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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 9230 Meetings and Notices

Action Requested Adoption by the Board of Education of Amendment to Board Bylaw – BB 9230 Meetings and Notices

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 9230 Meetings and Notices

Fiscal Impact No direct funding implications

Attachments Amendment to Board Bylaw – BB 9230 Meetings and Notices

OAKLAND UNIFIED SCHOOL DISTRICT

Board Bylaw

Board Bylaws

BB 9320

Meetings and Notices

Meetings of the Governing Board are conducted for the purpose of accomplishing district business.

A Board meeting exists whenever a majority of Board members gather at the same time and place to hear, discuss or deliberate upon any item within the subject matter jurisdiction of the Board or district. (Government Code 54952.2)

In accordance with state open meeting laws, the Board shall hold its meetings in public and shall conduct closed sessions during these meetings only to discuss confidential matters specified by law. To encourage community involvement in the schools, meetings shall provide opportunities for questions and comments by members of the public and shall be conducted in accordance with law and Board-adopted bylaws

A majority of the Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. However, an employee or district official may engage in separate conversations 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)

Each agenda shall also list the address(es) designated by the Secretary/Superintendent or designee for public inspection of agenda documents that are distributed to the Board less than 72 hours before the meeting. (Government Code 54957.5)

Regular Meetings

Regular meetings of the Board of Education shall be held two Wednesdays of each month at 4:00 p.m., pursuant to a schedule determined during the annual organizational meeting, except as noted herein. ~~Effective November 9, 2016,~~ Unless otherwise designated, meetings shall be held, until further notice, at La Escuelita Elementary School, 1050 Second Avenue, Oakland-City Hall, City Council Chambers, 1 Frank H. Ogawa Plaza, Oakland, CA 94612., California 94606. Regular Board meetings shall not be held during Thanksgiving week, winter recess, or the month of July.

~~If, however, a regular meeting date falls on a Board declared or a legal holiday, the Board shall~~

~~meet on the following business day, Saturday and Sunday excepted, at the same hour and place unless specifically ordered otherwise by the Board.~~

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 Internet web site. (Government Code 54954.2)

(cf. 1113 - District and School Web Sites)

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 or designee shall make the materials available for public inspection at a public office or location designated for that purpose. (Government Code 54957.5)

(cf. 1340 - Access to District Records)

Every notice of a regular 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. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. (Government Code 54954.3)

Every notice of a regular meeting shall provide an opportunity for members of the public to directly address the Board concerning any item that is within the subject matter jurisdiction of the Board, but is not listed on the meeting agenda. (Government Code 4954.3)

Special Meetings

Special meetings of the Board of Education may be called when necessary by either the president or a majority of the members. ~~Such meetings shall be called by written notice given each member at least 24 hours before the meeting, unless a Board member has waived written notice. It shall also be the policy of the Board to notify, in writing at least 24 hours before the meeting, each local newspaper of general circulation, radio or television station and the public requesting notice in writing. No business shall be transacted at a special meeting except that for which the meeting has been noticed and called.~~ However, a special meeting shall not be called regarding the salary, salary schedule, or other compensation of the Superintendent, assistant superintendent, or other management employee as described in Government Code 3511.1. (Government Code 54956)

(cf. 2121 - Superintendent's Contract)

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 Internet web site. 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 place 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. (Government Code 54956)

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 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. 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

(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)

2. A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist activity, or threatened terrorist act that poses peril so immediate and significant that requiring the Board to provide one-hour notice before holding an emergency meeting under this section may endanger the public health and/or safety as determined by a majority of the members of the Board

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

Except in the case of a dire emergency, the Board president or 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. 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. ~~(Government Code 54956.5)~~

In the case of a dire emergency, the Board president shall give such notice at or near the time he/she notifies the other members of the Board about the meeting. (Government Code 54956.5)

The minutes of the meeting, a list of persons the Board president or 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 place ~~as permitted by law. A copy of that shall be specified in~~ the order of adjournment ~~shall be posted at the meeting site.~~ Less than a quorum

~~If no member~~ of the Board ~~is~~ may adjourn such a meeting. ~~If no Board members are~~ present ~~at any regular or adjourned regular meeting of,~~ the ~~Board,~~ secretary or the Secretary clerk may declare the meeting adjourned to a later time and shall give notice in the same manner required ~~by these By-Laws or law.~~ 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)

Open Meetings

All meetings of the Board of Education and all committee meetings of the Board shall be open to the public except closed sessions. The public shall have the right to speak, pursuant to the rules herein, on any item on the agenda or under consideration.

