

Discussion regarding Board Bylaws 9320-9322

The following contains proposed amendments and comments to Board Bylaws 9320 (Meetings and Notices), 9321 (Closed Session Purposes and Agenda), 9321.1 (Closed Session Actions and Reports), and 9322 (Agenda/Meetings Materials).

The proposed amendments (bold are the suggested amendments; strikethrough are the suggested deletions) were made by a policy consultant (it is not known who this was) back in March 2014. The comments were made by School Board Member Josh Daniels in March 2015 in anticipation that the Policy Subcommittee would take action on these Board Bylaws.

The purpose of discussing these three Board Bylaws together on February 9, 2016, is to understand the general issues therein and to agree on a process to resolve them and bring a coherent and revised set to the Board in the near future.

Berkeley USD

BB 9320 Board Bylaws

Meetings And Notices

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

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

(cf. 9322 - Agenda/Meeting Materials)

(cf. 9323 - Meeting Conduct)

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

A majority of the Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. However, an employee or district official may engage in separate conversations with Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the Board, as long as that employee or district official does not communicate the specific comments or specific position of any Board member to other Board members. (Government Code 54952.2)

(cf. 9012 - Board Member Electronic Communications)

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

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

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

~~Meetings shall be held within district boundaries, except when otherwise allowed by law.~~

~~Meetings shall be held in a facility that is accessible to all persons, including disabled persons, without charge.~~

~~In order to help ensure participation in the meeting by disabled individuals, the Superintendent or designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act.~~

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

~~Each agenda shall also list the address designed by the Superintendent or designee for public inspection of agenda documents that have been distributed to the Board less than 72 hours before the meeting.~~

Regular Meetings

At its annual organizational meeting, the Board shall approve its regular meeting calendar for the subsequent calendar year. Unless otherwise stated in the calendar, the Board shall hold two (2) regular meeting(s) each month.

The closed session of each regular Board meeting shall begin no early

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Comment [1]: Keep

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Comment [3]: Keep

than 6:00pm and the open session of each regular Board meeting shall begin no early than 7:30pm. The Board may again recess into closed session at any time once open session has begun. The Board President may modify the timing requirements of this paragraph on a meeting by meeting basis so long as that proper public notice requirements are followed.

~~The Board shall adopt a calendar of Board meetings at its annual Organizational Meeting in December. The calendar will be published and disseminated through all the usual methods.~~

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

(cf. 1113 - District and School Web Sites)

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

(cf. 1340 - Access to District Records)

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

Special Meetings

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

(cf. 2121 - Superintendent's Contract)

Written notice of special meetings shall be delivered personally or by any other

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Comment [4]: On website?

means to all Board members and the local media who have requested such notice in writing. **The notice also shall be posted on the district's Internet web site** and shall 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, the information to be presented to the Board, and the business to be transacted or discussed; **No other information shall be presented and no other business shall be considered at these meetings this meeting.** **(Education Code 35144; Government Code 54956)**

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

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

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

Emergency Meetings

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

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

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

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

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

Board

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

Except in the case of a dire emergency, the Board president or designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media that have requested notice of special meetings. If telephone services are not functioning, the Board president or designee may choose to attempt to notice the local media that have requested notice of special meetings via other methods or may simply waive the notice requirement of one hour and, as soon after the meeting as possible, the Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the Board. In the case of a dire emergency, the Board president shall give such notice at or near the time he/she notifies the other members of the Board about the meeting.

(Government Code 54956.5)

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

Adjourned/Continued Meetings

A majority vote by the Board may adjourn any **regular or special** meeting to a later time and place that shall be specified in the order of adjournment. **Less than a quorum of the Board may adjourn such a meeting.**

If no Board members are present 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)

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

Study Sessions, Retreats, Public Forums, and Discussion Meetings

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

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

(cf. 2000 - Concepts and Roles)

(cf. 2111 - Superintendent Governance Standards)

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

(cf. 9400 - Board Self-Evaluation)

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

Location of Meetings

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

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

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

- 1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the district is a party**
- 2. Inspect real or personal property which cannot conveniently be brought into the district, provided that the topic of the meeting is limited to items directly related to the property**
- 3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law**
- 4. Meet in the closest meeting facility if the district has no meeting facility within its boundaries or if its principal office is located outside the district**

Josh Daniels 3/6/15 12:45 PM
Comment [5] : This is not directory.

