

# MODESTO CITY SCHOOLS

## Board Bylaw

BB 9220

### BOARD OF EDUCATION

#### Governing Board Elections

##### Board Member Qualifications

Any person is eligible to be a member of the Governing Board, without further qualifications, if the person is 18 years of age or older, a citizen of California, a resident of the trustee area up for election or appointment, a registered voter, and not legally disqualified from holding civil office. Any person who has been convicted of a felony involving the giving, accepting, or offering of a bribe, embezzlement or theft of public funds, extortion, perjury, or conspiracy to commit any such crime, under California law or the law of another state, the United States of America, or another country, is not eligible to be a candidate for office or elected as a Board member except when the person has been granted a pardon in accordance with law. (Education Code 35107; Elections Code 20)

A District employee elected to the Board shall resign from their employment before being sworn in or shall have the employment automatically terminated upon being sworn into office. (Education Code 35107)

A Board member shall resign from the Board before applying/negotiating for employment with the District.

##### Consolidation of Elections

To reduce costs associated with conducting elections, the Board may consolidate Board elections with the local municipal or statewide primary or general election in accordance with Elections Code 1302.

##### Elections Process and Procedures

Board members shall be elected under a “by-trustee area” election system. Each trustee shall reside within one of the District’s seven trustee areas, and shall be elected only by the registered voters living within that trustee area. Trustee areas shall be balanced by population as required by state and federal law.

## **BOARD OF EDUCATION**

### **Governing Board Elections**

Prior to March 1 following the year in which the results of each decennial federal census are released, the Board shall adjust the boundaries of the District's trustee areas, as contemplated in Education Code 5019.5.

### **Campaign Conduct**

All candidates, including current Board members running as incumbents, shall abide by local, county, state, and federal requirements regarding campaign donations, funding, and expenditures.

A Board member shall not expend, and a candidate shall not accept, any public money for the purpose of seeking elective office. However, the District may establish a dedicated fund for those seeking election to the Board, provided that the funds are available to all candidates who are qualified pursuant to Education Code 35107 without regard to incumbency or political preference. (Government Code 85300)

In order to help protect the public's trust in the electoral process as well as the public's confidence in the Board and District, the Board encourages all candidates to sign and adhere to the principles in the Code of Fair Campaign Practices pursuant to Elections Code 20440.

The Board encourages all candidates to become knowledgeable about the role of board members. The Superintendent or designee shall provide all candidates with information that will enable them to understand the responsibilities and expectations of being a Board member, including information regarding available workshops, seminars, and/or training.

### **Statement of Qualifications**

On the 125th day prior to the day fixed for the general District election, the Board secretary or their designee shall deliver a notice, bearing the secretary's signature and District seal, to the county elections official describing both of the following: (Elections Code 10509)

1. The elective offices of the District to be filled at the general election and which offices, if any, are for the balance of an unexpired term; and

## **BOARD OF EDUCATION**

### **Governing Board Elections**

2. Whether the District or the candidate is to pay for the publication of a statement of qualifications pursuant to Elections Code 13307.

Candidates for the Board may submit a candidate statement to the elections official for inclusion in the voter's pamphlet. Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)

When the elections official allows for the electronic distribution of candidate statements, a candidate for the Board may, in addition to or instead of submitting a candidate statement for inclusion in the mailed voter's pamphlet, prepare and submit a candidate statement for electronic distribution.

The District shall assume no part of the cost of printing, handling, translating, mailing, or electronically distributing candidate statements filed pursuant to Elections Code 13307. As a condition of having candidate statements included in the hard copy and/or electronic voter's pamphlet, the District may require candidates to pay their estimated pro rata share of these costs to the District in advance pursuant to Elections Code 13307.

### **Tie Votes in Board Member Elections**

Before each election, the Board shall decide whether to resolve a potential tie by lot or by a runoff election. If the Board has decided to resolve a tie by lot, the Board shall, immediately after the election, notify the candidates who received the tie votes of the time and place where the candidates or their representatives should appear before the Board. The Board at that time shall determine the winner by lot. If the Board has decided to resolve a tie with a runoff election, the Board shall schedule the runoff election in accordance with law. (Education Code 5016)

### **Recall Elections**

A Board member may be recalled as permitted by Elections Code 11000. Proponents of a recall are required to serve, file, and publish or post a notice of intention to circulate the recall petition and to comply with other applicable law and formalities and county elections official directives. The petition, pursuant to Elections Code 11041, is required to be in the format provided by the Secretary of State and to include an estimate of the cost of conducting the special election, as determined by the county elections official, in consultation with the District.

