










**BOARD OF TRUSTEES  
 REGULAR MEETING  
 AGENDA  
 Tuesday, July 13, 2021  
 4:00 PM**

	The TRES D Board of Trustees will participate face-to-face with via Zoom Teleconference option. The public also has access through Zoom in order to observe and address the meeting. Please contact the District Office at (530) 265-9052 for access information. This meeting is being held pursuant to the procedures established in Executive Order N-29-20 issued by California Governor Gavin Newsom on March 17, 2020. All board members may attend the meeting by teleconference. Members of the public may also attend via Zoom in order to observe and address the meeting.		
	<b>1.</b>	<b>CALL TO ORDER</b>	
	<b>2.</b>	<b>ROLL CALL</b>	
Action	<b>3.</b>	<b>APPROVAL OF July 13, 2021 REGULAR AGENDA – Rachel Kozloski</b>	
	<b>4.</b>	<b>PUBLIC COMMENT</b> The Board of Trustees welcomes comments and suggestions from the public. While no action may be taken by the Board concerning items not on the agenda, comments are important for District information and for possible future action. Due to time considerations, the chair may request that comments by an individual be limited to two minutes. Suggestions and comments from the public regarding items listed on this agenda should be raised during the comment period for the specific agenda item. (Education Code 35145.5; Bylaw 9322, Government Code 54954.3)	
Action	<b>5.</b>	<b>CONSENT ITEMS.</b> <i>These items are expected to be routine and non-controversial. The Board will act upon them at one time without discussion. Any Board member, staff member or interested party may request that an item be removed from the consent agenda for discussion.</i>	
	<b>A.</b>	Approval of June 8, 2021 Regular Board Meeting Minutes	
	<b>B.</b>	Approval of June 24, 2021 Special Board Meeting Minutes	
	<b>C.</b>	Approval of July 2021 Warrants	
	<b>6.</b>	<b>REPORTS</b>	
Discussion/Info.	<b>A.</b>	Family Resource Center Report – Diana Pasquini	
Discussion/Info.	<b>B.</b>	Washington School Report – Rachel Kozloski	
Discussion/Info.	<b>C.</b>	Oak Tree Preschool Report – Pam Langley/Melissa Madigan	
Discussion/Info.	<b>D.</b>	Board Report - Rachel Kozloski	
	<b>7.</b>	<b>DISCUSSION/ACTION ITEMS</b>	
Discussion/Action	<b>A.</b>	Change of Command – Rachel Kozloksi /Malik Goodman	
Discussion/Action	<b>B.</b>	Board Policy 9000s –Rachel Kozloksi	
Discussion/Action	<b>C.</b>	Durham Bus Transportation Contract 2021/2022 – Melissa Madigan	
Discussion/Action	<b>D.</b>	CSEA Initial Proposals (Chapter #744) – Melissa Madigan	

Discussion/Action	<b>F.</b>	LCAP Update- <i>Melissa Madigan</i>	
Discussion/Action	<b>G.</b>	TRTA Update- <i>Melissa Madigan</i>	
Discussion/Action	<b>H.</b>	Board Goals- <i>Rachel Kozloski</i>	
Discussion/Action	<b>I.</b>	Approval of the Williams Quarterly Report (3 <sup>rd</sup> and 4 <sup>th</sup> Quarter) - <i>Melissa Madigan</i>	
Discussion/Action	<b>J.</b>	Grizzly Hill/Washington School Generator Update- <i>Kelly Moreno</i>	
Discussion/Action	<b>K.</b>	Tablets for Board Members- <i>Hilary Hulteen</i>	
Discussion/Action	<b>L.</b>	Superintendent's Report- <i>Melissa Madigan</i>	
Discussion/Action	<b>M.</b>	FIREWISE Report- <i>Freya Johnson</i>	
Discussion/Action	<b>N.</b>	Board Meeting Via Zoom- <i>Freya Johnson</i>	
	<b>8.</b>	<b>PUBLIC COMMENT ON CLOSED SESSION ITEMS</b> - <i>Rachel Kozloski</i>	
	<b>9.</b>	<b>CLOSED SESSION</b>	
	<b>A.</b>	Public Employee Discipline/Dismissal/Release (Government Code § 54957(b))	
	<b>10.</b>	<b>RECESS /RECONVENE</b> - Report Out on Closed Session - <i>Rachel Kozloski</i>	
	<b>A.</b>	Reportable Action Taken Regarding Public Employee Discipline/Dismissal/Release	
Discussion	<b>11.</b>	<b>FUTURE AGENDA ITEMS DISCUSSION</b>	
	<b>12.</b>	<b>UPCOMING MEETINGS:</b> August 10, 2021	
	<b>13.</b>	<b>ADJOURNMENT</b>	

This agenda was posted at least 72 hours prior to the meeting at 16661 Old Mill Rd. Nevada City, CA 95959 and on the website at TRES.D.ORG

**NOTICE:** In compliance with the Americans with Disabilities Act, if you need special assistance to access the Board meeting room or to otherwise participate at this meeting, including auxiliary aids or services, contact the Twin Ridges Elementary School District office at 530.265-9052 ext. 201 at least 48 hours before the scheduled Board meeting so that we may make every reasonable effort to accommodate your needs. {G.C. §54953.2, §54954.2(a) (1); Americans with Disabilities Act of 1990, §202 (42 U.S.C. §12132)}

\_\_\_\_\_  
Rachel Kozloski, Board President

07/13/2021

\_\_\_\_\_  
Date

## BOARD OF TRUSTEES REGULAR MEETING MINUTES

**Tuesday, June 8, 2021 @ 4:00 PM  
 Grizzly Hill School Room 8  
 16661 Old Mill Rd. Nevada City, CA**

The TRESB Board of Trustees will meet in person with Zoom Teleconference also available. The public is welcome to attend in person and also has access through Zoom in order to observe and address the meeting. Please contact the District Office at (530) 265-9052 for access information. This meeting is being held pursuant to the procedures established in Executive Order N-29-20 issued by California Governor Gavin Newsom on March 17, 2020. All board members may attend the meeting by teleconference. Members of the public may also attend via Zoom in order to observe and address the meeting.

	<b>1. CALL TO ORDER</b>										
	The regular meeting of the Twin Ridges Elementary School District Board of Trustees was called to order at 4:00 PM on Tuesday, June 8, 2021.										
	<b>2. ROLL CALL</b>										
	Four members were present; a quorum was established.										
	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; text-align: center;">Rachel Kozloski</td> <td style="width: 50%;">Absent</td> </tr> <tr> <td style="text-align: center;">Malik Goodman</td> <td>Present</td> </tr> <tr> <td style="text-align: center;">Lorien Whitestone</td> <td>Present</td> </tr> <tr> <td style="text-align: center;">Hilary Hulteen</td> <td>Present</td> </tr> <tr> <td style="text-align: center;">Mindi Morton</td> <td>Present</td> </tr> </table>	Rachel Kozloski	Absent	Malik Goodman	Present	Lorien Whitestone	Present	Hilary Hulteen	Present	Mindi Morton	Present
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Malik Goodman	Present										
Lorien Whitestone	Present										
Hilary Hulteen	Present										
Mindi Morton	Present										
<i>Action</i>	<b>3. APPROVAL OF June 8, 2021 REGULAR BOARD MEETING AGENDA</b>										
	Mindi moves to approve the June 8, 2021 regular meeting agenda, Lorien seconds, motion carries (4/0/1/0) as follows:										
	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; text-align: center;">Rachel Kozloski</td> <td style="width: 50%;">Absent</td> </tr> <tr> <td style="text-align: center;">Malik Goodman</td> <td>Yes</td> </tr> <tr> <td style="text-align: center;">Lorien Whitestone</td> <td>Yes</td> </tr> <tr> <td style="text-align: center;">Hilary Hulteen</td> <td>Yes</td> </tr> <tr> <td style="text-align: center;">Mindi Morton</td> <td>Yes</td> </tr> </table>	Rachel Kozloski	Absent	Malik Goodman	Yes	Lorien Whitestone	Yes	Hilary Hulteen	Yes	Mindi Morton	Yes
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	<b>4. PUBLIC COMMENT</b>										
	The Board of Trustees welcomes comments and suggestions from the public. While no action may be taken by the Board concerning items not on the agenda, comments are important for District information and for possible future action. Due to time considerations, the chair may request that comments by an individual be limited to two minutes. Suggestions and comments from the public regarding items listed on this agenda should be raised during the comment period for the specific agenda item. (Education Code 35145.5; Bylaw 9322, Government Code 54954.3)										
	<ul style="list-style-type: none"> <li>• Malik requested that the TRESB board discuss who would resume the Board chair position upon Rachel Kozloski's need to step down as board president.</li> </ul>										

Action	5.	<b>CONSENT ITEMS</b> These items are expected to be routine and non-controversial. The Board will act upon them at one time without discussion. Any Board member, staff member or interested party may request that an item be removed from the consent agenda for discussion.	
	A.	Approval of the May 25 <sup>th</sup> , 2021 Regular Board Meeting Minutes.	
	B.	Approval of the May 28 <sup>th</sup> , 2021 Special Board Meeting Minutes.	
	C.	Approval of the June 2021 Warrants.	
		Mindi moves to approve Consent Items 5A, 5B, and 5C as presented. Lorien seconds, motion carries (4/0/1/0) as follows:	
		Rachel Kozloski Malik Goodman Lorien Whitestone Hilary Hulteen Mindi Morton	Absent Yes Yes Yes Yes
	6.	<b>PUBLIC HEARING</b>	
	A.	<b>2021/2022 LCAP</b>	
		At 4:11pm, public hearing is officially open. No public comment.	
	B.	<b>Close Public Hearing-</b> Public hearing closed at 4:13pm.	
	7.	<b>PUBLIC HEARING</b>	
	A.	<b>2021/2022 Adopted Budget</b>	
		At 4:14pm, public hearing is officially open. No public comment.	
	B.	<b>Close Public Hearing</b> Public hearing closed at 4:16pm.	
	8.	<b>REPORTS</b>	
Discussion/ Info	A.	Family Resource Center Report- <i>Kristin Snell/Diana Pasquini</i> Melissa and Kelly will be going to the Family Resource Center/Oak Tree Campus to meet with Kristin, Diana, and Laura Harter from the county office.	
Discussion/ Info	B.	Washington School Report - <i>Rachel Kozloski</i> We had one graduate this year. Lorien mentions that the school is 170 years old and the longest continuing running school in CA.	
Discussion/ Info	C.	Oak Tree Preschool- <i>Melissa Madigan/Pam Langley</i> Pam was at the Cherry Festival and connected with more parents, adding more students to the waitlist. Preschool is her passion and she loves engaging with the public.	
Discussion/ Info	D.	Board Report- <i>Rachel Kozloski</i> Hilary thought the graduation was great and she appreciated the lineage of holding this event at the school house. Mindi said four of the graduating students went to her preschool. An	



**9. DISCUSSION/ ACTION ITEMS**

Discussion/Action	<b>A.</b>	<b>FIREWISE Inspection Report-JoAnne Fites-Kaufman</b>										
		<p>JoAnne was not present at this meeting.</p> <p>This item to be tabled until a subsequent meeting. Malik would like the mine to know about our evacuation plan in the event of a fire emergency. Freya will send out the FIREWISE inspection report.</p> <p>The report reveals that there are major fire fuels around campus, it was suggested we contact CAL FIRE to consult with them about how to reduce these major fuel sources. The report further suggests that the campus is not an adequate shelter-in-place in the event of a fire. After further discussion on the topic, the board asked Melissa to acquire a satellite phone for communication purposes, in the event of an emergency.</p>										
Discussion/Action	<b>B.</b>	<b>Expanded Learning Opportunity Special Education Professional Development Plan -- Mel Kelley.</b>										
		Mel Kelley presented a PowerPoint slideshow detailing training and engagement plan for paraprofessionals/special-ed paraprofessionals. Her plan includes meeting once a month for collaborating and dialogue among paraprofessional development as a group.										
Discussion/Action	<b>C.</b>	<b>Durham Transportation 2021/2022 School Year Update--Melissa Madigan</b>										
		The bus has committed to Grizzly Hill and will be around \$65,000.										
Discussion/Action	<b>D.</b>	<b>New Teacher Hires--Melissa Madigan</b>										
		We welcome Adam Percy as our the new teacher hire for Washington School. Adam brings with him a background in Spanish immersion, music, and organic gardening. He shared that this district and Washington school in particular, is his target demographic and dream position.										
Discussion/Action	<b>E.</b>	<b>CALCARD for Pam Langley--Melissa Madigan</b>										
		<p>As Preschool Director, Pam Langley needs a CALCARD to carry out her duties. Melissa is charged with signing her purchase orders and budget monitoring.</p> <p>Mindi moves to approve a CALCARD for Pam Langley with a \$5,000 limit. Lorien seconds, motion carries (4/0/1/0) as follows:</p>										
		<table border="0"> <tr> <td>Rachel Kozloski</td> <td>Absent</td> </tr> <tr> <td>Malik Goodman</td> <td>Yes</td> </tr> <tr> <td>Lorien Whitestone</td> <td>Yes</td> </tr> <tr> <td>Hilary Hulteen</td> <td>Yes</td> </tr> <tr> <td>Mindi Morton</td> <td>Yes</td> </tr> </table>	Rachel Kozloski	Absent	Malik Goodman	Yes	Lorien Whitestone	Yes	Hilary Hulteen	Yes	Mindi Morton	Yes
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Discussion/Action	<b>F.</b>	<b>Board Policy Updates 9000s --Rachel Kozloski</b>										
		Revisit this item for the next board meeting in July.										
Discussion/Action	<b>G.</b>	<b>Williams Quarterly Uniform Complaint Summary (3<sup>rd</sup> Quarter) --Rachel Kozloski</b>										
		Nothing to report.										
Discussion/Action	<b>H.</b>	<b>Superintendent's Report --Melissa Madigan</b>										
		Melissa would like to have site council organized for this year. Mindi is interested in joining site council.										
	<b>10.</b>	<b>PUBLIC COMMENT ON CLOSED SESSION ITEMS</b>										
		No public comment on closed session items.										

Discussion/Action	<b>A.</b>	Public Employee Discipline/Dismissal/Release (Government Code § 54957(b))
	<b>12.</b>	<b>RECESS /RECONVENE</b> - Report Out on Closed Session – <i>Rachel Kozloski</i>
Discussion/Action	<b>A.</b>	Reportable Action Taken Regarding Public Employee Discipline/Dismissal/Release
		No Reportable Action.
	<b>13.</b>	<b>FUTURE AGENDA ITESM DISCUSSION</b>
	<b>14.</b>	<b>UPCOMING MEETINGS: June 24<sup>th</sup>, 2021</b>
	<b>15.</b>	<b>ADJOURNMENT: 5:03pm.</b>
	This agenda was posted at least 72 hours prior to the meeting at 16661 Old Mill Rd. Nevada City, CA 95959	
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\_\_\_\_\_  
Rachel Kozloski, Board President

\_\_\_\_\_  
07/13/2021

Date

# TWIN RIDGES ELEMENTARY SCHOOL DISTRICT

16661 Old Mill Rd., Nevada City, California

Phone (530) 265-9052 ♦ Fax (530) 265-3049 ♦ www.twinridgeselementary.com

## BOARD OF TRUSTEES SPECIAL MEETING MINUTES

**Thursday, June 24, 2021 @ 11:00 AM**  
**Grizzly Hill School Room 8**  
**16661 Old Mill Rd. Nevada City, CA**

The TRESB Board of Trustees will meet in person with Zoom Teleconference also available. The public is welcome to attend in person and also has access through Zoom in order to observe and address the meeting. Please contact the District Office at (530) 265-9052 for access information. This meeting is being held pursuant to the procedures established in Executive Order N-29-20 issued by California Governor Gavin Newsom on March 17, 2020. All board members may attend the meeting by teleconference. Members of the public may also attend via Zoom in order to observe and address the meeting.

	<b>1. CALL TO ORDER</b>
	The special meeting of the Twin Ridges Elementary School District Board of Trustees was called to order at 11:16 AM on Thursday, June 24, 2021.
	<b>2. ROLL CALL</b>
	Three members were present; a quorum was established.
	Rachel Kozloski Absent Malik Goodman Present Lorien Whitestone Present Hilary Hulteen Present Mindi Morton Absent
Action	<b>3. APPROVAL OF June 24, 2021 SPECIAL BOARD MEETING AGENDA</b>
	Hilary moves to approve the June 24, 2021 special board meeting agenda, Lorien seconds, motion carries (3/0/2/0) as follows:
	Rachel Kozloski Absent Malik Goodman Yes Lorien Whitestone Yes Hilary Hulteen Yes Mindi Morton Absent
	<b>4. PUBLIC COMMENT</b> The Board of Trustees welcomes comments and suggestions from the public. While no action may be taken by the Board concerning items not on the agenda, comments are important for District information and for possible future action. Due to time considerations, the chair may request that comments by an individual be limited to two minutes. Suggestions and comments from the public regarding items listed on this agenda should be raised during the comment period for the specific agenda item. (Education Code 35145.5; Bylaw 9322, Government Code 54954.3)
	<ul style="list-style-type: none"><li>Lorien would like to have to have access to board meetings via Zoom. Malik would like a public Zoom link to every meeting.</li></ul>

		<b>5. DISCUSSION/ACTION ITEMS</b>	
<i>Discussion/Action.</i>	<b>A.</b>	Board Officer Organization- Tabled until July 13 <sup>th</sup> board meeting.	
<i>Discussion/Action.</i>	<b>B.</b>	Approve the 2021-2024 Local Control and Accountability Plan-  No public comment.  Lorien moves to approve the 2021-2024 Local Control and Accountability Plan, Hilary seconds, motion carries (3/0/2/0) as follows:	
		Rachel Kozloski Malik Goodman Lorien Whitestone Hilary Hulteen Mindi Morton	Absent Yes Yes Yes Absent
<i>Discussion/Action.</i>	<b>C.</b>	Approve the 2020-2021 Budget Revision Number 3-  No public comment.  Lorien moves to approve the 2020-2021 Budget Revision Number 3, Hilary seconds, motion carries (3/0/2/0) as follows:	
		Rachel Kozloski Malik Goodman Lorien Whitestone Hilary Hulteen Mindi Morton	Absent Yes Yes Yes Absent
<i>Discussion/Action.</i>	<b>D.</b>	Approve the 2021/2022 Adopted Budget-  No public comment.  Lorien moves to approve the 2020-2021 Adopted Budget, Hilary seconds, motion carries (3/0/2/0) as follows:	
		Rachel Kozloski Malik Goodman Lorien Whitestone Hilary Hulteen Mindi Morton	Absent Yes Yes Yes Absent
<i>Discussion/Info.</i>	<b>E.</b>	2021-2022 Education Protection Account Plan-  Report details sales tax and income tax for education, these are not additional revenue but money received to avoid financial cuts. This information is reported every year. Revenues are spent entirely on the instructional function.	
<i>Discussion/Info.</i>	<b>F.</b>	Personnel Hires-  We have three (3) new hires for the 21/22 instructional year. Sierra Clemens (1.0 FTE Teacher) is in first year teaching, previously was a long term substitute teacher. Cori Hobbes (1.0 FTE Teacher) has been a long-time aid at Union Hill. Bonnie Watson (1.0 FTE, TOSA) comes to us from Oregon with eighteen years of experience. Bonnie Watson is a former special ed. teacher, involved in writer's theater and is keen on restorative justice. Melissa will follow up with contractual obligations to make sure she can lead field trips.  Lorien expressed concerned teacher retention.	

		<p>Malik priority concerned about community outreach, such as legacy field trips and sports programs.</p> <p>Melissa is focused on retention new hires. COVID was a difficult year on everyone, we're putting programs in place for teacher retention in the upcoming school years.</p> <p>Darlene provided clarifying information regarding the budget that student/teacher ratios in a small school district can be difficult to maintain. Hiring a TOSA will help mediate this.</p> <p>Lorien moves to approve the Personnel Hires (Clemens 1.0 FTE Teacher) (Hobbes 1.0 FTE Teacher) (Watson 1.0 FTE, TOSA), Hilary seconds, motion carries (3/0/2/0) as follows:</p>										
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<i>Discussion/ Info</i>	<b>G.</b>	<p><b>Safety Plan-</b></p> <p>Freya Johnson is in charge of the Comprehensive Safety Plan for Twin Ridges ESD. The plan will be updated throughout the year, to be on the agenda March 1<sup>st</sup> of each year for review and approval. She will be updating the board about safety plan procedures and details throughout the year. Evacuation routes will be created and posted in clear, accessible locations (such as classrooms and our kiosk).</p>										
<i>Discussion/ Action</i>	<b>H.</b>	<p><b>Approval of Preschool Director Salary-</b></p> <p>Pam Langley, Director of Little Acorns Preschool, has made a commitment for a minimum of 3 years until the preschool is up and running. We can revisit salary schedule and job description as needed in the future.</p> <p>Hilary moves to approve the Preschool Director Salary Schedule as presented, Lorien seconds, motion carries (3/0/2/0) as follows:</p>										
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<i>Discussion/ Info</i>	<b>I.</b>	<p><b>School Bell Schedule for 21-22 and 22-23-</b></p> <p>Malik is happy to see the bell schedule become a reality. The Grizzly Hill logo should go on the schedule and the fonts should be uniform.</p> <p>Lorien moves to approve the School Bell Schedule for 21-22 and 22-23, Hilary seconds, motion carries (3/0/2/0) as follows:</p>										
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<i>Discussion/ Info</i>	<b>J.</b>	<p><b>Approval of Superintendent's Yearly Contract-</b></p> <p>Melissa asked the board to approve a 5.7% cost of living increase and \$58.33 per month for business use of personal cell phone (retroactive to October 9<sup>th</sup>, 2019) in her yearly contract.</p> <p>Hilary moves to approves the Superintendent's 21/22 Yearly Contract as presented,</p>										

		Lorien seconds, motion carries (3/0/2/0) as follows:	
		Rachel Kozloski Malik Goodman Lorien Whitestone Hilary Hulteen Mindi Morton	Absent Yes Yes Yes Absent
<i>Discussion/ Action</i>	<b>K.</b>	CSEA Initial Proposals (Chapter #744) - Tabled until the next board meeting.	
<i>Discussion/ Action</i>	<b>L.</b>	TRESA Initial Proposals for CSEA Negotiations- TRESA is preparing for negotiations with CSEA for the 21/22 instructional year. District council prepared the initial Sunshine proposal, requiring board approval before negotiations can occur. Lorien moves to approve the TRESA Initial Sunshine Proposals for CSEA Negotiations, Hilary seconds, motion carries (3/0/2/0) as follows:	
		Rachel Kozloski Malik Goodman Lorien Whitestone Hilary Hulteen Mindi Morton	Absent Yes Yes Yes Absent
<i>Discussion/ Info</i>	<b>M.</b>	Resolution to Establish an Associate Student Body (ASB) Special Revenue Fund- Darlene Waddle presented, for board approval, a resolution to establish a new Associate Student Body Revenue Fund. Lorien moves to approve the Resolution to Establish an Associate Student Body (ASB) Special Revenue Fund, as presented, Hilary seconds, motion carries (3/0/2/0) as follows:	
		Rachel Kozloski Malik Goodman Lorien Whitestone Hilary Hulteen Mindi Morton	Absent Yes Yes Yes Absent
	<b>10.</b>	<b>PUBLIC COMMENT ON CLOSED SESSION ITEMS</b>	
		No public comment on closed session items. Regular session recessed at 12:33	
	<b>11.</b>	<b>CLOSED SESSION opened at 12:38pm</b>	
<i>Discussion/ Action</i>	<b>A.</b>	Public Employee Discipline/Dismissal/Release (Government Code § 54957(b)) No action taken during closed session.	
<i>Discussion/ Action</i>	<b>B.</b>	Conference with Labor Negotiator, Agency Negotiator: Melissa Madigan. Represented Employees: CSEA and TRTA- No action taken during closed session.	
<i>Discussion/ Action</i>	<b>C.</b>	Nonrenewal of Inter-district Transfer- No action taken during closed session.	

	<b>12. RECESS /RECONVENE –</b> Close session recessed at 1:28pm.
	<b>13. FUTURE AGENDA ITEMS DISCUSSION</b> No future agenda items discussed.
	<b>14. UPCOMING MEETINGS: July 13<sup>th</sup>, 2021</b>
	<b>15. ADJOURNMENT: 1:30pm.</b>
	This agenda was posted at least 72 hours prior to the meeting at 16661 Old Mill Rd. Nevada City, CA 95959
<b>NOTICE:</b>	In compliance with the Americans with Disabilities Act, if you need special assistance to access the Board meeting room or to otherwise participate at this meeting, including auxiliary aids or services, contact the Twin Ridges Elementary School District office at 530.265-9052 ext. 201 at least 48 hours before the scheduled Board meeting so that we may make every reasonable effort to accommodate your needs. {G.C. §54953.2, §54954.2(a) (1); Americans with Disabilities Act of 1990, §202 (42 U.S.C. §12132)}

\_\_\_\_\_  
Rachel Kozloski, Board President

\_\_\_\_\_  
07/13/2021

Date

ReqPay05a

Payment Register

Bank Account COUNTY - AP Account

Fiscal Year	Invoice Date	Reg #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
Select Employee ACOSTA, EDGAR L (000175) 17681 SKYLAND RD NEVADA CITY, CA 95959										
2020/21	06/06/21		FENCE SUPPLIES	6-6-21		Paid	Printed	15.93		15.93
check #	21-4989960		2021 01-0000-4300-00-005-0-0000-8100-000-0000	BatchId AP06162021	06/14/21		Check Date 06/18/21	PO#	Register # 000140	
2020/21	06/09/21		FENCE SUPPLIES	6-9-21		Paid	Printed	9.44		9.44
check #	21-4989960		2021 01-0000-4300-00-005-0-0000-8100-000-0000	BatchId AP06162021	06/14/21		Check Date 06/18/21	PO#	Register # 000140	
								<b>Total Invoice Amount</b>	<b>25.37</b>	
Select Employee BENDER, SUNSHINE M (000130) 17448 GREEN RAVINE RD NEVADA CITY, CA 95959										
2020/21	06/25/21		JUNE MILEAGE	6-25		Paid	Printed	154.56		154.56
check #	22-4989591		2021 01-0000-5220-00-000-0-0000-7200-000-0000	BatchId AP07012021	06/29/21		Check Date 07/02/21	PO#	Register # 000142	
								<b>Total Invoice Amount</b>	<b>154.56</b>	
Select Employee CAUGHEY, TIFFANY R (000018) P.O. BOX 872 CEDAR RIDGE, CA 95924										
2020/21	06/03/21		WASH MILEAGE	6-3-21		Paid	Printed	195.16		195.16
check #	21-4989961		2021 01-0000-5220-00-004-0-1110-1000-000-0000	BatchId AP06162021	06/14/21		Check Date 06/18/21	PO#	Register # 000140	
								<b>Total Invoice Amount</b>	<b>195.16</b>	
Select Employee LANGLEY, PAMELA (000195) PO Box 854 North San Juan, CA 95960										
2020/21	05/31/21		SUB MILEAGE WASH	5-28-2021		Paid	Printed	290.08		290.08
check #	21-4989595		2021 01-0000-5220-00-004-0-0000-2700-000-0000	BatchId AP06102021	06/07/21		Check Date 06/11/21	PO#	Register # 000139	
								<b>Total Invoice Amount</b>	<b>290.08</b>	
Select Employee MARTINES, SHELLINE (000200) 14491 BOQUEST DR. NEVADA CITY, CA 95959										

Sorted by AP Check Order Option, Filtered by (Org = 11, Payment Method = N, Payment Type = N, On Hold? = Y, Starting Create Date = 6/1/2021, Ending Create Date = 6/30/2021, Page Break by Check/Advice? = N, Zero? = Y)

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Payment Register

Bank Account COUNTY - AP Account

Scheduled 06/07/2021 - 06/29/2021

Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
Select Employee MARTINES, SHELLINE (000200) (continued)										
2020/21	05/10/21		FINGERPRINT	5-10-2021 (466439)	06/07/21	Paid	Printed	24.50		24.50
check #	21-498596		2021 01-0000-5840-00-000-0-0000-2700-000-0000							
				BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	
								<b>Total Invoice Amount</b>	<b>24.50</b>	
Select Employee MONTOBIO, JULIE M (000150) PO BOX 31 WASHINGTON, CA 95986										
2020/21	06/02/21		LAST DAY CELEBRATION	6-02-21 (468608)	06/14/21	Paid	Printed	65.12		65.12
check #	21-498962		2021 01-0000-4300-00-004-0-0000-2700-000-0000							
				BatchId AP06162021		Check Date 06/18/21	PO#		Register # 000140	
								<b>Total Invoice Amount</b>	<b>65.12</b>	
Select Employee Olson, Shawn (000196) PO Box 426 North San Juan, CA 95960										
2020/21	06/22/21		IRRIGATION SUPPLIES	561470 (472792)	06/29/21	Paid	Printed	297.29		297.29
check #	22-499592		2021 01-0000-4300-00-001-0-0000-8100-000-0000							
				BatchId AP07012021		Check Date 07/02/21	PO#		Register # 000142	
								<b>Total Invoice Amount</b>	<b>297.29</b>	
Select Employee ZEISLER, NANCY M (000120) PO Box 1641 Cedar Ridge, CA 95924										
2020/21	06/01/21		COUNSELOR WASHINGTON GROUP AND HOME VISIT	6-1-2021 (466439)	06/07/21	Paid	Printed	441.84		441.84
check #	21-498597		2021 01-0000-5220-00-004-0-0000-2700-000-0000							
				BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	
2020/21	06/03/21		PARENT GROUP SUPPLIES	6-3-21 (466439)	06/07/21	Paid	Printed	17.32		17.32
check #	21-498597		2021 01-0000-4300-00-005-0-0000-2700-000-0102							
				BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	

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Payment Register

Bank Account COUNTY - AP Account

Fiscal Year	Invoice Date	Reg #	Comment	Payment Id (Trans Batch Id)	Sched	Paymnt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
(continued)										
2020/21	06/07/21		ZEISLER, NANCY M (000120)							
			PARENT GROUP SUPPLIES	6-7-21	06/07/21	Paid	Printed	27.15		27.15
				(466439)						
2021	01-0000-4300-00-005-0-0000-2700-000-0102									
check #	21-498597					Check Date 06/11/21	PO#		Register # 000139	
								<b>Total Invoice Amount</b>	<b>486.31</b>	
Vendor: AALLRR ATTORNEYS AT LAW (000255/1) 12800 CENTER COURT DR STE 300 CERRITOS, CA 90703										
2020/21	05/31/21		LEGAL SERVICES MAY	625098	06/21/21	Paid	Printed	7,839.74		7,839.74
check #	21-499315					Check Date 06/25/21	PO#		Register # 000141	
								<b>Total Invoice Amount</b>	<b>7,839.74</b>	
Vendor: ALL SEASON AWARDS (000008/1) 463 SUTTON WAY GRASS VALLEY, CA 95945										
2020/21	05/20/21		EMPLOYEE OF THE YEAR AWARD	1874	06/14/21	Paid	Printed	108.38		108.38
check #	21-498963					Check Date 06/18/21	PO#		Register # 000140	
								<b>Total Invoice Amount</b>	<b>108.38</b>	
Vendor: APPLE INC (000288/2) P.O. BOX 846095 DALLAS, TX 75284										
2020/21	06/07/21		IPADS	AF11853393 (471154)	06/21/21	Paid	Printed	1,627.13		1,627.13
check #	21-499316		2021 01-3210-5800-00-000-0-1110-1000-000-0000			Check Date 06/25/21	PO#		Register # 000141	
								<b>Total Invoice Amount</b>	<b>1,627.13</b>	
Vendor: AT&T (000010/1) PO BOX 9011 CAROL STREAM, IL 60197-9011										
2020/21	06/06/21		BANS931001368 (468608)	000016565757	06/14/21	Paid	Printed	44.19		44.19
			2021 01-0000-5930-00-000-0-0000-8100-000-0000							

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Vendor AT&T (000010/1) (continued)										
2020/21	06/06/21	21-498964	BAN9391007879	000016565981	06/14/21	Paid	Printed	521.37		521.37
			(468608)							
2020/21	06/06/21	21-498964	2021 01-0000-5930-00-0000-8100-000-0000	000016565982	06/14/21	Paid	Printed	79.24		79.24
				(468608)						
2020/21	06/06/21	21-498964	2021 01-0000-5930-00-0000-8100-000-0000	000016565983	06/14/21	Paid	Printed	113.14		113.14
				(468608)						
2020/21	06/06/21	21-498964	2021 01-0000-5930-00-0000-8100-000-0000	000016578512	06/14/21	Paid	Printed	22.01		22.01
				(468608)						
								<b>Total Invoice Amount</b>		<b>779.95</b>
Vendor B & C HOME CENTERS (000073/1)										
2032 NEVADA CITY HIGHWAY										
GRASS VALLEY, CA 95945										
2020/21	06/02/21	2021 01-0000-4300-00-005-0-0000-8100-000-0000	FENCE REPAIR	464779	06/07/21	Paid	Printed	129.83		129.83
				(466439)						
2020/21	06/02/21	21-498964	2021 01-0000-4300-00-005-0-0000-8100-000-0000	000016565982	06/14/21	Paid	Printed	170.02		170.02
				(468608)						
								<b>Total Invoice Amount</b>		<b>129.83</b>
Vendor B & C HOME CENTERS (000073/1)										
2032 NEVADA CITY HIGHWAY										
GRASS VALLEY, CA 95945										
2020/21	06/15/21	2021 01-0000-4300-00-005-0-0000-2700-000-0000	FRONT DESK DECORATION/ SUPPLIES	462509	06/14/21	Paid	Printed	170.02		170.02
				(468608)						
2020/21	06/09/21	2021 01-0000-4300-00-005-0-0000-2700-000-0000	FENCE SUPPLIES	465654	06/14/21	Paid	Printed	149.77		149.77
				(468608)						

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	21-498965		B & C HOME CENTERS (000073/1)	(continued)						
				BatchId AP06162021		Check Date 06/18/21	PO#		Register # 000140	
								<b>Total Invoice Amount</b>		<b>319.79</b>

2020/21	06/17/21		B & C HOME CENTERS (000073/1) 2032 NEVADA CITY HIGHWAY GRASS VALLEY, CA 95945	SUPPLIES TO FIX BATHROOM	466737	(471154)	06/21/21	Paid	Printed	157.31		157.31
check #	21-499317			2021 01-0000-4300-00-005-0-0000-8100-000-0000		BatchId AP06242021		Check Date 06/25/21	PO#		Register # 000141	
								<b>Total Invoice Amount</b>		<b>157.31</b>		

2020/21	06/09/21		CLEAR CREEK SCHOOL DISTRICT (000205/1) 17700 McCOURTNEY ROAD GRASS VALLEY, CA 95949-7636	SYNERGY OLR	21-00006	(468608)	06/14/21	Paid	Printed	750.00		750.00
check #	21-498966			2021 01-0000-5806-00-000-0-0000-7700-000-0000		BatchId AP06162021		Check Date 06/18/21	PO#		Register # 000140	
								<b>Total Invoice Amount</b>		<b>750.00</b>		

2020/21	06/01/21		CLIFORNIA INTERNET LP dba GEOLINKS (000219/1) 251 CAMARILLO RANCH RD CAMARILLO, CA 93012	GH INTERNET JUNE	1307667	(466439)	06/07/21	Paid	Printed	24.00		24.00
check #	21-498599			2021 01-0000-5930-00-000-0-0000-8100-000-0000		BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	
								<b>Total Invoice Amount</b>		<b>48.00</b>		

2020/21	06/01/21		WASH INTERENT JUNE	1307669	(466439)	06/07/21	Paid	Printed		24.00		24.00
check #	21-498599			2021 01-0000-5930-00-000-0-0000-8100-000-0000		BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	
								<b>Total Invoice Amount</b>		<b>48.00</b>		

2020/21	05/07/21		COMFORT PLUMBING SYSTEMS INC (000229/1) 18449 SHASTA DAM WAY NEVADA CITY, CA 95959	HYDRO JETTING DITCHES	6226	(471154)	06/21/21	Paid	Printed	3,000.00		3,000.00
check #	21-498599			2021 01-0000-5930-00-000-0-0000-8100-000-0000		BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	
								<b>Total Invoice Amount</b>		<b>48.00</b>		

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2020/21	05/07/21		COMFORT PLUMBING SYSTEMS INC (000229/1)	(continued)						
			HYDRO JETTING	6226						
			DITCHES	(continued)						
			2021 01-0000-5655-00-005-0-0000-8100-000-0000	(471154)	06/21/21	Paid	Printed	(continued)		
check #	21-499318									
				BatchId	AP06242021	Check Date	06/25/21	PO#		Register # 000141
										<b>Total Invoice Amount</b>
										<b>3,000.00</b>

Vendor

GRANMER ENGINEERING INC (000035/1)  
 PO BOX 1240  
 GRASS VALLEY, CA 95945

2020/21	05/31/21		2020 EARS REPORT	2021EAR21	06/14/21	Paid	Printed	400.00		400.00
check #	21-498967		2021 01-0000-5800-00-005-0-0000-8300-000-0000	(468608)						
				BatchId	AP06162021	Check Date	06/18/21	PO#		Register # 000140

2020/21	05/31/21		CHEMICAL GH	DGF0331	06/14/21	Paid	Printed	60.00		60.00
check #	21-498967		2021 01-0000-5800-00-005-0-0000-8100-000-0000	(468608)						
				BatchId	AP06162021	Check Date	06/18/21	PO#		Register # 000140

2020/21	05/31/21		GH DW OPERATOR	GDF0332	06/14/21	Paid	Printed	400.00		400.00
check #	21-498967		2021 01-0000-5800-00-005-0-0000-8100-000-0000	(468608)						
				BatchId	AP06162021	Check Date	06/18/21	PO#		Register # 000140

2020/21	05/31/21		OT DW OPERATOR	GDF0333	06/14/21	Paid	Printed	190.00		190.00
check #	21-498967		2021 01-0000-5800-00-001-0-0000-8100-000-0000	(468608)						
				BatchId	AP06162021	Check Date	06/18/21	PO#		Register # 000140

**Total Invoice Amount 1,050.00**

Vendor

CSBA - CSB 6744  
 00 WEST AMERICA BANK (000143/1)  
 PO BOX 1450  
 SUISUN CITY, CA 94585-4450

2021/22	05/28/21		CSBA MEMBERSHIP	IVN-56046-N5POL2	06/29/21	Paid	Printed	1,906.00		1,906.00
check #	22-499593		2022 01-0000-5300-00-000-0-0000-7110-000-0000	(472769)						
				BatchId	AP07012021	Check Date	07/02/21	PO#		Register # 000142

2021/22	05/28/21		GAMUT POLICY	IVN-57054-X5K7J5	06/29/21	Paid	Printed	940.00		940.00
check #	22-499593		2022 01-0000-5806-00-000-0-0000-7110-000-0000	(472769)						
				BatchId	AP07012021	Check Date	07/02/21	PO#		Register # 000142

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Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount	
Vendor: CSM CONSULTING INC (000036/1) PO BOX 4408 EL DORADO HILLS, CA 95762											
2020/21	06/01/21		E-RATE APR-JUNE	13559	(468608)	06/14/21	Paid	Printed	750.00	750.00	
check #	21-498968		2021 01-0000-5800-00-000-0-0000-7200-000-0000		BatchId AP06162021	Check Date 06/18/21		PO#		Register # 000140	
									<b>Total Invoice Amount</b>	<b>750.00</b>	
Vendor: DEPARTMENT OF JUSTICE (000096/1) PO BOX 944255 SACRAMENTO, CA 94244-2550											
2020/21	06/01/21		FJ & SM	140723 JUNE		06/07/21	Paid	Printed	64.00	64.00	
check #	21-498600		2021 01-0000-5840-00-000-0-0000-2700-000-0000		BatchId AP06102021	Check Date 06/11/21		PO#		Register # 000139	
									<b>Total Invoice Amount</b>	<b>64.00</b>	
Vendor: DOCUMENT TRACKING SERVICES (000113/1) 10225 BARNES CYN RD A200 SAN DIEGO, CA 92121											
2020/21	03/17/21		DOC TRACKING LICENSING	9596007	(471154)	06/21/21	Paid	Printed	595.00	595.00	
check #	21-499319		2021 01-0000-5806-00-000-0-0000-7700-000-0000		BatchId AP06242021	Check Date 06/25/21		PO#		Register # 000141	
									<b>Total Invoice Amount</b>	<b>595.00</b>	
Vendor: EXPLORE LEARNING,LLC (000271/1) P.O. Box 844615 Boston, MA 02284-4615											
2020/21	03/26/21		REFLEX SUBSCRIPTION	3572537	(472792)	06/29/21	Paid	Printed	1,046.26	1,046.26	
check #	22-499594		2021 01-3210-4300-00-000-0-1110-1000-000-0000		BatchId AP07012021	Check Date 07/02/21		PO#		Register # 000142	
									<b>Total Invoice Amount</b>	<b>1,046.26</b>	

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Vendor: FRONTLINE TECHNOLOGY GROUP LLC (000197/1) PO BOX 780577 PHILLADELPHIA, PA 19178-0577										
2021/22	07/01/21		ACCT#16539	INVUS138462 (472769)	06/29/21	Paid	Printed	1,099.35		1,099.35
2022	01-0000-5806-00-000-0-0000-7700-000-0000									
check #	22-499595			BatchId AP07012021		Check Date 07/02/21	PO#			Register # 000142
								<b>Total Invoice Amount:</b>	<b>1,099.35</b>	
Vendor: GAYNOR TELESYSTEMS INC (000218/1) 9650 TANQUERAY CT REDDING, CA 96003										
2020/21	06/04/21			PHONE SERVICE REPAIR	005643 (468608)	06/14/21	Paid	Printed	553.00	553.00
2021	01-0000-5640-00-005-0-0000-8100-000-0000									
check #	21-498969			BatchId AP06162021		Check Date 06/18/21	PO#			Register # 000140
								<b>Total Invoice Amount:</b>	<b>553.00</b>	
Vendor: GREAT VIBES CLEANING (000304/1) 2036 NEVADA CITY HIGHWAY #255 GRASS VALLEY, CA 95945										
2020/21	05/19/21			DEEP CLEANING OAK TREE	20896 (466439)	06/07/21	Cancelled	675.00		675.00
2021	01-0000-5640-00-001-0-0000-8100-000-0000									
								<b>Total Invoice Amount:</b>	<b>675.00</b>	<b>Check</b>
Vendor: GREAT VIBES CLEANING (000304/1) 2036 NEVADA CITY HIGHWAY #255 GRASS VALLEY, CA 95945										
2020/21	05/19/21			OT DEEP CLEANING	20896 B (471154)	06/21/21	Paid	Printed	675.00	675.00
2021	01-0000-5800-00-001-0-0000-8100-000-0000									
check #	21-499320			BatchId AP06242021		Check Date 06/25/21	PO#			Register # 000141
								<b>Total Invoice Amount:</b>	<b>675.00</b>	
Vendor: HENNINGS AUTO AND EQUIP REPAIR (000221/1) 27145 HIGHWAY 49 NEVADA CITY, CA 95959										
2020/21	06/01/21			CARPET CLEANER REPAIR	6-1-21 (471154)	06/21/21	Paid	Printed	445.31	445.31
2021	01-0000-5640-00-005-0-0000-8100-000-0000									

