

OAKLAND UNIFIED SCHOOL DISTRICT

Board Bylaw

BB 9012

Board Bylaws Accountability

The Board of Education believes that its primary responsibility is to act in the best interests of every student in the District. The Board of Education of the District (the "Board"), as an entity, and each specific Board Member, as an individual with fiduciary responsibility to the District, are bound to comply with a variety of statutory, regulatory and administrative rules and regulations in performing their roles and responsibilities as a Board and as individual members. By way of example, these obligations include, but are not limited to, compliance with the requirements of the California Education Code, the Ralph M. Brown Act, the Educational Employment Relations Act, the California Code of Administrative Regulations, the Board Policies and Administrative Regulations developed by the Board, itself, and the specific directives and admonitions that the Board issues from time to time. To maximize Board effectiveness and public confidence in District governance, Board members are expected to govern responsibly and hold themselves accountable to high standards as role models for students, staff and the community and as stewards of the public trust.

Establishing a Board Self-Accountability Process

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The ~~Procedure for Action Against a Governing Board Member~~ Board also recognizes that, despite the Board's best efforts, from time to time individual Board members may disregard or ignore their obligations as a Board member and take actions, make statements or otherwise engage in conduct that violates the individual Member's obligations under statute, regulations, Board policy or Board direction. It is the Board's sincere hope that such instances do not occur.

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That said, the Board wishes herein to provide a protocol for ~~Violation of Legal, Professional or Ethical Standards.~~

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officially addressing complaints against or between Board members and steps of potential action for individual Board members who take such unlawful or improper actions. Members who violate legal, professional, or ethical standards may subject themselves, the Board, and the District to legal action, and thereby place at risk the fiduciary assets of the District. The implications of such behavior can erode the public trust and have other unanticipated impact. Therefore, it is incumbent upon the Board to address all complaints of unethical and/or illegal behavior on the part of its members. However, nothing in this Accountability Policy precludes the District, or where appropriate individual board members who may have individual claims, from seeking redress in other forums.

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The Board President is authorized to consult with legal counsel when presented with, or made aware of perceived or alleged violations of law, unprofessional, or unethical behavior including, but not limited, to conflicts of interest, violations of the public meetings act, violations of confidentiality of Closed Session information, use of public resources, unprofessional or inappropriate relations with students or staff, etc. Violations of law may be referred to the ~~District's~~District's legal counsel, to the District Attorney, or the Attorney General as appropriate.

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1. Initial Action:

If a Board member believes a colleague has engaged in action or inaction in violation of his/her responsibilities, they may file a written complaint with the Board President, or with the Board Vice President if the complaint is against or involves the Board President.

~~2.~~ 2. Initial Response:

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The Board President will acknowledge receipt of a formal complaint within 3 business days and will notify the member accused of misconduct of the nature of the complaint. Within 2 weeks from the date of the complaint, the Board President will be responsible for initiating a conversation with the member perceived to have violated the code of ethics his/her responsibilities or duties. The Board President or his/her designee will discuss the perceived violation and the impact the behavior will have on the District, the Board, and the individual member. The member in question shall be given an opportunity to explain his or her actions and file a written response to the complaint. If mutually acceptable to involved Board members, the Board President may attempt to informally resolve the issue between the Board members through informal conversations, facilitated conversations/ mediation, or a written apology acceptable to the complainant. The Board Member who had engaged in a violation of duties will be informed that if such behavior remains unchanged that it would constitute a higher level response.

3- 3. Investigation:

In the alternative or supplemental to a meeting as described in section 4.2 herein, the Board President may choose to:

- a- a. Appoint a Special Committee of three Board members (“Special Committee”) to investigate the allegations and make a report to the Board President or the Board as a whole; or
- b- b. Direct the District's legal counsel to investigate or to appoint an investigator to conduct an investigation and provide a report to the Board President or Board. The member in question shall be afforded an opportunity to explain his or her actions.