5. **Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the district over which the state or federal officials have jurisdiction**
6. **Meet in or near a facility owned by the district but located outside the district, provided the meeting agenda is limited to items directly related to that facility**
7. **Visit the office of the district's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs**
8. **Attend conferences on nonadversarial collective bargaining techniques**
9. **Interview residents of another district regarding the Board's potential employment of an applicant for Superintendent of the district**
10. **Interview a potential employee from another district**

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

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

Teleconferencing

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

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

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

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

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

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

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

Other Gatherings

~~Attendance by a majority of the Board members at any of the following events is not subject to state open meeting laws provided that a majority of the Board members do not discuss specific district business among themselves other than as part of the scheduled program:~~

- ~~1. — A conference or similar public gathering open to the public that involves a discussion of issues of general interest to the public or to school Boards~~
- ~~2. — An open, publicized meeting organized by a person or organization other than the district to address a topic of local community concern~~
- ~~3. — An open and noticed meeting of another body of the district or at a legislative body of another local agency~~
- ~~4. — A purely social or ceremonial occasion~~

5. ~~An open and noticed meeting of a standing committee of the Board, provided that the Board members who are not members of the standing committee attend only as observers~~

~~Individual contacts or conversations between a Board member and any other person are not subject to open meeting laws~~

Location of Meetings

~~Meetings shall not be held in a facility that prohibits the admittance of any person on the basis of ancestry or any characteristic listed in Government Code 1135, including, but not limited to, religion, sex, or sexual orientation. In addition, meetings shall not be held in a facility which is inaccessible to disabled persons or where members of the public must make a payment or purchase in order to be admitted.~~

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

3511.1 Local agency executives

11135 State programs and activities, discrimination

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

54953 Meetings to be open and public; attendance

54954 Time and place of regular meetings

54954.2 Agenda posting requirements, board actions

54956 Special meetings; call; notice

54956.5 Emergency meetings

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.160 Effective communications

36.303 Auxiliary aids and services

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

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

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

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

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

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

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2009

ATTORNEY GENERAL PUBLICATIONS

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

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

The ABCs of Open Government Laws

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

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

WEB SITES

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

CSBA, Agenda Online:
<http://www.csba.org/Services/Services/GovernanceTechnology/AgendaOnline.aspx>

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

Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>
<http://www.ca-ilg.org>

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

(3/08 11/08) 11/11

Bylaw ~~BERKELEY UNIFIED SCHOOL DISTRICT~~
adopted: ~~May 21, 2003 Berkeley, California~~
revised: ~~September 24, 2008~~
revised: ~~November 18, 2009~~

Updated: March 12, 2014

Josh Daniels 3/6/15 1:43 PM
Comment [6]: This one needs to be reorganized

Closed Session Purposes And Agendas

The Governing Board may hold closed sessions only for purposes identified in law. The Board may hold a closed session at any time during a regular or special meeting and during emergency meetings in accordance with law **is committed to complying with state open meeting laws and modeling transparency in its conduct of district business. The Board shall hold closed sessions only for purposes authorized by law. A closed session may be held during a regular, special, or emergency meeting in accordance with law.** (Government Code ~~54956.5, 54957.7, 54962~~)

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

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

The agenda shall contain a brief general description of all closed session items to be considered.

If the Board begins a meeting by first recessing into closed session, the agenda for the meeting shall list the items to be discussed or voted on in closed session. In all other instances, the Board shall disclose in open meeting **session** the items to be discussed in closed session. In the closed session, the Board may consider only those matters covered in its statement. **After the closed session, the Board shall reconvene in open session before adjourning the meeting, and when applicable, shall disclose any action taken in the closed session, in the manner prescribed by Government Code 54957.1.** (Government Code 54957.7)

(cf. 9321.1 - Closed Session Actions and Reports)

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

(cf. 1340 - Access to District Records)

In accordance with law, a **A** Board member shall not disclose confidential information received in a closed session unless the Board authorizes the disclosure of that information. The Board may censure a Board member found to have violated this paragraph. (Government Code 54963)

Josh Daniels 3/6/15 1:36 PM
Comment [7]: Do we want this?

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

Personnel Matters

The Board may hold closed sessions to consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee. **These Such a closed** 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)

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

(cf. 1312.1 - Complaints Concerning District Employees)

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

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

Josh Daniels 3/6/15 1:37 PM
Comment [8]: Legal opinion to confirm that we can delegate this authority.

