student Board member is appointed, the Board shall suspend the prior student Board member's rights and privileges related to service on the Board. (Education Code 35012)

Elimination of Student Board Member Position

Once established, the student Board member position shall continue to exist until the Board, by majority vote of all voting Board members, approves a motion to eliminate the position. Such a motion shall be listed as a public agenda item for a Board meeting prior to the motion being voted upon. (Education Code 35012)

### Policy

Legal Reference-Disclaimer: (see next page)

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### State

~~Ed. Code 33000.5~~

~~Ed. Code 35012~~

~~Ed. Code 35120~~

~~Ed. Code 35160~~

~~Gov. Code 3540-3549.3~~

~~Gov. Code 54950-54963~~

### Management Resources

~~Website~~

~~Website~~

~~Website~~

### Description

~~Appointment of student member to State Board of Education~~

~~Board members; number, election and terms~~

~~Course credit for student board members~~

~~Authority of governing boards~~

~~Educational Employment Relations Act~~

~~The Ralph M. Brown Act~~

### Description

~~California Association of Student Councils~~

~~California Association of Student Leaders~~

~~CSBA~~

### Cross-References

### Code

~~0410~~

~~3350~~

~~5121~~

~~5121~~

~~6142.3~~

~~6145~~

~~6145~~

~~9130~~

~~9230~~

~~9240~~

~~9250~~

~~9321~~

~~9322~~

~~9323.2~~

~~9323.2-E(1)~~

~~9324~~

### Description

~~Nondiscrimination In District Programs And Activities~~

~~Travel Expenses~~

~~Grades/Evaluation Of Student Achievement~~

~~Grades/Evaluation Of Student Achievement~~

~~Civic Education~~

~~Extracurricular And Cocurricular Activities~~

~~Extracurricular And Cocurricular Activities~~

~~Board Committees~~

~~Orientation~~

~~Board Training~~

~~Remuneration, Reimbursement And Other Benefits~~

~~Closed Session~~

~~Agenda/Meeting Materials~~

~~Actions By The Board~~

~~Actions By The Board~~

~~Minutes And Recordings~~

BB 9150(d)

### STUDENT BOARD MEMBERS (continued)

Legal Reference:

EDUCATION CODE

33000.5 Appointment of student member to State Board of Education

35012 Board members; number, election and terms; student members

35120 Course credit for student board members

35160 Authority of governing boards

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

54950-54964 Ralph M. Brown Act

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Association of Student Councils: <http://www.casc.net>

California Association of Student Leaders: <http://www.caslboard.com>

Bylaw  
adopted:

CSBA POLICY MANUAL UPDATE  
December 2021

**Bylaw 9150: Student Board Members**

**Status: ADOPTED**

Original Adopted Date: 08/25/2009 | Last Revised Date: | Last Reviewed Date

## **STUDENT BOARD MEMBERS**

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Student Board members may, at the Board's discretion, receive elective course credit for service as a student Board member based on the number of equivalent daily instructional minutes for the student Board member's services provided. (Education Code 35012, 35120)

Student Board member(s) shall be entitled to be reimbursed for mileage to the same extent as other members of the Board, but shall not receive monetary compensation for attendance at Board meetings. (Education Code 35012)

A student Board member shall not be liable for any acts of the Board. (Education Code 35012)

### **Petition**

High school students may submit a petition to the Board requesting the appointment of at least one student Board member. (Education Code 35012)

To qualify for Board consideration, the petition for student representation shall contain the signatures of at least 500 students or 10 percent of the number of students regularly enrolled in district high schools, whichever is less. (Education Code 35012)

Within 60 days of receiving a student petition, or at the next regularly scheduled Board meeting if no meeting is held within those 60 days, the Board shall order the inclusion of at least one student member on the Board. (Education Code 35012)

### **Choosing Student Board Members**

A student Board member shall be chosen by students enrolled in the district's high schools in accordance with procedures prescribed by the Board. (Education Code 35012)

The term of student Board member(s) shall be one year, commencing on July 1. However, the Board may adjust the term of a student Board member only if a vacancy occurs or in order to give more students an opportunity to serve on the Board. (Education Code 35012)

### **Role and Responsibilities of Student Board Members**

Student Board members shall not be considered members of a legislative body for purposes of the Brown Act. (Education Code 35012)

A student Board member shall not be counted in determining the vote required to carry any measure before the Board or whether a quorum is in attendance at a Board meeting.

Student Board member(s) shall have the right to attend all Board meetings except closed sessions. (Education Code 35012)

All materials presented to Board members, except those related to closed sessions, shall be presented to student Board members at the same time they are presented to other Board members. Student Board member(s) shall also be invited to attend staff briefings or be provided with a separate staff briefing within the same timeframe as the briefing of other Board members. In addition, all materials given to Board members by the district between meetings, except for materials that pertain to closed session items, shall be distributed to student Board members. (Education Code 35012)

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Student Board members shall be appointed to subcommittees of the Board in the same manner as other Board members, and shall be made aware of the time commitment required to participate in subcommittee meetings and work and of the right to decline an appointment.

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The Superintendent or designee may periodically provide information to student Board member candidates to give them an understanding of the position. Once chosen or appointed, incoming student Board members shall be provided an orientation designed to build knowledge of the district and an understanding of the responsibilities and expectations of the position.

### **Alternate Student Board Member**

If the Board determines that the student Board member's duties are not being fulfilled, the Board may appoint another student to serve out the term of the student Board member. If an alternate student Board member is appointed, the Board shall suspend the prior student Board member's rights and privileges related to service on the Board. (Education Code 35012)

### **Elimination of Student Board Member Position**

Once established, the student Board member position shall continue to exist until the Board, by majority vote of all voting Board members, approves a motion to eliminate the position. Such a motion shall be listed as a public agenda item for a Board meeting prior to the motion being voted upon. (Education Code 35012)

*Legal Reference:*

EDUCATION CODE

33000.5 *Appointment of student member to State Board of Education*

35012 *Board members; number, election and terms; student members*

35120 *Course credit for student board members*

35160 *Authority of governing boards*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

54950-54964 *Ralph M. Brown Act*

*Management Resources:*

WEB SITES

CSBA: <http://www.csba.org>

California Association of Student Councils: <http://www.casc.net>

California Association of Student Leaders: <http://www.caslboard.com>

## Bylaw 9223: Filling Vacancies

**Status:** ADOPTED

Original Adopted Date: ~~06/26/2012~~09/01/1989 | Last Revised Date: 12/01/2022 | Last  
Reviewed Date: ~~06/26/2012~~12/01/2022

### Events Causing a Vacancy

A vacancy on the Governing Board ~~of Education~~ may ~~occur for~~arise from any of the following events:

1. The death of an incumbent (Government Code 1770)
2. The adjudication pursuant to a quo warranto proceeding declaring that an incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of ~~his/her~~the office for the remainder of ~~his/her~~the term (Government Code 1770)
3. A Board member's resignation (Government Code 1770)

A vacancy resulting from resignation occurs when the written resignation is filed with the County Superintendent of Schools having jurisdiction over the district, except where a deferred effective date is specified in the resignation so filed, in which case the resignation shall become operative on that date. A Board member may not defer ~~the an~~ effective date of ~~his/her~~ resignation for more than 60 days after ~~he/she files~~the date the resignation is filed with the County Superintendent. Upon being filed with the County Superintendent, a written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable. (Education Code 5090, 5091)

4. A Board member's removal from office, ~~including~~ by recall (Elections Code ~~113841~~1000; Government Code 1770)
5. A Board member's ceasing to be a resident of the district (Government Code 1770)

~~A vacancy on the Board also occurs when a~~

- ~~5.6.~~A Board member ceases to inhabit the trustee area ~~which he/she represents~~represented on the Board ~~—~~ (58 Ops.Cal.Atty.Gen. 888 (1975))

- ~~6.7.~~A Board member's absence from the state for more than 60 days, except in the following situations: (Government Code 1064, 1770)

- a. Upon district business with the approval of the Board

- b. With the consent of the Board for an additional period not to exceed a total absence of 90 days

~~b.c.~~ In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limited for absence from the state may be extended by the Board.

~~c.~~ For federal military deployment, not to exceed an absence of a total of six months, as a member of the armed forces of the United States or the California National Guard

d.

If the absence of the Board member for this purpose exceeds six months, the Board may approve an additional six-month absence upon a showing that there is a reasonable expectation that the member will return within the second six-month period, and the Board may appoint an interim member to serve ~~in his/her~~during the absence. If two or more members of the Board are absent by reason of these circumstances, and those absences result in the inability to establish a quorum at a regular meeting, the Board may immediately appoint one or more interim members as necessary to enable the Board to conduct business and discharge its responsibilities. The term of an interim member appointed in these circumstances shall not extend beyond the return of the absent Board member or beyond the next regularly scheduled election for that office, whichever occurs first.

~~7.8.~~ A Board member's ceasing to discharge the duties of ~~his/her~~the office for the period of three consecutive months, except when prevented by illness or when absent from the state with the permission required by law (Government Code 1770)

~~8.9.~~ A Board member's conviction of a felony or any offense involving a violation of ~~his/her~~ official duties or conviction of a designated crime resulting in a forfeiture of office (Government Code 1770, 3000-3003)

~~9.10.~~ A Board member's refusal or neglect to file ~~his/her~~the required oath ~~or bond~~ within the time prescribed (Government Code 1770)

~~10.~~ The decision of a competent tribunal declaring void a Board member's election or appointment (~~Government Code 1770~~)

~~11. The making of an order vacating a Board member's office or declaring the office vacant when the Board member fails to furnish an additional or supplemental bond (Government Code 1770) (Government Code 1770)~~

12. A Board member's commitment to a hospital or sanitarium as a drug addict, dipsomaniac, inebriate, or stimulant addict by a court of competent jurisdiction, in which case the office shall not be deemed vacant until the order of commitment has become final (Government Code 1770)

13. A "failure to elect" in which no candidate or an insufficient number of candidates have filed to run for a Board seat(s) (Education Code 5090, 5326, 5328)

## Timelines for Filling a Vacancy



When a vacancy occurs, the Board shall take the following action, as appropriate:

1. When a vacancy occurs within four months of the end of a Board member's term, the Board shall take no action. (Education Code 5093)  
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- ~~2. When a vacancy occurs longer than four months before the end of a Board member's term, the Board shall, within 60 days of the date of the vacancy or the filing of the member's deferred resignation, either order an election or make a provisional appointment, unless a special election is mandated as described in item #3 below. (Education Code 5091, 5093)~~  
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- ~~3.~~ 2. When a vacancy occurs from six months to 130 days before a regularly scheduled Board election at which the position is not scheduled to be filled, a special election to fill the position shall be consolidated with the regular election. The person so elected shall take office at the first regularly scheduled Board meeting following the certification of the election and shall serve only until the end of the term of the position which ~~he/she~~ the person was elected to fill. (Education Code 5093)
- ~~3.~~ When a vacancy occurs outside of the statutory time windows identified in Items #1 and #2 above, the Board shall, within 60 days of the date of the vacancy or the filing of the member's deferred resignation, either order an election or make a provisional appointment. (Education Code 5091, 5093)

## Eligibility

In order to be appointed or elected to fill a vacancy on the Board, a person must meet the eligibility requirements specified in Education Code 35107:

, as described in BB 9220 - Governing Board Elections.

## Provisional Appointments

When authorized by law to make a provisional appointment to fill a vacancy on the Board, the Board shall advertise in the local media to solicit candidate applications or nominations. A committee consisting of less than a quorum of the Board shall ensure that applicants are eligible for Board membership and announce the names of the eligible candidates. The Board shall interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by a majority vote.

Within 10 days after the appointment is made, the Board shall post notices of the actual vacancy, or the filing of a deferred resignation, and the provisional appointment. The notice shall be

published in the local newspaper pursuant to Government Code 6061 and posted in at least three public places within the district. ~~.(Education Code 5092)~~

The notice shall contain: (Education Code 5092)

~~The notice shall contain: (Education Code 5092)~~

1. The date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation
2. The full name of the appointee
3. The date of appointment
4. A statement notifying the voters that unless a petition calling for a special election pursuant to Education Code 5091 is filed in the office of the County Superintendent within 30 days of the provisional appointment, it shall become an effective appointment

The person appointed shall hold office until the next regularly scheduled election for district Board members and shall be afforded all the powers and duties of a Board member upon appointment. ~~(Education Code 5091)~~

#### **Appointment Due to Failure to Elect**

(Education Code 5091)

If within 30 days of the Board's appointment, registered voters of the district or, where elections are by trustee areas, of the trustee area submit a petition for special election which the County Superintendent determines to be legally sufficient, the provisional appointment is terminated, and a special election shall be held in accordance with Education Code 5091 to fill the vacancy.

#### **Appointment Due to Failure to Elect**

When a vacancy occurs because no candidate or an insufficient number of candidates have been nominated (i.e., a failure to elect) and a district election will not be held, the Board shall appoint a qualified person to the office. This appointment shall be made at a meeting prior to the day fixed for the election and the appointee shall be seated at the organizational meeting as if elected at the district election. ~~.(Education Code 5328)~~

When an appointment is being made because of a failure to elect, the district shall publish a notice once in a newspaper of general circulation published in the district, or if no such newspaper exists, in a newspaper having general circulation within the district. This notice shall state that the Board intends to make an appointment and shall inform persons of the procedure available for applying for the appointment. ~~.(Education Code 5328.5)~~

The procedure for selecting and interviewing candidates shall be the same as the procedures for "Provisional Appointments," as specified above.

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**Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
Ed. Code 35107	School district employees
Ed. Code 35178	Resignation with deferred effective date
Ed. Code 5000-5033	Election of school district board members
Ed. Code 5090-5095	Vacancies on the board
Ed. Code 5200-5208	Districts governed by boards of education
Ed. Code 5300-5304	General provisions; conduct of elections
Ed. Code 5320-5329	Order and call of elections
Ed. Code 5340-5345	Consolidation of elections
Ed. Code 5360-5363	Election notice
Ed. Code 5420-5426	Cost of elections
Ed. Code 5440-5442	Miscellaneous provisions
Elec. Code 10600-10604	School district elections
Elec. Code 11000-11386	Candidates for recall
Gov. Code 1064	Absence from state
Gov. Code 1770	Vacancy of office
Gov. Code 3000-3003	Forfeiture of office
Gov. Code 3060-3075	Removal other than by impeachment
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 6061	Manner of notice as prescribed in designated section
Pen. Code 88	Bribery; forfeiture from office
<b>Federal</b>	<b>Description</b>
18 USC 704	Military medals or decorations
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	105 Ops.Cal.Atty.Gen. 182 (2022)
Attorney General Opinion	58 Ops.Cal.Atty.Gen. 888 (1975)
CSBA Publication	Filling a Board Vacancy, rev. 2022
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>

Website	<a href="#">California State Attorney General's Office, Quo Warranto Applications</a>
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Website	<a href="#">CSBA</a>
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## Cross References

Code	Description
1340	<del>Access To District Records</del> Access To District Records
1340	<del>Access To District Records</del> Access To District Records
9100	<del>Organization</del> Organization
9110	<del>Terms Of Office</del> Terms Of Office
9130	<del>Board Committees</del> Board Committees
9220	<del>Governing Board Elections</del> Governing Board Elections
9222	<del>Resignation</del> Resignation
9224	<del>Oath Or Affirmation</del> Oath Or Affirmation
9230	<del>Orientation</del> Orientation
9323.2	<del>Actions By The Board</del> Actions By The Board
9323.2-E PDF(1)	<del>Actions By The Board</del> Actions By The Board
<u>9323.2</u>	<u>Actions By The Board</u>

Bylaw 9223: Filling Vacancies

Status: ADOPTED

Original Adopted Date: 06/26/2012 | Last Reviewed Date:

## Events Causing a Vacancy

A vacancy on the Governing Board may arise from any of the following events:

1. The death of an incumbent (Government Code 1770)
2. The adjudication pursuant to a quo warranto proceeding declaring that an incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of the office for the remainder of the term (Government Code 1770)
3. A Board member's resignation (Government Code 1770)

A vacancy resulting from resignation occurs when the written resignation is filed with the County Superintendent of Schools having jurisdiction over the district, except where a deferred effective date is specified in the resignation so filed, in which case the resignation shall become operative on that date. A Board member may not defer an effective date of resignation for more than 60 days after the date the resignation is filed with the County Superintendent. Upon being filed with the County Superintendent, a written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable. (Education Code 5090, 5091)

4. A Board member's removal from office by recall (Elections Code 11000; Government Code 1770)
5. A Board member's ceasing to be a resident of the district (Government Code 1770)
6. A Board member ceases to inhabit the trustee area represented on the Board (58 Ops.Cal.Atty.Gen. 888 (1975))
7. A Board member's absence from the state for more than 60 days, except in the following situations: (Government Code 1064, 1770)
  - a. Upon district business with the approval of the Board
  - b. With the consent of the Board for an additional period not to exceed a total absence of 90 days
  - c. In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limited for absence from the state may be extended by the Board
  - d. For federal military deployment, not to exceed an absence of a total of six months, as a member of the armed forces of the United States or the California National Guard

If the absence of the Board member for this purpose exceeds six months, the Board may approve an additional six-month absence upon a showing that there is a reasonable expectation that the member will return within the second six-month period, and the Board may appoint an interim member to serve during the absence. If two or more members of the Board are absent by reason of these circumstances, and those absences result in the inability to establish a quorum at a regular meeting, the Board may immediately appoint one or more interim members as necessary to enable the Board to conduct business and discharge its responsibilities. The term of an interim member appointed in these circumstances shall not extend beyond the return of the absent Board member or beyond the next regularly scheduled election for that office, whichever occurs first.

8. A Board member's ceasing to discharge the duties of the office for the period of three consecutive months, except when prevented by illness or when absent from the state with the permission required by law (Government Code 1770)
9. A Board member's conviction of a felony or any offense involving a violation of official duties or conviction of a designated crime resulting in a forfeiture of office (Government Code 1770, 3000-3003)
10. A Board member's refusal or neglect to file the required oath within the time prescribed (Government Code 1770)
11. The decision of a competent tribunal declaring void a Board member's election or appointment (Government Code 1770)
12. A Board member's commitment to a hospital or sanitarium as a drug addict, dipsomaniac, inebriate, or stimulant addict by a court of competent jurisdiction, in which case the office shall not be deemed vacant until the order of commitment has become final (Government Code 1770)
13. A "failure to elect" in which no candidate or an insufficient number of candidates have filed to run for a Board seat(s) (Education Code 5090, 5326, 5328)

### **Timelines for Filling a Vacancy**

When a vacancy occurs, the Board shall take the following action, as appropriate:

1. When a vacancy occurs within four months of the end of a Board member's term, the Board shall take no action. (Education Code 5093)
2. When a vacancy occurs from six months to 130 days before a regularly scheduled Board election at which the position is not scheduled to be filled, a special election to fill the position shall be consolidated with the regular election. The person so elected shall take office at the first regularly scheduled Board meeting following the certification of the election and shall serve only until the end of the term of the position which the person was elected to fill. (Education Code 5093)
3. When a vacancy occurs outside of the statutory time windows identified in Items #1 and #2 above, the Board shall, within 60 days of the date of the vacancy or the filing of the member's deferred resignation, either order an election or make a provisional appointment. (Education Code 5091, 5093)

### **Eligibility**

In order to be appointed or elected to fill a vacancy on the Board, a person must meet the eligibility requirements specified in Education Code 35107, as described in BB 9220 - Governing Board Elections.

### **Provisional Appointments**

When authorized by law to make a provisional appointment to fill a vacancy on the Board, the Board shall advertise in the local media to solicit candidate applications or nominations. A committee consisting of less than a quorum of the Board shall ensure that applicants are eligible for Board membership and announce the names of the eligible candidates. The Board shall interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by majority vote.

Within 10 days after the appointment is made, the Board shall post notices of the actual vacancy, or the filing of a deferred resignation, and the provisional appointment. The notice shall be published in the local newspaper pursuant to Government Code 6061 and posted in at least three public places within the district. (Education Code 5092)

The notice shall contain: (Education Code 5092)

1. The date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation
2. The full name of the appointee
3. The date of appointment
4. A statement notifying the voters that unless a petition calling for a special election pursuant to Education Code 5091 is filed in the office of the County Superintendent within 30 days of the provisional appointment, it shall become an effective appointment

The person appointed shall hold office until the next regularly scheduled election for district Board members and shall be afforded all the powers and duties of a Board member upon appointment. (Education Code 5091)

If within 30 days of the Board's appointment, registered voters of the district or, where elections are by trustee areas, of the trustee area submit a petition for special election which the County Superintendent determines to be legally sufficient, the provisional appointment is terminated, and a special election shall be held in accordance with Education Code 5091 to fill the vacancy.

### **Appointment Due to Failure to Elect**

When a vacancy occurs because no candidate or an insufficient number of candidates have been nominated (i.e., a failure to elect) and a district election will not be held, the Board shall appoint a qualified person to the office. This appointment shall be made at a meeting prior to the day fixed for the election and the appointee shall be seated at the organizational meeting as if elected at the district election. (Education Code 5328)

When an appointment is being made because of a failure to elect, the district shall publish a notice once in a newspaper of general circulation published in the district, or if no such newspaper exists, in a newspaper having general circulation within the district. This notice

shall state that the Board intends to make an appointment and shall inform persons of the procedure available for applying for the appointment. (Education Code 5328.5)

The procedure for selecting and interviewing candidates shall be the same as the procedures for "Provisional Appointments," as specified above.

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Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">California State Attorney General's Office, Quo Warranto Applications</a>
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#### Cross References

Code	Description
1340	Access To District Records
1340	Access To District Records
9100	Organization
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9130	Board Committees
9220	Governing Board Elections
9222	Resignation
9224	Oath Or Affirmation
9230	Orientation
9323.2	Actions By The Board
9323.2	Actions By The Board
9323.2	Actions By The Board

**Bylaw 9320: Meetings And Notices****Status:  
ADOPTED**~~Original Adopted Date: 06/26/2012 | Last Reviewed Date: 06/26/2012~~**MEETINGS AND NOTICES**

Meetings of the Governing Board ~~of Education~~ are conducted for the purpose of accomplishing district business. In accordance with state open meeting laws (Brown Act), the Board shall hold its meetings in public and shall conduct closed sessions during such meetings only as authorized by law. To encourage community involvement in the schools, Board meetings shall provide opportunities for questions and comments by members of the public. All meetings shall be conducted in accordance with law and the Board's bylaws, policies, and administrative regulations.

