
**OAKLAND UNIFIED SCHOOL DISTRICT
OFFICE OF THE GENERAL COUNSEL**

TO: PRESIDENT JAMES HARRIS
VICE PRESIDENT JODY LONDON
DIRECTOR AIMEE ENG
DIRECTOR SHANTHI GONZALES
DIRECTOR JUMOKE HINTON-HODGE
DIRECTOR NINA SENN
DIRECTOR ROSIE TORRES
SUPERINTENDENT ANTWAN WILSON

CC: EDGAR RAKESTRAW, JR.

FROM: JACQUELINE MINOR, GENERAL COUNSEL

SUBJECT: **REQUEST TO PLACE AN ITEM ON BOARD MEETING AGENDA –
MODIFICATION OF BOARD BY-LAW 9322**

BOARD MEETING: MAY 13, 2015 – FILE # 15-0887

Issue

Mr. Modesai has requested to agendize a modification to Board By-law 9322. Mr. Modesai states that the purpose of his proposed amendment to BB 9322 is to remove discretion from the Board to decide whether an item a member of the public requests be placed on the Board agenda is in fact included on a Board meeting agenda.

Public Right to Place Items on School Board Meeting Agenda

The right of members of the public to place an item on the Board's agenda derives from Education Code Section 35145.5. Section 35145.5 provides that "it is the intent of the Legislature that members of the public be able to place matters directly related to school district business on the agenda of school district governing board meetings. ... Governing boards shall adopt reasonable regulations to insure that this intent is carried out. The regulations may specify reasonable procedures to insure the proper functioning of governing board meetings."

The current BB 9322, in part, provides the procedures for the implementation of Education Code Section 35145.5. The School Board retains the authority to control its meeting agenda, including the placement of items on the agenda. In *Coalition of Labor vs Santa Barbara*,¹ the Court of Appeals reiterated that the board itself has the task of setting its agenda. The Board controls when and how an item is placed on the agenda. A member of the public cannot demand that an item be placed on the agenda on a certain date or in a particular manner. The Board decides the order of the agenda and also determines if the item is an action, discussion or consent item. The Board is only required to add the public requested item to the agenda

¹ 129 Cal App 4th 205 (2005)

within a reasonable time period if the requested item “directly related to school district business.”

An agenda item proposed by a member of the public must directly relate to school district business in order to be added to the agenda. In *Mooney vs Garcia*², the Court reaffirmed the Board’s discretion in determining whether a proposed agenda item is related to school district business. In *Mooney*, a school club was sponsoring a “Rainbow Day” to promote anti-bullying. A parent proposed a school board agenda item to require the day be changed to “Anti-Bullying Day.” The School Board declined to place the item on the agenda arguing that the school board does not have authority to direct specific activities at individual schools. The Court of Appeals agreed with the school board and reaffirmed that the school board has “discretion” to determine whether a proposed item “directly related to school district business.”

Conclusion

The item Mr. Modesai is requesting be placed on the agenda “directly relates to school district business.” The Board should place the item on an upcoming Board agenda meeting. The Board President on behalf of the Board has discretion to place the item on the consent agenda.

Please let me know if you have further questions.

² 207 Cal App 4th 229 (2012)