Closed session 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)

Negotiations/Collective Bargaining

Unless otherwise agreed upon by the parties involved, the District shall not following the requirements of the Brown Act with respect to the following unless a majority of the Board is present: (Government Code 3549.1)

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

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

(cf. 4143/4243 - Negotiations/Consultation)

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

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

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

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

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

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

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

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)

Josh Daniels 3/6/15 1:41 PM
Comment [9]: FYI

Matters Related to Students

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

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

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

The Board shall meet in closed session to **address any student matter that may involve disclosure of confidential student information, or** to consider a suspension, disciplinary action, or any other action, **against a student,** ~~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 Board shall meet in closed session to consider the expulsion of a student, unless the student submits a written request at least five days before the date of the hearing that the hearing be held in open session. Regardless of whether the expulsion hearing is conducted in open or closed session, the Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code 48918)~~

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

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing," **or** "grade change appeal," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping.

(cf. 5125 - Student Records)

Security Matters

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

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The Board may meet in closed session during an emergency meeting held pursuant to Government Code 54956.5 to meet with law enforcement officials

for the emergency purposes specified in Government Code 54957 if agreed to by a two-thirds vote of the Board members present. If less than two-thirds of the members are present, then the Board must agree by a unanimous vote of the members present. (Government Code 54956.5)

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

Conference with Real Property Negotiator

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

Before holding the closed session, the Board shall hold an open and public session to identify its negotiator(s) and the property under negotiation and to specify the person(s) with whom the negotiator may negotiate. (Government Code 54956.8)

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

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

Pending Litigation

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

Josh Daniels 3/6/15 1:49 PM

Comment [10]: !

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

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

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

- a. Facts and circumstances that might result in litigation against the district but which the district believes are not yet known to potential plaintiffs and which do not need to be disclosed.**
- b. Facts and circumstances including, but not limited to, an accident, disaster, incident, or transactional occurrence which might result in litigation against the district, which are already known to potential plaintiffs and which must be publicly disclosed before the closed session or specified on the agenda.**
- c. 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)

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

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

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

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

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

- ~~1. Facts and circumstances that might result in litigation against the district but which the district believes are not yet known to potential plaintiffs and which do not need to be disclosed.~~
 - ~~2. Facts and circumstances including, but not limited to, an accident, disaster, incident or transactional occurrence which might result in litigation against the district, which are already known to potential plaintiffs, and which must be publicly disclosed before the closed session or specified on the agenda.~~
 - ~~3. The receipt of a claim pursuant to the Tort Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.~~
- ~~(cf. 3320 – Claims and Actions Against the District)~~
- ~~4. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.~~
 - ~~5. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the Board, provided that the district official or employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection.~~

~~The above record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat on his/her behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.~~

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

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

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

"Anticipated litigation" items shall state that there is significant exposure to litigation pursuant to Government Code 54956.9(b) and shall specify the potential number of cases. When the district expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code 54956.9(c) and shall specify the potential number of cases. The agenda or an oral statement before the closed session may be required to provide additional information pursuant to **regarding existing facts and circumstances described in** items #2-5 **b-e** above. (Government Code 54954.5, Government Code 54956.9)

Joint Powers Agency Issues

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

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

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

(cf. 3530 - Risk Management/Insurance)

Microsoft account 3/6/15 3:44 PM
Comment [11]: Are we even in a JPA?

When the board of the ~~joint powers agency~~ **JPA** has so authorized and upon advice of district legal counsel, the Board may meet in **a** closed session ~~in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency~~ **JPA**. During the district's **Board's** closed session, a Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to fellow Board members. (Government Code [54956.96](#))

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

Closed session agenda items related to "~~Conference Involving a Joint Powers Agency~~" **conferences involving a JPA** shall specify the closed session description used by the ~~joint powers agency~~ **JPA** and the name of the ~~district Board member~~ representative **on the district on the joint powers agency JPA** board. Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives shall also be included. (Government Code [54954.5](#))

Review of Audit Report from Bureau of State Audits

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

Closed session agenda items related to an audit by the Bureau of State Audits shall state "Audit by Bureau of State Audits." (Government Code [54954.5](#))

Review of Assessment Instruments

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

(cf. [6162.5](#) - Student Assessment)

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

Microsoft account 3/6/15 3:45 PM

Comment [12]: In 9321.1 too.

