

**Bylaws of the Board**

**Role of the Board**

The Governing Board is elected by the community to provide leadership and citizen oversight of the district's schools. The Board shall work with the Superintendent to fulfill its major roles, which include:

1. Setting a direction for the district
2. Providing a basic organizational structure for the district by establishing policies
3. Ensuring accountability
4. Providing community leadership on behalf of the district and public education

To fulfill these basic responsibilities, the Board shall:

1. Involve the community, parents/guardians, students and staff in developing a common vision for the district focused on learning and achievement and responsive to the needs of all students
2. Adopt, evaluate and update policies consistent with the law and district's vision and goals
3. Maintain accountability for student learning by adopting the district curriculum and monitoring student progress
4. Hire and support the Superintendent so that the vision, goals and policies of the district can be implemented
5. Conduct regular and timely evaluations of the Superintendent based on the vision, goals and performance of the district, and ensure that the Superintendent holds district personnel accountable
6. Adopt a fiscally responsible budget based on the district's vision and goals, and regularly monitor the fiscal health of the district
7. Ensure that a safe and appropriate educational environment is provided to all students

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**Role of the Board**

8. Establish a framework for the district's collective bargaining process and adopt responsible agreements
9. Provide community leadership on educational issues and advocate on behalf of students and public education at the local, state and federal levels
10. Convene as a judicial and appeals body and serve as the final decision-maker in accordance with the law, Board policies and negotiated agreements.

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 board, especially:
- 35160-35185 Powers and duties
- 35291 Rules

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards, November 2000

Maximizing School Board Leadership, 1996

WEB SITES

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

**Bylaws of the Board**

**Governance Standards**

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, 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.

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
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
6. Participate in professional development and commit the time and energy necessary to be an informed and effective leader
7. Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent and staff
8. Understand that authority rests with the Board as a whole and not with individuals

**Bylaws of the Board**

**Governance Standards**

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
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
6. Take collective responsibility for the Board's performance
7. May periodically evaluate its own effectiveness
8. Ensure opportunities for the diverse range of views in the community to inform Board deliberations

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

54950-54962 The Ralph M. Brown Act

87300-87313 Conflict of Interest Code

**Bylaws of the Board**

**Governance Standards**

**Legal Reference: (Continued)**

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardsmanship, 1996

WEB SITES

CSBA: [www.csba.org](http://www.csba.org)

**Bylaws of the Board**

**Public Statements**

All public statements in the name of the Governing Board shall be issued by the Board president or, if appropriate, by the Superintendent or designee at the direction of the Board president. No individual Board member other than the Board president shall make public statements in the name of the Board.

Before voting on any issue, all Board members shall be encouraged to present whatever evidence they may feel important to the matter at hand. The Board shall fully consider the implications and relevancy of all information so presented. All opinions, reactions and positions shall be openly discussed, so that each member may understand all aspects of the issue before the Board makes its decision. Any Board member who may wish to criticize or oppose any specific Board action should do so during the Board meeting.

Once a Board decision has been reached, all Board members shall abide by that decision until it is amended or rescinded by subsequent Board action. When Board members express their opinions outside of the Board meeting, it is their responsibility to respect the democratic nature of Board decision-making and always identify personal viewpoints as such.

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

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

BYLAW RE-ADOPTED: March 19, 2007

**Bylaws of the Board**

**Disclosure of Confidential/Privileged Information**

All confidential/privileged information shall be released only as allowed by law.

Confidential/privileged information is defined as: (Government Code 1098)

5. Information that is not a public record is subject to disclosure under the Public Records Act
6. Information that by law may not be disclosed
7. Information that may have a material financial effect on the Governing Board

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.

(cf. 4112.6/4212.6/4312.6 - Personnel records)

(cf. 5125 - Student Records)

Confidential/privileged information which is produced for or which comes out during closed sessions of the Board shall not be divulged or released unless a majority of Board members agree to release the information, subject to applicable laws regarding closed sessions. (Education Code 35146, Government Codes 3549.1, 6250 et seq., 54956.8, 54956.9, 54957 et seq.)

This policy is not intended to cause the withholding of information about the purpose and subject(s) of the closed session as required for public information under Government Code Section 54957.7.

Information from closed sessions shall be released by the president or chairman of the meeting in which the closed session is held.

Any Board member who willfully and for monetary gain uses or discloses confidential/privileged information as defined in Government code 1098 is guilty of a misdemeanor.

Any Board member who releases confidential/privileged information contrary to the provisions of this bylaw may be publicly censured by a majority vote of the members of the Board.

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

(cf. 9321 - Closed Sessions)

Legal Reference: (See next page)

**Bylaws of the Board**

**Disclosure of Confidential/Privileged Information** (continued)

**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 roll call 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

Maximizing School Board Leadership, 1996

WEB SITES

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

**Bylaws of the Board**

**Organization**

**Annual Organizational Meeting**

The Board shall hold an annual organizational meeting within the time limits prescribed by law. (Education Code 35243)

At this meeting the Board shall:

1. Elect a President, Vice President and a Clerk from its members.
2. Appoint a Secretary to the Board.
3. Authorize signatures.
4. Develop a schedule of regular meetings for the year.
5. Develop a Board calendar for the year.
6. Designate Board representatives.

(cf. 9140 - Board Representatives)

(cf. 9230 - Meetings)

**Election of Officers**

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

Legal Reference:

EDUCATION CODE

35243 Annual organizational meeting date, and notice

35145 Public meetings

GOVERNMENT CODE

54953 Meetings to be open and public; attendance

68 OPS. CAL. ATTY. GEN. 65 (1985) 59 OPS. CAL. ATTY. GEN. 619, 621-622 (1976)

BYLAW RE-ADOPTED: March 19, 2007

**Bylaws of the Board**

**Regular Members; Terms of Office**

The Governing Board shall consist of five members whose terms shall be staggered so that as nearly as practicable, one half of the members shall be elected in each odd-numbered year.

Elections Code Section 1302(b) authorizes a school district, by resolution of its governing board, to move its governing board election to the statewide general election in November of each even-numbered year. Such a resolution becomes operative upon approval by the San Bernardino County Board of Supervisors, pursuant to the provisions of Elections Code Section 10404.5. Once the election day is established, the term of office of all then incumbent members shall be extended accordingly to the new election date. Such approval was granted on April 15, 2005 to the Hesperia Unified School District to consolidate all future elections for its governing board members with the statewide general elections to be held in even-numbered years, beginning on November 7, 2006.

The term of office for members elected in regular elections shall be four years, commencing on the first Friday in December next succeeding their election. (Education Code 5017). Board member terms expire four years after their initial election on the first Friday in December following the election of new members. (Education Code 5000). A member whose term has expired shall continue to discharge the duties of the office until his/her successor has qualified by taking the oath of office. (Government Code 1302, 1360; Education Code 5017).

- (cf. 9220 - Governing Board Elections)
- (cf. 9223 - Filling Vacancies)
- (cf. 9224 - Oath or Affirmation)
- (cf. 9250 - Remuneration, Reimbursement, Other Benefits)

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 (adult member)

GOVERNMENT CODE

1302 Continuance in office until qualification of successor

1303 Exercising functions of office without having qualified

1360 Necessity of taking constitutional oath

(12/90 12/92) 3/93

ELECTIONS CODE

1302(b) Local Elections

10404.5 Consolidation of Elections

BYLAW RE-ADOPTED: March 19, 2007

BYLAW AMENDED: November 17, 2008

**Board Bylaws**

**Board Members**

A Member of the Governing Board must endeavor to attend all Board meetings. He/she shall:

1. Have the right to move, second, discuss, and vote on all questions before the Board except when otherwise prohibited by law.
2. Have the right to voice opinions openly during Board meetings so that each member may understand his/her position before the Board makes a decision.
3. Have the right to request, in writing, the Secretary of the Board to add items to a future Board agenda as "Staff Reports," "Action," or "Consent" items. Board members may also place items on a future Board meeting agenda during the "Items for Future Board Meetings" section of a noticed Board meeting. Items requested to be on the agenda will be placed on the agenda calendar in an orderly, equitable, and timely fashion considering all other Board member requests and staff's ability to fulfill support information. In order not to overload the Board's agenda, each Board member will be limited to two agenda items per Board meeting.
4. Have the right to share informational mail with other Board members through the Superintendent.
5. Have the right to consult with the District's legal counsel concerning appropriate School District matters after consultation with the Board President or the Superintendent. With the exception of the Board President, individual Board Members will be limited to legal charges of \$2,500 per school year for their requests.
6. Maintain order by not speaking as a member of the audience during the "Hearing from the Audience" time, but voice his/her views and opinions during designated discussion periods and during the "Board Member's Report" segment of the Board meeting.

(cf. 9322)

Legal Reference:

**EDUCATION CODE**

35204 Contract with attorney in private practice

BYLAW ADOPTED: February 5, 2007

BYLAW REVISED: April 7, 2008; October 5, 2009; January 11, 2010

**Board Bylaws**

**President**

The President shall preside at all Governing Board meetings. He/she shall:

1. Call the meeting to order at the appointed time.
2. Announce the business to come before the Board in its proper order.
3. Enforce the Board's policies relating to the order of business and conducting of meetings and help ensure compliance with applicable requirements of the Brown Act.
4. Recognize persons who desire to speak, and protect the speaker who has the floor from disturbance or interference.
5. Explain what the effect of a motion would be if it is not clear to every member.
6. Restrict discussion to the question when an item is before the Board. For each item requiring Board action, the President will call for discussion before a motion and a second are made. If any Board member desires discussion, the following format will be employed: each member will be allowed two opportunities with a maximum of three (3) minutes each to speak to the item before the Board. Each Board member will be given the opportunity to speak once before another member speaks a second time. Board members may not relinquish their unused time to another Board member.

The President will insure order and keep track of the time each member speaks informing her/his when her/his time expires. At the conclusion of the first round of three (3) minutes each, if a request is made for continued discussion, the second round of three (3) minutes each will ensue.

At the conclusion of the discussion period, the President will call for a motion and a second. (If a motion is not made or if a motion receives no second, the President will declare the item "dead" and move to the next item.)

Once a motion and a second are made, any Board member may request an additional discussion period. In such case, the President will poll the Board. If a majority disagrees to more discussion, the vote shall be immediately taken. If a majority agrees to more discussion, a period of two (2) minutes maximum per Board member will ensue after which time the vote will immediately be taken.

**Board Bylaws**

**President** (Continued)

In the event the vote fails, the President shall call for a new motion and a second. If a member requests discussion, the President shall poll the Board. If a majority disagrees to more discussion, a vote shall be immediately taken. If a majority agrees to more discussion, a two (2) minutes maximum per Board member will ensue after which time the vote shall immediately be taken. (The process described in this paragraph will repeat until a motion passes or until such time as no motion is made, or until such time as a motion is made but receives no second.)

7. Utilize Parliamentary procedure to conduct the Board meeting. Insure Board members are allowed to discuss agenda items, adhering to the procedure and time limits specified in paragraph six (6) above.
8. Put motions to a vote, and state clearly the results of the vote.
9. Be responsible for the orderly conduct of all Board meetings.

