

**Bylaws of the Board**

**Closed Session Purposes and Agendas**

The Board of Education 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.

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

The Board shall disclose in open meeting the items to be discussed in closed session. No other matters shall be discussed in closed session.

No agenda, notice, announcement or report required by the Brown Act need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

In accordance with law, a Board member shall not disclose confidential information received in a closed session unless the Board authorizes the disclosure of that information.

**Personnel Matters**

The Board may hold closed sessions to consider the appointment, employment, evaluation of performance, discipline or dismissal of an employee. The Board may also hold closed sessions to hear complaints or charges brought against an employee by another person, unless the employee requests an open session. These sessions shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

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.

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.

Agenda items related to 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.

### **Negotiations/Collective Bargaining**

Unless otherwise agreed upon by the parties involved, the following shall not be subject to *The Brown Act*:

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 session (closed) 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.

The Board may meet in closed session with the Board's representative to consider matters which have been placed in negotiation and to instruct the representative as to the Board's position on these matters. Such sessions may be held before or during consultations and discussions with representatives of employee organizations and unrepresented employees. The Board also may meet in closed session with a state conciliator or a mediator who has intervened in negotiations proceedings.

Closed sessions related to negotiations may include discussion of the district's available funds and funding priorities only insofar as these discussions relate to providing instructions to the district's designated representative. When the negotiations are with unrepresented employees, only salaries, salary schedules and compensation in the form of fringe benefits may be considered.

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 so 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.

### **Matters Related to Students**

The Board shall meet in closed session to consider a suspension, disciplinary action, or any other action, except expulsion, 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.

### **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 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.

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.

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.

### **Conference with Real Property Negotiator**

The Board may meet in closed session with the Board's real property negotiator prior to the purchase, sale, exchange or lease of real property in order to give its negotiator the authority to settle the price and terms of the property on behalf of the district.

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

For purposes of real property transactions, negotiators may include members of the Board.

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 so long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall 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.

### **Pending Litigation**

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

Litigation is considered "pending" when any of the following circumstances exist:

1. Litigation to which the Board is a party has been initiated formally.
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.
3. Pursuant to Government Code 54956.9(c), the Board has decided to initiate or is deciding whether to initiate litigation.

"Existing litigation" items shall either specify the claimant's name, names of parties and case or claim number or shall state that disclosure would jeopardize service of process or existing settlement negotiations.

### **JPA/Self-Insurance Liability Claims**

The Board may meet in closed session to discuss a claim against a joint powers authority or self-insurance authority of which it is a member, for the payment of tort liability losses, public liability losses or workers' compensation liability.

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.

When the board of the joint powers agency has to authorized and upon advice of district legal counsel, the Board may meet in closed session in order to receive, discuss and take action concerning information obtained in a closed session of the joint powers agency. During the district's closed session, a Board member service on the JPA Board may disclose confidential information acquired during a closed session of the JPA to fellow Board members.

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.

Closed session agenda items related to "Conference Involving a Joint Powers Agency" shall specify the closed session description used by the joint powers agency and the name of the district representative on the joint powers agency 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.

### **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.

### **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.

35145 Public meetings  
35146 Closed session (re student suspension)  
44929.21 Districts with ADA of 250 or more  
48918 Rules governing expulsion procedures; hearings  
and notice  
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 California Public Records Act  
54950-54962<sup>3</sup> The Ralph M. Brown Act

COURT DECISIONS

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

Bell v. Vista Unified School District, 2001) 82 Cal.  
App 4<sup>th</sup> 672

Fischer v. Los Angeles Unified School District, (1999) 70 Cal.App. 4<sup>th</sup> 87

Furtado v. Sierra Community College District, (1998)68 Cal.App. 4<sup>th</sup> 876

Roberts v. City of Palmdale, (1993)\_5 Cal.4<sup>th</sup> 363

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

ATTORNEY GENERAL OPINIONS

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

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, 1999

CALIFORNIA CITY ATTORNEY PUBLICATIONS

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

WEB SITES

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

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

Bylaw  
adopted: 11/02/76  
revised: 02/15/77  
revised: 07/21/81

Bylaw 9321

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revised: 02/18/97

revised: 02/16/99

revised: 02/20/01

revised: 08/19/03

revised: 05/03/05