*(cf. 9321 - Closed Session)**(cf. 9322 - Agenda/Meeting Materials)**(cf. 9323 - Meeting Conduct)*

A Board meeting exists whenever a majority of Board members gather at the same time and ~~place~~ location, including teleconference location as permitted by Government Code 54953, to hear, discuss, ~~or~~ deliberate, or take action upon any item within the subject matter jurisdiction of the Board or district. (Government Code 54952.2)

A majority of the Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, including social media and other electronic communications, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

However, an employee or district official may engage in separate conversations or communications with Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the Board, as long as that employee or district official does not communicate the comments or position of any Board members to other Board members. (Government Code 54952.2)

*(cf. 9012 - Board Member Electronic Communications)*

In order to help ensure the participation in the meeting by disabled ~~of~~ individuals with disabilities at Board meetings, the Superintendent or designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. (Government Code 54953.2, 54954.1, 54954.2)

**Regular Meetings**

The Board shall hold ~~two~~ \_\_\_\_\_ regular ~~meetings~~ meeting(s) each month. Regular meetings shall be held at ~~5:30-~~ \_\_\_\_\_ p.m. on the ~~second and fourth Tuesday of~~ \_\_\_\_\_ (day) at

the ~~month unless otherwise approved by the Board at its annual organizational meeting.~~\_\_\_\_\_.

At least 72 hours prior to a regular meeting, the agenda shall be posted at one or more locations freely accessible to members of the public and on the district's ~~Internet~~ web site. (Government Code 54954.2)

*(cf. 1113 - District and School Web Sites)*

BB 9320(b)

## **MEETINGS AND NOTICES (continued)**

Whenever agenda materials relating to an open session of a regular meeting are distributed to the Board less than 72 hours before the meeting, the Superintendent or designee shall make the materials available for public inspection at a public office or location designated for that purpose. ~~at the time the materials are distributed to all or a majority of the Board.~~ (Government Code 54957.5)

*(cf. 1340 - Access to District Records)*

### **Special Meetings**

Special meetings of the Board may be called at any time by the presiding officer or a majority of the Board members. However, a special meeting shall not be called regarding the salary, salary schedule, or other compensation of the Superintendent, assistant superintendent, or other management employee as described in Government Code 3511.1. (Government Code 54956)

*(cf. 2121 - Superintendent's Contract)*

Written notice of special meetings shall be delivered personally or by any other means to all Board members and the local media who have requested such notice in writing. The notice also shall be posted on the district's ~~Internet~~ web site. The notice shall be received at least 24 hours before the time of the meeting. The notice shall also be posted at least 24 hours before the meeting in a location freely accessible to the public. The notice shall specify the time and ~~place~~location of the meeting and the business to be transacted or discussed. No other business shall be considered at this meeting. (Education Code 35144; Government Code 54956)

Any Board member may waive the 24-hour written notice requirement prior to the time of the meeting by filing a written waiver of notice with the clerk or secretary of the Board or by being present at the meeting at the time it convenes. ~~(Education Code 35144;~~ Government Code 54956)

Every notice of a special meeting shall provide an opportunity for members of the public to directly address the Board concerning any item that has been described in the meeting notice, before or during the item's consideration. (Government Code 54954.3)

### **Emergency Meetings**

In the case of an *emergency situation* for which prompt action is necessary due to the disruption or threatened disruption of public facilities, the Board may hold an emergency meeting without complying with the 24-hour notice and/or 24-hour posting requirement for special meetings pursuant to Government Code 54956. The Board shall comply with all other requirements for special meetings during an emergency meeting. (Government Code 54956.5)

BB 9320(c)

### MEETINGS AND NOTICES (continued)

An *emergency situation* means either of the following: (Government Code 54956.5)

1. An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health and/or safety as determined by a majority of the members of the Board

(cf. 4141.6/4241.6 - *Concerted Action/Work Stoppage*)

2. A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist ~~activity~~act, or threatened terrorist ~~activity~~act that poses peril so immediate and significant that requiring the Board to provide one-hour notice before holding an emergency meeting may endanger the public health and/or safety as determined by a majority of the members of the Board

(cf. 3516 - *Emergencies and Disaster Preparedness Plan*)

Except in the case of a dire emergency, the Board president or designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media that have requested notice of special meetings. All telephone numbers provided by the media in the most recent request for notification must be exhausted. If telephone services are not functioning, the notice requirement of one hour is waived and, as soon after the meeting as possible, the Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the Board. In the case of a dire emergency, the Board president or designee shall give such notice at or near the time ~~he/she notifies~~notification is given to the other members of the Board about the meeting. (Government Code 54956.5)

The minutes of the meeting, a list of persons the Board president or designee notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for at least 10 days in a public place as soon after the meeting as possible. (Government Code 54956.5)

#### Adjourned/Continued Meetings

~~A majority vote by the~~

The Board may adjourn/continue any regular or special meeting to a later time and ~~place~~location that shall be specified in the order of adjournment. Less than a quorum of the

Board may adjourn such a meeting. If no Board members are present, the secretary or the clerk may declare the meeting adjourned to a later time and place and shall give notice in the same manner required for special meetings. (Government Code 54955)

Within 24 hours after the time of adjournment, a copy of the order or notice of adjournment/continuance shall be conspicuously posted on or near the door of the place where the meeting was held. (Government Code 54955)

BB 9320(d)

## MEETINGS AND NOTICES (continued)

### Study Sessions, Retreats, Public Forums, and Discussion Meetings

The Board may occasionally convene a study session or public forum to study an issue in more detail or to receive information from staff or feedback from members of the public.

The Board may also convene a retreat or discussion meeting to discuss Board roles and relationships.

*(cf. 2000 - Concepts and Roles)*

*(cf. 2111 - Superintendent Governance Standards)*

*(cf. 9000 - Role of the Board)*

*(cf. 9005 - Governance Standards)*

*(cf. 9400 - Board Self-Evaluation)*

Public notice shall be given in accordance with law when a quorum of the Board is attending a study session, retreat, public forum, or discussion meeting. All such meetings shall comply with the Brown Act and shall be held in open session and within district boundaries. Action items shall not be included on the agenda for these meetings.

### Other Gatherings

Attendance by a majority of Board members at any of the following events is not subject to the Brown Act provided that a majority of the Board members do not discuss specific district business among themselves other than as part of the scheduled program: (Government Code 54952.2)

- ~~1.~~ 1. A conference or similar public gathering open to the public that involves a discussion of issues of general interest to the public or to school board members  
-
- ~~2.~~ 2. An open, publicized meeting organized by a person or organization other than the district to address a topic of local community concern  
-
- ~~3.~~ 3. \_\_\_\_\_ An open and noticed meeting of another body of the district  
-

4. 4. An open and noticed meeting of a legislative body of another local agency  
-
5. 5. A purely social or ceremonial occasion  
-
6. 6. An open and noticed meeting of a standing committee of the Board, provided that the Board members who are not members of the standing committee attend only as observers

*(cf. 9130 - Board Committees)*

BB 9320(e)

### MEETINGS AND NOTICES (continued)

Individual contacts or conversations between a Board member and any other person are not subject to the Brown Act. (Government Code 54952.2)

#### Location of Meetings

Meetings shall not be held in a facility that prohibits the admittance of any person on the basis of ancestry or any characteristic listed in Government Code 11135, ~~including, but not limited to, religion, sex, or sexual orientation.~~ In addition, meetings shall not be held in a facility which is inaccessible to individuals with disabilities or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

Meetings shall be held within district boundaries, except to do any of the following: (Government Code 54954)

1. 1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the district is a party  
-
2. 2. Inspect real or personal property which cannot conveniently be brought into the district, provided that the topic of the meeting is limited to items directly related to the property  
-
3. 3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law  
-

4. 4. Meet in the closest meeting facility if the district has no meeting facility within its boundaries or if ~~it's~~ principal office is located outside the district  
-
5. 5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the district over which the state or federal officials have jurisdiction  
-
6. 6. Meet in or near a facility owned by the district but located outside the district, provided the meeting agenda is limited to items directly related to that facility  
-
7. 7. Visit the office of the district's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs  
-
8. 8. Attend conferences on nonadversarial collective bargaining techniques  
-

BB 9320(f)

#### MEETINGS AND NOTICES (continued)

9. 9. Interview residents of another district regarding the Board's potential employment of an applicant for Superintendent of the district  
-

10. Interview a potential employee from another district

~~10.~~

Meetings exempted from the boundary requirements, as specified in items #1-10 above, shall still be subject to the notice and open meeting requirements for regular and special meetings when a quorum of the Board attends the meeting.

If a fire, flood, earthquake, or other emergency renders the regular meeting place unsafe, meetings shall be held for the duration of the emergency at a ~~place~~ location designated by the Board president or designee, who shall so inform all news media who have requested notice of special meetings by the most rapid available means of communication. (Government Code 54954)

#### Teleconferencing

A teleconference is a meeting of the Board in which Board members are in different locations, connected by electronic means through audio and/or video. (Government Code 54953)

The Board may use teleconferences for all purposes in connection with any meeting within the Board's subject matter jurisdiction. All votes taken during a teleconference meeting shall be by roll call. (Government Code 54953)

During the teleconference, at least a quorum of the members of the Board shall participate from locations within district boundaries. (Government Code 54953)

Agendas shall be posted at all teleconference locations and shall list all teleconference locations whenever they are posted elsewhere. Additional teleconference locations may be provided to the public. (Government Code 54953)

All teleconference locations shall be accessible to the public. All teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board, including the right of the public to address the Board directly at each teleconference location. (Government Code 54953)

All

### **Teleconferencing During a Proclaimed State of Emergency**

~~The Board policies, administrative regulations, and bylaws shall apply equally to~~ may conduct Board meetings that are teleconferenced. The Superintendent or designee shall facilitate public participation by teleconference without posting agendas at all teleconference locations, identifying teleconference locations in the meeting at notices and agendas, allowing public access to each teleconference location.

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#### **Policy Reference Disclaimer:**

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#### **State**

Ed. Code 35140

Ed. Code 35143

Ed. Code 35144

Ed. Code 35145

Ed. Code 35145.5

Ed. Code 35146

Ed. Code 35147

Gov. Code 11135

Gov. Code 3511.1

Gov. Code 54950-54963

Gov. Code 54953

Gov. Code 54954

Gov. Code 54954.2

Gov. Code 54956

Gov. Code 54956.5

#### **Description**

Time and place of meetings

Annual organizational meetings; date and notice

Special meeting

Public meetings

Agenda; public participation; regulations

Closed sessions; student matters

Open meeting laws exceptions

Nondiscrimination in programs or activities funded by state

Local agency executives

The Ralph M. Brown Act

Oral summary of recommended salary and benefits of superintendent

Time and place of regular meetings

Agenda posting requirements, board actions

Special Meetings

Emergency meetings



## Federal

28 CFR 35.160

28 CFR 36.303

42 USC 12101-12213

## Management Resources

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Court Decision

CSBA Publication

Institute for Local Government  
Publication

League of California Cities  
Publication

Website

Website

Website

Website

## Description

Effective communications

Auxiliary aids and services

Americans with Disabilities Act

## Description

78 Ops. Cal. Atty. Gen. 327 (1995)

79 Ops. Cal. Atty. Gen. 69 (1996)

84 Ops. Cal. Atty. Gen. 181 (2001)

84 Ops. Cal. Atty. Gen. 30 (2001)

88 Ops. Cal. Atty. Gen. 218 (2005)

Wolfe v. City of Fremont, (2006) 144 Cal. App. 544

The Brown Act: School Boards and Open Meeting Laws,  
rev. 2014

The ABCs of Open Government Laws

Open and Public IV: A Guide to the Ralph M. Brown Act,  
2nd Ed., 2010

[Institute for Local Government](#)

[League of California Cities](#)

[California Attorney General's Office](#)

[CSBA](#)

## Cross References

### Code

0410

0420.4

0420.4

0420.43

0450

0450

0460

0460

1113

1113

1113-E(1)

1160

1220

1220

1330

1330

1330-E(1)

1340

1340

1431

2000

2111

### Description

[Nondiscrimination In District Programs And Activities](#)

[Charter School Authorization](#)

[Charter School Authorization](#)

[Charter School Revocation](#)

[Comprehensive Safety Plan](#)

[Comprehensive Safety Plan](#)

[Local Control And Accountability Plan](#)

[Local Control And Accountability Plan](#)

[District And School Web Sites](#)

[District And School Web Sites](#)

[District And School Web Sites](#)

[Political Processes](#)

[Citizen Advisory Committees](#)

[Citizen Advisory Committees](#)

[Use Of School Facilities](#)

[Use Of School Facilities](#)

[Use Of School Facilities](#)

[Access To District Records](#)

[Access To District Records](#)

[Waivers](#)

[Concepts And Roles](#)

[Superintendent Governance Standards](#)

2121	<u>Superintendent's Contract</u>
2210	<u>Administrative Discretion Regarding Board Policy</u>
3100	<u>Budget</u>
3100	<u>Budget</u>
3280	<u>Sale Or Lease Of District-Owned Real Property</u>
3280	<u>Sale Or Lease Of District-Owned Real Property</u>
3311	<u>Bids</u>
3311	<u>Bids</u>
3312	<u>Contracts</u>
3314	<u>Payment For Goods And Services</u>
3314	<u>Payment For Goods And Services</u>
3516	<u>Emergencies And Disaster Preparedness Plan</u>
3516	<u>Emergencies And Disaster Preparedness Plan</u>
4117.14	<u>Postretirement Employment</u>
4141.6	<u>Concerted Action/Work Stoppage</u>
4141.6	<u>Concerted Action/Work Stoppage</u>
4241.6	<u>Concerted Action/Work Stoppage</u>
4241.6	<u>Concerted Action/Work Stoppage</u>
4312.1	<u>Contracts</u>
4317.14	<u>Postretirement Employment</u>
6112	<u>School Day</u>
6112	<u>School Day</u>
6173.1	<u>Education For Foster Youth</u>
6173.1	<u>Education For Foster Youth</u>
7150	<u>Site Selection And Development</u>
7150	<u>Site Selection And Development</u>
7214	<u>General Obligation Bonds</u>
7214	<u>General Obligation Bonds</u>
7310	<u>Naming Of Facility</u>
7310	<u>Naming Of Facility</u>
9000	<u>Role Of The Board</u>
9005	<u>Governance Standards</u>
9012	<u>Board Member Electronic Communications</u>
9100	<u>Organization</u>
9121	<u>President</u>
9130	<u>Board Committees</u>
9140	<u>Board Representatives</u>
9220	<u>Governing Board Elections</u>
9230	<u>Orientation</u>
9270	<u>Conflict Of Interest</u>
9270-E(1)	<u>Conflict Of Interest</u>
9310	<u>Board Policies</u>
9321	<u>Closed Session</u>
9322	<u>Agenda/Meeting Materials</u>
9323	<u>Meeting Conduct</u>
9323.2	<u>Actions By The Board</u>
9323.2-E(1)	<u>Actions By The Board</u>

MEETINGS AND NOTICES (continued)

members of the public to address the Board directly at each teleconference location, and ensuring that at least a quorum of the Board participate from locations within district boundaries, during a proclaimed state of emergency pursuant to Government Code 8625-8629 in any of the following circumstances: (Government Code 54953)

1. State or local officials have imposed or recommended measures to promote social distancing
2. For the purpose of determining, by majority vote, whether as the result of the emergency meeting in person would present imminent risks to the health or safety of attendees
3. When it has been determined, by majority vote as described in Item #2 above, that as a result of the emergency meeting in person would present imminent risks to the health or safety of attendees

To conduct a teleconference meeting for these purposes the following requirements shall be satisfied: (Government Code 54953)

1. The notice and agenda shall be given and posted as otherwise required by the Brown Act
2. The notice and agenda of the meeting shall specify the means by which members of the public may access the meeting and offer public comments, including via a call-in or internet-based service option

Members of the public may be required to register to log in to a meeting when making public comments through an internet web site or other online platform that is operated by a third-party and not under the control of the Board.

3. Members of the public shall be allowed to access the meeting, and the agenda shall provide an opportunity for members of the public to address the Board directly pursuant to Government Code 54954.3
4. Members of the public shall not be required to submit public comments in advance of a Board meeting and shall be provided an opportunity to address the Board and offer comments in real time
5. Public comment periods shall not be closed until the timed public comment period, if such is offered by the Board, has elapsed or, if not timed, until a reasonable amount of time per agenda item has been allowed

**MEETINGS AND NOTICES (continued)**

6. If during a Board meeting a disruption occurs which prevents the district from broadcasting the meeting to members of the public or for members of the public to offer public comments, the Board shall take no further action on any agenda item until public access via the call-in or internet-based service option to the meeting is restored

*(cf. 9323.2 - Actions by the Board)*

The district may, in its discretion, provide a physical location from which the public may attend or comment. (Government Code 54953)

The Board may continue to conduct meetings by teleconference, as specified above for teleconferencing during proclaimed states of emergency, by a majority vote finding within 30 days after teleconferencing for the first time, and every 30 days thereafter, that either: (Government Code 54953)

1. The state of emergency continues to directly impact the ability of the Board to meet safely in person
2. State or local officials continue to impose or recommend measures to promote social distancing

*Legal Reference: (see next page)*

## MEETINGS AND NOTICES (continued)

### Legal Reference:

#### EDUCATION CODE

35140 Time and place of meetings

35143 Annual organizational meeting, date, and notice

35144 Special meeting

35145 Public meetings

35145.5 Agenda; public participation; regulations

35146 Closed sessions in connection with a student

35147 Open meeting law exceptions and applications

#### GOVERNMENT CODE

3511.1 Local agency executives

6252-6270 California Public Records Act

8625-8629 California Emergency Services Act

11135 State programs and activities; prohibition of discrimination

54950-54963 The Ralph M. Brown Act, especially:

54953 Meetings to be open and public; attendance; teleconference

54954 Time and place of regular meetings

54954.2 Agenda posting requirements, board actions

54956 Special meetings; call; notice

54956.5 Emergency meetings

#### UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

#### CODE OF FEDERAL REGULATIONS, TITLE 28

35.160 Effective communications for individuals with disabilities

36.303 Auxiliary aids and services for individuals with disabilities

#### COURT DECISIONS

Garnier v. Poway Unified School District (S.D. Cal. September 26, 2019) No. 17-cv-2215-W (JLB), 2019 WL 4736208

Knight First Amendment Institute at Columbia University v. Trump (2019) 928 F.3d 226

Wolfe v. City of Fremont (2006) 144 Cal.App. 4th 533

#### ATTORNEY GENERAL OPINIONS

88 Ops.Cal.Atty.Gen. 218 (2005)

84 Ops.Cal.Atty.Gen. 181 (2001)

84 Ops.Cal.Atty.Gen. 30 (2001)

79 Ops.Cal.Atty.Gen. 69 (1996)

78 Ops.Cal.Atty.Gen. 327 (1995)

Management Resources continued: (see next page)

## MEETINGS AND NOTICES (continued)

### Management Resources:

#### CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2019

#### INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

The ABCs of Open Government Laws

#### LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public V: A Guide to the Ralph M. Brown Act, 2016

#### WEB SITES

CSBA: <http://www.csba.org>

CSBA, GAMUT Meetings:

<http://www.csba.org/ProductsAndServices/AllServices/GamutMeetingsPolicy>

California Attorney General's Office: <http://oag.ca.gov/home>

Institute for Local Government: <http://www.ca-ilg.org>

League of California Cities: <http://www.cacities.org>

adopted:

December 2021

Bylaw 9320: Meetings And Notices

Status: ADOPTED

Original Adopted Date: 06/26/2012 | Last Reviewed Date:

## MEETINGS AND NOTICES

Meetings of the Governing Board are conducted for the purpose of accomplishing district business. In accordance with state open meeting laws (Brown Act), the Board shall hold its meetings in public and shall conduct closed sessions during such meetings only as authorized by law. To encourage community involvement in the schools, Board meetings shall provide opportunities for questions and comments by members of the public. All meetings shall be conducted in accordance with law and the Board's bylaws, policies, and administrative regulations.

A Board meeting exists whenever a majority of Board members gather at the same time and location, including teleconference location as permitted by Government Code 54953, to hear, discuss, deliberate, or take action upon any item within the subject matter jurisdiction of the Board or district. (Government Code 54952.2)

A majority of the Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, including social media and other electronic communications, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

However, an employee or district official may engage in separate conversations or communications with Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the Board, as long as that employee or district official does not communicate the comments or position of any Board members to other Board members. (Government Code 54952.2)

In order to help ensure the participation of individuals with disabilities at Board meetings, the Superintendent or designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. (Government Code 54953.2, 54954.1, 54954.2)

### Regular Meetings

The Board shall hold two regular meeting(s) each month. Regular meetings shall be held at 5:30 p.m. on the second and fourth Tuesday of the month (unless otherwise approved by the Board at its annual organizational meeting) at the Alameda City Hall, 2263 Santa Clara Ave, Alameda, CA 94501.

At least 72 hours prior to a regular meeting, the agenda shall be posted at one or more locations freely accessible to members of the public and on the district's web site. (Government Code 54954.2)

Whenever agenda materials relating to an open session of a regular meeting are distributed to the Board less than 72 hours before the meeting, the Superintendent or designee shall make the materials available for public inspection at a public office or location designated for that purpose at the time the materials are distributed to all or a majority of the Board. (Government Code 54957.5)

### Special Meetings

Special meetings of the Board may be called at any time by the presiding officer or a majority of the Board members. However, a special meeting shall not be called regarding the salary, salary schedule, or other compensation of the Superintendent, assistant superintendent, or other management employee as described in Government Code 3511.1. (Government Code 54956)



Written notice of special meetings shall be delivered personally or by any other means to all Board members and the local media who have requested such notice in writing. The notice also shall be posted on the district's web site. The notice shall be received at least 24 hours before the time of the meeting. The notice shall also be posted at least 24 hours before the meeting in a location freely accessible to the public. The notice shall specify the time and location of the meeting and the business to be transacted or discussed. No other business shall be considered at this meeting. (Education Code 35144; Government Code 54956)

Any Board member may waive the 24-hour written notice requirement prior to the time of the meeting by filing a written waiver of notice with the clerk or secretary of the Board or by being present at the meeting at the time it convenes. (Education Code 35144; Government Code 54956)

Every notice of a special meeting shall provide an opportunity for members of the public to directly address the Board concerning any item that has been described in the meeting notice, before or during the item's consideration. (Government Code 54954.3)

### Emergency Meetings

In the case of an *emergency situation* for which prompt action is necessary due to the disruption or threatened disruption of public facilities, the Board may hold an emergency meeting without complying with the 24-hour notice and/or 24-hour posting requirement for special meetings pursuant to Government Code 54956. The Board shall comply with all other requirements for special meetings during an emergency meeting. (Government Code 54956.5)

An *emergency situation* means either of the following: (Government Code 54956.5)

1. An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health and/or safety as determined by a majority of the members of the Board
2. A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring the Board to provide one-hour notice before holding an emergency meeting may endanger the public health and/or safety as determined by a majority of the members of the Board

Except in the case of a dire emergency, the Board president or designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media that have requested notice of special meetings. All telephone numbers provided by the media in the most recent request for notification must be exhausted. If telephone services are not functioning, the notice requirement of one hour is waived and, as soon after the meeting as possible, the Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the Board. In the case of a dire emergency, the Board president or designee shall give such notice at or near the time notification is given to the other members of the Board about the meeting. (Government Code 54956.5)

The minutes of the meeting, a list of persons the Board president or designee notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for at least 10 days in a public place as soon after the meeting as possible. (Government Code 54956.5)

### Adjourned/Continued Meetings

The Board may adjourn/continue any regular or special meeting to a later time and location that shall be specified in the order of adjournment. Less than a quorum of the Board may adjourn such a meeting. If no Board members are present, the secretary or the clerk may declare the meeting adjourned to a later time and place and shall give notice in the same manner required for special meetings. (Government Code 54955)

Within 24 hours after the time of adjournment, a copy of the order or notice of adjournment/continuance shall be conspicuously posted on or near the door of the place where the meeting was held. (Government Code 54955)

#### Study Sessions, Retreats, Public Forums, and Discussion Meetings

The Board may occasionally convene a study session or public forum to study an issue in more detail or to receive information from staff or feedback from members of the public.