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

1. Sign all instruments, acts and orders necessary to carry out State requirements and the will of the Board.
2. Consult with the Superintendent or designee on the preparation of the Board's agendas.
3. Agenda items relating to the Superintendent's evaluation and contract.
4. Appoint and disband all committees, subject to Board approval.
5. Call such meetings of the Board as he/she may deem necessary, giving notice as prescribed by law.
6. Confer with the Superintendent or designee on crucial matters which may occur between Board meetings.
7. Work with the Superintendent to ensure the Board members have the necessary information.

**Board Bylaws**

**President** (Continued)

8. Assume duties of the Clerk in the absence of the Clerk and Vice President.
9. Representing the District as governance spokesperson, in conjunction with the Superintendent.

**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**

Board Presidents' Handbook, revised 2002

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardsmanship, 1996

**WEB SITES**

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

BYLAW REVISED: April 7, 2008; October 5, 2009

**Bylaws of the Board**

**Vice President**

When the President resigns or is absent or disabled, the Vice President shall perform the President's duties.

1. The Vice President shall sign official documents in the absence of the Clerk.
2. The Vice President shall perform any duties upon the request of, and as delegated by, the President.

**Board Bylaws**

**Secretary**

The Superintendent, acting as Secretary to the Governing Board, shall have the following duties:

1. Prepare, maintain and distribute the Board agenda as directed by Board members.
2. Prepare and maintain the Board Minutes.
3. Maintain Board records and documents.
4. Submit to Board members the correspondence addressed to them.
5. Perform other duties as assigned by the Board.
6. Sign and execute official papers as directed by the Board.

**Legal Reference:**

EDUCATION CODE

35025 Secretary and bookkeeper

(7/84) 9/89

**Bylaws of the Board**

**Clerk**

When both the President and Vice President are absent or disabled, the Clerk shall perform the President's duties.

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 the minutes of the Board meetings following their approval.
4. Sign documents as directed by the Board on behalf of the District, and sign all other items which require the signature of the Clerk.
5. Serve as presiding officer in the absence of the President and Vice President.
6. Perform any other duties assigned by the Board.

Legal Reference:

EDUCATION CODE

- 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
- 39630 Repair and supervision of property (duty of district clerk)
- 40003 Duty of clerk (re provision of school supplies)

**Bylaws of the Board**

**Attorney**

The Governing Board recognizes the complex legal environment in which school districts operate and desires reliable, dependable legal advice. The Board also supports collaborative legal efforts with other agencies and districts in order to promote the District's interests.

(cf. 1160 - Political Processes)

The Board President, on behalf of the Board, may use the county counsel, district attorney, in-house counsel, or private attorneys to meet the needs of the District.

The District's legal counsel may:

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.
5. After consulting with the Superintendent or the President, a Board member may consult legal counsel concerning appropriate School District matters including the employment, evaluation, or dismissal of the Superintendent.

The Superintendent may confer with the District's legal counsel at his/her discretion and shall provide the Board with desired legal information when so directed by a majority of the Board. The Board also may authorize a specific member to confer with legal counsel on behalf of the Board.

cf. 9000 - Role of Board and Members)

(cf. 9200 - Members (Limits of Authority)

(cf. 9321 - Closed Sessions)

**Bylaws of the Board**

**Attorney**

**Legal Reference:**

EDUCATION CODE

35041 Administrative adviser

35041.5 Legal counsel: Relieving duties of county counsel and district attorney

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 district

26522 Services re school bond issue

**Bylaws of the Board**

**Board Committees**

The Governing Board may establish Board committees as necessary. The Board shall determine the duties of the committee at the time of its appointment. Unless specifically authorized by the Board to act on its behalf, Board committees shall act in an advisory capacity. When its duties have been completed, the committee shall be dissolved.

(cf. 1220 - Citizen Advisory Committees)

Board committees shall provide public notice of their meetings and conduct these meetings in accordance with state open meeting laws.

Meetings of advisory committees or standing committees for which an agenda is posted at least 72 hours in advance of the meeting pursuant to Government Code 54954.2, shall be considered, for purposes of the Brown Act, as regular meetings of the Board. (Government Code 54954)

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

Board advisory committees 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 that have a continuing subject matter jurisdiction or a meeting schedule established by the Board. (Government Code 54952)

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

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)

The Superintendent or designee may serve as an advisor to any 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.

When a Board committee composed exclusively of Board members has provided for public comment on an item at a public meeting before or during the committee's consideration of the

**Bylaws of the Board**

**Board Committees (Continued)**

item, the Board is not obliged to provide for public comment on the item at a subsequent Board meeting.

Public comment shall be afforded, however, if the Board determines that the item has been substantially changed since it was heard by the committee. (Government Code 54954.3)

The Governing Board may appoint any of its members to serve as its representatives on district or advisory committees of other public agencies or organizations. Due to open meeting law requirements, a majority of the Board shall not be appointed to serve on the same committee.

(cf. 9270 - Conflict of Interest)

(cf. 9230 - Meetings and Notices)

When making such appointments, the Board shall clearly specify, on a case-by-case basis, what authority and responsibilities are involved. Board representatives shall not grant district support or endorsement for any activity without prior Board approval.

If a committee discusses a topic on which the Board has taken a position, the Board member may express that position as a representative of the Board. When contributing individual ideas or opinions on other topics, he/she shall make it clear that he/she is speaking as an individual, not on behalf of the Board.

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

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

ATTORNEY GENERAL OPINIONS

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

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

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

(2/97 10/97) 2/99

BYLAW RE-ADOPTED: March 19, 2007

**Board Bylaws**

**Board Representatives**

The Governing Board may appoint any of its members to serve as its representatives on district committees or advisory committees of other public agencies or organizations. Due to open meeting law requirements, a majority of the Board shall not be appointed to serve on the same committee.

When making such appointments, the Board shall clearly specify, on a case-by-case basis, what authority and responsibilities are involved. Board representatives shall not grant district support or endorsement for any activity without prior Board approval.

If a committee discusses a topic on which the Board has taken a position, the Board member may express that position as a representative of the Board. When contributing individual ideas or opinions on other topics, he/she shall make it clear that he/she is speaking as an individual, not on behalf of the Board.

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)

The Board shall provide the representative with nominees to this committee.

A Board member is eligible serve as a member of the county committee on school district organization. (Education Code 4007)

**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

**Bylaws of the Board**

**Labor Relations Negotiators**

The Governing Board will designate a chief negotiator to represent it in negotiations with employee organizations. The Board itself will not negotiate with any employee organization directly. The chief negotiator may be an employee of the District or an expert consultant in the field of negotiations may also be contracted to lead or assist in the process of negotiations.

Although the negotiator will represent the Board in negotiations, the negotiator shall be responsible to the Superintendent or designee, who shall annually evaluate the performance of the negotiator.

To keep the Board informed, so they may consider how proposed contract provisions would affect the district's short and long term fiscal, programmatic, instructional and personal goals, the chief negotiator will provide progress reports in the Board's weekly update and will be provided time in closed session to discuss negotiations with the Board.

The Board's role in the negotiation process will be to:

- 1) Authorize Cabinet to survey Management in regards to additions, deletions or changes to language in the collective bargaining agreements and compile responses and share them with the Governing Board in Closed Session. Cabinet will provide all needed background information concerning important negotiation topics/issues in a timely manner.
- 2) Establish in Closed Session, before negotiations begin, the Governing Board's written parameters and general guidelines for negotiations.
- 3) Monitor progress reports by the chief negotiator/designee in closed session and Board's weekly updates. Ongoing direction will be given by the Board during Closed Session. If clarification on any topic/issue is needed by negotiator(s), it will be brought before the Board.

*(cf. 4143 – Negotiations/Consultations)*

**a. County Committee on School District Organizations**

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.

The Board shall provide the representative with nominees to the County Committee on School District Organization.

**Bylaws of the Board**

**Labor Relations Negotiators** (Continued)

A Board member is eligible to serve as a member of the county committee on school district organization. (Education Code 4007)

**b. Other Advisory Committees**

The Board may appoint any of its members to serve on advisory committees or as representatives to other public agencies or organizations when the Board deems such appointments desirable, contingent on acceptance of the appointment by the member.

Legal Reference:

EDUCATION CODE

4000 et seq. County committees on school district organization

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

GOVERNMENT CODE

3540-3549.3 Public educational employer - employee relations

54956.8 Closed session with negotiator regarding real property

68 Ops. Attorney General (1985) - Incompatibility of Office, Board Members, County Committees

**Bylaws of the Board**

**Members**

**Limits of Board Members Authority**

The Governing Board has broad but clearly limited powers. The exercise of its authority is restricted to the functions required or permitted by law, and then only when it acts in a legally constituted meeting.

The Board is the unit of authority. Apart from the normal function as part of the unit, the Board member has no individual authority. Individually, the Board member may not commit the District to any policy, act or expenditure. The Board member cannot do business with the District, nor should the Board member have an interest in any contract with the school district in general. The Board member does not represent any factional segment of the community, but is rather a part of the body which represents and acts for the community as a whole.

No individual member of the Board, by virtue of holding office, shall exercise any administrative responsibility with respect to the schools; nor, as an individual, command the services of any school employee.

No member of the Board shall be asked to perform any routine or clerical duties which may be assigned to an employee, nor shall any Board member become an employee of his/her district while serving on the Board.

**Obligations of Members**

Members of the Board must endeavor to attend all meetings, study all materials presented with the agenda prior to attending the meeting, participate in the discussion of any items which come before the Board, and vote on all motions and resolutions, abstaining only for compelling reasons.

The Board member should not subordinate the education of children and youth to any partisan principle, group interest, or the member's own personal interest.

The Board member should be prepared and willing to devote a sufficient amount of time to the study of the problems of education in the District, the state, and the nation in order to interpret them to the people of the District.

**Bylaws of the Board**

**Members** (continued)

The Board member shall endeavor to attend as many school functions and activities as possible.

Board members and persons elected to the Board are responsible for complying with the requirements of the state's open meeting laws.

The Superintendent or designee shall provide a copy of the Brown Act to each Board member and to anyone who is elected to the Board.

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35100-35351 Governing board, esp.

35160-35182 Powers and duties

35230-35240 Corrupt practices

35291 Rules

35292 Visits to schools (board members)

BYLAW RE-ADOPTED: March 19, 2007

**Board Bylaws**

**Governing Board Elections**

Any person is eligible to be a Governing Board member, without further qualifications, if he/she is 18 years of age or older, a citizen of the state, a resident of the school District, a registered voter and not legally disqualified from holding civil office. (Education Code 35107)

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

When possible, Board election procedures shall be conducted in accordance with the California Education Code and Elections Code.

**Statement of Qualifications**

The District shall assume no part of the cost of printing, handling, translating or mailing candidate statements filed pursuant to Elections Code 13307. Candidates may be required to pay their pro rata share of these costs to the District in advance as specified in Elections Code 13307.

The Board secretary shall notify the county clerk of this policy on or before the 125th day before each Board member election. (Elections Code 10509)

**Tie Votes in Board Member Elections**

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 lots shall be cast to determine the winner. (Education Code 5016)

**Legal Reference:**

EDUCATION CODE

5000-5033 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

**Governing Board Elections**

**Legal Reference: (Continued)**

5440-5442 Miscellaneous provisions (re returns, recounts, etc.)