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Bank Account COUNTY - AP Account

Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
Vendor: HILLS FLAT LUMBER (000095/1) PO BOX 2629 GRASS VALLEY, CA 95949										
2020/21	07/23/21		FENCE REPAIR	090086 JUNE (466439)	06/07/21	Paid	Printed	31.36		31.36
Check #	21-498601		2021 01-0000-4300-00-005-0-0000-8100-000-0000	BatchId AP06102021		Check Date 06/11/21	PO#			Register # 000139
								<b>Total Invoice Amount</b>		<b>31.36</b>
Vendor: HILLS FLAT LUMBER (000095/1) PO BOX 2629 GRASS VALLEY, CA 95949										
2020/21	06/09/21		FENCE SUPPLIES	K979521 (468608)	06/14/21	Paid	Printed	8.19		8.19
Check #	21-498970		2021 01-0000-4300-00-005-0-0000-8100-000-0000	BatchId AP06162021		Check Date 06/18/21	PO#			Register # 000140
								<b>Total Invoice Amount</b>		<b>8.19</b>
Vendor: HUNT AND SONS INC (000044/1) PO BOX 277670 SACRAMENTO, CA 95827-7670										
2020/21	06/15/21		WASH FUEL	964692	06/29/21	Paid	Printed	85.04		85.04
Check #	22-499596		2021 01-0000-4390-00-000-0-0000-8100-000-0000	BatchId AP07012021		Check Date 07/02/21	PO#			Register # 000142
								<b>Total Invoice Amount</b>		<b>85.04</b>
Vendor: LUNA TECH LLC (000265/2) 13359 N HIGHWAY 183 STE 406 PMB 2010 AUSTIN, TX 78750										
2020/21	06/15/21		TECH SUPPORT	0005833	06/21/21	Paid	Printed	52.50		52.50
Check #	21-499322		2021 01-3210-5800-00-000-0-0000-7200-000-0000	BatchId AP06242021		Check Date 06/25/21	PO#			Register # 000141
								<b>Total Invoice Amount</b>		<b>52.50</b>

Sorted by AP Check Order Option, Filtered by (Org = 11, Payment Method = N, Payment Type = N, On Hold? = Y, Starting Create Date = 6/1/2021, Ending Create Date = 6/30/2021, Page Break by Check/Advice? = N, Zero? = Y)

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Payment Register

Bank Account COUNTY - AP Account

Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
Vendor PG&E (000050/1) BOX 997300 SACRAMENTO, CA 95899-7300										
2020/21	06/21/21		6931227577-4	6931227577-4 JUNE	06/14/21	Paid	Printed	492.29		492.29
			(468608)							
check #	21-498973	2021 01-0000-5520-00-004-0-0000-8100-000-0000		BatchId AP06162021		Check Date 06/18/21	PO#		Register # 000140	
								<b>Total Invoice Amount</b>	<b>492.29</b>	
Vendor PG&E (000050/1) BOX 997300 SACRAMENTO, CA 95899-7300										
2020/21	06/07/21		0390455458-5	JUNE 0390455458-5	06/21/21	Paid	Printed	141.62		141.62
			(471154)							
check #	21-499324	2021 01-0000-5520-00-001-0-0000-8100-000-0000		BatchId AP06242021		Check Date 06/25/21	PO#		Register # 000141	
								<b>Total Invoice Amount</b>	<b>175.08</b>	
Vendor PITNEY BOWES PURCHASE POWER (000017/1) PO BOX 371874 PITTSBURGH, PA 15250-7874										
2020/21	06/07/21		4640442670-5	JUNE 4640442670-5	06/21/21	Paid	Printed	24.64		24.64
			(471154)							
check #	21-499324	2021 01-0000-5520-00-005-0-0000-8100-000-0000		BatchId AP06242021		Check Date 06/25/21	PO#		Register # 000141	
								<b>Total Invoice Amount</b>	<b>226.22</b>	
Vendor LEASING CHARGES (466439)										
2020/21	05/28/21		3104760528	06/07/21	Paid	Printed	169.40		169.40	
			(466439)							
check #	21-498803	2021 01-0000-5600-00-000-0-0000-7200-000-0000		BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	
								<b>Total Invoice Amount</b>	<b>169.40</b>	

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Payment Register

Bank Account COUNTY - AP Account

Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
Vendor: RAY A MORGAN COMPANY INC (000104/1) 3131 ESPLANDE CHICO, CA 95973										
2020/21	05/19/21		GH WATER (UNDERPAYMENT)	3328954 B (466439)	06/07/21	Paid	Printed	11.73		11.73
Check #	21-498604	2021 01-0000-5600-00-005-0-0000-8100-000-0000		BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	
2020/21	05/26/21		COPIES CANON STAFF	3334637 (466439)	06/07/21	Paid	Printed	571.80		571.80
Check #	21-498604	2021 01-0000-5600-00-005-0-1110-1000-000-0000		BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	
2020/21	06/01/21		WASH WATER SYSTEM	3337062 (466439)	06/07/21	Paid	Printed	119.21		119.21
Check #	21-498604	2021 01-0000-5600-00-004-0-0000-8100-000-0000		BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	
								<b>Total Invoice Amount</b>		<b>702.74</b>
Vendor: RAY A MORGAN COMPANY INC (000104/1) 3131 ESPLANDE CHICO, CA 95973										
2020/21	06/16/21		WASH COPIES	3354382 (471154)	06/21/21	Paid	Printed	1.86		1.86
Check #	21-499325	2021 01-0000-5600-00-004-0-1110-1000-000-0000		BatchId AP06242021		Check Date 06/25/21	PO#		Register # 000141	
2020/21	06/16/21		GH COPIES	3354383 (471154)	06/21/21	Paid	Printed	504.57		504.57
Check #	21-499325	2021 01-0000-5600-00-005-0-1110-1000-000-0000		BatchId AP06242021		Check Date 06/25/21	PO#		Register # 000141	
2020/21	06/16/21		GH COPIES	3354384 (471154)	06/21/21	Paid	Printed	29.81		29.81
Check #	21-499325	2021 01-0000-5600-00-005-0-1110-1000-000-0000		BatchId AP06242021		Check Date 06/25/21	PO#		Register # 000141	
								<b>Total Invoice Amount</b>		<b>536.24</b>
Vendor: REED SPEECH THERAPY SERVICES (000068/3) 131 HIDDEN GLEN AUBURN, CA 95603										
2020/21	06/07/21		SPEECH SERVICES	810 MAY-JUN (466439)	06/07/21	Paid	Printed	3,680.00		3,680.00
Check #	21-498605	2021 01-6500-5800-00-000-0-5760-3150-000-0000		BatchId AP06102021		Check Date 06/11/21	PO#		Register # 000139	

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Bank Account COUNTY - AP Account

Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
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Direct Vendor  
 RENAISSANCE (000122/1)  
 PO BOX 8036  
 WISCONSIN RAPIDS, WI 54495-8036

2021/22 06/07/21 STAR IVN5204153 06/29/21 Paid Printed 2,505.00 2,505.00  
 SUBSCRIPTION (472769)

2022 01-0000-4335-00-000-0-1110-2420-000-0000  
 Check # 22-499597 BatchId AP07012021 Check Date 07/02/21 PO# Register # 000142

Total Invoice Amount 2,505.00

Direct Vendor  
 RESOLVE TECHNOLOGY GROUP INC (000186/1)  
 2036 NEVADA CITY HWY UNIT #447  
 GRASS VALLEY, CA 95945

2020/21 05/12/21 TECH SERVICE 1098 06/14/21 Paid Printed 100.00 100.00  
 (468608)

2021 01-3210-5800-00-000-0-0000-7200-000-0000  
 Check # 21-498974 BatchId AP06162021 Check Date 06/18/21 PO# Register # 000140

Total Invoice Amount 100.00

Direct Vendor  
 SCHOOLS INSURANCE GROUP (000179/1)  
 550 HIGH STREET SUITE 201  
 AUBURN, CA 95603-4712

2020/21 06/01/21 JUNE BENEFITS 6-1-21 06/14/21 Paid Printed 13,219.65 13,219.65  
 (468608)

2021 01-0000-9514- -0- - - -  
 Check # 21-498975 BatchId AP06162021 Check Date 06/18/21 PO# Register # 000140

Total Invoice Amount 13,219.65

Direct Vendor  
 STANDARD INSURANCE COMPANY CB (000053/1)  
 PO BOX 4664  
 PORTLAND, OR 97208-4664

2020/21 06/21/21 CT 503169 JUNE CT 503169 06/29/21 Paid Printed 86.73 86.73  
 (472792)

2021 01-0000-3901-00-005-0-0000-2700-000-0000  
 Check # 22-499598 BatchId AP07012021 Check Date 07/02/21 PO# Register # 000142

Total Invoice Amount 86.73

Direct Vendor  
 THE CURIOSITY COLLECTIVE (000287/1)  
 2520 LODESTAR STREET  
 ROCKLIN, CA 95677

2020/21 06/01/21 BARTON TUTORING 1113 06/07/21 Paid Printed 800.00 800.00  
 (466439)

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Bank Account COUNTY - AP Account

Fiscal Year	Invoice Date	Reg #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
2020/21	05/19/21		DUMP RUN	KM CC03 (472792)	06/29/21	Paid	Printed	17.81		17.81
(continued)										
2020/21	05/19/21	22-499599	01-0000-5570-00-005-0-0000-8100-000-0000	BatchId AP07012021	06/29/21	Check Date 07/02/21	PO#	28.76	Register # 000142	28.76
2020/21	05/19/21	22-499599	01-0000-4300-00-004-0-0000-8100-000-0000	BatchId AP07012021	06/29/21	Check Date 07/02/21	PO#	2.59	Register # 000142	2.59
2020/21	05/19/21	22-499599	01-0000-4300-00-005-0-0000-8100-000-0000	BatchId AP07012021	06/29/21	Check Date 07/02/21	PO#	23.02	Register # 000142	23.02
2020/21	05/27/21	22-499599	01-0000-5570-00-005-0-0000-8100-000-0000	BatchId AP07012021	06/29/21	Check Date 07/02/21	PO#	138.62	Register # 000142	138.62
2020/21	05/27/21	22-499599	01-0000-4300-00-005-0-0000-2700-000-0000	BatchId AP07012021	06/29/21	Check Date 07/02/21	PO#	277.24	Register # 000142	277.24
2020/21	05/31/21	22-499599	01-0000-4300-00-005-0-0000-2700-000-0000	BatchId AP07012021	06/29/21	Check Date 07/02/21	PO#	25.76	Register # 000142	25.76
2020/21	06/04/21	22-499599	01-0000-4300-00-005-0-0000-2700-000-0102	BatchId AP07012021	06/29/21	Check Date 07/02/21	PO#	10.56	Register # 000142	10.56
2020/21	06/06/21	22-499599	01-0000-4300-00-000-0-0000-2700-000-0000	BatchId AP07012021	06/29/21	Check Date 07/02/21	PO#	57.19	Register # 000142	57.19
2020/21	06/06/21	22-499599	01-0000-4300-00-000-0-0000-2700-000-0000	BatchId AP07012021	06/29/21	Check Date 07/02/21	PO#	57.19	Register # 000142	57.19

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Scheduled 06/07/2021 - 06/29/2021

Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
2020/21	06/07/21		SNOW CONE ICE	SB CC-10 (472792)	06/29/21	Paid	Printed	40.80		40.80
(continued)										
2021	01-0000-4300-00-0000-2700-000-0000			BatchId AP07012021		Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599									
2020/21	06/10/21		SPEED PD SUPPLIES	SB CC-11 (472792)	06/29/21	Paid	Printed	134.26		134.26
2021	01-6500-4300-00-000-0-5760-1120-000-0000			BatchId AP07012021		Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599									
2020/21	05/20/21		PAPER DISTANT LEARNING	SB CC01 (472792)	06/29/21	Paid	Printed	177.32		177.32
2021	01-3210-4300-00-000-0-1110-1000-000-0000			BatchId AP07012021		Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599									
2020/21	05/30/21		ADOBE DC SB	SB CC02 (472792)	06/29/21	Paid	Printed	14.99		14.99
2021	01-0000-4300-00-000-0-7200-000-0000			BatchId AP07012021		Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599									
2020/21	06/02/21		SNOW CONE SYRUP	SB CC03 (472792)	06/29/21	Paid	Printed	112.34		112.34
2021	01-0000-4300-00-000-0-2700-000-0000			BatchId AP07012021		Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599									
2020/21	06/06/21		SNOW CONE RENTAL	SB CC06 (472792)	06/29/21	Paid	Printed	4.61		4.61
2021	01-0000-4300-00-000-0-2700-000-0000			BatchId AP07012021		Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599									
2020/21	06/06/21		COLOR RUN SUPPLIES	SB CC07 (472792)	06/29/21	Paid	Printed	253.13		253.13
2021	01-0000-4300-00-000-0-2700-000-0000			BatchId AP07012021		Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599									
2020/21	06/06/21		WEBSITE FORWARDING	SB CC08 (472792)	06/29/21	Paid	Printed	11.00		11.00
2021	01-0000-4300-00-000-0-7200-000-0000			BatchId AP07012021		Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599									
2020/21	06/07/21		MICROSOFT 365	SB CC09 (472792)	06/29/21	Paid	Printed	39.00		39.00
2021	01-0000-4300-00-000-0-7200-000-0000			BatchId AP07012021		Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599									

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Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
Direct Vendor US BANK CORPORATE PMT SYS (000057/1) (continued)										
2020/21	05/24/21		LOCK FOR KIOSK	VB CC01 (472792)	06/29/21	Paid	Printed	5.41		5.41
2021	01-0000-4300-00-005-0-0000-2700-000-0000			BatchId	AP07012021	Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599			BatchId	AP07012021	Check Date 07/02/21	PO#	10.00		10.00
2020/21	05/24/21		PBIS SUPPLIES	VB CC02 (472792)	06/29/21	Paid	Printed	10.00		10.00
2021	01-0000-4300-00-005-0-0000-2700-000-0101			BatchId	AP07012021	Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599			BatchId	AP07012021	Check Date 07/02/21	PO#	98.08		98.08
2020/21	05/24/21		PBIS SUPPLIES	VB CC03 (472792)	06/29/21	Paid	Printed	98.08		98.08
2021	01-0000-4300-00-005-0-0000-2700-000-0101			BatchId	AP07012021	Check Date 07/02/21	PO#		Register # 000142	
Check #	22-499599			BatchId	AP07012021	Check Date 07/02/21	PO#	1,896.21		1,896.21
Direct Vendor US BANK EQUIPMENT FINANCE (000056/1)										
PO BOX 790448 ST LOUIS, MO 63179-0448										
2020/21	06/28/21		COPY LEASE	444945273 (471154)	06/21/21	Paid	Printed	360.13		360.13
2021	01-0000-5600-00-005-0-0000-2700-000-0000			BatchId	AP06242021	Check Date 06/25/21	PO#		Register # 000141	
Check #	21-499326			BatchId	AP06242021	Check Date 06/25/21	PO#	360.13		360.13
Direct Vendor WASHINGTON COUNTY WATER DIST (000063/1)										
PO BOX 34 WASHINGTON, CA 95986										
2020/21	05/28/21		MAY IRRIGATION	79255672 MAY (468608)	06/14/21	Paid	Printed	60.00		60.00
2021	01-0000-5540-00-004-0-0000-8100-000-0000			BatchId	AP06162021	Check Date 06/18/21	PO#		Register # 000140	
Check #	21-498977			BatchId	AP06162021	Check Date 06/18/21	PO#	60.00		60.00
2020/21	05/28/21		MAY WATER	79255679 MAY (468608)	06/14/21	Paid	Printed	60.00		60.00
2021	01-0000-5540-00-004-0-0000-8100-000-0000			BatchId	AP06162021	Check Date 06/18/21	PO#		Register # 000140	
Check #	21-498977			BatchId	AP06162021	Check Date 06/18/21	PO#	120.00		120.00

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Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
Direct Vendor										
WASTE MGMT OF NEVADA COUNTY (000059/1)										
PO BOX 541065										
LOS ANGELES, CA 90054-1065										
2020/21	06/03/21		JUNE TRASH SERVICE	2797278-0536-8 (468608)	06/14/21	Paid	Printed	284.42		284.42
Check #	21-498978	2021 01-0000-5570-00-005-0-0000-8100-000-0000		BatchId AP06162021		Check Date 06/18/21	PO#			Register # 000140
								<b>Total Invoice Amount</b>		<b>284.42</b>
Direct Vendor										
WOLF CREEK PRODUCTION (000305/1)										
749 MALTMAN DR										
GRASS VALLEY, CA 95945										
2020/21	05/31/21		LAMINATE SITE MAPS	111703 (468608)	06/14/21	Paid	Printed	829.36		829.36
Check #	21-498979	2021 01-0000-4300-00-005-0-0000-8100-000-0000		BatchId AP06162021		Check Date 06/18/21	PO#			Register # 000140
								<b>Total Invoice Amount</b>		<b>829.36</b>
Direct Vendor										
YUBA LOCK & SAFE (000139/1)										
1251 EAST MAIN ST										
GRASS VALLEY, CA 95945										
2020/21	05/11/21		OT LOCKS CHANGE	5-11-21 (466439)	06/07/21	Paid	Printed	2,657.89		2,657.89
Check #	21-498607	2021 01-0000-4300-00-001-0-0000-8100-000-0000		BatchId AP06102021		Check Date 06/11/21	PO#			Register # 000139
								<b>Total Invoice Amount</b>		<b>2,657.89</b>
Direct Vendor										
US BANK CORPORATE PMT SYS (000057/1)										
PO BOX 790428										
ST LOUIS, MO 63179-0428										
2020/21	06/12/21		PS SUPPLIES	MM CC 1 (472792)	06/29/21	Paid	Printed	62.35		62.35
Check #	22-499600	2021 12-0000-4300-00-001-0-0001-1000-000-0000		BatchId AP07012021		Check Date 07/02/21	PO#			Register # 000142
2020/21	06/12/21		PS SUPPLIES	MM CC02 (472792)	06/29/21	Paid	Printed	23.59		23.59
Check #	22-499600	2021 12-0000-4300-00-001-0-0001-1000-000-0000		BatchId AP07012021		Check Date 07/02/21	PO#			Register # 000142
2020/21	09/13/21		PS SUPPLIES	MM CC3 (472792)	06/29/21	Paid	Printed	443.68		443.68
Check #	22-499600	2021 12-0000-4300-00-001-0-0001-1000-000-0000		BatchId AP07012021		Check Date 07/02/21	PO#			Register # 000142

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Payment Register

Bank Account COUNTY - AP Account

Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
2020/21	06/14/21		PS SUPPLIES	MM CC4 (continued)	06/29/21	Paid	Printed	62.35		62.35
	2021	12-0000-4300-00-001-0-0001-1000-000-0000		(472792)						
Check #	22-499600			BatchId	AP07012021	Check Date	07/02/21	PO#		Register # 000142
								<b>Total Invoice Amount</b>	<b>591.97</b>	

Direct Vendor  
 US BANK CORPORATE PMT SYS (00005771)  
 PO BOX 790428  
 ST LOUIS, MO 63179-0428

2020/21	05/25/21		FOOD SERVICE	ER CC01 (472792)	06/29/21	Paid	Printed	26.65		26.65
Check #	22-499601	2021	13-5310-4700-00-000-0-0000-3700-000-0000	BatchId	AP07012021	Check Date	07/02/21	PO#		Register # 000142
2020/21	06/01/21		FOOD SERVICE	ER CC02 (472792)	06/29/21	Paid	Printed	6.76		6.76
Check #	22-499601	2021	13-5310-4700-00-000-0-0000-3700-000-0000	BatchId	AP07012021	Check Date	07/02/21	PO#		Register # 000142
2020/21	06/03/21		FOOD SERVICE	ER CC03 (472792)	06/29/21	Paid	Printed	215.00		215.00
Check #	22-499601	2021	13-5310-4700-00-000-0-0000-3700-000-0000	BatchId	AP07012021	Check Date	07/02/21	PO#		Register # 000142
2020/21	06/03/21		FOOD SERVICE	ER CC04 (472792)	06/29/21	Paid	Printed	54.29		54.29
Check #	22-499601	2021	13-5310-4700-00-000-0-0000-3700-000-0000	BatchId	AP07012021	Check Date	07/02/21	PO#		Register # 000142
2020/21	06/03/21		FOOD SERVICE	ER CC05 (472792)	06/29/21	Paid	Printed	71.70		71.70
Check #	22-499601	2021	13-5310-4700-00-000-0-0000-3700-000-0000	BatchId	AP07012021	Check Date	07/02/21	PO#		Register # 000142
								<b>Total Invoice Amount</b>	<b>374.40</b>	

Direct Vendor  
 VERITABLE VEGETABLE (0000231)  
 PO BOX 884926  
 SAN FRANCISCO, CA 94188-4926

2020/21	05/25/21		VEGGIES FOOD SERVICE MAY	1426843 (466439)	06/07/21	Paid	Printed	200.10		200.10
Check #	21-498608	2021	13-5310-4700-00-000-0-0000-3700-000-0000	BatchId	AP06102021	Check Date	06/11/21	PO#		Register # 000139

Sorted by AP Check Order Option, Filtered by (Org = 11, Payment Method = N, Payment Type = N, On Hold? = Y, Starting Create Date = 6/1/2021, Ending Create Date = 6/30/2021, Page Break by Check/Advice? = N, Zero? = Y)

011 - TWIN RIDGES ELEMENTARY SCHL DIST

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Fiscal Year	Invoice Date	Req #	Comment	Payment Id (Trans Batch Id)	Sched	Paymt Status	Check Status	Invoice Amount	Unpaid Sales Tax	Expense Amount
						Total Invoice Amount		200.10		

EXPENSES BY FUND - Bank Account COUNTY			
Fund	Expense	Cash Balance	Difference
01	70,454.68	39,190.00-	109,644.68-
12	591.97	591.97-	1,183.94-
13	574.50	374.40-	948.90-
<b>Total</b>	<b>71,621.15</b>		

Number of Payments	112
Number of Checks	58
Number of ACH Advice	0
Number of vCard Advice	0
Total Check/Advice Amount	<b>\$71,621.15</b>
Total Unpaid Sales Tax	\$,00
Total Expense Amount	\$71,621.15

CHECK/ADVICE AMOUNT DISTRIBUTION COUNTS

\$0 -	\$99	10
\$100 -	\$499	20
\$500 -	\$999	13
\$1,000 -	\$4,999	12
\$5,000 -	\$9,999	2
\$10,000 -	\$14,999	1
\$15,000 -	\$99,999	
\$100,000 -	\$199,999	
\$200,000 -	\$499,999	
\$500,000 -	\$999,999	
\$1,000,000 -		

\*\*\*\*\* ITEMS OF INTEREST \*\*\*\*\*

\* Number of payments to a different vendor  
 ! Number of Prepaid payments  
 @ Number of Liability payments  
 & Number of Employee Also Vendors  
 ? denotes check name different than payment name  
 F denotes Final Payment

Port Totals -	Payment Count	112	Check Count	58	ACH Count	0	vCard Count	0	Total Check/Advice Amount	71,621.15
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Sorted by AP Check Order Option, Filtered by (Org = 11, Payment Method = N, Payment Type = N, On Hold? = Y, Starting Create Date = 6/1/2021, Ending Create Date = 6/30/2021, Page Break by Check/Advice? = N, Zero? = Y)

011 - TWIN RIDGES ELEMENTARY SCHL DIST

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# **Board Bylaw**

## **Role Of The Board**

BB 9000

### **Board Bylaws**

\*\*\*Note: The following optional bylaw reflects general board roles and responsibilities consistent with the voluntary professional governance standards adopted by the CSBA Delegate Assembly in November 2000. CSBA's governance standards also address attributes of effective boards and individual trustees; see BB 9005 - Governance Standards.\*\*\*

The Governing Board has been elected by the community to provide leadership and citizen oversight of the district. The Board shall ensure that the district is responsive to the values, beliefs, and priorities of the community.

The Board shall work with the Superintendent to fulfill its major responsibilities, which include:

1. Setting the direction for the district through a process that involves the community, parents/guardians, students, and staff and is focused on student learning and achievement

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 0200 - Goals for the School District)

2. Establishing an effective and efficient organizational structure for the district by:

a. Employing the Superintendent and setting policy for hiring of other personnel

(cf. 2110 - Superintendent Responsibilities and Duties)

(cf. 2120 - Superintendent Recruitment and Selection)

(cf. 2121 - Superintendent's Contract)

(cf. 4000 - Concepts and Roles)

(cf. 4111/4211/4311 - Recruitment and Selection)

b. Overseeing the development and adoption of policies

(cf. 9310 - Board Policies)

c. Establishing academic expectations and adopting the curriculum and instructional materials

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.5 - Elementary/Middle School Graduation Requirements)  
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

d. Establishing budget priorities and adopting the budget

(cf. 3000 - Concepts and Roles)  
(cf. 3100 - Budget)  
(cf. 3312 - Contracts)

e. Providing safe, adequate facilities that support the district's instructional program

(cf. 3517 - Facilities Inspection)  
(cf. 7110 - Facilities Master Plan)  
(cf. 7150 - Site Selection and Development)  
(cf. 7210 - Facilities Financing)

f. Setting parameters for negotiations with employee organizations and ratifying collective bargaining agreements

(cf. 4141/4241 - Collective Bargaining Agreement)  
(cf. 4143/4243 - Negotiations/Consultation)

3. Providing support to the Superintendent and staff as they carry out the Board's direction by:

a. Establishing and adhering to standards of responsible governance

(cf. 9005 - Governance Standards)  
(cf. 9011 - Disclosure of Confidential/Privileged Information)  
(cf. 9200 - Limits of Board Member Authority)  
(cf. 9270 - Conflict of Interest)

b. Making decisions and providing resources that support district priorities and goals

c. Upholding Board policies

d. Being knowledgeable about district programs and efforts in order to serve as effective spokespersons

(cf. 9240 - Board Training)  
(cf. 9400 - Board Self-Evaluation)

4. Ensuring accountability to the public for the performance of the district's schools by:

a. Evaluating the Superintendent and setting policy for the evaluation of other personnel

(cf. 2140- Evaluation of the Superintendent)  
(cf. 4115 - Evaluation/Supervision)  
(cf. 4215 - Evaluation/Supervision)  
(cf. 4315 - Evaluation/Supervision)

b. Monitoring and evaluating the effectiveness of policies

c. Serving as a judicial (hearing) and appeals body in accordance with law, Board policies, and negotiated agreements

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.2 - Complaints Concerning Instructional Materials)  
(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 1312.4 - Williams Uniform Complaint Procedures)  
(cf. 4030 - Nondiscrimination in Employment)  
(cf. 4117.3 - Personnel Reduction)  
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)  
(cf. 4144/4244/4344 - Complaints)  
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)  
(cf. 5116.1 - Intradistrict Open Enrollment)  
(cf. 5117 - Interdistrict Attendance)  
(cf. 5119 - Students Expelled from Other Districts)  
(cf. 5125.3 - Challenging Student Records)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)  
(cf. 6164.6 - Identification and Education Under Section 504)

d. Monitoring student achievement and program effectiveness and requiring program changes as necessary

(cf. 0500 - Accountability)  
(cf. 6162.5 - Student Assessment)  
(cf. 6162.51 - State Academic Achievement Tests)  
(cf. 6190 - Evaluation of the Instructional Program)

e. Monitoring and adjusting district finances

(cf. 3460 - Financial Reports and Accountability)

f. Monitoring the collective bargaining process

5. Providing community leadership and advocacy on behalf of students, the district's educational program, and public education in order to build support within the local community and at the state and national levels

(cf. 0510 - School Accountability Report Card)

- (cf. 1100 - Communication with the Public)
- (cf. 1112 - Media Relations)
- (cf. 1160 - Political Processes)
- (cf. 1400 - Relations between Other Governmental Agencies and the Schools)
- (cf. 1700 - Relations between Private Industry and the Schools)
- (cf. 9010 - Public Statements)

The Board is authorized to establish and finance any program or activity that is not in conflict with, inconsistent with, or preempted by law. (Education Code 35160)

**Legal Reference:**

**EDUCATION CODE**

- 5304 Duties of governing board (re school district elections)
- 12400-12405 Authority to participate in federal programs
- 17565-17592 Board duties re property maintenance and control
- 33319.5 Implementation of authority of local agencies
- 35000 District name
- 35010 Control of district; prescription and enforcement of rules
- 35020-35046 Officers and agents
- 35100-35351 Governing boards, especially:
- 35160-35185 Powers and duties
- 35291 Rules

**Management Resources:**

**CSBA PUBLICATIONS**

Professional Governance Standards, November 2000

**NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS**

The Key Work of School Boards, 2000

**WEB SITES**

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

National School Boards Association: <http://www.nsba.org>

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# **Board Bylaw**

## **Governance Standards**

BB 9005

### **Board Bylaws**

\*\*\*Note: This optional bylaw is based on CSBA's Professional Governance Standards adopted by the CSBA Delegate Assembly in November 2000. \*\*\*

The Governing Board believes that its primary responsibility is to act in the best interests of every student in the district. The Board also has major commitments to parents/guardians, all members of the community, employees, the state of California, laws pertaining to public education, and established policies of the district. To maximize Board effectiveness and public confidence in district governance, Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.

(cf. 9000 - Role of the Board)

(cf. 9270 - Conflict of Interest)

The Board expects its members to work with each other and the Superintendent to ensure that a high-quality education is provided to each student. Each individual Board member shall:

1. Keep learning and achievement for all students as the primary focus
2. Value, support and advocate for public education

(cf. 9010 - Public Statements)

3. Recognize and respect differences of perspective and style on the Board and among staff, students, parents and the community
4. Act with dignity, and understand the implications of demeanor and behavior
5. Keep confidential matters confidential

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

6. Participate in professional development and commit the time and energy necessary to be an informed and effective leader

(cf. 9240 - Board Training)

7. Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent and staff

(cf. 2110 - Superintendent Responsibilities and Duties)

8. Understand that authority rests with the Board as a whole and not with individuals

(cf. 9200 - Limits of Board Member Authority)

Board members also shall assume collective responsibility for building unity and creating a positive organizational culture. To operate effectively, the Board shall have a unity of purpose and:

1. Keep the district focused on learning and achievement for all students
2. Communicate a common vision

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 0200 - Goals for the School District)

3. Operate openly, with trust and integrity
4. Govern in a dignified and professional manner, treating everyone with civility and respect
5. Govern within Board-adopted policies and procedures

(cf. 9310 - Board Policies)

6. Take collective responsibility for the Board's performance
7. Periodically evaluate its own effectiveness

(cf. 9400 - Board Self-Evaluation)

8. Ensure opportunities for the diverse range of views in the community to inform Board deliberations

(cf. 1220 - Citizen Advisory Committees)

(cf. 9323 - Meeting Conduct)

Legal Reference:

EDUCATION CODE

35010 Power of governing board to adopt rules for its own governance

35160 Board authority to act in any manner not conflicting with law

35164 Actions by majority vote  
GOVERNMENT CODE  
1090 Financial interest in contract  
1098 Disclosure of confidential information  
1125-1129 Incompatible activities  
54950-54963 The Ralph M. Brown Act  
87300-87313 Conflict of interest code

Management Resources:  
CSBA PUBLICATIONS  
CSBA Professional Governance Standards, 2000  
WEB SITES  
CSBA: [http:// www.csba.org](http://www.csba.org)

(7/84 9/89) 3/01

# **Board Bylaw**

## **Public Statements**

BB 9010

### **Board Bylaws**

\*\*\*Note: Pursuant to Government Code 54960, the district attorney or any interested person can sue the Governing Board in order to stop or prevent violations of the Brown Act or to determine whether any Board rule or action which penalizes or otherwise discourages the expression of one or more of its members is valid or invalid under law. The following optional bylaw may be modified as appropriate.\*\*\*

The Governing Board recognizes the responsibility of Board members in their role as community leaders to participate in public discourse on matters of civic or community interest, including those involving the district, and their right to freely express their personal views. However, to ensure communication of a consistent, unified message regarding district issues, Board members are expected to respect the authority of the Board to choose its representatives to communicate its positions and to abide by established protocols.

\*\*\*Note: Many districts designate the Board president and/or Superintendent to communicate with the public on behalf of the district. Any district that has designated another position for this responsibility may revise the following paragraph to reflect district practice.\*\*\*

All public statements authorized to be made on behalf of the Board shall be made by the Board president or, if appropriate, by the Superintendent or other designated representative.

(cf. 2110 - Superintendent Responsibilities and Duties)

(cf. 9121 - President)

(cf. 9200 - Limits of Board Member Authority)

When speaking for the district, the Board encourages its spokespersons to exercise restraint and tact and to communicate the message in a manner that promotes public confidence in the Board's leadership.

Board spokespersons shall not disclose confidential information or information received in closed session except when authorized by a majority of the Board. (Government Code 54963)

(cf. 9005 - Governance Standards)

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

When speaking to community groups, members of the public, or the media, individual Board members should recognize that their statements may be perceived as reflecting the views and positions of the Board. Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Board.

(cf. 1100 - Communication with the Public)  
(cf. 1112 - Media Relations)

In addition, the Board encourages members who participate on social networking sites, blogs, or other discussion or informational sites to conduct themselves in a respectful, courteous, and professional manner and to model good behavior for district students and the community. Such electronic communications are subject to the same standards and protocols established for other forms of communication, and the disclosure requirements of the California Public Records Act may likewise apply to them.

(cf. 1113 - District and School Web Sites)  
(cf. 1114 - District-Sponsored Social Media)  
(cf. 1340 - Access to District Records)  
(cf. 9012 - Board Member Electronic Communications)

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

GOVERNMENT CODE

6250-6270 California Public Records Act

54960 Actions to stop or prevent violation of meeting provisions

54963 Confidential information in closed session

Management Resources:

WEB SITES

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

# **Board Bylaw**

## **Disclosure Of Confidential/Privileged Information**

BB 9011

### **Board Bylaws**

The Governing Board recognizes the importance of maintaining the confidentiality of information acquired as part of a Board member's official duties. Confidential/privileged information shall be released only to the extent authorized by law.

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

(cf. 9010 - Public Statements)

### Disclosure of Closed Session Information

\*\*\*Note: As added by AB 1945 (Ch. 1119, Statutes of 2002), Government Code 54963 specifies that a person may not disclose confidential information acquired during his/her presence in a closed session. In addition, the Attorney General has opined in 80 Ops.Cal.Atty.Gen. 231 (1997) that a Board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed. Therefore, it is recommended that the Board consult with its legal counsel before disclosing any confidential or privileged information discussed in a closed session. For more information regarding the reporting of information discussed in closed session, see BB 9321.1 - Closed Session Actions and Reports.\*\*\*

A Board member shall not disclose confidential information acquired during a closed session to a person not entitled to receive such information, unless a majority of the Board has authorized its disclosure. (Government Code 54963)

Confidential information means a communication made in a closed session that is specifically related to the basis for the Board to meet lawfully in closed session. (Government Code 54963)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

\*\*\*Note: Government Code 54963, as added by AB 1945 (Ch. 1119, Statutes of 2002), lists remedies that may be pursued for a violation of confidentiality of closed session information including injunctive relief in a court of law (e.g., injunction or restraining order), referral of a Board member to the grand jury, or disciplinary action against an employee. In addition, the Board may not take action against a person for releasing the information if the disclosure was part of an investigation by a grand jury or the district attorney's office, part of a whistleblower

action, or merely an opinion as to the legality of an action by the Board, as specified below.\*\*\*

The Board shall not take any action against any person for disclosing confidential information, nor shall the disclosure be considered a violation of the law or Board policy, when the person is: (Government Code 54963)

1. Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a Board action that has been the subject of deliberation during a closed session
2. Expressing an opinion concerning the propriety or legality of Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action
3. Disclosing information that is not confidential

#### Other Disclosures

\*\*\*Note: Pursuant to Government Code 1098, it is a misdemeanor for any public officer or employee to willfully and knowingly use or disclose for pecuniary (e.g., monetary or financial) gain any confidential information acquired in the course of his/her official duties.\*\*\*

A Board member shall not disclose, for pecuniary gain, confidential information acquired in the course of his/her official duties. Confidential information includes information that is not a public record subject to disclosure under the Public Records Act, information that by law may not be disclosed, or information that may have a material financial effect on the Board member. (Government Code 1098)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)  
(cf. 5125 - Student Records)

Disclosures excepted from this prohibition are those made to law enforcement officials or to the joint legislative audit committee when reporting on improper governmental activities. (Government Code 1098)

#### Legal Reference:

##### EDUCATION CODE

35010 Power of governing board to adopt rules for its own governance

35146 Closed session

##### EVIDENCE CODE

1040 Privilege for official information

##### GOVERNMENT CODE

1098 Public officials and employees re confidential information

3549.1 Meeting and negotiating in public educational employment

6250-6270 Inspection of public records  
54950-54963 Brown Act, especially:  
54956.8 Open meeting laws  
54956.9 Closed meeting for pending litigation  
54957 Closed session; "employee" defined; exclusion of witnesses  
54957.1 Subsequent public report and rollcall vote; employee matters in closed session  
54957.5 Public records  
54957.6 Closed session; representatives with employee organization  
54957.7 Reasons for closed session  
54963 Confidential information in closed session  
ATTORNEY GENERAL OPINIONS  
80 Ops.Cal.Atty.Gen. 231 (1997)

Management Resources:  
CSBA PUBLICATIONS  
Professional Governance Standards, November 2000  
WEB SITES  
CSBA: <http://www.csba.org>

(3/88 6/98) 11/02



# **Board Bylaw**

## **Board Member Electronic Communications**

BB 9012

### **Board Bylaws**

\*\*\*Note: The following optional Board bylaw should be modified to reflect district practice. The Brown Act (Government Code 54950-54963) requires that Governing Board members conduct district business at properly noticed and agendized public meetings. In general, Board members should keep in mind that, for purposes of the Brown Act, electronic communications are subject to the same conditions and the same rules of confidentiality that are applicable to other forms of communication, such as individual conversations, telephone calls, or paper copies of documents. However, the ease with which electronic communication can be shared and forwarded requires extra caution.\*\*\*

\*\*\*Note: Furthermore, although Board members are not considered employees, there may be tax implications if the district provides Board members with laptop computers or subsidies for an Internet connection. In some circumstances, such provision or reimbursement may be considered a taxable benefit. Also see AR 3513.1 - Cellular Phone Reimbursement.\*\*\*

The Governing Board recognizes that electronic communication is an efficient and convenient way for Board members to communicate and expedite the exchange of information within the district and with members of the public. Board members shall exercise caution so as to ensure that electronic communications are not used as a means for the Board to deliberate outside of an agendized Board meeting, circumvent the public's right to access records regarding district business, or restrict access to a public forum.

(cf. 1100 - Communication with the Public)

(cf. 9000 - Role of the Board)

(cf. 9322 - Agenda/Meeting Materials)

\*\*\*Note: Government Code 54952.2 defines a "meeting" as any congregation of a majority of the members of the Board 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 that is within the subject matter jurisdiction of the Board. Government Code 54952.2 prohibits a serial meeting, defined as a series of communications of any kind, directly or through intermediaries, involving a majority of the Board to discuss, deliberate, or take action on any item of district business outside of an authorized meeting. Thus, a series of emails, as well as other electronic communications such as postings on an online forum, that ultimately include a majority of the Board could lead to a Brown Act violation. While the safest course of action is to not send an email to another Board member that, if forwarded, could lead to a discussion about district business by a majority of the Board, given the prevalence of email, such a practice may not be practical. However, in order to help prevent an inadvertent violation, Board members may wish to consider including a "do not reply/forward alert" in the subject line of emails, as

appropriate.\*\*\*

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

(cf. 9320 - Meetings and Notices)

\*\*\*Note: CSBA's GAMUT Meetings is an electronic board meeting management application for use by districts and county offices of education that streamlines meeting preparation and provides easy and secure access to meeting materials, including Board meeting agendas, supporting documents, and minutes. Further information is available on CSBA's web site.\*\*\*

Examples of permissible electronic communications concerning district business include, but are not limited to, dissemination of Board meeting agendas and agenda packets, reports of activities from the Superintendent, and reminders regarding meeting times, dates, and places.

\*\*\*Note: Pursuant to Government Code 54952.2, as amended by AB 992 (Ch. 89, Statutes of 2020), Board members may engage in separate conversations or communications with members of the public on an Internet-based social media platform that is open and accessible to the public as long as a majority of the Board does not use the platform to discuss among themselves business within the subject matter jurisdiction of the Board and members do not comment on or use digital icons (e.g., "likes" or emojis) to express reactions to communications made by other Board members. Consequently, a Board member is prohibited from responding directly to any communication from other members of the Board on a social media platform regarding matters that are within the subject matter jurisdiction of the Board.\*\*\*

Board members may engage in separate conversations or communications with members of the public on a social media platform to answer questions, provide information, or solicit information regarding a matter that is within the subject matter jurisdiction of the Board, as long as a majority of the Board does not use the platform to discuss among themselves any business of a specific nature that is within the subject matter jurisdiction of the Board. A Board member is prohibited from responding directly to any communication from other Board members regarding matters that are within the subject matter jurisdiction of the Board or using digital icons (e.g., "likes" or emojis) to express reactions to communications made by other Board members. (Government Code 54952.2)

\*\*\*Note: Board members who use a social media platform to communicate with the public about district business or Board activities should be cautious about blocking access to members of the public. In *Knight First Amendment Institute at Columbia University v. Trump*, the court held that President Donald Trump's twitter account was a public forum from which the government may not exclude people based on their views and that blocking critics from viewing and replying to the account excluded individuals from a public forum in violation of the First Amendment. While there is not a clearly defined rule as to whether a board member's social media account is a public forum, the holding has been used in cases restricting school board

members from blocking members of the public from their social media. See Garnier v. Poway Unified School District.\*\*\*

Whenever a Board member uses a social media platform to communicate with the public about district business or Board activities, the Board member shall not block access to a member of the public based on the viewpoint expressed by that individual.