The Board may also convene a retreat or discussion meeting to discuss Board roles and relationships.

Public notice shall be given in accordance with law when a quorum of the Board is attending a study session, retreat, public forum, or discussion meeting. All such meetings shall comply with the Brown Act and shall be held in open session and within district boundaries. Action items shall not be included on the agenda for these meetings.

#### Other Gatherings

Attendance by a majority of Board members at any of the following events is not subject to the Brown Act provided that a majority of the Board members do not discuss specific district business among themselves other than as part of the scheduled program: (Government Code 54952.2)

1. A conference or similar public gathering open to the public that involves a discussion of issues of general interest to the public or to school board members
2. An open, publicized meeting organized by a person or organization other than the district to address a topic of local community concern
3. An open and noticed meeting of another body of the district
4. An open and noticed meeting of a legislative body of another local agency
5. A purely social or ceremonial occasion
6. An open and noticed meeting of a standing committee of the Board, provided that the Board members who are not members of the standing committee attend only as observers

Individual contacts or conversations between a Board member and any other person are not subject to the Brown Act. (Government Code 54952.2)

#### Location of Meetings

Meetings shall not be held in a facility that prohibits the admittance of any person on the basis of ancestry or any characteristic listed in Government Code 11135. In addition, meetings shall not be held in a facility which is inaccessible to individuals with disabilities or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)

Meetings shall be held within district boundaries, except to do any of the following: (Government Code 54954)

1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the district is a party
2. Inspect real or personal property which cannot conveniently be brought into the district, provided that the topic of the meeting is limited to items directly related to the property

3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law
4. Meet in the closest meeting facility if the district has no meeting facility within its boundaries or if its principal office is located outside the district
5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the district over which the state or federal officials have jurisdiction
6. Meet in or near a facility owned by the district but located outside the district, provided the meeting agenda is limited to items directly related to that facility
7. Visit the office of the district's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs
8. Attend conferences on nonadversarial collective bargaining techniques
9. Interview residents of another district regarding the Board's potential employment of an applicant for Superintendent of the district
10. Interview a potential employee from another district

Meetings exempted from the boundary requirements, as specified in items #1-10 above, shall still be subject to the notice and open meeting requirements for regular and special meetings when a quorum of the Board attends the meeting.

If a fire, flood, earthquake, or other emergency renders the regular meeting place unsafe, meetings shall be held for the duration of the emergency at a location designated by the Board president or designee, who shall so inform all news media who have requested notice of special meetings by the most rapid available means of communication. (Government Code 54954)

### Teleconferencing

A teleconference is a meeting of the Board in which Board members are in different locations, connected by electronic means through audio and/or video. (Government Code 54953)

The Board may use teleconferences for all purposes in connection with any meeting within the Board's subject matter jurisdiction. All votes taken during a teleconference meeting shall be by roll call. (Government Code 54953)

During the teleconference, at least a quorum of the members of the Board shall participate from locations within district boundaries. (Government Code 54953)

Agendas shall be posted at all teleconference locations and shall list all teleconference locations whenever they are posted elsewhere. Additional teleconference locations may be provided to the public. (Government Code 54953)

All teleconference locations shall be accessible to the public. All teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board, including the right of the public to address the Board directly at each teleconference location. (Government Code 54953)

### Teleconferencing During a Proclaimed State of Emergency

The Board may conduct Board meetings by teleconference without posting agendas at all teleconference locations, identifying teleconference locations in meeting notices and agendas, allowing public access to each teleconference location, providing an opportunity for members of the public to address the Board directly at each teleconference location, and ensuring that at least a quorum of the Board participate from locations within district boundaries, during a proclaimed state of emergency pursuant to Government Code 8625-8629 in any of the following circumstances: (Government Code 54953)

1. State or local officials have imposed or recommended measures to promote social distancing
2. For the purpose of determining, by majority vote, whether as the result of the emergency meeting in person would present imminent risks to the health or safety of attendees
3. When it has been determined, by majority vote as described in Item #2 above, that as a result of the emergency meeting in person would present imminent risks to the health or safety of attendees

To conduct a teleconference meeting for these purposes the following requirements shall be satisfied: (Government Code 54953)

1. The notice and agenda shall be given and posted as otherwise required by the Brown Act
2. The notice and agenda of the meeting shall specify the means by which members of the public may access the meeting and offer public comments, including via a call-in or internet-based service option

Members of the public may be required to register to log in to a meeting when making public comments through an internet web site or other online platform that is operated by a third-party and not under the control of the Board.

3. Members of the public shall be allowed to access the meeting, and the agenda shall provide an opportunity for members of the public to address the Board directly pursuant to Government Code 54954.3
4. Members of the public shall not be required to submit public comments in advance of a Board meeting and shall be provided an opportunity to address the Board and offer comments in real time
5. Public comment periods shall not be closed until the timed public comment period, if such is offered by the Board, has elapsed or, if not timed, until a reasonable amount of time per agenda item has been allowed
6. If during a Board meeting a disruption occurs which prevents the district from broadcasting the meeting to members of the public or for members of the public to offer public comments, the Board shall take no further action on any agenda item until public access via the call-in or internet-based service option to the meeting is restored

The district may, in its discretion, provide a physical location from which the public may attend or comment. (Government Code 54953)

The Board may continue to conduct meetings by teleconference, as specified above for teleconferencing during proclaimed states of emergency, by a majority vote finding within 30 days after teleconferencing for the first time, and every 30 days thereafter, that either: (Government Code 54953)

1. The state of emergency continues to directly impact the ability of the Board to meet safely in person
2. State or local officials continue to impose or recommend measures to promote social distancing

*Legal Reference:*

EDUCATION CODE

35140 *Time and place of meetings*  
35143 *Annual organizational meeting, date, and notice*  
35144 *Special meeting*  
35145 *Public meetings*  
35145.5 *Agenda; public participation; regulations*  
35146 *Closed sessions in connection with a student*  
35147 *Open meeting law exceptions and applications*

GOVERNMENT CODE

3511.1 *Local agency executives*  
6252-6270 *California Public Records Act*  
8625-8629 *California Emergency Services Act*  
11135 *State programs and activities; prohibition of discrimination*  
54950-54963 *The Ralph M. Brown Act, especially:*  
54953 *Meetings to be open and public; attendance; teleconference*  
54954 *Time and place of regular meetings*  
54954.2 *Agenda posting requirements, board actions*  
54956 *Special meetings; call; notice*  
54956.5 *Emergency meetings*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.160 *Effective communications for individuals with disabilities*  
36.303 *Auxiliary aids and services for individuals with disabilities*

COURT DECISIONS

*Garnier v. Poway Unified School District* (S.D. Cal. September 26, 2019) No. 17-cv-2215-W (JLB), 2019 WL 4736208  
*Knight First Amendment Institute at Columbia University v. Trump* (2019) 928 F.3d 226  
*Wolfe v. City of Fremont* (2006) 144 Cal.App. 4th 533

ATTORNEY GENERAL OPINIONS

88 *Ops.Cal.Atty.Gen.* 218 (2005)  
84 *Ops.Cal.Atty.Gen.* 181 (2001)  
84 *Ops.Cal.Atty.Gen.* 30 (2001)  
79 *Ops.Cal.Atty.Gen.* 69 (1996)  
78 *Ops.Cal.Atty.Gen.* 327 (1995)

*Management Resources:*

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*The Brown Act: School Boards and Open Meeting Laws*, rev. 2019

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

*The ABCs of Open Government Laws*

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

*Open and Public V: A Guide to the Ralph M. Brown Act*, 2016

WEB SITES

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California Attorney General's Office: <http://oag.ca.gov/home>  
Institute for Local Government: <http://www.ca-ilg.org>  
League of California Cities: <http://www.cacities.org>



~~Closed Session Purposes And Agendas~~

Board Bylaws

BB 9321

CLOSED SESSION

The Governing Board of Education is committed to complying with state open meeting laws and modeling transparency in its conduct of district business. The Board shall hold closed sessions only for purposes authorized by law. A closed session may be held during a regular, special, or emergency meeting in accordance with only for purposes authorized by law.

Each agenda shall contain a general description of each closed session item to be discussed at the meeting, as required by law and specified below. (Government Code ~~54954.2~~ 54954.2)

(cf. ~~9320-9320~~ - Meetings and Notices)

(cf. ~~9322-9322~~ - Agenda/Meeting Materials)

~~The~~

In the open session preceding the closed session, the Board shall disclose in open session the items to be discussed in closed session. In the closed session, the Board may consider only those matters covered in its statement. After the closed session, the Board shall reconvene in open session before adjourning the meeting, and when applicable, shall disclose any action taken in the closed session, in the manner prescribed by Government Code 54957.1. (Government Code 54957.7) (Government Code 54957.7)

(cf. ~~9321.1~~ Closed Session Actions and Reports)

After the closed session, the Board shall reconvene in open session before adjourning the meeting and, when applicable, shall publicly disclose any action taken in the closed session, the votes or abstentions thereon, and other disclosures specified below that are applicable to the matter being addressed. Such reports may be made in writing or orally at the location announced in the agenda for the closed session. (Education Code 32281; Government Code 54957.1, 54957.7)

When an action taken during a closed session involves final approval or adoption of a document such as a contract or settlement agreement, the Superintendent or designee shall provide a copy of the document to any person present at the conclusion of the closed session who submitted a written request. If the action taken results in one or more substantive amendments, the Superintendent or designee shall make the document available the next business day or when the necessary retyping is completed. Whenever copies of an approved agreement will not be immediately released due to an amendment, the Board president shall orally summarize the substance of the amendment for those present at the end of the closed session. (Government Code 54957.1)

Confidentiality

A Board member shall not disclose confidential information received in closed session unless the Board authorizes the disclosure of that information. (Government Code 54963)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

The Board shall not disclose any information that is protected by state or federal law. In addition, no victim or alleged victim of tortious sexual conduct or child abuse shall be identified in any Board agenda, notice, announcement, or report required by the Brown Act, unless the identity of the person has previously been publicly disclosed. ~~(Government Code 54957.7, 54961)~~ (Government Code 54957.7, 54961)

~~(cf. 1340- 1340 - Access to District Records)~~

~~A Board member shall not disclose confidential information received in a closed session unless the Board authorizes the disclosure of that information. (Government Code 54963)~~

~~(cf. 9011—Disclosure of Confidential/Privileged Information)~~

## **Personnel Matters**

The Board may hold a closed session under the "personnel exception" to consider the appointment, employment, ~~evaluation of performance~~ evaluation, discipline, or dismissal of an employee. Such a closed session shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline. ~~(Government Code 54957)~~ 54957)

~~(cf. 2140- 2140 - Evaluation of the Superintendent)~~

~~(cf. 4115- 4115 - Evaluation/Supervision)~~

~~(cf. 4118—Suspension/Disciplinary Action)~~

4118 ~~(cf. 4215—Evaluation/Supervision)~~

~~(cf. 4218 - Dismissal/Suspension/Disciplinary Action)~~

(cf. 4215 - Evaluation/Supervision)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

~~(cf. 4315- 4315 - Evaluation/Supervision)~~

The Board may also hold a closed session to hear complaints or charges brought against an employee by another person or employee, unless the employee who is the subject of the complaint requests an open session. Before the Board holds a closed session on specific complaints or charges brought against an employee, the employee shall receive written notice of ~~his/her~~ the right to have the complaints or charges heard in open session if desired. This notice shall be delivered personally or by mail at least 24 hours before the time of the session. ~~(Government Code 54957)~~ 54957)

~~(cf. 1312.1- 1312.1 - Complaints Concerning District Employees)~~

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

~~(cf. 4112.9/4212.9/4312.9—Employee Notifications)~~



The Board may hold a closed session to discuss ~~a district~~an employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan. ~~\_\_(Government Code 54957.10) 54957.10)~~

Agenda items related to district employee appointments and employment shall describe the position to be filled. Agenda items related to performance evaluations shall specify the title of the employee being reviewed. Agenda items related to employee discipline, dismissal, or release require no additional information. ~~\_\_(Government Code 54954.5) 54954.5)~~

After the closed session, the Board shall report any action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a district employee and shall identify the title of the affected position. The report shall be given at the public meeting during which the closed session is held, except that the report of a dismissal or nonrenewal of an employment contract shall be deferred until the first public meeting after administrative remedies, if any, have been exhausted. (Government Code 54957.1)

(cf. 4117.7/4317.7 - Employment Status Reports)

### **Negotiations/Collective Bargaining**

Unless otherwise agreed upon by the parties involved, the following shall not be subject to the open meeting requirements of Brown Act: ~~\_\_(Government Code 3549.1) 3549.1)~~

- 1.- ~~\_\_\_~~Any meeting and negotiating discussion between the district and a recognized or certified employee organization
- 2.- ~~\_\_\_~~Any meeting of a mediator with either party or both parties to the meeting and negotiating process
- 3.- ~~\_\_\_~~Any hearing, meeting, or investigation conducted by a factfinder or arbitrator
- 4.- ~~\_\_\_~~Any executive (closed) session of the district or between the district and its designated representative for the purpose of discussing its position regarding any matter within the scope of representation and instructing its designated representatives

~~(cf. 4140/4240/4340 - Bargaining Units)~~

(cf. 4140/4240/4340 - Bargaining Units)

(cf. ~~4143/4243- 4143/4243~~ - Negotiations/Consultation)

(cf. ~~4143.1/4243.1- 4143.1/4243.1~~ - Public Notice - Personnel Negotiations)

The Board may meet in closed session, prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees, to review the Board's position and/or instruct its designated representative(s) regarding salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation. Prior to the closed session, the Board shall identify its designated

representative in open session. Any closed session held for this purpose may include discussions of the district's available funds and funding priorities, but only insofar as they relate to providing instructions to the Board's designated representative. ~~(Government Code 54957.6)~~ Final action on the proposed compensation of one or more unrepresented employees shall not be taken in closed session. (Government Code 54957.6)

~~(cf. For represented employees, the Board may also meet in closed session regarding any other matter within the statutorily provided scope of representation. (Government Code 54957.6))~~

~~Closed sessions may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees. For unrepresented employees, closed sessions held pursuant to Government Code 54957.6 shall not include final action on the proposed compensation of one or more unrepresented employees. (Government Code 54957.6)~~

#### 2121 - Superintendent's Contract)

The Board also may meet in closed session with a state conciliator ~~or mediator~~ who has intervened in proceedings regarding any of the purposes enumerated in Government Code ~~54957.6.~~ 54957.6.

Agenda items related to negotiations shall specify the name(s) of the district's designated representative(s) attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the organization representing the employee(s) or the position title of the unrepresented employee who is the subject of the negotiations. ~~(Government Code 54954.5)~~ 54954.5)

Approval of an agreement regarding labor negotiations with represented employees pursuant to Government Code 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. This report shall identify the item approved and the other party or parties to the negotiation. (Government Code 54957.1)

### **Matters Related to Students**

If a public hearing would lead to the disclosure of confidential student information, the Board shall meet in closed session to consider a suspension, disciplinary action, any other action against a student except expulsion, or a challenge to a student record. If a written request for open session is received from the parent/guardian or adult student, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any student other than the student requesting the public meeting shall be in closed session. (Education Code 35146, 48912, 49070)

(cf. 5117 - Interdistrict Attendance)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5125.3 - Challenging Student Records)

(cf. 5144 - Discipline)

The Board shall meet in closed session to consider the expulsion of a student, unless the student submits a written request at least five days before the date of the hearing that the hearing be held in open session. Regardless of whether the expulsion hearing is conducted in open or closed session, the Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code ~~48918~~ 48918)

*(cf. ~~5144.1~~ 5144.1 - Suspension and Expulsion/Due Process)*

*(cf. ~~5144.2~~ 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

~~The Board shall meet in closed session to address any student matter that may involve disclosure of confidential student information, or to consider a suspension, disciplinary~~

~~action, or any other action against a student except expulsion. If a written request for open session is received from the parent/guardian or adult student, it will be honored to the extent that it does not violate the privacy rights of any other student. (Education Code ~~35146, 48912, 49070~~)~~

~~(cf. ~~5117~~ —Interdistrict Attendance)~~

~~(cf. ~~5119~~ —Students Expelled from Other Districts)~~

~~(cf. ~~5125.3~~ —Challenging Student Records)~~

~~(cf. ~~5144~~ —Discipline)~~

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing" or "grade change appeal," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping. The agenda shall also state that the Education Code requires closed sessions in these cases in order to prevent the disclosure of confidential student record information.

Final action on a student matter deliberated in closed session shall be taken in open session and shall be a matter of public record. (Education Code 35146, 48918)

*(cf. ~~5125~~ 5125 - Student Records)*

However, in taking final action, the Board shall not release any information in violation of student privacy rights provided in 20 USC 1232g or other applicable laws. In an expulsion or other disciplinary action, the cause for the disciplinary action shall be disclosed in open session, but the Board shall refer to the student number or other identifier and shall not disclose the student's name.

## **Security Matters**

The Board may meet in closed session with the Governor, Attorney General, district attorney, district legal counsel, sheriff or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings; to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service; or to the public's right of access

to public services or public facilities. ~~(Government Code 54957)~~ Such discussions may be held in closed session during an emergency meeting called pursuant to Government Code 54956.5 if agreed to by a two-thirds vote of the Board members present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present. ~~(Government Code 54956.5, 54957)~~

~~(cf. 0450-0450 - Comprehensive Safety Plan)~~

~~(cf. 3515-3515 - Campus Security)~~

~~(cf. 3516-3516 - Emergencies and Disaster Preparedness Plan)~~

~~The Board may meet in closed session during an emergency meeting held pursuant to Government Code 54956.5 to meet with law enforcement officials for the emergency purposes specified in Government Code 54957 if agreed to by a two-thirds vote of the Board members present. If less than two-thirds of the members are present, then the Board must agree by a unanimous vote of the members present. (Government Code 54956.5)~~

~~(cf. 9323.2 - Actions by the Board)~~

Agenda items related to these security matters shall specify the name of the law enforcement agency and the title of the officer, or name of applicable agency representative and title, with whom the Board will consult. ~~(Government Code 54954.5) 54954.5)~~

~~Conference with Real Property Negotiator~~

~~The Board may meet in closed session to consult with law enforcement officials on the development of a plan for tactical responses to criminal incidents and to approve the plan. Following the closed session, the Board shall report any action taken to approve the plan, but need not disclose the district's plan for tactical responses. (Education Code 32281)~~

### Real Property Negotiations

The Board may meet in closed session with its real property negotiator prior to the purchase, sale, exchange, or lease of real property by or for the district in order to grant its negotiator authority regarding the price and terms of payment for the property. ~~(Government Code 54956.8) 54956.8)~~

Before holding the closed session, the Board shall hold an open and public session to identify its negotiator(s) ~~and~~, the property under negotiation, and ~~to specify~~ the person(s) with whom the negotiator may negotiate. For purposes of real property transactions, negotiators may include members of the Board. ~~(Government Code 54956.8) 54956.8)~~

~~For purposes of real property transactions, negotiators may include members of the Board. (Government Code 54956.8)~~

Agenda items related to real property negotiations shall specify the district negotiator attending the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the negotiating parties and the street address of the real property under negotiation. If there is no street address, the agenda item shall specify the parcel number or another unique reference of the property. The agenda item shall also specify whether

instruction to the negotiator will concern price, terms of payment, or both. (Government Code ~~54954.5~~ 54954.5)

When the Board approves a final agreement concluding real estate negotiations pursuant to Government Code 54956.8, it shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held. If final approval rests with the other party to the negotiations, the Superintendent or designee shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the district of its approval. (Government Code 54957.1)

## **Pending Litigation**

Based on the advice of its legal counsel, the Board may hold a closed session to confer with or receive advice from its legal counsel regarding ~~a~~ pending litigation when ~~a~~ discussion of the matter in open session would prejudice the district's position in the litigation. For this purpose, "litigation" means any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code ~~54956.9~~ 54956.9)

Litigation is considered "pending" in any of the following circumstances: (Government Code ~~54956.9~~ 54956.9)

- 1.- \_\_\_\_\_ Litigation to which the district is a "party" has been initiated formally. (Government Code ~~54956.9(a)~~ 54956.9(d)(1))
- 2.- \_\_\_\_\_ A point has been reached where, in the Board's opinion based on the advice of its legal counsel regarding the "existing facts and circumstances," there is a "significant exposure to litigation" against the district, or the Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized. (Government Code 54956.9(~~b~~d)(2), (3))

*Existing facts and circumstances* for these purposes are limited to the following: (Government Code ~~54956.9~~ 54956.9)

- a.- \_\_\_\_\_ Facts and circumstances that might result in litigation against the district but which the district believes are not yet known to potential ~~plaintiffs~~ plaintiff(s) and which do not need to be disclosed.
- b.- \_\_\_\_\_ Facts and circumstances including, but not limited to, an accident, disaster, incident, or transactional occurrence which might result in litigation against the district, which are already known to potential ~~plaintiffs~~ plaintiff(s) and which must be publicly disclosed before the closed session or specified on the agenda.
- c.- \_\_\_\_\_ The receipt of a claim pursuant to the ~~For~~ Government Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.

