Actions By The Board

The Governing Board shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. (Education Code 35164)

(cf. 9000 - Role of the Board)
(cf. 9005 - Governance Standards)
(cf. 9012 - Board Member Electronic Communications)
(cf. 9200 - Limits of Board Member Authority)

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members

2. A collective commitment or promise by a majority of the Board members to make a positive or negative decision

3. A vote by a majority of the Board members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

The Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes. (Education Code 35145)

(cf. 9324 - Minutes and Recordings)

Action on Non-Agenda Items

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: (Government Code 54954.2)

1. When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code 54956.5

2. When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted

3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

(cf. 9320 - Meetings and Notices)
(cf. 9322 - Agenda/Meeting Materials)

Challenging Board Actions

The district attorney's office or any interested person may file an action in court for the purpose of: (Government Code 54960, 54960.2)

1. Stopping or preventing the Board's violation or threatened violation of the Brown Act

2. Determining the applicability of the Brown Act to ongoing or future threatened Board actions

3. Determining the applicability of the Brown Act to a past action of the Board that is not specified in Government Code 54960.1, provided that:

   a. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.

   b. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

   c. The action is brought within the time required by Government Code 54960.2.

4. Determining the validity, under state or federal law, of any Board rule or action which penalizes any of its members or otherwise discourages their expression

5. Compelling the Board to audio record its closed sessions because of a court's finding of the Board's violation of any applicable Government Code provision

The district attorney or any interested person may file an action in court to nullify a Board action which is alleged to be in violation of law regarding any of the following: (Government Code 54960.1)

1. Open meeting and teleconferencing (Government Code 54953)

2. Agenda posting (Government Code 54954.2)

3. Closed session item descriptions (Government Code 54954.5)

4. New or increased tax assessments (Government Code 54954.6)

5. Special meetings (Government Code 54956)

6. Emergency meetings (Government Code 54956.5)

Prior to bringing any action to nullify a Board action, the district attorney or other interested person shall present a demand to "cure and correct" he alleged violation. The demand shall

clearly describe the challenged action and the nature of the alleged violation and shall be presented to the Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code 54960.1)

1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.

2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.

3. Take no action. If the Board takes no action within the 30-day period, its inaction shall be considered a decision not to cure or correct the challenged action.

Legal Reference:

Education Code
15266 School construction bonds
17466 Declaration of intent to sell or lease real property
17481 Lease of property with residence for nondistrict purposes
17510-17512 Leasing for production of gas, resolution requiring unanimous vote
17546 Private sale of personal property
17556-17561 Dedication of real property
35140-35149 Meetings
35160-35178.4 Powers and duties
48660-48661 Community day schools, establishment and restrictions

Code of Civil Procedure
425.16 Special motion to strike in connection with a public issue
1245.240 Eminent domain vote requirements
1245.245 Eminent domain, resolution adopting different use

Government Code
53090-53097.5 Regulation of local agencies by counties and cities
53724 Parcel tax resolution requirements
53790-53792 Exceeding the budget
53820-53833 Temporary borrowing
53850-53858 Temporary borrowing
54950-54963 The Ralph M. Brown Act, especially:
54952.6 Action taken, definition
54953 Meetings to be open and public; attendance; prohibition against secret ballots
54960-54960.5 Actions to prevent violations
65352.2 Coordination with planning agency

Public Contract Code
3400 Bid specifications
20111 Contracts over $50,000; contracts for construction; award to lowest responsible bidder
20113 Emergencies, award of contracts without bids
20114 Repairs, maintenance, and improvements to district facilities by day labor or force account
22034 Uniform Public Construction Cost Accounting Act informal bidding ordinance

22035 Repair or replacement of facilities in case of emergency
22050 Emergency contracting procedures

Court Decisions

Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313
McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310
Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672
Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109

Web Sites:

CSBA: http://www.csba.org
Institute for Local Government: http://www.ca-ilg.org
Office of the Attorney General: http://www.oag.ca.gov

Adopted: 1-13-21