

# **MODESTO CITY SCHOOLS**

## **Board Bylaw**

**BB 9320**

### **BOARD OF EDUCATION**

#### **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 location, including conference/teleconference location as permitted by Government Code 54953, to hear, discuss, deliberate, or take action upon any item within the subject matter jurisdiction of the Board or District. (Government Code 54952.2)

A majority of the Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, including social media and other electronic communications, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.

However, an employee or District official may engage in separate conversations or communications 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 comments or position of any Board members to other Board members. (Government Code 54952.2)

In order to help ensure the participation of individuals with disabilities at Board meetings, the Superintendent/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, 54954.2)

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**Regular Meetings**

The Board shall hold at least one regular meeting(s) each month. Regular meetings shall be held at 6:00 p.m. approximately every third Monday at the Board Room in the Staff Development Center, unless otherwise noticed.

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 and on the District's website. (Government Code 54954.2)

Whenever agenda materials relating to an open session of a regular meeting are distributed to the Board less than 72 hours before the meeting, the Superintendent/designee shall make the materials available for public inspection at a public office or location designated for that purpose at the time the materials are distributed to all or a majority of the Board. (Government Code 54957.5)

**Special Meetings**

Special meetings of the Board may be called at any time 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, associate/assistant superintendent(s), or other management employee(s) 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 posted on the District's website. The notice shall be received at least 24 hours before the time of the meeting. The notice 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 location of the meeting and the business to be transacted or discussed. No other business shall be considered at this meeting. (Education Code 35144; Government Code 54956)

Any Board member may waive the 24-hour written notice requirement prior to the time of the meeting by filing a written waiver of notice with the clerk or secretary of the Board or by being present at the meeting at the time it convenes. (Education Code 35144; Government Code 54956)

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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 during the item's consideration. (Government Code 54954.3)

**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. 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 act, or threatened terrorist activity that poses peril so immediate and significant that requiring the Board to provide one-hour notice before holding an emergency meeting 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/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. All telephone numbers provided by the media in the most recent request for notification must be exhausted. If telephone services are not functioning, 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.

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The minutes of the meeting, a list of persons the Board president/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/Continued Meetings**

A majority vote by the Board may adjourn/continue any regular or special meeting to a later time and location 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, the secretary or the clerk may declare the meeting adjourned to a later time and place and shall give notice in the same manner required for special meetings. (Government Code 54955)

Within 24 hours after the time of adjournment, a copy of the order or notice of adjournment/continuance shall be conspicuously posted on or near the door of the place where the meeting was held. (Government Code 54955)

### **Workshops, Study Sessions, Retreats, Public Forums, and Discussion Meetings**

The Board may occasionally convene a study session or public forum to study an issue in more detail or to receive information from staff or feedback from members of the public.

The Board may also convene a retreat or discussion meeting to discuss Board roles and relationships.

Public notice shall be given in accordance with law when a quorum of the Board is attending a study session, retreat, public forum, or discussion meeting. All such meetings shall comply with the Brown Act and shall be held in open session and within District boundaries. Action items shall not be included on the agenda for these meetings.

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**Other Gatherings**

Attendance by a majority of Board members at any of the following events is not subject to the Brown Act provided that a majority of the Board members do not discuss specific District business among themselves other than as part of the scheduled program: (Government Code 54952.2)

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 board members
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
4. An open and noticed meeting of a legislative body of another local agency
5. A purely social or ceremonial occasion
6. 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 the Brown Act. (Government Code 54952.2)

**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)

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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 non-adversarial 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

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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 location unsafe, meetings shall be held for the duration of the emergency at a location 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)

### **Teleconferencing During a Proclaimed State of Emergency**

The Board may conduct Board meetings by teleconference without posting agendas at all teleconference locations, identifying teleconference locations in meeting notices and agendas, allowing public access to each teleconference location,

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providing an opportunity for members of the public to address the Board directly at each teleconference location, and ensuring that at least a quorum of the Board participate from locations within District boundaries, during a proclaimed state of emergency pursuant to Government Code 8625-8629 in any of the following circumstances: (Government Code 54953)

1. State or local officials have imposed or recommended measures to promote social distancing
2. For the purpose of determining, by majority vote, whether as the result of the emergency, meeting in person would present imminent risks to the health or safety of attendees
3. When it has been determined, by majority vote as described in Item #2 above, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees

To conduct a teleconference meeting for these purposes, the following requirements shall be satisfied: (Government Code 54953)

1. The notice and agenda shall be given and posted as otherwise required by the Brown Act
2. The notice and agenda of the meeting shall specify the means by which members of the public may access the meeting and offer public comments, including via a call-in or internet-based service option

Members of the public may be required to register to log in to a meeting when making public comments through an internet website or other online platform that is operated by a third-party and not under the control of the Board

3. Members of the public shall be allowed to access the meeting, and the agenda shall provide an opportunity for members of the public to address the Board directly pursuant to Government Code 54954.3



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4. Members of the public shall not be required to submit public comments in advance of a Board meeting and shall be provided an opportunity to address the Board and offer comments in real time
5. Public comment periods shall not be closed until the timed public comment period, if such is offered by the Board, has elapsed or, if not timed, until a reasonable amount of time per agenda item has been allowed
6. If during a Board meeting a disruption occurs which prevents the District from broadcasting the meeting to members of the public or for members of the public to offer public comments, the Board shall take no further action on any agenda item until public access via the call-in or internet-based service option to the meeting is restored

The District may, in its discretion, provide a physical location from which the public may attend or comment. (Government Code 54953)

The Board may continue to conduct meetings by teleconference, as specified above for teleconferencing during proclaimed states of emergency, by a majority vote finding within 30 days after teleconferencing for the first time, and every 30 days thereafter, that either: (Government Code 54953)

1. The state of emergency continues to directly impact the ability of the Board to meet safely in person
2. State or local officials continue to impose or recommend measures to promote social distancing

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.