\*\*\*Note: The prohibitions in the Brown Act apply only to discussions regarding district business. Like other citizens, Board members are permitted to use email to discuss personal, nondistrict matters.\*\*\*

Board members may use electronic communications to discuss matters that do not pertain to district business, regardless of the number of Board members participating in the discussion.

\*\*\*Note: The following optional paragraph may be revised to reflect district practice. Many districts have established bylaws or other protocols describing how the Board has agreed to handle questions, concerns, or complaints received from members of the community. For example, see BB 9200 - Limits of Board Member Authority and BP 1112 - Media Relations.\*\*\*

Board members shall make every effort to ensure that their electronic communications conform to the same standards and protocols established for other forms of communication. A Board member may respond, as appropriate, to an electronic communication received from a member of the community and should make clear that the response does not necessarily reflect the views of the Board as a whole. Any complaint or request for information should be forwarded to the Superintendent in accordance with Board bylaws and protocols so that the issue may receive proper consideration and be handled through the appropriate district process. As appropriate, communication received from the media shall be forwarded to the designated district spokesperson.

(cf. 1112 - Media Relations)  
(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.2 - Complaints Concerning Instructional Materials)  
(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 1312.4 - Williams Uniform Complaint Procedures)  
(cf. 3320 - Claims and Actions Against the District)  
(cf. 9005 - Governance Standards)  
(cf. 9121 - President)  
(cf. 9200 - Limits of Board Member Authority)

\*\*\*Note: Electronic communications received and sent by Board members are subject to disclosure upon request pursuant to the California Public Records Act (CPRA) (Government Code 6250-6270) depending on the content of the communication and whether it is "prepared, owned, used, or retained" by the district in its normal course of business. District legal counsel should be consulted as appropriate. Also see BP/AR 1340 - Access to District Records and BP/AR 3580 - District Records.\*\*\*

\*\*\*Note: In *City of San Jose v. Superior Court*, the California Supreme Court held that a public official's communications about public business, even if sent or received on the official's personal account or device, are public records and are not categorically excluded from disclosure under the CPRA. The court observed that the CPRA requires public agencies to use "reasonable effort" to locate existing records in response to a public records request, but that such searches need not be extraordinarily extensive or intrusive. For further information, see CSBA's Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications.\*\*\*

To the extent possible, electronic communications regarding any district-related business shall be transmitted through a district-provided device or account. When any such communication is transmitted through a Board member's personal device or account, the Board member shall copy the communication to a district electronic storage device for easy retrieval.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

#### Legal Reference:

##### EDUCATION CODE

35140 Time and place of meetings

35145 Public meetings

35145.5 Agenda; public participation; regulations

35147 Open meeting law exceptions and applications

##### GOVERNMENT CODE

6250-6270 California Public Records Act

11135 State programs and activities, discrimination

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

54952.2 Meeting, defined

54953 Meetings to be open and public; attendance

54954.2 Agenda posting requirements, board actions

##### COURT DECISIONS

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

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

*City of San Jose v. Superior Court* (2017) 2 Cal.5th 608

#### Management Resources:

##### CSBA PUBLICATIONS

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

Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications, March 2017

##### ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, 2003

##### 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>

(11/08 5/17) 12/20

# **Board Bylaw**

## **Organization**

BB 9100

### **Board Bylaws**

\*\*\*Note: Pursuant to Education Code 35143, the Governing Board is required to set and hold an annual organizational meeting, in the manner described below, prior to the end of each calendar year. If the Board fails to select a day and time for the meeting, the County Superintendent of Schools must designate and notify all Board members and members-elect of the day and time of the meeting. A city board of education whose members are elected in accordance with a city charter may, by a rule of its board, establish a different timeline for setting the annual meeting and revise the following paragraph accordingly.\*\*\*

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 a 15-day period beginning from the date upon which a Board member elected at that election takes office. During non-election years, the meeting shall be held within the same 15-day period on the calendar. (Education Code 35143)

\*\*\*Note: Unless otherwise provided by rule of the Board, the following paragraph is required pursuant to Education Code 35143.\*\*\*

The day and time of the annual meeting shall be selected by the Board at its regular meeting held immediately prior to the first day of the 15-day period. 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 clerk of the Board, with the assistance of the Superintendent, shall notify in writing all Board members and members-elect of the date and time selected for the meeting. (Education Code 35143)

\*\*\*Note: The following items should be modified to reflect district practice. Education Code 35022 requires all boards with five or more members to elect a president. Education Code 35143 requires the election of a clerk and a president for high school, union high school, and joint union high school districts. City boards of education are required to elect only a president or a president and vice president, and all other types of districts are required to elect a clerk. For more information about election of officers, see the section "Election of Officers" below.\*\*\*

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

\*\*\*Note: Item #4 below promotes the adoption of a Board calendar to ensure the scheduling of important governance matters such as evaluation of the Superintendent, Board self-evaluation, budget meetings, goal setting, and policy and program reviews\*\*\*.

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

(cf. 9140 - Board Representatives)

\*\*\*Note: Item #6 below is recommended by CSBA through its governance trainings, including the Masters in Governance program.\*\*\*

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

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

(cf. 9230 - Orientation)

(cf. 9240 - Board Training)

(cf. 9320 - Meetings and Notices)

(cf. 9323 - Meeting Conduct)

#### Election of Officers

\*\*\*Note: Option 1 below is for districts that rotate offices so that each Board member has the opportunity to become president, while Option 2 is for districts that each year elect their entire slate of officers. The following options should be revised to reflect the sequence of offices used in the district.\*\*\*

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

\*\*\*Note: The following optional sentence may be used with Option 2.\*\*\*

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

(cf. 9224 - Oath or Affirmation)

\*\*\*Note: The following sentence may be used by all districts regardless of the option selected above. The California Attorney General has disapproved secret ballot voting in open meetings, as well as the casting of mail ballots (68 Ops.Cal.Atty.Gen. 65, 1985). As long as they do not use secret ballots, boards may elect their officers in any way they choose.\*\*\*

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

Legal Reference:

EDUCATION CODE

5017 Term of office

35143 Annual organizational meeting date, and notice

35145 Public meetings

GOVERNMENT CODE

54953 Meetings to be open and public; attendance

ATTORNEY GENERAL OPINIONS

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

59 Ops.Cal.Atty.Gen. 619, 621-622 (1976)



# **Board Bylaw**

## **Terms Of Office**

BB 9110

### **Board Bylaws**

\*\*\*Note: Governing boards consist of three, five, or seven members as provided in Education Code 5018 and 35012. The district should fill in the blank in the following paragraph to reflect the number of Governing Board members in the district.\*\*\*

\*\*\*Note: For information about the election of Board members, including election dates, see BB 9220 - Governing Board Elections.\*\*\*

The Governing Board shall consist of \_\_\_ members whose terms shall be staggered so that as nearly as practicable, one half of the members shall be elected in each year in which the Board's elections are regularly held. (Education Code 35012)

(cf. 9220 - Governing Board Elections)

\*\*\*Note: AB 2449 (Ch. 146, Statutes of 2018) amended Education Code 5017 to change the commencement of the term of office of board members from the first Friday in December following their election to the second Friday in December. Although Education Code 5000 still states that a board member's four-year term expires on the first Friday in December, Education Code 5017 requires board members to continue to discharge their duties until their successor has qualified by taking the oath of office. Therefore, the following paragraph reflects the date specified in Education Code 5017.\*\*\*

The term of office for Board members elected in regular elections shall be four years, commencing on the second Friday in December following their election. (Education Code 5017)

(cf. 9223 - Filling Vacancies)

(cf. 9224 - Oath or Affirmation)

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

Board members whose terms have expired shall continue to discharge the duties of office until their successors have qualified by taking the oath of office. (Education Code 5017; Government Code 1302, 1360)

\*\*\*Note: Pursuant to Elections Code 10404.5, whenever a regularly scheduled board election is changed due to consolidation of elections, the term of office of incumbent Board members is extended to align with the next applicable election. Pursuant to Elections Code 1302 and 10404.5, districts are authorized to request consolidation of their board elections with the local municipal or state primary or general elections, and under defined circumstances are required to

consolidate their elections with statewide elections as specified in Elections Code 14051-14052. See BB 9220 - Governing Board Elections.\*\*\*

If a regularly scheduled Board election date is changed due to consolidation with a statewide or municipal general election, the term of incumbent Board members shall be extended to align with the next applicable election. (Elections Code 10404.5)

Legal Reference:

EDUCATION CODE

5000-5033 Election of school district board members

35010 Control of district

35012 Board members; number, election and terms

35107 Eligibility

ELECTIONS CODE

1302 Local elections, school district election

10400-10418 Consolidation of elections

14050-14057 California Voter Participation Rights Act

GOVERNMENT CODE

1302 Continuance in office until qualification of successor

1303 Exercising functions of office without having qualified

1360 Necessity of taking constitutional oath

Management Resources:

WEB SITES

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

(12/92 3/93) 10/18

# **Board Bylaw**

## **President**

BB 9121

### **Board Bylaws**

\*\*\*Note: Education Code 35022 requires any board with five or more members to elect a president from among its members. The election of the Governing Board president at the annual organizational meeting is addressed in BB 9100 - Organization.\*\*\*

\*\*\*Note: The law does not specify the duties of a Board president. The following optional bylaw details some typical duties of a Board president and should be modified to reflect district practice.\*\*\*

The Governing Board shall elect a president from among its members to provide leadership on behalf of the governance team and the educational community it serves.

(cf. 9000 - Role of the Board)  
(cf. 9005 - Governance Standards)  
(cf. 9100 - Organization)

To ensure that Board meetings are conducted in an efficient, transparent, and orderly manner, the president shall:

1. Call such meetings of the Board as he/she may deem necessary, giving notice as required by law

(cf. 9320 - Meetings and Notices)  
(cf. 9321 - Closed Session Purposes and Agendas)

2. Consult with the Superintendent or designee on the preparation of Board meeting agendas

(cf. 9322 - Agenda/Meeting Materials)

3. Call the meeting to order at the appointed time and preside over the meeting

4. Announce the business to come before the Board in its proper order

5. Enforce the Board's bylaws related to the conduct of meetings and help ensure compliance with applicable requirements of the Brown Act

6. Recognize persons who desire to speak, and protect the speaker who has the floor from disturbance or interference

7. Facilitate the Board's effective deliberation, ensuring that each Board member has an opportunity to participate in the deliberation and that the discussion remains focused
8. Rule on issues of parliamentary procedure
9. Put motions to a vote, and clearly state the results of the vote

(cf. 9323 - Meeting Conduct)

The president shall have the same rights as other members of the Board, including the right to discuss and vote on all matters before the Board.

The president shall perform other duties in accordance with law and Board policy including, but not limited to:

1. Signing all instruments, acts, orders, and resolutions necessary to comply with legal requirements and carry out the will of the Board
2. Working with the Superintendent or designee to ensure that Board members have necessary materials and information
3. Subject to Board approval, appointing and dissolving all committees

(cf. 9130 - Board Committees)

4. In conjunction with the Superintendent or designee, representing the district as the Board's spokesperson in communications with the media

(cf. 1112 - Media Relations)

5. Leading the Board's advocacy efforts to build support within the local community and at the state and national levels

\*\*\*Note: The following paragraph is optional. See CSBA's web site for information about CSBA's Board President's Workshop and other education opportunities that could assist board presidents in fulfilling their responsibilities, such as the Brown Act workshop, Annual Education Conference and Trade Show, and Masters in Governance program.\*\*\*

The president shall participate in the California School Boards Association's Board President's Workshop and other professional development opportunities to enhance his/her leadership skills.

(cf. 9240 - Board Training)

\*\*\*Note: Districts should select the appropriate option below.\*\*\*

OPTION 1: When the president resigns or is absent, the clerk shall perform the president's

duties. When both the president and clerk are absent, the Board shall choose a president pro tempore to perform the president's duties.

OPTION 2: When the president resigns or is absent, the vice president shall perform the president's duties. When both the president and vice president are absent, the clerk shall perform the president's duties.

(cf. 9123 - Clerk)

Legal Reference:

EDUCATION CODE

35022 President of the board

35143 Annual organizational meetings; dates and notice

GOVERNMENT CODE

54950-54963 Ralph M. Brown Act

Management Resources:

CSBA PUBLICATIONS

Call to Order: A Blueprint for Great Board Meetings, 2015

Board Presidents' Handbook, revised 2002

CSBA Professional Governance Standards, 2000

WEB SITES

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

(9/89 7/03) 7/17

# **Board Bylaw**

## **Secretary**

BB 9122

## **Board Bylaws**

\*\*\*Note: The following optional bylaw should be modified to reflect district practice. Education Code 35025 provides that the Board may employ a non-Board member to serve as secretary and bookkeeper for the Board.\*\*\*

The Governing Board shall appoint the Superintendent to serve as secretary to the Board. The secretary to the Board shall be responsible for maintaining an accurate and complete record of all Board proceedings and shall:

1. Prepare, distribute and maintain the Board agenda  
(cf. 9322 - Agenda/Meeting Materials)
2. Record, distribute and maintain the Board minutes  
(cf. 9324 - Minutes and Recordings)
3. Maintain Board records and documents
4. Conduct official correspondence for the Board
5. As directed by the Board, sign and execute official papers
6. Perform other duties as assigned by the Board  
(cf. 2111 - Superintendent Governance Standards)

### Legal Reference:

#### EDUCATION CODE

35025 Secretary and bookkeeper

35143 Annual organizational meetings; dates and notice

35250 Duty to keep certain records and reports

#### GOVERNMENT CODE

54950-54963 Ralph M. Brown Act

### Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

WEB SITES

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

(7/84 9/89) 7/03

# **Board Bylaw**

## **Clerk**

BB 9123

### **Board Bylaws**

\*\*\*Note: The following optional bylaw is for use by any board other than a city board of education governed by a city charter. Any board other than a city board of education is required by Education Code 35143 to elect a clerk from among its members at the annual organizational meeting. See BB 9100 - Organization for other requirements pertaining to the annual organizational meeting. This bylaw is not intended to address a situation where a non-member of the Board is appointed clerk to perform certain responsibilities. \*\*\*

The Governing Board shall elect a clerk from its own membership at the annual organizational meeting. (Education Code 35143)

(cf. 9100 - Organization)

The duties of the clerk shall be to:

1. Certify or attest to actions taken by the Board when required
2. Maintain such other records or reports as required by law
3. Sign documents on behalf of the district as directed by the Board

\*\*\*Note: Districts without a vice president should modify the following paragraph accordingly.  
\*\*\*

4. Serve as presiding officer in the absence of the president and vice president

(cf. 9121 - President)

5. Notify Board members and members-elect of the date and time for the annual organizational meeting
6. Perform any other duties assigned by the Board

Legal Reference:

EDUCATION CODE

17593 Repair and supervision of property (duty of district clerk)

35038 Appointment of clerk by county superintendent of schools



35039 Dismissal of clerk  
35121 Appointment of clerk in certain city and high school districts  
35143 Annual organizational meetings  
35250 Duty to keep certain records and reports  
38113 Duty of clerk (re provision of school supplies)  
GOVERNMENT CODE  
54950-54963 Ralph M. Brown Act

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

WEB SITES

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

(9/88 7/03) 3/11

# **Board Bylaw**

## **Attorney**

BB 9124

## **Board Bylaws**

\*\*\*Note: Education Code 35041.5, 35204, and 35205 authorize the Governing Board to enter into a contract to hire an attorney as a district employee or independent contractor or to contract with a private firm to provide legal services for purposes deemed appropriate by the Board. According to the Rules of Professional Conduct of the State Bar of California, when an attorney is hired by an organization such as a school district, the attorney's client is the district as a whole, and not an individual Board member or employee. However, at certain times an attorney may owe a duty of defense to a Board member or employee pursuant to the Tort Claims Act (Government Code 814-895.8). See BP/AR 3320 - Claims and Actions Against the District and BB 9260 - Legal Protection.\*\*\*

\*\*\*Note: The California Council of School Attorneys, which provides professional opportunities for school attorneys, is a component of CSBA. CSBA has also established the Education Legal Alliance to initiate and support litigation in cases of statewide significance to school districts.\*\*\*

The Governing Board recognizes the complex legal environment in which districts operate and desires reliable, high-quality legal advice at reasonable rates. In order to meet the district's legal needs, the Board may contract with county counsel, attorneys in private practice, or appoint legal counsel as a district employee or independent contractor. The Board also supports pursuing collaborative legal efforts with other agencies and districts as appropriate.

(cf. 3320 - Claims and Actions Against the District)  
(cf. 3400 - Management of District Assets/Accounts)  
(cf. 4312.1 - Contracts)  
(cf. 9000 - Role of the Board)  
(cf. 9260 - Legal Protection)

### **Duties of Legal Counsel**

The district's legal counsel may: (Education Code 35041.5)

1. Render legal advice to the Board and the Superintendent or designee
2. Serve the Board and the Superintendent or designee in the preparation and conduct of district litigation and administrative proceedings
3. Render advice on school bond and tax increase measures and prepare the necessary forms for the voting of these measures

4. Perform other administrative duties as assigned by the Board and Superintendent or designee

#### Retaining Legal Counsel

\*\*\*Note: Government Code 53060 exempts contracts for legal services from the bidding requirements of the Public Contract Code; see AR 3311 - Bids. However, when entering into a new contract for legal services, it is recommended that the Board use a Request for Proposal (RFP) procedure in order to solicit a range of proposals for services. The following optional section is for use by districts that contract with outside firms to provide legal services and should be modified to reflect district practice.\*\*\*

When the district is seeking legal advice or representation, the Superintendent or designee shall initiate a Request for Proposals (RFP) to advertise and solicit proposals for legal services. In evaluating the proposals, the Board and Superintendent shall consider the firm's or attorney's background, experience, and reputation in education law; experience advising or representing school districts in California; fees; and experience of attorneys at the firm who will provide legal services.

The Board and Superintendent shall annually evaluate the performance of the firm and/or attorneys providing legal services in such areas as efficiency and adequacy of advice; results obtained for the district; reasonableness of fees; and responsiveness to and interactions with the Board, administration, and community. Upon a successful evaluation, the Board may renew the agreement with legal counsel without initiating an RFP.

The Board may also contract for temporary, specialized legal services without initiating an RFP when a majority of the Board determines that the unique demands of a particular issue or emergency situation so requires.

(cf. 2121 - Superintendent's Contract)

#### Contacting Legal Counsel

\*\*\*Note: The following section should be modified to reflect district practice.\*\*\*

At his/her discretion, the Board president or Superintendent may confer with district legal counsel subject to any limits or parameters established by the Board. In addition, the Superintendent or Board president may contact district legal counsel to provide the Board with legal information or advice when so directed by a majority of the Board.

Individual Board members other than the Board president may not seek advice from district legal counsel on matters of district business unless so authorized by a majority of the Board.

(cf. 9200 - Limits of Board Member Authority)

(cf. 9321 - Closed Session Purposes and Agendas)

Legal Reference:

EDUCATION CODE

35041 Administrative adviser

35041.5 Legal counsel

35161 Powers and duties of governing board

35200-35214 Liabilities, especially:

35204 Contract with attorney in private practice

35205 Contract for legal services

GOVERNMENT CODE

814-895.8 Liability of public entities and public employees

995-996.6 Defense of public employees

26520 Legal services to school districts

53060 Special services and advice

Management Resources:

CSBA PUBLICATIONS

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

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Selecting and Working with a School Attorney: A Guide for School Boards, 1997

WEB SITES

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

California Council of School Attorneys:

<http://www.csba.org/LegislationAndLegal/Legal/CaliforniaCouncilOfSchoolAttorneys.aspx>

National School Boards Association: <http://www.nsba.org>

State Bar of California: <http://www.calbar.ca.gov>

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# **Board Bylaw**

## **Board Committees**

BB 9130

### **Board Bylaws**

\*\*\*Note: The following optional bylaw may be revised to reflect district practice. This bylaw addresses the establishment and operation of Governing Board subcommittees consisting of less than a quorum of the Board and other standing and advisory committees created by the Board. See BP/AR 1220 - Citizen Advisory Committees for further information about committees that include members of the community and/or stakeholder groups, including examples of citizen advisory committees that are generally created by formal Board action. For information about committees created by the Superintendent or designee to advise the administration, see BP 2230 - Representative and Deliberative Groups.\*\*\*

The Governing Board may establish a committee whenever it determines that such a committee would benefit the district by providing diverse viewpoints, specialized knowledge or expertise, or increased efficiency. Such committees may be subcommittees of the Board or committees that include members of the community, staff, or other stakeholder groups.

(cf. 1220 - Citizen Advisory Committees)

(cf. 2230 - Representative and Deliberative Groups)

(cf. 9140 - Board Representatives)

Upon establishing a committee, the Board shall clearly define the committee's purpose, any timeline for completion of assigned responsibilities, any stakeholder groups or individuals to be represented on the committee, length of time that committee members are expected to serve, and expectations for reporting to the Board and/or the Superintendent or designee. Unless specifically authorized by the Board to act on its behalf, the committee shall act in an advisory capacity.

Except for subcommittees of the Board, committee members shall, as appropriate, be recommended by the Superintendent or designee and appointed by the Board president, subject to Board approval.

(cf. 9121 - President)

The Superintendent or designee shall provide committee members with information and assistance necessary for the fulfillment of the committee's charges, and may serve as a non-voting advisor to the committee at the discretion of the Board.

Whenever so charged, committees may actively seek input and participation by parents/guardians, staff, community, and students and may consult with local public boards and agencies.

Any committee not required by law may be dissolved when its duties or term has been completed or whenever the Board deems necessary.

### Committee Meetings

\*\*\*Note: Unless otherwise exempted by law, Government Code 54952 provides that open meeting laws (the Brown Act) apply to any commission, committee, board, or other legislative body created by formal action of the Board, regardless of whether that body is permanent or temporary, decision making or advisory; also see BP/AR 1220 - Citizen Advisory Committees. These requirements include posting a meeting notice or agenda at least 72 hours before a regular meeting or 24 hours before a special meeting pursuant to Government Code 54954.2 and 54956; see BB 9320 - Meetings and Notices.\*\*\*

\*\*\*Note: In Frazer v. Dixon Unified School District, the court held that the adoption of a Board policy that required the appointment of a curriculum committee to advise the Superintendent, and in turn the Board, was a committee created by "formal Board action" within the meaning of Government Code 54952. Therefore, the committee's meetings were subject to the Brown Act.\*\*\*

\*\*\*Note: The district should consult legal counsel when questions arise regarding the applicability of Brown Act requirements to district or school committees.\*\*\*

Unless otherwise exempted by law, Board-created committees shall provide public notice of their meetings and conduct meetings in accordance with Government Code 54950-54963 (the Brown Act).

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

However, Board subcommittees composed solely of less than a quorum of the members of the Board are not subject to open meeting laws unless they are standing committees. Standing committees of the Board, irrespective of membership, are those that have a continuing subject matter jurisdiction or a meeting schedule established by action of the Board. (Government Code 54952)

\*\*\*Note: In 79 Ops.Cal.Atty.Gen. 69 (1996), the Attorney General has clarified that open meeting laws apply if the standing committee has the responsibility of providing advice at the Board's request on budgets, audits, contracts, and personnel matters.\*\*\*

Standing committees with a continuing subject matter jurisdiction include, but are not limited to, those responsible for providing advice on budgets, audits, Board policy, contracts, and personnel matters at the Board's request.

(cf. 3100 - Budget)  
(cf. 3430 - Investing)

(cf. 9310 - Board Policies)

\*\*\*Note: Pursuant to Government Code 54952.2, the Brown Act is not violated if Board members who are not members of a standing committee attend the committee meeting only as "observers." In 81 Ops.Cal.Atty.Gen. 156 (1998), the Attorney General clarified that those Board members attending the meeting as "observers" may not ask questions or make statements at the meeting and that they must sit in the areas designated for members of the public.\*\*\*

When a majority of the members of the Board attend an open and noticed meeting of a standing committee, the Board members who are not members of the standing committee shall attend only as observers. (Government Code 54952.2)

Whenever any advisory or standing committee, including a committee not otherwise subject to the Brown Act, posts a meeting agenda at least 72 hours in advance of the meeting, that meeting shall be considered as a regular meeting of the Board for purposes of the Brown Act and therefore must be held within district boundaries unless otherwise authorized by law. (Government Code 54954)

\*\*\*Note: In 80 Ops.Cal.Atty.Gen. 308 (1997), the Attorney General determined that sessions of a district liaison council that was formed by the board to interview candidates for district superintendent and to make a recommendation to the board were not required to be open to the public. The Attorney General concluded that, because a legislative body is authorized under Government Code 54957 to hold closed sessions during a regular or special meeting to consider the appointment or employment of a public employee (see BB 9321 - Closed Session Purposes and Agendas), that authority also extends to committees that are delegated by the legislative body to perform related duties. The following paragraph reflects this opinion.\*\*\*

\*\*\*Note: In addition, in 92 Ops.Cal.Atty.Gen. 102, the Attorney General concluded that a joint labor management benefits committee that is a product of the collective bargaining process between labor and management and is implemented in a collective bargaining agreement is not a committee created by the board. Therefore, such a committee is not required to comply with the Brown Act and is authorized to hold closed sessions.\*\*\*

Committees may meet in a closed session during a regular or special meeting only for those purposes specifically authorized by law for closed sessions held by the Board.

(cf. 9321 - Closed Session Purposes and Agendas)

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35024 Executive committee

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

54950-54963 The Brown Act, especially:

54952 Legislative body, definition

54952.2 Definition of meeting

54954 Time and place of regular meetings; special meetings; emergencies

54954.3 Opportunity for public to address legislative body

54957 Closed session purposes

COURT DECISIONS

Frazer v. Dixon Unified School District, (1993) 18 Cal.App.4th 781

ATTORNEY GENERAL OPINIONS

81 Ops.Cal.Atty.Gen. 156 (1998)

80 Ops.Cal.Atty.Gen. 308 (1997)

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

Management Resources:

CSBA PUBLICATIONS

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

WEB SITES

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

National School Boards Association: <http://www.nsba.org>



# **Board Bylaw**

## **Board Representatives**

BB 9140

### **Board Bylaws**

\*\*\*Note: The following optional bylaw may be revised to reflect district practice. \*\*\*

\*\*\*Note: Pursuant to Government Code 54952.2, a meeting of a committee on which a majority of Governing Board members serve may be deemed a Board meeting in certain circumstances and would cause the meeting to be subject to the open meeting law requirements. See BB 9130 - Board Committees for details regarding the applicability of the Brown Act to committees created by the Board. \*\*\*

The Governing Board recognizes that effective performance of its community leadership responsibilities may require its participation in district or community committees on matters of concern to the district and its students. As needed, the Board may appoint any of its members to serve as its representative on a district committee or on a committee of another public agency or organization of which the Board or district is a member or to which the Board is invited to participate.

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 1700 - Relations Between Private Industry and the Schools)

(cf. 9000 - Role of the Board)

(cf. 9130 - Board Committees)

(cf. 9270 - Conflict of Interest)

(cf. 9320 - Meetings and Notices)

When making such appointments, the Board shall clearly specify the authority and responsibilities of the representative(s), including, but not limited to, reporting back to the Board regarding committee activities and/or actions. Board representatives shall not exercise the authority of the Board without prior Board approval.

(cf. 9005 - Governance Standards)

(cf. 9200 - Limits of Board Member Authority)

If a committee discusses a topic on which the Board has taken a position, the Board member shall express the position of the Board. When contributing his/her own ideas or opinions, the representative shall clearly indicate that he/she is expressing his/her individual idea or opinion.

(cf. 1220 - Citizen Advisory Committees)

(cf. 9010 - Public Statements)

Board Representative to Elect Members of County Committee on School District Organization

\*\*\*Note: Pursuant to Education Code 4000-4014, every county, except any one that is a city and county, is required to have a county committee on school district organization. In many counties, the duties of the county committee have been transferred to the county board of education pursuant to Education Code 4020. In any county with six or more districts or where the duties of the county committee have not been transferred to the county board, the Board of each district must, at its annual organizational meeting, designate a voting representative to elect members of the county committee, pursuant to Education Code 35023. \*\*\*

At its annual organizational meeting, the Board shall designate one Board member as its representative to elect members to the county committee on school district organization. (Education Code 35023)

(cf. 9100 - Organization)

Legal Reference:

EDUCATION CODE

4000-4014 County committees on school district organization

35020-35046 School district officers and agents (power of governing board to employ or appoint)

35160 Authority of governing boards

GOVERNMENT CODE

54952.2 Meetings

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Department of Education District Organization Handbook, 2010

(11/86 10/95) 3/11

# **Board Bylaw**

## **Student Board Members**

BB 9150

### **Board Bylaws**

\*\*\*Note: The following optional Board bylaw is for use by any district maintaining one or more high schools. Pursuant to Education Code 35160, the Governing Board may, on its own authority, elect to include one or more student members on the Board. In districts that do not have a student Board member, the district's high school students may petition the Board, pursuant to Education Code 35012, to include at least one student on the Board. See section on "Petition" below for additional information regarding student petitions.\*\*\*

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.

\*\*\*Note: Education Code 35012 and 35120, as amended by AB 709 (Ch. 437, Statutes of 2019), authorize the Board to award elective course credit for service as a student Board member, as specified below.\*\*\*

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)

\*\*\*Note: Pursuant to Education Code 35012, student Board members are entitled to reimbursement for mileage expenses to the same extent as other members of the Board. This law does not address other travel expenses that may be incurred by student Board members related to training or to the performance of authorized services. As such, other travel expenses are not necessarily reimbursable for student Board members, except with prior Board approval.\*\*\*

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

\*\*\*Note: If petitioned by the district's high school students pursuant to Education Code 35012, the Board is required to include at least one student on the Board and, at its discretion, may include more than one student Board member. Districts that have already established student Board member position(s) should delete the following section.\*\*\*

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 500 regularly enrolled high school students or no less than 10 percent of the number of regularly enrolled high school students, 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 Student Board Member

\*\*\*Note: The following section may be revised to reflect district practice. Pursuant to Education Code 35012, when student representation is established in response to a student petition, student Board members must be chosen by the students enrolled in district high school(s). It is recommended that the district apply the same process when a student Board member position is established at the Board's discretion. The following paragraph may be revised accordingly.\*\*\*

Student Board member positions shall be filled by a vote of students enrolled in the high school(s) 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. (Education Code 35012)

#### Role and Responsibilities of Student Board Members

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

(cf. 9321 - Closed Session)

\*\*\*Note: Education Code 35012 requires that student Board members receive meeting materials and staff briefings at the same time as other Board members. Any briefings presented to the Board need to comply with Brown Act requirements.\*\*\*

\*\*\*Note: Education Code 35012, as amended by AB 709, requires that student Board members also receive all non-closed session materials given to other Board members by the district between open meetings.\*\*\*

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)

(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)

\*\*\*Note: Pursuant to Education Code 35012, the Board may adopt a resolution authorizing its student Board member(s) to 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. The following optional paragraph is for use by districts that have adopted a resolution granting such authority.\*\*\*

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)

\*\*\*Note: Education Code 35012, as amended by AB 709, requires student Board members to be appointed to subcommittees of the Board in the same manner as other Board members, and as specified below.\*\*\*

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

\*\*\*Note: Education Code 35012, as amended by AB 709, requires that student Board members be invited to attend functions of the Board, as provided below.\*\*\*

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 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 whether a quorum of the Board is in attendance.

#### Student Board Member Training

\*\*\*Note: The following section is optional. Trainings for student Board members are available through CSBA's Annual Education Conference and statewide associations such as the California Association of Student Councils and California Association of Student Leaders.\*\*\*

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 information to student Board member candidates to give them an understanding of the position. Once elected 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

\*\*\*Note: Education Code 35012, as amended by AB 709, authorizes the Board to appoint a student to serve as an alternate student Board member if the Board determines that the student Board member's duties are not being fulfilled.\*\*\*

If the Board determines that the student Board member's duties are not being fulfilled, the Board may appoint another student to serve as an alternate 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 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>

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# **Board Bylaw**

## **Limits Of Board Member Authority**

BB 9200

### **Board Bylaws**

\*\*\*Note: The following bylaw is optional.\*\*\*

The Governing Board recognizes that the Board is the unit of authority over the district and that a Board member has no individual authority. Board members shall hold the education of students above any partisan principle, group interest, or personal interest.

- (cf. 1160 - Political Processes)
- (cf. 9000 - Role of the Board)
- (cf. 9005 - Governance Standards)
- (cf. 9270 - Conflict of Interest)
- (cf. 9323 - Meeting Conduct)

\*\*\*Note: Boards should carefully review the following paragraph and modify it to reflect district practice.\*\*\*

Unless agreed to by the Board as a whole, individual members of the Board shall not exercise any administrative responsibility with respect to the schools or command the services of any school employee. Individual Board members shall submit requests for information to the Superintendent. Board members shall refer Board-related correspondence to the Superintendent for forwarding to the Board or for placement on the Board's agenda, as appropriate.

- (cf. 1340 - Access to District Records)
- (cf. 4112.6/4212.6/4312.6 - Personnel Files)
- (cf. 9011 - Disclosure of Confidential/Privileged Information)
- (cf. 9322 - Agenda/Meeting Materials)

Individual Board members do not have the authority to resolve complaints. Any Board member approached directly by a person with a complaint should refer the complainant to the Superintendent or designee so that the problem may receive proper consideration and be handled through the appropriate district process.

- (cf. 1312.1 - Complaints Concerning District Employees)
- (cf. 1312.2 - Complaints Concerning Instructional Materials)
- (cf. 1312.3 - Uniform Complaint Procedures)
- (cf. 1312.4 - Williams Uniform Complaint Procedures)
- (cf. 3320 - Claims and Actions Against the District)
- (cf. 4030 - Nondiscrimination in Employment)
- (cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)



\*\*\*Note: The following paragraph is optional. Pursuant to Education Code 51101, parents/guardians have the right to observe and/or volunteer in their child's classroom. Although this right is not affected upon election to the Board, Board members who have children attending district schools should be aware of their status as Board members and the effect of that status on district employees. \*\*\*

A Board member whose child is attending a district school should be aware of his/her role as a Board member when interacting with district employees about his/her child. Because his/her position as a Board member may inhibit the performance of school personnel, the Board member should inform the Superintendent or designee before volunteering in his/her child's classroom.

(cf. 1240 - Volunteer Assistance)  
(cf. 5020 - Parent Rights and Responsibilities)  
(cf. 6020 - Parent Involvement)

\*\*\*Note: Pursuant to Government Code 54952.7, the Board may require a copy of the Brown Act to be given to each Board member and to any person elected to the Board who has not assumed office. The following paragraph is optional.\*\*\*

The Superintendent or designee shall provide a copy of the state's open meeting laws (Brown Act) to each Board member and to anyone who is elected to the Board but has not yet assumed office.

Board members and persons elected to the Board who have not yet assumed office are responsible for complying with the requirements of the Brown Act. (Government Code 54952.1)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

7054 Use of district property

35010 Control of district; prescription and enforcement of rules

35100-35351 Governing boards, especially:

35160-35184 Powers and duties

35291 Rules

35292 Visits to schools (Board members)

51101 Rights of parents/guardians

GOVERNMENT CODE

54950-54962 The Ralph M. Brown Act, especially:

54952.1 Member of a legislative body of a local agency

54952.7 Copies of chapter to members of legislative body

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

WEB SITES

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

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# **Board Bylaw**

## **Governing Board Elections**

BB 9220

### **Board Bylaws**

#### Board Member Qualifications

\*\*\*Note: Education Code 35107 and Elections Code 20 detail eligibility for Governing Board membership as specified below. In 81 Ops.Cal.Atty.Gen. 98 (1998), the Attorney General opined that the residency requirement in Education Code 35107 is a continuing requirement for holding the office during the entire term of the Board member.\*\*\*

\*\*\*Note: A person is ineligible to hold public office if he/she is not registered to vote. Elections Code 2201 lists the causes for cancelling an individual's voter registration and making him/her ineligible to hold public office, including, but not limited to, legally established mental incompetency, proof that the person is presently imprisoned or on parole for conviction of a felony, or official notification that the voter is registered to vote in another country or state.\*\*\*

Any person is eligible to be a member of the Governing Board, without further qualifications, if he/she is 18 years of age or older, a citizen of California, a resident of the school district, a registered voter, and not legally disqualified from holding civil office. Any person who has been convicted of a felony involving the giving, accepting, or offering of a bribe, embezzlement or theft of public funds, extortion, perjury, or conspiracy to commit any such crime, under California law or the law of another state, the United States of America, or another country, is not eligible to be a candidate for office or elected as a Board member except when he/she has been granted a pardon in accordance with law. (Education Code 35107; Elections Code 20)

\*\*\*Note: Pursuant to Education Code 35107, a district employee elected to serve on the district Board must resign his/her employment before being sworn into office as a Board member.\*\*\*

\*\*\*Note: Pursuant to Education Code 1006, employees of a school district are eligible to run for the county board of education seat as long as their school district employer is not within the jurisdiction of the county board.\*\*\*

A district employee elected to the Board shall resign his/her employment before being sworn in or shall have his/her employment automatically terminated upon being sworn into office.  
(Education Code 35107)

(cf. 9224 - Oath of Affirmation)

(cf. 9270 - Conflict of Interest)

\*\*\*Note: Note: The following paragraph is optional. See CSBA's web site for information about school board service that may be shared with candidates.\*\*\*

The Board encourages all candidates to become knowledgeable about the role of board members. The Superintendent or designee shall provide all candidates with information that will enable them to understand the responsibilities and expectations of being a Board member, including information regarding available workshops, seminars, and/or training. The Superintendent or designee shall provide all candidates with the county election official's contact information and general information about school programs, district operations, and Board responsibilities.

(cf. 9230 - Orientation)

(cf. 9240 - Board Training)

### Consolidation of Elections

\*\*\*Note: The following optional section is for districts that currently hold their Board elections at a time that is not concurrent with municipal or statewide elections.\*\*\*

\*\*\*Note: Education Code 5000 and Elections Code 1302 require the regular election of Board members to be held on the first Tuesday after the first Monday in November of each odd-numbered year. However, in accordance with Elections Code 1302 and 10404.5, districts are authorized to request consolidation of their Board elections with the local municipal or state primary or general election by adopting a Board resolution and submitting it to the County Board of Supervisors for approval. Within 30 days following approval by the County Board of Supervisors, the elections official will notify all registered voters in the district of the change of election date.\*\*\*

To reduce costs associated with conducting elections, the Board may consolidate Board elections with the local municipal or statewide primary or general election in accordance with Elections Code 1302.

\*\*\*Note: Pursuant to Elections Code 14051-14052, as added by SB 415 (Ch. 235, Statutes of 2015), districts are required to hold elections concurrent with statewide elections if holding nonconcurrent elections has previously resulted in a "significant decrease" in voter turnout. Pursuant to Elections Code 14051, a significant decrease has occurred when voter turnout for a regularly scheduled election held on a nonconcurrent date is at least 25 percent less than the average local turnout for the previous four statewide general elections. A district that holds Board elections other than on a statewide elections date may only delay the consolidation may only delay the consolidation if, by January 1, 2018, it has adopted a plan to consolidate elections by November 8, 2022. It is recommended that districts with nonconcurrent elections review the voter turnout for their recent elections, consult with legal counsel, and, as necessary, prepare and approve a plan by January 1, 2018 to move their election to a statewide election date. For a further analysis of SB 415, see CSBA's Legal Alert on the Impact of Senate Bill No. 415 on School Board Elections.\*\*\*

\*\*\*Note: Districts consolidating their elections due to low voter turnout should follow the procedures specified in Elections Code 1302, including the adoption of a Board resolution.\*\*\*

In addition, if a regularly scheduled Board election held other than on a statewide election date results in a decrease in local voter turnout of 25 percent or more compared to the average local turnout for the previous four statewide general elections, the Board shall take action to consolidate Board elections with statewide elections. The district shall move its election to the next state statewide election date, unless the Board has adopted a plan by January 1, 2018 to consolidate Board elections not later than the November 8, 2022 statewide general election. (Elections Code 14051, 14052)

In order to consolidate elections based on either circumstance described above, the Board shall adopt a resolution and submit it to the County Board of Supervisors for approval not later than 240 days prior to the date of the currently scheduled district election. (Elections Code 10404.5)

Whenever a regularly scheduled Board election is changed due to consolidation of elections, the terms of office of incumbent Board members shall be extended to align with the next applicable election. (Elections Code 10404.5)

(cf. 9110 - Terms of Office)

#### Elections Process and Procedures

\*\*\*Note: Pursuant to Education Code 5019, except in a school district governed by a board of education subject to a city or city and county charter, the county committee on school district organization is authorized to establish trustee areas, rearrange boundaries of trustee areas, increase, decrease, or abolish trustee areas, and recommend any of three alternate methods of electing Board members as specified below and in Education Code 5030. In addition, Education Code 5019 specifies that each county committee may approve or disapprove a proposal to decrease the membership of a board from five to three for any district whose average daily attendance during the preceding year was less than 300. A proposal for any of these purposes may be initiated by the county committee, by a petition filed by voters, or by the Board.\*\*\*

\*\*\*Note: Option 1 below is for districts that use the "by trustee area" method to elect Board members (i.e., voters in each trustee area elect the candidate to represent their area), Option 2 is for districts that use the "at-large" method (i.e., all voters cast ballots for all candidates within the district), and Option 3 is for districts that use the "from trustee area" or "hybrid" method (i.e., Board members must reside within designated trustee areas but are elected by voters throughout the district "at-large").\*\*\*

#### OPTION 1: (Election by trustee area)

The district is divided into trustee areas and each trustee area shall be represented by a Board member who resides in and is elected by voters residing within that trustee area. Trustee areas shall be balanced by population as required by state and federal law.

Prior to March 1 following the year in which the results of each decennial federal census are released, the Board shall adjust the boundaries of the district's trustee areas based on population figures as validated by the Population Research Unit of the Department of Finance. (Education

Code 5019.5)

\*\*\*Note: Any district that selects Option 2 or 3 should ensure that its decision is consistent with Elections Code 14025-14032 (the California Voting Rights Act (CVRA)) which prohibits the use of the "at-large" voting method for elections within jurisdictions with a history of "racially polarized voting" (i.e., difference between voters of a protected class and voters in the rest of the jurisdiction in the choice of candidates preferred). Any district seeking more information about the CVRA and its possible effects should consult legal counsel.\*\*\*

OPTION 2: (Election using "at-large" voting method)

Board members may reside anywhere within the district's boundaries and shall be elected by all voters in the district.

