

Josh's suggested additions
~~Josh's suggested deletions~~

Berkeley USD

BB 9100 Board Bylaws

Organization

Annual Organizational Meeting

The Governing Board shall hold an annual organizational meeting in the first 15 days of December. The Governing Board shall determine the exact date by resolution at the last meeting in November, ~~within the time limits prescribed by law.~~ (Education Code 35143)

joshuardaniels@live... 11/13/15 8:42 AM
Comment [1]: Per city charter art v sec 16 and ed code 35143

At this meeting the Board shall:

1. Elect one of its members to serve as a president and **a clerk and/or** vice president. **[DISCUSS ANY GUIDANCE WE WANT TO GIVE HERE. SEE SUGGESTION BELOW.]**
2. ~~Appoint a secretary to the Board.~~
3. Authorize signatures.
4. Develop a schedule of regular meetings for the year.
5. Develop a Board calendar for the year.
6. Designate Board **representatives** or liaisons, as needed, to Board advisory and oversight committees, Board sub-committees, district committees, commissions, community committees and individual school sites.

joshuardaniels@live..., 11/13/15 8:23 AM
Comment [2]: I think our contract says that this is the supt.

(cf. 9140 - Board Representatives)

(cf. 9320 - Meetings and Notices)

Election of Officers

The Board shall each year elect one of its members to be vice president. This member shall be one who previously has not served in office, unless all the Board's members have previously served in office. After serving one year as vice president, the elected member shall serve one year as president of the Board. The Board each year to elect those who are perceived as most able to provide the kind of leadership needed.

joshuardaniels@live... 11/13/15 8:24 AM
Comment [3]: Delete section

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

(cf. 9224 - Oath or Affirmation)

Legal Reference:

EDUCATION CODE

5017 Term of Office

35143 Annual organizational meeting date, and notice

35145 Public meetings

GOVERNMENT CODE

54953 Meetings to be open and public; attendance

ATTORNEY GENERAL OPINIONS

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

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

9/92

~~Bylaw BERKELEY UNIFIED SCHOOL DISTRICT~~

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

Updated: _____, 2015

Attorney

The Governing Board recognizes the complex legal environment in which school districts operate and desires reliable, dependable legal advice. **high-quality legal advice at reasonable rates. In order to meet the district's legal needs, the Board may contract with county counsel, attorneys in private practice, or appoint legal counsel as a district employee or independent contractor.** The Board also supports collaborative legal efforts with other agencies and districts in order to promote the district's interests as appropriate.

~~(cf. 1160 - Political Processes)~~

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

(cf. 3400 - Management of District Assets/Accounts)

(cf. 4312.1 - Contracts)

(cf. 9000 - Role of the Board)

(cf. 9260 - Legal Protection)

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

It is important for the Board to feel that their attorney understands and values the board's unique duties and governance role. Chief legal counsel should be interviewed and selected by the Board and report directly to the Board

~~(cf. 9000 Role of the Board: Legal Status and Responsibilities)~~

Duties of Legal Counsel

The district's legal counsel may: **(Education Code 35041.5)**

1. Render legal advice to the Board and the Superintendent or designee.
2. Serve the Board and the Superintendent or designee in the preparation and conduct of district litigation and administrative proceedings.

3. Render advice on school bond and tax increase measures and prepare the necessary forms for the voting of these measures.

4. Perform other administrative duties as assigned by the Board and Superintendent or designee.

Retaining Legal Counsel

When the district is seeking legal advice or representation, the Superintendent or designee shall initiate a Request for Proposals (RFP) to advertise and solicit proposals for legal services. In evaluating the proposals, the Board and Superintendent shall consider the firm's or attorney's background, experience, and reputation in education law; experience advising or representing school districts in California; fees; and experience of attorneys at the firm who will provide legal services.

joshuardaniels@live... 11/13/15 8:19 AM
Comment [1]: may

The Board and Superintendent shall annually evaluate the performance of the firm and/or attorneys providing legal services in such areas as efficiency and adequacy of advice; results obtained for the district; reasonableness of fees; and responsiveness to and interactions with the Board, administration, and community. Upon a successful evaluation, the Board may renew the agreement with legal counsel without initiating an RFP.

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Comment [2]: may

The Board may also contract for temporary, specialized legal services without initiating an RFP when a majority of the Board determines that the unique demands of a particular issue or emergency situation so requires.

(cf. 2121 - Superintendent's Contract)

Contacting Legal Counsel

At his/her discretion, the Board president or Superintendent may confer with the district's legal counsel at his/her discretion and shall provide the Board with desired legal information when so directed by a majority of the Board subject to any limits or parameters established by the Board. The Board also may authorize a specific member to confer with legal counsel on behalf of the Board. In addition, the Superintendent or Board president may contact district legal counsel to provide the Board with legal information or advice when so directed by a majority of the Board.

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Comment [3]: shall

Individual Board members other than the Board president may not seek advice from district legal counsel on matters of district business unless so authorized by a majority of the Board and/or the President of the Board.