35107 Eligibility; school District employees

35177 Campaign expenditures or contributions

**ELECTIONS CODE**

1302 Local elections, school District election

2201 Grounds for cancellation

2220-2226 Residency confirmation procedures

10400-10418 Consolidation of elections

10509 Notice of election by secretary

10600-10604 School District elections

13307 Candidate's statement

13309 Candidate's statement, indigency

**GOVERNMENT CODE**

1021 Conviction of crime

1097 Illegal participation in public contract

81000-91013 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

**COURT DECISIONS**

California Pro-life Council Political Action Committee v. Jan Scully et. al., (1998) 989 F.Supp.  
1282

**ATTORNEY GENERAL OPINIONS**

83 Ops.Cal.Atty.Gen. 181 (2000)

81 Ops.Cal.Atty.Gen. 98 (1998)

Management Resources:

**WEB SITES**

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

CA Secretary of State's Office: <http://www.ss.ca.gov>

**CALENDAR COVERING SCHOOL DISTRICT BOARD ELECTIONS**

The following calendar is abstracted from the Elections Code and the Education Code.

# of Days Before Election	Action to be Taken
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130 <sup>th</sup> .....	<u>Consolidation of Governing Board Elections</u>
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Last day for County Superintendent to notify Governing Boards in writing of the consolidation of Governing Board elections. (Education Code 5323)

125 <sup>th</sup> .....	<u>Notice to County Clerk</u>
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Last day for the secretary to deliver a notice to the county clerk containing the elective offices to be filled and whether the District or the candidate is to pay for the publication of a statement of qualifications pursuant to Elections Code Section 10012. The notice shall bear the District seal and the signature of the secretary. (Elections Code 23510.5)

123 <sup>rd</sup> .....	<u>Specifications of the Election Order</u>
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Last day for the Governing Board or officer authorized to make such determination to deliver a resolution to the County Superintendent of Schools and to the officer conducting the election stating the date of the election and the purpose of the election conforming to the requirements of Education Code 5322.

120 <sup>th</sup> .....	<u>Calling of Election</u>
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Last day for County Superintendent to call any school district election by posting or publication of notices of election and delivering a copy of the formal notice of election to the county clerk (or registrar of voters if the county has one) (Education Code 5325)

120 <sup>th</sup> .....	<u>Formal Notice of Election</u>
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Last day for County Superintendent to deliver copies of the order of election and the formal notice of election to the county clerk (or registrar of voters if the county has one). (Education Code 5325)

**Calendar Covering School District Board Elections** (continued)

120th to 90<sup>th</sup> ..... Notice of Election

Not sooner than the 120th day nor later than the 90th day before the election, the county clerk shall publish a notice of the election, pursuant to Election Code 23511.

113<sup>th</sup> ..... Availability of Declaration of Candidacy Forms

The first day of availability of declaration of candidacy forms from the county clerk or the District secretary if authorized by the county clerk. (Elections Code 23512)

113th to 88<sup>th</sup> ..... Filing Declaration of Candidacy

Period during which a declaration of candidacy may be filed with the county clerk. The declaration of candidacy must be substantially in the form set forth in Education Code Section 5032(a), containing the appropriate information and signed by the candidate. (Education Code 5012)

88<sup>th</sup> ..... Withdrawal

Last day for a candidate who has filed a declaration of candidacy to withdraw as a candidate. (Education Code 5012)

87th to 83<sup>rd</sup> ..... Failure of Incumbent to File Declaration

If no incumbent has filed by 5 o'clock P.M. of the 88th day, any person other than the incumbent shall have until 5 o'clock P.M. of the 83rd day to file a declaration of candidacy for that office.

**Calendar Covering School District Board Elections** (continued)

82nd et seq..... Insufficient Filings

If by 5 o'clock P.M.. on the 83rd day prior to the election only one or no candidate has filed for a position to be filled at that election, or in the case of members to be elected from the District at large the number of candidates does not exceed the number of offices to be filled, or in the case of members to be nominated by trustee area and elected at large the number of candidates from a trustee area does not exceed the number of positions to be filled from that trustee area, no election for the position or positions shall be held. Appointment shall be made as prescribed by Education Code Section 5328 unless a petition signed by ten per cent (10%) of the voters or by 50 voters, whichever is less, in the District or in the trustee area requesting that an election be held has been presented to the officer conducting the election. (Education Code 5012.5 and 5326)

82nd (Even years)..... Drawing of "Randomized Alphabet"

83rd (Odd years)

Secretary of State drawing to determine order of candidates' names on election ballot. (Elections Code 10217)

29<sup>th</sup>..... Close of Registration

Last day to change registration to be effective for election. (Elections Code 305)

29th to 7<sup>th</sup>..... Absentee Ballot Applications by Mail

Period during which applications bearing the signature of the requested voter may be received by the county clerk (or registrar of voters). Applications received prior to the 29th day shall be held and be processed during the application period. (Elections Code 1002 et seq., 1017)

14<sup>th</sup>..... Declaration of Write-In Candidacy

Last day for any qualified person to file a declaration of candidacy with the county clerk (or registrar of voters) to cause write-in votes for such person to be tallied. (Elections Code 7300, 7301)

-0- ..... Election Day

Polls open from 7:00 A.M. until 8:00 P.M..

**Calendar Covering School District Board Elections** (continued)

Absentee ballots must be received by the official from whom they were obtained by 12 o'clock midnight on Election Day. (Elections Code 1353)

Legal Reference:

**EDUCATION CODE**

5000-5095 Election of school board members

5200 et seq. Boards of education under city charter

5300-5345 Conduct of elections

5360 et seq. Election notice

**ELECTIONS CODE**

10012 Candidate's statement

10211 et seq. Forms of ballots

14200 et seq. Procedures at polls

23300 et seq. Consolidation of elections

**Bylaws of the Board**

**Recruiting New Board Members**

In order to draw Board member candidates from the widest possible number of interested, active, well-informed citizens, the Superintendent or designee shall publicize widely all public Board meetings, committee openings, and community-related school events and shall encourage the participation of parents/guardians and members of the professional and business community in these activities.

The Superintendent or designee shall publicize school Board elections well in advance so that prospective Board candidates will have time to investigate the responsibilities of Board membership and comply with legal requirements.

(cf. 9220 - Governing Board Elections)

**Bylaws of the Board**

**Resignation**

A Governing Board member who wishes to resign may do so by filing a written resignation with the County Superintendent of Schools. (Education Code 5090)

A copy shall be given to the Board secretary.

The written resignation is effective when filed, except when a deferred effective date is specified in the resignation. (Education Code 5090)

A Board member may not defer the effective date of his/her resignation for more than 60 days after filing. (Education Code 5091)

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

Upon resignation, the Board member may continue to exercise all his/her powers, save that of voting for a successor, until the effective date of resignation. (Education Code 35178)

(cf. 9270 - Conflict of Interest)

Legal Reference:

EDUCATION CODE

5090 Definition (vacancy)

5091 Special Election

35178 Resignation with deferred effective date

**Board Bylaws**

**Filling Vacancies**

**(a) Events Causing a Vacancy**

A vacancy on the Governing Board may occur by a failure to elect or 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. Upon being filed with the County Superintendent, a written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable. (Education Code 5090)

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.

4. A Board member's removal from office, including recall. (Government Code 1770; Elections Code 11384)
5. A Board member's ceasing to be an inhabitant of the state or resident of the District. (Government Code 1770)
6. A Board member's absence from the state beyond the period allowed by law without the permission required by law. (Government Code 1770)

No Board member shall be absent from the state for more than 60 days, except in any of the following situations: (Government Code 1064)

- a. Upon business of the school District 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

**Board Bylaws**

**Filling Vacancies**

**Events Causing a Vacancy (Continued)**

- c. For federal military deployment not to exceed 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.
  - d. 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 for an additional period not to exceed 30 days.
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 sickness or when absent from the state with the permission required by law. (Government Code 1770)
8. A Board member's conviction of a felony or any offense involving a violation of his/her official duties. (Government Code 1770)
9. A Board member's refusal or neglect to file his/her required oath or bond within the time prescribed. (Government Code 1770)
10. The decision of a competent tribunal declaring void a Board member's election or appointment. (Government Code 1770)
11. A Board member's commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; in this event, the office shall not be deemed vacant until the order of commitment has become final. (Government Code 1770)

**Board Bylaws**

**Filling Vacancies**

**(b) Timelines for Filling a Vacancy**

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

1. When a vacancy occurs less than four months before the end of a Board member's term, the Board shall take no action. (Education Code 5093)
2. When a vacancy occurs four or more 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 below. (Education Code 5091)
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)

**(c) Provisional Appointments**

When the special election described above is not required, the Board may make a provisional appointment. (Education Code 5091, 5093)

In order to draw from the largest possible number of candidates, the Board shall advertise in the local media to solicit candidate applications or nominations. A committee consisting of less than a quorum of the Board shall ensure that applicants are eligible for Board membership and announce the names of the eligible candidates. The Board shall interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by a majority vote.

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

The notice shall contain: (Education Code 5092)

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

**Board Bylaws**

**Filling Vacancies**

**Provisional Appointments (Continued)**

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 of Schools within 30 days of the provisional appointment, it shall become an effective appointment.
5. A statement that the District employee appointed to the Board shall resign his/her position before being sworn in or shall have his/her employment automatically terminated upon being sworn into office.

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)

**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

3060-3075 Removal other than by impeachment

6061 One time

54950-54963 The Ralph M. Brown Act

**Board Bylaws**

**Filling Vacancies**

**Legal Reference (Continued)**

ATTORNEY GENERAL OPINIONS

58 Ops.Cal.Atty.Gen. 888 (1975)

Management Resources:

WEB SITES

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

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

<http://caag.state.ca.us/opinions/quo.htm>

**Board Bylaws**

**Filling Vacancies**

**Events causing vacancy before expiration of term (Government Code 1770)**

An office becomes vacant on the happening of any of the following events before the expiration of the term:

- (a) The death of the incumbent
- (b) The adjudication pursuant to a quo warrant proceeding declaring that the 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
- (c) His/her resignation
- (d) His/her removal from office
- (e) His/her ceasing to be an inhabitant of the district for which the officer was chosen or appointed or within which the duties of his/her office are required to be discharged
- (f) His/her absence from the state without the permission required by law beyond the period allowed by law
- (g) His/her ceasing to discharge the duties of his/her office for the period of three consecutive months, except when prevented by sickness or when absent from the state with the permission required by law
- (h) His/her conviction of a felony or any offense involving a violation of his/her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered. For the purposes of this subdivision, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict or finding.

**Board Bylaws**

**Filling Vacancies**

**Events causing vacancy before expiration of term** (Continued)

- (i) His/her refusal or neglect to file his/her required oath or bond within the time prescribed
- (j) The decision of a competent tribunal declaring void his/her election or appointment
- (k) His/her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate or stimulant addict; in this event, the office shall not be deemed vacant until the order of commitment has become final.

