

Berkeley USD

BB 9323 Board Bylaws

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~~accordance with Board ~~members~~bylaws and posted and ~~to~~distributed in accordance the Ralph M. Brown Act (open meeting requirements) and other ~~persons upon request~~applicable laws.

(cf. 9322 - Agenda/Meeting Materials)

The Board President shall conduct Board meetings in accordance with Board bylaws and procedures that enable the Board to efficiently consider issues and carry out the will of the majority. In all matters not covered by the bylaws and procedures which govern the Board, the parliamentary rules set forth in the most current issue of "Robert's Rules of Order" shall be followed.

(cf. 9121 - President)

The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board meetings shall be adjourned at 11:00 p.m. unless extended to a specific time determined by a majority of the Board. The meeting shall be extended no more than once and may be adjourned to a later date.

(cf. 9320 - Meetings and Notices)

Quorum

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

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

~~(cf. 9323.2—Actions by the Board)~~

Public Participation

Members of the public are encouraged to attend Board meetings and to address the Board concerning any item on the agenda or within the Board's jurisdiction. Any If a member of the public wishes to address the Board, s/he shall fill out a card provided at each Board meeting and

~~submit it to the recorder prior to the start of the meeting to indicate a wish to address the Board. So as not to inhibit public participation, persons wishing to address the Board shall not be required to provide any identifiable information on the card other than a means to be told it is their turn to speak. Persons attending Board meetings may be encouraged but shall not be requested to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting.~~

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

1. The Board ~~agenda~~ shall ~~give~~provide for a 30-minute period for members of the public ~~an opportunity~~ to address the Board on any item of interest to the public that is within the subject matter jurisdiction of the Board, either before or during the Board's consideration of each item. The Board President may extend this period up to 60 minutes as the Board President's discretion.

The Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Board members at a public meeting where the public had the opportunity to address the committee on that item. ~~of business to be discussed at regular or special meetings. (Education Code 35145.5, However, if the Board determines that the item has been substantially changed since the committee heard the item, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)~~

2. Persons wishing to address the Board should fill out a green speaker card, "Request to Address the Board of Education," and submit the completed card to the Board Recorder. The selection of speakers will be determined by the President/Chair. ~~3.—At a time so designated on the agenda, members of the public may bring before the Board, at a regular meeting, matters that are not listed on the agenda. The Board may refer such a matter to the Superintendent or designee or take it under advisement, but shall not take action at that time except as allowed by law. The matter may be placed on the agenda of a subsequent meeting for action or discussion by the Board. (Education Code 35145.5, Government Code 54954.2)~~

~~4.—A person wishing to be heard by the Board shall first be recognized by the Board President. Individual speakers shall be allowed three minutes per issue or item to address the Board. However, the Board President may reduce the time allowed per speaker to two minutes at the Board President's discretion.~~

~~3. Without taking action, the Superintendent or Board ~~members or district staff~~ members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. ~~Additionally, on their own initiative or in response to questions posed by the public, a Board or staff member may ask a question for clarification, make a brief announcement, or make a brief report on his/her own activities. (Government Code 54954.2)(Government Code 54954.2)~~~~

~~—Furthermore, the Board or a Board member may provide a reference to staff or other resources for factual information, ask staff to report back to the Board at a subsequent meeting concerning any matter, or take action directing staff to place a matter of business on a future~~

~~agenda. (Government Code 54954.2)~~

~~5. The Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the Board determines that the item has been substantially changed since the committee heard it, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)~~

~~(cf. 9130—Board Committees)~~

~~6. A person wishing to be heard by the Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits.~~

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

~~7. The Board President may rule on the appropriateness of a topic. If the topic would be more suitably addressed at a later time, the President may indicate the time and place when it should be presented.~~

4. The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts, or omissions. (Government Code 54954.3) In addition, the Board may not prohibit public criticism of district employees. ~~Whenever a member of~~ However, the public initiates specific complaints Superintendent or charges against an employee, the Board President shall inform may encourage the complainant ~~that in order to protect the employee's right to adequate notice before a hearing of such complaints and charges, and also to preserve the ability of the Board to legally consider the complaints or charges in any subsequent evaluation of the employee, it is the policy of the Board to hear such complaints or charges in closed session unless otherwise requested by the employee pursuant to Government Code 54957.~~ to file a complaint using the appropriate district complaint procedure.

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

~~(cf. 9321—Closed Session Purposes and Agendas)~~

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

The Board President may ~~removed~~ direct the removal of disruptive individuals and order the room cleared if necessary; ~~in.~~ In this case, members of the media not participating in the disturbance shall be allowed to remain, and ~~individual(s)~~ individuals not participating in such disturbances may be allowed to remain at the discretion of the Board. ~~President.~~ When the room is ordered cleared due to a disturbance, further Board proceedings shall concern only matters

appearing on the agenda. -(Government Code 54957.9)

~~(cf. 9324—Minutes and Recordings)~~

When such disruptive conduct occurs, the Superintendent or designee may contact local law enforcement as needed as directed by the Board President.

Recording by the Public

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

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

Legal Reference:

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

PENAL CODE

403 Disruption of assembly or meeting

COURT DECISIONS

McMahon v. Albany Unified School District, (2002) 104 Cal.App.4th 1275

Rubin v. City of Burbank, (2002) 101 Cal.App.4th 1194

Baca v. Moreno Valley Unified School District, (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)
55 Ops.Cal.Atty.Gen. 26 (1972)
59 Ops.Cal.Atty.Gen. 532 (1976)

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2005

Board Presidents' Handbook, rev. 2002

Maximizing School Board Governance: Boardsmanship

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, 2003

WEB SITES

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

California Attorney General's Office: <http://www.caag.state.ca.us>
(2/97 10/97) 11/06

Bylaw BERKELEY UNIFIED SCHOOL DISTRICT
adopted: May 21, 2003 Berkeley, California