(cf. ~~3320~~ 3320 - Claims and Actions Against the District)

d.-        A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.

e.-        A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the Board, provided that the district official or employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection. Such record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat ~~on his/her~~ of litigation on the victim's behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.

3.-        Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation. (Government Code ~~54956.9(e)~~ 54956.9(d)(4))

Before holding a closed session pursuant to the pending litigation exception, the Board shall state on the agenda or publicly announce the subdivision of Government Code ~~54956.9~~ 54956.9 under which the closed session is being held. If authority is based on Government Code ~~54956.9(a)~~ 54956.9 (d)(1), the Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the district's ability to effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage. (Government Code ~~54956.9)~~ 54956.9)

Agenda items related to pending litigation shall be described as a conference with legal counsel regarding either "existing litigation" or "anticipated litigation." (Government Code ~~54954.5)~~ 54954.5)

"Existing litigation" items shall identify the name of the case specified by either the claimant's name, names of parties, or case or claim number, unless the Board states that to identify the case would jeopardize service of process or existing settlement negotiations. (Government Code ~~54954.5)~~ 54954.5)

"Anticipated litigation" items shall state that there is significant exposure to litigation pursuant to Government Code ~~54956.9(b)~~ 54956.9(d)(2) or (3) and shall specify the potential number of cases. When the district expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code ~~54956.9(c)~~ 54956.9(d)(4) and shall specify the potential number of cases. The agenda or an oral statement before the closed session may be required to provide additional information regarding existing facts and circumstances described in item #2 b-e above. (Government Code ~~54954.5)~~ 54954.5)

Following the closed session, the Board shall publicly report, as applicable: (Government Code 54957.1)

1. Approval to legal counsel to defend, appeal or not appeal, or otherwise appear in litigation. This report shall identify the adverse parties, if known, and the substance of the litigation.

2. Approval to legal counsel to initiate or intervene in a lawsuit. This report shall state that directions to initiate or intervene in the action have been given and that the action, defendants, and other details will be disclosed to inquiring parties after the lawsuit is commenced unless doing so would jeopardize the district's ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage.
3. Acceptance of a signed offer from the other party or parties which finalizes the settlement of pending litigation. This report shall state the substance of the agreement.

If approval is given to legal counsel to settle pending litigation but final approval rests with the other party or with the court, the district shall report the fact of approval and the substance of the agreement thereon to persons who inquire once the settlement is final. (Government Code 54957.1)

### **Joint Powers Agency Issues**

The Board may meet in closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by a joint powers agency (JPA) formed for the purpose of insurance pooling or self-insurance authority of which the district is a member. (Government Code ~~54956.95~~ 54956.95)

Closed session agenda items related to liability claims shall specify the claimant's name and the name of the agency against which the claim is made. (Government Code ~~54954.5~~ 54954.5)

*(cf. ~~3530~~ 3530 - Risk Management/Insurance)*

Following the closed session, the Board shall publicly report the disposition of joint powers agency or self-insurance claims, including the name of the claimant(s), the name of the agency claimed against, the substance of the claim, and the monetary settlement agreed upon by the claimant. (Government Code 54957.1)

When the board of the JPA has so authorized and upon advice of district legal counsel, the Board may also meet in closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the JPA- that has direct financial or liability implications for the district. During the Board's closed session, a Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to fellow Board members. (Government Code ~~54956.96~~ 54956.96)

~~The Board member may also disclose the confidential JPA information to district legal counsel in order to obtain advice on whether the matter has direct financial or liability implications for the district. (Government Code 54956.96)~~

Closed session agenda items related to conferences involving a JPA shall specify the name of the JPA, the closed session description used by the JPA, and the name of the Board member representing the



district on the JPA board. Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives shall also be included. (Government Code ~~54954.5~~ 54954.5)

### **Review of Audit Report from ~~Bureau of~~California State ~~Audits~~Auditor's Office**

Upon receipt of a confidential final draft audit report from the ~~Bureau of~~California State ~~Audits~~Auditor's Office, the Board may meet in closed session to discuss its response to that report. After public release of the report from the ~~Bureau of~~California State ~~Audits~~Auditor's Office, any Board meeting to discuss the report must be conducted in open session, unless exempted from that requirement by some other provision of law. (Government Code ~~54956.75~~ 54956.75)

Closed session agenda items related to an audit by the ~~Bureau of~~California State ~~Audits~~Auditor's Office shall state "Audit by ~~Bureau of~~California State ~~Audits~~."Auditor's Office." (Government Code ~~54954.5~~ 54954.5)

Following the closed session, the Board shall publicly confirm that the report was reviewed and a response was prepared.

### **Review of Assessment Instruments**

The Board may meet in closed session to review the contents of any student assessment instrument approved or adopted for the statewide testing system. Before any such meeting, the Board shall agree by resolution to accept any terms or conditions established by the State Board of Education for this review. (Education Code ~~60617~~ 60617)

*(cf. 6162.51 - State Academic Achievement Tests)*

*(cf. ~~6162.5~~ Student Assessment)*

Agenda items related to the review of student assessment instruments shall state that the Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program and that Education Code ~~60617~~ 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

Following the closed session, the Board shall confirm that the assessment instruments were reviewed. Any actions related to the review shall be taken in open session without revealing any proprietary or confidential information and shall be a matter of public record.

#### *Legal Reference:*

EDUCATION CODE

~~35145-32281~~ School safety plans

35145 Public meetings

~~35146-35146~~ Closed session (~~refer~~for student suspension) or disciplinary action

44929.21-44929.21 Districts with ADA of 250 or more

~~48912-48912~~ Governing board suspension of student



~~48918-48918~~ Rules governing expulsion procedures; hearings and notice  
~~49070-49070~~ Challenging content of ~~students~~student records

#### 60617 Meetings of governing board

49073-49079 Privacy of student records  
60617 Closed session (re review of contents of statewide assessment)  
GOVERNMENT CODE  
3540-3549.3-3540-3549.3 Educational Employment Relations Act  
6252-6270-6252-6270 California Public Records Act

#### 54950-54963 The Ralph M. Brown Act

54950-54963 The Ralph M. Brown Act  
CALIFORNIA CONSTITUTION  
Article 1, Section 3 Public right to access information  
UNITED STATES CODE, TITLE 20  
1232g Family Educational Rights and Privacy Act  
CODE OF FEDERAL REGULATIONS, TITLE 34  
99.1-99.8 Family Educational Rights and Privacy  
COURT DECISIONS  
Moreno v. City of King, (2005) 127 Cal.App.4th 17  
Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners, (2003) 107 Cal.App.4th 860  
Rim of the World Unified School District v. San Bernardino County Superior Court, (2002) 104 Cal.App.4th 1393  
Bell v. Vista Unified School District, (2001-2000) 82 Cal.App. 4th 672  
Fischer v. Los Angeles Unified School District, (1999) 70 Cal.App. 4th 87  
Kleitman v. Superior Court of Santa Clara County, (1999) 87 Cal Rptr. 2d  
Furtado v. Sierra Community College District, (1998) 68 Cal.App. 4th 876  
Roberts v. City of Palmdale, (1993) 5 Cal.App. 4th 363  
San Diego Union v. City Council, (1983) 146 Cal.App.3d 947  
Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, (1968) 263 Cal.App. 2d 41  
ATTORNEY GENERAL OPINIONS  
94 Ops.Cal.Atty.Gen. 82 (2011)  
89 Ops.Cal.Atty.Gen. 110 (2006)  
86 Ops.Cal.Atty.Gen. 210 (2003)  
78 Ops.Cal.Atty.Gen. 218 (1995)  
59 Ops.Cal.Atty.Gen. 532 (1976)  
57 Ops.Cal.Atty.Gen. 209 (1974)

#### Management Resources:

CSBA PUBLICATIONS  
The Brown Act: School Boards and Open Meeting Laws, 2009rev. 2014  
CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS  
The Brown Act: Open Meetings for Legislative Bodies, 20022003  
LEAGUE OF CALIFORNIA CITIES PUBLICATIONS  
Open and Public IV: A Guide to the Ralph M. Brown Act, rev. July 2010  
WEB SITES

CSBA: <http://www.csba.org>

CSBA: <http://www.csba.org>  
California Office of the Attorney General's Office: <http://www.oag.ca.gov>  
<http://www.oag.ca.gov>

League of California Cities: ~~<http://www.cacities.org>~~ <http://www.cacities.org>

Bylaw ~~ALAMEDA UNIFIED SCHOOL DISTRICT~~ CSBA MANUAL MAINTENANCE  
SERVICE

adopted: ~~August 25, 2009 Alameda, California~~ July 2019

~~revised: November 27, 2012~~

**CLOSED SESSION**

The Governing Board is committed to complying with state open meeting laws and modeling transparency in its conduct of district business. The Board shall hold a closed session during a regular, special, or emergency meeting only for purposes authorized by law.

Each agenda shall contain a general description of each closed session item to be discussed at the meeting, as required by law and specified below. (Government Code 54954.2)

In the open session preceding the closed session, the Board shall disclose the items to be discussed in closed session. In the closed session, the Board may consider only those matters covered in its statement. (Government Code 54957.7)

After the closed session, the Board shall reconvene in open session before adjourning the meeting and, when applicable, shall publicly disclose any action taken in the closed session, the votes or abstentions thereon, and other disclosures specified below that are applicable to the matter being addressed. Such reports may be made in writing or orally at the location announced in the agenda for the closed session. (Education Code 32281; Government Code 54957.1, 54957.7)

When an action taken during a closed session involves final approval or adoption of a document such as a contract or settlement agreement, the Superintendent or designee shall provide a copy of the document to any person present at the conclusion of the closed session who submitted a written request. If the action taken results in one or more substantive amendments, the Superintendent or designee shall make the document available the next business day or when the necessary retyping is completed. Whenever copies of an approved agreement will not be immediately released due to an amendment, the Board president shall orally summarize the substance of the amendment for those present at the end of the closed session. (Government Code 54957.1)

**Confidentiality**

A Board member shall not disclose confidential information received in closed session unless the Board authorizes the disclosure of that information. (Government Code 54963)

The Board shall not disclose any information that is protected by state or federal law. In addition, no victim or alleged victim of tortious sexual conduct or child abuse shall be identified in any Board agenda, notice, announcement, or report required by the Brown Act, unless the identity of the person has previously been publicly disclosed. (Government Code 54957.7, 54961)

**Personnel Matters**

The Board may hold a closed session under the "personnel exception" to consider the appointment, employment, performance evaluation, discipline, or dismissal of an employee. Such a closed session shall not include discussion or action on proposed compensation except

for a reduction of compensation that results from the imposition of discipline. (Government Code 54957)

The Board may also hold a closed session to hear complaints or charges brought against an employee by another person or employee, unless the employee who is the subject of the complaint requests an open session. Before the Board holds a closed session on specific complaints or charges brought against an employee, the employee shall receive written notice of the right to have the complaints or charges heard in open session if desired. This notice shall be delivered personally or by mail at least 24 hours before the time of the session. (Government Code 54957)

The Board may hold a closed session to discuss an employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan. (Government Code 54957.10)

Agenda items related to district employee appointments and employment shall describe the position to be filled. Agenda items related to performance evaluations shall specify the title of the employee being reviewed. Agenda items related to employee discipline, dismissal, or release require no additional information. (Government Code 54954.5)

After the closed session, the Board shall report any action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a district employee and shall identify the title of the affected position. The report shall be given at the public meeting during which the closed session is held, except that the report of a dismissal or nonrenewal of an employment contract shall be deferred until the first public meeting after administrative remedies, if any, have been exhausted. (Government Code 54957.1)

### **Negotiations/Collective Bargaining**

Unless otherwise agreed upon by the parties involved, the following shall not be subject to the open meeting requirements of Brown Act: (Government Code 3549.1)

1. Any meeting and negotiating discussion between the district and a recognized or certified employee organization
2. Any meeting of a mediator with either party or both parties to the meeting and negotiating process
3. Any hearing, meeting, or investigation conducted by a factfinder or arbitrator
4. Any executive (closed) session of the district or between the district and its designated representative for the purpose of discussing its position regarding any matter within the scope of representation and instructing its designated representatives

The Board may meet in closed session, prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees, to review the Board's position and/or instruct its designated representative(s) regarding salaries, salary schedules, or

compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation. Prior to the closed session, the Board shall identify its designated representative in open session. Any closed session held for this purpose may include discussions of the district's available funds and funding priorities, but only insofar as they relate to providing instructions to the Board's designated representative. Final action on the proposed compensation of one or more unrepresented employees shall not be taken in closed session. (Government Code 54957.6)

The Board also may meet in closed session with a state conciliator who has intervened in proceedings regarding any of the purposes enumerated in Government Code 54957.6.

Agenda items related to negotiations shall specify the name(s) of the district's designated representative(s) attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the organization representing the employee(s) or the position title of the unrepresented employee who is the subject of the negotiations. (Government Code 54954.5)

Approval of an agreement regarding labor negotiations with represented employees pursuant to Government Code 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. This report shall identify the item approved and the other party or parties to the negotiation. (Government Code 54957.1)

### **Matters Related to Students**

If a public hearing would lead to the disclosure of confidential student information, the Board shall meet in closed session to consider a suspension, disciplinary action, any other action against a student except expulsion, or a challenge to a student record. If a written request for open session is received from the parent/guardian or adult student, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any student other than the student requesting the public meeting shall be in closed session. (Education Code 35146, 48912, 49070)

The Board shall meet in closed session to consider the expulsion of a student, unless the student submits a written request at least five days before the date of the hearing that the hearing be held in open session. Regardless of whether the expulsion hearing is conducted in open or closed session, the Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code 48918)

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing" or "grade change appeal," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping. The agenda shall also state that the Education Code requires closed sessions in these cases in order to prevent the disclosure of confidential student record information.

Final action on a student matter deliberated in closed session shall be taken in open session and shall be a matter of public record. (Education Code 35146, 48918)

However, in taking final action, the Board shall not release any information in violation of student privacy rights provided in 20 USC 1232g or other applicable laws. In an expulsion or other disciplinary action, the cause for the disciplinary action shall be disclosed in open session, but the Board shall refer to the student number or other identifier and shall not disclose the student's name.

### **Security Matters**

The Board may meet in closed session with the Governor, Attorney General, district attorney, district legal counsel, sheriff or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings; to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service; or to the public's right of access to public services or public facilities. Such discussions may be held in closed session during an emergency meeting called pursuant to Government Code 54956.5 if agreed to by a two-thirds vote of the Board members present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present. (Government Code 54956.5, 54957)

Agenda items related to these security matters shall specify the name of the law enforcement agency and the title of the officer, or name of applicable agency representative and title, with whom the Board will consult. (Government Code 54954.5)

The Board may meet in closed session to consult with law enforcement officials on the development of a plan for tactical responses to criminal incidents and to approve the plan. Following the closed session, the Board shall report any action taken to approve the plan, but need not disclose the district's plan for tactical responses. (Education Code 32281)

### **Real Property Negotiations**

The Board may meet in closed session with its real property negotiator prior to the purchase, sale, exchange, or lease of real property by or for the district in order to grant its negotiator authority regarding the price and terms of payment for the property. (Government Code 54956.8)

Before holding the closed session, the Board shall hold an open and public session to identify its negotiator(s), the property under negotiation, and the person(s) with whom the negotiator may negotiate. For purposes of real property transactions, negotiators may include members of the Board. (Government Code 54956.8)

Agenda items related to real property negotiations shall specify the district negotiator attending the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the negotiating parties and the street address of the real property under negotiation. If there is no street address, the agenda item shall specify the parcel number or another unique reference of the property. The agenda item shall also specify whether

instruction to the negotiator will concern price, terms of payment, or both. (Government Code 54954.5)

When the Board approves a final agreement concluding real estate negotiations pursuant to Government Code 54956.8, it shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held. If final approval rests with the other party to the negotiations, the Superintendent or designee shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the district of its approval. (Government Code 54957.1)

### **Pending Litigation**

Based on the advice of its legal counsel, the Board may hold a closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion of the matter in open session would prejudice the district's position in the litigation. For this purpose, "litigation" means any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)

Litigation is considered "pending" in any of the following circumstances: (Government Code 54956.9)

1. Litigation to which the district is a "party" has been initiated formally. (Government Code 54956.9(d)(1))
2. A point has been reached where, in the Board's opinion based on the advice of its legal counsel regarding the "existing facts and circumstances," there is a "significant exposure to litigation" against the district, or the Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized. (Government Code 54956.9(d)(2), (3))

*Existing facts and circumstances* for these purposes are limited to the following: (Government Code 54956.9)

- a. Facts and circumstances that might result in litigation against the district but which the district believes are not yet known to potential plaintiff(s) and which do not need to be disclosed.
- b. Facts and circumstances including, but not limited to, an accident, disaster, incident, or transactional occurrence which might result in litigation against the district, which are already known to potential plaintiff(s) and which must be publicly disclosed before the closed session or specified on the agenda.
- c. The receipt of a claim pursuant to the Government Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.

- d. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.
  - e. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the Board, provided that the district official or employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection. Such record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat of litigation on the victim's behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.
3. Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation. (Government Code 54956.9(d)(4))

Before holding a closed session pursuant to the pending litigation exception, the Board shall state on the agenda or publicly announce the subdivision of Government Code 54956.9 under which the closed session is being held. If authority is based on Government Code 54956.9 (d)(1), the Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the district's ability to effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage. (Government Code 54956.9)

Agenda items related to pending litigation shall be described as a conference with legal counsel regarding either "existing litigation" or "anticipated litigation." (Government Code 54954.5)

"Existing litigation" items shall identify the name of the case specified by either the claimant's name, names of parties, or case or claim number, unless the Board states that to identify the case would jeopardize service of process or existing settlement negotiations. (Government Code 54954.5)

"Anticipated litigation" items shall state that there is significant exposure to litigation pursuant to Government Code 54956.9(d)(2) or (3) and shall specify the potential number of cases. When the district expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code 54956.9(d)(4) and shall specify the potential number of cases. The agenda or an oral statement before the closed session may be required to provide additional information regarding existing facts and circumstances described in item #2 b-e above. (Government Code 54954.5)

Following the closed session, the Board shall publicly report, as applicable: (Government Code 54957.1)

1. Approval to legal counsel to defend, appeal or not appeal, or otherwise appear in litigation. This report shall identify the adverse parties, if known, and the substance of the litigation.
2. Approval to legal counsel to initiate or intervene in a lawsuit. This report shall state that directions to initiate or intervene in the action have been given and that the action, defendants, and other details will be disclosed to inquiring parties after the lawsuit is



commenced unless doing so would jeopardize the district's ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage.

3. Acceptance of a signed offer from the other party or parties which finalizes the settlement of pending litigation. This report shall state the substance of the agreement.

If approval is given to legal counsel to settle pending litigation but final approval rests with the other party or with the court, the district shall report the fact of approval and the substance of the agreement thereon to persons who inquire once the settlement is final. (Government Code 54957.1)

### **Joint Powers Agency Issues**

The Board may meet in closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by a joint powers agency (JPA) formed for the purpose of insurance pooling or self-insurance authority of which the district is a member. (Government Code 54956.95)

Closed session agenda items related to liability claims shall specify the claimant's name and the name of the agency against which the claim is made. (Government Code 54954.5)

Following the closed session, the Board shall publicly report the disposition of joint powers agency or self-insurance claims, including the name of the claimant(s), the name of the agency claimed against, the substance of the claim, and the monetary settlement agreed upon by the claimant. (Government Code 54957.1)

When the board of the JPA has so authorized and upon advice of district legal counsel, the Board may also meet in closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the JPA that has direct financial or liability implications for the district. During the Board's closed session, a Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to fellow Board members. (Government Code 54956.96)

Closed session agenda items related to conferences involving a JPA shall specify the name of the JPA, the closed session description used by the JPA, and the name of the Board member representing the district on the JPA board. Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives shall also be included. (Government Code 54954.5)

### **Review of Audit Report from California State Auditor's Office**

Upon receipt of a confidential final draft audit report from the California State Auditor's Office, the Board may meet in closed session to discuss its response to that report. After public release of the report from the California State Auditor's Office, any Board meeting to discuss the report must be conducted in open session, unless exempted from that requirement by some other provision of law. (Government Code 54956.75)

Closed session agenda items related to an audit by the California State Auditor's Office shall state "Audit by California State Auditor's Office." (Government Code 54954.5)

Following the closed session, the Board shall publicly confirm that the report was reviewed and a response was prepared.

### **Review of Assessment Instruments**

The Board may meet in closed session to review the contents of any student assessment instrument approved or adopted for the statewide testing system. Before any such meeting, the Board shall agree by resolution to accept any terms or conditions established by the State Board of Education for this review. (Education Code 60617)

Agenda items related to the review of student assessment instruments shall state that the Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program and that Education Code 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

Following the closed session, the Board shall confirm that the assessment instruments were reviewed. Any actions related to the review shall be taken in open session without revealing any proprietary or confidential information and shall be a matter of public record.

