

MODESTO CITY SCHOOLS

Board Bylaw

BB 9323

BOARD OF EDUCATION

Meeting Conduct

Meeting Procedures

All Governing Board meetings shall begin on time and shall be guided by an agenda prepared in accordance with Board bylaws and posted and distributed in accordance with the Ralph M. Brown Act (open meeting requirements) and other applicable laws.

The Board president shall conduct Board meetings in accordance with Board bylaws and procedures that enable the Board to efficiently consider issues and carry out the will of the majority.

The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board meetings shall be adjourned by 10:30 p.m. unless extended to a specific time determined by a majority of the Board. The meeting shall be extended no more than once and, if necessary, may subsequently be adjourned to a later date.

Quorum and Abstentions

The Board shall act by majority vote of all of the membership constituting the Board. (Education Code 35164)

The Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a member abstains, the abstention shall not be counted for purposes of determining whether a majority of the membership of the Board has taken action.

Provided the Board typically has seven members and there are no more than two vacancies on the Board, the vacant position(s) shall not be counted for purposes of

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determining how many members of the Board constitute a majority. In addition, whenever any provisions of the Education Code require unanimous action of all or a specific number of the members, the vacant position(s) shall not be counted for purposes of determining the total membership constituting the Board. (Education Code 35165)

Public Participation

Members of the public are encouraged to attend Board meetings and to address the Board concerning any item on the agenda or within the Board's jurisdiction. So as not to inhibit public participation, persons attending Board meetings shall not be requested to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting, except that if the meeting is conducted using remote public participation or with a Board member attending remotely pursuant to Government Code 54953, a member of the public desiring to provide comment through the use of a third party internet website or online platform may be required to register as required by the third party provider.

In order to conduct District business in an orderly and efficient manner, the Board requires that public presentations to the Board comply with the following procedures:

1. The Board shall give members of the public an opportunity to address the Board on any item of interest to the public that is within the subject matter jurisdiction of the Board, either before or during the Board's consideration of the item. (Education Code 35145.5; Government Code 54954.3)
2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the Board matters that are not listed on the agenda. The Board shall take no action or discussion on any item not appearing on the posted agenda, except as authorized by law. (Education Code 35145.5; Government Code 54954.2)

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3. Without taking action, Board members or District staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda, for the purpose of clarification. (Government Code 54954.2)

Furthermore, the Board President may request the Superintendent to direct staff to answer questions or provide resources to the public for items not on the agenda, or to answer questions about items on the agenda. Staff may report back to the Board at a subsequent meeting concerning any matter, which may result in an action directing staff to place a matter of business on a future agenda. (Government Code 54954.2)

4. Additionally, Board members may make a brief announcement, or make a brief report on their own activities.
5. The Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the Board determines that the item has been substantially changed since the committee heard the item, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)
6. A person wishing to be heard by the Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits.

In general, individual speakers will be allowed three minutes to address the Board on each agenda or non-agenda item, and the Board will limit the total time for public input on each item to 30 minutes. However, in exceptional circumstances when necessary to ensure full opportunity for public input, the Board president may, with Board consent, adjust the amount of time allowed for public input and/or the time allotted for each speaker. Any such adjustment shall be done equitably so as to allow a diversity of viewpoints. The president may also take a poll of speakers for or against a particular issue and may ask additional persons speak only if they have something new to add.

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In order to ensure that non-English speakers receive the same opportunity to directly address the Board, any member of the public who utilizes a translator shall be provided at least twice the allotted time to address the Board, unless simultaneous translation equipment is used to allow the Board to hear the translated public testimony simultaneously. (Government Code 54954.3)

7. The Board president may rule on the appropriateness of a topic, subject to the following conditions:
 - a. If a topic would be suitably addressed at a later time, the Board president may indicate the time and place when it should be presented.
 - b. The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts, or omissions. (Government Code 54954.3)
 - c. The Board shall not prohibit public criticism of District employees. However, whenever a member of the public initiates specific complaints or charges against an individual employee, the Board president shall inform the complainant of the appropriate complaint procedure.
8. The Board president shall not permit actual disruption of Board meetings. Actual disruption by an individual or group or any conduct or statements that threaten the safety of any person(s) at the meeting shall be grounds for the president to terminate the privilege of addressing the Board and remove the individual from the meeting.