\*\*\*Note: The extent, if any, to which a district using the "from trustee area/hybrid" method (Option 3) is required to balance its trustee areas by population is unclear; see *Dusch v. Davis*. Any district using Option 3 should consult with legal counsel regarding whether to balance its trustee areas by population.\*\*\*

OPTION 3: (Election from trustee area/hybrid method)

Each Board member shall reside within the trustee area that he/she represents but shall be elected by all voters in the district.

\*\*\*Note: The remainder of this section is for districts using Option 2 or 3 and may be revised to reflect district practice. Such districts should periodically monitor the demographics within their geographical boundaries to ensure that no violation of the CVRA occurs. Any district found in violation of the CVRA could be held liable for attorneys' fees and legal costs. Elections Code 10010, as amended by AB 350 (Ch. 737, Statutes of 2016), requires that a prospective plaintiff send written notice to the district prior to filing a complaint alleging that the method of election violates the CVRA so that the district will have the chance to cure any potential violations before the commencement of litigation. Even if the district cures the alleged violations, it may be required to pay reasonable costs incurred in supporting the written notice.\*\*\*

To ensure ongoing compliance with the California Voting Rights Acts, the Board may review the district's Board election method to determine whether any modification is necessary due to changes in the district's population or any of its racial, color, or language minority group composition. The review shall be based on the Superintendent or designee's report to the Board after the release of each decennial federal census.

\*\*\*Note: Converting from an "at-large" (Option 2) to a "by trustee area" (Option 1) voting method involves complex issues of law regarding matters such as the redrawing of maps, required approvals, and transition dates. Elections Code 10010, as amended by AB 350 (Ch. 737, Statutes of 2016), requires the Board to hold hearings before and after drawing maps of the proposed district boundaries to allow for public input. If Board members will be elected at different times for staggered terms of office, hearings held after publishing the draft map(s) are

required to include public input regarding the proposed sequence of elections. Any district that is considering switching to a "by trustee area" election method should consult legal counsel as necessary.\*\*\*

If the Board determines that a change is necessary, it shall hold public hearings in accordance with Elections Code 10100 before adopting a resolution at an open meeting specifying the change(s), and shall, in accordance with Education Code 5019, obtain approval from the county committee on school district organization having jurisdiction over the district.

(cf. 9320 - Meetings and Notices)

### Campaign Conduct

\*\*\*Note: Education Code 35177 has long authorized boards, by resolution, to limit campaign expenditures and/or contributions for candidates in board elections. However, in June 2006, the U.S. Supreme Court held in *Randall v. Sorrell* that limits on campaign expenditures are unconstitutional and violate a candidate's right to free speech. The court did hold that limits on contributions to candidates could be constitutional if such limits are not overly restrictive, allow candidates to compete in the race, and do not operate to protect incumbents. However, because Education Code 35177 provides no mechanism for the district to enforce any contribution limits set by the Board, such limits would be completely voluntary, and other candidates and/or the Board would have no recourse in the event of noncompliance by a candidate. It is strongly recommended that, before adopting voluntary contribution limits under the authority granted in Education Code 35177, the Board consult legal counsel in order to ensure that the district's limits satisfy legal restrictions.\*\*\*

All candidates, including current Board members running as incumbents, shall abide by local, county, state, and federal requirements regarding campaign donations, funding, and expenditures.

\*\*\*Note: The following paragraph is optional. Government Code 85300 generally prohibits the expenditure of public funds for the purpose of seeking elective office. However, as amended by SB 1107 (Ch. 837, Statutes of 2016), Government Code 85300 permits a candidate to expend or accept public funds for the purpose of seeking elective office if the Board establishes a dedicated fund for that purpose, provided that both (1) the public funds are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference, and (2) the Board has established criteria for determining a candidate's qualifications. For school board elections, candidate qualifications are specified in state law (see section "Board Member Qualifications" above), and districts should not establish additional qualification requirements. It is recommended that the district consult legal counsel when establishing a dedicated fund for those seeking election to the Board.\*\*\*

A Board member shall not expend, and a candidate shall not accept, any public money for the purpose of seeking elective office. However, the district may establish a dedicated fund for those seeking election to the Board, provided that the funds are available to all candidates who are qualified pursuant to Education Code 35107 without regard to incumbency or political

preference. (Government Code 85300)

\*\*\*Note: Pursuant to Elections Code 20440, county election officials are required to present each candidate running for public office with a voluntary Code of Fair Campaign Practices for the candidate to sign. The pledge states the candidate's intent to conduct his/her campaign openly and fairly and provides that the candidate may not use or permit negative prejudice based on another candidate's race, religion, physical or mental disability, sex, gender, gender identity, gender expression, sexual orientation, or any other prohibited category of discrimination listed in Government Code 12940. Although neither the district nor opposing candidates have authority to enforce the pledge if it is violated, a candidate's signature is a matter of public record. The following optional paragraph expresses the Board's desire that candidates for Board membership sign and abide by the terms of the pledge.\*\*\*

In order to help protect the public's trust in the electoral process as well as the public's confidence in the Board and district, the Board encourages all candidates to sign and adhere to the principles in the Code of Fair Campaign Practices pursuant to Elections Code 20440.

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 9005 - Governance Standards)

#### Statement of Qualifications

On the 125th day prior to the day fixed for the general district election, the Board secretary or his/her designee shall deliver a notice, bearing the secretary's signature and district seal, to the county elections official describing both of the following: (Elections Code 10509)

1. The elective offices of the district to be filled at the general election and which offices, if any, are for the balance of an unexpired term
2. Whether the district or the candidate is to pay for the publication of a statement of qualifications pursuant to Elections Code 13307

(cf. 9223 - Filling Vacancies)

\*\*\*Note: Pursuant to Elections Code 13307, the candidate statement is limited to 200 words (Option 1 below), unless the Board has authorized an increase to a 400-word maximum (Option 2 below).\*\*\*

OPTION 1: Candidates for the Board may submit a candidate statement to the elections official for inclusion in the voter's pamphlet. Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)

OPTION 2: Candidates for the Board may submit a candidate statement to the elections official for inclusion in the voter's pamphlet. Candidate statements shall be limited to no more than 400 words. (Elections Code 13307)



\*\*\*Note: The following optional paragraph is for use by any district that authorizes electronic distribution of candidate statements in addition to or instead of the mailed voter's pamphlet. Pursuant to Elections Code 13307, a voter may receive by mail a voter's pamphlet that contains candidate statements or, when authorized by the elections official, may opt to obtain the voter's pamphlet and related materials electronically (i.e., from the elections official's web site or via email). If a candidate chooses to submit a statement for electronic distribution only, it will not appear in the mailed voter's pamphlet.\*\*\*

\*\*\*Note: When electronic distribution is authorized by the elections official, districts may choose, pursuant to Elections Code 13307, as amended by AB 2010 (Ch. 128, Statutes of 2016), whether or not to permit Board candidates to prepare a statement for electronic distribution. The following paragraph may be revised to reflect district practice.\*\*\*

When the elections official allows for the electronic distribution of candidate statements, a candidate for the Board may, in addition to or instead of submitting a candidate statement for inclusion in the mailed voter's pamphlet, prepare and submit a candidate statement for electronic distribution.

\*\*\*Note: Prior to the beginning of the nominating period, Elections Code 13307, as amended by AB 2010 (Ch. 128, Statutes of 2016), requires the Board to determine whether to have the district assume the costs of producing candidate statements or to charge candidates for the costs, regardless of whether the statements are for hard copy or electronic distribution. In 85 Ops.Cal.Atty.Gen. 49 (2002), the Attorney General opined that Elections Code 13307, which authorizes the district to pay for the distribution of candidate statements, does not conflict with Education Code 7054, which prohibits the use of district resources for campaign purposes. According to the Attorney General, distributing campaign statements cannot be considered campaigning for any particular candidate in a partisan manner so as to conflict with the Education Code prohibition.\*\*\*

\*\*\*Note: Option 1 below is for districts that assume the costs associated with producing candidate statements, and Option 2 is for districts that charge candidates for the costs. The following options may be revised to reflect the method of distribution (i.e., electronic and/or hard copy) used by the district.\*\*\*

OPTION 1: In order to help defray the costs of campaigning for the Board, the district shall pay the cost of printing, handling, translating, mailing, and/or electronically distributing candidate statements filed pursuant to Elections Code 13307.

OPTION 2: The district shall assume no part of the cost of printing, handling, translating, mailing, or electronically distributing candidate statements filed pursuant to Elections Code 13307. As a condition of having candidate statements included in the hard copy and/or electronic voter's pamphlet, the district may require candidates to pay their estimated pro rata share of these costs to the district in advance pursuant to Elections Code 13307.

Tie Votes in Board Member Elections

\*\*\*Note: Education Code 5016 requires the Board to decide, before conducting any election, whether a potential tie will be resolved by lot or by a runoff election. Option 1 provides for the use of lots to determine the winner in case of a tie in every election, Option 2 provides for a runoff election in every election, and Option 3 is for use by districts that will make this determination prior to each election.\*\*\*

\*\*\*Note: Education Code 5016 requires the County Superintendent of Schools to provide certification of a tie vote in an election to the district Board.\*\*\*

OPTION 1: Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the Board, the Board shall immediately notify the candidates who received the tie votes of the time and place where the candidates or their representatives should appear before the Board. The Board at that time shall determine the winner by lot. (Education Code 5016)

OPTION 2: Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the Board, the Board shall schedule a runoff election in accordance with law. (Education Code 5016)

OPTION 3: Before each election, the Board shall decide whether to resolve a potential tie by lot or by a runoff election. If the Board has decided to resolve a tie by lot, the Board shall, immediately after the election, notify the candidates who received the tie votes of the time and place where the candidates or their representatives should appear before the Board. The Board at that time shall determine the winner by lot. If the Board has decided to resolve a tie with a runoff election, the Board shall schedule the runoff election in accordance with law. (Education Code 5016)

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office, county board of education

5000-5033 Elections

5220-5231 Elections

5300-5304 General provisions (conduct of elections)

5320-5329 Order and call of elections

5340-5345 Consolidation of elections

5360-5363 Election notice

5380 Compensation (of election officer)

5390 Qualifications of voters

5420-5426 Cost of elections

5440-5442 Miscellaneous provisions

7054 Use of district property

35107 Eligibility; school district employees

35177 Campaign expenditures or contributions

35239 Compensation of governing board member of districts with less than 70 ADA

## ELECTIONS CODE

20 Public office eligibility  
1302 Local elections, school district election  
2201 Grounds for cancellation  
4000-4008 Elections conducted wholly by mail  
10010 District boundaries  
10400-10418 Consolidation of elections  
10509 Notice of election by secretary  
10600-10604 School district elections  
13307 Candidate's statement  
13308 Candidate's statement contents  
13309 Candidate's statement, indigence  
14025-14032 California Voting Rights Act  
14050-14057 California Voter Participation Rights Act  
20440 Code of Fair Campaign Practices

## GOVERNMENT CODE

1021 Conviction of crime  
1097 Illegal participation in public contract  
12940 Nondiscrimination, Fair Employment and Housing Act  
81000-91014 Political Reform Act

## PENAL CODE

68 Bribes  
74 Acceptance of gratuity  
424 Embezzlement and falsification of accounts by public officers  
661 Removal for neglect or violation of official duty

## CALIFORNIA CONSTITUTION

Article 2, Section 2 Voters, qualifications  
Article 7, Section 7 Conflicting offices  
Article 7, Section 8 Disqualification from office

## UNITED STATES CODE, TITLE 52

10301-10508 Voting Rights Act

## COURT DECISIONS

Rey v. Madera Unified School District, (2012) 203 Cal. App. 4th 1223  
Randall v. Sorrell, (2006) 126 S.Ct. 2479  
Sanchez v. City of Modesto, (2006) 145 Cal. App. 4th 660  
Dusch v. Davis, (1967) 387 U.S. 112

## ATTORNEY GENERAL OPINIONS

85 Ops.Cal.Atty.Gen. 49 (2002)  
83 Ops.Cal.Atty.Gen. 181 (2000)  
81 Ops.Cal.Atty.Gen. 98 (1998)  
69 Ops.Cal.Atty.Gen. 290 (1986)

## Management Resources:

### CALIFORNIA SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Legal Alert on the Impact of Senate Bill No. 415 on School Board Elections, January 2017

### WEB SITES

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

California Secretary of State's Office: <http://www.sos.ca.gov>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

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

(11/06 4/13) 7/17

# **Board Bylaw**

## **Resignation**

BB 9222

### **Board Bylaws**

\*\*\*Note: Pursuant to Education Code 5090, a Governing Board member who wishes to resign must file a written resignation with the County Superintendent of Schools having jurisdiction over the district. The resignation results in a vacancy on the Board which, pursuant to Government Code 1770 and Education Code 5091-5093, requires the Board to either order an election or make a provisional appointment as appropriate, unless the vacancy occurs within four months of the end of the Board member's term in which case the Board will take no action. See BB 9223 - Filling Vacancies for information about timelines, processes, and eligibility requirements for filling vacancies.\*\*\*

A member of the Governing Board who wishes to resign from the Board shall file a written resignation with the County Superintendent of Schools. (Education Code 5090)

\*\*\*Note: The following paragraph is optional.\*\*\*

The resigning Board member shall also notify the Board and give a copy of his/her written resignation to the Board secretary.

The resignation shall become effective when filed with the County Superintendent, except when a deferred effective date is specified in the resignation. A Board member may not defer the effective date of his/her resignation for more than 60 days after he/she files the resignation with the County Superintendent. (Education Code 5090, 5091)

Once filed, a written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable. (Education Code 5090)

A Board member who tenders his/her resignation with a deferred effective date shall, until the effective date of the resignation, continue to exercise all the powers of the office, except that he/she shall not have the right to vote for his/her successor in an action taken by the Board to make a provisional appointment. (Education Code 5091, 35178)

(cf. 9223 - Filling Vacancies)

A Board member who resigns shall file, within 30 days of leaving office, a revised Statement of Economic Interest/Form 700 covering the period of time between the closing date of the last statement required to be filed and the date he/she leaves office. (Government Code 87302, 87500)

(cf. 9270 - Conflict of Interest)

Legal Reference:

EDUCATION CODE

5090-5095 Vacancies on the board

35178 Resignation with deferred effective date

GOVERNMENT CODE

1770 Vacancy on the board

87300-87313 Conflict of interest code

87500 Statement of economic interests

Management Resources:

CSBA PUBLICATIONS

Filling a Board Vacancy, rev. December 2010

WEB SITES

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

# **Board Bylaw**

## **Filling Vacancies**

BB 9223

### **Board Bylaws**

#### Events Causing a Vacancy

A vacancy on the Governing Board may occur for 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 office for the remainder of his/her 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 effective date of his/her resignation for more than 60 days after he/she files the resignation 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 11384; Government Code 1770)
5. A Board member's ceasing to be a resident of the district (Government Code 1770)

\*\*\*Note: The following paragraph is for use by districts that have established trustee areas. \*\*\*

A vacancy on the Board also occurs when a Board member ceases to inhabit the trustee area which he/she represents on the Board. (58 Ops.Cal.Atty.Gen. 888 (1975))

6. 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

\*\*\*Note: AB 334 (Ch. 54, Statutes of 2011) amended Government Code 1064 to authorize the Governing Board to extend an out-of-state absence for an unlimited duration when the absence is due to illness or other urgent necessity. \*\*\*

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

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 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. A Board member's ceasing to discharge the duties of his/her 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)

\*\*\*Note: Board members forfeit office and, in some cases, are disqualified from holding public office upon conviction of designated crimes as specified in the Constitution and various other state laws. Examples of crimes that result in forfeiture of office include, but are not limited to, convictions for felonies, offenses that involve a violation of official duties, bribery, selling appointments, intoxication in the discharge of official duties, misuse of public funds, conflict of interest violations, and a false claim of receipt of any military decoration or medal. \*\*\*

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

(cf. 9224 - Oath or Affirmation)

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

11. 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)

\*\*\*Note: Pursuant to Education Code 5090, a vacancy is declared when there has been a "failure to elect," meaning that the County Registrar of Voters has determined that an election will not be held because either no candidate or an insufficient number of candidates have filed to run for a Board seat(s). Education Code 5328 authorizes the Board to make an appointment in such circumstances. \*\*\*

12. 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)

\*\*\*Note: Pursuant to Education Code 5091, when a vacancy occurs or when a deferred resignation has been filed four or more months before the end of a Board member's term, the Board shall take action, as specified below. In the event that the Board fails to make a provisional appointment or order an election within 60 days, the County Superintendent of Schools must call an election to fill the vacancy. \*\*\*

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)

3. 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 was elected to fill. (Education Code 5093)

### Eligibility

\*\*\*Note: Persons applying or nominated for a Board position must meet the legal qualifications for Board members as detailed in Education Code 35107. Education Code 35107 also provides that a district employee appointed or elected to the Board must resign his/her employment before being sworn in or have his/her employment automatically terminated upon being sworn into office. See BB 9220 - Governing Board Elections. \*\*\*

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.

(cf. 9220 - Governing Board Elections)

### Provisional Appointments

\*\*\*Note: The Board is authorized to make a provisional appointment to fill a vacancy pursuant to item #2 in the section above entitled "Timelines for Filling a Vacancy." The law does not specify procedures for making provisional appointments for vacancies caused by reasons other than a failure to elect; however, such procedures must comply with the requirements of the Brown Act (Government Code 54950-54963). Secret ballots are prohibited by Government Code 54953. \*\*\*

\*\*\*Note: The following optional paragraph should be modified to reflect district practice. See CSBA's publication Filling a Board Vacancy for additional information about provisional appointments, including sample questions for interviewing and evaluating candidates. \*\*\*

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.

(cf. 9130 - Board Committees)

(cf. 9323.2 - Actions by the Board)

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)

#### Appointment Due to Failure to Elect

\*\*\*Note: The following procedure applies when an appointment is being made because of a failure to elect pursuant to Education Code 5090, 5326, and 5328 (item #13 in section entitled "Events Causing a Vacancy" above). \*\*\*

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)

(cf. 9100 - Organization)

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.

#### Legal Reference:

##### EDUCATION CODE

5000-5033 Elections

5090-5095 Vacancies

5200-5208 Districts governed by boards of education

5300-5304 Elections

5320-5329 Order and call of election

5340-5345 Consolidation of elections

5360-5363 Election notice

5420-5426 Cost of elections

5440-5442 Miscellaneous provisions, elections

35107 Eligibility of board members

35178 Resignation with deferred effective date

##### ELECTIONS CODE

10600-10604 School district elections

11381-11386 Candidates for recall

##### GOVERNMENT CODE

1064 Absence from state  
1770 Vacancies: definition  
3000-3003 Forfeiture of office  
3060-3075 Removal other than by impeachment  
6061 One time notice  
54950-54963 The Ralph M. Brown Act  
PENAL CODE  
88 Bribery, forfeiture from office  
UNITED STATES CODE, TITLE 18  
704 Military medals or decorations  
ATTORNEY GENERAL OPINIONS  
58 Ops.Cal.Atty.Gen. 888 (1975)

Management Resources:

CSBA PUBLICATIONS

Filling a Board Vacancy, rev. December 2010

WEB SITES

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

California State Attorney General's Office, Quo Warranto Applications:

[http://ag.ca.gov/opinions/quo\\_warranto.php](http://ag.ca.gov/opinions/quo_warranto.php)

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# **Board Bylaw**

## **Oath Or Affirmation**

BB 9224

### **Board Bylaws**

\*\*\*Note: The oath or affirmation required of Board members pursuant to Article 20, Section 3, of the California Constitution is the same as that required by Government Code 3100-3109 for public employees. See E 4112.3/4212.3/4312.3 - Oath or Affirmation for the text of the oath. Government Code 1303 provides that any person who exercises any function of a public office without taking the oath of office is guilty of a misdemeanor, and Government Code 1367 provides that no compensation or reimbursement for expenses shall be paid unless the officer has taken the oath or affirmation.\*\*\*

\*\*\*Note: The district should consult legal counsel if a Board member raises a bona fide religious concern about taking the state-required oath.\*\*\*

Prior to entering upon the duties of their office, all Governing Board members shall take the oath or affirmation required by law. (California Constitution, Article 20, Section 3; Government Code 1360)

(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)

\*\*\*Note: In addition to the persons listed below, Education Code 60 specifies state-level officers who may administer the oath.\*\*\*

The oath may be administered and certified by a Board member, secretary or assistant secretary to the Board, Superintendent, deputy or assistant superintendent, principal, or County Superintendent of Schools or any other person authorized in Education Code 60.

The executed oath shall be filed with the County Clerk. (Government Code 1363)

#### Legal Reference:

##### EDUCATION CODE

60 Persons authorized to administer and certify oaths

##### GOVERNMENT CODE

1303 Misdemeanor for failure to take oath

1360-1369 Oath of office

3100-3109 Oath or affirmation of allegiance

##### CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

##### COURT DECISIONS

Chilton v. Contra Costa Community College District (1976) 55 Cal. App. 3d 544  
Vogel v. County of Los Angeles (1967) 68 Cal. 2d 18, 22

(9/91) 7/03

# **Board Bylaw**

## **Orientation**

BB 9230

### **Board Bylaws**

\*\*\*Note: The following optional bylaw may be revised to reflect district practice. In addition to providing new Governing Board members with information about district programs and operations, it is recommended that new Board members be provided information and professional development regarding the roles and responsibilities of the Board (see BB 9000 - Role of the Board) and professional governance standards agreed upon by the Board (see BB 9005 - Governance Standards). The provision of information to Board candidates regarding the district and/or Board responsibilities is addressed in BB 9220 - Governing Board Elections.\*\*\*

The Governing Board recognizes the importance of providing all newly elected or appointed Board members with support and information to assist them in becoming effective members of the Board. Incoming Board members shall be provided an orientation designed to build their knowledge of the district and an understanding of the responsibilities of their position. Such orientation may include the provision of information, support, and/or training related to Board functions, policies, protocols, and standards of conduct.

(cf. 9000 - Role of the Board)

(cf. 9220 - Governing Board Elections)

(cf. 9223 - Filling Vacancies)

\*\*\*Note: Pursuant to Government Code 54952.2, if a majority of Board members congregate at the same time and location to hear or discuss matters within the jurisdiction of the Board, the meeting must be open to the public and proper notice provided; see BB 9320 - Meetings and Notices. The following optional paragraph provides for orientation meetings to be held with all members of the Board during a public Board meeting and may be revised to reflect district practice.\*\*\*

As early as possible following the election or appointment of Board members, one or more orientation sessions shall be held during open meeting(s) of the Board. The Board president and the Superintendent or designee shall develop an agenda for the meeting(s) and shall identify resources that may be useful for incoming Board members.

(cf. 9121 - President)

\*\*\*Note: The following optional paragraph may be revised to reflect district practice. Pursuant to Government Code 54952.7, the Board may require that a copy of the Brown Act be given to each member of the Board and any person elected to the Board who has not yet assumed the duties of office. Government Code 54952.1 states that persons elected to serve as Board members, even if they have not yet assumed office, are subject to the requirements of the Brown

Act as soon as they are elected.\*\*\*

Upon their election or appointment, incoming Board members shall be provided a copy of the Brown Act and informed that, pursuant to Government Code 54952.1, they must conform to the Act's requirements as if they had already assumed office. Additional information for incoming Board members may include, but is not limited to, Board bylaws related to the limits of individual Board member authority, the conduct of Board meetings, and other Board operations; governance standards for ethical conduct; legal requirements related to conflict of interest and prohibited political activity; protocols for speaking with district staff, members of the public, and the media; and publications on effective governance practices.

(cf. 1112 - Media Relations)  
(cf. 1160 - Political Processes)  
(cf. 9005 - Governance Standards)  
(cf. 9010 - Public Statements)  
(cf. 9011 - Disclosure of Confidential/Privileged Information)  
(cf. 9012 - Board Member Electronic Communications)  
(cf. 9200 - Limits of Board Member Authority)  
(cf. 9270 - Conflict of Interest)  
(cf. 9323 - Meeting Conduct)

In addition, the Superintendent or designee shall provide incoming Board members with specific background information regarding the district, including, but not limited to, the district's vision and goals statements, local control and accountability plan and other comprehensive plans, student demographic data, student achievement data, district policy manual, district budget, and minutes of recent open Board meetings.

(cf. 0000 - Vision)  
(cf. 0200 - Goals for the School District)  
(cf. 0400 - Comprehensive Plans)  
(cf. 0460 - Local Control and Accountability Plan)

The Superintendent or designee may offer incoming Board members a tour of district schools and facilities, and may introduce them to district and school site administrators and other staff.

\*\*\*Note: See CSBA's web site for information about CSBA conferences and workshops that address the needs of new Board members, including its Orientation for New Trustees, Institute for New and First-Term Board Members, and other education opportunities related to governance basics.\*\*\*

\*\*\*Note: Pursuant to Government Code 54952.2, a "meeting" subject to Brown Act requirements does not include the attendance of a majority of the Board's members at a conference or similar public gathering, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the Board. See BB 9240 - Board Training and BB 9320 - Meetings and Notices.\*\*\*



Incoming members are encouraged, at district expense and with approval of the Board, to attend the California School Boards Association's Orientation for New Trustees, Institute for New and First-Term Board Members, and workshops and conferences relevant to the needs of the individual member, the Board as a whole, or the district.

(cf. 9240 - Board Training)

(cf. 9320 - Meetings and Notices)

Legal Reference:

EDUCATION CODE

33360 Department of Education and statewide association of school district boards; annual workshops

33362-33363 Reimbursement of expenses; board member or member-elect

GOVERNMENT CODE

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

54952.1 Member of a legislative body

54952.2 Open meeting laws; posting agenda; board actions

54952.7 Copies of Brown Act to board members

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards for School Boards

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

WEB SITES

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

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# **Board Bylaw**

## **Board Training**

BB 9240

### **Board Bylaws**

\*\*\*Note: The following optional bylaw may be revised to reflect district practice.\*\*\*

\*\*\*Note: CSBA's Professional Governance Standards include expectations that each individual Governing Board member will participate in professional development and commit the time and energy necessary to be an informed and effective leader. See CSBA's web site for education opportunities available through CSBA, including, but not limited to, CSBA's Institute for New and First-Term Board Members, Masters in Governance program, Annual Education Conference and Trade Show, Legal Symposium for Experienced Board Members, Board Presidents Workshop, Brown Act Workshop, Back-to-School Webcast, other workshops and webinars on specific topics, and in-district governance consulting services.\*\*\*

The Governing Board believes that the Board's ability to effectively and responsibly govern the district is essential to promoting student achievement, building positive community relations, and protecting the public interest in district schools. Board members shall be provided sufficient opportunities for professional development that helps them understand their responsibilities, stay abreast of new developments in education, and develop boardmanship skills.

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

The Board and/or the Superintendent or designee shall provide an orientation to newly elected or appointed Board members which includes comprehensive information regarding Board roles, policies, and procedures and the district's vision and goals, operations, and current challenges. Throughout their first term, Board members shall continue to participate in additional educational opportunities designed to assist them in understanding the principles of effective governance, including, but not limited to, information on school finance and budgets, student achievement and assessment, labor relations, community relations, program evaluation, open meeting laws (the Brown Act), conflict of interest laws, and other topics necessary to govern effectively and in compliance with law.

(cf. 9230 - Orientation)

All Board members are encouraged to continuously participate in advanced training offered by the California School Boards Association in order to reinforce boardmanship skills and build knowledge related to key education issues. Such activities may include online courses, webinars, webcasts, and in-person attendance at workshops and conferences. In addition, workshops and consultations may be held within the district on issues that involve the entire governance team.

\*\*\*Note: CSBA recommends that board training and travel expenses be budgeted as separate items. While training is essential to maintain an effective, well-informed Board, travel expenses are incurred for a variety of reasons.\*\*\*

\*\*\*Note: It is also recommended that the Board determine the manner in which board training activities that require the use of district funds will be selected or approved. Districts may allocate funds equally to each Board member and allow each member discretion to select activities that meet his/her needs, or may require that all activities or activities over a specified cost be approved by the full Board. The following paragraph may be revised to reflect district practice.\*\*\*

Funds for board training shall be budgeted annually for the Board and each Board member. In selecting appropriate activities, the Board and/or individual Board members shall consider activities that are aligned with the district's vision and goals and the needs of the Board or individual member to obtain specific knowledge and skills. The Board shall annually develop a board training calendar in order to schedule and track board training activities and to schedule opportunities for Board members to report on the activities in which they participated.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 3100 - Budget)

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

\*\*\*Note: Pursuant to Government Code 54952.2, a "meeting" subject to Brown Act requirements does not include the attendance of a majority of the Board's members at a conference or similar public gathering, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the Board. Also see BB 9320 - Meetings and Notices.\*\*\*

Board members may attend a conference or similar public gathering with other Board members and/or with the Superintendent or designee in order to develop common knowledge and understanding of an issue or engage in team-building exercises. In such cases, a majority of the Board members shall not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the district's jurisdiction, so as not to violate the Brown Act open meeting laws pursuant to Government Code 54952.2.

(cf. 9320 - Meetings and Notices)

Board members shall report to the Board, orally or in writing, on the board training activities they attend, for the purpose of sharing the acquired knowledge or skills with the full Board and enlarging the benefit of the activity to the Board and district.

Legal Reference:

GOVERNMENT CODE

54950-54963 The Ralph M. Brown Act, especially:  
54952.2 Meeting

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards for School Boards

WEB SITES

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

California County Boards of Education: <http://www.theccbe.org>

National School Boards Association: <http://www.nsba.org>

(12/87 6/94) 12/16

# Board Bylaw

## Remuneration, Reimbursement And Other Benefits

BB 9250

### Board Bylaws

#### Compensation

\*\*\*Note: Education Code 35120 authorizes Governing Board members to receive compensation for their services, with a maximum amount prescribed based on the district's average daily attendance (ADA) for the prior school year.\*\*\*

\*\*\*Note: The district should select the appropriate option below. If the Board selects Option 1, it may, at its discretion, revise the paragraph to reflect the maximum amount applicable to its ADA. If the Board elects to receive less than the maximum amount provided in law, it should select Option 2 and specify the amount.\*\*\*

OPTION 1: Each member of the Governing Board may receive the maximum monthly compensation as provided for in Education Code 35120.

OPTION 2: Each member of the Governing Board may receive a monthly compensation of \$ \_\_\_\_\_ . (Education Code 35120)

OPTION 3: The members of the Governing Board view their Board service as a voluntary contribution to the community and elect not to receive the compensation to which they are entitled pursuant to Education Code 35120.

\*\*\*Note: The remainder of this section is for use by districts that selected Option 1 or 2 above.\*\*\*

On an annual basis, the Board may increase the compensation of Board members beyond the limit delineated in Education Code 35120 in an amount not to exceed five percent based on the present monthly rate of compensation. (Education Code 35120)

Board members are not required to accept payment for meetings attended.

Any member who does not attend all Board meetings during the month is eligible to receive only a percentage of the monthly compensation equal to the percentage of meetings he/she attended, unless otherwise authorized by the Board in accordance with law. (Education Code 35120)

\*\*\*Note: Pursuant to Education Code 35120, the Board may adopt a resolution authorizing a Board member to be compensated for meetings he/she missed under specified circumstances. See the accompanying exhibit for a sample resolution.\*\*\*

A member may be compensated for meetings he/she missed when the Board, by resolution, finds that he/she was performing designated services for the district at the time of the meeting or that he/she was absent because of illness, jury duty, or a hardship deemed acceptable by the Board. (Education Code 35120)

Student Board members shall receive no compensation for meetings attended. (Education Code 35012)

(cf. 9150 - Student Board Members)

\*\*\*Note: The following optional paragraph is for use by any board whose quorum also serves as another legislative body that receives additional compensation. Pursuant to Government Code 54952.3, the disclosure requirements described below are not applicable if the compensation of the legislative body is set by statute.\*\*\*

Whenever a quorum of Board members serves as another legislative body which will meet simultaneously or in serial order to a Board meeting, the Board clerk or a member of the Board shall verbally announce the amount of any additional compensation or stipend that each member will be entitled to receive as a result of convening the simultaneous or serial meeting. (Government Code 54952.3)

#### Reimbursement of Expenses

\*\*\*Note: The district is allowed to reimburse Board members for expenses incurred when performing district business. Pursuant to Government Code 8314, it is unlawful for any elected official to use or permit others to use public resources for personal purposes which are not authorized by law. As defined, "personal purposes" include activities for personal enjoyment, private gain or advantage, or an outside endeavor not related to agency business, but do not include the incidental and minimal use of public resources (e.g., equipment or office space) for personal purposes, including an occasional telephone call.\*\*\*

Board members shall be reimbursed for actual and necessary expenses incurred when performing authorized services for the district. Expenses for travel, telephone, business meals, or other authorized purposes shall be in accordance with policies established for district personnel and at the same rate of reimbursement.

(cf. 1160 - Political Processes)

(cf. 3100 - Budget)

(cf. 3350 - Travel Expenses)

(cf. 3513.1 - Cellular Phone Reimbursement)

\*\*\*Note: Education Code 35044 authorizes reimbursement for Board members for travel expenses incurred when performing services directed by the Board. If the district wishes to require prior Board approval for travel and/or for certain kinds of trips (e.g., out-of-state travel), it should modify the following paragraph accordingly.\*\*\*

Board members shall be reimbursed for travel expenses incurred when performing services directed by the Board. (Education Code 35044)

(cf. 9240 - Board Training)

\*\*\*Note: The remainder of this section is optional and may be revised to reflect district practice.\*\*\*

Authorized purposes may include, but are not limited to, attendance at educational seminars or conferences designed to improve Board members' skills and knowledge; participation in regional, state, or national organizations whose activities affect the district's interests; attendance at district or community events; and meetings with state or federal officials on issues of community concern.

Personal expenses shall be the responsibility of individual Board members. Personal expenses include, but are not limited to, the personal portion of any trip, tips or gratuities, alcohol, entertainment, laundry, expenses of any family member who is accompanying the Board member on district-related business, personal use of an automobile, and personal losses and traffic violation fees incurred while on district business.

Any questions regarding the propriety of a particular type of expense should be resolved by the Superintendent or designee before the expense is incurred.

\*\*\*Note: The following optional paragraph should be deleted if the district does not issue credit cards to Board members. A policy statement issued by the Institute for Local Government, although primarily applicable to city and county governments, indicates that many local agencies have decided not to issue credit cards to local officials because of the potential for confusing an agency credit card with a personal card and the negative consequences of personal use of an agency card.\*\*\*

Board members may use district-issued credit cards while on official district business and consistent with the limits established for district personnel. Personal expenses shall not be charged on a district-issued credit card, even if the Board member intends to subsequently reimburse the district for the personal charges.

#### Health and Welfare Benefits for Current Board Members

\*\*\*Note: The following section is optional. The district has the option of providing health and welfare benefits to Board members pursuant to Government Code 53201 and 53205 and has flexibility in selecting the types of coverage and the methods of payment for such coverage. Pursuant to Government Code 53200, health and welfare benefits may include, but are not limited to, hospital, medical, surgical, dental, disability, group life, legal expense, and income protection insurance or benefits. However, Internal Revenue Service Publication 571 indicates that, as elected officials, Board members are not eligible to participate in district programs for the purchase of tax sheltered annuities pursuant to 26 USC 403 and 26 CFR 1.403(b)-2.\*\*\*

\*\*\*Note: Pursuant to Government Code 53208.5, the health and welfare benefits of a Board member can be no greater than that received by nonsafety employees of the district or, if the district has different benefit structures, no greater than the most generous schedule of benefits being received by any category of nonsafety employees. Nonsafety employees are those employees not otherwise included in Government Code 20420-20445 defining "safety members" for purposes of membership in the Public Employees' Retirement System. Government Code 53208.5 also provides that Board members shall not be eligible to accrue multiple health and welfare benefits from two or more public agencies for concurrent service, unless the Board member serves as a regular full-time employee in a separate public agency.\*\*\*

\*\*\*Note: Government Code 53202 authorizes the district to contract with one or more insurers, health service organizations, or legal service organizations for health and welfare benefits. Alternatively, the district may approve an existing health care arrangement between a Board member and an insurer or health care provider. In 83 Ops.Cal.Atty.Gen. 124 (2000), the Attorney General opined that, if the district chooses to approve such an arrangement, the district may pay for this benefit by way of reimbursement to the Board member who has paid for the benefit instead of direct district payment to the insurer. However, according to the Attorney General, a district may not make cash payments to Board members in lieu of providing them with health insurance benefits.\*\*\*

Board members may participate in the health and welfare benefits program provided for district employees.

(cf. 4154/4254/4354 - Health and Welfare Benefits)

Health and welfare benefits for Board members shall be no greater than that received by the district's nonsafety employees with the most generous schedule of benefits. (Government Code 53208.5)

\*\*\*Note: The district may choose and/or revise any of the following options to reflect district practice.\*\*\*

OPTION 1: The district shall pay the premiums required for Board members electing to participate in the district health and welfare benefits program to the same extent that it pays for district employees.

OPTION 2: Board members who elect to participate shall pay the full cost of premiums.

OPTION 3: The district shall pay \$ \_\_\_\_\_ as a reimbursement for costs of approved health plans that have been paid by Board members.

\*\*\*Note: The following optional paragraph is for use by districts that choose to pay all or a portion of premiums, dues, or other charges for health and welfare benefits for a Board member's spouse or dependent children, as authorized by Government Code 53205.1. The district may revise the paragraph to specify a different portion of payment.\*\*\*



\*\*\*Note: Pursuant to Family Code 297.5, registered domestic partners have the same rights, protections, and benefits as spouses under California law. Therefore, to the extent that the district provides health benefits under state law to spouses of Board members, the same coverage must be provided to registered domestic partners.\*\*\*

\*\*\*Note: Pursuant to Health and Safety Code 1373 and Insurance Code 10277, the age at which a person ceases to be a dependent child is age 26 years or higher as specified in the health plan, unless otherwise provided under a plan that qualifies as a grandfathered plan pursuant to 42 USC 18011. In addition, a health services plan or insurer is required to continue coverage for a dependent child who attains the age specified in the plan if he/she is incapable of self-sustaining employment by reason of a physically or mentally disabling injury, illness, or condition and is chiefly dependent on the subscriber or insured for support. Health and Safety Code 1373 and Insurance Code 10277 also require that, if the plan provides coverage for a dependent child who is over age 26 and enrolled at a secondary or postsecondary educational institution, continued coverage must be provided during any break in the school calendar and during a medical leave of absence as specified.\*\*\*

Health and welfare benefits provided to Board members shall be extended at the same level to their spouse/registered domestic partner and to their eligible dependent children as specified in law and the health plan.

#### Health and Welfare Benefits for Former Board Members

\*\*\*Note: The following section is optional. Government Code 53201 authorizes the district to pay premiums for health and welfare benefits for former Board members under the limited circumstances described below. Any district that does not offer benefits to former Board members should delete this entire section.\*\*\*

Former Board members may participate in the health and welfare benefits program provided for district employees under the conditions specified below.

\*\*\*Note: Government Code 53208.5 provides that Board members may not receive benefits greater than those provided to district employees, as provided below. Thus, if a district's collective bargaining agreement specifies that employee eligibility for benefits terminates at age 65, then Board member benefits will also terminate at that time. Districts with such circumstances may expand the following paragraph to indicate the limits of the benefits.\*\*\*

Health and welfare benefits for former Board members shall be no greater than those received by district nonsafety employees with the most generous schedule of benefits. (Government Code 53208.5)

\*\*\*Note: Pursuant to Government Code 53201, a district may pay premiums for health and welfare benefits for former Board members only if all of the following conditions are satisfied: (1) the district paid for benefits for former Board members before January 1, 1994; (2) the former Board member served in office after January 1, 1981; (3) the former Board member's term began before January 1, 1995; and (4) the former Board member served for 12 or more

years. If the district did not pay benefits for former Board members before January 1, 1994, benefits may be provided to former Board members only on a self-pay basis, even if a former member has served in office for the requisite amount of time.\*\*\*

\*\*\*Note: In *Thorning v. Hollister School District*, the court of appeal ruled that a board policy adopted during the board member's term of office has the effect of vesting him/her with those benefits and that the board cannot subsequently unilaterally withdraw those benefits from those board members.\*\*\*

\*\*\*Note: Option 1 below is for use only by districts that paid health and welfare benefits for former board members before January 1, 1994 and choose to continue to do so. Option 2 is for use by districts that are either ineligible to pay for such benefits because they did not pay for former board member benefits before January 1, 1994, have no qualified board members, or choose not to pay for such benefits.\*\*\*

\*\*\*Note: Because this is a complex area of law, it is strongly recommended that the district consult with legal counsel before offering paid health benefits to former Board members.\*\*\*

#### OPTION 1: (Benefits paid by district)

The district shall pay the premiums for health and welfare benefits of any former Board member who served in office after January 1, 1981, began his/her term before January 1, 1995, and has served for 12 or more years. (Government Code 53201)

\*\*\*Note: The following paragraph is optional. If the district allows Board members elected on or after January 1, 1995 to continue benefits at their own expense after leaving service, as authorized by Government Code 53201, it may revise the following paragraph to require more than one term of service at its discretion.\*\*\*

Any other former Board member who served at least one term may participate in the health and welfare benefits program at his/her own expense if coverage is in effect at the time he/she leaves office. (Government Code 53201)

#### OPTION 2: (Benefits paid by former Board member)

\*\*\*Note: At its discretion, the Board may revise the following paragraph to require more than one term of office.\*\*\*

Any former Board member leaving the Board after at least one term of office may participate in the health and welfare benefits program at his/her own expense if coverage is in effect at the time of retirement. (Government Code 53201)

\*\*\*Note: The following optional paragraph is for use by all districts. Government Code 53205.1 authorizes the district to fund health and welfare benefits for spouses and dependent children of former Board members.\*\*\*

Health and welfare benefits provided to a former Board member shall be extended, at his/her expense and at the same level, to his/her spouse/registered domestic partner and eligible dependent children as specified in law and the health plan.