Code 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

Legal Reference:

EDUCATION CODE

35145 Public meetings

35146 Closed session (re student suspension)

44929.21 Districts with ADA of 250 or more

48912 Governing board suspension

48918 Rules governing expulsion procedures; hearings and notice

49070 Challenging content of students records

~~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~~ **6252-6270** California Public Records Act

54950-54963 The Ralph M. Brown Act

COURT DECISIONS

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

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

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

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

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

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

ATTORNEY GENERAL OPINIONS

94 Ops.Cal.Atty.Gen. 82 (2011)

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

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

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

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, ~~2003~~ **2009**

ATTORNEY GENERAL PUBLICATIONS

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

CALIFORNIA CITY ATTORNEY PUBLICATIONS

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

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

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

WEB SITES

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

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

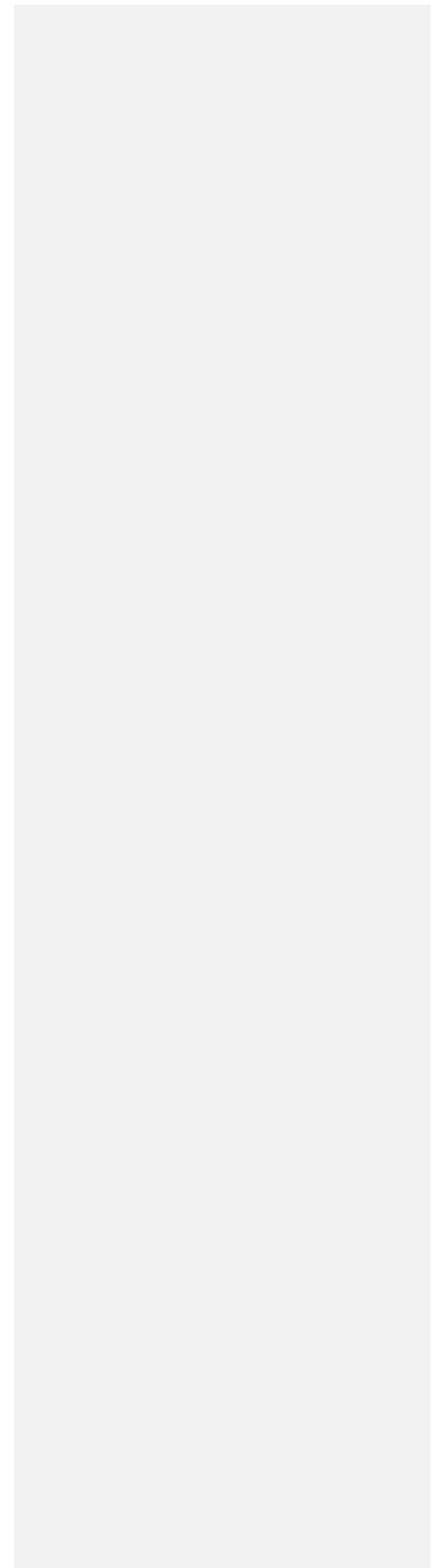
League of California Cities: <http://www.cacities.org>

(11/02 11/04) 7/12

~~Bylaw BERKELEY UNIFIED SCHOOL DISTRICT~~

Adopted: April 20, 2005 Berkeley, California

Updated: March 12, 2014



BB 9321.1 Board Bylaws

Closed Session Actions And Reports

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

(cf. 9321 - Closed Session Purposes and Agendas)

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

Personnel Matters

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

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 2140 - Evaluation of the Superintendent)

(cf. 4118 - Suspension/Disciplinary Action)

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

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)

Josh Daniels 3/6/15 1:03 PM

Comment [13]: Combine with 9321?

Josh Daniels 3/6/15 12:49 PM

Comment [14]: Need to understand this better.

(cf. 4143/4243 - Negotiations/Consultation)

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

Student Matters

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

In an expulsion action, the student's name shall not be disclosed, but the cause for the expulsion shall be disclosed in open session unless doing so would violate the student's privacy rights provided in law.

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

Pending Litigation

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

Josh Daniels 3/6/15 12:53 PM
Comment [15]: Need legal opinion here.

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

2. Approval to legal counsel to initiate or intervene in a lawsuit. This report shall state that directions to initiate or intervene in the action have been given and that details will be disclosed to inquiring parties after the lawsuit is commenced unless doing so would jeopardize the district's ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage.

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

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

JPA/Self-Insurance Claims

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

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

(cf. [3530](#) - Risk Management/Insurance)

Review of Assessment Instruments

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

(cf. [6162.5](#) - Student Assessment)

Legal Reference:

Microsoft account 3/6/15 3:46 PM

Comment [16] : Are we even in JPA?