**Legal References:**

**EDUCATION CODE**

*35140 Time and place of meetings*

*35143 Annual organizational meeting, date, and notice*

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

##### *EDUCATION CODE (cont.)*

*35144 Special meeting*

*35145 Public meetings*

*35145.5 Agenda; public participation; regulations*

*35146 Closed sessions; student matters*

*35147 Open meeting law exceptions and applications*

##### *GOVERNMENT CODE*

*3511.1 Local agency executives*

*6252-6270 California Public Records Act*

*7920.0000-7930.170 California Public Records Act*

*8625-8629 California Emergency Services Act*

*11135 Prohibition of discrimination*

*54950-54963 The Ralph M. Brown Act*

*54953 Meetings to be open and public; attendance*

*54953 Oral summary of recommended salary and benefits of superintendent*

*54954 Time and place of regular meetings*

*54954.2 Agenda posting requirements, board actions*

*54956 Special meetings; call; notice*

*54956.5 Emergency meetings*

##### *CODE OF FEDERAL REGULATIONS, TITLE 28*

*35.160 Effective communications for individuals with disabilities*

*36.303 Nondiscrimination on the basis of disability, public accommodations, auxiliary aids and services*

##### *UNITED STATES CODE, TITLE 42*

*12101-12213 Americans with Disabilities Act*

#### *Management Resources:*

##### *COURT DECISIONS*

*Knight First Amendment Institute at Columbia University v. Trump, (2019) 928 F.3d 226*

*Garnier v. Poway Unified School District, (S.D. Cal. September 26, 2019) No. 17-cv-22215-W (JLB),  
2019 WL 4736208*

*Wolfe v. City of Fremont, (2006) 144 Cal.App. 533*

*A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455*

##### *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)*

##### *CSBA PUBLICATIONS*

*The Brown Act: School Boards and Open Meeting Laws, rev. 2019*

*A Governance Perspective: Interviews with School Board Members from the Nine Linked Learning  
Initiative School Districts, March 2014*

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#### *Management Resources (cont.):*

#### **INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS**

*The ABCs of Open Government Laws*

*Legal Issues Associated with Use of Public Resources and Ballot Measure Activities, June 2010*

#### **LEAGUE OF CALIFORNIA CITIES PUBLICATION**

*Open and Public V: A Guide to the Ralph M. Brown Act, 2016*

#### **WEB SITES**

California Attorney General's Office: <http://www.ag.ca.gov>

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

League of California Cities: <https://www.calcities.org/>

AASA The School Superintendents Association: <http://www.aasa.org>

CSBA, GAMUT Meetings: <https://simbli.eboardsolutions.com/>

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

#### *Cross References (cf.):*

0410 – Nondiscrimination in District Programs and Activities

0420.4 – Charter School Authorization

0420.43 – Charter School Revocation

0450 – Comprehensive Safety Plan

0460 – Local Control and Accountability Plan (N/A)

1113 – District School Staff and Student Websites

1160 – Political Processes

1220 – Citizen Advisory Committees

1330 – Use of School Facilities

1340 – Access to District Records

1431 – Waivers (N/A)

2000 – Concepts and Roles (N/A)

2111 – Superintendent Governance Standards (N/A)

2121 – Superintendent's Contract (N/A)

2210 – Administrative Discretion Regarding Board Policy (N/A)

3100 – Budget (N/A)

3280 – Lease or Rental of District Owned Real Property

3311 – Bids

3312 – Contracts

3314 – Payment for Goods and Services (N/A)

3516 – Emergencies and Disaster Preparedness Plan

4117.14/4317.14 – Postretirement Employment (N/A)

4141.6/4241.6 – Concerted Action/Work Stoppage (N/A)

4312.1 – Contracts (N/A)

6112 – School Day

6117 – Year-Round Schedules (N/A)

6173.1 – Education for Foster Youth

7150 – Site Selection and Development

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*Cross References (cf.) (cont.):*

7214 – General Obligation Bonds (N/A)  
7310 – Naming or Re-Naming of School Facilities  
9000 – Role of the Board  
9005 – Governance Standards  
9012 – Board Member Electronic Communications  
9100 – Organization  
9121 – President  
9130 – Board Committees Meetings  
9140 – Board Representatives  
9220 – Governing Board Elections  
9230 – Orientation (N/A)  
9270 – Conflict of Interest  
9310 – Board Policies  
9321 – Closed Session  
9322 – Agenda/Meeting Materials  
9323 – Meeting Conduct  
9323.2 – Actions by the Board  
9324 – Minutes and Recordings  
9400 – Board Self-Evaluation (N/A)

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