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3. Possible Board Actions:

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Based upon the findings of the investigation, the Board may act in any of the following four ways:

a. The offending Board Member may make a written apology to the complainant in a form approved by the Board President and General Counsel.

a-b. The Board as a whole (majority) may determine that a workshop or retreat on standards of conduct, ethics and the importance of upholding them may reinforce expected behavior and decide that no further action needs to be taken unless the behavior persists.

b-c. The Board may issue a public statement in which it expresses concern with an individual member's behavior. The statement would be made at a public meeting of the Board.

e-d. The Board may proceed with a public reprimand; possible exclusion from Closed Sessions if the Board member has a conflict of interest in the matter being discussed; or any other lawful action.

d-e. The Board may elect to take no further action.

5. 4. Censure

In the context of local governing boards, censure is an expression that the statements by one board member do not reflect the opinion of the board majority. The Board by majority vote may censure any Board member who does not adhere to the confidentiality of Closed Sessions, and/or who engages in any unethical, unprofessional, and/or illegal conduct. Censure is an

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official expression of disapproval adopted by the Governing Board. Censure distances the Board from the inappropriate behavior of one of its members. It is a clear statement that inappropriate behavior of one of its members has taken place and is a clear, public statement that inappropriate behavior is not condoned or tolerated by the majority of the Governing Board.

- ~~a. A Board member may be subject to a resolution of censure by the Governing Board should it be determined the member misconduct has occurred.~~

~~When considering censure, the complaint of member misconduct will be referred to the Board President. The Board President shall appoint a Special Committee of three members not associated with the complaint ("Special Committee") to review the matter. In the event the complaint involves the Board President, the Vice President of the Board shall appoint the Special Committee.~~

1. If, after following the processes above, a Board Member believes a colleague continues to violate their duties or responsibilities or that the actions outlined above will not sufficiently address the conduct, he/she shall have the right to place on the Board's Public Session agenda a Motion to Censure the Board Member who is alleged in violation of his/her duties. The placement of this item on the Board's public session agenda will be in compliance with Board Bylaws. If the supposedly offending member is the Board President, the Vice President shall be the Board representative to consider the placement of the item on the agenda.

2. Any such motion, when made, shall be in writing and shall include:

- a. A specific description of the statute, regulation, Board policy or board direction that is claimed to have been violated;
- b. A specific factual description of the alleged action, statement or other conduct of the Board Member at issue and a description of how that action, statement or other conduct constitutes a violation;

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c. The specific language for the proposed censure by the Board of the Board Member for the alleged violation.

3. Any Motion to Censure will be effective upon three affirmative votes of the voting Board members. The Board Member who is the subject of the Censure Motion shall not, however, be permitted to vote on the motion, and his/her vote shall not be counted in calculating the simple majority.

4. Upon the introduction of any Motion to Censure, and prior to any vote thereon, and in an effort to avoid an official Board Censure, the Board Member who is the subject of said Censure Motion shall be provided the opportunity to explain his/her action, statement, or other conduct, to apologize therefore, and to agree to future compliance with all relevant and applicable statutes, regulations, laws and Board policies and Administrative Regulations. The foregoing shall not, however, prevent the Board from voting upon or perfecting the Motion to Censure.

b. 5.

e. ~~The District's legal counsel shall provide legal counsel to the Board and the Special Committee in its deliberations.~~

d. ~~The investigative report referenced in 2, above, may be used by the Special Committee in reviewing the matter. The Special Committee may also conduct an additional investigation if it deems further inquiry is warranted. If further investigation is conducted:~~

i. ~~The privacy rights of the member in question shall be respected to the extent possible. All discussions shall be made in private with the attendance of the District's legal counsel and shall be considered confidential and privileged to the extent the applicable laws permit.~~

ii. ~~The member subject to the charge of misconduct shall not be precluded from presenting information to the Special Committee.~~

iii. ~~The Special Committee shall, within a reasonable period of time, make a report of its finding to the Governing Board in open session.~~

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e- A censured Board member may be excluded from attending future Closed Sessions of the Board if the Trustee has a conflict of interest relating to the topic being discussed in Closed Session or has been found to have disclosed confidential information from closed sessions on more than one occasion.

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5. Other Remedies

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The remedies provided for under this policy for an illegal, ethical or unprofessional breach of standards by a Board member are not exclusive, and are in addition to any remedies available under applicable laws.

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