Josh Daniels 3/6/15 12:54 PM

Comment [17] : Do we even do this?

EDUCATION CODE

35145 Public meetings

35146 Closed session (re student matters)

48918 Rules governing expulsion procedures; hearings and notice

49073-49079 Privacy of student records

60617 Meetings of governing board

GOVERNMENT CODE

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

54957.1 Closed sessions; public report of action taken

54957.6 Closed sessions; representatives to employee organization(s)

54957.7 Disclosure of items to be discussed

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.8 Family Educational Rights and Privacy

COURT DECISIONS

Kleitman v. Superior Court (1999) 87 Cal.Rptr.2d 813

ATTORNEY GENERAL OPINIONS

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

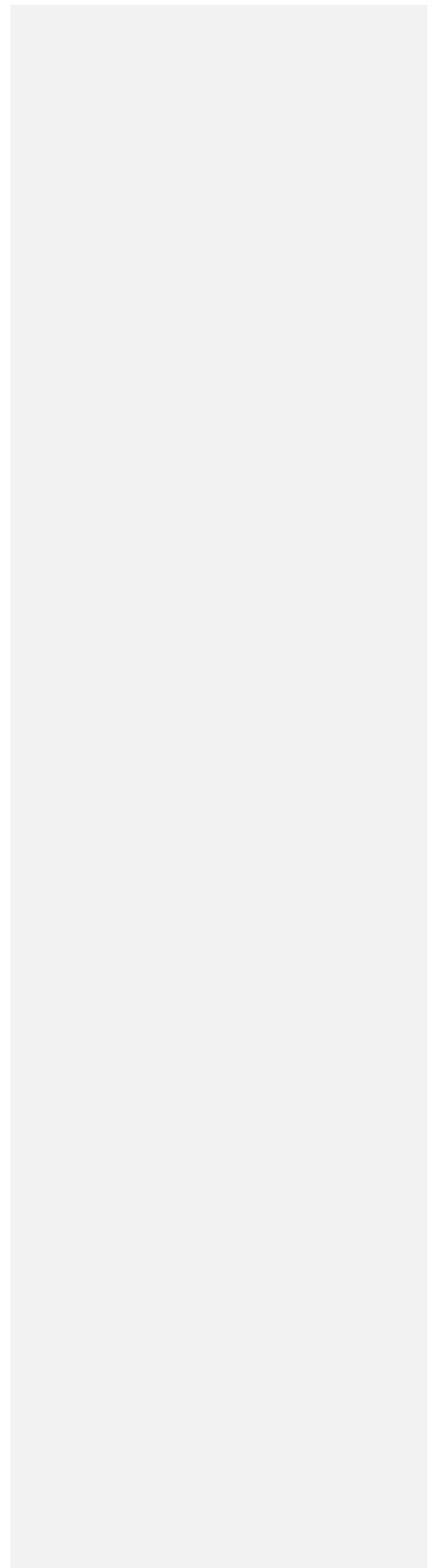
~~Kleitman v. Superior Court of Santa Clara County 87 Cal Rptr. 2d (1999)~~

(2/97 6/97) 2/98

~~Bylaw BERKELEY UNIFIED SCHOOL DISTRICT~~

~~Adopted: April 20, 2005 Berkeley, California~~

Update: March 12, 2014



Berkeley USD

BB 9322 Board Bylaws

Agenda/Meeting Materials

Agenda Content

Governing Board meeting agendas shall state the meeting time and place and shall briefly describe each business item to be transacted or discussed, including items to be discussed in closed session. **(Government Code 54954.2)**

(cf. 9320 - Meetings and Notices)

(cf. 9321- Closed Session Purposes and Agendas)

The agenda shall provide members of the public the opportunity to address the Board on any agenda item before or during the Board's consideration of the item. The agenda shall also provide members of the public an opportunity to testify at regular meetings on matters which are not on the agenda but which are within the subject matter jurisdiction of the Board. **(Education Code 35145.5; Government Code 54954.3)**

(cf. 9323 - Meeting Conduct)

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

The agenda shall specify that an individual who **shall contact the Superintendent or designee if he/she** requires disability-related accommodations or modifications including auxiliary aids and services, in order to participate in the Board meeting ~~should contact the Superintendent or designee in writing.~~

Agenda Preparation

The Board president and the Superintendent, as Secretary to the Board, in consultation with the Board president, shall jointly develop the agenda for

Microsoft account 3/6/15 3:48 PM

Comment [18]: Judy, how do you want this to read?

each regular and special meeting.