**Absence from state; members of governing board of school districts; conditions** (Government Code 1064)

No member of the governing board of a school district shall be absent from the state for more than 60 days, except in any of the following situations:

- (a) Upon business of the school district with the approval of the board
- (b) With the consent of the governing board of the school district for an additional period not to exceed a total absence of 90 days
- (c) For federal military deployment not to exceed six months as a member of the armed forces of the United States or the California National Guard

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 governing board of the school district for an additional period not to exceed 30 days.

**Board Bylaws**

**Oath Or Affirmation**

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)

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, including a state-level officer.

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

**Bylaws of the Board**

**Orientation**

**Board Candidate Orientation**

Orientation will be provided for Governing Board candidates so that insofar as possible, new members will be prepared to discuss and cast informed votes on matters before the Board from the time that they are sworn into office.

The Board invites all candidates to attend public Board meetings during the period of their candidacy. The Superintendent shall cooperate impartially with all candidates in providing them with Board policies and public information about school programs.

The Board expects candidates to recognize that until they are elected to the Board, they are, like other members of the public, not entitled to privileged information discussed in closed session.

(a) New Board Member Orientation

The Governing Board and the Superintendent or designee shall help each new member-elect to understand District operations and the Board's functions, policies and procedures as soon after election as possible. Incoming members may receive informational materials on the function of the Board and the school system, attend Board meetings, meet with the Superintendent or designee and Board president, receive a copy of the District's policy manual, and visit school facilities. Newly elected Board member will be given a copy of the Brown Act and informed that they must conform to its requirements as if they had already assumed office.

The incoming member may attend, at District expense, workshops for newly elected members conducted by the state, county and/or the California School Boards Association.

(cf. 9240 - Development in Service)

Legal Reference:

EDUCATION CODE

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

33362 Reimbursement of expenses; member of school district board

BYLAW RE-ADOPTED: March 19, 2007

**Bylaws of the Board**

**Development in Service**

Board Members, like teachers and administrators, need in-service training. The public entrusts the Board with the governance of its schools. As part of their job, Board Members need to participate in professional development activities that help them understand their responsibilities, stay abreast of new developments in education, and learn new ways to cope effectively with the problems they confront. Such activities include state, regional, and national workshops, conferences, conventions, and seminars such as those offered by the California School Boards Association.

Board Members shall report to the Board on the in-service activities they attend. Reports shall be given at regular Board meetings within a month of the Board Member's return.

Funds for in-service training shall be budgeted annually.

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

Legal Reference:

EDUCATION CODE

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

BYLAW RE-ADOPTED: March 19, 2007

**Board Bylaws**

**Remuneration, Reimbursement, and Other Benefits**

**(a) Remuneration**

Each member of the Governing Board may receive the monthly compensation as provided for in law.

On an annual basis, the Board may increase the compensation of individual Board members beyond the limits delineated in Education Code 1090 and 35120, in an amount not to exceed five percent based on the present monthly rate of compensation. Any increase made pursuant to this section shall be effective upon approval by the Board. (Education Code 35120)

If a member does not attend all Board meetings during the month, he/she is eligible to receive only a percentage of the monthly compensation equal to the percentage of meetings attended unless otherwise authorized by the Board in accordance with law. (Education Code 1090, 35120)

Members may be paid for meetings they missed when the Board, by resolution, finds that they were performing designated services for the district at the time of the meeting or that they were absent because of illness, jury duty, or a hardship deemed acceptable by the Board.

**(b) Reimbursements:**

In order to further the interests of the District, Board members shall be reimbursed for all actual, necessary and reasonable expenses, while engaged in their duties as elected officials and as representatives of the District. Board members are specifically permitted to expend District funds and be reimbursed for meals purchased for non-District employees, such as visiting dignitaries, employees and/or representatives of other Districts, other elected officials, or any other person provided such expenditures occur while the Board member is engaged in his/her duties as a Board Member and in the furtherance of District interests. However, expenses for family members accompanying Board members on District business shall not be eligible for reimbursement.

**Legal References**

**EDUCATION CODE**

- 1090 Compensation for members and mileage allowance
- 33050-33053 General waiver authority
- 33362-33363 Reimbursement of expenses (Department of Education and CSBA workshops)
- 35012 Board members; number, election and term
- 35044 Payment of traveling expenses of representatives of board
- 35120 Compensation (services as member of governing board)
- 35172 Promotional activities
- 44038 Cash deposits for transportation purchased on credit

**GOVERNMENT CODE**

- 20322 Elective officers; election to become member
- 53200-53209 Group insurance

**Board Bylaws**

**Remuneration, Reimbursement, and Other Benefits**

**Legal Reference (Continued)**

UNITED STATES CODE, TITLE 26

403(b) Tax-sheltered annuities

**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**

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

Management Resources:

**WEB SITES**

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

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

**Bylaws of the Board**

**Conference Expenses**

Each Board member may incur up to \$4,000 per term (prorated for terms less than four years) for conference expenses without prior approval of the Board.

The following conference/in-services will not count towards the \$4,000 limit:

- Annual CSBA Conference expenses or Annual NSBA Conference expenses if held in California, Nevada or Arizona.
- Board Training pertaining to Collective Bargaining or other issues to which the Board, as a whole, has committed.
- Expenses related to participation in CSBA's "Masters in Boardsmanship" Program.
- Expenses incurred representing the District at San Bernardino County School Boards' Association (SBCSBA) functions.
- Expenses related to lobbying efforts on behalf of the District.

Legal Reference:

EDUCATION CODE

1090 Compensation for members and mileage allowance

33006 Compensation and expenses

33362 Reimbursement of expenses (Department of Education and CSBA workshops)

35044 Payment of traveling expenses of representatives of board

BYLAW RE-ADOPTED: March 19, 2007

**Bylaws of the Board**

**Reimbursement of Travel Expenses**

In order to further the interests of the District, Board members shall be reimbursed for all actual, necessary and reasonable expenses, including travel, while engaged in their duties as elected officials and as representatives of the District. Board members are specifically permitted to expend District funds and be reimbursed for meals purchased for non-District employees, such as visiting dignitaries, employees and/or representatives of other Districts, other elected officials, or any other person provided such expenditures occur while the Board member is engaged in his/her duties as a Board Member and in the furtherance of District interests. However, expenses for family members accompanying Board members on District business shall not be eligible for reimbursement.

The Board shall be reimbursed for mileage at the same rate as specified for District employees for the use of their personal vehicle in the performance of official business.

Travel Claims for members of the Board of Trustees will be submitted to the Superintendent for approval and signature.

**Legal Reference:**

**EDUCATION CODE**

1090 Compensation for members and mileage allowance

33006 Compensation and expenses

35004 Payment of traveling expenses of representatives of board

**Board Bylaws**

**Health and Welfare Benefits for Serving Board Members**

Effective immediately upon the adoption date of this policy, only serving Board members may participate in the District's health and welfare benefits program.

The District will pay the cost of all premiums required for serving Board members electing to participate in the program.

The benefits to serving Board members will be the same benefits package full time management employees receive in any given year. If the benefits to management employees change, the benefits to serving Board members will change accordingly. Government Code § 53201 (a), (89 Ops.Cal.Atty.Gen. 217 (2006).)

Serving 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. Government Code § 53208.5.

**LEGAL REFERENCE**

**Education Code**

35120 Compensation (services as member of governing board)

35560 Allocation of funds, property following reorganization

**Government Code**

53200 – 53209 Group Insurance

**California Attorney General Opinion**

\_\_ Ops.Cal.Atty.Gen. \_\_ (July 18, 2007)

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

85 Ops.Cal.Atty.Gen 63 (2002)

83 Ops.Cal.Atty.Gen. 14 (2000)

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

81 Ops.Cal.Atty.Gen. 218 (1998)

80 Ops.Cal.Atty.Gen. 119 (1997)

77 Ops.Cal.Atty.Gen. 50 (1994)

67 Ops.Cal.Atty.Gen. 510 (1984)

62 Ops.Cal.Atty.Gen 631 (1979)

**Court Decisions**

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

BYLAW REVISED: March 9, 2009

**Board Bylaws**

**Legal Protection**

**(b) Liability Insurance**

The Governing Board shall provide insurance necessary to protect Board members, officers and employees from any judgment from suits brought against them alleging their liability while acting within the scope of their office or employment in accordance with Education Code 35208.

The insurance shall cover claims in such matters as civil rights actions, negligence or other act resulting in accidental injury to any person or property damage in or out of school buildings while the above-named insured acting within the course and scope of their employment or in their elected capacity and/or under the direction of the Board.

**(c) Protection Against Liability**

No Board member, officers and employees 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, officers and employees 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, officers and employees caused harm by operating a motor vehicle.
3. The Board member, officers and employees was not properly licensed, if required, by the State for such activities.
4. The Board member, officers and employees was found by a court to have violated a federal or state civil rights law.
5. The Board member, officers and employees 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, officers and employees have been convicted in a court.

**Board Bylaws**

**Legal Protection** (Continued)

7. The misconduct involved a sexual offense for which the Board member, officers and employees have 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 20**

6731-6738 Teacher Protection Act

**COURT DECISIONS**

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

**Board Bylaws**

**Conflict Of Interest**

**(a) Incompatible Activities**

Governing Board members shall not engage in any employment or activity 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 1126)

**(b) Conflict of Interest Code**

The District's conflict of interest code shall be comprised of the terms of the California Code of Regulations, Title 2, Section 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a District attachment specifying designated positions and the specific types of disclosure statements required for each position.

Upon direction by the San Bernardino County Board of Supervisors, the Board shall review the District's conflict of interest code in even-numbered years. If no change in the code is required, the District shall submit by October 1 a written statement to that effect to the San Bernardino County Board of Supervisors.. If a change in the code is necessitated by changed circumstances, the District shall submit an amended code to the code reviewing body. (Government Code 87306.5)

When a change in the District's conflict of interest code is necessitated by changed circumstances, such as the creation of new designated positions, amendments or revisions, the changed code shall be submitted to the code reviewing body within 90 days. (Government Code 87306)

When reviewing and preparing conflict of interest codes, the District shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required. (2 CCR 18700)

Statements of economic interests submitted to the District by designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction. (Government Code 81008)

**Board Bylaws**

**Conflict Of Interest**

**(c) Financial Interest**

Pursuant to Government Code 1092, if any one Board member or designated employee has a financial interest in a contract, it is an absolute bar for that Board to enter into the prohibited contract. These prohibitions cannot be avoided by having the financially interested Board member or designated employee abstain from participating in the matter. 69 Ops.Cal.Atty.Gen. 255 (1986)

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.

A Board member shall not be considered to be financially interested in a contract if his/her interest includes, but is not limited to, any of the following: (Government Code 1091.5)

1. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public District of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091
4. That of a spouse of an officer or employee of the District if his/her spouse's employment or officeholding has existed for at least one year prior to his/her election or appointment
5. That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records
6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the nonprofit board or to which the school Board has a legal obligation to give particular consideration, and provided further that such interest is noted in its official records

**Board Bylaws**

**Conflict Of Interest**

**Financial Interest (Continued)**

7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that such interest is noted in its official records
8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm

In addition, a Board member or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. (Government Code 1091.5)

A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and if the remote 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 to enter into the contract. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

A Board member may enter into a contract if the rule of necessity or legally required participation applies as defined in Government Code 87101.

