

**WALNUT VALLEY UNIFIED SCHOOL DISTRICT
SERIES 9000 - BYLAWS OF THE BOARD**

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ROLE OF THE GOVERNING BOARD

The Governing Board is elected by the community to provide leadership and citizen oversight of the district's schools. The Governing 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

(cf. 9005 - Governance Standards)

(cf. 9200 - Members)

(cf. 9400 - Board Self-Evaluation)

To fulfill these basic responsibilities, the Governing 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

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 0200 - Goals for the School District)

2. Adopt, evaluate and update policies consistent with the law and the district's vision and goals

(cf. 9311 - Board Policies)

(cf. 9312 - Board Bylaws)

3. Maintain accountability for student learning by adopting the district curriculum and monitoring student progress

(cf. 0500 - Accountability)

(cf. 6010 - Goals and Objectives)

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.5 - Elementary/Middle School Graduation Requirements)

(cf. 6162.5 - Student Assessment)

(cf. 6162.52 - High School Exit Examination)

(cf. 6190 - Evaluation of the Instructional Program)

4. Hire and support the Superintendent so that the vision, goals and policies of the district can be implemented

(cf. 2110 - Superintendent Responsibilities and Duties)

(cf. 2121 - Superintendent's Contract)

ROLE OF THE GOVERNING BOARD (continued)

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

(cf. 2140- Evaluation of the Superintendent)
(cf. 4000 - Concepts and Roles)
(cf. 4111 - Recruitment and Selection)
(cf. 4115 - Evaluation/Supervision)
(cf. 4151/4251/4351 - Employee Compensation)
(cf. 4211- Recruitment and Selection)
(cf. 4215 - Evaluation/Supervision)
(cf. 4311- Recruitment and Selection)
(cf. 4315 - Evaluation/Supervision)

6. Adopt a fiscally responsible budget based on the district's vision and goals, and regularly monitor the fiscal health of the district

(cf. 3000 - Concepts and Roles)
(cf. 3100 - Budget)
(cf. 3312 - Contracts)
(cf. 3460 - Financial Reports and Accountability)

7. Provide a safe and appropriate educational environment for all students

(cf. 0450 - Comprehensive Safety Plan)
(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 7110 - Facilities Master Plan)
(cf. 7150 - Site Selection and Development)
(cf. 7210 - Facilities Financing)

8. Establish a framework for the district's collective bargaining process and adopt responsible agreements

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

9. Provide community leadership on educational issues and advocate on behalf of students and public education at the local, state and federal levels

(cf. 0510 - School Accountability Report Card)
(cf. 1020 - Youth Services)
(cf. 1100 - Communication with the Public)
(cf. 1112 - Media Relations)
(cf. 1160 - Political Processes)
(cf. 1400 - Relations between Other Governmental Agencies and the Schools)
(cf. 1700 - Relations between Private Industry and the Schools)
(cf. 9010 - Public Statements)

ROLE OF THE GOVERNING BOARD (continued)

10. Convene as a judicial and appeals body and serve as the final decision-maker in accordance with law, Governing Board policies and negotiated agreements

(cf. 1312 - Complaints Concerning the Schools)
(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 4117.3 - Personnel Reduction)
(cf. 4117.4 - Dismissal)
(cf. 4144/4244/4344 - Complaints)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 5117 - Interdistrict Attendance)
(cf. 5119 - Students Expelled from Other Districts)
(cf. 5125.3 - Challenging Student Records)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)
(cf. 6164.6 - Identification and Education Under Section 504)

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

Legal Reference:

EDUCATION CODE

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

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards, November 2000
Maximizing School Board Leadership, 1996

WEB SITES

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

Adopted: _____ July 16, 2003

GOVERNANCE STANDARDS

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

(cf. 9000 - Role of the Board)
(cf. 9270 - Conflict of Interest)

The Governing 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 Governing Board member shall:

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

(cf. 9010 - Public Statements)

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

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

6. Participate in professional development (i.e. CSBA Masters in Governance program) and commit the time and energy necessary to be an informed and effective leader.

(cf. 9240 - Board Development)

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

(cf. 2110- Superintendent Responsibilities and Duties)

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

(cf. 9200 - Members)

GOVERNANCE STANDARDS (continued)

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

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

(cf. 0000 - Vision)
(cf. 0100 - Philosophy)
(cf. 0200 - Goals for the School District)

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

(cf. 9311 - Board Policies)
(cf. 9312 - Board Bylaws)

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

(cf. 9400 - Board Self-Evaluation)

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

(cf. 1220 - Citizen Advisory Committees)
(cf. 9323 - Meeting Conduct)

Legal Reference: (see next page)

GOVERNANCE STANDARDS (continued)

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*

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardsmanship, 1996

WEB SITES

CSBA: www.csba.org

Adopted: _____ November 18, 2009

PUBLIC STATEMENTS

The Governing Board recognizes the rights of Governing Board members to freely express their views and encourages open discussion of issues during the Governing Board meeting. The Governing Board believes that effective Governing Board members have a responsibility to express themselves, whether in agreement or disagreement with the Governing Board majority, in ways that promote the Governing Board's ability to govern the district.

When speaking to community groups, the media, or other members of the public, individual Governing Board members should recognize that their statements may be perceived as reflecting the views and positions of the Governing Board. Governing Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Governing Board. No individual Governing Board member shall make public statements in the name of the Governing Board or statements that contravene the policies and actions of the Governing Board or that jeopardize the ability of the Governing Board to act effectively.

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

(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9200 - Members)

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

GOVERNMENT CODE

54960 Actions to stop or prevent violation of meeting provisions

Adopted: _____ July 16, 2003

DISCLOSURE OF CONFIDENTIAL/PRIVILEGED INFORMATION

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

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

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

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

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 Files)

(cf. 5125 - Student Records)

Confidential/privileged information which is produced for, or which comes out during, closed sessions of the Governing Board shall not be divulged or released unless a majority of Governing Board members agree to release the information, subject to applicable laws regarding closed sessions. (Education Code 35146; Government Code 3549.1, 6250-6270, 54956.8, 54956.9, 54957-54962)

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

Legal Reference: (see next page)

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, especially:

6254 Public records; exemption of records

54950-54962 Brown Act, especially:

54956.8 Open meeting laws

54956.9 Closed meeting for pending litigation

54957 Closed Session; "employee" defined; exclusion of witnesses

54957.1 Subsequent public report and rollcall vote; employee matters in closed session

54957.5 Public records

54957.6 Closed session; representatives with employee organization

54957.7 Reasons for closed session

ATTORNEY GENERAL OPINIONS

80 Ops.Cal.Atty.Gen. 231 (1997)

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Leadership, Boardsmanship, 1996

Adopted: _____ July 16, 2003 _____

ORGANIZATION

Annual Organizational Meeting

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

At this meeting the Governing Board shall:

1. Elect a president and a clerk and/or vice president from its members
2. Appoint a secretary to the Governing Board
3. Authorize signatures
4. Develop a schedule of regular meetings for the year
5. Develop a Governing Board calendar for the year
6. Designate Governing Board representatives

(cf. 9140 - Board Representatives)

(cf. 9320 - Meetings and Notices)

Election of Officers

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

When the only members who have not served as officers are new to the Governing Board, the Governing Board may elect as (clerk)/(vice president) a Governing Board member who has served in office.

