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Memo

To Board of Education

From Marion McWilliams, General Counsel

Board Meeting Date August 9, 2017

Subject Amendment to Board Bylaw – Board Bylaws – BB 9323 Meeting Conduct

Action Requested Adoption by the Board of Education of Amendment to Board Bylaw – BB 9323 Meeting Conduct

Background Periodically modifications to board policies are recommended to align with changes in law or recommended best practices. The proposed modifications to the board bylaw reflect the District’s standards.

Discussion In order to ensure that our policies are current, it is important for us to review and update our policies and bylaws. The proposed changes are based upon the California Association of Schools Board’s recommended model and the District’s practices. The modifications have been reviewed and vetted by the General Counsel.

The changes to the policy are shown on the attachment. The proposed deletions are indicated with **blue strikeouts**. The recommended additions are shown in **red**.

Recommendation Approval of modification to the Oakland Unified School District Board Bylaw – BB 9323 Meeting Conduct

Fiscal Impact No direct funding implications

Attachments Amendment to Board Bylaw – BB 9323 Meeting Conduct

OAKLAND UNIFIED SCHOOL DISTRICT

Board Bylaw

Board Bylaws

BB 9323

Meeting Conduct

~~Education Code 35010 mandates the Board to "prescribe and enforce" rules for its own governance. These rules must not be inconsistent with law or with regulations prescribed by the State Board of Education~~

Meeting Norms for the Board of Education

- Honor the Time – No Sidebars, Technology Aligned to Meeting Purpose, Start and End on Time
- Act as a Collective Body – Honor Confidentiality
- Check for Understanding, Surface Assumptions
- Share Divergent Views – Value as a Learning Opportunity
- Celebrate Successes and Each Other's Contributions
- Presume positive intent
- No personal attacks

Board of Education— Meeting Rules of Engagement

- Five (5) minute speaking limit for Board Members
- No mingling with the audience
- Address comments to other Board Members
- Focus on agenda items
- Don't repeat what's been said
- Always be respectful
- No interruptions
- Enforce norms
- Model desired behavior

Meeting Procedures

All Governing Board meetings shall begin on time and shall be guided by an agenda prepared ~~and delivered by the Secretary in advance to all Board members and to other persons upon~~

request in accordance with Board bylaws and posted and distributed in accordance with the Ralph M. Brown Act (open meeting requirements) and other applicable laws.

(cf. 9322 - Agenda/Meeting Materials)

The Board president shall conduct Board meetings in accordance with law, Board bylaws and its parliamentary authority which shall enable the Board to efficiently consider issues and carry out the will of the majority.

~~Meetings Outside of the District~~

~~The Board or a committee may hold meetings outside of the District only under those conditions permitted by law:~~

- ~~a. When necessary to comply with state or federal law or court order or to attend judicial or administrative proceedings to which the District is a party.~~
- ~~b. To inspect real or personal property which cannot conveniently be brought into the District provided the topic of the meeting is limited to items directly related to the property.~~
- ~~c. To participate in meetings or discussions of multiagency significance, provided the meetings are held within one of the other agencies boundaries, with all participating agencies giving the notice required by law.~~
- ~~d. To meet in the closest meeting facility if the does not have a meeting facility within the boundaries or if it's principal office is located outside the district.~~
- ~~e. To meet with 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.~~
- ~~f. To meet in or near a facility owned by the district but located outside of the district, provided the meeting is limited to items directly related to that facility.~~
- ~~g. To visit the office of the district attorney for a closed session or pending litigation, when doing so would reduce legal fees or costs.~~
- ~~h. To attend conferences on non-adversarial collective bargaining techniques.~~
- ~~i. To interview residents of another district regarding the Board's potential employment of that district's superintendent.~~
- ~~j. To interview a potential employee from another district.~~

~~*(cf. 9121 - President)*~~

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

not later than 10:00 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 subsequently may be adjourned to a later date.