Legal Reference:

EDUCATION CODE

- 33050-33053 General waiver authority
- 33362-33363 Reimbursement of expenses for attendance at workshops
- 35012 Board members; number, election and term
- 35044 Payment of traveling expenses of representatives of board
- 35120 Compensation for services as member of governing board
- 35172 Promotional activities
- 44038 Cash deposits for transportation purchased on credit

FAMILY CODE

- 297-297.5 Rights, protections and benefits under law; registered domestic partners

GOVERNMENT CODE

- 8314 Use of public resources
- 20322 Elective officers; election to become member
- 20420-20445 Membership in Public Employees' Retirement System; definition of safety employees
- 53200-53209 Group insurance
- 54952.3 Simultaneous or serial meetings; announcement of compensation

HEALTH AND SAFETY CODE

- 1373 Health services plan, coverage for dependent children

INSURANCE CODE

- 10277-10278 Group and individual health insurance, coverage for dependent children

UNITED STATES CODE, TITLE 26

- 403 Tax-sheltered annuities

UNITED STATES CODE, TITLE 42

- 18011 Right to maintain existing health coverage

CODE OF FEDERAL REGULATIONS, TITLE 26

- 1.403(b)-2 Tax-sheltered annuities, definition of employee

COURT DECISIONS

Thorning v. Hollister School District, (1992) 11 Cal.App.4th 1598

Board of Education of the Palo Alto Unified School District v. Superior Court of Santa Clara County, (1979) 93 Cal.App.3d 578

ATTORNEY GENERAL OPINIONS

91 Ops.Cal.Atty.Gen. 37 (2008)

83 Ops.Cal.Atty.Gen. 124 (2000)

Management Resources:

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Sample Expense and Use of Public Resources Policy Statement, January 2006

INTERNAL REVENUE SERVICE PUBLICATIONS

Tax-Sheltered Annuity Plans (403(b) Plans) for Employees of Public Schools and Certain  
Tax-Exempt Organizations, Publication 571, rev. February 2013

WEB SITES

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

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

Internal Revenue Service: <http://www.irs.gov>

Public Employees' Retirement System: <http://www.calpers.ca.gov>

(11/01 11/02) 8/13

# Exhibit

## Remuneration, Reimbursement And Other Benefits

E 9250

### Board Bylaws

#### RESOLUTION ON BOARD COMPENSATION FOR MISSED MEETINGS

\*\*\*Note: The following optional exhibit is for use by districts that offer compensation to members of the Governing Board for their service; see Options #1 and 2 in the accompanying board bylaw. Pursuant to Education Code 35120, a Board member may receive compensation for Board meetings that he/she missed if the Board makes a finding, by resolution, that one or more specified circumstances exist.\*\*\*

WHEREAS, the Governing Board of the \_\_\_\_\_ School District appreciates the services provided by members of the Board and provides compensation for meeting attendance in accordance with Education Code 35120 and Board Bylaw 9250; and

WHEREAS, Education Code 35120 provides that the monthly compensation provided to Board members shall be commensurate with the percentage of meetings attended during the month unless otherwise authorized by Board resolution; and

WHEREAS, Education Code 35120 specifies limited circumstances under which the Board is authorized to compensate a Board member for meetings he/she missed; and

WHEREAS, the Board finds that (name of Board member) did not attend the Board meeting(s) on (dates) for the following reason(s): (check applicable reasons)

- Performance of other designated duties for the district during the time of the meeting
- Illness or jury duty
- Hardship deemed acceptable by the Board

NOW THEREFORE BE IT RESOLVED that the Board of the \_\_\_\_\_ School District approves full compensation of the Board member for the month of \_\_\_\_\_.

PASSED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at a regular meeting, by the following vote:

AYES: \_\_\_\_\_ NOES: \_\_\_\_\_ ABSENT: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President



# **Board Bylaw**

## **Legal Protection**

BB 9260

### **Board Bylaws**

#### Liability Insurance

\*\*\*Note: Education Code 35208 requires Governing Boards to insure the district's liability for death, personal injury or damage/loss of property, and to insure the personal liability of Board members, district officers and employees for death, personal injury or damage/loss of property caused by their negligent act or omission when acting within the scope of their office or employment. Districts may self-insure by provisions of Education Code 35214.\*\*\*

The Governing Board shall provide insurance necessary to protect Board members and employees while acting within the scope of their office or employment in accordance with Education Code 35208.

(cf. 3530 - Risk Management/Insurance)

\*\*\*Note: Pursuant to Government Code 820.9, Board members are not vicariously liable for injuries caused by the district's acts or omissions. The California Supreme Court determined, in *Caldwell v. Montoya*, that Board members are also immune from suits when performing "discretionary acts," such as basic governmental policy decisions, within the scope of their duties. Personal liability exists, however, for injuries caused by the individual's own wrongful conduct and may also exist, in some circumstances, for civil rights violations or knowing violations of the Brown Act. See BB 9323.2 - Actions by the Board. Because the determination as to whether personal liability exists is dependent on the specific facts of each case, it is strongly recommended that legal counsel be consulted when questions arise. \*\*\*

#### Protection Against Liability

No Board member shall be liable for harm caused by his/her act or omission when acting within the scope of district responsibilities. The act or omission must be in conformity with federal, state and local laws and made in furtherance of an effort to control, discipline, expel or suspend a student, or maintain order or control in the classroom or school. (20 USC 6736)

The protection against liability shall not apply when: (20 USC 6736)

1. The Board member acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the harmed person's right to safety.
2. The Board member caused harm by operating a motor vehicle.

3. The Board member was not properly licensed, if required, by the State for such activities.
4. The Board member was found by a court to have violated a federal or state civil rights law.
5. The Board member was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the Board member has been convicted in a court.
7. The misconduct involved a sexual offense for which the Board member has been convicted in a court.

Legal Reference:

EDUCATION CODE

17029.5 Contract funding; board liability

35208 Liability insurance

35214 Liability insurance (self-insurance or a combination of self-insurance and insurance through an insurance company)

GOVERNMENT CODE

815.3 Intentional torts

820-823 Tort Claims Act

825.6 Indemnification of public entity

1090-1098 Conflicts of interest, prohibitions applicable to specified officers

54950-54963 The Ralph M. Brown Act

87100-89503 Conflicts of interest

UNITED STATES CODE, TITLE 18

16 Crime of violence defined

UNITED STATES CODE, TITLE 20

6731-6738 Teacher Protection Act

COURT DECISIONS

Caldwell v. Montoya (Paramount Unified School District) 10 Cal 4th 972 (1995)



# **Board Bylaw**

## **Conflict Of Interest**

BB 9270

### **Board Bylaws**

\*\*\*Note: The determination as to whether a conflict of interest exists must be analyzed under two separate sets of statutes: (1) the conflict of interest provisions of the Political Reform Act (PRA) (Government Code 87100-87505), detailed in the section below entitled "Conflict of Interest under the Political Reform Act," and (2) Government Code 1090-1098, detailed in the section below entitled "Conflict of Interest under Government Code 1090 - Financial Interest in a Contract." Even when a conflict does not exist pursuant to those statutes, a violation might still occur under the common law doctrine against conflict of interest; see the section below entitled "Common Law Doctrine Against Conflict of Interest."\*\*\*

\*\*\*Note: Because the law and definitions are quite complex, it is strongly recommended that districts consult with legal counsel and staff from the Fair Political Practices Commission (FPPC) as soon as a potential conflict is presented.\*\*\*

The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

(cf. 9005 - Governance Standards)

Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs. Relative means an adult who is related to the Board member by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. (Education Code 35107)

\*\*\*Note: The following paragraph reflects the common law definition of "relative within the third degree."\*\*\*

A relationship within the third degree includes an individual's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced.

\*\*\*Note: The Governing Board is required to adopt a conflict of interest code in compliance with Government Code 87300-87313. Board members and employees designated in the

district's conflict of interest code are required by Government Code 87500 to annually file a Statement of Economic Interest/Form 700 to disclose any assets and income which may be materially affected by official actions. Under the PRA, there are two separate categories of Form 700 disclosure requirements. For the first category pursuant to Government Code 87302, which is applicable to most school districts, the disclosure requirements are determined by the district and set forth in the district's conflict of interest code. The second category, pursuant to Government Code 87200, is only applicable to Board members and designated employees who "manage public investments"; see section below entitled "Additional Requirements for Boards that Manage Public Investments." Those Board members and designated employees, referred to by the FPPC as Government Code 87200/Article 2 filers, must file broader disclosure statements pursuant to the disclosure requirements specified in law and FPPC regulation.\*\*\*

\*\*\*Note: Pursuant to Government Code 87303, the district's conflict of interest code must be approved by the appropriate code reviewing body. For districts located entirely in one county, the code reviewing body is the board of supervisors of the county in which the district is located. The FPPC is the code reviewing body for those school districts located in more than one county.\*\*\*

\*\*\*Note: Pursuant to 2 CCR 18730, the requirements of the Government Code are satisfied if a district adopts a conflict of interest code that incorporates 2 CCR 18730 by reference, along with a list of designated positions and disclosure categories. The accompanying exhibit (E 9270) contains a sample resolution that includes an appendix with designated positions and disclosure categories which, once adopted by the Board, will comprise the terms of the district's conflict of interest code that should be submitted to the code reviewing body.\*\*\*

The Board shall adopt for the district a conflict of interest code that incorporates the provisions of 2 CCR 18730 by reference, specifies the district's designated positions, and provides the disclosure categories required for each position. The conflict of interest code shall be submitted to the district's code reviewing body for approval, in accordance with Government Code 87303 and within the deadline for submission established by the code reviewing body. (Government Code 87303)

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code and submit any changes to the code reviewing body or, if no change is required, the Board shall submit a written statement to that effect. (Government Code 87306.5)

When a change in the district's conflict of interest code is necessitated due to changed circumstances, such as the creation of new designated positions, changes to the duties assigned to existing positions, amendments, or revisions, the amended code shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. (Government Code 87306)

When reviewing and preparing the district's conflict of interest code, the Superintendent or designee shall provide officers, employees, consultants, and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

(cf. 9320 - Meetings and Notices)

Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the district's conflict of interest code. A Board member who leaves office or a designated employee who leaves district employment shall, within 30 days, file a revised statement covering the period of time between the closing date of the last required statement and the date of leaving office or district employment. (Government Code 87302, 87302.6)

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

### Conflict of Interest under the Political Reform Act

\*\*\*Note: The FPPC has adopted an eight-step analysis, detailed in Government Code 87100-87500, 2 CCR 18700-18755, and interpretive opinions, to determine whether a conflict of interest exists under the PRA. When such a conflict exists, the affected Board member must disclose the interest and disqualify himself/herself from participating in the decision, as specified below. Because Family Code 297.5 grants a registered domestic partner the same rights, protections, and benefits as a spouse under state law, analysis of a conflict of interest with regards to a Board member's spouse is also applicable to a registered domestic partner.\*\*\*

A Board member, designated employee, or other person in a designated position shall not make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a disqualifying conflict of interest. A disqualifying conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect," which is distinguishable from the effect on the public generally, on the Board member, designated employee, or other person in a designated position, his/her immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18707)

A Board member, designated employee, or other person in a designated position makes a governmental decision when he/she, acting within the authority of his/her office or position, authorizes or directs any action on a matter, votes or provides information or opinion on it, contacts or appears before a district official for the purpose of affecting the decision, or takes any other action specified in 2 CCR 18704.

\*\*\*Note: 2 CCR 18705 permits a Board member who is financially interested in a contract to participate in making a decision on the contract if (1) he/she discloses the existence of the conflict and describes with particularity the nature of his/her economic interest in the contract; (2) gives a summary description of the circumstances under which he/she believes the conflict may arise; and (3) either he/she, another Board member, or a district employee discloses the legal basis for concluding that no alternative source of decision exists for the district. In general, this rule will permit a district to acquire an essential supply or service. CSBA strongly recommends that legal counsel be consulted when situations arise involving the rule of necessity, as strict compliance is required.\*\*\*

However, a Board member shall participate in the making of a contract in which he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

#### Additional Requirements for Boards that Manage Public Investments

\*\*\*Note: The following optional section is for use only by districts in which the Board and/or designated employees are considered to be "officials who manage public investments" and who are required to file a full financial disclosure statement in accordance with Government Code 87200. It should be deleted by all other districts. See the accompanying exhibit for further information.\*\*\*

\*\*\*Note: According to the FPPC, officials who manage public investments are boards or designated employees who manage the investment of district surplus or special reserve funds in permitted securities and investments pursuant to Education Code 41015. Those boards that direct the investment of these funds, formulate or approve policies for the investment of these funds, even if they delegate day-to-day investment decisions to staff, or approve investment transactions involving these funds are considered officials who manage public investments.\*\*\*

\*\*\*Note: The Board does not manage public investments when the district does not have any surplus or special reserve funds to invest and merely deposits all funds it receives (1) in the county treasury pursuant to Education Code 41001-41002.5 or (2) in a fund where a Tax and Revenue Anticipation Note (TRANS) is issued. Board members and superintendents in these types of situations are not considered to have discretion regarding the investment of the district's money and are therefore not officials who manage public investments.\*\*\*

Any Board member who manages public investments pursuant to Government Code 87200 and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, do all of the following: (Government Code 87105; 2 CCR 18707)

1. Publicly identify each financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.
2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. The Board member shall not be counted toward achieving a quorum while the item is discussed.

However, the Board member may speak on the issue during the time that the general public speaks on it and may leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion and deliberations of the matter with members of the public.

3. Leave the room until after the discussion, vote, and any other disposition of the matter is

concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

If the item is on the consent calendar, the Board member must recuse himself/herself from discussing or voting on that matter, but the Board member is not required to leave the room during consideration of the consent calendar.

4. If the Board's decision is made during closed session, disclose his/her interest orally during the open session preceding the closed session. This disclosure shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 87100. He/she shall not be present when the item is considered in closed session and shall not knowingly obtain or review a recording or any other nonpublic information regarding the Board's decision.

(cf. 3430 - Investing)

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

#### Conflict of Interest under Government Code 1090 - Financial Interest in a Contract

\*\*\*Note: Pursuant to Government Code 1090, if a Board member has a financial interest in a contract, it is an absolute bar for that district to enter into the contract. The Attorney General has opined in 69 Ops.Cal.Atty.Gen. 255 (1986) that, unlike the PRA, the prohibitions in Government Code 1090 cannot be resolved by having the financially interested Board member abstain from participating in the matter. However, there are two categories of exceptions. If a financial interest meets the definition of a "noninterest" as specified in Government Code 1091.5, then the restrictions in Government Code 1090 do not apply and the district can enter into the contract. Secondly, if a Board member's interest is deemed a "remote interest" pursuant Government Code 1091, then the district can enter into the contract as long as certain conditions are satisfied, as specified below.\*\*\*

\*\*\*Note: While the prohibitions in the PRA only apply to designated employees, the prohibitions in Government Code 1090 apply to all district employees and consultants. California appellate courts have ruled in *McGee v. Balfour Beatty Construction LLC* and *Davis v. Fresno Unified School District* that Government Code 1090 applies to consultants, including corporate consultants, who fill the roles and positions of officers, employees, and agents of the district. However, the Attorney General has opined in 63 Ops.Cal.Atty.Gen. 868 (1980) that an employee's financial interest would not prohibit the district from entering into a contract as long as the employee has not participated in the making of the contract, such as in discussions and planning, as detailed below.\*\*\*

\*\*\*Note: Government Code 1090 does not define financial interest, but courts have held that, for the purposes of this statute, the definition of "financial interest" is not the same as the definition in the PRA which requires a "material financial effect" in order for a conflict to exist. Because the determination of whether a financial interest exists involves a review of statutes, court decisions, and Attorney General opinions as they apply to the particular facts at issue, the

analysis can be complex and legal counsel should be consulted as appropriate.\*\*\*

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest in a contract made by the Board, the contract is void. (Government Code 1090)

\*\*\*Note: The district may enter into a contract when a Board member's interest is a "remote interest" as defined in Government Code 1091. Generally, this issue arises when the district wishes to enter into a contract with the Board member's employer. When the conditions specified in Government Code 1091 are satisfied (e.g., Board member is an employee of a nonprofit organization, the employer has at least 10 employees, and the Board member has been employed more than three years), then the district may enter into the contract as long as the affected Board member discloses the remote interest and abstains from the matter.\*\*\*

\*\*\*Note: Board members who willfully fail to disclose a remote interest in a contract may be subject to a fine or imprisonment pursuant to Government Code 1097.\*\*\*

A Board member shall not be considered to be financially interested in a contract in which he/she has only a "remote interest," as specified in Government Code 1091, if the interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member or district official to enter into the contract. (Government Code 1091)

\*\*\*Note: Pursuant to Government Code 1091.5, certain financial interests are defined as "noninterests," meaning a conflict of interest does not exist and the district can enter into the contract. One of the noninterests listed in Government Code 1091.5 is when a Board member's spouse has been employed by the district for at least one year prior to the Board member's election or appointment. If the spouse has not been employed by the district for at least one year prior to the Board member's election or appointment, the exception does not apply and Government Code 1090 prohibits the district from entering into a new contract to hire the spouse. (80 Ops.Cal.Atty.Gen. 320 (1997))\*\*\*

\*\*\*Note: Attorney General opinions and case law have further clarified the application of this noninterest exception when a previously employed spouse changes to a different position during the Board member's term. Generally, these opinions have held that a lateral transfer or change of classification that does not require Board approval (e.g., second year probationary teacher automatically achieving permanent status, step increase) is the same employment not requiring a new contract and thus constitutes a noninterest. (92 Ops.Cal.Atty.Gen. 26 (2009), 87 Ops.Cal.Atty.Gen. 23 (2004)) However, when a new contract is involved (e.g., promotion from classroom teacher to principal, substitute employee becoming a probationary employee), the exception in Government Code 1091.5 does not apply and the action would be prohibited under Government Code 1090 because Board approval of the contract is required. (Thorpe v. Long Beach Community College District, 69 Ops.Cal.Atty.Gen. 255 (1986))\*\*\*



\*\*\*Note: Because this area of law is complex, it is strongly recommended that district legal counsel be consulted if a Board member's spouse is an employee of the district or when analyzing whether an interest is a noninterest or remote interest.\*\*\*

In addition, a Board member shall not be considered to be financially interested in a contract in which his/her interest is a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest in being reimbursed for his/her actual and necessary expenses incurred in the performance of his/her official duties, in the employment of his/her spouse/registered domestic partner who has been a district employee for at least one year prior to the Board member's election or appointment, or in any other applicable circumstance specified in Government Code 1091.5.

#### Common Law Doctrine Against Conflict of Interest

\*\*\*Note: Even when there is not a conflict pursuant to the PRA (Government Code 87100-87505) or Government Code 1090, the Attorney General has found that special situations may still exist under the common law doctrine against conflict of interest which, unlike the statutes, extends to noneconomic interests. In 92 Ops.Cal.Atty.Gen. 19 (2009), the Attorney General opined that a redevelopment board member should abstain from voting on a loan agreement where the recipient of the loan was a corporation owned by the board member's adult son. Although the board member was not financially interested in the contract under the PRA or Government Code 1090, the Attorney General determined that abstention was necessary in order to avoid a conflict between the member's official and personal interests and to avoid the appearance of impropriety.\*\*\*

\*\*\*Note: Districts are encouraged to consult legal counsel if situations arise that raise the question as to whether such a conflict exists.\*\*\*

A Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

#### Incompatible Offices and Activities

\*\*\*Note: Government Code 1099 and 1126 prohibit Board members and employees from engaging in any employment or activity which is inconsistent, incompatible, in conflict with, or inimical to their duties with the district. Government Code 1126 mandates the district to adopt procedures regarding this prohibition. See BP 4136/4236/4336 - Nonschool Employment for language implementing this mandate relative to employees.\*\*\*

\*\*\*Note: Attorney General opinions have indicated that it would be incompatible for Board members to serve on other elected or appointed boards, councils, or commissions that have interests which may conflict with the interests of the district (85 Ops.Cal.Atty.Gen. 60 (2002); 68 Ops.Cal.Atty.Gen. 171 (1985); 65 Ops.Cal.Atty.Gen. 606 (1982)). If a Board member is sworn into an incompatible office, then his/her position in the prior office is automatically terminated.\*\*\*

\*\*\*Note: Pursuant to Education Code 35107, an employee of a school district may not be sworn into office as an elected or appointed member of that district's Board unless he/she resigns as an employee. If the employee does not resign, the employment automatically terminates when he/she is sworn into office. See BB 9220 - Governing Board Elections.\*\*\*

\*\*\*Note: The determination as to whether an activity or office is incompatible is complex and requires a case-by-case analysis of the particular activities or duties of the office; therefore, it is recommended that district legal counsel be consulted as appropriate.\*\*\*

Board members shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of the district. (Government Code 1099, 1126)

(cf. 4136/4236/4336 - Nonschool Employment)

## Gifts

\*\*\*Note: Pursuant to 2 CCR 18730, the gift limitation is currently \$460. This amount is adjusted in odd-numbered years by the FPPC. Pursuant to Government Code 89503, Board members and candidates are subject to gift limitation for gifts from all sources except when exempted by law or regulation. For those Board members who file a Form 700 based on the disclosure categories specified in the district's conflict of interest code pursuant to Government Code 87302 (see the accompanying exhibit), the gift limit is only applicable as to those individuals and entities that are disclosed on the Form 700.\*\*\*

\*\*\*Note: Several exceptions exist within the Government Code's definitions of gifts, income, interest in real property, and investment; see Government Code 82028, 82030, 82033, and 82034. If questions arise as to such exceptions, the district may seek clarification from the FPPC through email to [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov) or consult legal counsel.\*\*\*

Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitation on gifts does not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

In addition, the limitation on gifts does not apply to informational materials such as books, reports, pamphlets, calendars, and periodicals. (Government Code 82028)

\*\*\*Note: Board members and designated employees may, in the circumstances described in Government Code 89506, receive payments, advances, or reimbursements for travel and related lodging and subsistence, which will not be subject to the gift limit set in Government Code 89503.\*\*\*

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation,



except when: (Government Code 89506)

1. The travel is in connection with a speech given by a Board member or designated employee, provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.

2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Gifts of travel exempted from the gift limitation, as described in items #1 and 2 above, shall nevertheless be reportable on the recipient's Statement of Economic Interest/Form 700 as required by law.

A gift of travel does not include travel provided by the district for Board members and designated employees. (Government Code 89506)

#### Honoraria

Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Government Code 89501, 89502)

The term honorarium does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade, or profession, unless the sole or predominant activity of the business, trade, or profession is making speeches
2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes

#### Legal Reference:

##### EDUCATION CODE

1006 Qualifications for holding office

35107 School district employees

35230-35240 Corrupt practices, especially:

35233 Prohibitions applicable to members of governing boards

41000-41003 Moneys received by school districts

41015 Investments

##### FAMILY CODE

297.5 Rights, protections, and benefits of registered domestic partners

GOVERNMENT CODE

1090-1099 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

81000-91014 Political Reform Act of 1974, especially:

82011 Code reviewing body

82019 Definition, designated employee

82028 Definition, gift

82030 Definition, income

82033 Definition, interest in real property

82034 Definition, investment

87100-87103.6 General prohibitions

87200-87210 Disclosure

87300-87313 Conflict of interest code

87500 Statements of economic interests

89501-89503 Honoraria and gifts

89506 Ethics; travel

91000-91014 Enforcement

PENAL CODE

85-88 Bribes

REVENUE AND TAXATION CODE

203 Taxable and exempt property - colleges

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission, especially:

18700-18707 General prohibitions

18722-18740 Disclosure of interests

18753-18756 Conflict of interest codes

COURT DECISIONS

McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)

Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261

Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655

Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

ATTORNEY GENERAL OPINIONS

92 Ops.Cal.Atty.Gen. 26 (2009)

92 Ops.Cal.Atty.Gen. 19 (2009)

89 Ops.Cal.Atty.Gen. 217 (2006)

86 Ops.Cal.Atty.Gen. 138(2003)

85 Ops.Cal.Atty.Gen. 60 (2002)

82 Ops.Cal.Atty.Gen. 83 (1999)

81 Ops.Cal.Atty.Gen. 327 (1998)

80 Ops.Cal.Atty.Gen. 320 (1997)

69 Ops.Cal.Atty.Gen. 255 (1986)

68 Ops.Cal.Atty.Gen. 171 (1985)

65 Ops.Cal.Atty.Gen. 606 (1982)

63 Ops.Cal.Atty.Gen. 868 (1980)

Management Resources:

CSBA PUBLICATIONS

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009

Understanding the Basics of Public Service Ethics: Transparency Laws, 2009

WEB SITES

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

Fair Political Practices Commission: <http://www.fppc.ca.gov>

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

# **Exhibit**

## **Conflict Of Interest**

E 9270

### **Board Bylaws**

#### RESOLUTION ADOPTING A CONFLICT OF INTEREST CODE

\*\*\*Note: The Governing Board is required to adopt a conflict of interest code in compliance with Government Code 87300-87313 of the Political Reform Act (PRA). Pursuant to 2 CCR 18730, the requirements of the Government Code are satisfied if a district adopts a conflict of interest code that incorporates 2 CCR 18730 by reference along with a list of designated positions and disclosure categories. Board members and designated employees must annually file a Statement of Economic Interest/Form 700 pursuant to the disclosure requirements of the district's conflict of interest code.\*\*\*

\*\*\*Note: Government Code 87303 requires a district's conflict of interest code to be approved by a code reviewing body. For school districts located entirely in one county, the code reviewing body is the board of supervisors of the county in which the district is located. The Fair Political Practices Commission (FPPC) is the code reviewing body for school districts with jurisdiction in more than one county.\*\*\*

\*\*\*Note: The code reviewing body needs to review only the portion of the district's conflict of interest code that specifies the district's designated positions and the disclosure categories as detailed in the following sample Resolution, including its Appendix, and not the other legal requirements related to conflict of interest reflected in the accompanying sample bylaw. The Resolution, including the Appendix, should be adopted by the Board and, as necessary, forwarded to the code reviewing body. Pursuant to Government Code 87306.5, the code reviewing body is required to notify the district in even-numbered years of the need to review the district's conflict of interest code. Upon such notification, the district should review the Appendix and make any necessary changes. In some counties, the code reviewing body requires that a resolution be adopted during each review and that the Board's resolution and amended appendix be submitted to that body. In other counties, only the appendix needs to be submitted. In both cases, districts need not submit BB 9270 - Conflict of Interest to the code reviewing body. In addition to the biannual review, districts should modify the Appendix and submit it, and the resolution if required, to the code reviewing body when any changed circumstances within the district require amendments to the Appendix, such as the creation of new designated positions or a change of duties assigned to existing positions.\*\*\*

\*\*\*Note: The following resolution should be modified to reflect district practice as well as any specific requirements of the district's code reviewing body.\*\*\*

WHEREAS, the Political Reform Act, Government Code 87300-87313, requires each public

agency in California to adopt a conflict of interest code; and

WHEREAS, the Governing Board of the \_\_\_\_\_ School District has previously adopted a local conflict of interest code; and

WHEREAS, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to the district's conflict of interest code; and

WHEREAS, a regulation adopted by the Fair Political Practices Commission, 2 CCR 18730, provides that incorporation by reference of the terms of that regulation, along with an agency-specific appendix designating positions and disclosure categories shall constitute the adoption and amendment of a conflict of interest code in conformance with Government Code 87300 and 87306; and

WHEREAS, the \_\_\_\_\_ School District has recently reviewed its positions, and the duties of each position, and has determined that (changes/no changes) to the current conflict of interest code are necessary; and

WHEREAS, any earlier resolutions, bylaws, and/or appendices containing the district's conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

NOW THEREFORE BE IT RESOLVED that the \_\_\_\_\_ School District Governing Board adopts the following Conflict of Interest Code including its Appendix of Designated Employees and Disclosure Categories.

PASSED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at a meeting, by the following vote:

AYES: \_\_\_\_\_ NOES: \_\_\_\_\_ ABSENT: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Secretary/President

Conflict of Interest Code of the \_\_\_\_\_  
\_\_\_\_\_ School District

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices

Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the district's conflict of interest code.

Governing Board members and designated employees shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the district's filing officer and/or, if so required, with the district's code reviewing body. The district's filing officer shall make the statements available for public review and inspection.

## APPENDIX

### Disclosure Categories

\*\*\*Note: The following list must be modified to reflect the specific disclosure categories in the district.\*\*\*

1. Category 1: A person designated Category 1 shall disclose:
  - a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.
  - b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district, or manufacture or sell supplies, books, machinery, or equipment of the type used by the district.
2. Category 2: A person designated Category 2 shall disclose:
  - a. Investments or business positions in or income from sources which are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs.
  - b. Investments or business positions in or income from sources which manufacture or sell supplies, books, machinery, or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

\*\*\*Note: Item #3 below is for use only by districts in which the Board and Superintendent "manage public investments." All other districts must delete item #3.\*\*\*

\*\*\*Note: Government Code 87500 requires public officials and designated employees to annually file a Statement of Economic Interest/Form 700 to disclose any assets and income which may be materially affected by official actions. Under the PRA, there are two separate

categories of Form 700 disclosure requirements. For the first category pursuant to Government Code 87302, which is applicable to most school districts, the disclosure requirements are determined by the district and set forth in the district's conflict of interest code. The second category, pursuant to Government Code 87200, is only applicable to Board members and Superintendents who "manage public investments." Those Board members and designated employees, referred to by the FPPC as Government Code 87200/Article 2 filers, must file broader disclosure statements pursuant to the disclosure requirements specified in law and FPPC regulation. See section in accompanying bylaw entitled "Additional Requirements for Boards that Manage Public Investments" for a further discussion of this issue.\*\*\*

3. Full Disclosure: Because it has been determined that the district's Board members and/or Superintendent "manage public investments," they and other persons designated for "full disclosure" shall disclose, in accordance with Government Code 87200:

a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.

b. Investments, business positions, and sources of income, including gifts, loans, and travel payments.

#### Designated Positions

\*\*\*Note: The following list must be modified to reflect the specific designated positions and applicable disclosure categories in the district. For districts in which the Board and Superintendent "manage public investments," the disclosure category for Board members and the Superintendent in the list below must be modified to "Full Disclosure."\*\*\*

#### Designated Position and Disclosure Category

Governing Board Members	1
Superintendent of Schools	1
Assistant/Associate Superintendent	1
Purchasing Agent	1
Director	2
Principal	2
Assistant Principal	2
Maintenance and Operations Director	2
Program Coordinator	2
Project Specialist	2
Supervisor	2
Dean of Students	2

#### Disclosures for Consultants

\*\*\*Note: The definition of designated employees in Government Code 82019 includes consultants. To preclude amending the code whenever retaining a consultant in a

decision-making capacity, the following section provides that the Superintendent or designee shall make case-by-case determinations of the disclosures necessary, depending on the range of duties to be performed by the consultant.\*\*\*

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18700.3)

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the district to enter into, modify, or renew a contract that requires district approval
5. Grant district approval to a contract that requires district approval and in which the district is a party, or to the specifications for such a contract
6. Grant district approval to a plan, design, report, study, or similar item
7. Adopt or grant district approval of district policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18704, subsections (a) and (b), or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict of interest code. (2 CCR 18700.3)



# **Board Bylaw**

## **Board Policies**

BB 9310

### **Board Bylaws**

\*\*\*Note: The following optional bylaw may be revised to reflect district practice.\*\*\*

The Governing Board shall adopt written policies to convey its expectations for actions that will be taken in the district, clarify roles and responsibilities of the Board and Superintendent, and communicate Board philosophy and positions to students, staff, parents/guardians, and the community.

(cf. 9000 - Role of the Board)

The Board shall ensure that district policies align with the district's vision and goals, promote student learning and achievement, provide for consistent and fair treatment of students and staff, and proactively address equity and the provision of equal access to opportunities for all students.

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 0415 - Equity)

(cf. 0460 - Local Control and Accountability Plan)

\*\*\*Note: State and federal laws mandate that districts develop policy or regulations on numerous topics. CSBA maintains a list of mandated policies and also indicates throughout its sample policy manual instances where policy language is mandated.\*\*\*

The Board recognizes the importance of maintaining a policy manual that is up to date and reflects the mandates of law. Board policies are binding on the district to the extent that they do not conflict with federal or state law and are consistent with the district's collective bargaining agreements. No Board policy, bylaw, or administrative regulation, or any portion thereof, shall be operative if it is found to be in conflict with applicable federal or state law or regulations or court decisions. If any portion of a policy is found to be invalid, that invalidity shall not affect other provisions of the policy.

(cf. 2210 - Administrative Discretion Regarding Board Policy)

Policies shall be regularly reviewed at a time allocated for this purpose on the agenda of public Board meetings.

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

\*\*\*Note: Education Code 35160.5 requires that district policies pertaining to intradistrict open enrollment and extracurricular/cocurricular activities be reviewed annually.\*\*\*

The Board shall review certain policies annually, as required by Education Code 35160.5. If no revisions are deemed necessary, the Board minutes shall nevertheless indicate that the review was conducted. Other policies shall be monitored and reviewed as specified in the policy itself or as needed to reflect changes in law or district circumstances.

(cf. 5116.1 - Intradistrict Open Enrollment)  
(cf. 6145 - Extracurricular and Cocurricular Activities)

#### Policy Development and Adoption Process

\*\*\*Note: The following section describes the basic steps in the policy development process and may be revised to reflect district practice. CSBA offers a variety of policy services designed to assist the governance team with this process, including review of district policy manuals, policy development workshops for individual districts and consortia of districts, and manual maintenance services.\*\*\*

The district's policy development process shall include the following basic steps:

1. The Board and/or Superintendent or designee shall identify the need for a new policy or revision of an existing policy. The need may arise from a change in law, a new district vision statement, new goals in the local control and accountability plan, educational research or trends, an incident that has arisen in the district, or a recommendation or request from staff, a parent/guardian, or other interested person.

2. As needed, the Superintendent or designee shall gather fiscal data, staff and public input, related district policies, sample policies from the California School Boards Association or other organizations or agencies, and other useful information and data to fully inform the Board about a particular issue.

(cf. 1220 - Citizen Advisory Committees)

3. The Board may hold discussions during a public Board meeting to gain an understanding of the issue and provide initial direction to the Superintendent or designee. The discussion may include, but not be limited to, community expectations, staff recommendations, and the expected impact of the policy on student learning and well-being, equity, governance, and the district's fiscal resources and operational efficiency.

4. The Board or Superintendent may request that legal counsel review the draft policy as appropriate.

\*\*\*Note: Most policies are given two readings at a public Board meeting. However, a second reading is generally not required by law so it may be waived by the Board. The following paragraph should be modified by districts that only require one reading of policies prior to

adoption.\*\*\*

5. The Superintendent or designee shall develop and present a draft policy for a first reading at a public Board meeting. At its second reading, the Board may take action on the proposed policy. The Board may waive the second reading or may require an additional reading if necessary.

(cf. 9323 - Meeting Conduct)

Only policies formally adopted by a majority vote of the Board shall constitute official Board policy.

(cf. 9323.2 - Actions by the Board)

The district's policy development process may be revised or expanded as needed based on the issue being considered, the need for more information, or the desire to provide greater opportunities for consultation and public input.

Policies shall become effective upon Board adoption or at a future date if so designated by the Board at the time of adoption.

#### Board Bylaws

The Board shall prescribe and enforce rules for its own governance consistent with state law and regulations. (Education Code 35010)

Bylaws governing Board operations may be developed, adopted, and amended following the same procedures as those used for the adoption or amendment of Board policy.

#### Administrative Regulations

The Superintendent or designee shall be responsible for developing and enforcing administrative regulations for the operation of the district. Administrative regulations shall be consistent with law and Board policy and shall be designed to promote the achievement of district goals and objectives. Administrative regulations may describe specific actions to be taken, roles and responsibilities of staff, timelines, and/or other provisions. The Superintendent or designee may also develop procedures manuals, handbooks, or other guides to carry out the intent of Board policy.

When Board policies are amended, the Superintendent or designee shall review corresponding administrative regulations to ensure that they conform to the intent of the revised policy. In case of conflict between administrative regulation and Board policy, policy shall prevail.

The Board may review and/or approve administrative regulations for the purpose of ensuring conformity with the intent of Board policy.

## Monitoring and Evaluation

At any time, the Board and Superintendent or designee may determine that progress reports to the Board on the implementation and/or effectiveness of the policy should be scheduled. If so, the Board and Superintendent or designee shall agree upon a timeline and, as applicable, measures for evaluating the effectiveness of the policy in achieving its purpose.

(cf. 0500 - Accountability)

## Access to Policies

\*\*\*Note: Districts that are updating their policy manual through CSBA's Manual Maintenance service have the option of accessing their district's policy manual and other legal and management resources through CSBA's GAMUT Online web site.\*\*\*

The Superintendent or designee shall ensure that all district employees and the public have access to an up-to-date district policy manual. The policy manual shall be maintained electronically and/or by paper copy.

(cf. 1113 - District and School Web Sites)

(cf. 1340 - Access to District Records)

As necessary, the Superintendent or designee shall notify staff, parents/guardians, students, and other stakeholders whenever a policy that affects them is adopted or revised. He/she may determine the appropriate communication strategy depending on the issue. Policies shall be posted on the district's web site when required by law.

(cf. 1112 - Media Relations)

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

(cf. 5145.6 - Parental Notifications)

(cf. 6020 - Parent Involvement)

## Legal Reference:

### EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35160 Authority of governing boards

35160.5 Annual review of school district policies

35163 Official actions, minutes and journal

35164 Vote requirements

## Management Resources:

### WEB SITES

CSBA, Policy Services, including Policy Update Service, Governance and Management Using Technology (GAMUT Online), Policy Review Program, Individual District Policy Workshops,

and GAMUT Meetings: <http://www.csba.org>

(6/99 7/06) 7/18

# **Board Bylaw**

## **Meetings And Notices**

BB 9320

### **Board Bylaws**

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.

(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 location, including teleconference location, to hear, discuss, deliberate, or take action upon any item within the subject matter jurisdiction of the Board or district. (Government Code 54952.2)

\*\*\*Note: The Brown Act prohibits serial meetings, defined under Government Code 54952.2 as a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of district business.\*\*\*

\*\*\*Note: This prohibition against serial meetings also applies to communications via technology. Email exchanges, chat room threads, or comments posted on a blog or social media account that result in a majority of the Board "discussing" an item within the subject matter jurisdiction of the Board could result in a Brown Act violation. Pursuant to Government Code 54952.2, as amended by AB 992 (Ch. 89, Statutes of 2020), Board members may engage in separate conversations or communications with members of the public on an Internet-based social media platform that is open and accessible to the public as long as a majority of the Board does not use the platform to discuss among themselves business within the subject matter jurisdiction of the Board and members do not comment on or use digital icons (e.g., "likes" or emojis) to express reactions to communications made by other Board members. Consequently, a Board member is prohibited from responding directly to any communication from other members of the Board on a social media platform regarding matters that are within the subject matter jurisdiction of the Board. See BB 9012 - Board Member Electronic Communications.\*\*\*

\*\*\*Note: In 84 Ops.Cal.Atty.Gen. 30 (2001), the Attorney General opined that Government Code 54952.2 prohibits a majority of the Board from sending emails to each other to develop a collective concurrence as to action to be taken by the Board even if the emails are (1) sent to the secretary and chairperson, (2) posted on the district's web site, and (3) distributed at the next

meeting. Although the Attorney General recognized that those three conditions would allow the deliberations to be conducted, to some extent, "in public," the emails were prohibited by the Brown Act because all debate would be completed before the meeting and members of the public who did not have Internet access would be excluded from the debate.\*\*\*

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)

\*\*\*Note: Government Code 54952.2 specifies that briefings between staff and Board members are permissible in order to answer questions or to provide information, as long as the briefing is not used to communicate the comments or position of any other Board member. Thus, Superintendent briefings involving less than a majority of the Board are allowed, but participants must ensure that the comments or positions of one member are not shared with other members.\*\*\*

However, an employee or district official may engage in separate conversations 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)

\*\*\*Note: Government Code 54953.2 requires that all Board meetings meet the protections of the Americans with Disabilities Act (42 USC 12132) and implementing regulations (28 CFR 35.160, 36.303). Such protections require the district to ensure that the meeting is accessible to persons with disabilities and, upon request, to provide disability-related accommodations, such as auxiliary aids and services. Auxiliary aids and services may include accommodations at the actual meeting, such as a sign-language interpreter, or accommodations to the supporting documentation, such as Braille translation of the agenda packet. Government Code 54954.2 requires that the agenda specify how, when, and to whom a request for accommodation should be made; see BB 9322 - Agenda/Meeting Materials.\*\*\*

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

\*\*\*Note: Education Code 35140 and Government Code 54954 mandate the Board to fix the time and place for its regular meetings by rule and regulation.\*\*\*

The Board shall hold \_\_\_\_\_ regular meeting(s) each month. Regular meetings shall be held at

\_\_\_\_\_ p.m. on the \_\_\_\_\_ (day) at the \_\_\_\_\_.