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

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

(cf. 9224 - Oath or Affirmation)

Legal Reference: (see next page)

ORGANIZATION (continued)

Legal Reference:

EDUCATION CODE

5017 *Term of Office*

35143 *Annual organizational meeting date, and notice*

35145 *Public meetings*

GOVERNMENT CODE

54953 *Meetings to be open and public; attendance*

ATTORNEY GENERAL OPINIONS

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

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

Adopted: _____ July 16, 2003

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.

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)

Governing 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, and 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

GOVERNMENT CODE

1302 Continuance in office until qualification of successor

1303 Exercising functions of office without having qualified

1360 Necessity of taking constitutional oath

Adopted: _____ July 16, 2003

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 Governing Board in its proper order
3. Enforce the Governing Board's policies relating to the order of business and the conduct of meetings
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 a motion is before the Governing Board
7. Rule on parliamentary procedure
8. Put motions to a vote, and state clearly the results of the vote

The president shall have all the rights of any member of the Governing Board, including the right to move, second, discuss, and vote on all questions before the Governing Board.

The Governing Board President shall also perform other duties as directed by law, California Department of Education regulations and the Governing Board, including the duty to:

1. Sign all instruments, acts, and orders necessary to carry out state requirements and the will of the Governing Board
2. Consult with the Superintendent or designee on the preparation of the Governing Board's agendas
3. Appoint and disband all committees, subject to Governing Board approval
4. Call such meetings of the Governing Board as he/she may deem necessary, giving notice as prescribed by law
5. Confer with the Superintendent or designee on crucial matters, which may occur between Governing Board meetings
6. Be responsible for the orderly conduct of all Governing Board meetings
7. Share informational mail with other Governing Board members

(cf. 9320 - Meetings and Notices)

PRESIDENT (continued)

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

Legal Reference:

EDUCATION CODE

35022 *President of the board*

35143 *Annual organizational meetings; dates and notice*

35144 *Special meetings*

Adopted: _____ July 16, 2003 _____

SECRETARY

The Superintendent or designee, acting as secretary to the Governing Board, shall have the following duties:

1. Prepare and maintain the Governing Board agenda
2. Prepare and maintain the Governing Board minutes
3. Maintain Governing Board records and documents
4. Submit to Governing Board officers the correspondence addressed to them
5. Other duties as assigned by the Governing Board

Legal Reference:

EDUCATION CODE

35025 *Secretary and bookkeeper*

Adopted: _____ July 16, 2003 _____

CLERK

At the annual organizational meeting, the Governing Board shall appoint a clerk from its own membership.

The duties of the clerk shall be to:

1. Certify or attest to actions taken by the Governing Board when required
2. Maintain such other records or reports as required by law
3. Sign the minutes of the Governing Board meetings following their approval
4. Sign documents as directed by the Governing 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
6. Perform any other duties assigned by the Governing Board

Legal Reference:

EDUCATION CODE

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

35038 Appointment of clerk by county superintendent of schools

35039 Dismissal of clerk

35121 Appointment of clerk in certain city and high school districts

35143 Annual organizational meetings

35250 Duty to keep certain records and reports

38113 Duty of clerk (re provision of school supplies)

Adopted: _____ July 16, 2003

ATTORNEY

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

(cf. 1160 - Political Processes)

The Governing Board may use the county counsel, district attorney, or private attorneys to meet the needs of the district.

The district's legal counsel may:

1. Render legal advice to the Governing Board and the Superintendent or designee
2. Serve the Governing 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 Governing Board and Superintendent or designee

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

(cf. 9000 - Role of the Board)

(cf. 9200 - Members)

(cf. 9321 - Closed Session Purposes and Agendas)

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 districts*

Adopted: _____ July 16, 2003

GOVERNING BOARD COMMITTEES

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

(cf. 1220 - Citizen Advisory Committees)

Governing 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 Governing Board. (Government Code 54954)

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

Governing Board advisory committees composed solely of less than a quorum of the members of the Governing 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 Governing 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 Governing Board's request.

When a majority of the members of the Governing Board attend an open and noticed meeting of a standing committee, the Governing 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 Governing 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 Governing Board committee composed exclusively of Governing Board members has provided for public comment on an item at a public meeting before or during the committee's consideration of the item, the Governing Board is not obliged to provide for public comment on the item at a subsequent Governing Board meeting. Public comment shall be afforded, however, if the Governing Board determines that the item has been substantially changed since it was heard by the committee. (Government Code 54954.3)

GOVERNING BOARD COMMITTEES (continued)

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)*

Adopted: _____ July 16, 2003 _____

GOVERNING 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 Governing Board shall not be appointed to serve on the same committee.

(cf. 9270 - Conflict of Interest)
(cf. 9320 - Meetings and Notices)

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

If a committee discusses a topic on which the Governing Board has taken a position, the Governing Board member may express that position as a representative of the Governing 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 Governing Board.

(cf. 1220 - Citizen Advisory Committees)
(cf. 9010 - Public Statements)
(cf. 9130 - Board Committees)

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

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

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

(cf. 9100 - Organization)

Legal Reference:

EDUCATION CODE

4000-4014 County committees on school district organization

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

35160 Authority of governing boards

GOVERNMENT CODE

54952.2 Meetings

Adopted: July 16, 2003

STUDENT GOVERNING BOARD REPRESENTATIVES

The Governing Board believes it is important to seek out and consider students' ideas, viewpoints and reactions to the educational program. In order to provide student input and involvement, the Governing Board shall include three student Governing Board representatives selected in accordance with procedures approved by the Governing Board.

Student Representatives to Governing Board

Student representation to the Governing Board is recognized for the purpose of providing a student perspective on issues related to the schools and the educational process.