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.

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person 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)

**Board Bylaws**

**Conflict Of Interest**

**Financial Interest (Continued)**

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

**(d) Gifts**

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

The limitations on gifts do 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)

Gifts of travel and related lodging and subsistence shall be subject to the prevailing gift limitation except as described in Government Code 89506.

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

**(e) 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 gathering, in accordance with law. (Government Code 89501, 89502) (Note: 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.)

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

**Board Bylaws**

**Conflict Of Interest**

**Legal Reference:**

**EDUCATION CODE**

1006 Qualifications for holding office  
35107 School District employees  
35230-35240 Corrupt practices  
35233 Prohibitions applicable to members of governing boards  
35239 Compensation for board members in Districts under 70 ADA

**GOVERNMENT CODE**

1090-1098 Prohibitions applicable to specified officers  
1125-1129 Incompatible activities  
81000-91015 Political Reform Act of 1974, especially:  
82011 Code reviewing body  
82019 Definition of designated employee  
82028 Definition of gifts  
82030 Definition of income  
87100-87103.6 General prohibitions  
87200-87210 Disclosure  
87300-87313 Conflict of interest code  
87500 Statements of economic interests  
89501-89503 Honoraria and gifts  
91000-91014 Enforcement

**CODE OF REGULATIONS, TITLE 2**

18110-18997 Regulations of the Fair Political Practices Commission, especially:  
18702.5 Public identification of a conflict of interest for Section 87200 filers

**COURT DECISIONS**

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**

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)

**Management Resources:**

**WEB SITES**

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

Exhibit A

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

1. Persons occupying the following positions are designated employees in Category 1:

Board Members  
Superintendent  
Assistant Superintendent  
Purchasing Agent

Designated persons in this category must report:

- 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. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
- b. Investments or business positions in or income from sources which:
  - (1) Are engaged in the acquisition or disposal of real property within the district
  - (2) 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
  - (3) Manufacture or sell supplies, books, machinery or equipment of the type used by the district

2. Persons occupying the following positions are designated employees in Category 2:

Director  
Principal  
Assistant Principal  
Vice Principal  
Maintenance and Operations Director  
Coordinator  
Supervisor

Designated persons in this category must report investments or business positions in or income from sources which:

Exhibit A

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES (Continued)

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
  - b. 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.
3. 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 18701)

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the district to enter into, modify or renew a contract that requires district approval
- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- f. Grant district approval to a plan, design, report, study or similar item
- g. 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

Exhibit A

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES (Continued)

CCR 18702.2 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 18701)

Legal Reference:

EDUCATION CODE

- 1006 Qualifications for holding office
- 35107 School district employees
- 35230-35240 Corrupt practices
- 35233 Prohibitions applicable to members of governing boards

GOVERNMENT CODE

- 1090-1098 Prohibitions applicable to specified officers
- 1125-1129 Incompatible activities
- 81000-91015 Political Reform Act of 1974, especially:

- 82011 Code reviewing body
- 82019 Definition of designated employee
- 82028 Definition of gifts
- 82030 Definition of income
- 87100-87103.6 General prohibitions
- 87200-87210 Disclosure
- 87300-87313 Conflict of interest code
- 87500 Statements of economic interests
- 89501-89503 Honoraria and gifts
- 91000-91014 Enforcement

CODE OF REGULATIONS, TITLE 2

- 18110-18997 Regulations of the Fair Political Practices Commission

COURT DECISIONS

- Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th. 655
- Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

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- 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)

Management Resources:

WEB SITES

- Fair Political Practices Commission: <http://www.fppc.ca.gov>  
(6/98 11/99) 7/01

EXHIBIT RE-ADOPTED: March 19, 2007  
EXHIBIT AMENDED: November 17, 2008

**Bylaws of the Board**

**Code of Ethics**

This code of ethics expresses the personal ideals which the Governing Board believes should guide each school Board member's activities.

In all actions as a school Board member, the member's first commitment is to the well-being of our youth. His/her primary responsibility is to every student in the District.

Board members also have other major commitments to:

- \* The Community. Each Board member is responsible to all residents of the District and not solely to those who elected him/her; nor solely to any organization to which he/she may belong, or which may have supported his/her election.
- \* Individuals. Each Board member has a direct concern for every individual in the community. As an integral part of his/her duties, he/she represents the authority and responsibility of government. This authority must be exercised with as much care and concern for the least influential as for the most influential member of the community.
- \* Employees. The Board member's actions may affect the capability of District employees to practice their trade or profession and should encourage increasing competence and professional growth.
- \* Laws, Policies. Each Board member must be aware of, and comply with, the constitutions of State and Nation, the Education Code of the State of California, other laws pertaining to public education, and the established policies of the District.
- \* Decisionmaking. Each Board member is obliged by law to participate in decisions pertaining to education in the District. As an elected representative of the people, the Board member can neither relinquish nor delegate this responsibility to any other individual or group.
- \* Individual Feelings and Philosophy. Every individual Board member has something to contribute to society.

Understanding and acting upon the foregoing premises, each Board member shall:

- \* Consider his/her position on the board as a public trust and not use it for private advantage or personal gain.

**Bylaws of the Board**

**Code of Ethics** (continued)

- \* Be constantly aware that he/she has no legal authority except when acting as a member of the Board. Board members shall present their concerns and concepts through the process of Board debate. If in the minority of any decision, they shall abide by and support the majority decision. When in the majority, they shall respect divergent opinions.
- \* Encourage ideas and opinions from the residents of the District and endeavor to incorporate community views into the deliberations and decisions of the Board.
- \* Devote sufficient time, thought, and study to proposed actions so as to be able to base decisions upon all available facts and vote in accordance with honest convictions, unswayed by partisan bias of any kind.
- \* Remember that the basic functions of the Board are to establish the policies by which District schools are administered and to select the Superintendent and staff who will implement those policies.
- \* Promote and participate actively in a concerted program of timely exchange of information with all District residents, parents, employees and students.
- \* Recognize that the deliberations of the Board in closed session may be released or discussed in public only with Board approval.
- \* Make use of opportunities to enlarge his/her potential as a Board member through participation in educational conferences, workshops and training sessions made available by local, state and national agencies.

**Board Bylaws**

**Policy Manual**

The Governing Board recognizes the importance of adopting policies that reflect the district's vision and maintaining a policy manual that is up-to-date and reflects the mandates of law. (cf. 9000 - Role of the Board)

The Superintendent or designee shall maintain a district policy manual for the purpose of communicating to all interested stakeholders the policies, regulations and bylaws within which district schools will operate. (cf. 9311 - Board Policies) (cf. 9312 - Board Bylaws) (cf. 9313 - Administrative Regulations)

The Superintendent or designee shall ensure that the community and all district employees have access to the policy manual. A public copy of the manual shall be maintained in the Superintendent's office. This copy shall be maintained either electronically or by paper copy. (cf. 1340 - Access to District Records)

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

(9/89 10/94) 6/99

BYLAW RE-ADOPTED: March 19, 2007

**Board Bylaws**

**Board Policies**

The Governing Board recognizes that its most important function is to establish policies which communicate its direction for the operation of the schools. Governing Board policies are written statements adopted by the Board which communicate the guidelines within which the Superintendent or designee and staff may take discretionary action.

The Superintendent or designee shall present drafts or suggestions for new policy and policy revisions when changes in law occur and when specific needs arise.

The Board encourages members of the community to contribute information and opinions for the Board's consideration and to propose revisions to policy. When drafting or revising policies which affect other governmental agencies, the Board welcomes input from these agencies and will cooperate with them in addressing matters of mutual concern.

The adoption of policy shall conform with Board bylaws governing agendas, meetings, and voting. Only those written statements adopted and recorded in the minutes shall constitute official Board policy.

Before adoption, policies shall normally be given two readings by the Board.

At its second reading, the policy may be adopted by a majority vote of all members of the Board. The Board may waive the second reading or may require additional readings.

The Superintendent or designee shall maintain procedures for the continuous orderly review of Board policies at a time allocated for this purpose on the Board agenda. When policies are amended, the Superintendent or designee shall review corresponding administrative regulations to ensure that they conform to the intent of the revised policy. Policies not amended and/or not changed pursuant to changes in law shall remain in full force and effect unless or until the Governing Board takes action to rescind or amend those policies.

**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

BYLAW REVISED: March 19, 2007

**Board Bylaws**

**Board Policies**

The office of the Superintendent or designee will receive sample policies, regulations and bylaws issued by the California School Boards Association. The following procedures will be followed:

1. The Superintendent or appropriate Cabinet member will review the samples.
2. Policies, regulations and bylaws mandated by law will be given top priority.
3. Policies will be reviewed for:
  - a. Legal requirements.
  - b. Applicability at the local level.
  - c. Options legally available to the District.
  - d. Future need.
4. The Superintendent or appropriate Cabinet member may delegate the initial task of review and revision to the administrator with appropriate expertise. However, the Superintendent or appropriate Cabinet member shall retain the responsibility of final review before submitting policies to the Board.
5. Draft policies, regulations and bylaws may be submitted to the District's legal counsel for review and recommendations.
6. The Superintendent or appropriate Cabinet member's office shall place the draft policy, administrative regulation or bylaw statement on the agenda of a public Board meeting for first reading.
7. The Board may return the drafts to the Superintendent or appropriate Cabinet member with recommendations for further revision and/or move to give them a second reading and adoption.

REGULATION ADOPTED: March 19, 2007

**Bylaws of the Board**

**Board Bylaws**

The Governing Board shall adopt Board bylaws to govern the internal operations of the Board. When the need for a new bylaw or modification of an existing bylaw is recognized, the Superintendent or designee shall draft a new or modified bylaw for consideration by the Board.

Bylaws may be adopted and amended by a majority vote of all members of the Board, following the same procedures as those used for the adoption or amendment of policy.

(cf. 9311 - Formulation, Adoption, Amendment of Policies)

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35163 Official actions, minutes and journals

35164 Vote requirements

BYLAW RE-ADOPTED: March 19, 2007

**Board Bylaws**

**Administrative Regulations**

To carry out the intentions expressed in Governing Board Policy, the Superintendent shall specify required actions and design detailed arrangements under which the schools will be operated. The Superintendent shall develop administrative regulations when required by law or Board policy or when, in his/her judgment, Board endorsement of District procedures is desired. Administrative regulations approved by the Board shall be consistent with state and federal law and regulations, Board policy and negotiated employee contracts and shall be included in the District's policy manual. District and site level procedures will be maintained in appropriate District and/or site locations.

Regulations and procedures shall be maintained at appropriate school and/or District locations and may be placed in the District's policy manual.

**Legal Reference:**

EDUCATION CODE

35010 Control of District; prescription and enforcement of rules

35163 Official Actions; minutes and journals

35164 Vote requirements

**Bylaws of the Board**

**Suspension of Policies, Bylaws, Administrative Regulations**

Policies, bylaws and administrative regulations may be suspended for a specific purpose and limited time by majority vote.