(cf. 9000 - Role of the Board (Powers and Responsibilities)

(cf. 9200 - Limits of Board Member Authority)

(cf. 9321 - Closed Session Purposes and Agendas)

Legal Reference:

EDUCATION CODE

35041 Administrative adviser

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

35200-35214 Liabilities, especially:

35204 Contract with attorney in private practice

35205 Contract for legal services

GOVERNMENT CODE

814-895.8 Liability of public entities and public employees

995-996.6 Defense of public employees

26520 Legal services to school districts

53060 Special services and advice

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2007

Maximizing School Board Leadership: Boardsmanship, 1996

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Selecting and Working with a School Attorney: A Guide for School Boards, 1997

WEB SITES

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

California Council of School Attorneys:
<http://www.csba.org/LegislationAndLegal/Legal/CaliforniaCouncilofSchoolAttorneys.aspx>

National School Boards Association: <http://www.nsba.org>

State Bar of California: <http://www.calbar.ca.gov>

(6/91 12/92) 7/08

Bylaw BERKELEY UNIFIED SCHOOL DISTRICT

Adopted: April 20, 2005 Berkeley, California

Updated: _____, 2015

DRAFT

Board Bylaw

Board Committees

BB 9130
Board Bylaws

Advisory Committees

1. Intent

The Governing Board may create Advisory Committees for special purposes. It is the intent of the Board to encourage the participation and involvement of the Berkeley community in our public schools. Membership on Board Advisory Committees is an important means of ensuring such participation. Thus, the Board will make efforts to ensure that the composition of all Committees is as representative of the diversity of the Berkeley school community as is practicable.

2. Limitation of Advisory Committees

The Board possesses certain legal powers and prerogatives, which cannot be delegated or surrendered to others. Recommendations of an advisory committee are not, therefore, binding on the Board and must be submitted to the Board for consideration and action. The Board shall ensure that Committees act in accordance with applicable Board policies and local/state/federal laws.

Tax Oversight Committees. Intent.

1. Intent

The Board has Committees created by or associated with local legislation authorizing collection of taxes for special purposes. Such Committees shall be defined as Tax Oversight Committees. These Committees include (but may not be limited to):

- a. Berkeley Schools Excellence Project Planning and Oversight Committee (BSEP P&O)
- b. Facilities Safety Maintenance Oversight Committee (FSMOC)
- c. Construction Bond Oversight Committee (CBOC)
- d. Other Committees as may be specified by local, state or federal code applicable to school districts. One example of this is covered in Board Policy 3280 which governs the creation and bylaws of the Surplus Site Committee.

2. Charge

joshuardanis@live... 11/13/15 8:45 AM

Comment [1]: We need to talk about structure of the BB before I can suggest more specific changes.

Tax Oversight Committees are charged with monitoring the expenditure of the tax monies and ensuring compliance with the terms of the local legislation governing those tax revenues. As part of its charge, the Board shall provide the committees with a timeline for the completion of their charge and designate when and how reports are to be made. Additional charges of each Committee may be specified by statute, committee specific Board policy or by Board-approved Bylaws.

3. Composition and Qualifications

Except where otherwise specified by statute (e.g., BSEP Planning & Oversight Committee or specifically listed in the bylaws as is true for the CBOC) the Board shall determine the composition and the qualifications of membership. Membership in Tax Oversight Committees shall be defined in the individual by-laws, but unless stated otherwise shall not include people who are not residents or property taxpayers of the City of Berkeley, parents of BUSD students, BUSD students, or employees who are not in a conflict of interest position, i.e., individuals, agents of employees or vendors who may stand to gain financially from a recommendation of the Committee. The Committee may form subcommittees to assist the Committee in developing recommendations in specific aspects of its charge. The composition and charge of such subcommittees shall be in accordance with Board approved Bylaws.

4. Term of Appointment

The Board shall appoint members per the by-laws. If no by-laws exist, members shall be appointed for one year only and terms will expire December 1st each year unless otherwise provided for by the Board. Committee members may be re-appointed to more than one term. Any Committee member who misses three meetings during the year without a valid excuse may be replaced by the appointing individual or appointing group.

5. Members

The Board and/or the Superintendent shall appoint members except where otherwise acted upon by the Board, specified in applicable legislation or Board-approved bylaws. If nothing is specified in the by-laws, each Board Member, including the Student Directors and the Superintendent shall have at least one appointed representative. When the number of members to be appointed by the Board is greater than the number of Board Members, each Board member shall appoint one member; remaining appointments shall be approved by a majority vote of the Board. The Board may, at its discretion, appoint one or two Board Members as Liaison to the Committee. No Board Member may be a voting member to any such committee. The votes of students appointed to committees shall be counted, with the exception of the votes of those students appointed to committees established by the California Education Code.

Board Task Forces

1. Intent

The Board may create, from time to time, a Task Force to address issues of current concern to the Board. The charge of such a Task Force shall be to assist the Board in the development of policy recommendations for Board consideration. Composition of

A Board Task Force may vary in accordance with the purpose and charge of the Task Force. The Board shall provide the committees with a timeline for the completion of their charge and designate when and how reports are to be made. Such a Task Force shall be dissolved upon completion of its assignment, or it may be dissolved by a vote of the Board at any time. The Board shall reconsider and reaffirm both the charge and membership of each of its Task Forces at the Board's annual organizational meeting.