\*\*\*Note: Pursuant to Government Code 54954.2, the agenda for a regular meeting must be posted at least 72 hours prior to the meeting, at a location that is freely accessible to the public. Government Code 54954.2 also requires that the agenda be posted on the district's Internet web site, if it has one. Any district that does not have a web site should delete the reference to it in the following paragraph.\*\*\*

\*\*\*Note: The Attorney General has determined in 78 Ops.Cal.Atty.Gen. 327 (1995) that weekend hours may be counted as part of the 72-hour period for posting of the agenda prior to a regular meeting. In the same opinion, the Attorney General found that the term "freely accessible" requires that the agenda be posted in a location where it can be read by the public at any time during the 72 hours immediately preceding the meeting. For example, if a building where the agenda is posted is closed during the evening hours, the agenda must also be posted in a location accessible during evening hours, such as a lighted display case outside of the building. The Attorney General also opined in 88 Ops.Cal.Atty.Gen. 218 (2005) that the agenda may be posted on a touch screen electronic kiosk, in lieu of a paper copy on a bulletin board, as long as the kiosk is accessible without charge to the public 24 hours a day, seven days a week.\*\*\*

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)

\*\*\*Note: Pursuant to Government Code 54957.5, the agenda must list any address where the public can inspect agenda materials that are distributed to Board members less than 72 hours before a regular meeting; see BB 9322 - Agenda/Meeting Materials. In addition, pursuant to the California Public Records Act (Government Code 6252-6270), agenda materials related to an open session of a Board's regular meeting are "public records" and are subject to the inspection of any member of the public. For a list of documents subject to disclosure by the district, see BP/AR 1340 - Access to District Records.\*\*\*

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. (Government Code 54957.5)

(cf. 1340 - Access to District Records)

### Special Meetings

\*\*\*Note: Education Code 35144 and Government Code 54956 allow the Board to hold special meetings to address any matter that requires timely action. For example, the Board may hold a special meeting to discuss the need for an emergency state apportionment when the district is in financial distress; see AR 3460 - Financial Reports and Accountability. However, pursuant to



Government Code 54956, certain specified matters, as described below, may not be addressed in a special meeting.\*\*\*

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)

\*\*\*Note: Pursuant to Government Code 54956, written notice of a special meeting may be delivered personally or by other means, including email or fax. Government Code 54956 requires any district that has its own Internet web site to also post the notice on its web site. Any district that does not have its own web site should delete reference to it in the following paragraph.\*\*\*

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 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. (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

\*\*\*Note: Government Code 54956.5 authorizes a closed session during emergency meetings, as long as two-thirds of the members present at the meeting agree on the need for the closed session or, if less than two-thirds of the members are present, by unanimous vote of the members present. See BB 9321 - Closed Session and E(1) 9323.2 - Actions by the Board.\*\*\*

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

(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, or threatened terrorist 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 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 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

\*\*\*Note: The following section is optional and may be revised to reflect district practice. Pursuant to Government Code 54954.2, the Board must still comply with the public notice

requirements when holding a study session, retreat, public forum or other such meeting.\*\*\*

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. 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

(cf. 9130 - Board Committees)

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)

(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. 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)

\*\*\*Note: In 84 Ops.Cal.Atty.Gen. 181 (2001), the Attorney General opined that a city is not required under the Americans with Disabilities Act to provide, as an accommodation for city council member with disabilities who was unable to attend a regularly scheduled meeting, a teleconference connection to the member's house where the public would not be permitted to be present. According to the Attorney General, Government Code 54953 requires that members of the public be permitted to be present at any teleconference location.\*\*\*

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 Board policies, administrative regulations, and bylaws shall apply equally to meetings that are teleconferenced. The Superintendent or designee shall facilitate public participation in the meeting at each teleconference location.

### 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  
11135 State programs and activities; prohibition of discrimination  
54950-54963 The Ralph M. Brown Act, especially:  
54953 Meetings to be open and public; attendance  
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, No. 17-cv-2215-W (JLB), 2019 WL 4736208 (S.D. Cal. September 26, 2019)

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

Wolfe v. City of Fremont, (2006) 144 Cal.App. 4th 54433

#### 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:

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

##### 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>

# **Board Bylaw**

## **Closed Session**

BB 9321

## **Board Bylaws**

\*\*\*Note: Pursuant to Government Code 54962, the Governing Board may hold a closed session only for purposes expressly authorized by the Brown Act (Government Code 54950-54963) or by a provision of the Education Code. Government Code 54954.5 provides specific agenda descriptions for most closed session items authorized by the Brown Act, as described throughout this bylaw and the accompanying Exhibit (1). Following the closed session, Government Code 54957.7 requires the Board to reconvene in open session to report any action taken in closed session, as described below and in the accompanying Exhibit (2).\*\*\*

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)

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

\*\*\*Note: Government Code 54957.7 requires that, before holding any closed session, the Board must disclose in an open meeting the item(s) to be discussed in the closed session. The Board may either state the information on the agenda or refer the public to the item(s) as listed by number or letter on the agenda.\*\*\*

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)

\*\*\*Note: Pursuant to Government Code 54957.1, a document approved or adopted in a closed session must be provided to any person who has submitted a written request within 24 hours of the posting of the agenda or who has made a standing request for all documentation as part of a request for meeting notices pursuant to Government Code 54954.1 or 54956.\*\*\*

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

\*\*\*Note: Pursuant to Government Code 54963, a Board member who discloses confidential information received in a closed session may be referred to the local grand jury or may be subject to action in a court of law. For a definition of confidential information and the actions that may be taken against a Board member if such information is disclosed, see BB 9011 - Disclosure of Confidential/Privileged Information.\*\*\*

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)

(cf. 1340 - Access to District Records)

### Personnel Matters

\*\*\*Note: Government Code 54957 authorizes the use of closed sessions for personnel matters described below. For the purpose of these closed sessions, "employee" includes an officer or independent contractor who functions as an officer or employee but excludes Board members. The Attorney General has concluded (59 Ops.Cal.Atty.Gen. 532 (1976)) that it is appropriate to use a closed session to discuss and evaluate Superintendent performance. However, under the "personnel exception," the Board may not discuss or act upon any proposed change in compensation other than a reduction of compensation that results from the imposition of discipline under this exception.\*\*\*

\*\*\*Note: In *Fischer v. Los Angeles Unified School District*, the court interpreted Government Code 54957 and found that the right to request an open session applies only when the Board hears specific complaints or charges brought against the employee. Thus, the right to request an



open session does not apply when the Board is meeting in closed session to consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee.\*\*\*

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)

(cf. 2140 - Evaluation of the Superintendent)  
(cf. 4115 - Evaluation/Supervision)  
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)  
(cf. 4215 - Evaluation/Supervision)  
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)  
(cf. 4315 - Evaluation/Supervision)

\*\*\*Note: Pursuant to Government Code 54957, failure of the Board to give an employee against whom a "specific complaint or charge" has been made the notice described below will render any action taken by the Board in the closed session null and void. Determining whether a "specific complaint or charge" is involved is usually fact-specific and the Board should consult legal counsel as necessary. In *Furtado v. Sierra Community College District*, the court held that the term "specific complaints or charges" as used in Government Code 54957 does not include negative comments in an employee's performance evaluation. In another decision, *Bell v. Vista Unified School District*, the court determined that a presentation to the Board by a district staff member regarding an employee's violation of a California Interscholastic Federation rule constituted a "complaint or charge" and thus the employee was entitled to 24-hour notice. Yet another ruling, *Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners*, held that when a board rejects its hearing officer's findings of fact and conducts its own hearing, the employee must be given 24-hour notice.\*\*\*

\*\*\*Note: Furthermore, an Attorney General opinion (78 Ops.Cal.Atty.Gen. 218 (1995)) has clarified that a probationary certificated employee does not have the right to an open session when the Board is discussing whether or not to reemploy the employee for a third consecutive school year. Education Code 44929.21 allows the Board to non-reelect a probationary certificated employee at the end of the first or second school year as long as written notice is given in accordance with law; see AR 4117.6 - Decision Not to Rehire.\*\*\*

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)

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

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)

\*\*\*Note: In *Moreno v. City of King*, the court held that the requirement for special meeting agenda items to notice the "business to be transacted or discussed" pursuant to Government Code 54956 does not eliminate the "brief general description of each item" requirement pursuant to Government Code 54954.2. The court also held that describing the business as "public employee (employment contract)" was not sufficient when at least a quarter of the meeting was devoted to a discussion of the employee and whether to terminate the employee. The court further held that describing the item as "public employee dismissal," as illustrated in Government Code 54954.5, would not violate the employee's privacy rights and it would also provide adequate public notice that dismissal would be considered. The court noted that while Government Code 54954.5 does not provide the exclusive means of compliance with agenda specification requirements, it demonstrates how privacy rights can be protected while also providing adequate notice.\*\*\*

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)

\*\*\*Note: Government Code 54957.1 requires the Board to publicly report any closed session action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a district employee. The Attorney General, in 89 Ops.Cal.Atty.Gen. 110 (2006), opined that boards are not required to publicly report an action taken in closed session to reject the proposed dismissal of an employee, as such a decision to maintain the status quo does not constitute "an action taken to dismiss."\*\*\*

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

\*\*\*Note: The Educational Employment Relations Act (Government Code 3540-3549.3) makes four specific exemptions from the Brown Act related to negotiations. Government Code 54957.6 provides that for the purpose of closed sessions related to collective bargaining, "employee"

includes an officer or independent contractor who functions as an officer or employee but excludes any elected official, Board member, or other independent contractor.\*\*\*

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

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

(cf. 4143/4243 - Negotiations/Consultation)

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

\*\*\*Note: The Board is authorized pursuant to Government Code 54957.6, the "labor exception," to hold closed sessions with the district's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits to its represented and unrepresented employees, including the Superintendent. The Attorney General has opined in 57 Ops. Cal. Atty. Gen. 209 (1974) that a board may not meet in closed session for such purposes without the use of a designated representative who is involved with the "bona fide" negotiations with represented and/or unrepresented employees. The California Office of the Attorney General publication The Brown Act: Open Meetings for Local Legislative Bodies also states that the "labor exception" applies to the Board meeting in closed session to instruct its negotiator concerning negotiations with current or prospective employees.\*\*\*

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)

(cf. 2121 - Superintendent's Contract)

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)

- (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)

- (cf. 5144.1 - Suspension and Expulsion/Due Process)
- (cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

\*\*\*Note: Although Government Code 54954.2 requires the agenda to have a brief general description of all closed session items to be discussed, Government Code 54954.5 provides no specific description of agenda items related to closed sessions authorized by the Education Code. Since the purpose of conducting the closed session is to protect student privacy rights, the following optional paragraph provides that student names shall not be included on the agenda.\*\*\*

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 - Student Records)

\*\*\*Note: Although Education Code 48918 states that student expulsion records are "nonprivileged, disclosable public records" and the Attorney General (80 Ops.Cal.Atty.Gen. 85 (1997)) has opined that districts must disclose the student's name, the court in *Rim of the World Unified School District v. San Bernardino County Superior Court* held that the federal Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g) preempts state law and prohibits the disclosure of student expulsion records to the public. Failure to comply with FERPA may lead to loss of federal funding. Because of the potential conflict between state and federal law, it is recommended that districts consult legal counsel prior to adopting the following paragraph.\*\*\*

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)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

(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)

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

\*\*\*Note: An Attorney General opinion (94 Ops.Cal.Atty.Gen. 82 (2011)) has concluded that only three subjects related to real property negotiations may be considered in closed session: (1) the amount of consideration the local agency is willing to pay or accept in exchange for the real property rights to be acquired or transferred; (2) the form, manner, and timing of how that consideration will be paid; and (3) items that are essential to arriving at the authorized price and payment terms. Public disclosure of such items would reveal information that Government Code 54956.8 permits to be kept confidential. Although Attorney General opinions are not binding, they are accorded deference by the courts.\*\*\*

\*\*\*Note: In addition, the California Office of the Attorney General publication The Brown Act: Open Meetings for Legislative Bodies states that, since Government Code 54957.1 requires the Board to report, at the conclusion of a closed session, the approval of a final agreement concluding real property negotiations, the Board's power to grant authority to its negotiator must also include the power to finalize any agreement so negotiated.\*\*\*

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)

\*\*\*Note: Pursuant to Government Code 54956.9, the district is considered to be a "party," or to have "significant exposure," to a litigation if any of its officers or employees is a party or has significant exposure to the litigation under circumstances specified in items #1 and #2 below.\*\*\*

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.

(cf. 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 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

\*\*\*Note: The following paragraphs are for use by districts participating in a joint powers agency (JPA) for insurance pooling or in a self-insurance authority.\*\*\*

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)

(cf. 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)

\*\*\*Note: Pursuant to Government Code 54956.96, a JPA may adopt a provision, either through a policy or through the joint powers agreement, authorizing a school district Board member serving on the JPA board to disclose confidential information received during the JPA board's closed session under the circumstances specified below. Government Code 54954.5 provides an agenda description for the purpose of this closed session. The following optional paragraphs are for use by districts that participate in a JPA that has adopted such a provision.\*\*\*

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

\*\*\*Note: Government Code 54956.75 authorizes the Board to meet in closed session to discuss a confidential final draft audit report from the California State Auditor's Office. This authority relates to situations in which a member of the legislature has requested the California State Auditor's Office to audit a school district. This audit is separate from the annual audit that districts must conduct pursuant to Education Code 41020. The law does not authorize the Board to meet in closed session to discuss the district's annual audit.\*\*\*

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)

\*\*\*Note: Government Code 54956.75 does not specify reporting requirements for closed sessions related to the review of the audit report from the State Auditor. The following optional paragraph reflects the purpose of the closed session.\*\*\*

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)

(cf. 6162.51 - State Academic Achievement Tests)

\*\*\*Note: The following optional paragraph provides for compliance with Government Code 54954.2, which requires the agenda to have a brief general description of all closed session items to be discussed. Government Code 54954.5 provides no specific description of agenda items

related to closed sessions authorized by the Education Code.\*\*\*

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.

\*\*\*Note: Education Code 60617 does not specify reporting requirements for closed sessions related to the review of student assessment instruments. The following optional paragraph reflects the purpose of the closed session.\*\*\*

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>

(12/14 6/16) 7/19

**Exhibit**  
**Closed Session**

E 9321  
**Board Bylaws**

Exhibit 1

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

\*\*\*Note: Pursuant to Government Code 54954.2, the agenda for each Governing Board meeting must contain a general description of each item to be discussed in closed session; see the accompanying Board bylaw. Specific agenda descriptions for most closed session items are provided in Government Code 54954.5. The district may use substantially similar language and should consult with legal counsel as necessary. The following Exhibit reflects Government Code 54954.5 and, where the law does not provide an agenda description for a matter that is an allowable use of closed session, presents examples of agenda descriptions that would inform the public of the purpose of the item without breaching confidentiality.\*\*\*

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: \_\_\_\_\_

(Specify position to be filled)

**PUBLIC EMPLOYMENT**

Government Code 54957

Title: \_\_\_\_\_

(Specify position to be filled)

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Government Code 54957

Title: \_\_\_\_\_

(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:

\_\_\_\_\_  
(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:

\_\_\_\_\_  
(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:

\_\_\_\_\_  
(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:

\_\_\_\_\_

(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:  
\_\_\_\_\_

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

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 2

CLOSED SESSION

REPORTS OF CLOSED SESSION ACTIONS

\*\*\*Note: Pursuant to Government Code 54957.7, whenever the Governing Board holds a closed session, it must reconvene in open session following the closed session to report on its actions, either orally or in writing, and make any disclosures required by Government Code 54957.1. The following Exhibit reflects Government Code 54957.1 and, where the law does not address the reporting of any matter that is an allowable use of closed session, presents sample language that would inform the public of the Board's action without breaching confidentiality. The district may revise the following examples to reflect district practice and should consult with legal counsel as necessary.\*\*\*

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.

# **Board Bylaw**

## **Agenda/Meeting Materials**

BB 9322

### **Board Bylaws**

#### Agenda Content

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

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

\*\*\*Note: Government Code 54954.2 requires Governing Board meeting agendas to briefly describe each item to be discussed, including closed session items, and states that a brief general description of an item generally need not exceed 20 words. For information regarding the different types of meetings and meeting location requirements, see BB 9320 - Meetings and Notices. For agenda requirements regarding closed session agenda items, see BB 9321 - Closed Session Purposes and Agendas.\*\*\*

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

(cf. 9320 - Meetings and Notices)

(cf. 9321- Closed Session Purposes and Agendas)

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 of a committee comprised exclusively of Board members, provided that members of the public were afforded an opportunity to comment on the item at that meeting and that 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)

(cf. 9323 - Meeting Conduct)

\*\*\*Note: Pursuant to Government Code 54957.5, the agenda for a regular meeting must include the address of the location where the public can inspect any materials that are related to

an open session item and are distributed to the Board less than 72 hours before that meeting. See section below entitled "Agenda Dissemination to Members of the Public."\*\*\*

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)

\*\*\*Note: Government Code 54954.2 requires that the agenda include information regarding how, when, and to whom a request for a disability-related accommodation or modification may be made. See BB 9320 - Meetings and Notices. The following paragraph should be modified to reflect district practice as to when and to whom such a request should be made.\*\*\*

The agenda shall include information regarding how, when, and to whom a request should be made if an individual requires disability-related accommodations or modifications, including auxiliary aids and services, 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.

(cf. 9121 - President)

(cf. 9122 - Secretary)

\*\*\*Note: Education Code 35145.5 mandates that the Board adopt reasonable regulations to ensure that members of the public can place matters directly related to district business on Board meeting agendas. The following paragraph, including the timeline, should be revised to reflect district practice. Districts are free to establish their own timeline for placing an item on the agenda, taking into account staff time and resources, as long as the established timeline is a reasonable one. In *Caldwell v. Roseville Joint Union High School District*, a federal district court upheld a district bylaw requiring members of the public to submit a written request in order to place items on a meeting agenda. The plaintiff had alleged that his First Amendment rights were violated when the district did not place his item on the agenda in response to his oral request because the district disagreed with his religious beliefs. However, the court held that the district's bylaw requiring that requests first be made in writing was content-neutral and thus a reasonable restriction.\*\*\*

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.

\*\*\*Note: In *Mooney v. Garcia*, a California appeals court reaffirmed the board's discretion in

determining whether an agenda item is related to school district matters.\*\*\*

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.

\*\*\*Note: The following paragraph is optional and may be revised to reflect district practice.\*\*\*

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.

\*\*\*Note: The following optional paragraph is for boards that use the consent agenda or calendar to take action on matters of a routine nature for which discussion may not be necessary. It is important for such boards to limit the use of the consent agenda to noncontroversial matters and to establish rules that help ensure that any use of the consent agenda does not reduce transparency in the board's conduct of district business or result in violation of the open meeting laws. In addition, boards should be aware that, by law, certain items may not be placed on the consent agenda. For example, pursuant to Government Code 54960.2, a board's decision to approve or rescind its unconditional commitment to refrain from taking certain actions in violation of the Brown Act must be made as a separate item and not on the consent agenda. See BB 9323.2 - Actions by the Board.\*\*\*

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 that has not been previously considered. (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)

(cf. 9323.2 - Actions by the Board)

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

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.2 - Complaints Concerning Instructional Materials)  
(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 1312.4 - Williams Uniform Complaint Procedures)  
(cf. 3320 - Claims and Actions Against the District)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)

#### Agenda Dissemination to Board Members

\*\*\*Note: The following section is optional and should be modified to reflect district practice. Pursuant to Government Code 6252.7, when the Board, in the conduct of its duties, is authorized by law to access any writing of the district, including agenda and supporting documents, the district is prohibited from discriminating between or among Board members as to when and which records will be made available.\*\*\*

\*\*\*Note: CSBA's GAMUT Meetings, an electronic board meeting agenda service for use by districts, county offices of education, and the public allows development of and access to Board meeting agendas, supporting documents, and minutes from any computer that has Internet access. Further information can be found on CSBA's web site.\*\*\*

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 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.

(cf. 9012 - Board Member Electronic Communications)

#### 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 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)



\*\*\*Note: Pursuant to Government Code 54954.2, the agenda for a regular meeting of the Board must be posted at least 72 hours prior to the meeting on the district's web site, if it has one, and at a location that is freely accessible to the public. The Attorney General has determined in 78 Ops.Cal.Atty.Gen. 327 (1995) that weekend hours may be counted as part of the 72-hour period for posting of the agenda prior to a regular meeting. In the same opinion, the Attorney General found that the term "freely accessible" requires that the agenda be posted in a location where it can be read by the public at any time, including evening hours, during the 72 hours immediately preceding the meeting. Also see BB 9320 - Meetings and Notices.\*\*\*

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)

\*\*\*Note: Government Code 54954.2 requires that the agenda for any meeting occurring on or after January 1, 2019, be posted on the homepage of the district web site, if it has one, in accordance with law. Districts that use an integrated agenda management platform, such as CSBA's GAMUT Meetings, may provide a link to access agendas posted on the platform. Pursuant to Government Code 54954.2, the link must not be solely accessible through a contextual menu, and the agenda must be posted in a format which is retrievable, downloadable, indexable, electronically searchable by commonly used Internet search applications, and without any restriction that would impede the reuse or redistribution of the agenda.\*\*\*

\*\*\*Note: The Attorney General has opined (99 Ops. Cal. Atty. Gen. 11 (2016)) that the Brown Act regular meeting online agenda posting provision contained within Government Code 54954.2 is not necessarily violated when a local agency's web site experiences technical difficulties that cause the agenda to become inaccessible to the public for a portion of the 72 hours that precede the scheduled meeting. If the local agency has otherwise substantially complied with the Brown Act agenda posting requirements, the legislative body may lawfully hold its regular meeting as scheduled.\*\*\*

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)

(cf. 1113 - District and School Web Sites)  
(cf. 1340 - Access to District Records)

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)

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)

\*\*\*Note: The following optional paragraph is for use by districts that charge a fee for mailing the agenda or agenda packet. Government Code 54954.1 authorizes districts to charge a fee for mailing the agenda or agenda packet as long as the fee does not exceed the cost of providing the service. Pursuant to Government Code 54957.5, a surcharge may not be imposed for providing the agenda and other public record documents in alternative formats to persons with disabilities.\*\*\*

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 Public Records Act. (Government Code 54957.5)

\*\*\*Note: Pursuant to Government Code 54954.1, upon request, the agenda and supporting documentation must be made available in appropriate alternative formats to persons with a disability, as required under the Americans with Disabilities Act (42 USC 12132). Examples of alternative formats, also referred to as "auxiliary aids and services," are listed in 28 CFR 36.303 and include accessible electronic and information technology, audio recordings, or Braille materials.\*\*\*

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)

Legal Reference:

EDUCATION CODE

35144 Special meetings

35145 Public meetings

35145.5 Right of public to place matters on agenda

GOVERNMENT CODE

6250-6270 Public Records Act

53635.7 Separate item of business

54954.1 Mailed agenda of meeting

54954.2 Agenda posting requirements; board actions

54954.3 Opportunity for public to address legislative body  
54954.5 Closed session item descriptions  
54956.5 Emergency meetings  
54957.5 Availability of public records  
54960.2 Challenging board actions; cease and desist  
UNITED STATES CODE, TITLE 42  
12101-12213 Americans with Disabilities Act  
CODE OF FEDERAL REGULATIONS, TITLE 28  
35.160 Effective communications  
36.303 Auxiliary aids and services  
COURT DECISIONS  
Mooney v. Garcia, (2012) 207 Cal.App.4th 229  
Caldwell v. Roseville Joint Union High School District, 2007 U.S. Dist. LEXIS 66318  
ATTORNEY GENERAL OPINIONS  
99 Ops. Cal. Atty. Gen. 11 (2016)  
78 Ops. Cal. Atty. Gen. 327 (1995)

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

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, rev. 2003

WEB SITES

CSBA, GAMUT Meetings: <http://www.csba.org>

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

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# **Board Bylaw**

## **Meeting Conduct**

BB 9323

### **Board Bylaws**

\*\*\*Note: Education Code 35010 mandates the Governing Board to "prescribe and enforce" rules for its own governance. These rules must not be inconsistent with law or with regulations prescribed by the State Board of Education. The following bylaw provides suggested rules and procedures for meeting conduct and reflects provisions of law as applicable.\*\*\*

#### 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.

(cf. 9322 - Agenda/Meeting Materials)

\*\*\*Note: The law does not specify that a particular set of procedures must govern Board meetings. Although Robert's Rules of Order can serve as a useful guide, the Board may adopt any procedure that allows for the efficient and consistent conduct of meetings.\*\*\*

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.

(cf. 9121 - President)

\*\*\*Note: The following optional paragraph limits the length of Board meetings and should be revised to reflect district practice.\*\*\*

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 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 subsequently may be adjourned to a later date.

(cf. 9320 - Meetings and Notices)

\*\*\*Note: In *Rubin v. City of Burbank*, an appellate court held that inclusion of "sectarian prayer" at city council meetings, which communicated a preference for a particular religious faith and advanced one faith over another, was unconstitutional by directing the prayer "in the name of Jesus." The court held that it would be constitutional to require the city to advise those people conducting the prayer of this limitation. This opinion is consistent with an unpublished

9th Circuit federal court opinion which stated that an invocation "in the name of Jesus" was unconstitutional in that it displayed allegiance to a particular faith.\*\*\*

\*\*\*Note: Some general guidelines for invocations can be found in an Attorney General's opinion (76 Ops.Cal.Atty.Gen. 281 (1993)) which stated that a county board of supervisors could open its sessions with an invocation when the invocation is (1) not required by law as a condition to the official proceedings, (2) not part of the deliberative agenda, (3) not offered, supervised, or approved as to content by a public officer, (4) not officially limited to a particular religion, (5) not disparaging of others, and (6) not directed towards proselytizing. However, because this is an unsettled area of law that is subject to frequent litigation, it is strongly recommended that districts consult legal counsel if they wish to open meetings with an invocation. Note that a different legal analysis applies to student-led or student-initiated prayer; see BP 5127 - Graduation Ceremonies and Activities.\*\*\*

### Quorum and Abstentions

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

(cf. 9323.2 - Actions by the Board)

\*\*\*Note: According to an Attorney General opinion (61 Ops.Cal.Atty.Gen. 243 (1978)), members of a public body have a duty to vote on issues before them so that the public is represented and receives the services which the public body was created to provide. Issues arise when a motion is tied and one Board member has abstained. The general parliamentary rule is that an abstention is counted as agreeing with the action taken by the majority of those who vote, whether affirmatively or negatively (66 Ops.Cal.Atty.Gen. 336 (1983)). However, a stronger argument could be made that the parliamentary rule is in conflict with Education Code 35164 which requires a majority vote of all of the membership of the Board in order for the Board to act (i.e., a majority of all of the membership of the Board must vote affirmatively in order to approve any action). In 55 Ops.Cal.Atty.Gen. 26 (1972), the Attorney General opined that, when a statutory requirement exists that requires an affirmative action of at least a majority of the members of the Board, the general rule that members not voting were deemed to have agreed with the action taken by the majority of those that voted is not applicable.\*\*\*

\*\*\*Note: The following optional paragraph is consistent with CSBA's opinion that a majority of the Board must vote affirmatively for a motion to carry, but the law is not settled and contrary legal opinions may exist. It is strongly recommended that the district consult with legal counsel and modify the following paragraph to ensure consistency with district practice.\*\*\*

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.

(cf. 9270 - Conflict of Interest)

\*\*\*Note: The following paragraph applies only to districts with seven member boards and should be deleted by districts with a three or five member board.\*\*\*

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

\*\*\*Note: Pursuant to Government Code 54953.3, members of the public cannot be required to register their names, complete a questionnaire, or provide other information as a condition of attending a Board meeting. If an attendance list or similar document is posted near the entrance or circulated during the meeting, it must clearly state that signing or completing the document is voluntary.\*\*\*

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.

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:

\*\*\*Note: Education Code 35145.5 mandates the Board to adopt regulations which ensure that the public can address the Board regarding agenda items, as specified below.\*\*\*

\*\*\*Note: District employees have the same right as members of the public to address the Board during a public Board meeting. In 90 Ops.Cal.Atty.Gen. 47 (2007), the Attorney General opined that, under the Ralph M. Brown Act, an administrative district employee cannot be prohibited from attending a Board meeting or from speaking during the public comment period, including comments on an employment-related issue.\*\*\*

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)

(cf. 9130 - Board Committees)

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.

\*\*\*Note: Government Code 54954.3 authorizes reasonable regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Such reasonable regulations must ensure that the intent of allowing the public an adequate opportunity to speak to the Board is carried out. The following paragraph should be revised to reflect district practice.\*\*\*

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)

\*\*\*Note: The following optional item addresses the issue of specific charges or complaints against district employees in open Board meetings. Although the Board may inform the speaker of appropriate district complaint procedures, it cannot prohibit criticisms of the district and its employees, no matter how harsh. Board members and staff may briefly respond to the concerns raised by the complainant at the meeting.\*\*\*

\*\*\*Note: In *Baca v. Moreno Valley Unified School District*, a federal district court issued a preliminary injunction against the district prohibiting it from enforcing its policy barring criticism of employees at public Board meetings. The court found that the district's policy violated the plaintiff's First Amendment rights by restricting the content of her speech. The court further noted that the district could not legally prevent a person from speaking in open session, even if the speech was clearly defamatory. It is recommended that the Board consult legal counsel if a question arises regarding public criticism of a district employee.\*\*\*

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.

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 9321 - Closed Session Purposes and Agendas)

\*\*\*Note: As provided in item #7 below, Government Code 54957.9 authorizes the Board to remove persons who willfully disrupt or disturb a meeting. Examples of disruptive conduct might include conduct that is extremely loud, disturbing, or creates a health or safety risk. In *McMahon v. Albany Unified School District*, the court held that a speaker's constitutional rights were not violated when he was removed from a Board meeting after dumping a substantial amount of garbage on the floor of the meeting room. Because the speaker was not removed based on the content of his speech, the court upheld his conviction for a willful disruption of a public meeting. In *City of San Jose v. Garbett*, the court held that a legislative body may exclude from a meeting a person who has expressed a credible threat of violence that would place reasonable persons in fear for their safety or the safety of their immediate family and that serves no legitimate purpose.\*\*\*

\*\*\*Note: However, the courts have found that a person's conduct must actually disrupt the meeting in order to warrant ejection. In *Norse v. City of Santa Cruz*, the court held that the city council improperly ejected a member of the public who gave the council a silent Nazi salute, on the grounds that the action did not interfere with the proceedings of the meeting.\*\*\*

7. The Board president shall not permit any disturbance or willful interruption of Board meetings. Persistent 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.

The Board may remove disruptive individuals and 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 such disruptive conduct occurs, the Superintendent or designee shall contact local law enforcement as necessary.

#### Recording by the Public

\*\*\*Note: Government Code 54953.5 provides that any person attending an open meeting may record it with an audio or video recorder or a still or motion picture camera unless the Board makes a reasonable finding that the recording cannot continue without noise, illumination, or obstruction of view which would persistently disrupt the meeting. Government Code 54953.6 requires a similar finding before the Board can prohibit or restrict a broadcast of its meetings.\*\*\*

\*\*\*Note: The following paragraph extends the right to record an open meeting to include recordings made by other devices such as a cell phone.\*\*\*

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.

(cf. 9324 - Board Minutes and Recordings)

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)

#### Legal Reference:

##### EDUCATION CODE

5095 Powers of remaining board members and new appointees

32210 Willful disturbance of public school or meeting a misdemeanor

35010 Prescription and enforcement of rules

35145.5 Agenda; public participation; regulations

35163 Official actions, minutes and journal

35164 Vote requirements

35165 Effect of vacancies upon majority and unanimous votes by seven member board

##### CODE OF CIVIL PROCEDURE

527.8 Workplace Violence Safety Act

GOVERNMENT CODE

54953.3 Prohibition against conditions for attending a board meeting

54953.5 Audio or video recording of proceedings

54953.6 Broadcasting of proceedings

54954.2 Agenda; posting; action on other matters

54954.3 Opportunity for public to address legislative body; regulations

54957 Closed sessions

54957.9 Disorderly conduct of general public during meeting; clearing of room

PENAL CODE

403 Disruption of assembly or meeting

COURT DECISIONS

City of San Jose v. Garbett (2010) 190 Cal.App.4th 526

Norse v. City of Santa Cruz (9th Cir. 2010) 629 F3d 966

McMahon v. Albany Unified School District (2002) 104 Cal.App.4th 1275

Rubin v. City of Burbank (2002) 101 Cal.App.4th 1194

Baca v. Moreno Valley Unified School District (1996) 936 F.Supp. 719

ATTORNEY GENERAL OPINIONS

90 Ops.Cal.Atty.Gen. 47 (2007)

76 Ops.Cal.Atty.Gen. 281 (1993)

66 Ops.Cal.Atty.Gen. 336 (1983)

63 Ops.Cal.Atty.Gen. 215 (1980)

61 Ops.Cal.Atty.Gen. 243, 253 (1978)

59 Ops.Cal.Atty.Gen. 532 (1976)

55 Ops.Cal.Atty.Gen. 26 (1972)

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

ATTORNEY GENERAL PUBLICATIONS

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

WEB SITES

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

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

# **Board Bylaw**

## **Actions By The Board**

BB 9323.2

### **Board Bylaws**

\*\*\*Note: Pursuant to Education Code 35164, a majority vote of all members of the Governing Board is necessary for an item to carry, even in those cases where some members are absent. Thus, for districts with a five-member board, an item will pass with three votes, even if only three members are present or there is a vacancy. Education Code 35165 details the effect of a vacancy in districts with a seven-member board. For language regarding vote requirements when a board member abstains, see BB 9323 - Meeting Conduct.\*\*\*

\*\*\*Note: The law specifies certain board actions as requiring more than a majority vote; see E(1) 9323.2 for a list of such actions.\*\*\*

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)

(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)

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)

(cf. 9324 - Minutes and Recordings)

Action on Non-Agenda Items

\*\*\*Note: The Brown Act (Government Code 54950-54963) generally prohibits any action or discussion of items not on the posted agenda. However, Government Code 54954.2 provides for three specific and narrow situations in which the Board can act on an item not on the agenda, as specified below. Board members may also briefly respond to questions raised by members of the public concerning items not on the agenda; see BB 9323 - Meeting Conduct.\*\*\*

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

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

#### Challenging Board Actions

\*\*\*Note: Government Code 54960 grants authority to the district attorney or any interested person to file a civil action asking the court to order the Board to stop or prevent Brown Act violations specified below. The Board should respond to legal challenges to its actions and consult legal counsel when necessary. Pursuant to Government Code 54960.5, a court may award court costs and reasonable attorney's fees to a plaintiff who successfully invalidates a Board action in violation of the Brown Act or successfully enforces one of the Brown Act's civil remedies provided in Government Code 54960-54960.2.\*\*\*

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.

\*\*\*Note: Pursuant to Government Code 54960.2, the Board may respond within 30 days of receiving the cease and desist letter. If the Board decides to respond to the letter with an unconditional commitment to desist from repeating the past action, the unconditional commitment is required to be substantially in the same form provided in Government Code 54960.2 and to be approved in an open session of the Board's regular or special meeting. For a sample unconditional commitment letter, see E(2) 9323.2.\*\*\*

- 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

\*\*\*Note: Pursuant to Government Code 54960.1, the district attorney's office or any interested person may file a lawsuit to invalidate (i.e., declare null and void) actions that violate specific provisions of the Brown Act listed in Government Code 54960.1 and specified below. However, even when the action may normally be subject to invalidation, Government Code 54960.1 provides that in certain circumstances (e.g., when there has been substantial compliance with the Brown Act or the Board action resulted in a contract with a party who detrimentally relied on the action in good faith and without notice of a challenge to its validity), the action may not be invalidated.\*\*\*

\*\*\*Note: Before seeking court action, the person who believes a violation occurred must send a written demand to the Board to "cure or correct" the action as specified below. Because the laws regarding these provisions are complex, it is recommended that the district consult with legal counsel upon receipt of a "cure and correct" demand.\*\*\*

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>

# **Exhibit**

## **Actions By The Board**

E 9323.2

### **Board Bylaws**

#### Exhibit 1

#### ACTIONS REQUIRING A SUPER MAJORITY VOTE

\*\*\*Note: The following exhibit lists some of the Governing Board actions that require more than a simple majority vote. Other such actions may exist and may be identified in the future.\*\*\*

#### Actions Requiring a Two-Thirds Vote of the Board

\*\*\*Note: For an action requiring a two-thirds vote to pass, a three-member board will need two board members to vote in favor of the item, a five-member board will need four board members to vote in favor of the item, and a seven-member board will need five board members to vote in favor of the item.\*\*\*

1. Resolution declaring the Governing Board's intention to sell or lease real property (Education Code 17466)

(cf. 3280 - Sale or Lease of District-Owned Real Property)

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)

\*\*\*Note: Item #5 below is different from temporary borrowing pursuant to Government Code 53850-53858 which requires only a majority vote of the Board.\*\*\*

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)

(cf. 7131 - Relations with Local Agencies)  
(cf. 7150 - Site Selection and Development)  
(cf. 7160 - Charter School Facilities)

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)

(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, 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)

(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)

(cf. 7213 - School Facilities Improvement Districts)

11. Resolution to place a parcel tax on the ballot (Government Code 53724)

(cf. 3471 - Parcel Taxes)

\*\*\*Note: Code of Civil Procedure 1245.240 requires that, prior to commencing an eminent domain action, the Board adopt a resolution of necessity approved by a two-thirds vote of the Board unless a greater vote is required by statute, charter, or ordinance. In addition, if the Board desires to use the property for a different purpose than stated in the resolution of necessity, then pursuant to Code of Civil Procedure 1245.245, the Board must adopt, by two-thirds vote, another resolution authorizing the different use unless a greater vote is required by statute, charter, or ordinance.\*\*\*

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)

\*\*\*Note: Item #13 is for use by districts governed by a three-member board that have elected to use an alternative procedure for awarding contracts for public works projects pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045), which establishes a higher bid limit and a more informal bidding process for certain projects. For further information, see BP 3311.1 - Uniform Public Construction Cost Accounting Procedures.\*\*\*

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)

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)

(cf. 9320 - Meetings and Notices)

(cf. 9321 - Closed Session)

#### Actions Requiring a Four-Fifths Vote of the Board

\*\*\*Note: For an action requiring a four-fifths vote to pass, a three-member board will need a unanimous vote in favor of the item, a five-member board will need four board members to vote in favor of the item, and a seven-member board will need six board members to vote in favor of the item.\*\*\*

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)

\*\*\*Note: Item #4 is for use by districts governed by a five-member or seven-member board.\*\*\*

\*\*\*Note: Items #4-5 are for use by districts that have elected to use an alternative procedure for awarding contracts for public works projects pursuant to the UPCCAA. For further information, see BP 3311.1 - Uniform Public Construction Cost Accounting Procedures.\*\*\*

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)

(cf. 3110 - Transfer of Funds)

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)

(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)

(10/16 3/19) 10/20

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Exhibit(2) 9323.2

ACTIONS BY THE BOARD

UNCONDITIONAL COMMITMENT LETTER

\*\*\*Note: Government Code 54960 authorizes the district attorney or other interested person to file an action in court to determine the applicability of the Ralph M. Brown Act to any past Governing Board action which is not specified in Government Code 54960.1; see the accompanying board bylaw. Pursuant to Government Code 54960.2, prior to commencing such an action the district attorney or other interested person must send a cease and desist letter to the Board within nine months of the alleged violation. Within 30 days of receiving the cease and desist letter, the Board may respond by sending an unconditional commitment, substantially in the same form provided in Government Code 54960.2, to desist from repeating the past action. If the Board so responds, the district attorney or other interested person may not file an action in court. The following exhibit presents a sample 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)

(11/12) 3/19

# **Board Bylaw**

## **Minutes And Recordings**

BB 9324

### **Board Bylaws**

\*\*\*Note: The following optional bylaw should be modified to reflect district practice.\*\*\*

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.

(cf. 9000 - Role of the Board)  
(cf. 9005 - Governance Standards)  
(cf. 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)

(cf. 1340 - Access to District Records)  
(cf. 9122 - Secretary)  
(cf. 9323.2 - Actions by the Board)

The minutes of Board meetings shall include, but not be limited to:

\*\*\*Note: Pursuant to Government Code 54952 and Education Code 35164, a "meeting" occurs when a majority of the Board is present and a Board action requires a majority vote of the Board. Thus, the minutes should reflect any occasion on which a member is not present for the entire meeting in order to document that a majority of the Board remained in attendance throughout the meeting.\*\*\*

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

\*\*\*Note: Item #5 is for use by districts that maintain high schools and have one or more student Board members. Pursuant to Education Code 35012, student Board members are allowed to cast preferential votes on open session items before the official vote of the Board. Preferential votes are recorded in the minutes but not counted as a vote for the purpose of taking Board action. See BB 9150 - Student Board Members.\*\*\*

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)

\*\*\*Note: Pursuant to Education Code 49073.2, as added by SB 1036 (Ch. 788, Statutes of 2018), the district is prohibited from including in its minutes a student's directory information, as defined in Education Code 49061, or a parent/guardian's personal information, as defined in Education Code 49073.2, when the student or parent/guardian requests that such information be excluded. For further information about the types of information that are categorized as directory information, see AR 5125.1 - Release of Directory Information.\*\*\*

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)

\*\*\*Note: The following paragraph is optional and may be revised to reflect district practice.\*\*\*

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.

\*\*\*Note: The following optional paragraph is for use by districts which have their approved minutes signed by a Board officer or designee and should be modified to reflect the appropriate position.\*\*\*

Upon approval by the Board, the minutes shall be signed by \_\_\_\_\_.

\*\*\*Note: Pursuant to 5 CCR 16023, minutes and official actions of the Board must be

classified and retained in accordance with 5 CCR 16022. See BP/AR 3580 - District Records.\*\*\*

\*\*\*Note: CSBA's GAMUT Meetings, an electronic board meeting agenda service, allows for the development, storage, and access to Board meeting agendas, supporting documents, and minutes from any computer with Internet access. Further information can be found on CSBA's web site.\*\*\*

Official Board minutes and recordings shall be stored in a secure location and shall be retained in accordance with law.

(cf. 3580 - District Records)

\*\*\*Note: Although Government Code 54957.2 permits keeping of minutes for closed sessions, districts should consult with legal counsel before making it a practice to do so. Should a court determine that a district has violated the Brown Act, Government Code 54960 allows the court to compel the Board to record its closed sessions. See, BB 9323.2 - Actions by the Board.\*\*\*

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)

(cf. 9321.1 - Closed Session Actions and Reports)

#### Recording or Broadcasting of Meetings

\*\*\*Note: The following optional section addresses the recording or broadcasting of meetings by the district.\*\*\*

\*\*\*Note: Pursuant to Government Code 54953.5 and 54953.6, any person attending an open meeting may record or broadcast the meeting, unless the Board makes a reasonable finding that the recording or broadcast cannot continue without noise, illumination, or obstruction of view which would persistently disrupt the meeting. See BB 9323 - Meeting Conduct for language regarding recording by the public.\*\*\*

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, GAMUT Meetings: <http://www.csba.org>

(7/08 4/14) 12/18

# **Board Bylaw**

## **Board Self-Evaluation**

BB 9400

### **Board Bylaws**

\*\*\*Note: The following optional bylaw may be revised to reflect district practice.\*\*\*

The Governing Board shall annually conduct a self-evaluation in order to demonstrate accountability to the community and ensure that district governance effectively supports student achievement and the attainment of the district's vision and goals.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 2140 - Evaluation of the Superintendent)

The evaluation may address any area of Board responsibility, including, but not limited to, Board performance in relation to vision setting, curriculum, personnel, finance, policy development, collective bargaining, community relations, and advocacy. The evaluation may also address objectives related to Board meeting operations, relationships among Board members, relationship with the Superintendent, understanding of Board and Superintendent roles and responsibilities, communication skills, or other governance or boardsmanship skills.

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

The Board shall evaluate itself as a whole. Individual Board members are also expected to use the evaluation process as an opportunity to assess and set goals for their own personal performance.