(cf. 9320 - Meetings and Notices)

Quorums

Four members shall constitute a quorum for the transaction of business at all meetings of the Board. A majority of the members of a committee shall constitute a quorum for the transaction of business at a meeting of a committee. If a quorum is not present within fifteen minutes after the hour set for any public meeting, except when the Board or committee is in Closed Session, the president or chair may adjourn the public meeting to the next half-hour. Should a quorum fail to be present at the expiration of the latter half-hour, the president or chair may adjourn the meeting to a specified time and date. If no member of the Board or committee is present, after 45 minutes, the Superintendent or designee may adjourn the meeting.

Limits on Debate in a Board Meeting or in Committee

No member of the Board shall speak for more than five (5) minutes on any subject matter pending before the Board or in committee without the consent of the president or of the chair of a committee or of a majority of the Board or committee membership. If additional time is granted any member, additional equal time shall be granted to any other member desiring it. A member may not yield any unexpired portion of time to another member or reserve any portion of the time for a later time. If a member yields to another member for a question, the time consumed by the question shall be charged to the member who has yield.

No member shall speak twice or more on the same subject matter, at a Board meeting or in a committee meeting, except when all members desiring to speak have spoken at least once. The second or more round of speaking on the subject matter shall be limited to a maximum of five minutes per member unless such time is extended by the president or the chair of the committee or the majority of the Board or committee membership.

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.

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 either before or during the Board's consideration of each item of business to be discussed at regular or special meetings. (Education Code 35145.5, Government Code 54954.3)

2. At a time so designated on the agenda, members of the public may bring before the Board, at a regular meeting, matters that are not listed on the agenda. The Board may refer such a matter to the Superintendent or designee or take it under advisement, but shall not take action at that time except as allowed by law. The matter may be placed on the agenda of a subsequent meeting for action or discussion by the Board. (Education Code 35145.5, Government Code 54954.2)

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. Additionally, on their own initiative or in response to questions posed by the public, a Board or staff member may ask a question for clarification, make a brief announcement, or make a brief report on his/her own activities. (Government Code 54954.2)

Furthermore, the Board or a Board member may provide a reference to staff or other resources for factual information, ask staff to report back to the Board at a subsequent meeting concerning any matter, or take action directing staff to place a matter of business on a future agenda. (Government Code 54954.2)

4. 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 it, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)

(cf. 9130 - Board Committees)

5. 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.

Individual speakers shall be allowed up to three minutes to address the Board on each agenda or non-agenda item. The Board shall limit the total time for public input on each item to 20 minutes. With Board consent, the president may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The president may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add.

6. The Board president may rule on the appropriateness of a topic. If the topic would be more suitably addressed at a later time, the president may indicate the time and place when it should be presented.

The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts or omissions. (Government Code 54954.3) In addition, the Board may not prohibit public criticism of district employees.

7. The Board president shall not permit any disturbance or willful interruption of Board meetings. Persistent disruption by an individual or group shall be grounds for the chair to terminate the privilege of addressing the Board. 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 individual(s) 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)

Recording by the Public

The Superintendent or designee shall designate locations from which members of the public may broadcast, photograph or tape record open meetings without causing a distraction.

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 Reference:

EDUCATION CODE

5095 Powers of remaining board members and new appointees

32210 Willful disturbance of public school or meeting a misdemeanor

35010 Prescription and enforcement of rules

35145.5 Agenda; public participation; regulations

35163 Official actions, minutes and journal

35164 Vote requirements

35165 Effect of vacancies upon majority and unanimous votes by seven member board

GOVERNMENT CODE

54953.5 Audio or video tape recording of proceedings

54953.6 Broadcasting of proceedings

54954.2 Agenda; posting; action on other matters

54954.3 Opportunity for public to address legislative body; regulations

54957 Closed sessions

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

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

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

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

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

66 Ops.Cal.Atty.Gen. 336, 337 (1983)

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

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10/27/04; Revised 4/10/2013; eff 7/01/2013; 11/19/14A; 8/9/17A (if adopted)