#### *Legal Reference:*

##### EDUCATION CODE

32281 School safety plans

35145 Public meetings

35146 Closed session for student suspension or disciplinary action

44929.21 Districts with ADA of 250 or more

48912 Governing board suspension of student

48918 Rules governing expulsion procedures; hearings and notice

49070 Challenging content of student records

49073-49079 Privacy of student records

60617 Closed session (re review of contents of statewide assessment)

##### GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

6252-6270 California Public Records Act

54950-54963 The Ralph M. Brown Act

##### CALIFORNIA CONSTITUTION

Article 1, Section 3 Public right to access information

##### UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

##### CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.8 Family Educational Rights and Privacy

##### COURT DECISIONS

Moreno v. City of King, (2005) 127 Cal.App.4th 17

Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners, (2003) 107

Cal.App.4th 860

Rim of the World Unified School District v. San Bernardino County Superior Court, (2002) 104

Cal.App.4th 1393

Bell v. Vista Unified School District, (2000) 82 Cal.App. 4th 672

Fischer v. Los Angeles Unified School District, (1999) 70 Cal.App. 4th 87

Kleitman v. Superior Court of Santa Clara County, (1999) 87 Cal Rptr. 2d

*Furtado v. Sierra Community College District*, (1998) 68 Cal.App. 4th 876  
*Roberts v. City of Palmdale*, (1993) 5 Cal. 4th 363  
*San Diego Union v. City Council*, (1983) 146 Cal.App.3d 947  
*Sacramento Newspaper Guild v. Sacramento County Board of Supervisors*, (1968) 263 Cal.App. 2d 41  
ATTORNEY GENERAL OPINIONS  
94 *Ops.Cal.Atty.Gen.* 82 (2011)  
89 *Ops.Cal.Atty.Gen.* 110 (2006)  
86 *Ops.Cal.Atty.Gen.* 210 (2003)  
78 *Ops.Cal.Atty.Gen.* 218 (1995)  
59 *Ops.Cal.Atty.Gen.* 532 (1976)  
57 *Ops.Cal.Atty.Gen.* 209 (1974)

*Management Resources:*

CSBA PUBLICATIONS

*The Brown Act: School Boards and Open Meeting Laws*, rev. 2014

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

*The Brown Act: Open Meetings for Legislative Bodies*, 2003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

*Open and Public IV: A Guide to the Ralph M. Brown Act*, rev. July 2010

WEB SITES

CSBA: <http://www.csba.org>

California Office of the Attorney General: <http://www.oag.ca.gov>

League of California Cities: <http://www.cacities.org>

Bylaw ALAMEDA UNIFIED SCHOOL DISTRICT

adopted: August 25, 2009 Alameda, California

revised: November 27, 2012

revised:

**CLOSED SESSION**

**BOARD MEETING AGENDA DESCRIPTIONS FOR CLOSED SESSION ITEMS**

The Governing Board meeting agenda shall include the following description of a closed session item, as applicable:

**Personnel Matters**

**PUBLIC EMPLOYEE APPOINTMENT**

Government Code 54957

Title:

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*(Specify position to be filled)*

**PUBLIC EMPLOYMENT**

Government Code 54957

Title:

---

*(Specify position to be filled)*

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Government Code 54957

Title:

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*(Specify position of employee being evaluated)*

**PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE**

Government Code 54957

*(No additional information is required. An employee's dismissal or nonrenewal shall not be reported until the employee has first exhausted any right to a hearing or other administrative remedy.)*

**SPECIFIC COMPLAINT OR CHARGE AGAINST EMPLOYEE**

Government Code 54957

*(No additional information is required.)*

**EMPLOYEE APPLICATION FOR EARLY WITHDRAWAL OF FUNDS IN DEFERRED  
COMPENSATION PLAN**

Government Code 54957.10

*(No additional information is required.)*

## **Negotiations/Collective Bargaining**

### **CONFERENCE WITH LABOR NEGOTIATORS**

Government Code 54957.6

District-designated representatives:

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*(Specify names of representatives attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative as long as the name of the agent or designee is announced at an open session held prior to the closed session.)*

Employee organization:

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*(Specify name of employee organization with which negotiations are being held.)*

or

Unrepresented employee:

---

*(Specify position of unrepresented employee who is the subject of the negotiations.)*

## **Matters Related to Students**

### **STUDENT SUSPENSION/OTHER DISCIPLINARY ACTION**

Education Code 35146

Student identification number:

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*(It is recommended that the student's name not be listed. The district may use other means to identify the student for record-keeping purposes.)*

### **STUDENT EXPULSION**

Education Code 48912

Student identification number:

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*(It is recommended that the student's name not be listed. The district may use other means to identify the student for record-keeping purposes.)*

### **STUDENT GRADE CHANGE APPEAL**

Education Code 49070

Student identification number:

---

*(It is recommended that the student's name not be listed. The district may use other means to identify the student for record-keeping purposes.)*

## **CONFIDENTIAL STUDENT MATTER**

Action under consideration:

*(If the Board is considering a confidential student matter other than those listed above, specify type of action.)*

Student identification number:

*(It is recommended that the student's name not be listed. The district may use other means to identify the student for record-keeping purposes.)*

## **Security Matters**

### **THREAT TO PUBLIC SERVICES OR FACILITIES**

Government Code 54957

Consultation with: \_\_\_\_\_  
*(Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title, with whom the Board will consult.)*

### **DEVELOPMENT/APPROVAL OF TACTICAL RESPONSE PLAN**

Education Code 32281

Consultation with: \_\_\_\_\_  
*(Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title, with whom the Board will consult.)*

## **Real Property Negotiations**

### **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Government Code 54956.8

Property:

\_\_\_\_\_  
*(Specify street address or, if no street address, the parcel number or other unique reference of the real property under negotiation.)*

District negotiator:

\_\_\_\_\_  
*(Specify names of negotiators attending the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator as long as the name of the agent or designee is announced at an open session held prior to the closed session.)*

Negotiating parties: \_\_\_\_\_  
*(Specify name of party, not agent.)*

Under negotiation: \_\_\_\_\_  
*(Specify whether instruction to negotiator will concern price, terms of payment, or both.)*

## **Pending Litigation**

### **CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION**

Government Code 54956.9(d)(1)

Name of case: \_\_\_\_\_  
(Specify by reference to claimant's name, names of parties, or case or claim numbers.)

or

Case name unspecified, as identification of the case would jeopardize service of process or existing settlement negotiations.

**CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION**  
Government Code 54956.9(d)(2) or (3)

Significant exposure to litigation pursuant to Government Code 54956.9(d)(2) or (3). Number of potential cases: \_\_\_\_\_

Or

Initiation of litigation pursuant to Government Code 54956.9(d)(4). Number of potential cases: \_\_\_\_\_

If applicable, facts and circumstances: \_\_\_\_\_  
(The district may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to Government Code 54956.9(e)(2)-(5). These include facts and circumstances, such as an accident, disaster, incident, or transactional occurrence that might result in litigation against the district and that are known to potential plaintiff(s).)

**Joint Powers Authority Issues**

**LIABILITY CLAIMS FOR INSURANCE-RELATED JOINT POWERS AGENCY**  
Government Code 54956.95

Name of claimant(s): \_\_\_\_\_

(Specify name, except pursuant to Government Code 54961 when the claimant is a victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.)

Name of agency against which the claim is made: \_\_\_\_\_

**CONFERENCE INVOLVING INFORMATION FROM A JOINT POWERS AGENCY  
WITH DIRECT FINANCIAL OR LIABILITY IMPLICATIONS FOR DISTRICT**  
Government Code 54956.96

Name of JPA: \_\_\_\_\_

Discussion will concern:

\_\_\_\_\_  
(Specify closed session description used by the JPA.)

Name of district representative on JPA board:

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Names of agencies or titles of representatives attending the closed session as consultants or other representatives, if applicable: \_\_\_\_\_

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**Review of Audit from State Auditor's Office**

AUDIT BY CALIFORNIA STATE AUDITOR'S OFFICE

Government Code 54956.75

*(No additional information is required.)*

**Review of Assessment Instruments**

REVIEW OF STUDENT ASSESSMENT INSTRUMENT

Education Code 60617

The Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program. Education Code 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

Exhibit  
version:

CSBA MANUAL MAINTENANCE SERVICE  
July 2019



**CLOSED SESSION**

**REPORTS OF CLOSED SESSION ACTIONS**

Following a closed session during any Governing Board meeting, the Board shall reconvene in open session to present, orally or in writing, a report of any of the following actions taken during the closed session, as applicable:

**Personnel Matters**

Title of position: \_\_\_\_\_

Action taken: \_\_\_\_\_  
(e.g., appointment/employment/evaluation/discipline/dismissal/release)

Board member votes/abstentions: \_\_\_\_\_

**Negotiations/Collective Bargaining**

Approval of final agreement with represented employees

Item approved: \_\_\_\_\_

Other party/parties to the negotiation: \_\_\_\_\_

Board member votes/abstentions: \_\_\_\_\_

**Matters Related to Students**

*(Final action must be taken in open session. It is recommended that the student's name not be disclosed.)*

**Security Matters**

Action taken: \_\_\_\_\_  
(e.g., consultation with law enforcement; approval of contract or memorandum of understanding; approval of tactical response plan, without disclosing the details of the plan)

Board member votes/abstentions: \_\_\_\_\_

**Real Property Negotiations**

Action taken: \_\_\_\_\_  
(Report if Board approves a final agreement concluding real estate negotiations. If final approval rests with the other party, report as soon as the other party has approved the agreement.)

Substance of the agreement: \_\_\_\_\_

Board member votes/abstentions: \_\_\_\_\_

### **Existing Litigation**

Action taken related to existing litigation:

\_\_\_\_\_  
*(e.g., approval to legal counsel to defend, appeal or not appeal, or otherwise appear in litigation; or approval to legal counsel of a settlement of pending litigation at any stage prior to or during a judicial or quasi-judicial proceeding. If final approval of settlement rests with the other party, report to any person upon request once the settlement is final.)*

Adverse party/parties, if known: \_\_\_\_\_

Substance of the litigation: \_\_\_\_\_

Board member votes/abstentions: \_\_\_\_\_

### **Anticipated Litigation**

Action taken: The Board has given approval to legal counsel to initiate or intervene in a lawsuit. The action, defendants, and other details will be disclosed to any person upon request after the lawsuit is commenced, unless doing so would jeopardize the district's ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage.

*(The report does not need to initially identify the action, defendants, or other details.)*

Board member votes/abstentions: \_\_\_\_\_

### **Joint Powers Agency Issues**

#### **LIABILITY CLAIMS FOR INSURANCE-RELATED JOINT POWERS AGENCY**

Name of claimant(s): \_\_\_\_\_

Name of agency against which the claim is made: \_\_\_\_\_

Substance of the claim: \_\_\_\_\_

Monetary settlement agreed upon by the claimant: \_\_\_\_\_

Board member votes/abstentions: \_\_\_\_\_

#### **CONFERENCE INVOLVING INFORMATION FROM A JOINT POWERS AGENCY WITH DIRECT FINANCIAL OR LIABILITY IMPLICATIONS FOR DISTRICT**

Name of JPA: \_\_\_\_\_

Action taken: \_\_\_\_\_  
(*Law does not include any specific disclosures to be reported.*)

Board member votes/abstentions: \_\_\_\_\_

### **Review of Audit from State Auditor's Office**

Action taken: The Board reviewed the confidential final draft audit report received from the California State Auditor's Office and has prepared a response.

*(No additional information is required. Unless otherwise exempted by law, after the audit report is subsequently released to the public, any Board discussion of the report must be conducted in open session.)*

### **Review of Assessment Instruments**

Action taken: The Board reviewed the contents of a student assessment instrument approved or adopted for the statewide testing system.

Exhibit  
version:

CSBA MANUAL MAINTENANCE SERVICE  
July 2019

## **Closed Session Actions And Reports**

No matters other than those announced in open session shall be acted upon during the closed session. (Government Code [54957.7](#))

The Board shall reconvene in open session before adjourning and report closed session actions, the votes or abstentions thereon, and other disclosures required by Government Code [54957.1](#). These disclosures may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing them. (Government Code [54957.7](#))

### **Personnel Matters**

The Board shall report any personnel action taken and the votes or abstentions thereon at the public meeting during which the closed session is held. This report shall identify the title of the position. However, the report of a dismissal or nonrenewal of an employment contract shall be deferred until the first public meeting after administrative remedies, if any, have been exhausted. (Government Code [54957.1](#))

### **Negotiations/Collective Bargaining**

Final action on the proposed compensation of one or more unrepresented employees shall not be taken during the closed session. (Government Code [54957.6](#))

Approval of an agreement concluding closed session labor negotiations with represented employees shall be reported after the agreement is final and has been accepted or ratified by the other party. This report shall identify the item approved and the other party or parties to the negotiation. (Government Code [54957.1](#))

### **Student Matters**

Actions related to student matters shall be taken in open session and shall be a matter of public record. No information shall be released in violation of student privacy rights provided in law. (Education Code [35146](#), [48918](#); 20 USC [1232](#)))

In an expulsion action, the student's name shall not be disclosed, but the cause for the expulsion shall be disclosed in open session.

### **Real Estate Negotiations**

Approval of an agreement concluding real estate negotiations shall be reported after the agreement is final. If the Board renders the agreement final, it shall report that approval, the votes or abstentions thereon, and the substance of the agreement in open session at the public meeting during which the closed session is held. If final approval rests with the other party, the Superintendent or designee shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the district of its approval. (Government Code [54957.1](#))

### **Pending Litigation**

The Board shall report the following actions related to pending litigation, and the votes or abstentions thereon, at the public meeting during which the closed session is held: (Government Code [54957.1](#))

1. Approval to legal counsel to defend, appeal or not appeal, or otherwise appear in litigation. This report shall identify the adverse parties, if known, and the substance of the litigation.
2. Approval to legal counsel to initiate or intervene in a lawsuit. This report shall state that directions to initiate or intervene in the action have been given and that details will be disclosed to inquiring parties after the lawsuit is commenced unless doing so would jeopardize the district's ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage.
3. Acceptance of a signed offer from the other party or parties which finalizes the settlement of pending litigation. This report shall state the substance of the agreement.

If approval is given to legal counsel to settle pending litigation and if final approval rests with the other party or with the court, the district shall report the fact of approval, the substance of the agreement and the vote and abstentions thereon to persons who inquire once the settlement is final. (Government Code [54957.1](#))

#### JPA/Self-Insurance Claims

The Board shall report the disposition of joint powers authority or self-insurance claims and the votes or abstentions thereon at the public meeting during which the closed session is held. This report shall include the name of the claimant(s), the name of the agency claimed against, the substance of the claim and the monetary settlement agreed upon by the claimant. (Government Code [54957.1](#))

#### Review of Assessment Instruments

At the public meeting during which the Board holds a closed session to review student assessment instruments, the Board shall confirm that this review was made. Any actions related to the review shall be taken in open session without revealing any proprietary or confidential information and shall be a matter of public record.

#### Legal Reference:

##### EDUCATION CODE

[35145](#) Public meetings

[35146](#) Closed session (re student matters)

[48918](#) Rules governing expulsion procedures; hearings and notice

[49073-49079](#) Privacy of student records

[60617](#) Meetings of governing board

##### GOVERNMENT CODE

[54950-54963](#) The Ralph M. Brown Act, especially:

[54957.1](#) Closed sessions; public report of action taken

[54957.6](#) Closed sessions; representatives to employee organization(s)

[54957.7](#) Disclosure of items to be discussed

UNITED STATES CODE, TITLE 20

[1232g](#) Family Educational Rights and Privacy Act

CODE OF FEDERAL REGULATIONS, TITLE 34

[99.1-99.8](#) Family Educational Rights and Privacy

COURT DECISIONS

Kleitman v. Superior Court of Santa Clara County 87 Cal Rptr. 2d (1999)

ATTORNEY GENERAL OPINIONS

80 Ops.Cal.Atty.Gen. 85 (1997)

Bylaw ALAMEDA UNIFIED SCHOOL DISTRICT

adopted: August 25, 2009 Alameda, California

**Bylaw 9322: Agenda/Meeting Materials**

**Status: ADOPTED**

**Original Adopted Date:** ~~08/25/2009~~03/01/2008 | **Last Revised Date:**  
~~11/10/2015~~03/2022 | **Last Reviewed Date:** ~~11/10/2015~~03/2022

## Agenda Content

Governing Board meeting agendas shall reflect the district's vision and goals and the Board's focus on student learning and well-being.

Each agenda shall state the meeting time and ~~place~~location and shall briefly describe each ~~business~~ item to be transacted or discussed, including items to be discussed in closed session. (Government Code 54954.2)

The agenda shall provide members of the public the opportunity to address the Board on any agenda item before or during the Board's consideration of the item. ~~The agenda shall also provide members of the public an opportunity to testify at regular meetings. However, the agenda need not provide an opportunity for public comment when the agenda item has previously been considered at an open meeting by a committee comprised exclusively of Board members, provided that members of the public were afforded an opportunity to comment on the item, before or during the committee's consideration of the item, and the item has not been substantially changed since the committee considered it.~~ (Government Code 54954.3)

The agenda for a regular Board meeting shall also provide members of the public an opportunity to provide comment on matters which are not on the agenda but which are within the subject matter jurisdiction of the Board. (Education Code 35145.5; Government Code 54954.3)

Each agenda for a regular meeting ~~agenda~~ shall list the address designated by the Superintendent or designee for public inspection of ~~agenda~~ documents related to an open session item that have been distributed to the Board less than 72 hours before the meeting. (Government Code 54957.5)

The agenda shall ~~specify that an individual should contact the Superintendent or designee if he/she requires~~ include information regarding how, when, and to whom a request for disability-related accommodations or modifications, including auxiliary aids and services, may be made by an individual who requires accommodations or modifications in order to participate in the Board meeting. (Government Code 54954.2)

## Agenda Preparation

The Board president and the Superintendent, as secretary to the Board, shall work together to develop the agenda for each regular and special meeting. ~~Each agenda shall reflect the district's vision and goals and the Board's focus on student learning.~~

Any Board member or member of the public may request that a matter within the jurisdiction of the Board be placed on the agenda of a regular meeting. The request shall be submitted in writing to the Superintendent or designee with supporting documents and information, if any, at least one week before the scheduled meeting date. Items submitted less than a week before the scheduled meeting date may be postponed to a later meeting in order to allow sufficient time for consideration and research of the issue.

The Board president and Superintendent shall decide whether a request from a member of the public is within the subject matter jurisdiction of the Board. Items not within the subject matter jurisdiction of the Board may not be placed on the agenda. In addition, before placing the item on the agenda, the Board president and Superintendent shall determine if the item is merely a request for information ~~or whether the issue is covered by an existing policy or administrative regulation, and if so, respond accordingly.~~

If the Board president and Superintendent deny a request from a Board member to place an item on the agenda, the Board member may request the Board to take action to determine whether the item shall be placed on the agenda.

The Board president and Superintendent shall also decide whether an agenda item is appropriate for discussion in open or closed session, and whether the item should be an action item subject to Board vote, or an information item that does not require immediate action, ~~or a consent item that is routine in nature and for which no discussion is anticipated.~~

~~Any Board action that involves borrowing \$100,000 or more shall be discussed, considered, and deliberated upon as a separate item of business on the meeting agenda. (Government Code 53635.7)~~

~~All public communications with the Board are subject to requirements of relevant Board policies and administrative regulations.~~

### **Consent Agenda/Calendar**

In order to promote efficient meetings, the Board may bundle a number of items and act upon them together by a single vote through the use of a consent agenda. Consent ~~agenda~~ items shall be items of a routine nature and items for which Board discussion is not anticipated and for which the Superintendent recommends approval.

When any Board member requests the removal of an item from the consent agenda, the item shall be removed and given individual consideration for action as a regular agenda item.

The agenda shall provide an opportunity for members of the public to comment on any consent agenda item ~~that unless such item has not been previously considered. However, the agenda need not provide an opportunity for public comment when the consent agenda item has previously been considered~~ at an open meeting of a committee comprised exclusively of ~~all the~~ Board members ~~provided that members of the public were afforded an opportunity to comment on the item at that meeting, unless the item has been substantially changed since the committee considered it.~~ (Government Code 54954.3)

Any Board action that involves borrowing \$100,000 or more shall be discussed, considered, and deliberated upon as a separate item of business on the meeting agenda. (Government Code 53635.7)

All public communications with the Board are subject to requirements of relevant Board policies and administrative regulations.



## Agenda Dissemination to Board Members

### ~~Agenda Dissemination to Board Members~~

At least ~~three days~~72 hours before each regular meeting, each Board member shall be provided a copy of the agenda and agenda packet, including the Superintendent or designee's report; minutes to be approved; copies of communications; reports from committees, staff, ~~citizens,~~ and others; and other available supporting documents pertinent to the meeting.

When special meetings are called, ~~the Superintendent or designee shall make every effort to distribute the agenda and supporting materials to~~ Board members ~~as soon as possible before~~ shall receive, at least 24 hours prior to the meeting.

, notice of the business to be transacted. (Government Code 54956)

Board members shall review agenda materials before each meeting. Individual members may confer directly with the Superintendent or designee to ask questions and/or request additional information on agenda items. However, a majority of Board members shall not, outside of a noticed meeting, directly or through intermediaries or electronic means discuss, deliberate, or take action on any matter within the subject matter jurisdiction of the Board.

### Agenda Dissemination to Members of the Public

Any agenda and related materials distributed to the Board shall be made available to the public upon request without delay. Only those documents which are disclosable public records under the Public Records Act (PRA) and which relate to an agenda item scheduled for the open session portion of a regular meeting shall be made available to the public. (Government Code 54957.5)

### Agenda Dissemination to Members of the Public

~~The Superintendent or designee shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to any person who requests the items.~~

At least 72 hours prior to a regular meeting, the agenda shall be posted at one or more locations freely accessible to members of the public. (Government Code 54954.2)

In addition, the Superintendent or designee shall post the agenda on the homepage of the district web site. The posted agenda shall be accessible through a prominent direct link to the current agenda or to the district's agenda management platform in accordance with Government Code 54954.2. When the district utilizes an integrated agenda management platform, the link to that platform shall take the user directly to the web site with the district's agendas, and the current agenda shall be the first available. (Government Code 54954.2)

~~The materials shall be mailed at the time the agenda is posted or upon distribution of the agenda to a majority of the Board, whichever occurs first. (Government Code 54954.1)~~

If a document which relates to an open session agenda item of a regular Board meeting is distributed to the Board less than 72 hours prior to a meeting, the Superintendent or designee shall make the document available for public inspection at a designated location at the same time the document is distributed to all or a majority of the Board. (Government Code 54957.5)

The Superintendent or designee shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to any person who requests the items. The materials shall be mailed at the time the agenda is posted or upon distribution of the agenda to a majority of the Board, whichever occurs first, provided the document is a public record under the Public Records Act. The Superintendent or designee may also post the document on the district's web site in a position and manner that makes it clear that the document relates to an agenda item for an upcoming meeting. (Government Code 54957.5 (Government Code 54954.1))

~~Any document prepared by the district or Board and distributed during a public meeting shall be made available for public inspection at the meeting.~~

~~The Any document prepared by another person shall be made available for public inspection after the meeting. These requirements shall not apply to a document that is exempt from public disclosure under the Public Records Act. (Government Code 54957.5)~~

~~Upon request, the Superintendent or designee shall make the agenda, email a copy of, or a web site link to, the agenda or a copy of all the documents constituting the agenda packet, and/or to any writings distributed at a person who requests such items to be delivered by email. If the Superintendent or designee determines that it is technologically infeasible to do so, a copy of the agenda or a web site link to the agenda and a copy of all other documents constituting the meeting available in appropriate alternative formats to persons agenda packet shall be sent to the person who has made the request in accordance with a disability, as required by the Americans with Disabilities Act, mailing requirements specified in law. (Government Code 54954.1)~~

Any request for mailed copies of agendas or agenda packets shall be in writing and shall be valid for the calendar year in which it is filed. Written requests must be renewed following January 1 of each year. (Government Code 54954.1)

Persons requesting mailing of the agenda or agenda packet shall pay an annual fee, as determined by the Superintendent or designee, not to exceed the cost of providing the service.