(cf. 9323.2 - Actions by the Board)

(cf. 9322 - re Posting of Agenda)

Suspension of any policy, bylaw or administrative regulation shall undergo the following consideration:

1. Policies, bylaws or administrative regulations shall be reviewed on their own merits rather than the circumstances of the moment.
2. The Board shall decide whether the policy, bylaw or administrative regulation still reflects the intent of the Board and the law. If so, the suspension will be denied and the policy, bylaw or administrative regulation reaffirmed in the minutes.

(a) Superintendent's Authority

The Superintendent may suspend all or part of any policy, bylaw or administrative regulation when it conflicts with state or federal law or regulations. The Superintendent shall report the suspension to the Board. Suspension shall be valid until the policy, bylaw or administrative regulation is rescinded, amended or reaffirmed.

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35163 Official actions, minutes and journal

35164 Vote requirements

BYLAW RE-ADOPTED: March 19, 2007

**Board Bylaws**

**Meetings And Notices**

Meetings of the Governing Board are conducted for the purpose of accomplishing District business.

A Board meeting exists whenever a majority of Board members gather at the same time and place to hear, discuss or deliberate upon any item within the subject matter jurisdiction of the Board or District. (Government Code 54952.2)

In accordance with state open meeting laws, the Board shall hold its meetings in public and shall conduct closed sessions during these meetings only to discuss confidential matters specified by law. To encourage community involvement in the schools, meetings shall provide opportunities for questions and comments by members of the public and shall be conducted in accordance with law and Board-adopted bylaws.

Direct communication, personal intermediaries, and technological devices shall not be used by a majority of Board members to develop a collective concurrence as to an action that members will take on any item of District business. (Government Code 54952.2)

Meetings shall be held within District boundaries, except when otherwise allowed by law. (Government Code 54954)

Meetings shall be held in a facility that is accessible to all persons, including disabled persons, without charge. (Government Code 54961)

In order to help ensure participation in the meeting by disabled individuals, 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)

Meeting notices and agendas shall specify that an individual who requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the Board meeting should contact the Superintendent or designee in writing.

**(a) Regular Meetings**

The Board shall adopt a yearly calendar specifying the date, time and location of regular meetings.

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)

**Board Bylaws**

**Meetings And Notices**

**Regular Meetings (Continued)**

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

**(b) Special Meetings**

Special meetings of the Board may be called by the presiding officer or a majority of the Board members. (Government Code 54956)

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

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

Public notice shall be given at least 72 hours before any retreats, study sessions or training sessions held by the Board. All such meetings shall be held within District boundaries and action items shall not be included.

**(c) Emergency Meetings**

In the case of an emergency situation for which prompt action is necessary due to the disruption or threatened disruption of public facilities, the Board may hold an emergency meeting without complying with the 24-hour notice 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. 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

**Board Bylaws**

**Meetings And Notices**

**Emergency Meetings (Continued)**

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 under this section may endanger the public health and/or safety as determined by a majority of the members of the Board

Except in the case of a dire emergency, the Board president or designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media that have requested notice of special meetings. 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. (Government Code 54956.5)

In the case of a dire emergency, the Board president shall give such notice to the media at or near the time he/she notifies 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)

**(d) Adjourned Meetings**

A majority vote by the Board may adjourn any meeting to a later time and place that shall be specified in the order of adjournment. (Government Code 54955)

If no Board members are present at any regular or adjourned regular meeting, 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)

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

**Board Bylaws**

**Meetings And Notices**

**(e) 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 or both. (Government Code 54953)

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

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

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

All 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.

**(f) Hearings**

The Board may occasionally convene public hearings at which no Board action is to be taken. Such hearings are held solely to allow the Board and members of the public to receive information. A hearing may take place immediately prior to a Board meeting.

If a quorum of Board members is present at a hearing, notice of the hearing shall be provided according to procedures specified above for regular meetings.

**(g) Other Gatherings**

Attendance by a majority of the Board members at any of the following events is not subject to state open meeting laws 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 Boards

**Board Bylaws**

**Meetings And Notices**

**Other Gatherings (Continued)**

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

Individual contacts or conversations between a Board member and any other person are not subject to open meeting laws. (Government Code 54952.2)

**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
  - 35147 Open meeting law exceptions and applications
- GOVERNMENT CODE**
- 54950-54957.9 Meetings, especially:
    - 54953 Meetings to be open and public; attendance
      - 54953.2 Compliance with Americans with Disabilities Act
    - 54954 Time and place of regular meetings
      - 54954.1 Mailed notices
      - 54954.2 Agenda posting requirements, board actions
      - 54954.3 Opportunity for public to speak
    - 54956 Special meetings; call; notice
      - 54956.5 Emergency meetings
    - 54957.5 Agenda distribution
  - 54961 Prohibition on use of certain facilities
- UNITED STATES CODE, TITLE 42**
- 12101-12213 Americans with Disabilities Act

**Board Bylaws**

**Meetings And Notices**

**Legal Reference (Continued)**

CODE OF FEDERAL REGULATIONS, TITLE 28

35.160 Effective communications

36.303 Auxiliary aids and services

ATTORNEY GENERAL OPINIONS

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, 1999

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies,, California Attorney General's Office, 2002

WEB SITES

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

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

**Board Bylaws**

**Meetings and Notices**

**GOVERNMENT CODE 54954 PROVISIONS  
REGARDING MEETINGS OUTSIDE District BOUNDARIES**

Board meetings may be held outside District boundaries only to: (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 multi-agency 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 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 non-adversarial collective bargaining techniques
9. Interview residents of another District regarding the Board's potential employment of an applicant for Superintendent of the District. (Note: As amended by SB 1771 [Ch. 257, Statutes of 2004], Government Code 54954 now authorizes a Board to interview residents of another District regarding all potential candidates for Superintendent, instead of just that District's current Superintendent.)
10. Interview a potential employee from another District

EXHIBIT REVISED: April 16, 2007

**Board Bylaws**

**Closed Session Purposes And Agendas**

The Governing Board may hold closed sessions only for purposes identified in law. The Board may hold a closed session at any time during a regular or special meeting and during emergency meetings in accordance with law. (Government Code 54956.5, 54957.7, 54962)

The agenda shall contain a brief general description of all closed session items to be discussed. (Government Code 54954.2)

The Board shall disclose in open meeting 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)

No agenda, notice, announcement, or report required by the Brown Act need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed. (Government Code 54961)

In accordance with law, a Board member shall not disclose confidential information received in a closed session unless the Board authorizes the disclosure of that information. (Government Code 54963)

**(a) Personnel Matters**

The Board may hold closed sessions to consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee. These sessions 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 - Suspension/Disciplinary Action)

(cf. 4215 - Evaluation/Supervision)

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

(cf. 4315 - Evaluation/Supervision)

**Board Bylaws**

**Closed Session Purposes And Agendas**

**Personnel Matters (Continued)**

The Board may also hold closed sessions to hear complaints or charges brought against an employee by another person, unless the employee requests an open session. Before the Board holds a closed session on specific complaints or charges brought against an employee, the employee shall receive written notice of his/her 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)

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

Agenda items related to public 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)

**(b) Negotiations/Collective Bargaining**

Unless otherwise agreed upon by the parties involved, the following shall not be subject to the 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. 4143/4243 - Negotiations/Consultation)  
(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

**Board Bylaws**

**Closed Session Purposes And Agendas**

**Negotiations/Collective Bargaining (Continued)**

Closed sessions shall be for the purpose of reviewing the Board's position and instructing the Board's designated representative. Closed sessions may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees. (Government Code 54957.6)

The Board may meet in closed session with the Board's designated representative regarding employee salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees. These closed sessions may include discussions of the District's available funds and funding priorities, but only insofar as they relate to providing instructions to the District's designated representative. (Government Code 54957.6)

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

For unrepresented employees, closed sessions held pursuant to Government Code 54957.6 shall not include final action on the proposed compensation of one or more unrepresented employees. (Government Code 54957.6)

The Board also may meet in closed session with a state conciliator or a mediator who has intervened in these proceedings. (Government Code 54957.6)

Agenda items related to negotiations shall specify the name 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)

**(c) Matters Related to Students**

The Board shall meet in closed session to consider a suspension, disciplinary action, or any other action, except expulsion against a student when a public hearing on the matter would violate student privacy rights. If a written request for open session is received from the parent/guardian or adult student, it will be honored to the extent that it does not violate the privacy rights of any other student. (Education Code 35146, 48912, 49073-49079)

(cf. 5117 - Inter-District Attendance)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5125.3 - Challenging Student Records)

(cf. 5144 - Discipline)

**Board Bylaws**

**Closed Session Purposes And Agendas**

**Matters Related to Students (Continued)**

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))

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing," "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.

(cf. 5125 - Student Records)

**(d) Security Matters**

The Board may meet in closed session with the Attorney General, District attorney, sheriff or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or to the public's right of access to public services or public facilities. (Government Code 54957)

(cf. 0450 - Comprehensive Safety Plan

(cf. 3515 - Campus Security)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

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

Agenda items related to 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)

**Board Bylaws**

**Closed Session Purposes And Agendas**

**(e) Conference with Real Property Negotiator**

The Board may meet in closed session with the Board's 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 the authority regarding the price and terms of 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) and the property under negotiation and to specify the person(s) with whom the negotiator may negotiate. (Government Code 54956.8)

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

Agenda items related to real property negotiations shall specify the District negotiator attending the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the negotiating parties and the street address of the real property under negotiation. If there is no street address, the agenda item shall specify the parcel number or another unique reference of the property. The agenda item shall also specify whether instruction to the negotiator will concern price, terms of payment, or both. (Government Code 54954.5)

**(f) 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 a discussion of the matter in open session would prejudice the Board's position in the case. For this purpose, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)

Litigation is considered "pending" when any of the following circumstances exist:

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

**Board Bylaws**

**Closed Session Purposes And Agendas**

**Pending Litigation (Continued)**

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

"Existing facts and circumstances" authorizing a closed session pursuant to Government Code 54956.9(b) as described in item #2 above are limited to the following: (Government Code 54956.9)

1. Facts and circumstances that might result in litigation against the District but which the District believes are not yet known to potential plaintiffs and which do not need to be disclosed.
2. Facts and circumstances including, but not limited to, an accident, disaster, incident or transactional occurrence which might result in litigation against the District, which are already known to potential plaintiffs, and which must be publicly disclosed before the closed session or specified on the agenda.
3. The receipt of a claim pursuant to the Tort 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)
4. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.
5. 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.

The above record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat on his/her 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.