The formal organization of student representation to the Governing Board is as follows:

1. Representatives will be duly selected by school procedure.
2. Student representatives will have no vote on the Governing Board.
3. The student representative will receive a copy of the Governing Board agenda packet.
4. Student representatives are invited to be present at all public sessions of regularly scheduled Governing Board meetings.

Legal Reference:

EDUCATION CODE

33000.5 Appointment of student members to State Governing Board

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

GOVERNMENT CODE

3540-3549.3 Meeting and Negotiating in Public Educational Employment

Adopted: July 16, 2003

MEMBERS

Limits of Governing Board Members Authority

The Governing Board is the unit of authority over the district. It 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.

(cf. 9000 - Role of the Board)

The Governing Board member has no individual authority. Individually, the Governing Board member may not commit the district to any policy, act or expenditure. The Governing Board member cannot do business with the district served, nor should the Governing Board member have an interest in any contract with the school district. The Governing Board member represents and acts for the community as a whole and does not represent any factional segment of the community.

(cf. 9270 - Conflict of Interest)

Individual members of the Governing Board, by virtue of holding office, shall not exercise any administrative responsibility with respect to the schools or command the services of any school employee. Individual Governing Board members shall submit requests for information to the Superintendent. At his/her discretion, the Superintendent may refer the request to the entire Governing Board for consideration. If approved, the Superintendent or designee shall perform any necessary research associated with the request and report to the Governing Board at a future meeting.

(cf. 1340 - Access to District Records)

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

Because his/her position as a Governing Board member may inhibit the performance of school personnel, a Governing Board member shall not serve as a volunteer aide in the district without the approval of the Superintendent or designee.

Obligations of Governing Board Members

Governing Board members should hold the education of children and youth above any partisan principle, group interest, or personal interest.

Governing Board members should understand their role and the programs offered by the district. They should study all agenda materials before the meeting, participate in the discussion of items which come before the Governing Board, vote on motions and resolutions, and abstain only for compelling reasons.

(cf. 9240 - Board Development)

(cf. 9005 - Governance Standards)

(cf. 9320 - Meetings and Notices)

MEMBERS (continued)

Governing Board members shall refer Governing Board-related correspondence to the Superintendent or designee for forwarding to the Governing Board or for placement on the Governing Board's agenda.

(cf. 9322 - Agenda/Meeting Materials)

Governing Board members and persons elected to the Governing 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 Governing Board member and to anyone who is elected to the Governing Board.

Legal Reference:

EDUCATION CODE

7054 *Use of district property*

35010 *Control of district; prescription and enforcement of rules*

35100-35351 *Governing boards - esp.*

35160-35184 *Powers and duties*

35230-35240 *Corrupt practices*

35291 *Rules*

35292 *Visits to schools (Board members)*

GOVERNMENT CODE

54952.1 *Member of a legislative body of a local agency*

54952.7 *Copies of chapter to members of legislative body*

54959 *Penalty for unlawful meetings*

Adopted: _____ July 16, 2003

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 Governing 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)

(cf. 9270 - Conflict of Interest)

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

(cf. 9110 - Terms of Office)

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

Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)

Limitation of Campaign Contributions and Expenditures

The Governing Board believes that the district and community will be best served by imposing reasonable limitations on the amount of money that may be contributed to or spent by any campaign for election to district office. The Governing Board therefore has resolved that the following limits shall apply:

Maximum contribution from an individual to a candidate for district office: \$_____

Maximum contribution from an organization to a candidate for district office: \$_____

Maximum expenditure by a candidate for his/her campaign for election to district office:

\$_____

GOVERNING BOARD ELECTIONS (continued)

Tie Votes in Governing Board Member Elections

Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the Governing Board, the Governing 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: (see next page)

GOVERNING BOARD ELECTIONS (continued)

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

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 Prolife 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>

Adopted: _____ July 16, 2003

RECRUITING NEW GOVERNING BOARD MEMBERS

In order to draw Governing Board member candidates from the widest possible number of interested, active, well-informed citizens, the Superintendent or designee shall publicize widely all public Governing 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 Governing Board elections well in advance so that prospective Governing Board candidates will have time to investigate the responsibilities of Governing Board membership and comply with legal requirements.

(cf. 9220 - Governing Board Elections)

Adopted: _____ July 16, 2003 _____

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 Governing Board secretary.

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

A Governing 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 Governing 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*

Adopted: _____ July 16, 2003 _____

FILLING VACANCIES

A vacancy on the Governing Board may occur for any of the events specified in Government Code 1770 or by a failure to elect. (Education Code 5090) Removal by recall election shall also create a vacancy on the Governing Board. (Elections Code 11384)

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

If a vacancy occurs less than four months before the end of a Governing Board member's term, the Governing Board shall take no action. (Education Code 5093)

If a vacancy occurs four or more months before the end of a Governing Board member's term, the Governing 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)

Mandated Special Election

If a vacancy occurs from six months to 130 days before a regularly scheduled Governing 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 Governing 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)

Provisional Appointments

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

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

(cf. 9130 - Board Committees)

(cf. 9220 - Governing Board Elections)

(cf. 9323.2 - Actions by the Board)

Notice and Duration of Provisional Appointment

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

FILLING VACANCIES (continued)

The notice shall contain: (Education Code 5092)

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

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

Legal Reference: (see next page)

FILLING VACANCIES (continued)

Legal Reference:

EDUCATION CODE

5019-5019.5 *Trustee areas*

5090 *Definition (vacancy)*

5091 *Special election or provisional appointment*

5092 *Public notice of vacancy and provisional appointment*

5093 *Re vacancies occurring near end of term and incumbent not reelected*

5094 *Power of president of county Governing Board when majority of offices vacant*

5095 *Powers of remaining board members and new electees or appointees*

5200 *Districts governed by boards of education*

5304 *Duties of the governing board (re school district elections)*

5325 *Publication of information regarding district elections*

5420-5426 *Cost of elections, especially:*

5424 *Expenses of conducting legal recall election*

35107 *Eligibility*

35178 *Resignation with deferred effective date*

ELECTIONS CODE

10603-10604 *School district elections*

11384 *Vacancy in office if majority vote for recall*

GOVERNMENT CODE

1064 *Absence from state*

1770 *Vacancies: definition*

3060-3074 *Removal other than by impeachment*

6061 *One time*

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

54953 *Meetings open and public; secret ballots*

ATTORNEY GENERAL OPINIONS

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

Adopted: July 16, 2003

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 warranto 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.
- (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) The making of an order vacating his/her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond
- (l) 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.

FILLING VACANCIES (continued)

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 Governing 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.