\*\*\*Note: CSBA offers an online self-evaluation tool which can be accessed and completed electronically through the CSBA web site. Electronically generated results identifying areas of strength and growth are available to the district within a few days of completion by all Governing Board members.\*\*\*

Each year, the Board, with assistance from the Superintendent, shall determine an evaluation method or instrument that measures key components of board responsibility and previously identified performance objectives. Visual and/or audio recordings of a Board meeting may only be used as an evaluation tool when consent is given by all Board members.

\*\*\*Note: Pursuant to Government Code 54962, the Board may hold a closed session only for purposes expressly authorized by the Brown Act (Government Code 54950-54963) or by a provision of the Education Code. Neither code authorizes closed session discussions for the purpose of board self-evaluations; see BB 9321 - Closed Session Purposes and Agendas.

Government Code 54957, which authorizes closed sessions for personnel matters such as evaluations, specifically excludes elected officers or members of a legislative body.\*\*\*

Any discussion involving the Board's self-evaluation shall be conducted in open session.

\*\*\*Note: CSBA representatives are available to facilitate board self-evaluations and workshops that include the use of CSBA's self-evaluation tool. Boards that use a facilitator other than a CSBA representative should note that there is a proprietary right attached to CSBA's self-evaluation tool.\*\*\*

At the request of the Board, a facilitator may be used to assist with the evaluation process. The Board may invite the Superintendent or other individual(s) with pertinent information to provide input into the evaluation process.

Following the evaluation, the Board shall set goals, define and/or refine protocols, and establish priorities and objectives for the following year's evaluation. The Board shall also develop strategies for strengthening Board performance based on identified areas of need, including, but not limited to, Board trainings such as those offered by the California School Boards Association.

(cf. 9230 - Orientation)  
(cf. 9240 - Board Training)

Legal Reference:

GOVERNMENT CODE

54950-54963 Brown Act; board self-evaluations not covered

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards

Defining Governance, Issue 3: Governance Practices, Governance Brief, April 2014

WEB SITES

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

CSBA Board Self-Evaluation: <http://bse.csba.org>

(9/88 3/02) 7/17

AGREEMENT FOR THE TRANSPORTATION OF PUPILS

This **AGREEMENT FOR THE TRANSPORTATION OF PUPILS**, (this "Agreement"), is made and entered into this \_\_\_\_\_ day of May, 2021, (the "Effective Date") by and between **TWIN RIDGES ELEMENTARY SCHOOL DISTRICT** with a principal office located at 16661 Old Mill Road, Nevada City, California 95959, hereinafter referred to as ("District"), and **DURHAM SCHOOL SERVICES, L.P.**, a Delaware limited partnership, with its principal office located at 2601 Navistar Drive, Lisle, Illinois 60532, hereinafter referred to as ("Contractor"). District and Contractor are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

1. Scope of Services. Contractor shall provide pupil transportation services to District which services shall include, but are not limited to, transporting students; providing equipment, storage and maintenance thereof; providing employees to perform such services; and administrative, supervisory and operational services required thereby ("Work") based on the assumptions and at the rates set forth on Schedule A and as otherwise described in this Agreement.
2. Change in Scope of Services. The following provisions shall apply in the event of the applicable reduction in service:
  - (a) Minimum Operating Days. This Agreement and Contractor's rates set forth hereunder contemplate a base term of 1 year and a minimum of 170 operating days per school year in accordance with the regularly scheduled school year. District agrees to provide Contractor with reasonable written notice if District changes the school calendar such that the number of minimum operating days falls below 170 so that the parties may engage in good faith negotiations to adjust Contractor rates prior to the end of the then current school year. If the parties cannot reach an agreement, or if District does not provide Contractor with adequate notice of the reduction in school days, such that a renegotiation of rates prior to the end of the then current school year is impracticable, District agrees to pay Contractor in accordance with section (c) below.
  - (b) Reduction in Service. If the average daily number of routes, mid-day runs, shuttles or after school runs is changed by five percent (5%) or more from the original Scope of Work, Contractor, upon written notice to District, may request an adjustment to rates, which shall be conducted in good faith. If the parties cannot reach an agreement, Contractor may terminate the Agreement at the end of the applicable school year upon sixty (60) days written notice to District.
  - (c) Cancelled Operating Days. If District cancels any Work due to inclement weather (such as, but not limited to, snow, ice, flood, extreme cold/extreme heat), for health or safety reasons, or other emergency situations (including but not limited to pandemics, plagues, political unrest, executive / governmental orders etc.), such that the minimum operating days fall below 170, District agrees to pay a sum equal to the rates set forth in the 2021/2022 SY per bus per day charges for each operating day cancelled.
3. Payment for Services. On or about the first business day of each month Contractor shall submit invoices in the form and number required by District for all services performed under this Agreement.
  - (a) Payment for such services will be made in check, money order, or ACH or wire transfers within a reasonable time after receipt of invoice, not to exceed thirty (30) calendar days. Payment by credit

card is accepted but requires an increase in the invoiced amount of two and one-half percent (2.5%) to cover processing fees.

(b) If District, acting in good faith, disputes the accuracy of all or part of any invoice, District must notify Contractor of such dispute within ten (10) days of the receipt of the invoice, including the specific line item subject to dispute and the reasons for the dispute. Notwithstanding such dispute, District shall pay all undisputed amounts in accordance with this Section 3. Except as set forth in this Section 3 or as otherwise specified in this Agreement, District shall have no further right to set-off.

(c) In the event undisputed sums due and payable are not received within thirty (30) calendar days of the date of invoice, a late charge of 1.5% per month or the maximum percentage allowed by law, whichever is less, of the outstanding balance will be assessed upon the account.

(d) In the event such undisputed sums are not received within sixty (60) days, service may be discontinued until such time as Contractor has received all sums due, and District shall hold Contractor harmless for any damages resulting from the discontinued service due to District's failure to pay.

4. Adjustment of Rates.

a. The rates set forth in Schedule A shall be adjusted annually. On July 1<sup>st</sup> in each Agreement year the rates will be adjusted upward by the percentage increase in the U. S. City Average, Consumer Price Index, All Urban Consumers, as identified by the U.S. Bureau of Labor Statistics, for the twelve (12) month period ending April 30<sup>th</sup> of that year.

b. Notwithstanding any contrary statements in this Agreement or in any documents incorporated herein by reference, in the event any federal, state, local or other government body's statutes, laws, orders, rules, guidelines, or regulations require material changes to the scope of work or the bid specifications of the District (such as major scheduling, routing, or enrollment changes or additions of special needs or physically handicapped children, which require added transportation equipment). Contractor, upon written notice to Board, may request a renegotiation of the Agreement which shall be conducted in good faith. Such renegotiations may include, without limitation, changes in rates, term, payment schedules, levels of service, and the types or number of vehicles to be used. Any modification to the Agreement resulting from such renegotiations shall become effective on a mutually agreed upon date. If the parties cannot come to an agreement, either party may terminate the Agreement upon thirty (30) days' notice.

5. Term. The term of this Agreement shall be for a period of one (1) year beginning July 1, 2021 through June 30, 2022. This Agreement shall be renewable for two (2) additional terms of one (1) years, at the option and mutual written agreement of both parties, taking into consideration Contractor's performance under this Agreement and cost negotiations, and subject to applicable statutes and regulations.

6. Document Agreement. This Agreement contains all the terms and conditions agreed upon by the Parties and no other agreement, oral or otherwise, including District's Request for Proposal, regarding the subject matter of this Contract, or any part thereof, shall have any validity or bind the Parties. The complete Agreement consists of this Agreement and the Proposal of Contractor, which is incorporated herein by reference. In the event of any conflict between the terms of this Agreement and the Proposal, the terms of this Agreement shall govern.

7. Permits and Licenses. Contractor, its employees, and its agents shall secure and maintain valid permits, licenses, and certifications as required by law for the execution of this Agreement.

8. Insurance. Contractor shall maintain insurance as set forth below during this Agreement period and shall furnish a certificate of insurance for General and Auto Liability coverage and for Workers'

Compensation coverage. Contractor shall furnish new Certificates of Insurance for liability coverage and for Workers' Compensation coverage within thirty (30) days following the placement of new or renewed coverage. Certificates shall provide that a thirty (30) day prior notice of cancellation will be given to District.

General and Auto Liability insurance shall be maintained to protect Contractor from any claims from damages for personal injury or death, and from damage to property, which may arise from operations of Contractor under this Agreement. General and Auto Liability insurance shall each have a combined single limit of Five Million Dollars (\$5,000,000). Workers' Compensation insurance shall be maintained as required by law and to protect Contractor from claims, which may arise from its operation under this Agreement.

9. Hold Harmless Agreement. Contractor shall hold harmless and indemnify District, its Governing Board, Officers, Agents, and Employees from every claim or demand which may be made by reason of any injury to person or damage to property sustained by any person, firm or corporation, to the extent that such injury or damage was caused by any negligent act or omission or willful misconduct of Contractor or of any person, firm, or corporation, directly or indirectly employed by Contractor upon or in connection with its performance under this Agreement.

To the extent permissible by law, District shall hold harmless and indemnify Contractor, its Officers, Agents, and Employees from every claim or demand which may be made by reason of any injury to person or damage to property sustained by any person, firm or corporation, to the extent that such injury or damage was caused by any negligent act or omission or willful misconduct of District or of any person, firm, or corporation, directly or indirectly employed by District upon or in connection with its performance under this Agreement.

10. Safety Program. Contractor shall provide formal safety instruction on a regular basis for all operating personnel assigned to this Agreement.
11. Independent Contractor. While engaged in carrying out and complying with the terms and conditions of this Agreement, Contractor is an independent contractor, and neither Contractor, its employees or its Agents shall be considered to be an Officer, Agent, or Employee of District.
12. Assignments. Contractor may assign or transfer any of its rights, burdens, duties, or obligations under this Agreement to its parent company, affiliates, subsidiaries, or related legal entities. Contractor will advise District of such assignment or transfer.
13. Subcontracting. Contractor will not subcontract any of its rights, burdens, duties, or obligations under this Agreement without the written consent of District, except on a short term, interim basis in the event of an emergency. Consent shall not be unreasonably withheld.
14. Routing and Scheduling. Prior to the start of any service under this Agreement, District and Contractor shall cooperatively establish routes and schedules conforming to the needs of District. If, at any time during the term of this Agreement, it is determined by mutual consent that service may be improved by revisions to routing, scheduling, or bus assignment, District and Contractor shall plan and institute such changes jointly. Contractor shall have sufficient notice to review such changes and evaluate the safety considerations. All routes, schedules, and bus stops shall be established by Contractor on such basis as may be determined by it to be most efficient, but shall be approved by District and shall not be revised without mutual consent and authorization.
15. Contractor's Personnel. Contractor shall employ and assign for services under this Agreement a sufficient number of regular and substitute drivers based on projected basic and supplementary transportation, taking into account the current driver absence rates. Contractor shall be solely responsible for hiring and discharging its employees. District shall have the right to request removal

of any of Contractor's employees from providing services under this Agreement provided that such request is made in writing with the reasons set forth and provided that such request does not violate any laws against discrimination.

16. Record Keeping and Accident Reports. Contractor will be required to provide access to any and all operational records related to the provision of services under this Agreement and kept in the ordinary course of business to District within 30 days of District's written request for such records. District shall maintain the confidentiality of Contractor's records. All operational records, including, but not limited to audio, digital and video recordings are, and shall be, the exclusive property of Contractor.

All equipment involved in an accident shall be reported as defined by law. Accidents involving Contractor's equipment or personnel while operating for District shall also be reported to District. If requested by District, pupil injuries not involving acceleration, deceleration, or movement of the bus may also be reported to District on forms provided by District.

17. Equipment Requirements. All buses supplied under this Agreement shall be approved school buses, as defined by applicable statutory or administrative codes within the state in which District operates.
- a. Regular preventive maintenance shall be practiced on all buses.
  - b. Spare buses, either District or Contractor supplied, of appropriate sizes, and meeting all the above requirements, shall be located by Contractor at points close enough to District so they may be substituted for regularly assigned buses, if needed, without delay.
  - c. It is specifically understood between the Parties that prices under this Agreement do not include modifications to vehicles that might at some point in the future be required by government agencies or District. If, during the term of this Agreement, equipment modifications, including seat belts, are mandated, Contractor and District shall negotiate in good faith price increases related to such modifications. Such renegotiations shall include, but shall not be limited to, the payment schedule, duration of this Agreement, levels of service, etc. Any modification to this Agreement resulting from such renegotiations shall become effective on a mutually agreed-upon date.
  - d. If Contractor shall be utilizing vehicles provided by District, then Contractor, prior to undertaking its responsibilities under the Agreement, shall have the right to inspect all vehicles and equipment covered in the Agreement and shall verify that all vehicles and equipment are in safe operation and good running order. In the event that initial inspection reveals that any of the vehicles or equipment are not in good running order, or that adequate maintenance records have not been kept, Contractor shall restore those vehicles and equipment to safe operation and good working order and will charge District at a rate of \$ per hour plus the cost of parts. Contractor shall provide District with a written estimate of repairs required to restore vehicles and equipment to safe working order based on the initial inspection. Contractor shall have the benefit of all existing manufacture warrantees and District warrants that it has maintained the vehicles and equipment in a manner consistent with the manufacturer warranties. It is specifically understood between the parties that District shall retain sole responsibility for all claims related to maintenance and repairs on District owned vehicles and equipment prior to Contractor taking control of the vehicles and equipment regardless of whether any defect or deviation was discovered by Contractor during the initial inspection.
18. Use and Maintenance of Facility. Contractor agrees to pay \$1.00 per year to lease District Transportation Center, hereinafter referred to as "Facility".

- a. Contractor will be responsible for the day-to-day maintenance and repairs of the Facility due to routine wear and tear including interior painting, cleaning, and non-environmental waste disposal. Contractor will install long distance telephone service and computer data lines as needed (Contractor responsible for line charges), and cover the cost of personal property taxes and insurance for Contractor's equipment. District will provide existing furniture and office equipment. District will continue to maintain existing local telephone lines for use by Contractor.
- b. Contractor will be responsible for maintenance of any shop and office equipment that District provides Contractor usage of and shall be responsible for all damage caused by the negligence of Contractor or its employees, excluding normal wear and tear. Contractor will be responsible for cleaning shop area and waste disposal area.
- c. If Contractor is successful in securing additional business from nearby Districts or other Customers, then Contractor may enter into an agreement with District to pay fair market value for the proportionate amount of usage of the Facility required to serve such Districts or Customers. Contractor must obtain permission from District prior to using Facility. Reasonable agreement will not be withheld.
- d. District retains the right to request Contractor to maintain District-owned and operated maintenance vehicles at a price that is to be mutually agreed upon.

19. Environmental Indemnification.

- a. District hereby represents and warrants that:
  - i. The Property and Facility have been used, operated and maintained at all times in compliance with all applicable federal, state and local environmental quality laws, regulations, rules, policies and rulings; and,
  - ii. Any and all liquid storage tank(s) (underground and/or above ground) are in good maintenance and repair and are not now leaking; and,
  - iii. All applicable federal, state and local registration requirements respecting existing liquid storage tank(s) (underground and/or above ground) and discharge into the soil, ground water, surface water, storm drain system, sewer drain system, etc., have been strictly complied with at all times; and,
  - iv. There has been no discharge of oil, gasoline, diesel fuel, solvents, other hydrocarbons or any other hazardous materials into or contamination by such materials or otherwise of the soil, ground water, surface water, storm drain system, sewer drain system, etc., or any other pollution from any use, operation and/or maintenance of the Property and Facility at any time prior to the date hereof.
  - v. District shall comply with all applicable federal, state and local environmental quality laws, regulations, rules, policies, and rulings related to use, maintenance and operation of the Property and Facility at all times prior to, during and after this Agreement.
- b. Contractor shall comply with all applicable federal, state and local environmental quality laws, regulations, rules, policies, and rulings related to its use, maintenance and operation of the Property and Facility at all times during this Agreement after District complies with the testing, inspection, and initial repair or replacement provisions herein on the following terms and at the expense of District:



- i. As soon as practicable after the date hereof but prior to Contractor taking possession of the Facility, District shall provide Contractor with a written report regarding existing liquid storage tanks(s), including tank size, type, and construction, piping type and construction, and the year of installation and current or future modifications that must be made in order to comply with any federal, state, local or insurance requirements.
  - ii. District shall conduct precision tank testing of all liquid storage tanks, performed by a certified tank testing firm acceptable to Contractor, which firm shall provide to District and Contractor a written report indicating the condition of the tank(s).
  - iii. District shall make any needed repairs, modification, tank replacement and environmental clean-up required as a result of the tank test report and in order to comply with all applicable federal, state and local requirements.
  - iv. In the event a tank develops a leak during the term of this Agreement after District complies with the testing, inspection, and initial repair or replacement provisions herein, District shall make any needed repairs, modification, tank replacement and environmental clean-up required as a result of any future tank test reports(s) and in order to comply with all current and future federal, state and local requirements.
  - v. In the event a tank is required to be taken out of service due to a leak or in order to comply with environmental quality requirements during the term of this Agreement, and Contractor is then required to fuel vehicles at a location off the Property, District shall reimburse Contractor for the price differential between on-site fueling and other costs associated with such fueling including extra personnel and mileage expenses, for the duration of such period.
- c. District shall have full responsibility for the proper removal and disposal of any and all existing hazardous material stored on-site prior to the commencement of Contractor's occupation of the Property or Facility.
  - d. Contractor shall have no liability for any matters relating to hazardous or toxic conditions of the Property and Facility, environmental cleanup and disposal, or of violations of environmental quality laws (except for liability arising out of or related to the willful or negligent acts of Contractor).
  - e. District hereby agrees to indemnify and hold Contractor harmless from and against any loss, cost, or expense, including reasonable attorneys' fees, damages, claims or liability arising out of or related to the use, maintenance and operation of the Property and Facility related to environmental quality matters affecting the Property and Facility including without limitation, contamination of soil, surface water or ground water, personal injury or property damage and compliance with all applicable federal, state and local requirements affecting environmental quality (except for liability arising out of or related to the willful or negligent acts of Contractor).
  - f. Contractor hereby agrees to indemnify and hold District harmless from and against any loss, cost, or expense, including reasonable attorneys' fees, damages, claims, or liability arising out of or related to the willful or negligent acts of Contractor related to environmental quality matters affecting the Property or Facility but only to the extent that such damage or claim arose out of the willful or negligent acts of Contractor

g. The indemnification obligations of paragraphs "e" and "f" shall survive the termination or expiration of this Agreement.

20. Fuel. Fuel shall be paid for and provided by District.

21. Termination of Agreement. If either Party refuses or fails to perform services as required as specified in this Agreement, or any separable part thereof, the other Party may, without prejudice to any other right or remedy, serve written notification upon it of intention to terminate and, unless within forty-five (45) days after service of such written notice of the condition or violation the party in breach shall cease and make satisfactory arrangements for the correction thereof, this Agreement shall, upon the expiration of the forty-five (45) days, cease and terminate.

22. Notices: Notices to either Party to this Agreement shall be in writing and shall be considered duly served and delivered if such notice is delivered by hand; mailed via the United States mail, certified, return receipt requested; or sent via overnight service. All such notices shall be addressed to:

DISTRICT: Twin Ridges Elementary School District  
Attn: Superintendent/Principal  
16661 Old Mill Road  
Nevada City, California 95959  
Telephone: (530) 265-3049

CONTRACTOR: Durham School Services, L.P.  
Attn: Contract Management Specialist  
2601 Navistar Drive  
Lisle, Illinois 60532  
Telephone: (630) 821-5400

23. Discipline. Contractor will report serious or persistent misconduct on the part of students to the designated District employee. District shall then impose reasonable disciplinary measures upon the students in accordance with its discipline management program.

24. Force Majeure. Contractor shall be excused from performance hereunder, and District shall not be allowed to levy any damages or penalties, liquidated or otherwise during the time and to the extent that Contractor is prevented from performing in the customary manner by an act of God, fire, flood, war, riot, civil disturbance, state of emergency, terrorism, epidemic, pandemic, governmental / executive order, quarantine, strike, lockout, labor dispute, oil or fuel shortage, freight embargo, rationing or unavailability of materials or products, loss of transportation facilities, commandeering of equipment, materials, products, plants, or facilities by the Government, or any other occurrence which is beyond the control of Contractor, or renders Contractor's performance of this Agreement commercially impracticable, excessively difficult, expensive or harmful for Contractor's employees to perform.

25. Dispute Resolution. The parties agree to meet and confer in good faith on all matters and disputes under this Agreement. If a dispute is not resolved under the foregoing, and one Party informs the other in writing that it reasonably believes that the differences between the parties are not likely to be reconciled through further negotiation, then the parties agree to submit such dispute to binding arbitration under the Commercial Rules of the American Arbitration Association. Such arbitration will be held as promptly as possible in Nevada County, California and will be conducted before a panel of three (3) members. District and Contractor shall each select one arbitrator, and the third arbitrator shall be selected by agreement of the other two arbitrators so chosen. The decision of a majority of the arbitration panel will be binding on the parties and may be submitted for enforcement

to any court of competent jurisdiction. All costs and expenses associated with the arbitration shall be borne entirely by the non-prevailing party.

26. Choice of Law. This Agreement shall be governed by the laws of the State of California.
27. Severability. In the event any provision of this Agreement is determined to be illegal or void, the remainder of this Agreement shall remain in full force and effect.
28. Attorney's Fees. If any legal action is brought by either of the parties hereto, it is expressly agreed that the party in whose favor final judgment shall be entered shall be entitled to recover from the other party reasonable attorney's fees in addition to any other relief that may be awarded.
29. Wage Protection. In the event market conditions dictate that employee wage increases are necessary, including adjustments for hazard pay required due to a state of emergency or other governmental action or legislative mandate, the District agrees to enter into negotiations with the Contractor to mitigate the financial impact of any increased wages on the Contractor. In the event the District and the Contractor cannot come to a mutual agreement, the Contractor has the right to terminate the Agreement. The Contractor will provide the District with ninety (90) days written notice prior to termination.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written above.

**DURHAM SCHOOL SERVICES, L.P.**

**TWIN RIDGES ELEMENTARY SCHOOL DISTRICT**

By: Durham Holding II, L.L.C.,  
Its general partner

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

SCHEDULE A

A. Home-to-school, summer school and intra-agency transportation buses as follows:

<b>BUS CAPACITY</b>	<b>DAILY RATE PER BUS TO 4.0 HOURS AND 50 MILE BASE</b>	<b>ADDITIONAL HOURLY CHARGE PER BUS OVER 4.0 HOURS</b>	<b>ADDITIONAL PER MILE CHARGE</b>
16	\$354.94	\$32.61	\$0.86
36	\$370.04	\$32.61	\$0.92
66/72	\$387.27	\$32.61	\$1.04
78/84	\$428.96	\$32.61	\$1.19

Note: Time in excess of portal-to-portal not to exceed one-half hour per bus per day.

B. Field and Athletic Rates:

<b>BUS CAPACITY</b>	<b>MINIMUM CALL OUT CHARGE</b>	<b>RATE PER BUS HOUR</b>	<b>RATE PER BUS MILE</b>
68-72	\$128.20	\$32.61	\$1.21
78-84	\$128.20	\$32.61	\$1.21

Time and mileage charges for home-to-school service will commence when the bus leaves its normal overnight parking place immediately preceding a scheduled run, and shall end when it returns to that location immediately following a scheduled run (or series of consecutive runs) approved by the AGENCY.

Consecutive runs are defined as scheduled runs to one or more schools with approved layover time between such runs. Layover time during such operations shall be counted as operating time and shall be added to daily charges.

Time and mileage charges for all "other" transportation shall commence at the time and place where a bus completes its scheduled series of runs or normal overnight parking place and end when the bus returns to its scheduled series of runs or normal overnight parking location.

D. Fuel Cost Adjustments: Should fuel prices increases in excess of 10% above the following rates:

Diesel            \$2.06 per gallon

The AGENCY shall reimburse DURHAM for the difference between the actual price paid and the base prices. Should fuel prices decrease by 10% below the base prices, DURHAM shall reimburse the AGENCY for the difference between actual prices paid and the base prices. The base price of fuel shall be adjusted each year based on the index used in adjusting contract rates.

- E. The CONTRACTOR will explore the most cost effective means of providing special education transportation, including unique and special circumstances. The CONTRACTOR will consider alternative rates when such circumstances exist and where the application of regular contract rates results in extraordinary costs

The California School Employees Association and its San Juan Ridge Chapter No. 744  
(CSEA)

## **INITIAL PROPOSAL**

April 7, 2021

To the Governing Board of the Twin Ridges Elementary School District:

The California School Employees Association and its San Juan Ridge Chapter No. 744 (CSEA), submit the following Initial Proposal for contract negotiations to the Twin Ridges Elementary School District (District), thereby satisfying the Public Notice legal requirements.

CSEA is seeking a three-year successor agreement commencing July 1, 2019 through and including June 30, 2022. For 2020-2021 and 2021-2022 CSEA intends to negotiate re-openers for compensation, health and welfare benefits and two additional articles of CSEA's choice.

### **Article VIII** "Grievances"

CSEA proposes changes to the language identifying a "grievant".

### **Article XI** "Salaries"

Effective July 1, 2019, CSEA proposes that the classified bargaining unit salary schedule be increased by a fair and equitable amount to be determined through the collective bargaining process.

CSEA proposes changes to the current "Honorarium" system to more appropriately compensate bargaining unit members for their years of service.

### **Article XXIII** "Benefits"

CSEA proposes that any premium increase to health and welfare benefits for eligible bargaining unit members and their eligible dependents be fully borne by the District.

### **Article XXVI** "Effect of Agreement"

CSEA proposes language which will require negotiations for changes in past practice.

CSEA intends to provide the District with further clarification of this initial successor contract proposal prior to negotiations.

On behalf of our membership, we look forward to reaching an equitable agreement with the District in a timely manner.

Respectfully Submitted,

Val Beberg, Chapter President  
CSEA San Juan Ridge Chapter No. 744



**Twin Ridges Elementary School District**  
**2020/2021 Williams Uniform Complaint Summary**  
(Prepared in accordance with the provisions of Ed. Code 35186{d}.)

**Quarter Three: January 1, 2021 – March 31, 2021**

Number of Complaints:     0    

Nature of Complaints:     N/A      
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Resolution of Complaints:     N/A      
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby certify that, to the best of my knowledge and belief, this report is true and correct, and that all data has been compiled with the reported in accordance with state laws and regulations.

Melissa Madigan  
Melissa Madigan, Superintendent

4/5/21  
Date

**Twin Ridges Elementary School District**  
**2020-2021 Williams Uniform Complaint Summary**  
(Prepared in accordance with the provisions of Ed. Code 35186(d).)

**Quarter Four: April 1, 2021 – June 30, 2021**

Number of Complaints:     0    

Nature of Complaints:     N/A    

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Resolution of Complaints:     N/A    

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I hereby certify that, to the best of my knowledge and belief, this report is true and correct, and that all data has been compiled with and reported in accordance with state laws and regulations.

\_\_\_\_\_  
Superintendent

\_\_\_\_\_  
Date

Jo Ann Fites-Kaufman  
PO Box 107  
North San Juan, CA 95960

Twin Ridges Elementary School District  
16661 Old Mill Road  
Nevada City, CA 95959

May 3, 2021

Melissa Madigan, Superintendent  
Malik Goodman, Board Trustee  
Hilary Hulteen, Board Trustee  
Rachel Kozloski, Board Trustee  
Mindi Morton, Board Trustee  
Lorien Whitestone, Board Trustee

Earlier this year, I conducted a Wildfire Hazard and Risk Assessment for the Old Mill Firewise Community. I have conducted over 25 of these in Nevada County as both a contractor and volunteer for the Fire Safe Council of Nevada County. For each assessment the Fire Chief, or designee, for the Fire Department or District for the area, participates in the assessment. In the Old Mill Assessment, Chief Flores and I recommended that the Grizzly Hill School get an inspection for Defensible Space and potential use as a Temporary Refuge Area (TRA) of Last Resort by CALFIRE, the North San Juan Fire Protection District (NSJFPD) and myself. I contacted the school earlier this year and relayed this information.

The intent of the inspection was to conduct an **advisory visit**. The purpose was to identify where defensible space was adequate and where it needed improvement. This evaluation includes determining how resistant the buildings, landscaping, and school grounds are to catching on fire and enduring intense fire. These are key considerations for whether buildings will survive fires and how safe it is for anyone, including firefighters, to be at the school during a wildfire. As you will read in the report, it is important to assume that there will be no fire engines at the school during a wildfire, especially the early stages. We explain why. Both the NSJFPD and CALFIRE get asked to evaluate buildings that are being considered for use as a TRA. This is a very serious undertaking. Based on our collective wildfire experience, we considered both the defensible space around the buildings, the building structural features, and expected wildfire behavior and conditions that could occur in the surrounding area. How people respond to wildfires can be life or death decisions. Clearly, everyone wants the school to be as prepared as possible. The aim of this report is to help make sure that happens.

Attached you will find two documents. First is the report on the advisory visit including findings and recommendations. Second, there is an appendix with photos and more detailed comments on specific areas. The Old Mill Firewise Community Assessment documents can be provided upon request.

Please let me know if you have any questions. I am sure that one or perhaps more of us would be willing and able to discuss the findings and recommendations in person if requested.

Sincerely,  
/Jo Ann Fites-Kaufman/  
Jo Ann Fites-Kaufman, PhD  
Retired US Forest Service Fire Scientist

# Grizzly Hill School Wildfire Hazard

## Defensible Space and Structure Wildfire Resistance Advisory Visit

Landon Haack, CALFIRE Battalion 2314  
Tom Browning, North San Juan Fire Protection District Battalion  
Jo Ann Fites-Kaufman, USDA Forest Service Retired Fire Scientist  
May 2, 2021

### Executive Summary

#### Summary

Throughout the county, state and country, many communities are organizing to become Firewise Communities recognized by the National Fire Protection Association (NFPA). Recently, the Old Mill Firewise Community was formed and recognized, sponsored by the Fire Safe Council of Nevada County. In the Old Mill Fire Hazard and Risk Assessment, a key recommendation was that the Grizzly Hill School get a wildfire hazard and risk inspection by CALFIRE and the North San Juan Fire Protection District (NSJFPD). This report includes the purpose, findings, and recommendations on the wildfire hazards and risk for Grizzly Hill School. The survey and recommendations were conducted by the CALFIRE Battalion for this area, the Battalion for North San Juan Fire Protection District, and Fire Safe Council volunteer and retired US Forest Service Fire Scientist on April 23<sup>rd</sup>, 2021. The background describes likely conditions in the surrounding area, immediate school grounds and buildings during a wildfire.

#### Findings

- **The school grounds and buildings will not provide a safe Temporary Refuse Area or Safety Zone for an approaching Wildland fire. Early evacuation must be your priority.**
- Buildings are generally fire resistant but vent covers could be upgraded (i.e., to 1/8-inch mesh screens) to reduce fire starts from ember intrusions. Other vulnerabilities include attached wood fences and wood planters within 5 feet of building.
- Landscaping on immediate school grounds has good features but many flammable vulnerabilities that are inconsistent with California Public Resource Code (PRC) 4291. Extensive areas of well-maintained grass and cement or gravel walkways provide good low ignition zones next to buildings. Numerous areas with vegetation directly touching or within 5 feet of structures. Tree, shrub, and other taller plant spacing is close and would lead to continuous fire spread. Examples include hedges around office building and shrubs next to upper grades classrooms and lower grades classrooms. Numerous instances of highly flammable plants such as juniper and evergreen box hedges that have many dead branches within. Overall, the landscaping is vulnerable to catching on fire from embers or fire spread from adjacent areas. With continuous flammable vegetation leading up to and next to many of the buildings, fire would readily spread from landscaping to buildings.

- Vegetation/fuels in extended area has many areas with closely spaced trees, continuous flammable vegetation (i.e., scotch broom, older blackberry), and accumulated litter and wood. These areas would readily catch on fire from embers or flames and spread fire in tops of trees as crown fire. Many areas of blackberry are regularly maintained but are continuous up to buildings in some cases (i.e., north side of upper grades building). Standing and down dead trees are both a fuel hazard but also create a vector for continued spread of bark beetles and more tree death.
- The surrounding landscape is dominantly dense, continuous wildland forest. It would burn readily as high intensity, fast moving crown fires during

### **Recommendations**

- Develop a detailed evacuation plan as soon as possible that includes: 1) all potential evacuation routes that might need to be used (in all directions off of Tyler Foote Road); 2) means of transporting school children and staff immediately (securing a bus during school times or other means of bulk transport); 3) familiarization of all potential evacuation routes of staff, especially those not familiar with the area; 4) clear communication with the Sheriff's Office (responsible for evacuations), CALFIRE and North San Juan Fire Protection District on the evacuation plan.
- The vegetation on the school grounds, near the structures must be reduced and maintained.
- The vegetation on the property surrounding the structures, playgrounds, and ball fields must be maintained to reduce the probability of ignition and the intensity of an approaching Wildland fire

### **Purpose**

Wildfire safety of schools in Nevada County is a priority. School children and staff are present in school during critical fall fire season conditions. Understanding the current condition of the school grounds, surrounding area, school buildings and likely evacuation conditions are important to make the school children as safe as possible in the event of a wildfire. This field visit was made to assess the fuel and fire hazards and risks at the school, surrounding areas where fires might come from, potential shelter in place safety, and evacuation options. Based on the assessment, recommendations were formulated on steps to make the school grounds and buildings safer during wildfires, realistic assumptions on the availability of fire resources (i.e., engines) during wildfires, the feasibility of using school buildings as temporary refuges, and best practices for evacuation of school children and staff in the event of wildfires.

### **Background and Setting**

Western Nevada County is prone to wildfires every year. The trends in the past decade and future are increasingly intense, fast moving, and severe wildfires. The Camp Fire was a stark reminder of the speed and fury of wildfires and how they can impact safety and lives of residents during evacuations and attempts of shelter in place. Grizzly Hill School is in a similar setting as the Camp Fire with two river canyons on each side that can funnel and accelerate fires rapidly.

Fire **hazard** and **risk** are two components used to describe wildfire *conditions*. They are useful to understand and address different ways to increase wildland fire safety. Fire hazard is the amount of "fuel" such as vegetation, including landscaping, and dead material in an area. It also includes building materials and structure, especially how "hardened" or resistant they are to catching on fire from flames

or embers. Maintenance actions can be used to reduce wildland fire hazard. Risk refers to the likely causes, chances, and location of fire starts that can result in wildfires in the surrounding landscape, immediate area and school grounds. Risk can also be reduced by behavior during wildfires, such as being prepared. Risk can be reduced with education and other fire prevention measures.

The school is surrounded by large areas covered by dense forest and shrublands. During hot, dry and especially windy conditions, fires will burn up in the tops of the trees as crown fire. Flames can potentially be 2 to 3 times the height of the taller trees, reaching 150 to 300 feet or more in the surrounding area and on the north side of school grounds. A low-lying swale and shallow drainage lies on the north side of the school, directly below the playground, upper grades building, garden and upper field area. Even small drainages and swales can funnel wind and fire, creating a chimney effect that can burn more intensely and send more intense fire into adjacent areas. Fires also become more intense and faster burning up slopes. Although the slope from the low-lying area north of the school and the upper grade building is short, it is long enough to accelerate fire and result in longer flames that will lean uphill toward the building.

There are three ways that fires can spread and impact buildings, landscaping and wildlands. The first is through direct flame "impingement". This is where flames directly touch the plants or buildings. The second is with convective heat, or the superheated gasses that are ahead of flames. The third is from embers, small pieces of burning material, that can travel miles. Embers are the most common way that buildings catch on fire. A mass of embers washed down on the town of Paradise, several miles ahead of the main fire front in the Feather River Canyon. It started hundreds to thousands of little fires at the same time in landscaping, buildings, along roadsides, and the surrounding forests.

There are numerous fire starts in the greater surrounding landscape (i.e., Bullard's Bar, Edward's Crossing) and immediate area every year, including the especially fire prone late summer and fall fire seasons. This is when the hottest and fastest fires are most likely. Fire season is getting longer each year, especially extending later into fall with hotter temperatures and less fall rain.

It is critical that the school administration is fully aware that it is highly likely that there will be **no engines** during a wildfire at the school. When there is a fast moving, rapidly growing wildfire, there are never enough engines to be everywhere, no matter the priority. This is especially the case when there are numerous wildfires throughout the state, such as last year. No matter how safe the school grounds and buildings are, it is critical that early and rapid evacuation is the first and best choice to ensure safety of the children and staff. Below, there is an expanded explanation of recommended choices in three likely situations during a wildfire.

## Objectives

Objectives were to:

1. Survey and evaluate fuel hazards of school grounds (landscaping and surrounding area);
2. Evaluate fire resistance and hardening of school buildings;
3. Make recommendations to improve fire safety by reducing fire hazard and fire risk;
4. Evaluate safety of using school buildings as temporary safe refuge area;
5. Determine best options for safe response to wildland fire approaching school area.

## Findings

The survey and evaluation of fire hazard, risk and options for wildfire response were based on California Public Resource Code (PRC) 4291 for safe Defensible Space during Wildfires and collective wildland fire experience of the evaluators. PRC 4291 is based on fire science. The specific measures required for wildland fire safety not only provide firefighters a safe place to defend a structure against wildfire, they also result in less intense wildfire that also lessen the likelihood of structures burning. The findings are organized into sections on: vegetation/fuel hazard; building wildland fire resistance/hardening; safety of school buildings as potential temporary safe refuge during wildfires; and options for safe response to approaching wildland fire.

**A. Landscaping and Outer Vegetation/Fuel Hazard**

**1. Immediate School Grounds- Landscaping**

Requirements of PRC 4291 and NFPA recommendations for landscaping and vegetation are broken down by distance from structures. These zones and considerations include:

0-5 feet – Immediate Ignition Zone: immediate vegetation and materials. Should be a combustion free zone.

5-30 feet from building – Intermediate Zone. Uses landscaping and breaks (i.e., areas of non-combustible materials such as dirt, cement, or rock) to help influence and decrease fire behavior.

30-100 feet from buildings – Extended Zone. Goal to interrupt fire’s path and keep flames smaller and on the ground.

Considerations	Observations/Issues
<b>0 to 5 feet: Immediate Ignition Zone</b>	
Dead vegetation, dried leaves, pine needles, wood or flammable items leaning next to foundation or buildings	Some areas with accumulated needles, leaves. Some wood pallets and other wood scraps leaning against some buildings. Wood fence attached to upper grades building.
Hardscaping around perimeters? Concrete, stone or gravel walkways?	Half of the sides of buildings are hardscaped with concrete walkways.
Have wood mulch products been replaced with non-combustible alternatives such as stone/gravel options?	Some areas have gravel/rock on sides (i.e., upper grades building along path to playground) but other areas have plants with litter accumulation below. Wood chips in garden next to building.
Trees/shrubs/ tall plants next to buildings? Branches overhanging roof or within 10’ of chimney or building sides?	Numerous areas where sides of buildings have vegetation directly adjacent to buildings (i.e. lower grade bathroom) including highly flammable juniper. Multi-purpose building has small, highly flammable conifers close to building. Some trees have branches touching or within several feet of the buildings (i.e., next to gym). Wood planter box next to lower grade building.
<b>5-30 feet Immediate Zone</b>	

Lawns and native grasses maintained? (< 4 inches)	Lawn well maintained. Rainwater swales have some native grasses and plants with dead material accumulated and taller.
Is vegetation spaced out? Individual trees and shrubs more than 4 times or more their height apart.	Continuous hedges around office and other buildings with numerous dead branches. Patch of tall, closely spaced shrubs near entry. Shrubs next to other buildings (i.e., upper grades). Trees along entryway (next to lower grades building) have crowns touching.
Are plants, trees and lawns watered to keep them from becoming dry?	Lawn is well watered. Some areas have continuous ground cover that does not appear irrigated (i.e., vinca near gym). Flammable dry leaves and litter built up below.
Have ladder fuels (vegetation under trees) been removed so a surface fire cannot reach the crowns? Have trees been pruned? (generally, 6 to 10 feet up in height or for shorter trees, do not exceed 1/3 of overall tree height).	Some trees well pruned. Others, such as near entryway have crowns lower to the ground.
<b>30 to 100 feet – Extended Zone</b>	
Are there heavy accumulations of ground litter/debris?	There are heavy accumulations of ground litter/debris around north sides of field, and east and especially grounds north of buildings and playground.
Are storage sheds and/or other buildings clear of vegetation?	There is vegetation around maintenance sheds, especially on east end of campus.
Do mature trees have small conifers or brush growing between them or is space maintained?	Mature trees have small conifers or brush growing below them around the upper school fields and grounds on north and east sides of campus, including next to the playground.
Do trees 30-60 feet from the buildings have at least 12 feet between canopy tops?	Most areas have trees that are close together. A lot of thinning by the CCC crews have reduced spacing in some areas but trees are too close together in many areas. Especially on the north side of campus where dangerous north wind fires are likely to come from.



## 2. Surrounding School Grounds

The area around school includes: fields and playgrounds, parking area, wildlands on north side of school, and along Old Mill Road to Tyler Foote Road. The conditions for each are described below.

### a) *Fields and Playgrounds.*

The fields have well irrigated and maintained green grass. This is a good fire-resistant surface. The vegetation surrounding the fields varies. In some areas, it has spaced trees and low growing vegetation below them, such as around most of the lower field. The north side of this field and the upper field has denser vegetation around parts of them, especially the north side. Trees should have crowns spaced apart and ladder fuels (shrubs or small trees) below removed or spaced away from the trees. Blackberries should be kept low growing and free of dead canes or removed. In general, the guidelines above for immediate and extended zones should apply.

### b) *Wildlands on North Side of School.*

The most intense and fast-moving fires are likely to come from the north, especially during the fall. While BLM has done thinning and mastication on some of the adjacent area, there are dense forests beyond. The school has worked with the FSC and CCC crews to do extensive tree thinning and scotch broom removal. But there are still continuous areas of decadent, older blackberry, scotch broom, downed wood and some pockets of dense trees. These areas need reduction of vegetation density, height, and dead material in order to reduce potential fire intensity. The requirements for PRC 4291 for 30 to 100 feet are applicable for these areas. These requirements are extended out farther in PRC 4291 in wildland settings where there is slope or other topographic conditions increasing fuel hazard. In this area, the low-lying swale and drainage behind it will funnel and accelerate wind and fire toward the school. This will especially be the case in the fall, when north winds will be "aligned" or in the same direction as the drainage.

