

# MODESTO CITY SCHOOLS

## Board Bylaw

BB 9320

### BOARD OF EDUCATION

#### 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.

→ A Board meeting exists whenever a majority of Board members gather at the same time and **place, including conference location**, 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, **including social media and other electronic communications**, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. **(Government Code 54952.2) (line spacing added)**

However, an employee or district official may engage in separate conversations with Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the Board, as long as that employee or district official does not communicate the comments or position of any Board members to other Board members. (Government Code 54952.2)

→ In order to help ensure the participation of individuals with disabilities at Board meetings, the Superintendent/designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. (Government Code 54953.2, 54954.1, **54954.2**)

**Regular Black** = MCS Language

**Regular Red** = CSBA Language

Regular Black = Common Language

→ Denotes changes being suggested

BB 9320 (a)

**BOARD OF EDUCATION****Meetings and Notices****Regular Meetings**

→ The Board shall hold **at least one** regular meeting<sup>(s)</sup> each month. Regular meetings shall be held at **6:00** p.m. **approximately every third Monday at the Board Room in the Staff Development Center, unless otherwise noticed.**

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)

→ 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/designee shall make the materials available for public inspection at a public office or location designated for that purpose. (Government Code 54957.5)

**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)

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

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

**Bold Black Underline = MCS Language**

**Red = CSBA Language**

Regular Black = Common Language

→ Denotes changes being suggested

BB 9320 (b)

**BOARD OF EDUCATION****Meetings and Notices**

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

**Emergency Meetings**

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

→ Except in the case of a dire emergency, the Board president/designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media that have requested notice of special meetings. All telephone numbers provided by the media in the most recent request for notification must be exhausted. If telephone services are not functioning, the notice requirement of one hour is waived and, as soon after the meeting as possible, the Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the Board.

**Regular Black** = MCS Language

**Regular Red** = CSBA Language

Regular Black = Common Language

→ Denotes changes being suggested

BB 9320 (c)

**BOARD OF EDUCATION****Meetings and Notices**

→ In the case of a dire emergency, the Board president/designee shall give such notice at or near the time ~~he/she notifies~~ **notification is given to** the other members of the Board about the meeting. (Government Code 54956.5)

→ The minutes of the meeting, a list of persons the Board president/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/continue 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, the secretary or the clerk may declare the meeting adjourned to a later time and shall give notice in the same manner required for special meetings. (Government Code 54955)

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

**Workshops, 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.

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

**Bold Black Underline = MCS Language**

**Red = CSBA Language**

Regular Black = Common Language

→ Denotes changes being suggested

BB 9320 (d)

**BOARD OF EDUCATION****Meetings and Notices**

and within district boundaries. Action items shall not be included on the agenda for these meetings.

**Other Gatherings**

Attendance by a majority of Board members at any of the following events is not subject to the Brown Act provided that a majority of the Board members do not discuss specific district business among themselves other than as part of the scheduled program: (Government Code 54952.2)

1. A conference or similar public gathering open to the public that involves a discussion of issues of general interest to the public or to school board members
2. An open, publicized meeting organized by a person or organization other than the district to address a topic of local community concern
3. An open and noticed meeting of another body of the district
4. An open and noticed meeting of a legislative body of another local agency
5. A purely social or ceremonial occasion
6. An open and noticed meeting of a standing committee of the Board, provided that the Board members who are not members of the standing committee attend only as observers

Individual contacts or conversations between a Board member and any other person are not subject to the Brown Act. (Government Code 54952.2)

**Location of Meetings**

Meetings shall not be held in a facility that prohibits the admittance of any person on the basis of ancestry or any characteristic listed in Government Code 11135, **including, but not limited to, religion, sex, or sexual orientation.**

In addition, meetings shall not be held in a facility which is inaccessible to

**Bold Black Underline = MCS Language**

**Red = CSBA Language**

Regular Black = Common Language

→ Denotes changes being suggested

BB 9320 (e)

**BOARD OF EDUCATION****Meetings and Notices**

individuals with disabilities or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)

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

1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the district is a party
2. Inspect real or personal property which cannot conveniently be brought into the district, provided that the topic of the meeting is limited to items directly related to the property
3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law
4. Meet in the closest meeting facility if the district has no meeting facility within its boundaries or if its principal office is located outside the district
5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the district over which the state or federal officials have jurisdiction
6. Meet in or near a facility owned by the district but located outside the district, provided the meeting agenda is limited to items directly related to that facility
7. Visit the office of the district's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs
- 8. Attend conferences on **non-adversarial** collective bargaining techniques
9. Interview residents of another district regarding the Board's potential employment of an applicant for Superintendent of the district
10. Interview a potential employee from another district

**Bold Black Underline = MCS Language**

**Red = CSBA Language**

Regular Black = Common Language

→ Denotes changes being suggested

BB 9320 (f)

**BOARD OF EDUCATION****Meetings and Notices**

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.

**Bold Black Underline = MCS Language**

**Bold Red = CSBA Language**

Regular Black = Common Language

→ Denotes changes being suggested

BB 9320 (g)

**BOARD OF EDUCATION**

**Meetings and Notices**

**Legal References:**

**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**

- 11135 State programs and activities, discrimination
- 3511.1 Local agency executives
- 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

**CODE OF FEDERAL REGULATIONS, TITLE 28**

- 35.160 Effective communications
- 36.303 Auxiliary aids and services

**UNITED STATES CODE, TITLE 42**

- 12101-12213 Americans with Disabilities Act

**COURT DECISIONS**

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

***A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455***

**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)

***18 Ops.Cal.Atty.Gen. 114 (1951)***

Management Resources:

**CSBA PUBLICATIONS**

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

***A Governance Perspective: Interviews with School Board Members from the Nine Linked Learning Initiative School Districts, March 2014***

**INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS**

*The ABCs of Open Government Laws*

***Legal Issues Associated with Use of Public Resources and Ballot Measure Activities, June 2010***

**Bold Black Underline = MCS Language**

**Bold Red = CSBA Language**

Regular Black = Common Language

→ Denotes changes being suggested

BB 9320 (h)

**BOARD OF EDUCATION**

**Meetings and Notices**

***LEAGUE OF CALIFORNIA CITIES PUBLICATIONS***

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

***WEB SITES***

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

*CSBA, Agenda*

*Online: <http://www.csba.org/Services/Services/GovernanceTechnology/AgendaOnline.aspx>*

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

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

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

***AASA The School Superintendents Association -***

***<https://simbli.eboardsolutions.com/SU/MOaF8AO8cslshSlfGc13QQoEQ==>***

---

**ADOPTED:** August 13, 2018

**Bold Black Underline = MCS Language**

**Bold Red = CSBA Language**

Regular Black = Common Language

→ Denotes changes being suggested