

**Berkeley USD
Board Bylaw
Meetings And Notices**

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.

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)

~~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.~~

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)

In order to help ensure the participation ~~in the meeting by disabled~~ 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)

~~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

~~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.

~~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 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 ~~received at least 24 hours before~~ posted on the time of the meeting. ~~The notice~~ District's website and 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, 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)

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. ~~—A~~ 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 under this section 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 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 ~~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.

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 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~~ a 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)

A ~~Within 24 hours after the time of adjournment,~~ a copy of the order or notice of adjournment 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)

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)

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 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
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~~

~~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

- 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. 2006~~2015

| ~~ATTORNEY GENERAL~~INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

| The ~~Brown Act: ABCs of Open Meetings for Legislative Bodies, 2003~~Government Laws

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

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

WEBSITES

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

CSBA, Agenda Online:

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

| California Attorney ~~General's~~General's Office: <http://www.eaag-stateag.ca.usgov>

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

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

Bylaw BERKELEY UNIFIED SCHOOL DISTRICT

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