OATH OR AFFIRMATION

When 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)

A Governing Board member, the Superintendent or an authorized designee may administer this oath. (Education Code 60)

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

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

GOVERNMENT CODE

1360-1363 Oath of office

3100-3109 Oath or affirmation of allegiance

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

COURT DECISIONS

Vogel v. County of Los Angeles (1967) 68 Cal. 2d 18, 22

Chilton v. Contra Costa Community College District 55 Cal. App. 3d 554

Adopted: _____ July 16, 2003 _____

ORIENTATION

Governing Board Candidate Orientation

The Governing Board desires to provide Governing Board candidates with orientation that will enable them to understand the responsibilities of Governing Board membership. The Superintendent or designee shall provide all candidates with general information about school programs, district operations, and Governing Board responsibilities.

(cf. 9200 - Members)
(cf. 9270 - Conflict of Interest)

The Governing Board encourages all candidates to attend public Governing Board meetings during the period of their candidacy. Candidates have the same access as members of the public to district staff and information.

(cf. 1340 - Access to District Records)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

New Governing Board Member Orientation

The Governing Board and the Superintendent or designee shall help each new member-elect to understand district operations and the Governing Board's functions, policies and procedures as soon after election as possible. Incoming members shall be given a copy of the Brown Act and informed that they must conform to its requirements as if they had already assumed office. Incoming members shall also receive the district's policy manual and other materials related to the school system and Governing Board member responsibilities.

Incoming members are encouraged to attend Governing Board meetings and meet with the Superintendent or designee and Governing Board president regarding their role and responsibilities. They also may, at district expense, attend workshops for newly elected members.

(cf. 9240 - Board Development)

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

GOVERNMENT CODE

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

54952.1 Member of a legislative body

54952.7 Copies of Brown Act to Board members

Adopted: _____ July 16, 2003

GOVERNING BOARD DEVELOPMENT

Citizens elected to the Governing Board are entrusted with the responsibility of governing district schools. The Governing Board recognizes that its members need training that helps them understand their responsibilities, stay abreast of new developments in education, and develop boardsmanship skills.

All Governing Board members may attend conferences for the purpose of Governing Board development. Governing Board business shall not be discussed at conferences.

(cf. 9230 - Orientation)
(cf. 9320 - Meetings and Notices)

Governing Board members shall report to the Governing Board, orally or in writing, as soon as possible on the inservice activities they attend.

Funds for Governing Board development shall be budgeted annually for each Governing Board member.

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

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

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

54952.2 Meeting

Adopted: July 16, 2003

REMUNERATION, REIMBURSEMENT, AND OTHER BENEFITS

Remuneration

Each member of the Governing Board may receive a monthly compensation of no more than \$ 400.00.

On an annual basis, the Governing Board may increase the compensation of individual Governing 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 Governing Board. (Education Code 35120)

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

If a member does not attend all Governing 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 Governing Board in accordance with law. (Education Code 1090, 35120)

A member of a county board of education may be paid for any meeting for which he or she is absent if the board by resolution duly adopted and included within its minutes finds that at the time of the meeting he or she was performing services outside the meeting on behalf of the board, he or she was ill or on jury duty, or the absence was due to a hardship deemed acceptable by the board. (Education Code 1090)

Reimbursement of Expenses

Governing Board members shall be reimbursed for traveling expenses incurred when so authorized in advance by the Governing Board. (Education Code 35044)

Health and Welfare Benefits

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

The district shall pay the cost of all premiums required for Governing Board members electing to participate in the district health and welfare benefits program.

REMUNERATION, REIMBURSEMENT, AND OTHER BENEFITS (continued)

Benefits for Retired Governing Board Members

Any member whose first term of office began on or after January 1, 1995, and any other member retiring from the Governing Board after at least one term, may continue the health and welfare benefits program at his/her own expense if coverage is in effect at the time of retirement. (Government Code 53201)

The district shall pay health insurance premiums for retired Governing Board members who served in office after January 1, 1981 and who have served a total of 12 years or more. These payments shall be made only if they were being made on behalf of one or more retired Governing Board members before January 1, 1994, and under the same terms. The Governing Board may grant the same or a lesser benefit upon retirement to current Governing Board members, provided that they served 12 years or more on the Governing Board, and provided that their first term began before January 1, 1995. This benefit shall not be granted to Governing Board members whose first term of office began on or after January 1, 1995.

Legal Reference:

EDUCATION CODE

- 1090 Compensation for members and mileage allowance
- 33362 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

ELECTIONS CODE

- 9140-9147 Referendum for county elections
- 9340-9342 Referendum for local public entities
- 17200 Preservation of referendum petitions

GOVERNMENT CODE

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

UNITED STATES CODE, TITLE 26

- 403(b) Tax-sheltered annuities

COURT DECISIONS

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

Adopted: _____ April 17, 2013

REMUNERATION, REIMBURSEMENT, AND OTHER BENEFITS

Ed Code 35120

- (a) (1) In any school district in which the average daily attendance for the prior school year exceeded 400,000, each member of the city Governing Board or the Governing Board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$2,000 per month.
- (2) In any school district that is not located in a city and county, and in which the average daily attendance for the prior school year exceeded 60,000, the Governing Board may prescribe, as compensation for the services of each member of the Governing Board who actually attends all meetings held, a sum not to exceed \$1,500 in any month.
- (3) In any school district in which the average daily attendance for the prior school year was 60,000 or less, but more than 25,000, each member of the city Governing Board or the Governing Board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$750 in any month.
- (4) In any school district in which the average daily attendance for the prior school year was 25,000 or less, but more than 10,000, each member of the city Governing Board or the Governing Board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$400 in any month.
- (5) In any school district in which the average daily attendance for the prior school year was 10,000 or less, but more than 1,000, each member of the city Governing Board or the Governing Board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$240 in any month.
- (6) In any school district in which the average daily attendance for the prior school year was 1,000 or less, but more than 150, each member of the city Governing Board or the Governing Board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$120 in any month.
- (7) In any school district in which the average daily attendance for the prior school year was less than 150, each member of the city Governing Board or the Governing Board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$60 per month.