Direct communication, personal intermediaries, and technological devices shall not be used by a majority of Board members to develop a collective concurrence as to an action that members will take on any item of district business. (Government Code 54952.2)

Meetings shall be held within district boundaries, except when otherwise allowed by law. (Government Code 54954)

Meetings shall be held in a facility that is accessible to all persons, including disabled persons, without charge. (Government Code 54961)

(cf. 0410 – Nondiscrimination in District Programs and Activities)

In order to help ensure participation in the meeting by disabled individuals, the District shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. (Government Code 54953.2, 54954.1)

Meeting notices and agendas shall specify that an individual who requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the Board meeting should contact the Superintendent or Superintendent's designee.

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)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

Meetings shall be held within district boundaries, except to do any of the following:
(Government Code 54954)

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 nonadversarial 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

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 Effective 7/01/2013

a fire, flood, earthquake, or other emergency renders the regular meeting place unsafe, meetings shall be held for the duration of the emergency at a place 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)

Video/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 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)

All applicable law, Board policies, administrative regulations and bylaws shall apply equally to meetings that are teleconferenced.

Other Gatherings

Attendance by a majority of the Board members at any of the following events is not subject to state open meeting laws 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 Boards
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 or at a legislative body of another local agency

4. A purely social or ceremonial occasion
5. 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
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 (cf. 9130 - Board Committees)

Individual contacts or conversations between a Board member and any other person are not subject to open meeting laws. (Government Code 54952.2)

Legal Reference:

EDUCATION CODE

- 35140 Time and place of meetings
- 35143 Annual organizational meeting, date, and notice
- 35144 Special meeting
- 35145 Public meetings
- 35145.5 Agenda; public participation; regulations
- 35146 Closed sessions
- 35147 Open meeting law exceptions and applications

GOVERNMENT CODE

54950-54957.9 Meetings, especially:

- 54953 Meetings to be open and public; attendance
- 54953.2 Compliance with Americans with Disabilities Act
- 54954 Time and place of regular meetings
- 54954.1 Mailed notices
- 54954.2 Agenda posting requirements, board actions
- 54954.3 Opportunity for public to speak
- 54956 Special meetings; call; notice
- 54956.5 Emergency meetings
- 54957.5 Agenda distribution
- 54961 Prohibition on use of certain facilities

UNITED STATES CODE, TITLE 42

- 12101-12213 Americans with Disabilities Act
- CODE OF FEDERAL REGULATIONS, TITLE 28**
- 35.160 Effective communications
- 36.303 Auxiliary aids and services

ATTORNEY GENERAL OPINIONS

- 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)

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 1999

ATTORNEY GENERAL PUBLICATIONS

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California Attorney General's Office: <http://www.caag.state.ca.us>

| 10/27/04; 1/5/09A; Revised 4/10/2013; 9/10/14A; 10/26/16A; 8/9/17A (if adopted)

OAKLAND UNIFIED SCHOOL DISTRICT

Board Bylaw

Board Bylaws

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(cf. 1340 - Access to District Records)

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Special meetings of the Board of Education may be called when necessary by either the president or a majority of the members. However, a special meeting shall not be called regarding the salary, salary schedule, or other compensation of the Superintendent, assistant superintendent, or other management employee as described in Government Code 3511.1. (Government Code 54956)

(cf. 2121 - Superintendent's Contract)

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 Internet web site. 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 place 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. (Government Code 54956)

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(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)

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(cf. 3516 - Emergencies and Disaster Preparedness Plan)

Except in the case of a dire emergency, the Board president or 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. 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. In the case of a dire emergency, the Board president shall give such notice at or near the time he/she notifies the other members of the Board about the meeting. (Government Code 54956.5)

The minutes of the meeting, a list of persons the Board president or 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 place 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 shall give notice in the same manner required for special meetings. (Government Code 54955)

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54954.1 Mailed notices

54954.2 Agenda posting requirements, board actions

54954.3 Opportunity for public to speak

54956 Special meetings; call; notice

54956.5 Emergency meetings

54957.5 Agenda distribution

54961 Prohibition on use of certain facilities

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.160 Effective communications

36.303 Auxiliary aids and services

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84 Ops.Cal.Atty.Gen. 181 (2001)

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The Brown Act: Open Meetings for Legislative Bodies,, California Attorney General's Office, 2002

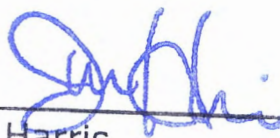
WEB SITES

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


California Attorney General's Office: <http://www.caag.state.ca.us>

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