Before holding a closed session pursuant to this section, 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(a), 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)

**Board Bylaws**

**Closed Session Purposes And Agendas**

**Pending Litigation (Continued)**

Agenda items related to "pending litigation" shall be described as a conference with legal counsel regarding "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 and 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(b) and shall specify the potential number of cases. When the District expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code 54956.9(c) 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 pursuant to items #2-5 above. (Government Code 54954.5, Government Code 54956.9(b)(3)(B-E))

**(g) Joint Powers Agency Issues**

The Board may meet in closed session to discuss a claim against a joint powers authority formed for the purpose of insurance pooling or self-insurance authority of which it is a member, for the payment of tort liability losses, public liability losses or workers' compensation liability. (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. 3320 - Claims and Actions Against the District)

(cf. 3530 - Risk Management/Insurance)

When the board of the joint powers agency has so authorized and upon advice of District legal counsel, the Board may meet in closed session in order to receive, discuss and take action concerning information obtained in a closed session of the joint powers agency. During the District'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)

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

**Board Bylaws**

**Closed Session Purposes And Agendas**

**Joint Powers Agency Issues (Continued)**

Closed session agenda items related to "Conference Involving a Joint Powers Agency" shall specify the closed session description used by the joint powers agency and the name of the District representative on the joint powers agency 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)

**(h) Review of Audit Report from Bureau of State Audits**

Upon receipt of a confidential final draft audit report from the Bureau of State Audits, the Board may meet in closed session to discuss its response to that report. After public release of the report from the Bureau of State Audits, 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 Bureau of State Audits shall state "Audit by Bureau of State Audits." (Government Code 54954.5)

**(i) 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. 6162.5 - Student Assessment)

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

**Legal Reference:**

EDUCATION CODE

35145 Public meetings

35146 Closed session (re student suspension)

44929.21 Districts with ADA of 250 or more

48918 Rules governing expulsion procedures; hearings and notice

49073 Release of directory information

49076 Access to records by persons without written parental consent

**Board Bylaws**

**Closed Session Purposes And Agendas**

**Legal Reference: (Continued)**

49079 Notification to teacher re: students whose actions are grounds for suspension or expulsion

60617 Meetings of governing board

**GOVERNMENT CODE**

3540-3549.3 Educational Employment Relations Act

6250-6268 California Public Records Act

54950-54963 The Ralph M. Brown Act

**COURT DECISIONS**

Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners (2003) 107 Cal.App.4th 860

Bell v. Vista Unified School District (2001) 82 Cal.App. 4th 672

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

Furtado v. Sierra Community College District (1998) 68 Cal. App. 4th 876

Roberts v. City of Palmdale (1993) 5 Cal.4th 363

Sacramento Newspaper Guild v. Sacramento County Board of Supervisors (1968) 263 Cal.App. 2d 41

**ATTORNEY GENERAL OPINIONS**

86 Ops.Cal.Atty.Gen. 210 (2003)

78 Ops.Cal.Atty.Gen. 218 (1995)

59 Ops.Cal.Atty.Gen. 532 (1976)

Management Resources:

**CSBA PUBLICATIONS**

The Brown Act: School Boards and Open Meeting Laws, 2003

**ATTORNEY GENERAL PUBLICATIONS**

The Brown Act: Open Meetings for Legislative Bodies, California Attorney General's Office, 2002

**CALIFORNIA CITY ATTORNEY PUBLICATIONS**

Open and Public III: A User's Guide to the Ralph M. Brown Act, 2000

**WEB SITES**

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

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

**Board Bylaws**

**Closed Session Actions And Reports**

No matters other than those announced in open session shall be acted upon during the closed session. (Government Code 54957.7)  
(cf. 9321 - Closed Session Purposes and Agendas)

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

(a) Personnel Matters

The Board shall report any personnel action taken and the votes or abstentions thereon at the public meeting during which the closed session is held. This report shall identify the title of the position. However, the report of a dismissal or nonrenewal of an employment contract shall be deferred until the first public meeting after administrative remedies, if any, have been exhausted. (Government Code 54957.1)  
(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 2140 - Evaluation of the Superintendent)  
(cf. 4118 - Suspension/Disciplinary Action)  
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(b) Negotiations/Collective Bargaining

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

Approval of an agreement concluding closed session labor negotiations with represented employees shall be reported after the agreement is final and has been accepted or ratified by the other party. This report shall identify the item approved and the other party or parties to the negotiation. (Government Code 54957.1)  
(cf. 4143/4243 - Negotiations/Consultation)  
(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

**Board Bylaws**

**Closed Session Actions And Reports**

(c) Student Matters

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

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

- (cf. 5117 - Interdistrict Attendance)
- (cf. 5119 - Students Expelled from Other Districts)
- (cf. 5125 - Student Records)
- (cf. 5125.3 - Challenging Student Records)
- (cf. 5144 - Discipline)
- (cf. 5144.1 - Suspension and Expulsion/Due Process)

(d) Real Estate Negotiations

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

(e) Pending Litigation

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

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

**Board Bylaws**

**Closed Session Actions And Reports**

**Pending Litigation** (Continued)

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

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

(f) JPA/Self-Insurance Claims

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

(Government Code 54957.1)

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

(cf. 3530 - Risk Management/Insurance)

(g) Review of Assessment Instruments

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

(cf. 6162.5 - Student Assessment)

**Board Bylaws**

**Closed Session Actions And Reports**

Legal Reference:

**EDUCATION CODE**

35145 Public meetings

35146 Closed session (re student matters)

48918 Rules governing expulsion procedures; hearings and notice

49073-49079 Privacy of student records

60617 Meetings of governing board

**GOVERNMENT CODE**

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

54957.1 Closed sessions; public report of action taken

54957.6 Closed sessions; representatives to employee organization(s)

54957.7 Disclosure of items to be discussed

**UNITED STATES CODE, TITLE 20**

1232g Family Educational Rights and Privacy Act

**CODE OF FEDERAL REGULATIONS, TITLE 34**

99.1 - 99.8 Family Educational Rights and Privacy

**ATTORNEY GENERAL OPINIONS**

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

**COURT DECISIONS**

Kleitman v. Superior Court of Santa Clara County 87 Cal

(2/97 6/97) 2/98

**BYLAW RE-ADOPTED: March 19, 2007**

**Bylaws of the Board**

**Agenda/Meeting Materials**

Governing Board meeting agendas 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. The agenda shall also provide members of the public an opportunity to testify at regular meetings 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)

The agenda shall specify that an individual who requires disability-related accommodations or modifications including auxiliary aids and services in order to participate in the Board meeting should contact the Superintendent or designee in writing at least 5 work days prior to the Board meeting.

(a) Agenda Preparation

The Superintendent, as Secretary to the Board, in consultation with the Board president, shall prepare the agenda for each regular and special meeting.

(cf. 9121 - President)  
(cf. 9122 - Secretary)

Any 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 must be in writing and be submitted to the Superintendent or designee with supporting documents and information, if any, at least two weeks before the scheduled meeting date. Items submitted less than two weeks 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. Additionally, Board members may bring up future items during the "Items for a Future Board Meeting" section of a noticed Board meeting.

**Bylaws of the Board**

**Agenda/Meeting Materials**

Agenda Preparation (Continued)

The Board president and Superintendent shall decide whether a request 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, 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 before placing the item on the agenda.

The Board president and Superintendent shall decide whether an agenda item is appropriate for discussion in open or closed session, and whether the item should be an action item, informational item or consent item. The Board President shall agendaize all items relating to the Superintendent's evaluation and contract.

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. 1340 - Access to District Records)

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

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

(b) Consent Items

In order to promote efficient meetings, the Board may act upon more than one item by a single vote through the use of a consent agenda. Consent items shall be items of a routine nature or items for which no Board discussion is anticipated and for which the Superintendent recommends approval.

In accordance with law, the public has a right to comment on any consent item. At the request of any member of the Board, any item on the consent agenda shall be removed and given individual consideration for action as a regular agenda item.

**Bylaws of the Board**

**Agenda/Meeting Materials**

(c) Agenda Dissemination

A copy of the agenda shall be forwarded to each Board member one week before each regular Monday meeting, together with the Superintendent or designee's report; minutes to be approved; copies of communications; reports from committees, staff, citizens and others; and other available documents pertinent to the meeting.

When special meetings are called, the Superintendent and president shall make every effort to distribute the agenda and supporting materials to Board members as soon as possible.

Board members shall review agenda materials before each meeting. Individual members may confer directly with the Superintendent or designee to request additional information on agenda items.

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

The Superintendent or designee shall prepare a copy of the agenda, or a copy of all the documents constituting the agenda packet, for any person who requests the items. The materials shall be available 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 copies of agendas or agenda packets shall be in writing and shall be valid for the designated term in which it is filed. Written requests must be renewed following January 1 of each year. (Government Code 54954.1)

Persons requesting the agenda or agenda packet shall pay a reasonable cost as determined by the Board's secretary and picked up at the Administration & Educational Support Center (AESC). If agenda packet is not picked up, subsequent packets will not be printed.

Legal Reference:

EDUCATION CODE

35144 Special meetings

35145 Public meetings

35145.5 Right of public to place matters on agenda

**Bylaws of the Board**

**Agenda/Meeting Materials**

Legal Reference: (Continued)

**GOVERNMENT CODE**

- 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 Public records

**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

Management Resources:

**CSBA PUBLICATIONS**

The Brown Act: School Boards and Open Meeting Laws, 1999

**ATTORNEY GENERAL PUBLICATIONS**

The Brown Act: Open Meetings for Legislative Bodies, California Attorney General's Office, 2002

**CALIFORNIA CITY ATTORNEY PUBLICATIONS**

Open and Public III: A User's Guide to the Ralph M. Brown Act, 2000

**WEB SITES**

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

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

(2/97 10/97) 11/02

**BYLAW REVISED: April 7, 2008**

**Board Bylaws**

**Meeting Conduct**

(a) Meeting Procedures

All Governing Board meetings shall begin on time and shall be guided by an agenda prepared and delivered in advance to all Board members and to other persons upon request.

(cf. 9322 - Agenda/Meeting Materials)

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)

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 may be adjourned to a later date.

(cf. 9320 - Meetings and Notices)

(b) Quorum

A majority of the number of filled positions on the Board constitutes a quorum. (Education Code 5095, 35165)

Unless otherwise provided by law, affirmative votes by a majority of all the membership of the Board are required to approve any action under consideration, regardless of the number of members present. (Education Code 35164)

(cf. 9323.2 - Actions by the Board)

(c) Abstentions

The Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a member abstains, his/her abstention shall be considered to concur with the action taken by the majority of those who vote, whether affirmatively or negatively.

(cf. 9270 - Conflict of Interest)

**Board Bylaws**

**Meeting Conduct**

(d) Public Participation

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

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

1. The Board shall give members of the public an opportunity to address the Board either before or during the Board's consideration of each item of business to be discussed at regular or special meetings. (Education Code 35145.5, Government Code 54954.3)
2. At a time so designated on the agenda, members of the public may bring before the Board, at a regular meeting, matters that are not listed on the agenda. The Board may refer such a matter to the Superintendent or designee or take it under advisement, but shall not take action at that time except as allowed by law. The matter may be placed on the agenda of a subsequent meeting for action or discussion by the Board. (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, a Board or staff member may ask a question for clarification, make a brief announcement, or make a brief report on his/her 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)

**Board Bylaws**

**Meeting Conduct**

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 it, 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.

Individual speakers shall be allowed five minutes to address the Board on each agenda or nonagenda item. The Board shall limit the total time for public input on each item to 20 minutes. With Board consent, the President may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The President may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add.

6. The Board President may rule on the appropriateness of a topic. If the topic would be more suitably addressed at a later time, the President may indicate the time and place when it should be presented.

The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts or omissions. (Government Code 54954.3) In addition, the Board may not prohibit public criticism of district employees.