REMUNERATION, REIMBURSEMENT, AND OTHER BENEFITS (continued)

- (8) Any member who does not attend all meetings held in any month may receive, as compensation for his or her services, an amount not greater than the maximum amount allowed by this subdivision divided by the number of meetings held and multiplied by the number of meetings actually attended.
- (9) For the purposes of providing compensation pursuant to paragraphs (1) to (7), inclusive, average daily attendance for the prior school year may be increased by a school district's percentage of excused absences reported for the 1996-97 fiscal year.
- (b) The compensation of members of the Governing Board of a school district newly organized or reorganized shall be governed by subdivision (a). For this purpose, the total average daily attendance in all of the schools of the district in the school year in which the organization or reorganization became effective pursuant to Section 4062 shall be deemed to be the average daily attendance in the district for the prior school year.
- (c) A member may be paid for any meeting when absent if the Governing Board by resolution duly adopted and included in its minutes finds that at the time of the meeting he or she is performing services outside the meeting for the school district or districts, he or she was ill or on jury duty, or the absence was due to a hardship deemed acceptable by the Governing Board.
- (d) The compensation shall be a charge against the funds of the school district. If the city Governing Board or the Governing Board of the district is the Governing Board of more than one school district, the compensation shall be charged against and paid by the respective school districts in the same proportion as the salary of the city superintendent of schools is charged against them. Compensation shall be reduced by an amount equal to any salary or compensation paid to the members of the city Governing Board from any funds of the city.
- (e) On an annual basis, the Governing Board may increase the compensation of individual Governing Board members beyond the limits delineated in this section, in an amount not to exceed five (5) percent based on the present monthly rate of compensation. Any increase made pursuant to this section shall be effective upon approval by the Governing Board.

The action may be rejected by a majority of the voters in that district voting in a referendum established for that purpose, as prescribed by Chapter 3 (commencing with Section 17200) of Part 2 of Division 17 of the Elections Code.

LEGAL PROTECTION

Liability Insurance

The Governing Board shall provide insurance necessary to protect Governing Board members and employees from any judgment resulting from suits brought against them alleging their liability while acting within the scope of their employment and/or under the direction of the Governing Board. The insurance shall cover claims in such matters as civil rights actions, negligence or other acts resulting in accidental injury to any person or damage to property.

(cf. 3530 - Risk Management/Insurance)

Legal Reference:

EDUCATION CODE

17029.5 Contract funding; board liability

17280-17316 Field Act, approvals

17365-17374 Field Act, fitness for occupancy

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

820.9 Immunity from liability

825 Defense by public entity

825.6 Indemnification of public entity

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

54950-54957.9 The Ralph M. Brown Act

87100-89503 Conflicts of interest

COURT DECISIONS

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

Adopted: _____ July 16, 2003 _____

CONFLICT OF INTEREST

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

(cf. 9005 - Governance Standards)

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

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

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

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

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

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

(cf. 9320 - Meetings and Notices)

CONFLICT OF INTEREST (continued)

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

(cf. 4117.2/4217.2/4317.2 - Resignation)
(cf. 9222 - Resignation)

Conflict of Interest under the Political Reform Act

A Board member, designated employee, or other person in a designated position shall not make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a disqualifying conflict of interest. A disqualifying conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect," which is distinguishable from the effect on the public generally, on the Board member, designated employee, or other person in a designated position, his/her immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

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

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

Additional Requirements for Boards that Manage Public Investments

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

1. Publicly identify each financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

CONFLICT OF INTEREST (continued)

2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. The Board member shall not be counted toward achieving a quorum while the item is discussed.

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

3. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

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

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

(cf. 3430 - Investing)

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

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

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

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

CONFLICT OF INTEREST (continued)

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

Common Law Doctrine Against Conflict of Interest

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

Incompatible Offices and Activities

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

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

Gifts

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

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

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

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation, except when: (Government Code 89506)

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

CONFLICT OF INTEREST (continued)

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

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

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

Honoraria

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

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

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

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office

35107 School district employees

35230-35240 Corrupt practices, especially:

35233 Prohibitions applicable to members of governing boards

41000-41003 Moneys received by school districts

41015 Investments

FAMILY CODE

297.5 Rights, protections, and benefits of registered domestic partners

CONFLICT OF INTEREST (continued)

Legal Reference: (continued)

GOVERNMENT CODE

1090-1099 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

81000-91014 Political Reform Act of 1974, especially:

82011 Code reviewing body

82019 Definition, designated employee

82028 Definition, gift

82030 Definition, income

82033 Definition, interest in real property

82034 Definition, investment

87100-87103.6 General prohibitions

87200-87210 Disclosure

87300-87313 Conflict of interest code

87500 Statements of economic interests

89501-89503 Honoraria and gifts

89506 Ethics; travel

91000-91014 Enforcement

PENAL CODE

85-88 Bribes

REVENUE AND TAXATION CODE

203 Taxable and exempt property - colleges

CODE OF REGULATIONS, TITLE 2

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

18700-18707 General prohibitions

18722-18740 Disclosure of interests

18750.1-18756 Conflict of interest codes

COURT DECISIONS

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

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

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

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

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

ATTORNEY GENERAL OPINIONS

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

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

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

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

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

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

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

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

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

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

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

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

Management Resources: (see next page)

CONFLICT OF INTEREST (continued)

Management Resources:

CSBA PUBLICATIONS

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

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

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

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

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

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

WEB SITES

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

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

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

Adopted: November 16, 2016

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. The Governing Board encourages members of the public to acquaint themselves with the district's policy manual.

(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 district central office and at each school site. These copies shall be maintained either electronically or by paper copy.

(cf. 1340 - Access to District Records)

The Superintendent or designee shall establish procedures for distributing to all authorized policy manual holders copies of new or revised policies, bylaws and regulations as they are adopted. Annually, before the Governing Board's organizational meeting, the Superintendent or designee shall review the paper and/or electronic copies of the district's policy manual to ensure that they are up-to-date and complete.

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

Adopted: _____ July 16, 2003

GOVERNING BOARD POLICIES

Governing Board policies are written statements adopted by the Governing Board which communicate the guidelines within which the Superintendent or designee and staff may take discretionary action.

(cf. 2210 - Administrative Leeway in Absence of Board Policy)
(cf. 9310 - Policy Manual)

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

The Superintendent or designee shall provide for the continuous orderly review of existing policies at a time allocated for this purpose on the agenda of regular Governing Board meetings.

The Governing Board shall review certain policies annually, as required by law. (Education Code 35160.5)

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

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

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

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

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.

(cf. 9313 - Administrative Regulations)

Legal Reference: (see next page)

GOVERNING BOARD POLICIES (continued)

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

Adopted: _____ July 16, 2003 _____

GOVERNING BOARD BYLAWS

The Governing Board shall adopt Governing Board bylaws to govern the internal operations of the Governing 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 Governing Board.