The Board President or designee may remove an individual for actually disrupting the meeting. Prior to removal, the individual shall be warned that their behavior is disrupting the meeting and that failure to cease the disruptive behavior may result in removal. If, after being warned, the individual does not promptly cease the disruptive behavior, the Board president, or designee, may then remove the individual from the meeting. (Government Code 54957.95)

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When an individual's behavior constitutes the use of force or a true threat of force, the individual shall be removed from a Board meeting without a warning. (Government Code 54957.95)

Disrupting means engaging in behavior during a Board meeting that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Government Code Section 54954.3 or any other law, or engaging in behavior that constitutes use of force or a true threat of force. (Government Code 54957.95)

True threat of force means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat. (Government Code 54957.95)

Additionally, the Board may remove disruptive individuals and order the room cleared if necessary. In this case, members of the media not participating in the disturbance shall be allowed to remain, and individuals not participating in such disturbances may be allowed to remain at the discretion of the Board. When the room is ordered cleared due to a disturbance, further Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

When such disruptive conduct occurs, the Board may decide to recess the meeting to help restore order, or if removing the disruptive individual(s) or clearing the room is infeasible, move the meeting to another location. The Board may direct the Superintendent or designee to contact local law enforcement as necessary.

Recording by the Public

Members of the public may record an open Board meeting using an audio or video recorder, still or motion picture camera, cell phone, or other device, provided that the noise, illumination, or obstruction of view does not persistently disrupt the meeting. The Superintendent or designee may designate locations from which members of the public may make such recordings without causing a distraction.

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If the Board finds that noise, illumination, or obstruction of view related to these activities would persistently disrupt the proceedings, these activities shall be discontinued or restricted as determined by the Board. (Government Code 54953.5, 54953.6)

Legal References:

EDUCATION CODE

5095 Powers of remaining board members and new appointees
32210 Willful disturbance of public school or meeting
35010 Control of district; prescription and enforcement of rules
35145.5 Agenda; public participation; and regulations
35163 Official actions, minutes and journal
35164 Actions by majority vote
35165 Effect of vacancies upon majority and unanimous votes by seven-member board

CODE OF CIVIL PROCEDURE

527.8 Workplace Violence Safety Act

ELECTION CODE

18430 Prevention or hinderance of electors assembling in public meeting

GOVERNMENT CODE

54953.3 Meetings to be open and public; remote attendance

54953.5 Audio or video recording of proceedings

54953.6 Broadcasting of proceedings

GOVERNMENT CODE

54954.2 Agenda posting requirements; board actions

54954.3 Opportunity for public to address legislative body; regulations

54957 Closed session personnel matters

54957.9 Disorderly conduct of general public during meeting; clearing of room

54957.95 Opening meetings; orderly conduct

PENAL CODE

403 Disruption of assembly or meeting

Management Resources:

COURT DECISIONS

City of San Jose v. William Garbett, (2010) 190 Cal.App.4th 526

Norse v. City of Santa Cruz, (9th Cir. 2010) 629 F3d 966

McMahon v. Albany Unified School District, (2002) 104 Cal.App.4th 1275

Rubin v. City of Burbank, (2002) 101 Cal.App.4th 1194

Baca v. Moreno Valley Unified School District, (1996) 936 F.Supp. 719

ATTORNEY GENERAL OPINIONS

90 Ops.Cal.Atty.Gen. 47 (2007)

76 Ops.Cal.Atty.Gen. 281 (1993)

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Legal References (cont.):

ATTORNEY GENERAL OPINIONS (cont.)

66 Ops.Cal.Atty.Gen. 336 (1983)

63 Ops.Cal.Atty.Gen. 215 (1980)

61 Ops.Cal.Atty.Gen. 243, 253 (1978)

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

55 Ops.Cal.Atty.Gen. 26 (1972)

CSBA PUBLICATIONS

Call to Order: A Blueprint for Great Board Meetings, 2018

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

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Local Legislative Bodies, rev. 2003

WEB SITES

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

California Attorney General's Office: <https://oag.ca.gov>

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

Cross References (cf.):

1000 – Concepts and Roles (N/A)

1100 – Communication with the Public (N/A)

1220 – Citizen Advisory Committees

1312.1 – Complaints Concerning District Employees

1313 – Civility

3100 – Budget (N/A)

3270 – Sale and Disposal of Books, Equipment and Supplies

3312 – Contracts

9005 – Governance Standards

9100 – Organization

9121 – President

9130 – Board Committee Meetings

9200 – Limits of Board Member Authority

9230 – Orientation (N/A)

9270 – Conflict of Interest

9310 – Board Policies

9320 – Meetings and Notices

9321 – Closed Session

9322 – Agenda/Meeting Materials

9323.2 – Actions by the Board

9324 – Minutes and Recordings

ADOPTED: August 13, 2018
May 15, 2023