2. Composition and Qualifications

The Board shall determine the composition and the qualifications of membership. The Board shall take care to ensure that members are free of any conflict of interest position and that citizen members outnumber staff.

3. Term of Appointment

The Board shall appoint or reappoint Task Force members at the Board's annual organizational meeting. Task Force members may be re-appointed to more than one term. Any member who misses three meetings during the year without a valid excuse may be replaced by the appointing individual or appointing group.

4. Members

The Board and/or the Superintendent shall appoint Task Force members except where that authority is otherwise delegated by the Board. Each Board Member, including the Student Directors, and the Superintendent shall have at least one appointed representative. Community members shall outnumber staff members in all Task Forces. When the number of members to be appointed by the Board is greater than the number of Board Members, each Board member shall appoint one member; remaining appointments shall be approved by a majority vote of the Board. Employees serving on a Task Force may be appointed by the Board or, where deemed by the Board to be appropriate to the charge of the Task Force, shall be appointed by their bargaining unit. The Board may, at its discretion, appoint one or two Board Members as Liaison to the Committee. No Board Member may be a voting member to any such committee. The votes of students appointed to committees shall be counted, with the exception of the votes of those students appointed to committees established by the California Education Code.

Administrative Responsibilities

The administration will provide reasonable levels of support to advisory committees to assist them in the completion of its charge. The Board shall delegate to the Superintendent (or his/her designee), the following responsibilities:

1. Publicize the creation of the Committee and conduct outreach to recruit a group of

diverse candidates for membership.

2. Designate an appropriate staff person to support the work of the Committee.
3. Provide training and orientation to the Committees shortly following their initial organizational meeting.
4. Provide copies to each member of the committee's charge, roster, Board guidelines, materials pertinent to the Committee/Task Force's charge and, at the request of the appointing party, "conflict of interest" declaration forms
5. Provide assistance to the committee to produce required reports and records.
6. Provide assurance to the Board that committees are acting in accordance with applicable Board policies and local/state/federal laws.

Committee Guidelines

The provisions of the Ralph M. Brown Act (Government Code 54950) shall apply to any committee created by formal action of The Board. Committees shall follow the Brown Act. Committees shall not adopt their own rules or by-laws except as authorized by the Board. Committees will observe the following guidelines:

1. Meeting Notice, Time and Place

Advisory Committee meetings shall be in a public place, open to the public, and noticed at least 72 hours in advance (preferably longer). The day and time of meetings shall be agreed upon among the Committee members and the staff. All meetings are open to the public as provided by the Brown Act and shall be held at times of reasonable public access. A closed session may not be convened without the express authority of the Board or its designee.

2. Record keeping

The Committee shall establish a calendar and perform the standard record-keeping functions of such committees, including: having written agendas, recording attendance and minutes of each meeting, recording votes, and disseminating these documents to committee members and the Board.

3. Appointment of Chairperson

Unless otherwise acted upon by the Board or specified in Board approved Bylaws, the Committee shall designate a permanent chairperson. The chairperson shall be an appointed member of the Committee, a Berkeley resident and nonemployee of the district.

4. Conduct of Meetings

Committees will follow standard meeting procedures (Robert's Rules of Order) with meetings conducted in an open, civil manner.

5. Quorum

Quorum shall consist of no fewer than "one half plus one" of the total number of representatives.

6. Communications with Board

Advisory Committees shall make timely, written, progress reports to the Board pertinent to its charge and timeline as specified by the Board. These reports shall be placed on the Board meeting agenda by the Staff Liaison to the Committee through the Board's regular calendar and agenda process.

Advisory Committees may also be provided an opportunity to address the Board when an item on the Board agenda falls within the subject matter jurisdiction of the Committee and the Committee's statement represents the majority view of the Committee (which may be verified by meeting records). Committee representatives shall notify the Board president prior to the Board meeting of the Committee's intent to speak.

7. Committee Activities

Any public activities to be sponsored by a committee must receive approval by the Board before they can be publicized as a Board-sponsored event.

Chairperson Responsibilities

1. Establish the agenda in conjunction with the staff liaison.
2. Preside at the meeting.
3. Be the designated spokesperson for the committee.
4. Regularly review the Board agenda for items pertinent to the committee's charge.
5. Ensure that the Board liaison to the committee receive regular updates on the work of the Committee.

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35024 Executive committee

35160 Authority of governing boards

35160.1 Broad authority of school districts

GOVERNMENT CODE

54952 Legislative body, definition
54952.2 Definition of meeting
54954 Time and place of regular meetings; special meetings; emergencies
54954.3 Opportunity for public to address legislative body
ATTORNEY GENERAL OPINIONS
81 Ops.Cal.Atty.Gen. 156 (1998)
80 Ops.Cal.Atty.Gen. 308 (1997)
79 Ops.Cal.Atty.Gen. 69 (1996)

Bylaw BERKELEY UNIFIED SCHOOL DISTRICT
adopted: March 5, 2003 Berkeley, California

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