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

(cf. 9311 - Board Policies)

Legal Reference:

EDUCATION CODE

35010 *Control of district; prescription and enforcement of rules*

35163 *Official actions, minutes and journals*

35164 *Vote requirements*

Adopted: _____ July 16, 2003 _____

ADMINISTRATIVE REGULATIONS

To carry out the intentions expressed in Governing Board policy, the Superintendent or designee shall develop administrative regulations and/or procedures specifying detailed actions to be taken and arrangements to be enforced within the district and its schools. Administrative regulations shall be consistent with state and federal law and regulations, Governing Board policy and negotiated employee contracts.

The Governing Board shall review and approve administrative regulations as mandated by law. In addition, the Governing Board may review and approve other regulations related to topics of particular interest to the Governing Board or for which the Superintendent requests Governing Board endorsement. The Governing Board shall review proposed administrative regulations for the sole purpose of ensuring conformity with the intent of Governing Board policy.

(cf. 2210 - Administrative Leeway in Absence of Governing Board Policy)

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

(cf. 9310 - Policy Manual)

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

Adopted: _____ July 16, 2003 _____

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. 9322 - Agenda/Meeting Materials)

(cf. 9323.2 - Actions by the Board.

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 Governing Board shall decide whether the policy, bylaw or administrative regulation reflects the intent of the Governing Board and the law. If so, the suspension will be denied and the policy, bylaw or administrative regulation reaffirmed in the minutes.

Superintendent's Authority

The Superintendent or designee may suspend all or part of any policy, bylaw or administrative regulation when it conflicts with state or federal law or regulations. The Superintendent or designee shall report the suspension to the Governing 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 journals*

35164 *Vote requirements*

Adopted: July 16, 2003

MEETINGS AND NOTICES

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

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

In accordance with state open meeting laws, the Governing 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 Governing Board-adopted bylaws.

(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)
(cf. 9322 - Agenda/Meeting Materials)
(cf. 9323 - Meeting Conduct)

Direct communication, personal intermediaries, and technological devices shall not be used by a majority of Governing 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)

Meeting notices and agendas shall specify that individuals who require special accommodation, including but not limited to an American sign language interpreter, accessible seating or documentation in accessible formats, should contact the Superintendent or designee at least two days before the meeting date.

Regular Meetings

The Governing Board usually holds two meeting(s) each month. Meetings are usually held on the first and third Wednesday in the Board Room at 880 S. Lemon Avenue, Walnut, California. Specific details shall be listed on agendas posted on the district website @ www.wvusd.k12.ca.us.

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)

MEETINGS AND NOTICES (continued)

If a fire, flood, earthquake or other emergency renders the regular meeting place unsafe, meetings may temporarily be held 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)

Special Meetings

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

Written notice of special meetings shall be delivered personally or by any other means to all Governing 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 Governing Board concerning any item that has been described in the meeting notice, before or after the item's consideration. (Government Code 54954.3)

At least 72 hours' public notice shall be given for any retreats, study sessions or training sessions held by the Governing Board. All such meetings shall be held within district boundaries and action items shall not be included.

Emergency Meetings

The Governing Board may hold an emergency meeting without complying with the 24-hour notice requirement in the following cases: (Government Code 54956.5)

1. A work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the Governing Board

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

2. A crippling disaster, which severely impairs public health, safety, or both, as determined by a majority of the members of the Governing Board

MEETINGS AND NOTICES (continued)

The Governing Board president or designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media which 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 Governing Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the Governing Board. (Government Code 54956.5)

No closed session may be held during an emergency meeting. All other rules governing special meetings shall be observed, with the exception of the 24-hour notice requirement. (Government Code 54956.5)

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

Adjourned Meetings

A majority vote by the Governing Board may adjourn any meeting to a later time and place that shall be specified in the order of adjournment. Within 24 hours after a meeting has been adjourned to a later time, a copy of the order of adjournment shall be posted at the meeting site. (Government Code 54955)

If no 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)

Teleconferencing

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

The Governing Board may use teleconferences for all purposes in connection with any meeting within the Governing 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 Governing 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)

MEETINGS AND NOTICES (continued)

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 Governing Board, including the right of the public to address the Governing Board directly at each teleconference location. (Government Code 54953)

All Governing 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.

Hearings

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

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

Other Gatherings

Attendance by a majority of the Governing Board members at any of the following events is not subject to state open meeting laws provided that a majority of the Governing 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 that involves a discussion of issues of general interest to the public or to school boards
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 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 Governing Board, provided that the Governing Board members who are not members of the standing committee attend only as observers

(cf. 9130 - Board Committees)

MEETINGS AND NOTICES (continued)

Individual contacts or conversations between a Governing 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*
- 54954 *Time and place of regular meetings; holidays; emergencies*
- 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 in emergency situations*
- 54957.5 *Agenda distribution*
- 54961 *Prohibition on use of certain facilities*

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*

ATTORNEY GENERAL OPINIONS

- 79 *Ops.Cal.Atty.Gen. 69 (1996)*
- 78 *Ops.Cal.Atty.Gen. 327 (1995)*

Management Resources:

ATTORNEY GENERAL PUBLICATIONS

Open Meeting Laws, California Attorney General's Office, 1989

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 1994

Adopted: _____ November 16, 2011

MEETINGS AND NOTICES

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

Governing Board meetings may be held outside district boundaries only under one or more of the following circumstances: (Government Code 54954)

1. When necessary to comply with state or federal law or court order, or to attend a judicial or administrative proceeding to which the district is a party.
2. To 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. To participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law.
4. To 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. To meet with 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. To 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. To visit the office of the district's attorney for a closed session on pending litigation, when doing so would reduce legal fees or costs.
8. To attend conferences on nonadversarial collective bargaining techniques.
9. To interview residents of another district regarding the Governing Board's potential employment of that district's superintendent.
10. To interview a potential employee from another district.