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

(cf. 9121 - President)

(cf. 9122 - Secretary)

~~Any Board member may place an item on the agenda of a regular meeting. The item 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.~~

Any **Board member or** member of the public may request that a matter within the jurisdiction of the Board be placed on the agenda of a regular meeting. The request ~~must~~ **shall** be **submitted** in writing ~~and be submitted to the Board President or the Superintendent or designee with supporting documents and information.~~ The Board President and the Superintendent shall jointly determine on which future Board meeting agenda the item shall be placed.

The Board president and Superintendent shall jointly decide whether a request ~~from a member of the public~~ is within the subject matter jurisdiction of the Board. Items not within the subject matter jurisdiction of the Board may not be placed on the agenda. In addition, **before placing the item on the agenda**, the Board president and Superintendent shall determine if the item is merely a request for information.

Any Board action that involves borrowing ~~any amount or spending~~ \$50,000 **\$100,000** or more shall be discussed, considered, and deliberated upon as a separate item of business on the meeting agenda. **(Government Code 53635.7)**

(cf. 9323.2 - Actions by the Board)

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

(cf. 1312.1 - Complaints Concerning District Employees)

Microsoft account 3/6/15 3:51 PM
Comment [19]: Keep

Microsoft account 3/6/15 3:56 PM
Comment [20]: We don't have this policy

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

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

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

Consent Items **Agenda/Calendar**

In order to promote efficient meetings, the Board may **bundle a number of items and** act upon ~~more than one item~~ **them together** by a single vote through the use of a consent agenda. Consent **agenda** items shall be items of a routine nature ~~or~~ **and** items for which ~~no~~ Board discussion is **not** anticipated and for which the Superintendent recommends approval.

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

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

Agenda Dissemination **to Board Members**

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

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

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

(cf. 9012 - Board Member Electronic Communications)

Agenda Dissemination to Members of the Public

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

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

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

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

Agenda Dissemination to Members of the Public

If a document **which relates to an open session agenda item of a regular Board meeting** is distributed to the Board less than 72 hours prior to a meeting, the Superintendent or designee shall make the document available for public inspection at **a designated location at the same** time the document is distributed to **all or** a majority of the Board, provided that the document is a public record under the Public Acts Record **Act**. ~~and relates to an agenda item for an open session of a regular Board meeting.~~ The Superintendent or designee may also post the document on the district's web site in a position and manner that makes it clear that the document relates to an agenda item for an upcoming meeting. **(Government Code 54957.5)**

Microsoft account 3/6/15 3:58 PM

Comment [21]: Why not?

Microsoft account 3/6/15 3:59 PM

Comment [22]: Need to discuss

(cf. 1113 - District and School Web Sites)

(cf. 1340 - Access to District Records)

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

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

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

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

Microsoft account 3/6/15 4:01 PM
Comment [23]: Moved?

Microsoft account 3/6/15 4:01 PM
Comment [24]: Agree?

Legal Reference:

EDUCATION CODE

35144 Special meetings

35145 Public meetings

35145.5 Right of public to place matters on agenda

GOVERNMENT CODE

6250-6270 Public Records Act

53635.7 Separate item of business

54954.1 Mailed agenda of meeting

54954.2 Agenda posting requirements; board actions

54954.3 Opportunity for public to address legislative body

54954.5 Closed session item descriptions

54956.5 Emergency meetings

54957.5 Public records

54960.2 Challenging board actions; cease and desist

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.160 Effective communications

36.303 Auxiliary aids and services

COURT DECISIONS

Mooney v. Garcia, (2012) 207 Cal.App.4th 229

**Caldwell v. Roseville Joint Union High School District, 2007 U.S. Dist.
LEXIS 66318**

Management Resources:

CSBA PUBLICATIONS

Call to Order: A Blueprint for Great Board Meetings, 2010

The Brown Act: School Boards and Open Meeting Laws, rev. 2009

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, rev. 2003

WEB SITES

CSBA, Agenda Online: <http://www.csba.org>

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

(11/02 3/08) 11/12

Bylaw BERKELEY UNIFIED SCHOOL DISTRICT
adopted: ~~May 21, 2003~~ Berkeley, California
revised: ~~September 24, 2008~~

updated: March 10, 2014