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 9321 - Closed Session Purposes and Agendas)

**Board Bylaws**

**Meeting Conduct**

7. The Board President shall not permit any disturbance or willful interruption of Board meetings. Persistent disruption by an individual or group shall be grounds for the chair 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 individual(s) 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) Pursuant to Education Code 32210, any person who wilfully disturbs any public school or any public school meeting is guilty of a misdemeanor and shall be punished by a fine of not more than \$500.

(e) Recording by the Public

The Superintendent or designee shall designate locations from which members of the public may broadcast, photograph or tape record open meetings without causing a distraction.

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

Legal Reference (next page)

**Board Bylaws**

**Meeting Conduct**

**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

**GOVERNMENT CODE**

- 54953.5 Audio or video tape 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

**COURT DECISIONS**

Baca v. Moreno Valley Unified School District, (C.D. Cal. 1996) 936 F. Supp. 719

**ATTORNEY GENERAL OPINIONS**

- 59 Ops.Cal.Atty.Gen. 532 (1976)
- 61 Ops.Cal.Atty.Gen. 243, 253 (1978)
- 63 Ops.Cal.Atty.Gen. 215 (1980)
- 66 Ops.Cal.Atty.Gen. 336, 337 (1983)
- 76 Ops.Cal.Atty.Gen. 281 (1993)
- (10/94 2/97) 10/97

**BYLAW RE-ADOPTED: April 2, 2007**

**Bylaws of the Board**

**Invocations**

1. Purpose

The purpose of this policy is to comply with state and federal law and to preclude sectarian invocations that will conflict with said laws at meetings conducted by the Hesperia Unified School District and each of its subordinate or affiliated boards, commissions, and committees.

2. Policy

A. The Hesperia Unified School District shall establish and maintain a list of approved speakers who may be called upon to deliver invocations at Hesperia Unified School District meetings. Before being added to the list of approved speakers, each potential speaker shall agree in writing not to deliver an invocation that includes a reference to any particular faith, that denigrates any particular faith or belief, that includes any non-generic reference to God, or that promotes one religion or set of beliefs over another. All said speakers shall be given a copy of this policy.

B. The Hesperia Unified School District shall invite only speakers listed on the approved list of speakers to give invocations at its meetings.

C. In the event any speaker gives any advance indication that he or she will not comply with the requirements of this policy, the Hesperia Unified School District shall withdraw any invitation extended to that speaker and shall not allow that speaker to give the invocation. In addition, the Hesperia Unified School District shall remove any such speaker from the list of approved speakers. In the event an approved speaker gives an invocation contrary to this policy, that speaker's name shall be removed from the list of approved speakers and shall not be invited to give an invocation again.

D. Nothing herein shall abridge the right of any person to address the Hesperia Unified School District during that portion of any meeting set aside and designated for public comment, subject to the Hesperia Unified School District's rules concerning the same.

E. This policy shall apply to the Hesperia Unified School District and each of its subordinate or affiliated boards, commissions and committees.

F. As used herein, the term "sectarian" shall mean any religious prayer or reference which is commonly identified or associated with one or more particular commonly recognized and organized religions, as opposed to a) having no common identification or association with any such particular religion, or b) having an identification or association with all religions in general. References that are sectarian include, for example and without limitation, references to a particular "God" commonly identified or associated with one or more particular commonly recognized and organized religions, but not with all religions in general; and/or a reference to or a quotation from (with or without and expressed identification of the source in the prayer) a Bible, scripture, treaties, history or religious writing identified or associated with one or more particular commonly recognized and organized religions, but not all religions in general.

**Bylaws of the Board**

**Invocations**

INVOCATION AGREEMENT

In compliance with state and federal law, the Hesperia Unified School District asks you that you read and agree to comply with the following guidelines for invocation content:

- Invocations shall not include a reference to any particular faith or belief, shall not denigrate any particular faith or belief, shall not contain any non-generic reference to God, and shall not promote one religion or set of beliefs over another.
- Failure to comply with the invocation content requirements as listed above will result in the removal of your name from the approved list of invocation presenters.
- If at any point in the future you would like to be removed from the list of presenters, please advise the Hesperia Unified School District and we will remove your name as requested.
- The Hesperia Unified School District very much appreciates your cooperation and spiritual message and thanks you for helping comply with current law.
- I have read and agree to comply with the requirements listed above for presenting invocations at the Hesperia Unified School District meetings.

\_\_\_\_\_
Date

\_\_\_\_\_
Signed

\_\_\_\_\_
Print Name

<i>For Office</i>	Date added to the approved presenters' list	_____
<i>Use Only</i>	Date removed from the approved presenters' list	_____

**Board Bylaws**

**Actions By The Board**

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

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

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

The Board may take action in a regular meeting on a subject not listed on the published agenda only when it publicly identifies the item to be acted upon in conjunction with one of the following circumstances: (Government Code 54954.2)

1. The Board, by majority vote of its members, determines that the action responds to an emergency situation.  
(cf. 9320 - Meetings and Notices)
2. The Board determines, either by a two-thirds majority vote of the members present at the meeting or, if less than two-thirds of the members are present, by a unanimous vote of all members present, that the need to take immediate action came to the District's attention after the posting of the agenda.
3. The matter was properly posted for a previous meeting occurring not more than five days earlier and was continued to the meeting at which action is being taken.  
(cf. 9322 - Agenda/Meeting Materials)

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)

**Board Bylaws**

**Actions By The Board**

**Challenging Board Actions**

Any demand by the District attorney's office or any interested person to correct a Board action shall be presented to the Board in writing within 90 days of the date when the action was taken. Such demand shall allege a violation of any of the following: (Government Code 54960.1)

1. Government Code 54953, regarding open meeting and teleconferencing
2. Government Code 54954.5, regarding closed session item descriptions
3. Government Code 54954.6, regarding new or increased tax assessments
4. Government Code 54956, regarding special meetings
5. Government Code 54956.5, regarding emergency meetings

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)

Any demand to "cure and correct" an alleged violation shall clearly describe the challenged action and the nature of the alleged violation. (Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct. If the Board decides to not cure or correct the challenged action, the demanding party shall be informed in writing of that decision. (Government Code 54960.1)

If the Board takes no action within the 30-day review period, its inaction shall be considered a decision not to cure or correct the action. (Government Code 54960.1)

**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
- 17510-17511 Resolution requiring unanimous vote of all members constituting board
- 17546 Private sale of personal property
- 17556-17561 Dedication of real property
- 17582 District deferred maintenance fund
- 17583 Deferred maintenance fund; transfer of excess local funds
- 35144 Special meeting
- 35145 Public meetings

**Board Bylaws**

**Actions By The Board**

**Legal Reference: (Continued)**

35164 Majority vote of all members constituting board for board action

35165 Vacancies, effect on majority and unanimous vote

48660 Establishment of community day schools

48661 School site restrictions for community day schools

**GOVERNMENT CODE**

53094 Authority to render zoning ordinance inapplicable

53097 Compliance with ordinances

53097.3 Charter school ordinances

53790-53792 Exceeding the budget

53820-53833 Temporary borrowing

53850-53858 Temporary borrowing

54950 Meetings: declaration; intent; sovereignty

54952.6 Action taken, definition

54953 Meetings to be open and public; attendance; secret ballots

54953.5 Right to record proceedings; conditions

54954.2 Agenda posting requirements; board actions

54954.5 Closed session item descriptions

54954.6 New or increased taxes or assessments; hearings; notice

54956 Special meetings; call; notice

54956.5 Emergency meetings in emergency situations

54960 Action to prevent violations

54960.1 Challenge of governing board actions

54960.5 Costs and attorney fees

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

**COURT DECISIONS**

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, 1999

**ATTORNEY GENERAL PUBLICATIONS**

The Brown Act: Open Meetings for Legislative Bodies., California Attorney General's Office, 2002

**CALIFORNIA CITY ATTORNEY PUBLICATIONS**

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

**Board Bylaws**

**Actions By The Board**

**ACTIONS REQUIRING MORE THAN A MAJORITY VOTE:**

1. Resolution declaring intention to sell or lease real property (Education Code 17466)  
(cf. 3280 - Sale, Lease and Rental of District-Owned Real Property)
2. Resolution declaring intent of Governing Board 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 to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease for up to three months of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481)
5. Temporary borrowing before receipt of fiscal income, if implemented pursuant to Government Code 53820-53833 (Government Code 53821)
6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, ordering 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. Resolution to transfer excess local funds from a deferred maintenance fund when state funds are insufficient to match local funds being held in the deferred maintenance fund (Education Code 17582, 17583)
8. For districts desiring to operate a community day school on an existing school site to serve grades K-6 (and no higher grades), certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)  
(cf. 6185 - Community Day School)
9. Resolution 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)

**Board Bylaws**

**Actions By The Board**

**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 Purposes and Agendas)

**ACTIONS REQUIRING A FOUR-FIFTHS VOTE OF THE BOARD:**

1. 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)
2. Adoption of a resolution, between July 15 and August 30, to borrow funds of up to 25 percent of the estimated income and revenue to be received by the district during the fiscal year from apportionments based on average daily attendance for the preceding year (Government Code 53822-53824)
3. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)  
(cf. 3311 - Bids)

**ACTIONS REQUIRING A UNANIMOUS VOTE OF THE BOARD:**

1. Resolution authorizing and prescribing the terms of a community lease for extraction of gas (Education Code 17510-17511)
2. Waiver of the competitive bid process pursuant to Public Contract Code 20111 when the Board determines that an emergency exists (Public Contract Code 20113)

**Board Bylaws**

**Actions By The Board**

**ACTION REQUIRING A UNANIMOUS VOTE OF THE BOARD MEMBERS PRESENT AT THE MEETING:**

Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property in the local dump or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)

**Board Bylaws**

**Board Minutes and Recordings**

The Secretary of the Governing Board shall keep minutes and record all official Board actions.  
(Education Code 35145, 35163)  
(cf. 9323.2 - Actions by the Board)

Copies of the minutes of each regular or special meeting shall, as far as practical, be distributed to all Board members with the agenda for the next regular meeting. No minutes of closed session will be made.

Official Board minutes and recordings shall be stored in a secure location.

(a) Recording of Votes

Motions or resolutions shall be recorded as having passed or failed. Individual votes shall be recorded unless the action was unanimous. All motions and Board resolutions shall be numbered consecutively from the beginning of each fiscal year.

(b) Video or Audio Recording

A video or audio tape recording may be made at any open Board meeting. The recorder shall be placed in plain view of all persons present, insofar as possible.

Recordings made during regular or special Board meetings are public records. They shall be kept for at least 30 days and upon request shall be made available for inspection by members of the public on a district recorder without charge.

(Government Code 54953.5)

Legal Reference:

EDUCATION CODE

35145 Public meetings

35163 Official actions, minutes and journals

35164 Vote requirements

**Board Bylaws**

**Board Minutes and Recordings**

**Legal Reference (Continued):**

PENAL CODE

632 Unlawful to intentionally record a confidential communication without consent of all parties to the communication

GOVERNMENT CODE

54957.2 Closed sessions; clerk; minute book

54960 Violations and remedies

(7/84 9/89) 2/94