CLOSED SESSION PURPOSES AND AGENDAS

The Governing Board may hold closed sessions only for purposes identified in law and placed on the meeting agenda in the manner required by law. The Governing Board may hold a closed session at any time during a regular or special meeting. No closed session may be held during an emergency meeting of the Governing Board. (Government Code 54956.5, 54957.7, 54962)

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

The Governing Board shall disclose in open meeting the items to be discussed in closed session. In the closed session, the Governing 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)

Personnel Matters

The Governing Board may hold closed sessions to consider the appointment, employment, evaluation of performance, discipline or dismissal of an employee, or to hear complaints or charges against an employee unless the employee requests an open session. 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)

Before the Governing 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)

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)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

The Governing 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)

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)

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

The Governing Board may meet in closed session with the Governing 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 Governing 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)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

The Governing 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)

Matters Related to Students

The Governing 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 - Interdistrict Attendance)
(cf. 5119 - Students Expelled from Other Districts)
(cf. 5125.3 - Challenging Student Records)
(cf. 5144 - Discipline)

The Governing 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 Governing 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)

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing," "grade change appeal" or "interdistrict attendance request," 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)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

Security Matters

The Governing Board may meet in closed session with the Attorney General, district attorney, sheriff or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or to the public's right of access to public services or public facilities. (Government Code 54957)

(cf. 3515 - Campus Security)

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

Conference with Real Property Negotiator

The Governing Board may meet in closed session with the Governing 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 Governing Board shall hold an open and public session to identify its negotiator(s), the property under negotiation and 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 Governing 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)

Pending Litigation

Based on the advice of its legal counsel, the Governing 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 Governing 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)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

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

1. Litigation to which the Governing Board is a party has been initiated formally. (Government Code 54956.9(a))
2. A point has been reached where, in the Governing 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 Governing Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized. (Government Code 54956.9(b))
3. Based on existing facts and circumstances, the Governing 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 #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 Governing Board.
5. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the Governing 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 tortuous sexual conduct or anyone making a threat on their behalf or identify an employee who is the alleged perpetrator of any unlawful or tortuous conduct, unless the identity of this person has been publicly disclosed.

CLOSED SESSION PURPOSES AND AGENDAS (continued)

Before holding a closed session pursuant to this section, the Governing 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 Governing Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the district's ability to effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage. (Government Code 54956.9)

Agenda items related to "pending litigation" shall be described as a conference with legal counsel regarding "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 Governing 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))

JPA/Self-Insurance Liability Claims

The Governing Board may meet in closed session to discuss a claim against a joint powers authority 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)

Review of Assessment Instruments

The Governing 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 Governing Board shall agree by resolution to accept any terms or conditions established by the State Governing Board for this review. (Education Code 60617)

(cf. 6162.5 - Student Assessment)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

Agenda items related to the review of student assessment instruments shall state that the Governing Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program and that the Education Code requires 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*

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*

54950-54962 *The Ralph M. Brown Act*

COURT DECISIONS

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, 69 Cal. Rptr. 480

ATTORNEY GENERAL OPINIONS

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

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

Adopted: _____ July 16, 2003

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

Personnel Matters

The Governing 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)

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)

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))

CLOSED SESSION ACTIONS AND REPORTS (continued)

In an expulsion action, the student's name shall not be disclosed, but the cause for the expulsion shall 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)

Real Estate Negotiations

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

Pending Litigation

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

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

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

CLOSED SESSION ACTIONS AND REPORTS (continued)

JPA/Self-Insurance Claims

The Governing 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)

Review of Assessment Instruments

At the public meeting during which the Governing Board holds a closed session to review student assessment instruments, the Governing 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)

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)

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

Adopted: July 16, 2003

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 Governing Board on any agenda item before or during the Governing 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 Governing Board. (Education Code 35145.5, Government Code 54954.3)

(cf. 9323 - Meeting Conduct)

Agenda Preparation

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

(cf. 9121 - President)

(cf. 9122 - Secretary)

Any member of the public or any Governing Board member may request that a matter within the jurisdiction of the Governing 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 one week before the scheduled meeting date. Items submitted less than a week before the scheduled meeting date may be postponed to a later meeting in order to allow sufficient time for consideration and research of the issue.

The Governing Board president and Superintendent shall decide whether a request is within the subject matter jurisdiction of the Governing Board. Items not within the subject matter jurisdiction of the Governing Board may not be placed on the agenda. In addition, the Governing 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 Governing 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.

When an item properly posted for a regular meeting is continued to a subsequent meeting, it may not be on the agenda of the subsequent meeting if the subsequent meeting occurs within five days. The Governing Board shall publicly identify the item before discussing it. (Government Code 54954.2)

AGENDA/MEETING MATERIALS (continued)

Any Governing 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 Governing Board are subject to requirements of relevant Governing 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)

Consent Items

In order to promote efficient meetings, the Governing 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 Governing 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 Governing Board, any item on the consent agenda shall be removed and given individual consideration for action as a regular agenda item.

Agenda Dissemination

A copy of the agenda shall be forwarded to each Governing Board member at least three days before each regular 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 support materials to Governing Board members as soon as possible.

Governing 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.

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

AGENDA/MEETING MATERIALS (continued)

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

Persons requesting mailing of the agenda or agenda packet shall pay an annual fee as determined by the Superintendent or designee.

Legal Reference:

EDUCATION CODE

35144 *Special meetings*

35145 *Public meetings*

35145.5 *Right of public to place matters on agenda*

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*

Adopted: _____ July 16, 2003 _____

MEETING CONDUCT

Meeting Procedures

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

(cf. 9322 - Agenda/Meeting Materials)

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

(cf. 9121 - President)

The Governing Board believes that late night meetings deter public participation, can affect the Governing Board's decision-making ability, and can be a burden to staff.

(cf. 9320 - Meetings and Notices)

Quorum

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

Unless otherwise provided by law, affirmative votes by a majority of all the membership of the Governing 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)

Abstentions

The Governing 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)

Public Participation

Members of the public are encouraged to attend Governing Board meetings and to address the Governing Board concerning any item on the agenda or within the Governing Board's jurisdiction. So as not to inhibit public participation, persons attending Governing 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.

MEETING CONDUCT (continued)

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

1. The Governing Board shall give members of the public an opportunity to address the Governing Board either before or during the Governing 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 Governing Board, at a regular meeting, matters that are not listed on the agenda. The Governing 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 Governing Board. (Education Code 35145.5, Government Code 54954.2)
3. Without taking action, Governing 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 Governing 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 Governing Board or a Governing Board member may provide a reference to staff or other resources for factual information, ask staff to report back to the Governing Board at a subsequent meeting concerning any matter, or take action directing staff to place a matter of business on a future agenda. (Government Code 54954.2)

4. The Governing Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Governing Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the Governing Board determines that the item has been substantially changed since the committee heard it, the Governing 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 Governing 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 Governing Board on each agenda or nonagenda item. The Governing Board shall limit the total time for public input on each item to 20 minutes. With Governing Board consent, the president

MEETING CONDUCT (continued)

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

Whenever a member of the public initiates specific complaints or charges against an employee, the Governing 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 Governing Board to legally consider the complaints or charges in any subsequent evaluation of the employee, it is the policy of the Governing 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)

7. The Governing Board president shall not permit any disturbance or willful interruption of Governing Board meetings. Persistent disruption by an individual or group shall be grounds for the chair to terminate the privilege of addressing the Governing Board. The Governing 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 Governing Board. When the room is ordered cleared due to a disturbance, further Governing Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

(cf. 9324 - Minutes and Recordings)

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 Governing 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 Governing Board. (Government Code 54953.5, 54953.6)

MEETING CONDUCT (continued)

Legal Reference:

EDUCATION CODE

- 5095 Powers of remaining board members and new appointees*
- 32210 Willful disturbance of public school or meeting a misdemeanor*
- 35010 Prescription and enforcement of rules*
- 35145.5 Agenda; public participation; regulations*
- 35163 Official actions, minutes and journal*
- 35164 Vote requirements*
- 35165 Effect of vacancies upon majority and unanimous votes by seven member board*

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

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

Adopted: _____ July 16, 2003

ACTIONS BY THE GOVERNING BOARD

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

1. A collective decision by a majority of the Governing 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 Governing Board upon a motion, proposal, resolution, order or ordinance

When required by law, action shall instead require a two-thirds, four-fifths, or unanimous vote of either the Governing Board or Governing Board members present at the meeting.