Any document prepared by the district or Board and distributed during a public meeting shall be made available for public inspection at the meeting. Any document prepared by another person shall be made available for public inspection after the meeting. These requirements shall not apply to a document that is exempt from public disclosure under the PRA. (Government Code 54957.5)

Upon request, the Superintendent or designee shall make the agenda, agenda packet, and/or any writings distributed at the meeting available in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act. (Government Code 54954.1)

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#### Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

#### State

Ed. Code 35144

Ed. Code 35145

~~Ed. Code 35145.5~~

Ed. Code 49061

Ed. Code 49073.2

Gov. Code 53635.7

#### Description

Special meeting

Public meetings

~~Agenda; public participation; regulations~~

Student records; definitions

Meeting minutes; directory or personal information

Separate item of business for borrowing of \$100,000 or more

Gov. Code 54954.1	Request for copy of agenda or agenda packet by member of public
Gov. Code 54954.2	Agenda posting requirements, board actions
Gov. Code 54954.3	Opportunity for public to address legislative body
Gov. Code 54954.5	Closed session item descriptions
Gov. Code 54956.5	Emergency meetings
Gov. Code 54957.5	Public records
Gov. Code 54960.2	Challenging board actions; cease and desist
Gov. Code 6250-6270	California Public Records Act
Gov. Code 95000-95004	California Early Intervention Services Act
<b>Federal</b>	<b>Description</b>
28 CFR 35.160	Effective communications
28 CFR 36.303	Auxiliary aids and services
42 USC 12101-12213	Americans with Disabilities Act
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	99 Ops. Cal. Atty. Gen. 11 (2016)
Attorney General Opinion	78 Ops. Cal. Atty. Gen. 327 (1995)
Attorney General Publication	The Brown Act: Open Meetings for Legislative Bodies, rev. 2003
Court Decision	Caldwell v. Roseville Joint Union High School District, (2007) U.S. Dist. LEXIS 66318
Court Decision	Mooney v. Garcia, (2012) 207 Cal.App.4th 229
CSBA Publication	Call to Order: A Blueprint for Great Board Meetings, 2018
CSBA Publication	The Brown Act: School Boards and Open Meeting Laws, rev. 2019
<u>Website</u>	<u>CSBA (<a href="https://www.csba.org/gamut">https://www.csba.org/gamut</a>)</u>
Website	California Attorney General's Office
<del>Website</del>	<del>CSBA</del>

## Cross References

Code	Description
0000	<del>Vision</del> <u>Vision</u>
<del>0000</del>	<del>Vision</del>
0200	<del>Goals For The School District</del> Goals For The School District
0410	<del>Nondiscrimination In District Programs And Activities</del> Nondiscrimination In District Programs And Activities
1100	<del>Communication With The Public</del> Communication With The Public
<del>1100</del>	<del>Communication With The Public</del>
1112	<del>Media Relations</del> Media Relations
1113	<del>District And School Web Sites</del> District And School Web Sites
1113	<del>District And School Web Sites</del> District And School Web Sites
1113-E(1)	<del>District And School Web Sites</del> District And School Web Sites
1312.1	<del>Complaints Concerning District Employees</del> Complaints Concerning District Employees
1312.1	<del>Complaints Concerning District Employees</del> Complaints Concerning District Employees

1312.2	<del>Complaints Concerning Instructional Materials</del> <del>Complaints Concerning Instructional Materials</del>
1312.2	<del>Complaints Concerning Instructional Materials</del> <del>Complaints Concerning Instructional Materials</del>
1312.2-E(1)	<del>Complaints Concerning Instructional Materials</del> <del>Complaints Concerning Instructional Materials</del>
1312.3	<del>Uniform Complaint Procedures</del> <del>Uniform Complaint Procedures</del>
1312.3	<del>Uniform Complaint Procedures</del> <del>Uniform Complaint Procedures</del>
1312.3-E(1)	<del>Uniform Complaint Procedures</del> <del>Uniform Complaint Procedures</del>
<del>1312.3-E(2)</del>	<del>Uniform Complaint Procedures</del>
1312.4	<del>Williams Uniform Complaint Procedures</del> <del>Williams Uniform Complaint Procedures</del>
1312.4-E(1)	<del>Williams Uniform Complaint Procedures</del> <del>Williams Uniform Complaint Procedures</del>
<del>1312.4-E(2)</del>	<del>Williams Uniform Complaint Procedures</del>
1340	<del>Access To District Records</del> <del>Access To District Records</del>
1340	<del>Access To District Records</del> <del>Access To District Records</del>
1400	<del>Relations Between Other Governmental Agencies And The Schools</del> <del>Relations Between Other Governmental Agencies And The Schools</del>
2210	<del>Administrative Discretion Regarding Board Policy</del> <del>Administrative Discretion Regarding Board Policy</del>
3100	<del>Budget</del> <del>Budget</del>
3100	<del>Budget</del> <del>Budget</del>
3312	<del>Contracts</del> <del>Contracts</del>
3320	<del>Claims And Actions Against The District</del> <del>Claims And Actions Against The District</del>
3320	<del>Claims And Actions Against The District</del> <del>Claims And Actions Against The District</del>
<del>3320-E(1)</del>	<del>Claims And Actions Against The District</del>
3460	<del>Financial Reports And Accountability</del> <del>Financial Reports And Accountability</del>
3460	<del>Financial Reports And Accountability</del> <del>Financial Reports And Accountability</del>
4312.1	<del>Contracts</del> <del>Contracts</del>
5144.1	<del>Suspension And Expulsion/Due Process</del> <del>Suspension And Expulsion/Due Process</del>
5144.1	<del>Suspension And Expulsion/Due Process</del> <del>Suspension And Expulsion/Due Process</del>
6161.1	<del>Selection And Evaluation Of Instructional Materials</del> <del>Selection And Evaluation Of Instructional Materials</del>
6161.1	<del>Selection And Evaluation Of Instructional Materials</del> <del>Selection And Evaluation Of Instructional Materials</del>
6161.1-E(1)	<del>Selection And Evaluation Of Instructional Materials</del> <del>Selection And Evaluation Of Instructional Materials</del>
9012	<del>Board Member Electronic Communications</del> <del>Board Member Electronic Communications</del>
9121	<del>President</del> <del>President</del>

9122	<del>Secretary</del> Secretary
9130	<del>Board Committees</del> Board Committees
9150	<del>Student Board Members</del> Student Board Members
<del>9150-E(1)</del>	<del>Student Board Members</del>
9200	<del>Limits Of Board Member Authority</del> Limits Of Board Member Authority
9310	<del>Board Policies</del> Board Policies
9320	<del>Meetings And Notices</del> Meetings And Notices
9321- <del>E(1)</del>	<del>Closed Session</del> Closed Session
<del>9321-E(2)</del>	<del>Closed Session</del>
<del>9321</del>	<del>Closed Session</del>
9323	<del>Meeting Conduct</del> Meeting Conduct
9323.2- <del>E(1)</del>	<del>Actions By The Board</del> Actions By The Board
9323.2-E( <del>1</del> 2)	<del>Actions By The Board</del> Actions By The Board
<del>9323.2</del>	<del>Actions By The Board</del>
9324	<del>Minutes And Recordings</del> Minutes and Recordings (BB)

Bylaw	CSBA POLICY MANUAL UPDATE
adopted:	March 2022

Bylaw 9322: Agenda/ Meeting Materials

Status: ADOPTED

Original Adopted Date: 08/25/2009 | Last Revised Date: | Last Reviewed Date:

## Agenda Content

Governing Board meeting agendas shall reflect the district's vision and goals and the Board's focus on student learning and well-being.

Each agenda shall state the meeting time and location and shall briefly describe each item to be transacted or discussed, including items to be discussed in closed session. (Government Code 54954.2)

The agenda shall provide members of the public the opportunity to address the Board on any agenda item before or during the Board's consideration of the item. However, the agenda need not provide an opportunity for public comment when the agenda item has previously been considered at an open meeting by a committee comprised exclusively of Board members, provided that members of the public were afforded an opportunity to comment on the item, before or during the committee's consideration of the item, and the item has not been substantially changed since the committee considered it. (Government Code 54954.3)

The agenda for a regular Board meeting shall also provide members of the public an opportunity to provide comment on matters which are not on the agenda but which are within the subject matter jurisdiction of the Board. (Education Code 35145.5; Government Code 54954.3)

Each agenda for a regular meeting shall list the address designated by the Superintendent or designee for public inspection of documents related to an open session item that have been distributed to the Board less than 72 hours before the meeting. (Government Code 54957.5)

The agenda shall include information regarding how, when, and to whom a request for disability-related accommodations or modifications, including auxiliary aids and services, may be made by an individual who requires accommodations or modifications in order to participate in the Board meeting. (Government Code 54954.2)

## Agenda Preparation

The Board president and the Superintendent, as secretary to the Board, shall work together to develop the agenda for each regular and special meeting.

Any Board member or member of the public may request that a matter within the jurisdiction of the Board be placed on the agenda of a regular meeting. The request shall be submitted in writing to the Superintendent or designee with supporting documents and information, if any, at least one week before the scheduled meeting date. Items submitted less than a week before the scheduled meeting date may be postponed to a later meeting in order to allow sufficient time for consideration and research of the issue. The Board president and Superintendent shall decide whether a request from a member of the public is within the subject matter jurisdiction of the Board. Items not within the subject matter jurisdiction of the Board may not be placed on the agenda. In addition, before placing the item on the agenda, the Board president and Superintendent shall determine if the item is merely a request for information, and if so, respond accordingly.

If the Board president and Superintendent deny a request from a Board member to place an item on the agenda, the Board member may request the Board to take action to determine whether the item shall be

placed on the agenda.

The Board president and Superintendent shall also decide whether an agenda item is appropriate for discussion in open or closed session, and whether the item should be an action item subject to Board vote or an information item that does not require immediate action.

In order to promote efficient meetings, the Board may bundle a number of items and act upon them together by a single vote through the use of a consent agenda. Consent items shall be items of a routine nature and items for which Board discussion is not anticipated and for which the Superintendent recommends approval. When any Board member requests the removal of an item from the consent agenda, the item shall be removed and given individual consideration for action as a regular agenda item.

The agenda shall provide an opportunity for members of the public to comment on any consent agenda item unless such item has been previously considered at an open meeting of a committee comprised exclusively of Board members. (Government Code 54954.3)

Any Board action that involves borrowing \$100,000 or more shall be discussed, considered, and deliberated upon as a separate item of business on the meeting agenda. (Government Code 53635.7)

All public communications with the Board are subject to requirements of relevant Board policies and administrative regulations.

### **Agenda Dissemination to Board Members**

At least 72 hours before each regular meeting, each Board member shall be provided a copy of the agenda and agenda packet, including the Superintendent or designee's report; minutes to be approved; copies of communications; reports from committees, staff, and others; and other available supporting documents pertinent to the meeting.

When special meetings are called, Board members shall receive, at least 24 hours prior to the meeting, notice of the business to be transacted. (Government Code 54956)

Board members shall review agenda materials before each meeting. Individual members may confer directly with the Superintendent or designee to ask questions and/or request additional information on agenda items. However, a majority of Board members shall not, outside of a noticed meeting, directly or through intermediaries or electronic means discuss, deliberate, or take action on any matter within the subject matter jurisdiction of the Board.

### **Agenda Dissemination to Members of the Public**

Any agenda and related materials distributed to the Board shall be made available to the public upon request without delay. Only those documents which are disclosable public records under the Public Records Act (PRA) and which relate to an agenda item scheduled for the open session portion of a regular meeting shall be made available to the public. (Government Code 54957.5)

At least 72 hours prior to a regular meeting, the agenda shall be posted at one or more locations freely accessible to members of the public. (Government Code 54954.2)

In addition, the Superintendent or designee shall post the agenda on the homepage of the district web site. The posted agenda shall be accessible through a prominent direct link to the current agenda or to the district's agenda management platform in accordance with Government Code 54954.2. When the district utilizes an integrated agenda management platform, the link to that platform shall take the user directly to the web site with the district's agendas, and the current agenda shall be the first available. (Government Code 54954.2)

If a document which relates to an open session agenda item of a regular Board meeting is distributed to the Board less than 72 hours prior to a meeting, the Superintendent or designee shall make the document available for public inspection at a designated location at the same time the document is distributed to all or a majority of the Board. (Government Code 54957.5)

The Superintendent or designee shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to any person who requests the items. The materials shall be mailed at the time the agenda is posted or upon distribution of the agenda to a majority of the Board, whichever occurs first. (Government Code 54954.1)

The Superintendent or designee shall email a copy of, or a web site link to, the agenda or a copy of all the documents constituting the agenda packet to any person who requests such items to be delivered by email. If the Superintendent or designee determines that it is technologically infeasible to do so, a copy of the agenda or a web site link to the agenda and a copy of all other documents constituting the agenda packet shall be sent to the person who has made the request in accordance with mailing requirements specified in law. (Government Code 54954.1)

Any request for mailed copies of agendas or agenda packets shall be in writing and shall be valid for the calendar year in which it is filed. Written requests must be renewed following January 1 of each year. (Government Code 54954.1)

Persons requesting mailing of the agenda or agenda packet shall pay an annual fee, as determined by the Superintendent or designee, not to exceed the cost of providing the service.

Any document prepared by the district or Board and distributed during a public meeting shall be made available for public inspection at the meeting. Any document prepared by another person shall be made available for public inspection after the meeting. These requirements shall not apply to a document that is exempt from public disclosure under the PRA. (Government Code 54957.5)

Upon request, the Superintendent or designee shall make the agenda, agenda packet, and/or any writings distributed at the meeting available in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act. (Government Code 54954.1)

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#### Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
Ed. Code 35144	Special meeting
Ed. Code 35145	Public meetings
Ed. Code 49061	Student records; definitions
Ed. Code 49073.2	Meeting minutes; directory or personal information
Gov. Code 53635.7	Separate item of business for borrowing of \$100,000 or more
Gov. Code 54954.1	Request for copy of agenda or agenda packet by member of public
Gov. Code 54954.2	Agenda posting requirements, board actions
Gov. Code 54954.3	Opportunity for public to address legislative body
Gov. Code 54954.5	Closed session item descriptions
Gov. Code 54956.5	Emergency meetings
Gov. Code 54957.5	Public records
Gov. Code 54960.2	Challenging board actions; cease and desist
Gov. Code 6250-6270	California Public Records Act
Gov. Code 95000-95004	California Early Intervention Services Act



**Federal**

28 CFR 35.160  
 28 CFR 36.303  
 42 USC 12101-12213

**Management Resources**

Attorney General Opinion  
 Attorney General Opinion  
 Attorney General Publication

Court Decision

Court Decision  
 CSBA Publication  
 CSBA Publication

Website  
 Website

**Description**

Effective communications  
 Auxiliary aids and services  
 Americans with Disabilities Act

**Description**

99 Ops. Cal. Atty. Gen. 11 (2016)  
 78 Ops. Cal. Atty. Gen. 327 (1995)  
 The Brown Act: Open Meetings for Legislative Bodies, rev. 2003  
 Caldwell v. Roseville Joint Union High School District, (2007) U.S. Dist. LEXIS 66318  
 Mooney v. Garcia, (2012) 207 Cal.App.4th 229  
 Call to Order: A Blueprint for Great Board Meetings, 2018  
 The Brown Act: School Boards and Open Meeting Laws, rev. 2019  
 CSBA (<https://www.csba.org/gamut>)  
 California Attorney General's Office

**Cross References****Code**

0000  
 0200  
 0410  
 1100  
 1112  
 1113  
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 1113-E(1)  
 1312.1  
 1312.1  
 1312.2  
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 1312.2-E(1)  
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 1312.3  
 1312.3-E(1)  
 1312.3-E(2)  
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 1312.4-E(1)  
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 1340  
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 2210  
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 3312  
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 3460  
 4312.1

**Description**

Vision  
 Goals For The School District  
 Nondiscrimination In District Programs And Activities  
 Communication With The Public  
 Media Relations  
 District And School Web Sites  
 District And School Web Sites  
 District And School Web Sites  
 Complaints Concerning District Employees  
 Complaints Concerning District Employees  
 Complaints Concerning Instructional Materials  
 Complaints Concerning Instructional Materials  
 Complaints Concerning Instructional Materials  
 Uniform Complaint Procedures  
 Uniform Complaint Procedures  
 Uniform Complaint Procedures  
 Uniform Complaint Procedures  
 Williams Uniform Complaint Procedures  
 Williams Uniform Complaint Procedures  
 Williams Uniform Complaint Procedures  
 Access To District Records  
 Access To District Records  
 Relations Between Other Governmental Agencies And The Schools  
 Administrative Discretion Regarding Board Policy  
 Budget  
 Budget  
 Contracts  
 Claims And Actions Against The District  
 Claims And Actions Against The District  
 Financial Reports And Accountability  
 Financial Reports And Accountability  
 Contracts

5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
9012	Board Member Electronic Communications
9121	President
9122	Secretary
9130	Board Committees
9150	Student Board Members
9200	Limits Of Board Member Authority
9310	Board Policies
9320	Meetings And Notices
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9321	Closed Session
9323	Meeting Conduct
9323.2-E(1)	Actions By The Board
9323.2-E(2)	Actions By The Board
9323.2	Actions By The Board
9324	Minutes and Recordings (BB)

adopted:

March 2022

## **Bylaw 9323: Meeting Conduct**

**Status:** ADOPTED

Original Adopted Date: ~~08/25/2009~~11/01/2006 | Last Revised Date: 12/01/2022 | Last  
Reviewed Date: ~~08/25/2009~~12/01/2022

### **Meeting Procedures**

All Governing Board ~~of Education~~ meetings shall begin on time and shall be guided by an agenda prepared in accordance with Board bylaws and posted and distributed in accordance with the Ralph M. Brown Act (open meeting requirements) and other applicable laws.

The Board president shall conduct Board meetings in accordance with Board bylaws and procedures that enable the Board to efficiently consider issues and carry out the will of the majority.

The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board meetings shall be adjourned ~~at~~by 10:30 p.m. unless extended to a specific time determined by a majority of the Board. The meeting shall be extended no more than once and , if necessary, may subsequently ~~may~~ be adjourned to a later date.

### **Quorum and Abstentions**

The Board shall act by majority vote of all of the membership constituting the Board.  
(Education Code 35164)

The Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a member abstains, his/her the abstention shall

not be counted for purposes of determining whether a majority of the membership of the Board has taken action.

~~If a~~

Provided the Board ~~consists of~~typically has seven members and ~~not~~there are no more than two vacancies~~occur~~ on the Board, the vacant position(s) shall not be counted for purposes of determining how many members of the Board constitute a majority. In addition,~~if a vacancy exists on the Board~~, whenever any provisions of the Education Code require unanimous action of all or a specific number of the members, the vacant position(s) shall ~~be~~ not be counted for purposes of determining the total membership constituting the Board. (Education Code 35165)

## Public Participation

Members of the public are encouraged to attend Board meetings and to address the Board concerning any item on the agenda or within the Board's jurisdiction. So as not to inhibit public participation, persons attending Board meetings shall not be requested to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting.

, except that if the meeting is conducted using remote public participation or with a Board member attending remotely pursuant to Government Code 54953, a member of the public desiring to provide comment through the use of a third party internet website or online platform may be required to register as required by the third party provider.

In order to conduct district business in an orderly and efficient manner, the Board requires that public presentations to the Board comply with the following procedures:

1. The Board shall give members of the public an opportunity to address the Board on any item of interest to the public that is within the subject matter jurisdiction of the Board, either before or during the Board's consideration of the item. (Education Code 35145.5~~;~~<sup>1</sup>; Government Code 54954.3)
2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the Board matters that are not listed on the agenda. The Board shall take no action or discussion on any item not appearing on the posted agenda, except as authorized by law. (Education Code 35145.5~~;~~<sup>1</sup>; Government Code 54954.2)
3. Without taking action, Board members or district staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. Additionally, on their own initiative or in response to questions posed by the public, ~~a~~ Board members or staff ~~member~~members may ask a question for clarification, make a brief announcement, or make a brief report on ~~his/her~~their own activities. (Government Code 54954.2)

Furthermore, the Board or a Board member may provide a reference to staff or other resources for factual information, ask staff to report back to the Board at a subsequent meeting concerning any matter, or take action directing staff to place a matter of business on a future agenda. (Government Code 54954.2)

4. The Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the Board determines that the item has been substantially changed since the committee heard the item, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)
5. A person wishing to be heard by the Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits.

#### Individual

In general, individual speakers ~~shall~~will be allowed three minutes to address the Board on each agenda or nonagenda item. ~~The, and the~~ Board ~~shall~~will limit the total time for public input on each item to 20 minutes. ~~With~~However, in exceptional circumstances when necessary to ensure full opportunity for public input, the Board president may, with Board consent, ~~the president may increase or decrease the~~ adjust the amount of time allowed for public presentation, depending on the topic and the number of persons wishing to be heard input and/or the time allotted for each speaker. Any such adjustment shall be done equitably so as to allow a diversity of viewpoints. The president may ~~take a poll of also ask~~ members of the public with the same viewpoint to select a few individuals to address the Board on behalf of that viewpoint.

In order to ensure that non-English speakers ~~for or against a particular issue and may ask that additional persons speak only if they have something new to add.~~ receive the same opportunity to directly address the Board, any member of the public who utilizes a translator shall be provided at least twice the allotted time to address the Board, unless simultaneous translation equipment is used to allow the Board to hear the translated public testimony simultaneously. (Government Code 54954.3)

6. The Board president may rule on the appropriateness of a topic. ~~If, subject to~~ the following conditions:

- a. If a topic would be ~~more~~ suitably addressed at a later time, the Board president may indicate the time and place when it should be presented.
- b. The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts, or omissions. (Government Code 54954.3) ~~In addition, the~~

~~6.c.~~ The Board ~~may~~shall not prohibit public criticism of district employees.

~~Whenever~~ However, whenever a member of the public initiates specific complaints or charges against an individual employee, the Board president shall inform the complainant ~~that in order to protect the employee's right to adequate notice before a hearing of such complaints and charges, and also to preserve the ability of the Board to legally consider the complaints or charges in any subsequent evaluation of the employee, it is the policy of the Board to hear such complaints or charges in closed session unless otherwise requested by the employee pursuant to Government Code 54957. The Board president shall also encourage the complainant~~

~~to file a complaint using~~of the appropriate ~~district~~ complaint procedure.

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~~7. The Board president shall not permit any disturbance or willful interruption of Board meetings. Persistent disruption by an individual or group shall be grounds for the president to terminate the privilege of addressing the Board.~~

~~7. The Board may remove disruptive individuals and~~The Board president shall not permit actual disruption of Board meetings. Actual disruption by an individual or group or any conduct or statements that threaten the safety of any person(s) at the meeting shall be grounds for the president to terminate the privilege of addressing the Board and remove the individual from the meeting.