### c) *Conditions along Old Mill Road to Tyler Foote Road*

Vegetation has been cleared under and around the PG&E powerline. This will reduce fire intensity burning toward the road during an evacuation. The other side of the road owned by the San Juan Mine Company has denser trees and especially manzanita. This area will readily catch on fire from an ember and will burn intensely, potentially sending dangerous heat out into the road. This area would be safer if it were cleared and had reduced vegetation and dead surface fuel levels sufficient to meet PRC 4291 requirements. In this case, the road edge would be considered like the house edge.

## B. Building Wildland Fire Resistance/Hardening

Overall, the buildings are resistant to fire and "hardened" to burning embers that can land on the structures. The roofs are metal, sides are well maintained and often stucco, and windows double-paned. There are a few areas that are issues that can be easily remedied.

### 1. Flammable materials leaning next to or near buildings.

There are some pallets and scrap wood next to buildings. These could catch fire and start the buildings on fire.

2. **Attached wooden fence**

The wooden fence around the garden is attached directly to the building. This would readily catch on fire and start the building on fire. The wood part of the fence should be 10 feet or more back from the building.

3. **Wood planter boxes within five feet**

There are several wooden planter boxes next to the multi-purpose classroom. These could readily catch on fire and catch the building on fire. These should be moved back 10 feet or replaced with non-flammable material (i.e., metal or concrete or rock). However, even if the wood is replaced the plants are too close to the buildings.

4. **Vent screens**

The vent screens are not readily visible but most buildings have ¼ inch mesh openings. Recent fire safety research has shown that burning embers can readily enter openings this size. Embers are the primary cause of buildings catching fire during wildfires. Current building codes and most insurance policies require 1/8-inch mesh vent screens or other specially designed vent covers for fire resistance.

**C. Safety of School Buildings as Potential Temporary Safe Refuge**

The evaluation of whether a building is safe for Temporary Safe Refuge includes consideration of:

- Surrounding area and likely fire behavior;
- Building construction;
- Water Sources;
- Likely availability of firefighter resources.

In the current situation, none of the school buildings would provide safe refuge during a wildfire. **It should only as a last resort when evacuation is impossible. The *only* circumstance where it should be used, would be if Old Mill Road was blocked off by a very intense wildfire or tree down across the road.** Here is why.

First, fire behavior in the surrounding area during active fire season is likely to be very intense and burning as a crown fire (with flames potentially reaching 100 feet to 300 feet tall or more). This would generate heat that would be deadly during a fire and could start a building on fire directly, just from the intensity of the super-heated gasses. There is also a high likelihood that there would be massive amounts of burning embers before or during a fire that would lodge in any little nook or cranny and start any of the buildings on fire. Once one building caught on fire, all of the rest would because the heat would be so intense. Embers can travel miles.

Second, although the buildings have many fire-resistant construction features, only a cement bunker can resist the type of intense wildfires that are increasingly common. Any wood parts can catch fire.

The water pressure and amount at the school make it slow to refill engine tanks for water tenders. During fires in the area, such as on Old Mill Road, water tenders will bypass the standpipes at the school to get water much farther away at Ananda. Testing and evaluation of the adequacy for water supply to firefighting apparatus during a fire should be undertaken. During an intense wildfire, supplemental water is most often needed, especially structure fires.

The likely availability of firefighter resources and water sources are related considerations. Most important, the school must assume that there will be **no** fire engines at the school during the first stages of a wildfire. There are very limited fire resources on the ridge and when a large wildfire first hits, the few engines that are around, will be focused on evacuating all residents on the ridge, including school students and staff. Longer into a wildfire, there could be more fire resources and engines around but by then, all residents would have or should have been evacuated. Even if there were engines, water resources at the school and surrounding areas are limited. It would not be safe for any firefighters to be there with limited water in addition, to the very unsafe conditions posed by the extensive areas of dense forest around the school.

#### **D. Options for Safe Response to Approaching Wildland Fire**

The best option for any resident on the ridge, including school students and personnel, is to get out as quickly and safely as possible well ahead of a wildfire reaching their location and general area. A major limitation for this safe approach at the school is the lack of availability of a school bus or buses to transport school children and staff during the school day. There is no bus parked at the school and they are miles away in Grass Valley. This is a serious issue. Waiting for a bus may be too long for a safe evacuation.

It is unclear if the school has a clear and detailed evacuation plan that includes all possible contingencies or potential routes out. This is critical because fires can come from any direction, roads can get blocked off, and it is important to be able to change plans within minutes. Does the school have a plan that maps out all potential safe routes out (i.e., Lake City Road to Malakoff Diggings, Cruzon to Graniteville, Tyler Foote to Oak Tree and Highway 49 to Bullard's Bar?). Travel across canyons (i.e. Edward's Crossing) should only be at the direction of professional fire personnel. Fires accelerate in canyons and can rapidly catch on fire. It is unclear if the school has an evacuation plan that has been vetted with the North San Juan Fire Protection District. It is unclear if all of the escape routes have been mapped and staff and bus drivers tested them so they are familiar with them ahead of time.

## **Recommendations**

Recommendations are organized into the same categories as in the findings. First, priorities are listed in order of the areas that need immediate attention. This includes viable choices for safety of the school children during an active wildfire in the area. The remaining recommendations involve reducing vegetation density and removing the more flammable vegetation in landscaping around the buildings and in the outer areas.

### **A. Immediate Priorities**

Immediate priorities include actions that should be addressed now. These actions will make the students and staff safer during a wildfire during this fire season. This could include fires this spring, summer and especially the fall.

**1. Complete or update a wildfire emergency plan that focuses on evacuating children and staff with an approaching wildfire.**

a) *The school is not in a condition to resist an intense wildfire coming toward the school grounds. School children and staff should be evacuated early, including during an evacuation warning or earlier. Arrangements should be made to have a school bus and more if needed, on site at all times when students are present to allow immediate departure. Fires move fast and ember "washes" from miles away can generate immediate, fast growing spot fires that can encompass the school directly or surrounding area. Waiting for a bus to come from Grass Valley would take too much time and if Highway 49 is blocked off for wildfire suppression or evacuations, it would be difficult to get the bus out at all, let alone in a timely manner.*

b) *The school is not a good place for Temporary Safe Refuge and should only be used for one if the evacuation road is blocked by fire or a down tree. Even if the school grounds had reduced landscaping and vegetation density, height, dead material and vegetation proximal to buildings, the heat coming toward the buildings would be more than the building could withstand for any extended period. A critical assumption is that there will be **no** available fire engines at the school during a wildfire. There simply are not enough in the area when a wildfire first approaches an area. They will likely be prioritizing evacuation safety of all citizens, including the students and staff.*

c) *The school should have a well thought out evacuation plan that includes maps and knowledge of different safe routes out of the area. If Tyler Foote Road is cut off, this may include going out on Lake City to Malakoff Diggings, out Cruzon to Graniteville, or out Grizzly to farther out area. This school should work with the North San Juan Fire Protection District to get input and review of this plan.*

**2. Remove and/or drastically cut back blackberries, scotch broom and other plants on north side of upper grade building.**

a) *These will burn very hot, especially up the slope and with a dangerous dry, north wind in the fall. This could send embers and heat onto the building and the rest of the landscaping in the school. If this building catches on fire, it would generate massive heat (10's of thousands of BTU's), and all of the rest of the buildings will catch on fire.*

**3. The standing and downed bug-killed trees need to be dealt with immediately.**

a) *Bark beetles breed in dead trees, including those on the ground with bark left on and in pieces longer than 3 feet. This means that the beetles are rapidly increasing numbers and will spread more rapidly and kill more trees at an accelerating pace. This is already evident in the dying tree on the adjacent mine and Coughlin ranch properties since the start of the field inspection. Standing dead trees are dangerous for firefighters to work around. Dead trees on the ground are major accumulations of fuel and will burn intensely in most conditions.*

**4. Reduce density and remove landscaping and wildland fuels directly adjacent and near buildings.**

a) *There are numerous areas that have well irrigated green lawn, and cement walkways or dirt areas (i.e., upper field). However, around almost all of the buildings, there is dense vegetation right up to the walls (i.e., lower grade bathroom, upper grade classrooms, middle multi-use building) or within 10 feet of the building (i.e., hedge around office, tall shrubs next to lower grade buildings, patch of tall shrubs in entry way, tree branches touching or near walls of gym and classrooms). All vegetation and flammable material (i.e. wood fences, wooden pallets, shrubs, flowering plants, trees) should be removed within 10 feet of every structure and reduced in density (i.e., spaced much wider) within 30 feet of buildings) in accordance with California Public Resource Code (PRC) 4291. All areas, including in landscaping beds, should be raked and kept clear of dead leaves and litter.*

b) *At least 10 feet should be cleared around all tanks and buildings with flammable materials. This includes the gas tank in the parking area. Even if it is not used, the vapors are still flammable. The eucalyptus tree near the tank is highly flammable and should be removed as soon as possible. These trees are notoriously easy to ignite, send burning shredded bark and oil leaves to catch other areas on fire, and burn very hot. There are also maintenance sheds, propane tanks and water treatment materials in buildings at the far side of the field. These buildings should have vegetation cleared at least 30 feet back from them, because the surrounding vegetation is very dense.*

**5. Upgrade building vent covers.**

a) *Overall, the buildings have many features that harden them to burning embers and heat. The roofs are metal, much of the siding is stucco and windows are double-pane. Recent fire safety research has shown that embers are the primary means of buildings catching fire and burning during wildfires. It is now recommended that vent screens have a 1/8" mesh or be replaced by newer vents designed specifically for fire (i.e., special metals that close when temperatures get higher).*

**6. Improve fire safety in parking area and along Old Mill Road out to Tyler Foote Road.**

a) *The upper field has had extensive clearing, especially near playground, parking area and Old Mill Road. At this time it is in fairly good shape and is not a top priority. The undergrowth needs to be maintained annually.*

b) *The old wood fence along one side of the property needs to be maintained so that it is not as flammable (i.e., repaired, sanded, stained) or taken down.*

c) *PG&E and the Old Mill neighbors have done extensive work along parts of Old Mill Road out to Tyler Foote Road. The school should work with the San Juan Mine property managers to clear more along the south side of the road across from the school, at least 30 and better yet 100 feet from the road. This would be to PRC 4291 standards.*

**7. Reduce Fuel Hazard in Outer School Grounds**





a) *The work by the CCC crews, through the Fire Safe Council, has drastically reduced fuel hazard in the lower area on the north side of the school. Some more trees could be thinned but the primary remaining hazard are the remaining taller scotch broom and older blackberry. The best approach to dealing with the scotch broom is pulling it. Cutting causes it to sprout back again and still grow and spread seeds. The blackberries need to be cut, mowed, browsed (i.e., by goats) and/or burned back. The school has done a good job of weed-eating it in some areas but more intense work needs to be done (i.e., heavy duty, three-blade weed-eater). As stated above, in the immediate time-frame, on the slope below the upper grade classrooms. In the longer term, the school could consider developing a cost-share agreement with CALFIRE to underburn the area. This would involve completing a BMP CEQA for burning. This would take a year to develop.*

b) *Large pile of logs will readily catch fire and burn hot and long during a wildfire. Disposal would be the preferred option. The school should consider contacting the Senior Firewood program in Grass Valley. They might take all of the wood.*

# Grizzly Hill School Wildfire Hazard

## Defensible Space and Structure Wildfire Resistance Advisory Visit

### I. Appendix – Photos

<b>Lower Area (North)</b>	
<p>Slope behind the upper grades building that is a priority to clear more. Blackberries are reduced but need greater reduction including removal of dead material, removal of all berries as much as possible within 10 feet of building. Reduced in height as much as possible to 4 inches or less.</p>	
<p>Area below playground. Similar comment to above.</p>	
<p>Tall dense blackberry and piles of wood below basketball court. Same comment as photo 1 above. Dead wood should be removed. Will generate high heat if burning. Will readily catch fire and burn a long time. Consider donation to senior wood program in grass valley.</p>	
<p>Dead and dying trees near playground and below upper grades</p>	



building. These need to be cut down, and cut into 3-foot length pieces as soon as possible. Beetles are continuing to breed exponentially and will spread killing more trees.



Same as above. These dead trees pose a greater safety hazard to firefighters. They are more likely to fall on them, potentially fatally, especially in windy conditions. The forest is too dense. It has been thinned extensively by the CCC (through the Fire Safe Council) but needs to be thinned so that crowns are not touching and continuous. Currently, it would readily spread as a crown fire from below or adjacent areas. If heavily thinned, crown fires might drop to the ground as they approach the school.



Buck up down, bug kill trees immediately. These are currently breeding grounds for beetles. They need to be cut into 3-foot lengths of less pieces.



Lower area where fire is most likely to pass through during extreme fire events in the fall (north winds). A lot of work by the CCC has been done but the remaining scotch broom needs to be removed. It is highly flammable. Down trees need to be bucked up. Blackberries need to be cut back (or masticated), especially dead canes.



Piles of slash need to be removed. These will readily catch on fire from embers that can travel a mile or more from other areas. They will generate more embers.





### Buildings and Landscaping

Example of excellent defensible space and fire-resistant clearance and landscaping. Well-watered and mowed green lawn and concrete. No trees or shrubs near the building.



Shrubs and ground cover too close and tall next to building. Juniper is especially flammable and this one is older with many dead branches. It will burn very hot once it catches on fire. All of this vegetation should be removed. If the ground cover is retained, it should be no more than 5 feet from the building and less than 4 inches in height with no dead leaves below it. Similarly, other picture shows conifers and shrubs too close to the building. They should all be removed.



Hedge around the building is touching it and continuous around the building. It should all be removed. If any is retained (which is not recommended) it needs to be five feet back from the building, in small diameter clumps (ideally 1 foot across and tall) with at least 6 feet between individual shrubs.



Plants, shrubs and tree are too close to and touching the building. These should be five feet or more from the building. They should not be continuous (see above and attached CALFIRE defensible space

descriptions). Tree limbs should be more than 10 feet from the building and ideally the limb that is leaning toward the building removed. Bed in foreground has dead litter or mulch which will readily catch on fire from embers. It needs to be cleaned and replaced by non-flammable mulch such as pea gravel.



Continuous, tall hedge around the building. See comments in two cells above. Evergreen shrubs are especially problematic because they accumulate dead branches in the interior and makes them more flammable. Ideally, all of these would be removed and if some plants are desired, they would be very low growing and widely spaced apart.



Tree branches close to or touching these buildings. Ideally, both trees would be removed, especially the tree near the kitchen and parking lot since these are key gathering points.

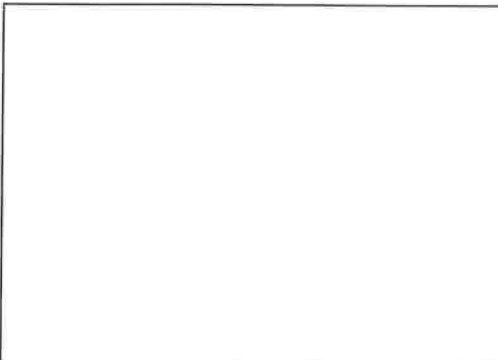


Patch of shrubs and ground cover near the entry way are too dense, tall and continuous (crowns touching). At least two of the four shrubs should be removed and the evergreen shrub cut back (shorter and smaller). The ground cover should be reduced or removed, potentially replaced with something that is much lower to the ground with fewer leaves and branches. Lilacs could be cut back so that they resprout in shorter form and maintained as such.



Another view of above, showing continuous crowns of shrubs.





Shrubs and flowers along lower grades building. These are too tall and close to the buildings. There should be no flammable materials, including vegetation within 5 feet of the building. All plants burn. The exception is well tended (watered and closely mowed) green lawn.



The area for rainwater catchment is isolated by well-tended green lawn. In general, it is not an issue except that there is an accumulation of dead material. If the grasses were cut back each year and most of the flammable, dead material removed, this would make this area more ember resistant.



Wood planter boxes on the left are too close to the buildings. Should be at least 5 feet away and constructed of non-flammable material (i.e. rock, concrete or metal).



Wood planter boxes on the left are too close to the buildings. Should be at least 5 feet away and constructed of non-flammable material (i.e., rock, concrete or metal).

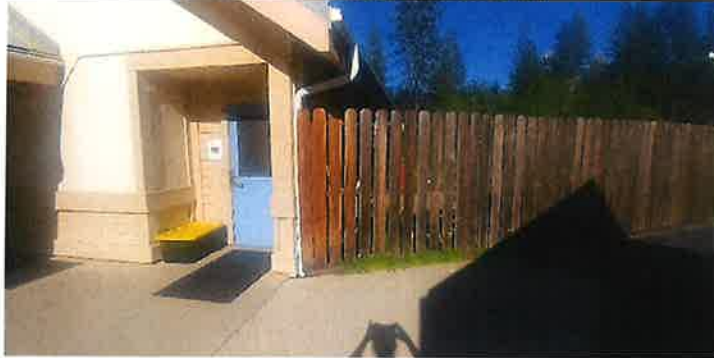
Any plants within 5 feet, should still have more low growing, less continuous, well-



tended plants in them.



Wood fence attached to the upper grades building needs to be replaced with non-flammable material (i.e., wire mesh) within at least 10 feet of the building. Wood fences will readily catch on fire and carry fire to the building where it is attached. Consider replacing the wood fence altogether. Behind the fence there is wood chip mulch. This will readily catch on fire from embers. Close to the building, it should be removed or replaced with non-flammable material like pea gravel.



Wood material or fence leaning against the building needs to be removed. There should be no flammable material next to buildings, at a minimum more than 5 feet away. The blackberry growing up into and through the wood fence makes a highly flammable combination since both burn readily and hot. Blackberry should be cut back, especially dead canes, reduced in height, and fence replaced by non-flammable material or separated by surrounding area by at least a 5-to-10-foot buffer. Area around hydrant needs to be completely clear of vegetation, at least 10 feet out.



## Fields

The field is well tended and maintained. Areas around the field need additional thinning and clearing, some areas more than others.



Scotch broom below trees should be removed. It is highly flammable.



Vegetation around gas tanks, used or empty (may contain flammable vapors) should be completely cleared, at least 10 feet and preferable 30 feet out.

Pine trees along the south side are well pruned. Later, it would be good to thin them some; as they grow, the crowns will get closer.



Example of area around field that needs extensive clearing. Blackberries should be removed or heavily thinned and cut back. All dead cane should be removed. Trees and shrubs should be widely spaced and pruned up. See CALFIRE Defensible Space requirements. This area is especially important since it is near the lower grades and multi-purpose buildings.



This area needs heavy thinning and pruning of trees, shrubs and ground cover. This is where fire would likely spread from the north area of the school grounds and could burn over to the upper grades building.





## Parking Area

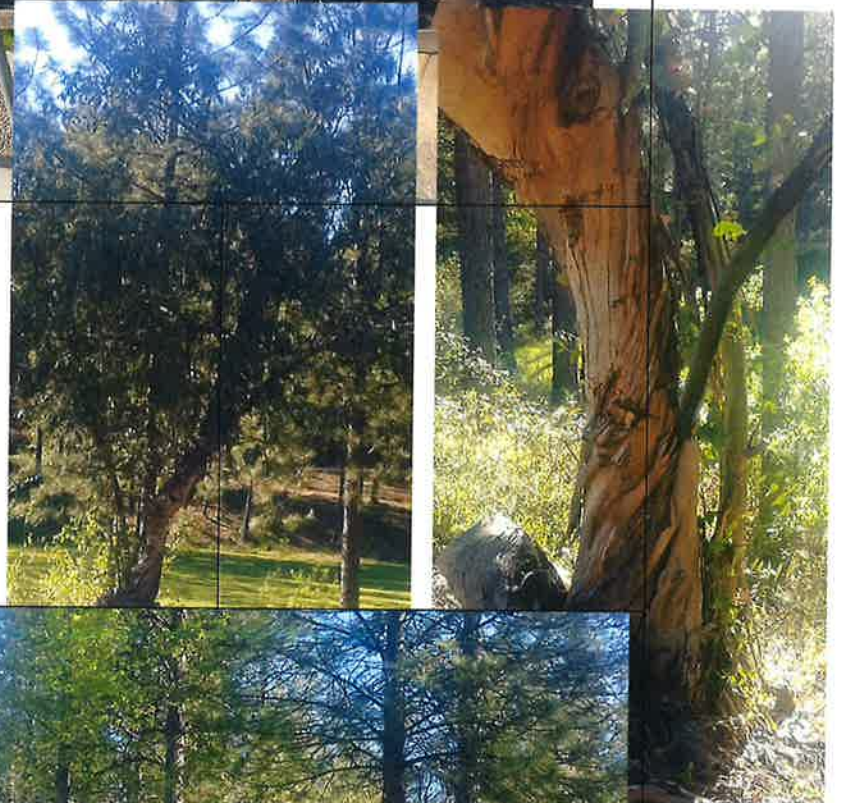
Vegetation around the gas tank in the parking area needs to be cleared a minimum of 10 feet back and preferably 30 feet, to bare ground. Even empty, unused tanks have vapors that are flammable.



Rail and fence along parking area needs to be maintained so that they are less likely to catch on fire and burn. Worn wood needs to be replaced or sanded so that there are not cracks where embers could land, lodge and catch the wood on fire. The wood needs to be stained, making it less resistant to drying out and being more flammable.



The eucalyptus tree in the parking area needs to be removed as soon as possible. These are amongst the most flammable trees in the world. The oily leaves and flaky bark not only burn hot, they are prone to sending burning embers that travel long distances.



Trees in the island in the parking area are well pruned and the area is kept fairly free of litter. Taking out about a third of the trees would make the crowns less continuous and likely to burn as a crown fire. The crowns will get denser as the trees continue to grow. This is a lower priority than other areas because overall, it is less dense and more pruned with sparse fuels below the trees.



The row of trees along the entry way are too dense, with crowns

touching. They are limbed up but could be limbed up higher. At least half of these trees should be removed.



The school should work with the property owners on the other side of the road to clear along the road and reduce the likelihood of it catching on fire (and spreading to the school) or burning hot during evacuation making exit dangerous or impossible. The county hazardous abatement ordinance requires clearing 100 feet back from the road edge. The school can request a defensible space inspection from the school if the property owner is not able or willing to comply with the request. The bugkill tree needs to be removed.





EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA

EXECUTIVE ORDER N-08-21

**WHEREAS** on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS** since March 2020, the State has taken decisive and meaningful actions to reduce the spread, and mitigate the impacts, of COVID-19, saving an untold number of lives; and

**WHEREAS** as a result of the effective actions Californians have taken, as well as the successful and ongoing distribution of COVID-19 vaccines, California is turning a corner in its fight against COVID-19; and

**WHEREAS** on June 11, 2021, I issued Executive Order N-07-21, which formally rescinded the Stay-at-Home Order (Executive Order N-33-20, issued on March 19, 2020), as well as the framework for a gradual, risk-based reopening of the economy (Executive Order N-60-20, issued on May 4, 2020); and

**WHEREAS** in light of the current state of the COVID-19 pandemic in California, it is appropriate to roll back certain provisions of my COVID-19-related Executive Orders; and

**WHEREAS** certain provisions of my COVID-19 related Executive Orders currently remain necessary to continue to help California respond to, recover from, and mitigate the impacts of the COVID-19 pandemic, including California's ongoing vaccination programs, and the termination of certain provisions of my COVID-19 related Executive Orders during this stage of the emergency would compound the effects of the emergency and impede the State's recovery by disrupting important governmental and social functions; and

**WHEREAS** under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Order would continue to prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

**NOW, THEREFORE, I, GAVIN NEWSOM**, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

**IT IS HEREBY ORDERED THAT:**

**The following provisions shall remain in place and shall have full force and effect through June 30, 2021, upon which time they will expire subject to individual conditions described in the enumerated paragraphs below.**



1) State of Emergency Proclamation dated March 4, 2020:

- a. Paragraph 10. Any facility operating under a waiver pursuant to this provision, memorialized in an All Facilities Letter, may operate pursuant to such a waiver through the stated expiration in the All Facilities Letter or September 30, 2021, whichever occurs first;
- b. Paragraph 11;
- c. Paragraph 12; and
- d. Paragraph 13.

2) Executive Order N-25-20:

- a. Paragraph 1; and
- b. Paragraph 7, and as applicable to local governments per Executive Order N-35-20, Paragraph 3. Effective July 1, 2021, the waivers in Executive Order N-25-20, Paragraph 7, and Executive Order N-35-20, Paragraph 3, of reinstatement requirements set forth in Government Code sections 7522.56(f) and (g) are terminated.

3) Executive Order N-26-20:

- a. Paragraph 1;
- b. Paragraph 2;
- c. Paragraph 3;
- d. Paragraph 5;
- e. Paragraph 6; and
- f. Paragraph 7.

4) Executive Order N-27-20:

- a. Paragraph 1;
- b. Paragraph 2; and
- c. Paragraph 3.

5) Executive Order N-28-20:

- a. Paragraph 3; and
- b. Paragraph 6.

6) Executive Order N-31-20:

- a. Paragraph 1; and
- b. Paragraph 2.

7) Executive Order N-35-20:

- a. Paragraph 1. Any facility operating under a waiver pursuant to this provision, memorialized in an All Facilities Letter, may operate pursuant to such a waiver through the stated expiration in the All Facilities Letter or September 30, 2021, whichever occurs first;
- b. Paragraph 4;
- c. Paragraph 6. To the extent the Director exercised their authority pursuant to this provision on or before June 30, 2021, the extension shall remain valid until the effective expiration;

- d. Paragraph 10. The State Bar shall receive the time extension in the aforementioned order for any nomination submitted to the State Bar by the Governor on or before June 30, 2021; and
- e. Paragraph 11 (as extended and clarified by N-71-20, Paragraph 6). Claims accruing before June 30, 2021 will remain subject to the 120-day extension granted in the aforementioned orders.

8) Executive Order N-36-20, Paragraph 1. To the extent the Secretary exercised their authority pursuant to this provision, the Secretary shall allow each facility to resume intake in a manner that clears intake backlog as soon as feasible.

9) Executive Order N-39-20:

- a. Paragraph 1. Any facility operating under a waiver pursuant to this provision, memorialized in an All Facilities Letter, may operate pursuant to such a waiver through the stated expiration in the All Facilities Letter or September 30, 2021, whichever occurs first;
- b. Paragraph 4; and
- c. Paragraph 7. The leases or agreements executed pursuant to this provision shall remain valid in accordance with the term of the agreement.

10) Executive Order N-40-20:

- a. Paragraph 1. For rulemakings published in the California Regulatory Notice Register pursuant to Government Code section 11346.4(a)(5) prior to June 30, 2021, the deadlines in the aforementioned order shall remain extended in accordance with the order;
- b. Paragraph 2 (as extended and clarified by N-66-20, Paragraph 12, and N-71-20, Paragraph 10). Notwithstanding the expiration of this provision, state employees subject to these training requirements shall receive the benefit of the 120-day extension granted by the aforementioned orders. All required training due on or before June 30, 2021 must be completed within 120 days of the statutorily prescribed due date;
- c. Paragraph 7 (as extended and clarified by N-66-20, Paragraph 13 and N-71-20, Paragraph 11). With regard to appeals received on or before June 30, 2021, the State Personnel Board shall be entitled to the extension in the aforementioned order to render its decision;
- d. Paragraph 8. To the extent the deadlines specified in Government Code section 22844 and California Code of Regulations, title 2, sections 599.517 and 599.518 fell on a date on or before June 30, 2021 absent the extension, they shall expire pursuant to the timeframes specified in the aforementioned orders;
- e. Paragraph 16;
- f. Paragraph 17; and
- g. Paragraph 20.

11) Executive Order N-45-20:

- a. Paragraph 4;
- b. Paragraph 8;
- c. Paragraph 9; and

d. Paragraph 12. For vacancies occurring prior to June 30, 2021, the deadline to fill the vacancy shall remain extended for the time period in the aforementioned order.

12) Executive Order N-46-20:

- a. Paragraph 1; and
- b. Paragraph 2.

13) Executive Order N-47-20:

- a. Paragraph 2; and
- b. Paragraph 3.

14) Executive Order N-48-20, Paragraph 2 (which clarified the scope of N-34-20).

15) Executive Order N-49-20:

- a. Paragraph 1;
- b. Paragraph 3. For determinations made on or before June 30, 2021, the discharge date shall be within 14 days of the Board's determination; and
- c. Paragraph 4.

16) Executive Order N-50-20, Paragraph 2.

17) Executive Order N-52-20:

- a. Paragraph 6;
- b. Paragraph 7. To the extent an individual has commenced a training program prior to June 30, 2021, that was interrupted by COVID-19, that individual shall be entitled to the extended timeframe in the aforementioned order; and
- c. Paragraph 14; and
- d. Paragraph 16.

18) Executive Order N-53-20:

- a. Paragraph 3;
- b. Paragraph 12 (as extended or modified by N-69-20, Paragraph 10, and N-71-20, Paragraph 27); and
- c. Paragraph 13 (as extended or modified by N-69-20, Paragraph 11, and N-71-20, Paragraph 28).

19) Executive Order N-54-20, Paragraph 7. To the extent the date governing the expiration of registration of vehicles previously registered in a foreign jurisdiction falls on or before June 30, 2021, the deadline is extended pursuant to the aforementioned orders.

20) Executive Order N-55-20:

- a. Paragraph 1. Statutory deadlines related to cost reports, change in scope of service requests, and reconciliation requests occurring on

or before June 30, 2021 shall remain subject to the extended deadline in the aforementioned order;

- b. Paragraph 4;
- c. Paragraph 5;
- d. Paragraph 6;
- e. Paragraph 8;
- f. Paragraph 9;
- g. Paragraph 10;
- h. Paragraph 13;
- i. Paragraph 14. Statutory deadlines related to beneficiary risk assessments occurring on or before June 30, 2021 shall remain subject to the extended deadline in the aforementioned order; and
- j. Paragraph 16. Deadlines for fee-for-service providers to submit information required for a Medical Exemption Request extended on or before June 30, 2021 shall remain subject to the extended deadline granted under the aforementioned order.

21) Executive Order N-56-20:

- a. Paragraph 1;
- b. Paragraph 6;
- c. Paragraph 7;
- d. Paragraph 8;
- e. Paragraph 9; and
- f. Paragraph 11.

22) Executive Order N-59-20, Paragraph 6.

23) Executive Order N-61-20:

- a. Paragraph 1;
- b. Paragraph 2;
- c. Paragraph 3; and
- d. Paragraph 4.

24) Executive Order N-63-20:

- a. Paragraph 8(a) (as extended by N-71-20, Paragraph 40). The deadlines related to reports by the Division of Occupational Safety and Health (Cal/OSHA) and the Occupational Safety & Health Standards Board on proposed standards or variances due on or before June 30, 2021 shall remain subject to the extended timeframe;
- b. Paragraph 8(c). To the extent the date upon which the Administrative Director must act upon Medical Provider Network applications or requests for modifications or reapprovals falls on or before June 30, 2021 absent the extension in the aforementioned order, it shall remain subject to the extended timeframe;
- c. Paragraph 8(e). To the extent filing deadlines for a Return-to-Work Supplement appeal and any reply or responsive papers fall on or before June 30, 2021, absent the extension in the aforementioned order, they shall remain subject to the extended timeframe;
- d. Paragraph 9(a) (as extended and modified by N-71-20, Paragraph 39). Any deadline setting the time for the Labor Commissioner to

issue any citation under the Labor Code, including a civil wage and penalty assessment pursuant to Labor Code section 1741, that, absent the aforementioned order, would have occurred or would occur between May 7, 2020 and September 29, 2021 shall be extended to September 30, 2021. Any such deadline that, absent the aforementioned order, would occur after September 29, 2021 shall be effective based on the timeframe in existence before the aforementioned order;

- e. Paragraph 9(b) (as extended and modified by N-71-20, Paragraph 41);
- f. Paragraph 9(c) (as extended and modified by N-71-20, Paragraph 39). Any deadline setting the time for a worker to file complaints and initiate proceedings with the Labor Commissioner pursuant to Labor Code sections 98, 98.7, 1700.44, and 2673.1, that, absent the aforementioned order, would have occurred or would occur between May 7, 2020 and September 29, 2021 shall be extended to September 30, 2021. Any such deadline that, absent the aforementioned order, would occur after September 29, 2021 shall be effective based on the timeframe in existence before the aforementioned order;
- g. Paragraph 9(d) (as extended and modified by N-71-20, Paragraph 39). Any deadline setting the time for Cal/OSHA to issue citations pursuant to Labor Code section 6317, that, absent the aforementioned order, would have occurred or would occur between May 7, 2020 and September 29, 2021 shall be extended to September 30, 2021. Any such deadline that, absent the aforementioned order, would occur after September 29, 2021 shall be effective based on the timeframe in existence before the aforementioned order;
- h. Paragraph 9(e) (as extended and modified by N-71-20, Paragraph 41);
- i. Paragraph 10;
- j. Paragraph 12. Any peace officer reemployed on or before June 30, 2021 pursuant to the aforementioned order shall be entitled to the extended reemployment period set forth in the order;
- k. Paragraph 13;
- l. Paragraph 14; and
- m. Paragraph 15 (as extended by N-71-20, Paragraph 36).

25) Executive Order N-65-20:

- a. Paragraph 5 (as extended by N-71-20, Paragraph 35; N-80-20, Paragraph 4; and N-01-21). Identification cards issued under Health and Safety Code section 11362.71 that would otherwise have expired absent the aforementioned extension between March 4, 2020 and June 30, 2021 shall expire on December 31, 2021; and
- b. Paragraph 7.

26) Executive Order N-66-20:

- a. Paragraph 3;
- b. Paragraph 4; and
- c. Paragraph 5.

27) Executive Order N-68-20:

- a. Paragraph 1. Notwithstanding the expiration of the aforementioned order, temporary licenses granted on or before June 30, 2021 shall be valid through September 30, 2021; and
- b. Paragraph 2. Renewal fee payments otherwise due to the to the California Department of Public Health absent the extension in the aforementioned order on or before June 30, 2021, shall be entitled to the extensions of time set forth in the aforementioned order.

28) Executive Order N-71-20:

- a. Paragraph 1;
- b. Paragraph 4;
- c. Paragraph 16. Where the statutory deadline for opening or completing investigations is set to occur on or before June 30, 2021, the deadline shall remain subject to the extension in the aforementioned order; and
- d. Paragraph 17. Where the statutory deadline for serving a notice of adverse action is due on or before June 30, 2021, the deadline shall remain subject to the extension in the aforementioned order.

29) Executive Order N-75-20:

- a. Paragraph 7. Children placed in foster care on or before June 30, 2021 shall receive such examinations on or before July 31, 2021;
- b. Paragraph 8;
- c. Paragraph 9;
- d. Paragraph 10. Any facility operating under a waiver pursuant to this provision may operate pursuant to such a waiver through the expiration as set forth by the California Department of Public Health, or September 30, 2021, whichever occurs first; and
- e. Paragraph 13.

30) Executive Order N-76-20, Paragraph 3.

31) Executive Order N-77-20:

- a. Paragraph 1;
- b. Paragraph 2; and
- c. Paragraph 3.

32) Executive Order N-78-20 (as extended and modified by N-03-21):

- a. Paragraph 1; and
- b. Paragraph 2.

33) Executive Order N-83-20:

- a. Paragraph 3. To the extent the Director of the Department of Alcoholic Beverage Control suspends deadlines for renewing licenses upon payment of annual fees on or before June 30, 2021, the extension shall remain valid until the effective expiration;

- b. Paragraph 5 (which repealed and replaced N-71-20, Paragraph 19, which extended N-52-20, Paragraph 1, and N-69-20, Paragraph 3);
- c. Paragraph 6 (which repealed and replaced N-71-20, Paragraph 20, which extended N-52-20, Paragraph 2, and N-69-20, Paragraph 4); and
- d. Paragraph 7 (which repealed and replaced N-71-20, Paragraph 21, which extended N-52-20, Paragraph 3, and N-69-20, Paragraph 5).

34) Executive Order N-84-20:

- a. Paragraph 1;
- b. Paragraph 2;
- c. Paragraph 3; and
- d. Paragraph 5.

**The following provisions shall remain in place and shall have full force and effect through July 31, 2021, upon which time they will expire subject to individual conditions described in the enumerated paragraphs below.**

35) Executive Order N-39-20, Paragraph 8 (as extended by N-69-20, Paragraph 2 and N-71-20, Paragraph 8).

36) Executive Order N-53-20, Paragraph 11 (as extended or modified by N-68-20, Paragraph 15, and N-71-20, Paragraph 26).

37) Executive Order N-71-20, Paragraph 25.

38) Executive Order N-75-20:

- a. Paragraph 5; and
- b. Paragraph 6

**The following provisions shall remain in place and shall have full force and effect through September 30, 2021, upon which time they will expire subject to individual conditions described in the enumerated paragraphs below.**

39) State of Emergency Proclamation dated March 4, 2020:

- a. Paragraph 3; and
- b. Paragraph 14. Any facility operating under a waiver pursuant to this provision may operate pursuant to such a waiver through the expiration as set forth by the Department of Social Services, or September 30, 2021, whichever occurs first.

40) Executive Order N-25-20:

- a. Paragraph 2;
- b. Paragraph 3; and
- c. Paragraph 4.

41) Executive Order N-28-20:

- a. Paragraph 4; and
- b. Paragraph 5.

42) Executive Order N-29-20, Paragraph 3, is withdrawn and replaced by the following text:

Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended.

A local legislative body or state body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements set forth below, shall have satisfied any requirement that the body allow members of the public to attend the meeting and offer public comment. Such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

Accessibility Requirements: If a local legislative body or state body holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the body shall also:



- (i) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; and
- (ii) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to subparagraph (ii) of the Notice Requirements below.

Notice Requirements: Except to the extent this Order expressly provides otherwise, each local legislative body and state body shall:

- (i) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in such means of public observation and comment, or any instance prior to the issuance of this Order in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of such means, a body may satisfy this requirement by advertising such means using "the most rapid means of communication available at the time" within the meaning of Government Code, section 54954, subdivision (e); this shall include, but need not be limited to, posting such means on the body's Internet website.

All of the foregoing provisions concerning the conduct of public meetings shall apply through September 30, 2021.

43) Executive Order N-32-20:

- a. Paragraph 1;
- b. Paragraph 2; and
- c. Paragraph 3.

44) Executive Order N-35-20:

- a. Paragraph 2; and
- b. Paragraph 12.

45) Executive Order N-39-20:

- a. Paragraph 2;
- b. Paragraph 3; and
- c. Paragraph 6.

46) Executive Order N-40-20:

- a. Paragraph 12 (as extended or modified by N-66-20, paragraph 16, N-71-20, paragraph 14, and N-75-20, Paragraph 12). To the extent the Director exercised their authority pursuant to this provision on or before September 30, 2021, the extension shall remain valid until the effective expiration of the applicable waiver; and
- b. Paragraph 18.

47) Executive Order N-42-20.

48) Executive Order N-43-20.

49) Executive Order N-49-20, Paragraph 2.

50) Executive Order N-54-20:

- a. Paragraph 8 (as extended by N-80-20, Paragraph 6); and
- b. Paragraph 9. To the extent any timeframe within which a California Native American tribe must request consultation and the lead agency must begin the consultation process relating to an Environmental Impact Report, Negative Declaration, or Mitigated Negative Declaration under the California Environmental Quality Act extends beyond September 30, 2021, the tribe and lead agency will receive the benefit of the extension so long as the triggering event occurred on or before September 30, 2021.

51) Executive Order N-55-20:

- a. Paragraph 2;
- b. Paragraph 3;
- c. Paragraph 7. All on-site licensing visits which would have been due on or before September 30, 2021 shall occur before December 31, 2021;
- d. Paragraph 11; and
- e. Paragraph 12.

52) Executive Order N-56-20, Paragraph 10 is withdrawn and superseded by the following text:

Paragraph 42 of this Order, including the conditions specified therein, shall apply to meetings held pursuant to Article 3 of Chapter 2 of Part 21 of Division 3 of Title 2 of the Education Code and Education Code section 47604.1(b).

53) Executive Order N-58-20 (as extended by N-71-20, Paragraph 29).

54) Executive Order N-59-20:

- a. Paragraph 1. The sworn statement or verbal attestation of pregnancy must be submitted on or before September 30, 2021 and medical verification of pregnancy must be submitted within 30

working days following submittal of the sworn statement or verbal attestation for benefits to continue;

- b. Paragraph 2 (as extended and modified by N-69-20, Paragraph 14, and N-71-20, Paragraph 31);
- c. Paragraph 3 (as extended and modified by N-69-20, Paragraph 15, and N-71-20, Paragraph 32); and
- d. Paragraph 4 (as extended and modified by N-69-20, Paragraph 16, and N-71-20, Paragraph 33).

55) Executive Order N-63-20:

- a. Paragraph 8(b). To the extent filing deadlines for claims and liens fall on or before September 30, 2021, absent the extension in the aforementioned order, they shall remain subject to the extended timeframe; and
- b. Paragraph 11.

56) Executive Order N-66-20, Paragraph 6.

57) Executive Order N-71-20:

- a. Paragraph 15;
- b. Paragraph 22; and
- c. Paragraph 23.

58) Executive Order N-75-20:

- a. Paragraph 1;
- b. Paragraph 2; and
- c. Paragraph 4.

59) Executive Order N-80-20:

- a. Paragraph 3; and
- b. Paragraph 7.

60) Executive Order N-83-20

- a. Paragraph 2 is withdrawn and replaced by the following text:

The deadline to pay annual fees, including any installment payments, currently due or that will become due during the proclaimed emergency, as specified in Business and Professions Code sections 19942, 19951, 19954, 19955, 19984, and any accompanying regulations is September 30, 2021; the deadlines for submission of any application or deposit fee, as specified in Business and Professions Code sections 19951 (a), 19867, 19868, 19876, 19877, 19942, 19984, and any accompanying regulations is no later than September 30, 2021, or per existing requirements, whichever date is later.

- b. Paragraph 4.

61) Executive Order N-03-21, Paragraph 3, is withdrawn and replaced by the following text:

As applied to commercial evictions only, the timeframe for the protections set forth in Paragraph 2 of Executive Order N-28-20 (and extended by Paragraph 21 of Executive Order N-66-20, Paragraph 3 of Executive Order N-71-20, and Paragraph 2 of Executive Order N-80-20) is extended through September 30, 2021.

**IT IS FURTHER ORDERED** that, as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 11th day of June 2021.



\_\_\_\_\_  
GAVIN NEWSOM  
Governor of California

**ATTEST:**

\_\_\_\_\_  
SHIRLEY N. WEBER, PH.D.  
Secretary of State