## **BOARD OF EDUCATION**

### **Governing Board Elections**

Within 14 days after the Board meeting at which a certificate of sufficiency of signatures on a recall petition is received from the county elections official, the Board shall order an election to be held to determine whether the Board member named in the petition shall be recalled. The election shall be held not less than 88, nor more than 125, days after the date that the Board orders the election. However, the election may be conducted within 180 days after the issuance of the Board's order to consolidate the election with a regularly scheduled election.

Recall elections shall be conducted in accordance with Elections Code 11381-11386.

#### **Legal References:**

##### **EDUCATION CODE**

*1006 Prohibition against school district employees serving on county board of education*

*5000-5033 Election of school district board members*

*5091 Vacancies; petition for special election*

*5220-5231 Elections*

*5300-5304 General provisions; conduct of elections*

*5320-5329 Order and call of elections*

*5340-5345 Consolidation of elections*

*5360-5363 Election notice*

*5380 Compensation; election officer*

*5390 Qualifications of voters*

*5420-5426 Cost of elections*

*5440-5442 Miscellaneous provisions*

*7054 Use of district property; campaign purposes*

*35107 School district employees*

*35177 Campaign expenditures or contributions*

*35239 Compensation of governing board member of districts with less than 70 ADA*

##### **ELECTION CODE**

*20 Public office eligibility*

*1302 Local elections; school district election*

*2201 Grounds for cancellation*

*4000-4008 Elections conducted wholly by mail*

*10010 District boundaries*

*10400-10418 Consolidation of elections*

*10509 Notice of election by secretary*

*10600-10604 School district elections*

*11000 Recall of officers*

*13307 Candidate's statement*

*13308 Candidate's statement contents*

*13309 Candidate's statement; indigence*

## **BOARD OF EDUCATION**

### **Governing Board Elections**

#### *Legal References (cont.):*

##### *ELECTION CODE (cont.)*

*14025-14032 California Voting Rights Act*

*14050-14057 California Voter Participation Rights Act*

*20440 Code of Fair Campaign Practices*

##### *GOVERNMENT CODE*

*1021 Conviction of crime*

*1097 Illegal participation in public contract*

*1770 Vacancy of office*

*12940 Unlawful discriminatory employment practices*

*81000-91014 Political Reform Act of 1974*

##### *PENAL CODE*

*68 Bribes*

*74 Acceptance of gratuity*

*424 Embezzlement and falsification of accounts by public officers*

*661 Removal for neglect or violation of official duty*

##### *UNITED STATES CODE, TITLE 52*

*10301-10508 Voting Rights Act*

#### *Management Resources:*

##### *COURT DECISIONS*

*Dusch v. Davis, (1967) 387 U. S. 112*

*Randall v. Sorrell, (2006) 126 S. Ct. 2479*

*Rey v. Madera Unified School District, (2012) 203 Cal. App. 4<sup>th</sup> 1223*

*Sanchez v. City of Modesto, (2006) 145 Cal. App. 4<sup>th</sup> 660*

##### *CALIFORNIA CONSTITUTION ARTICLE 2, SECTION 2*

*Voters; qualifications*

##### *CALIFORNIA CONSTITUTION ARTICLE 7, SECTION 7*

*Conflicting offices*

##### *CALIFORNIA CONSTITUTION ARTICLE 7, SECTION 8*

*Disqualification from office*

##### *ATTORNEY GENERAL OPINIONS*

*105 Ops.Cal.Atty.Gen. 182 (2022)*

*85 Ops.Cal.Atty.Gen. 49 (2002)*

*83 Ops.Cal.Atty.Gen. 181 (2000)*

*81 Ops.Cal.Atty.Gen. 98 (1998)*

*69 Ops.Cal.Atty.Gen. 290 (1986)*

##### *CSBA PUBLICATIONS*

*Legal Alert on the Impact of Senate Bill No. 415 on School Board Elections, January 2017*

##### *WEB SITES*

*CSBA District and County Office of Education Legal Services: <https://legalservices.csba.org/>*

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

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

*Fair Political Practices Commission: <https://www.fppc.ca.gov/>*

*California Secretary of State's Office: <https://www.sos.ca.gov/>*

**BOARD OF EDUCATION**

**Governing Board Elections**

*Cross References (cf.):*

*0410 – Nondiscrimination in District Programs and Activities*

*9005 – Governance Standards*

*9110 – Terms of Office (N/A)*

*9223 – Filling Vacancies (N/A)*

*9224 – Oath or Affirmation*

*9230 – Orientation (N/A)*

*9240 – Board Training*

*9270 – Conflict of Interest*

*9320 – Meetings and Notices*

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ADOPTED:     May 15, 2023