The Board President or designee may remove an individual for actually disrupting the meeting. Prior to removal, the individual shall be warned that their behavior is disrupting the meeting and that failure to cease the disruptive behavior may result in removal. If, after being warned, the individual does not promptly cease the disruptive behavior, the Board president, or designee, may then remove the individual from the meeting. (Government Code 54957.95)

When an individual's behavior constitutes the use of force or a true threat of force, the individual shall be removed from a Board meeting without a warning. (Government Code 54957.95)

Disrupting means engaging in behavior during a Board meeting that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law, or engaging in behavior that constitutes use of force or a true threat of force. (Government Code 54957.95)

True threat of force means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat. (Government Code 54957.95)

Additionally, the Board may order the room cleared if necessary. In this case, members of the media not participating in the disturbance shall be allowed to remain, and individuals not participating in such disturbances may be allowed to remain at the discretion of the Board. When the room is ordered cleared due to a disturbance, further Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9) (Government Code 54957.9)

When disruptive conduct occurs, the Board may decide to recess the meeting to help restore order, or if removing the disruptive individual(s) or clearing the room is infeasible, move the meeting to another location. The Board may direct the Superintendent or designee to contact local law enforcement as necessary.

~~When such disruptive conduct occurs, the Superintendent or designee shall contact local law enforcement.~~

## Recording by the Public

Members of the public may record an open Board meeting using an audio or video recorder, still or motion picture camera, cell phone, or other device, provided that the noise, illumination, or obstruction of view does not persistently disrupt the meeting. The Superintendent or designee ~~shall~~may designate locations from which members of the public may ~~broadcast, photograph, or tape record open meetings~~make such recordings without causing a distraction.

If the Board finds that noise, illumination, or obstruction of view related to these activities would persistently disrupt the proceedings, these activities shall be discontinued or restricted as determined by the Board. (Government Code 54953.5, 54953.6)

#### **Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
CCP. 527.8	<a href="#">Workplace violence safety</a>
Ed. Code 32210	Willful disturbance of public school or meeting
Ed. Code 35010	Control of district; prescription and enforcement of rules
Ed. Code 35145.5	Agenda; public participation and regulations
Ed. Code 35163	Official actions, minutes and journal
Ed. Code 35164	Actions by majority vote
Ed. Code 35165	Effect of vacancies upon majority and unanimous votes by seven member board
Ed. Code 5095	Powers of remaining board members and new appointees
Elec. Code 18430	Prevention or hinderance of electors assembling in public meeting
Gov. Code 54953.3	Meetings to be open and public; remote attendance
Gov. Code 54953.5	Audio or video recording of proceedings
Gov. Code 54953.6	Broadcasting of proceedings
Gov. Code 54954.2	Agenda posting requirements; board actions
Gov. Code 54954.3	Opportunity for public to address legislative body
Gov. Code 54957	Closed session personnel matters
Gov. Code 54957.9	Disorderly conduct of general public during meeting; clearing of room
Gov. Code 54957.95	Opening meetings; orderly conduct
Pen. Code 403	Disruption of assembly or meeting
<b>Management Resources</b>	<b>Description</b>



Attorney General Opinion	55 Ops.Cal.Atty.Gen. 26 (1972)
Attorney General Opinion	61 Ops.Cal.Atty.Gen. 243, 253 (1978)
Attorney General Opinion	63 Ops.Cal.Atty.Gen. 215 (1980)
Attorney General Opinion	66 Ops.Cal.Atty.Gen. 336 (1983)
Attorney General Opinion	76 Ops.Cal.Atty.Gen. 281 (1993)
Attorney General Opinion	90 Ops.Cal.Atty.Gen. 47 (2007)
Attorney General Opinion	59 Ops.Cal.Atty.Gen. 532 (1976)
Attorney General Publication	The Brown Act: Open Meetings for Legislative Bodies, rev. 2003
Court Decision	Baca v. Moreno Valley Unified School District, (1996) 936 F. Supp. 719
Court Decision	City of San Jose v. William Garbett, (2010) 190 Cal. App. 4th 526
Court Decision	McMahon v. Albany Unified School District, (2002) 104 Cal.App.4th 1275
Court Decision	Norse v. City of Santa Cruz, (9th Cir. 2010) 629 F3d 966
Court Decision	Rubin v. City of Burbank, (2002) 101 Cal.App.4th 1194
CSBA Publication	The Brown Act: School Boards and Open Meeting Laws, rev. 2019
CSBA Publication	Call to Order: A Blueprint for Great Board Meetings, 2018
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">California Attorney General's Office</a>
Website	<a href="#">CSBA</a>

## Cross References

Code	Description
1000	<del>Concepts And Roles</del> Concepts And Roles
1100	<del>Communication With The Public</del> Communication With The Public
<del>1100</del>	<del>Communication With The Public</del>
1220	<del>Citizen Advisory Committees</del> Citizen Advisory Committees
1220	<del>Citizen Advisory Committees</del> Citizen Advisory Committees
1312.1	<del>Complaints Concerning District Employees</del> Complaints Concerning District Employees
1312.1	<del>Complaints Concerning District Employees</del> Complaints Concerning District Employees

<u>1313</u>	<u>Civility</u>
3100	<u>BudgetBudget</u>
3100	<u>BudgetBudget</u>
3270	<u>Sale And Disposal Of Books, Equipment And SuppliesSale And Disposal Of Books, Equipment And Supplies</u>
3270	<u>Sale And Disposal Of Books, Equipment And SuppliesSale And Disposal Of Books, Equipment And Supplies</u>
3312	<u>ContractsContracts</u>
9005	<u>Governance StandardsGovernance Standards</u>
9100	<u>OrganizationOrganization</u>
9121	<u>PresidentPresident</u>
9130	<u>Board CommitteesBoard Committees</u>
9200	<u>Limits Of Board Member AuthorityLimits Of Board Member Authority</u>
9230	<u>OrientationOrientation</u>
9270	<u>Conflict Of InterestConflict Of Interest</u>
9270-E PDF(1)	<u>Conflict Of InterestConflict Of Interest</u>
9310	<u>Board PoliciesBoard Policies</u>
9320	<u>Meetings And NoticesMeetings And Notices</u>
9321	<u>Closed SessionClosed Session</u>
<u>9321</u>	<u>Closed Session</u>
<u>9321</u>	<u>Closed Session</u>
9322	<u>Agenda/Meeting MaterialsAgenda/Meeting Materials</u>
9323.2	<u>Actions By The BoardActions By The Board</u>
9323.2-E PDF(1)	<u>Actions By The BoardActions By The Board</u>
<u>9323.2</u>	<u>Actions By The Board</u>
9324	<u>Minutes And RecordingsMinutes And Recordings</u>

Bylaw 9323: Meeting Conduct

Status: ADOPTED

Original Adopted Date: 08/25/2009 | Last Reviewed Date:

## Meeting Procedures

All Governing Board meetings shall begin on time and shall be guided by an agenda prepared in accordance with Board bylaws and posted and distributed in accordance with the Ralph M. Brown Act (open meeting requirements) and other applicable laws.

The Board president shall conduct Board meetings in accordance with Board bylaws and procedures that enable the Board to efficiently consider issues and carry out the will of the majority.

The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board meetings shall be adjourned by 10:30 p.m. unless extended to a specific time determined by a majority of the Board. The meeting shall be extended no more than once and, if necessary, may subsequently be adjourned to a later date.

## Quorum and Abstentions

The Board shall act by majority vote of all of the membership constituting the Board. (Education Code 35164)

The Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a member abstains, the abstention shall not be counted for purposes of determining whether a majority of the membership of the Board has taken action.

Provided the Board typically has seven members and there are no more than two vacancies on the Board, the vacant position(s) shall not be counted for purposes of determining how many members of the Board constitute a majority. In addition, whenever any provisions of the Education Code require unanimous action of all or a specific number of the members, the vacant position(s) shall not be counted for purposes of determining the total membership constituting the Board. (Education Code 35165)

## Public Participation

Members of the public are encouraged to attend Board meetings and to address the Board concerning any item on the agenda or within the Board's jurisdiction. So as not to inhibit public participation, persons attending Board meetings shall not be requested to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting, except that if the meeting is conducted using remote public

participation or with a Board member attending remotely pursuant to Government Code 54953, a member of the public desiring to provide comment through the use of a third party internet website or online platform may be required to register as required by the third party provider.

In order to conduct district business in an orderly and efficient manner, the Board requires that public presentations to the Board comply with the following procedures:

1. The Board shall give members of the public an opportunity to address the Board on any item of interest to the public that is within the subject matter jurisdiction of the Board, either before or during the Board's consideration of the item. (Education Code 35145.5; Government Code 54954.3)
2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the Board matters that are not listed on the agenda. The Board shall take no action or discussion on any item not appearing on the posted agenda, except as authorized by law. (Education Code 35145.5; Government Code 54954.2)
3. Without taking action, Board members or district staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. Additionally, on their own initiative or in response to questions posed by the public, Board members or staff members may ask a question for clarification, make a brief announcement, or make a brief report on their own activities. (Government Code 54954.2)

Furthermore, the Board or a Board member may provide a reference to staff or other resources for factual information, ask staff to report back to the Board at a subsequent meeting concerning any matter, or take action directing staff to place a matter of business on a future agenda. (Government Code 54954.2)

4. The Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the Board determines that the item has been substantially changed since the committee heard the item, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)
5. A person wishing to be heard by the Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits.

In general, individual speakers will be allowed three minutes to address the Board on each agenda or nonagenda item, and the Board will limit the total time for public input on each item to 20 minutes. However, in exceptional circumstances when necessary to ensure full opportunity for public input, the Board president may, with Board consent, adjust the amount of time allowed for public input and/or the time allotted for each speaker. Any such adjustment shall be done equitably so as to allow a diversity of viewpoints. The president may also ask members of the public with the same viewpoint to select a few individuals to address the Board on behalf of that viewpoint.

In order to ensure that non-English speakers receive the same opportunity to directly address the Board, any member of the public who utilizes a translator shall be provided at least twice the allotted time to address the Board, unless simultaneous translation equipment is used to allow the Board to hear the translated public testimony simultaneously. (Government Code 54954.3)

6. The Board president may rule on the appropriateness of a topic, subject to the following conditions:
  - a. If a topic would be suitably addressed at a later time, the Board president may indicate the time and place when it should be presented.
  - b. The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts, or omissions. (Government Code 54954.3)
  - c. The Board shall not prohibit public criticism of district employees. However, whenever a member of the public initiates specific complaints or charges against an individual employee, the Board president shall inform the complainant of the appropriate complaint procedure.
7. The Board president shall not permit actual disruption of Board meetings. Actual disruption by an individual or group or any conduct or statements that threaten the safety of any person(s) at the meeting shall be grounds for the president to terminate the privilege of addressing the Board and remove the individual from the meeting.

The Board President or designee may remove an individual for actually disrupting the meeting. Prior to removal, the individual shall be warned that their behavior is disrupting the meeting and that failure to cease the disruptive behavior may result in removal. If, after being warned, the individual does not promptly cease the disruptive behavior, the Board president, or designee, may then remove the individual from the meeting. (Government Code 54957.95)

When an individual's behavior constitutes the use of force or a true threat of force, the individual shall be removed from a Board meeting without a warning. (Government Code 54957.95)

*Disrupting* means engaging in behavior during a Board meeting that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law, or engaging in behavior that constitutes use of force or a true threat of force. (Government Code 54957.95)

*True threat of force* means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat. (Government Code 54957.95)

Additionally, the Board may order the room cleared if necessary. In this case, members of the media not participating in the disturbance shall be allowed to remain, and individuals not participating in such disturbances may be allowed to remain at the discretion of the Board. When the room is ordered cleared due to a disturbance, further Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

When disruptive conduct occurs, the Board may decide to recess the meeting to help restore order, or if removing the disruptive individual(s) or clearing the room is infeasible, move the meeting to another location. The Board may direct the Superintendent or designee to contact local law enforcement as necessary.

## Recording by the Public

Members of the public may record an open Board meeting using an audio or video recorder, still or motion picture camera, cell phone, or other device, provided that the noise, illumination, or obstruction of view does not persistently disrupt the meeting. The Superintendent or designee may designate locations from which members of the public may make such recordings without causing a distraction.

If the Board finds that noise, illumination, or obstruction of view related to these activities would persistently disrupt the proceedings, these activities shall be discontinued or restricted as determined by the Board. (Government Code 54953.5, 54953.6)

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### Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
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Ed. Code 32210	Willful disturbance of public school or meeting
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Ed. Code 35145.5	Agenda; public participation and regulations
Ed. Code 35163	Official actions, minutes and journal
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Ed. Code 5095	Powers of remaining board members and new appointees
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Gov. Code 54953.3	Meetings to be open and public; remote attendance
Gov. Code 54953.5	Audio or video recording of proceedings
Gov. Code 54953.6	Broadcasting of proceedings
Gov. Code 54954.2	Agenda posting requirements; board actions
Gov. Code 54954.3	Opportunity for public to address legislative body
Gov. Code 54957	Closed session personnel matters
Gov. Code 54957.9	Disorderly conduct of general public during meeting; clearing of room
Gov. Code 54957.95	Opening meetings; orderly conduct
Pen. Code 403	Disruption of assembly or meeting

Management Resources	Description
Attorney General Opinion	55 Ops.Cal.Atty.Gen. 26 (1972)
Attorney General Opinion	61 Ops.Cal.Atty.Gen. 243, 253 (1978)
Attorney General Opinion	63 Ops.Cal.Atty.Gen. 215 (1980)
Attorney General Opinion	66 Ops.Cal.Atty.Gen. 336 (1983)
Attorney General Opinion	76 Ops.Cal.Atty.Gen. 281 (1993)
Attorney General Opinion	90 Ops.Cal.Atty.Gen. 47 (2007)
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Attorney General Publication	The Brown Act: Open Meetings for Legislative Bodies, rev. 2003
Court Decision	Baca v. Moreno Valley Unified School District, (1996) 936 F. Supp. 719
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Court Decision	McMahon v. Albany Unified School District, (2002) 104 Cal.App.4th 1275
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CSBA Publication	The Brown Act: School Boards and Open Meeting Laws, rev. 2019
CSBA Publication	Call to Order: A Blueprint for Great Board Meetings, 2018
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">California Attorney General's Office</a>
Website	<a href="#">CSBA</a>

## Cross References

Code	Description
1000	Concepts And Roles
1100	Communication With The Public
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1313	Civility
3100	Budget

3100	Budget
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3312	Contracts
9005	Governance Standards
9100	Organization
9121	President
9130	Board Committees
9200	Limits Of Board Member Authority
9230	Orientation
9270	Conflict Of Interest
9270	Conflict Of Interest
9310	Board Policies
9320	Meetings And Notices
9321	Closed Session
9321	Closed Session
9321	Closed Session
9322	Agenda/ Meeting Materials
9323.2	Actions By The Board
9323.2	Actions By The Board
9323.2	Actions By The Board
9324	Minutes And Recordings



~~Actions By~~

**ACTIONS BY THE BOARD**

The Governing Board—

~~The Board of Education~~ shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. ~~(Education Code 35164)~~ 35164)

~~(cf. 9000 - Role of the Board)~~

~~(cf. 9005 - Governance Standards)~~

~~(cf. 9012 - Board Member Electronic Communications)~~

~~(cf. 9200 - Limits of Board Member Authority)~~

An "action" by the Board means: ~~(Government Code 54952.6)~~ 54952.6)

- 1.-        A collective decision by a majority of the Board members
- 2.-        A collective commitment or promise by a majority of the Board members to make a positive or negative decision
- 3.-        A vote by a majority of the Board members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

The Board shall not take action by secret ballot, whether preliminary or final. ~~(Government Code 54953)~~ 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes. ~~(Education Code 35145)~~ 35145)

~~(cf. 9324 ~~(cf. 9324)~~ - Minutes and Recordings)~~

**Action on Non-Agenda Items**

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: ~~(Government Code 54954.2)~~ 54954.2)

- 1.-        When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code ~~54956.5~~ 54956.5
- 2.-        When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted
- 3.-        When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

(cf. ~~9320~~ 9320 - Meetings and Notices)  
(cf. ~~9322~~ 9322 - Agenda/Meeting Materials)

BB 9323.2(b)

## ACTIONS BY THE BOARD (continued)

### **Challenging Board Actions**

The ~~Any interested person or the district attorney's office~~ or any interested person may ~~present a demand that the Board cure and correct a Board action which he/she alleges is in violation of~~ file an action in court for the purpose of: (Government Code 54960, 54960.2)

~~54954.2 (agenda posting), Government Code 54953 (open meeting and teleconferencing), Government Code 54954.5 (closed session item descriptions), Government Code 54954.6 (new or increased tax assessments), Government Code 54956 (special meetings), or Government Code 54956.5 (emergency meetings). (Government Code 54960.1)~~

Any

1. Stopping or preventing the Board's violation or threatened violation of the Brown Act
2. Determining the applicability of the Brown Act to ongoing or future threatened Board actions
3. Determining the applicability of the Brown Act to a past action of the Board that is not specified in Government Code 54960.1, provided that:
  - a. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.
  - b. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.
  - c. The action is brought within the time required by Government Code 54960.2.
4. Determining the validity, under state or federal law, of any Board rule or action which penalizes any of its members or otherwise discourages their expression
5. Compelling the Board to audio record its closed sessions because of a court's finding of the Board's violation of any applicable Government Code provision

The district attorney or any interested person may file an action in court to nullify a Board action which is alleged to be in violation of law regarding any of the following: (Government Code 54960.1)

1. Open meeting and teleconferencing (Government Code 54953)

2. Agenda posting (Government Code 54954.2)
3. Closed session item descriptions (Government Code 54954.5)
4. New or increased tax assessments (Government Code 54954.6)
5. Special meetings (Government Code 54956)
6. Emergency meetings (Government Code 54956.5)

BB 9323.2(c)

### ACTIONS BY THE BOARD (continued)

Prior to bringing any action to nullify a Board action, the district attorney or other interested person shall present a demand to "cure and correct" ~~an~~the alleged violation. The demand shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code ~~54954.2~~ 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code ~~54960.1~~ 54960.1)

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code ~~54960.1~~ 54960.1)

- 1.- Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.
- 2.- Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.
- 3.- Take no action. If the Board takes no action within the 30-day ~~review~~ period, its inaction shall be considered a decision not to cure or correct the challenged action.

#### *Legal Reference:*

##### EDUCATION CODE

~~15266-15266~~ School construction bonds

~~17466-17466~~ Declaration of intent to sell or lease real property

~~17481-17481~~ Lease of property with residence for nondistrict purposes

~~17510-17511~~ Resolution requiring unanimous vote of all members constituting board

~~17546-17510-17512~~ Leasing for production of gas, resolution requiring unanimous vote

~~17546~~ Private sale of personal property

~~17556-17561~~ Dedication of real property

~~17582-17583 District deferred maintenance fund~~

~~35140-35149 Meetings~~

~~35160-35178.4 Powers and duties~~

~~48660-48661-17556-17561 Dedication of real property~~

~~35140-35149 Meetings~~

~~35160-35178.4 Powers and duties~~

~~48660-48661 Community day schools, establishment and restrictions~~

~~CODE OF CIVIL PROCEDURE~~

~~425.16-425.16 Special motion to strike in connection with a public issue~~

~~1245.240-1245.240 Eminent domain vote requirements~~

~~1245.245-1245.245 Eminent domain, resolution adopting different use~~

~~GOVERNMENT CODE~~

~~53090-53097.5-53090-53097.5 Regulation of local agencies by counties and cities~~

~~53724-53724 Parcel tax resolution requirements~~

~~53790-53792 Exceeding the budget~~

~~53820-53833 Temporary borrowing~~

~~53850-53858 Temporary borrowing~~

~~54950-54963-53790-53792 Exceeding the budget~~

~~53820-53833 Temporary borrowing~~

~~53850-53858 Temporary borrowing~~

Legal Reference continued: (see next page)

BB 9323.2(d)

## **ACTIONS BY THE BOARD (continued)**

Legal Reference: (continued)

GOVERNMENT CODE (continued)

54950-54963 The Ralph M. Brown Act, especially:

54952.6-54952.6 Action taken, definition

54953-54953 Meetings to be open and public; attendance; *prohibition against* secret ballots

54960-Action54960-54960.5 Actions to prevent violations

65352.2-65352.2 Coordination with planning agency

PUBLIC CONTRACT CODE

3400-3400 Bid specifications

20111-20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

20113-20113 Emergencies, award of contracts without bids

20114 Repairs, maintenance, and improvements to district facilities by day labor or force account

22034 Uniform Public Construction Cost Accounting Act informal bidding ordinance

22035 Repair or replacement of facilities in case of emergency

22050 Emergency contracting procedures

COURT DECISIONS

Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors, (2003) 112 Cal.App.4th 1313

McKee v. Orange Unified School District, (2003) 110 Cal.App.4th 1310

Bell v. Vista Unified School District, (2002) 82 Cal.App.4th 672

Boyle v. City of Redondo Beach, (1999) 70 Cal.App.4th 1109

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, ~~2009~~2014

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Local Legislative Bodies, 2003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public IV: A Guide to the Ralph M. Brown Act, ~~2007~~ 2nd Edition, rev. July 2010

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.caag.state.ca.us>

CSBA: <http://www.csba.org>

Institute of Local Government: <http://www.ca-ilg.org> <http://www.ca-ilg.org>

Office of the Attorney General: <http://www.oag.ca.gov>

Bylaw ~~ALAMEDA UNIFIED SCHOOL DISTRICT~~ CSBA MANUAL MAINTENANCE  
SERVICE

adopted: ~~September 13, 2011 Alameda, California~~

March 2019

**ACTIONS BY THE BOARD**

The Governing Board shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. (Education Code 35164)

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members
2. A collective commitment or promise by a majority of the Board members to make a positive or negative decision
3. A vote by a majority of the Board members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

The Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes. (Education Code 35145)

**Action on Non-Agenda Items**

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: (Government Code 54954.2)

1. When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code 54956.5
2. When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted
3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

**Challenging Board Actions**

The district attorney's office or any interested person may file an action in court for the purpose of: (Government Code 54960, 54960.2)

1. Stopping or preventing the Board's violation or threatened violation of the Brown Act
2. Determining the applicability of the Brown Act to ongoing or future threatened Board actions

3. Determining the applicability of the Brown Act to a past action of the Board that is not specified in Government Code 54960.1, provided that:
  - a. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.
  - b. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.
  - c. The action is brought within the time required by Government Code 54960.2.
4. Determining the validity, under state or federal law, of any Board rule or action which penalizes any of its members or otherwise discourages their expression
5. Compelling the Board to audio record its closed sessions because of a court's finding of the Board's violation of any applicable Government Code provision

The district attorney or any interested person may file an action in court to nullify a Board action which is alleged to be in violation of law regarding any of the following: (Government Code 54960.1)

1. Open meeting and teleconferencing (Government Code 54953)
2. Agenda posting (Government Code 54954.2)
3. Closed session item descriptions (Government Code 54954.5)
4. New or increased tax assessments (Government Code 54954.6)
5. Special meetings (Government Code 54956)
6. Emergency meetings (Government Code 54956.5)

Prior to bringing any action to nullify a Board action, the district attorney or other interested person shall present a demand to "cure and correct" the alleged violation. The demand shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code 54960.1)

1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.