The Governing 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 Governing Board, by majority vote of its members, determines that the action responds to an emergency situation.

(cf. 9320 - Meetings and Notices)

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

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

(cf. 9324 - Minutes and Recordings)

Challenging Governing Board Actions

Any demand by the district attorney or any interested person to correct a Governing Board action because of an alleged violation of Government Code 54953 (open meeting and teleconferencing), Government Code 54954.5 (closed session item descriptions), Government Code 54954.6 (new or increased tax assessments), or Government Code 54956 (special meetings) shall be presented to the Governing Board in writing within 90 days of the date when the action was taken. (Government Code 54960.1)

ACTIONS BY THE GOVERNING BOARD (continued)

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. The demand 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 Governing Board shall either cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct. If the Governing 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 Governing 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: (see next page)

ACTIONS BY THE GOVERNING BOARD (continued)

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
- 17556-17557 Resolution of intention
- 17559 Public hearing and adoption of resolution
- 17582 District deferred maintenance fund
- 17583 Deferred maintenance fund; transfer of excess local funds
- 35144 Special meeting
- 35145 Public meetings
- 35164 Majority vote of all members constituting board for board action
- 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
- 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

PUBLIC CONTRACT CODE

- 20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder
- 20113 Emergencies, award of contracts without bids

COURT DECISIONS

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

Adopted: _____ July 16, 2003

ACTIONS BY THE GOVERNING BOARD

ACTIONS REQUIRING MORE THAN A MAJORITY VOTE

Actions Requiring a Two-Thirds Vote of the Governing Board:

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 Governing 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. 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)
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 with an ADA of 2,500 or less seeking to add a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)
9. For K-8 districts (and no higher) seeking to add a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)
10. For districts desiring to operate a community day school on an existing school site to serve grades K-6 (and no higher), certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)

(cf. 6185 - Community Day School)

ACTIONS BY THE GOVERNING BOARD (continued)

11. Resolution to issue general obligation bonds with the approval of 55% of the voters of the district (Education Code 15266)

(cf. 7214 - General Obligation Bonds)

Actions Requiring a Four-Fifths Vote of the Governing 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% of the estimated income and revenue to be received by the district during the fiscal year from apportionments based on ADA for the preceding year (Government Code 53822-53824)

Actions Requiring a Unanimous Vote of the Governing 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 when the Governing Board determines that an emergency exists (Public Contract Code 20113)

(cf. 3311 - Bids)

Actions Requiring a Unanimous Vote of the Governing Board Members Present at the Meeting:

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

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

Actions Requiring a Two-Thirds Vote of the Governing Board Members Present at the Meeting:

1. That the need to take immediate action came to the district's attention after the posting of the agenda. If less than two-thirds of the members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)

MINUTES AND RECORDINGS

The secretary of the Governing Board shall keep minutes and record all official Governing Board actions. (Education Code 35145, 35163)

(cf. 9323.2 - Actions by the Board)

Copies of the minutes of each regular or special meeting shall be distributed to all Governing Board members with the agenda for the next regular meeting.

Any minutes or recordings kept for Governing Board meetings held in closed session shall be kept separate from the minutes or recordings of regular and special meetings. Minutes or recordings of closed sessions are not public records. (Government Code 54957.2)

(cf. 1340 - Access to District Records)

(cf. 9321.1 - Closed Session Actions and Reports)

Official Governing Board minutes and recordings shall be stored in a fire-proof location.

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 Governing Board resolutions shall be numbered consecutively from the beginning of each fiscal year.

Video or Audio Recording

A video or audio tape recording may be made at any Governing Board meeting. The presiding officer shall announce that a recording is being made at the beginning of the meeting, and the recorder shall be placed in plain view of all persons present, insofar as possible.

Recordings made during regular or special Governing 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*

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*

Adopted: July 16, 2003

GOVERNING BOARD SELF-EVALUATION

The Governing Board shall annually conduct a self-evaluation in order to demonstrate accountability to the community and ensure that district governance effectively supports student achievement and the attainment of the district's vision and goals.

(cf. 0000 - Vision)

(cf. 2123 - Evaluation of the Superintendent)

The evaluation may address any areas of Governing Board responsibility, including but not limited to Governing Board performance in relation to vision setting, curriculum, personnel, finance, policy, collective bargaining and community relations. The evaluation also may address objectives related to Governing Board meeting operations, relationships among Governing Board members, relationship with the Superintendent, understanding of Governing Board and Superintendent roles and responsibilities, communication skills, or other boardsmanship skills.

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

The Governing Board shall be evaluated as a whole. Individual Governing Board members also are encouraged to use the evaluation process as an opportunity to privately assess their own personal performance.

Each year the Governing Board, with assistance from the Superintendent, shall determine an evaluation method or instrument that measures a reasonable number of previously identified performance objectives. Videotape of a Governing Board meeting may be used as an evaluation tool only with the consent of all Governing Board members.

Any discussion of the Governing Board's self-evaluation shall be conducted in open session. At the request of the Governing Board, a facilitator may be used to assist with the evaluation process. The Governing Board may invite the Superintendent or others to provide input into the evaluation process.

Following the evaluation, the Governing Board shall develop strategies for strengthening Governing Board performance and shall establish priorities and objectives for the following year's evaluation.

(cf. 9230 - Orientation)

(cf. 9240 - Board Development)

Legal Reference: (see next page)

GOVERNING BOARD SELF-EVALUATION (continued)

Legal Reference:

GOVERNMENT CODE

54950-54962 *Brown Act; board self-evaluations not covered*

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards, 2000

Maximizing School Board Leadership, 1996

WEB SITES

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

Adopted: July 16, 2003