2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.
3. Take no action. If the Board takes no action within the 30-day period, its inaction shall be considered a decision not to cure or correct the challenged action.

*Legal Reference:*

EDUCATION CODE

15266 School construction bonds

17466 Declaration of intent to sell or lease real property

17481 Lease of property with residence for nondistrict purposes

17510-17512 Leasing for production of gas, resolution requiring unanimous vote

17546 Private sale of personal property

17556-17561 Dedication of real property

35140-35149 Meetings

35160-35178.4 Powers and duties

48660-48661 Community day schools, establishment and restrictions

CODE OF CIVIL PROCEDURE

425.16 Special motion to strike in connection with a public issue

1245.240 Eminent domain vote requirements

1245.245 Eminent domain, resolution adopting different use

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities

53724 Parcel tax resolution requirements

53790-53792 Exceeding the budget

53820-53833 Temporary borrowing

53850-53858 Temporary borrowing

54950-54963 The Ralph M. Brown Act, especially:

54952.6 Action taken, definition

54953 Meetings to be open and public; attendance; prohibition against secret ballots

54960-54960.5 Actions to prevent violations

65352.2 Coordination with planning agency

PUBLIC CONTRACT CODE

3400 Bid specifications

20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

20113 Emergencies, award of contracts without bids

20114 Repairs, maintenance, and improvements to district facilities by day labor or force account

22034 Uniform Public Construction Cost Accounting Act informal bidding ordinance

22035 Repair or replacement of facilities in case of emergency

22050 Emergency contracting procedures

COURT DECISIONS

Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313

McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310

Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672

Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109

*Management Resources:*

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 2014

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Local Legislative Bodies, 2003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public IV: A Guide to the Ralph M. Brown Act 2nd Edition, rev. July 2010

WEB SITES



*CSBA: <http://www.csba.org>  
Institute for Local Government: <http://www.ca-ilg.org>  
Office of the Attorney General: <http://www.oag.ca.gov>*

Bylaw ALAMEDA UNIFIED SCHOOL DISTRICT

adopted: September 13, 2011 Alameda, California

revised:

**Actions By The Board**

~~← Previous~~ | ~~Next →~~

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Alameda USD has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2012-13 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

**Board Bylaws**

E(1) 9323.2(a)

**ACTIONS BY THE BOARD**

**ACTIONS REQUIRING ~~MORE THAN A~~ SUPER MAJORITY VOTE**

**Actions Requiring a Two-Thirds Vote of the Board:**

- 1.- \_\_\_\_ Resolution declaring the Governing Board's intention to sell or lease real property (Education Code ~~17466~~ 17466)

*(cf. 3280 - Sale or Lease of District-Owned Real Property)*

- 2.- \_\_\_\_ Resolution declaring the Board's intent ~~of Board of Education~~ to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code ~~17556 (Education Code 17557)~~ 17556 (Education Code 17557)

- 3.- \_\_\_\_ Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559) ~~17559)~~

- 4.- \_\_\_\_ Lease 2 for up to three months 2 of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481) ~~17481)~~

5. Temporary borrowing before receipt of fiscal income, if implemented pursuant to Government Code ~~53820 53833~~ (Government Code 53821)

5. Request for temporary borrowing of funds needed for immediate requirements of the district to pay district obligations incurred before the receipt of district income for the fiscal year sufficient to meet the payment(s) (Government Code 53821)

- 6.- \_\_\_\_ Upon complying with Government Code ~~65352.2~~ 65352.2 and Public Resources Code ~~21151.2, ordering~~ 21151.2, action to render city or county zoning ordinances

inapplicable to a proposed use of the property by the district (Government Code ~~53094~~ 53094)

*(cf. 7131 - Relations with Local Agencies)*

*(cf. 7150 - Site Selection and Development)*

*(cf. 7160 - Charter School Facilities)*

~~7. Resolution When the district is organized to transfer excess local funds from a deferred maintenance fund when state funds are insufficient serve only grades K-8, action to match local funds being held in the deferred~~

~~maintenance fund establish a community day school for any of grades K-8~~ (Education Code ~~17582, 17583~~ 48660)

~~8. For districts with~~

*(cf. 6185 - Community Day School)*

~~8. When the district is organized to serve only grades K-8, has an average daily attendance (ADA) of 2,500 or less seeking to add a community day school on an existing school site, certification that satisfactory alternative facilities are not available for, or desires to operate a community day school~~ (Education Code ~~48661~~)

~~9. For to serve any of grades K-8 districts~~ 6 (and no higher grades) ~~seeking and seeks to add~~ situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code ~~48661~~ 48661)

~~10. For districts desiring to operate a community day school on an existing school site to serve grades K-6 (and no higher grades), certification that satisfactory alternative facilities are not available for a community day school~~ (Education Code ~~48661~~)

E(1) 9323.2(b)

## ACTIONS BY THE BOARD (continued)

~~9.~~

~~11.~~ Resolution of intent to issue general obligation bonds with the approval of 55 percent of the voters of the district (Education Code ~~15266~~ 15266)

~~12.~~

*(cf. 7214 - General Obligation Bonds)*

10. Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code ~~15266~~ 15266)

*(cf. 7213 - School Facilities Improvement Districts)*

11. ~~13.~~ Resolution to place a parcel tax on the ballot (Government Code ~~53724~~ 53724)

~~14.~~

(cf. 3471 - Parcel Taxes)

12. Resolution of necessity to proceed with an eminent domain action and, if the Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use ~~(Code of Civil Procedure 1245.240, 1245.245)~~ (Code of Civil Procedure 1245.240, 1245.245)
13. When the district has a three-member Board and has adopted the procedures set forth in the Uniform Public Construction Cost Accounting Act (UPCCAA), action to respond to an emergency facilities condition without giving notice for bids to let contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)

(cf. 3311.1 - Uniform Public Construction Cost Accounting Procedures)

#### **Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting:**

- 1.- Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code ~~54954.2~~ 54954.2)
- 2.- Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code ~~54956.5~~ 54956.5)

E(1) 9323.2(c)

#### **ACTIONS BY THE BOARD (continued)**

(cf. 9320 - Meetings and Notices)

(cf. 9321 - Closed Session)

#### **Actions Requiring a Four-Fifths Vote of the Board:**

##### **1. The**

1. Resolution for district borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the district's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing (Government Code 53822, 53824)
2. Resolution for district borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by the district

during that fiscal year from apportionments based on ADA for the preceding school year (Government Code 53823-53824)

3. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)

*(cf. 3311 - Bids)*

4. When the district has a five-member or seven-member Board and has adopted the procedures set forth in UPCCAA, action to respond to an emergency facilities condition without giving notice for bids to let contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)
5. Resolution to award a contract for a public works project at \$212,500 or less to the lowest responsible bidder, when the district is using the informal process authorized under the UPCCAA for projects of \$200,000 or less, all bids received are in excess of \$200,000, and the Board determines that the district's cost estimate was reasonable (Public Contract Code 22034)

#### **Action Requiring a Four-Fifths Vote of the Board Members Present at the Meeting**

A four-fifths vote of the Board members present at the meeting shall be required to approve the expenditure and transfer of necessary funds and use of district property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense—(Government Code 53790-53792). (Government Code 53790-53792)

~~2. Resolution, adopted between July 15 and August 30, to borrow funds of up to 25 percent of the estimated income and revenue to be received by the district during the current fiscal year from apportionments based on average daily attendance for the preceding school year (Government Code 53822-53824)~~

~~3. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)~~

*(cf. 3110 - Transfer of Funds)*

E(1) 9323.2(d)

#### **ACTIONS BY THE BOARD (continued)**

##### **Actions Requiring a Unanimous Vote of the Board:**

- 1.- Resolution authorizing and prescribing the terms of a ~~community~~ lease of district property for extraction and taking of gas not associated with oil (Education Code ~~17510-17511~~) 17510-17511)
2. ~~Waiver~~ Authorization of the use of day labor or force account, or waiver of the competitive bid process pursuant to Public Contract Code ~~20111~~ 20111, when the Board determines that an emergency exists requiring the repair, alteration, work, or improvement to any facility to permit the continuance of existing classes or to avoid danger to life or property, and upon approval of the County Superintendent of Schools (Public Contract Code ~~20113~~) 20113)

**Action Requiring a Unanimous Vote of the Board Members Present at the Meeting:**

- 1.- Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property ~~in the local dump~~ or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code ~~17546~~) 17546)

*(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)*

Exhibit ~~ALAMEDA UNIFIED SCHOOL DISTRICT~~ CSBA MANUAL MAINTENANCE  
SERVICE

version: ~~August 25, 2009 Alameda, California~~ October 2020

**ACTIONS BY THE BOARD**

**ACTIONS REQUIRING A SUPER MAJORITY VOTE**

**Actions Requiring a Two-Thirds Vote of the Board**

1. Resolution declaring the Governing Board's intention to sell or lease real property (Education Code 17466)
2. Resolution declaring the Board's intent to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease, for up to three months, of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481)
5. Request for temporary borrowing of funds needed for immediate requirements of the district to pay district obligations incurred before the receipt of district income for the fiscal year sufficient to meet the payment(s) (Government Code 53821)
6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by the district (Government Code 53094)
7. When the district is organized to serve only grades K-8, action to establish a community day school for any of grades K-8 (Education Code 48660)
8. When the district is organized to serve only grades K-8, has an average daily attendance (ADA) of 2,500 or less, or desires to operate a community day school to serve any of grades K-6 (and no higher grades) and seeks to situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)
9. Resolution of intent to issue general obligation bonds with the approval of 55 percent of the voters of the district (Education Code 15266)
10. Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code 15266)
11. Resolution to place a parcel tax on the ballot (Government Code 53724)

12. Resolution of necessity to proceed with an eminent domain action and, if the Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use (Code of Civil Procedure 1245.240, 1245.245)
13. When the district has a three-member Board and has adopted the procedures set forth in the Uniform Public Construction Cost Accounting Act (UPCCAA), action to respond to an emergency facilities condition without giving notice for bids to let contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)

#### **Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting**

1. Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)
2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

#### **Actions Requiring a Four-Fifths Vote of the Board**

1. Resolution for district borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the district's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing (Government Code 53822, 53824)
2. Resolution for district borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by the district during that fiscal year from apportionments based on ADA for the preceding school year (Government Code 53823-53824)
3. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)
4. When the district has a five-member or seven-member Board and has adopted the procedures set forth in UPCCAA, action to respond to an emergency facilities condition without giving notice for bids to let contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)



5. Resolution to award a contract for a public works project at \$212,500 or less to the lowest responsible bidder, when the district is using the informal process authorized under the UPCCAA for projects of \$200,000 or less, all bids received are in excess of \$200,000, and the Board determines that the district's cost estimate was reasonable (Public Contract Code 22034)

#### **Action Requiring a Four-Fifths Vote of the Board Members Present at the Meeting**

A four-fifths vote of the Board members present at the meeting shall be required to approve the expenditure and transfer of necessary funds and use of district property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense. (Government Code 53790-53792)

#### **Actions Requiring a Unanimous Vote of the Board**

1. Resolution authorizing and prescribing the terms of a lease of district property for extraction and taking of gas not associated with oil (Education Code 17510-17511)
2. Authorization of the use of day labor or force account, or waiver of the competitive bid process pursuant to Public Contract Code 20111, when the Board determines that an emergency exists requiring the repair, alteration, work, or improvement to any facility to permit the continuance of existing classes or to avoid danger to life or property, and upon approval of the County Superintendent of Schools (Public Contract Code 20113)

#### **Action Requiring a Unanimous Vote of the Board Members Present at the Meeting**

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

Exhibit ALAMEDA UNIFIED SCHOOL DISTRICT

version: August 25, 2009 Alameda, California

revised:

**ACTIONS BY THE BOARD**

**UNCONDITIONAL COMMITMENT LETTER**

To: *(Name of district attorney or any interested person)*

The Governing Board of *(name of school district)* has received your cease and desist letter dated *(date)* alleging that the following past action taken by the Board violates the Ralph M. Brown Act: *(Describe alleged past action as set forth in the cease and desist letter.)*

In order to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the Board hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action described above. The Board may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address(es) you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, a notice will be delivered to you by the same means as this commitment, or by mail to an address that you have designated in writing, and you will have the right to commence legal action pursuant to Government Code 54960(a).

Sincerely,

*(Name)*

*(Title of Board President or other designee)*

## MINUTES AND RECORDINGS

The Governing Board of Education recognizes that maintaining accurate minutes of Board meetings helps foster public trust in Board governance and provides a record of Board actions for use by district staff and the public. ~~Accurate minutes also help foster public trust that Board actions are occurring in public in accordance with law.~~

*(cf. ~~9000-9000~~ - Role of the Board)*

*(cf. ~~9005-9005~~ - Governance Standards)*

*(cf. ~~9323-9323~~ - Meeting Conduct)*

The secretary of the Board shall keep minutes and record all official Board actions. The Board's minutes shall be public records and shall be made available to the public upon request.  
~~(Education Code 35145, 35163)~~ (Education Code 35145, 35163)

*(cf. ~~1340-1340~~ - Access to District Records)*

*(cf. ~~9122-9122~~ - Secretary)*

*(cf. ~~9323.2-9323.2~~ - Actions by the Board)*

The minutes of Board meetings shall include, but not be limited to:

1. A notation of which Board members are present, in person or by teleconference, and whether a member is not present for part of the meeting due to late arrival and/or early departure

*(cf. 9250 - Remuneration, Reimbursement and Other Benefits)*

*(cf. 9320 - Meetings and Notices)*

2. A brief summary of the Board's discussion on each agenda topic, rather than a verbatim record of each Board member's specific points of view during the discussion

3. A summary of the public comments made on agendized items and unagendized topics

4. The specific language of each motion and the names of the Board members who made and seconded the motion

5. Preferential votes cast by student Board member(s) (Education Code 35012)

*(cf. 9150 - Student Board Members)*

6. Any action taken by the Board, and the vote or abstention on that action of each Board member present (Education Code 35145; Government Code 54953)

Upon request by a student's parent/guardian, or by the student if age 18 or older, the minutes shall not include the student's or parent/guardian's address, telephone number, date of birth, or email address, or the student's name or other directory information as defined in Education

Code 49061. The request to exclude such information shall be made in writing to the secretary or clerk of the Board. (Education Code 49073.2)

*(cf. 5125.1 - Release of Directory Information)*

The Board agenda shall include a statement of the option and process for students and parents/guardians to request that such information be excluded from the minutes.

The Superintendent or designee shall distribute a copy of the "unapproved" minutes of the previous meeting(s) with the agenda for the next regular meeting. ~~At the next meeting, the~~ The Board shall approve the minutes as circulated or with necessary amendments.

~~In order to ensure that the minutes are focused on Board action, the minutes shall include only a brief summary of the Board's discussion, but shall not include a verbatim record of the Board's discussion on each agenda topic or the names of Board members who made specific points during the discussion. Upon approval by the Board, the minutes shall be signed by \_\_\_\_\_.~~

~~The minutes shall include the specific language of each motion, the names of members who made and seconded the motion, and the individual votes of each member, unless the action was unanimous. When a roll call vote is taken, the names and votes of each member shall be listed. Motions or resolutions shall be recorded as having passed or failed. All motions and Board resolutions shall be numbered consecutively from the beginning of each fiscal year.~~

~~The minutes shall reflect the names of those individuals who comment during the meeting's public comment period as well as the topics they address.~~

~~The minutes shall record which members are present and whether a member is not present for part of the meeting due to late arrival and/or early departure.~~

~~(cf. 9250 - Remuneration, Reimbursement and Other Benefits)~~

Official Board minutes and recordings shall be stored in a secure location and shall be retained in accordance with law.

~~(cf. 3580-3580 - District Records)~~

Any minutes or recordings kept for Board meetings held in closed session shall be kept separately from the minutes or recordings of regular and special meetings. Minutes or recordings of closed sessions are not public records. (Government Code ~~54957.2~~ 54957.2)

~~(cf. 9321.1-9321.1 - Closed Session Actions and Reports)~~

## **Recording or Broadcasting of Meetings**

The district may tape, film, stream, or broadcast any open Board meeting. ~~The~~ At the beginning of the meeting, the Board president shall announce that a recording or broadcasting is being made at the beginning ~~direction~~ of the ~~meeting~~ Board and, ~~as that the recording or broadcast may capture images and sounds of those attending the meeting. As~~ practicable, the recorder or camera shall be placed in plain view of meeting participants.

Any district recording may be erased or destroyed 30 days after the meeting. Recordings made at the direction of the Board during a meeting are public records and, upon request, shall be

made available for inspection by members of the public on a district ~~recorder~~ equipment without charge. (Government Code ~~54953.5~~ 54953.5)

*Legal Reference:*

EDUCATION CODE

~~35145-35012~~ Number of members; terms; student board members

~~35145~~ Public meetings

~~35163-35163~~ Official actions, minutes and journals

~~35164-35164~~ Vote requirements

~~49061~~ Student records; definitions

~~49073.2~~ Privacy of student and parent/guardian personal information

GOVERNMENT CODE

~~54952.2-54952.2~~ Meeting defined

~~54953.5-54953~~ Meetings

~~54953.5~~ Audio or video recording of proceedings

~~54953.6-54953.6~~ Broadcasting of proceedings

~~54957.2-54957.2~~ Closed sessions; clerk; minute book

~~54960-54960~~ Violations and remedies

PENAL CODE

~~632-632~~ Unlawful to intentionally record a confidential communication without consent

CODE OF REGULATIONS, TITLE 5

~~16020-16027-16020-16027~~ Classification and retention of records

*Management Resources:*

CSBA PUBLICATIONS

Call to Order: A Blueprint for Great Board Meetings, 2015

The Brown Act: School Boards and Open Meeting Laws, rev. 2007 2014

~~Guide to Effective Meetings, rev. 2007~~

~~Maximizing School Board Leadership: Boardsmanship, 1996~~

WEB SITES

~~CSBA: <http://www.csba.org>~~

~~CSBA, Agenda Online: <http://www.agendaonline.com>~~

Bylaw ~~ALAMEDA UNIFIED SCHOOL DISTRICT~~ CSBA MANUAL MAINTENANCE  
SERVICE

adopted: ~~September 28, 2010 Alameda, California~~

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December 2018

**MINUTES AND RECORDINGS**

The Governing Board recognizes that maintaining accurate minutes of Board meetings helps foster public trust in Board governance and provides a record of Board actions for use by district staff and the public.

The secretary of the Board shall keep minutes and record all official Board actions. The Board's minutes shall be public records and shall be made available to the public upon request. (Education Code 35145, 35163)

The minutes of Board meetings shall include, but not be limited to:

1. A notation of which Board members are present, in person or by teleconference, and whether a member is not present for part of the meeting due to late arrival and/or early departure
2. A brief summary of the Board's discussion on each agenda topic, rather than a verbatim record of each Board member's specific points of view during the discussion
3. A summary of the public comments made on agendized items and unagendized topics
4. The specific language of each motion and the names of the Board members who made and seconded the motion
5. Preferential votes cast by student Board member(s) (Education Code 35012)
6. Any action taken by the Board, and the vote or abstention on that action of each Board member present (Education Code 35145; Government Code 54953)

Upon request by a student's parent/guardian, or by the student if age 18 or older, the minutes shall not include the student's or parent/guardian's address, telephone number, date of birth, or email address, or the student's name or other directory information as defined in Education Code 49061. The request to exclude such information shall be made in writing to the secretary or clerk of the Board. (Education Code 49073.2)

The Board agenda shall include a statement of the option and process for students and parents/guardians to request that such information be excluded from the minutes.

The Superintendent or designee shall distribute a copy of the "unapproved" minutes of the previous meeting(s) with the agenda for the next regular meeting. The Board shall approve the minutes as circulated or with necessary amendments.

Upon approval by the Board, the minutes shall be signed by \_\_\_\_\_.

Official Board minutes and recordings shall be stored in a secure location and shall be retained in accordance with law.

Any minutes or recordings kept for Board meetings held in closed session shall be kept separately from the minutes or recordings of regular and special meetings. Minutes or recordings of closed sessions are not public records. (Government Code 54957.2)

### **Recording or Broadcasting of Meetings**

The district may tape, film, stream, or broadcast any open Board meeting. At the beginning of the meeting, the Board president shall announce that a recording or broadcasting is being made at the direction of the Board and that the recording or broadcast may capture images and sounds of those attending the meeting. As practicable, the recorder or camera shall be placed in plain view of meeting participants.

Any district recording may be erased or destroyed 30 days after the meeting. Recordings made at the direction of the Board during a meeting are public records and, upon request, shall be made available for inspection by members of the public on district equipment without charge. (Government Code 54953.5)

#### *Legal Reference:*

##### EDUCATION CODE

35012 *Number of members; terms; student board members*

35145 *Public meetings*

35163 *Official actions, minutes and journals*

35164 *Vote requirements*

49061 *Student records; definitions*

49073.2 *Privacy of student and parent/guardian personal information*

##### GOVERNMENT CODE

54952.2 *Meeting defined*

54953 *Meetings*

54953.5 *Audio or video recording of proceedings*

54953.6 *Broadcasting of proceedings*

54957.2 *Closed sessions; clerk; minute book*

54960 *Violations and remedies*

##### PENAL CODE

632 *Unlawful to intentionally record a confidential communication without consent*

##### CODE OF REGULATIONS, TITLE 5

16020-16027 *Classification and retention of records*

#### *Management Resources:*

##### CSBA PUBLICATIONS

*Call to Order: A Blueprint for Great Board Meetings, 2015*

*The Brown Act: School Boards and Open Meeting Laws, rev. 2014*

##### WEB SITES

CSBA, Agenda Online: <http://www.agendaonline.com>

Bylaw ALAMEDA UNIFIED SCHOOL DISTRICT

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revised: