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# Memo

**To** Board of Education

**From** Shanthi Gonzales, Board Vice President

**Board Meeting Date** September 9, 2020

**Subject** Introduction of New Legislative Matter – Proposed Amendments to BB 9322 (Agenda/Meeting Materials)

**Action** Review, consider, and approved amendments to BB 9322 (Agenda/Meeting Materials)

**Background** Board Bylaw (BB) 9322 (Agenda/Meeting Materials) addresses agenda posting and notice requirements for regular, special, and emergency meetings. It also contains the order of business for regular board meetings, including allocation of time for public comment, as well as the process by which an item, requested by a member of the public to be placed on a Board meeting agenda, is place on a Board meeting agenda.

**Discussion** BB 9322 has not been updated since the move to online meeting and the proposed changes include amendment to do so. For instance, one of the proposed changes is to add the requirement that the agenda of a Board meeting or of a committee meeting conducted exclusively online as permitted by law include easily understandable directions for how to access and observe the meeting as well as make public comment.

BB 9322, in its current form, also does not include a requirement to translate the meeting; another of the proposed changes add a requirement to provide interpreting services in Spanish and Cantonese whenever possible at regular Board meetings.

The proposed changes clarify that it is at the discretion of the Board President to determine when to agendize an item requested by a

member of the public to be placed on a Board meeting agenda. This is consistent with Education Code section 35145.5.

The proposed changes significantly modifies the order of a regular Board meeting agenda. Certain sections are added (Recognitions and Celebrations; Future Engagement Opportunities; Agenda Building & Work Plan Review) and certain sections are removed (Review Oath of Office and Meeting Norms for the Board of Education). Some sections are also reordered. Additionally, public comment on all agenda items (other than public comment for public hearings) is consolidated into a single section rather than permitted separately as part of each item. This is consistent with Education Code section 54954.3.

Lastly, the proposed changes include minor or non-substantive clean-up language that is included whenever any Board Policy or Board Bylaw is amended.

These are the challenges the proposed amendments hope to address:

1. As currently structured, Board meetings consistently go too late and critical topics (e.g., budget reports and the LCAP) do not come up until the Board members are too exhausted to properly attend to them. This gives short shrift to the most important items (e.g., student academics, District's financial health) and does not support the Board in providing better oversight on these topics.
2. The public has to wait too long to make their comments. When the Board meeting agenda has multiple special orders and ceremonial items and long Superintendent reports, public comments on non-agenda items often are not heard until 9:00pm or 9:30pm. Similarly, budget items often do not occur until 11:00pm or 11:30pm. This reality discourages members of the public from attending and participating, especially families with young children and students.
3. The Board needs to better publicize the many ways that members of the public can engage with Board members and staff. Many members of the public do not know about or use committee meetings or other opportunities (e.g., Board member office hours, District working groups, town hall meetings) to learn or to offer their own ideas and perspectives. Board meetings are almost always impacted, which leads to time limits needing to be placed on public comments, which in turn leads to frustration for speakers. Dedicated time to share opportunities to engage will publicize the other ways to

participate, where the public can have more time for interaction with Board members and District staff.

4. Not enough time is spent highlighting the positive things happening in District schools and in the District as a whole. The culture and climate of the District starts with the Board, and it is important to build time into each meeting to highlight what is working.
5. There is a common refrain that members of the public that they do not know what is happening in OUSD. Spending more time reviewing and progress monitoring the Board's annual work plan (as the Superintendent does with her regular reports) would help the Board stay on top of its work. Adding a regular time at each meeting to review the Board's work plan and to preview what is coming up at future meetings will help the Board address these issues.
6. There will be four new board members joining come January, and it is important to make time for their questions. The three to five minutes typically allocated per Board member to ask their questions (and understand the response) and weigh in on an agenda item will not be sufficient.

**Fiscal Impact**

N/A

**Attachment**

Proposed Amendments to BB 9322 (Agenda/Meeting Materials) - REDLINE  
Proposed Amendments to BB 9322 (Agenda/Meeting Materials) - CLEAN

**OAKLAND UNIFIED SCHOOL DISTRICT**  
**Board Bylaw**  
**Board Bylaws**

**BB 9322**  
**Agenda/Meeting Materials**

**Agenda - Posting and Notice Requirements**

The agenda of a regular Board meeting and of a regular committee meeting shall be noticed and posted at minimum seventy-two (72) hours in advance of a meeting. Agendas of a special Board and of a special committee meeting shall be noticed and posted 24-hours in advance of the meeting. Agendas of an emergency meeting of the Board or a committee shall be noticed and posted pursuant to law.

The agenda for a Board meeting and of a committee, ~~whether in open or closed session,~~ shall contain a brief general description of each item of business to be discussed or transacted at the meeting. The brief description shall convey to the public ~~or member (if closed session) or to both~~ the essence of the item to be discussed or transacted. The closed session portion of the agenda for a Board meeting shall be described pursuant to law.

The agenda of a Board meeting or of a committee meeting shall specify the time and location of the meeting and shall be posted in a location that is freely accessible to members of the public. No action shall be taken on any item not appearing on the posted agenda, except as permitted by law.

The ~~Agenda~~ agenda of a Board meeting or of a committee meeting shall specify that an individual should contact the Board Office (510) 879-8199 or [boe@ousd.org](mailto:boe@ousd.org), if he/she requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in a Board Meeting. (Government Code 54954.2)

The agenda of a Board meeting or of a committee meeting conducted exclusively online as permitted by law shall include easily understandable directions for how to access and observe the meeting as well as make public comment.

Agendas for special meetings of the Board or a committee shall conform to the requirements of law.

Agendas for emergency meetings of the Board or a committee shall conform to the requirements of law.

**Suspension of the Agenda Posting Requirement – Regular Meetings**

Additions to the posted agenda of the regular meetings of the Board or of a committee, commonly called "Suspension of the Agenda Posting Requirement" shall only be done pursuant to Government Code Section 54954.2, under any of the following conditions:

- (a) Upon a determination by a majority of the Board or committee that an emergency situation exists pursuant to requirement.
- (b) Upon a determination by a two-thirds vote of the Board or committee, or if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted pursuant to legal requirements.
- (c) The item was posted pursuant to legal requirements for a prior meeting of the Board or committee occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

If the agenda is "suspended" under this requirement, the new subject matter or motion to be considered, following the move and second but before the vote is taken, shall provide the public an opportunity to speak on the subject matter or motion without the necessity of complying with posting requirements.

#### **Suspension of the Agenda Posting Requirement – Special Meeting**

Suspension of the agenda item-posting requirement may not be made at a special meeting of the Board or of a committee.

#### **Suspension of the Agenda Posting Requirement - Emergency**

Suspension of the agenda posting requirement may not be made at an emergency meeting of the Board or of a committee.

#### **Agenda – Order of Business for Regular Board Meetings**

The Board shall conduct business at every regular meeting. The order of business at the regular Board meetings shall be:

- A. Call to Order
- B. Roll Call
- C. President's Statement Disclosing Item(s) To Be Discussed In Closed Session  
Today Closed Session Items (Listed pursuant to law):

- D. Recess to Closed Session
- E. Reconvene to Public Session
- F. Second Roll Call
- G. President's Statement of Reportable Action Taken In Closed Session and the Vote or Abstention of Members Present, If Any.

H. Recognitions and Celebrations (1 min per Board member)

I. Future Engagement Opportunities (1 min per Board member for verbal updates; Board members may also submit written updates)

J. Modifications To Agenda

K. Public Comment on All Agenda Items

~~H. Review Oath of Office and Meeting Norms for the Board of Education~~

~~(cf. 9323 Meeting Conduct)~~

L. Special Orders of the Day. Examples of Special Orders of the Day include (but are not be limited to) adoption of interim and annual budgets and tax measure audit presentations. If a Special Order of the Day is an item on which the Board will vote, the President shall allow for public comment on that item prior to the Board's vote.

~~M. Submittal of Speaker Cards/Modifications To Agenda~~

M. Public Comment on All Non-Agenda Items

O.N. Student Board Members Report

P.O. President's Report

Q.P. Superintendent's Report

R.Q. Comment by Bargaining Units (5 minutes per Bargaining Unit)

~~S. Public Comment On All Items A-N, not to exceed a total of 20 minutes, and any further deliberation by the Board on Items A-N following public comment~~

~~U.R.~~ Adoption of the General Consent Report(s). All consent items funded, at least in part, with Bond funds shall be considered and voted on as part of a separate Bond Measure(s) Consent Report, ~~public comment on all matters on General Consent, not to exceed a total of 20 minutes~~

~~V.~~ ~~Public Comment On All Non-Agenda Items Within the Subject Matter Jurisdiction of the District (20 minutes) — TO BE CALLED FOR A TIME CERTAIN AT 7:30 PM OR AN ANNOUNCEMENT BY THE BOARD CHAIR OF THE UPDATED TIME NO LATER THAN 7:30 PM.~~

~~X.S.~~ Public Hearing(s), public comment taken separately on each public hearing agenda item

~~Y.T.~~ Unfinished Business, ~~public comment taken separately on each unfinished business agenda item~~

~~Z.U.~~ New Business, ~~public comment taken separately on each new business agenda item~~

~~AA.~~ ~~Public Comments On All Non-Agenda Items Within the Subject Matter Jurisdiction of the District (continued if necessary)~~

~~CC.V.~~ Adoption of the Pupil Discipline Consent Report

~~W.~~ Introduction of New Matter

~~DD.X.~~ Board Members Report

~~EE.~~ ~~Introduction of New Matter~~

~~Y.~~ Additional Public Comments On All Agenda and Non-Agenda Items

~~Z.~~ Agenda Building & Work Plan Review

~~GG-AA.~~ Adjournment

Committee agendas may be constructed in a similar fashion.

### **Suspension of the Order of Business**

The order of business may be suspended by the President or a committee chair or with the consent of the quorum of the respective body.

### **~~Adoption of the~~ General Consent Report(s)**

All items appearing on the agenda under "Adoption of the General Consent Report(s)" means that all items appearing on the agenda under this topic are approved in one motion per consent report unless a board member requests that an item be removed and voted on separately or otherwise acted upon. Generally, these items are routine in nature, and are acted upon in one motion to conserve time and permit focus on other-than-routine items on the agenda. An item on ~~the a~~ General Consent ~~Report~~Agenda which a member has requested be removed, shall be removed, without debate for separate consideration and vote or other disposition. All items remaining on the General Consent ~~Agenda~~Report(s), thereafter, shall be adopted in a single motion per consent report.

### **Introduction of New BusinessMatter**

Every Regular Meeting Agenda shall provide for the Introduction of New BusinessMatter. Board members, except a Student Director, desiring to have a motion, resolution, order, or other subject matter scheduled for action by the Board shall announce the subject nature of the intended matter during this item at a regular meeting, provide written language of the specific legislative proposal and supporting documentation for such item and file it with the Superintendent. Or alternatively, the member may file his or her request in the same manner as a member of the public. The President, without objection of the majority, shall assign the subject matter to the appropriate standing or special committee, if appropriate, for consideration of its programmatic, financial and/or other impact or consideration; otherwise, the President, without objection of the majority, shall determine when the subject matter shall be taken up by the Board.

### **Public Requested Items on the Agenda**

Members of the public may request, in writing, that specific have matters directly related to ~~S~~ School District business be placed on the agenda of ~~any a~~ regular meeting of the Board. The Board President shall determine when to place the requested item on a Board agenda and whether to do so as a presentation, discussion, or action item., provided a written request including the language of the specific legislative proposal and supporting documentation for such item is filed with the Superintendent at a regular meeting during Introduction of New Business or filed in the Office of the Secretary/Superintendent no later than 4:30 p.m. of published due date for Agenda Item submissions for a designated Regular Meeting. Such request shall be classified and handled at the current or next regular meeting as an Introduction of New Matter.

~~Any item placed on the Board agenda by a member of the public will be for presentation and discussion only. The Board retains discretion whether or not to include such item for Board action on the agenda of any subsequent Board meeting. In making such determination, the Board may permit adequate time for study, analysis and response by its committees and/or the Superintendent. The Board may also remove any such item from the agenda when it appears that no member of the public present at the Board meeting wishes to discuss the matter.~~



If the request to place a matter on the Board's agenda pertains to a topic more appropriately discussed in Closed Session, the President or the Board may so advise the person requesting inclusion of such matter on the public meeting agenda. The Board retains discretion to determine those subjects, which it will consider in Closed Session pursuant to the requirements of law.

### **Agenda/Meeting Materials**

The President of the Board and the Superintendent of Schools shall confer regarding the scheduling of Agenda items. Agenda items shall be accepted at the direction of the President of the Board or a majority of the Board.

All resolutions of the Board shall be numbered, the subject matter stated in the title and specific references made in the minutes.

**Final p**Public meeting materials given to members of the Governing Board at the time a meeting agenda is posted shall simultaneously be given to members of the public via the Board's Official web site. Members of the public who lack web access may be provided agenda background materials at cost.

If a **final** document is distributed to the Board less than 72 hours prior to a meeting, the Superintendent or designee shall make the document available for public inspection at the time the document is distributed to a majority of the Board provided that the document is a public record under the Public Records Act and relates to an agenda item for an open session of a regular Board meeting. The Superintendent or designee may also post the document on the **De**istrict's web-site in a position and manner that makes it clear that the document relates to an agenda item for an upcoming meeting. (Government Code 54957.5)

Any documents prepared by the **d**istrict or the Board and distributed during a public meeting shall be made available for public inspection at the meeting. Any documents prepared by another person shall be made available for public inspection after the meeting. These requirements shall not apply to a document that is exempt from public disclosure under the Public Records Act. (Government Code 54957.5)

Upon request, the Secretary/Superintendent or designee shall make the agenda, agenda packet, and/or any writings distributed at the meeting available in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act. (Government Code 54954.1)

Any request for mailed copies of agendas or agenda packets shall be in writing and shall be valid for the calendar year in which it is filed. Written requests must be renewed following January 1 of each year. (Government Code 54954.1)

Persons requesting mailing of the agenda or agenda packet shall pay an annual fee, as determined by the Secretary/Superintendent or designee, not to exceed the cost of providing the service.

### Interpreting

All regular meetings of the Board shall include interpreting services in Spanish and Cantonese whenever possible. If no member of the public seeks interpreting services for the first three hours of the meeting or through Item S, Public Hearings, whichever is later, then no interpreting services shall be available for the remainder of the meeting unless otherwise ordered by the President or a majority of the Board.

It is the intent of the Board that public comments made in languages other than English be interpreted so that all Board members and members of the public can understand the perspectives being shared.

#### *Legal Reference:*

##### *EDUCATION CODE*

*35144 Special meetings*

*35145 Public meetings*

*35145.5 Right of public to place matters on agenda*

##### *GOVERNMENT CODE*

*53635.7 Separate item of business*

*54954.1 Mailed agenda of meeting*

*54954.2 Agenda posting requirements; board actions*

*54954.3 Opportunity for public to address legislative body*

*54954.5 Closed session item descriptions*

*54956.5 Emergency meetings*

*54957.5 Public records*

##### *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*

10/27/04; 8/29/07A; 4/10/13A; 01/04/16A; 1/27/16A; 8/9/17A, 12/12/18A; 5/8/19A;

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commonly called "Suspension of the Agenda Posting Requirement" shall only be done pursuant to Government Code Section 54954.2, under any of the following conditions:

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- (b) Upon a determination by a two-thirds vote of the Board or committee, or if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose subsequent to the agenda being posted pursuant to legal requirements.
- (c) The item was posted pursuant to legal requirements for a prior meeting of the Board or committee occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

If the agenda is "suspended" under this requirement, the new subject matter or motion to be considered, following the move and second but before the vote is taken, shall provide the public an opportunity to speak on the subject matter or motion without the necessity of complying with posting requirements.

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- F. Second Roll Call
- G. President's Statement of Reportable Action Taken In Closed Session and the Vote or Abstention of Members Present, If Any.
- H. Recognitions and Celebrations (1 min per Board member)
- I. Future Engagement Opportunities (1 min per Board member for verbal updates; Board members may also submit written updates)
- J. Modifications To Agenda
- K. Public Comment on All Agenda Items
- L. Special Orders of the Day. Examples of Special Orders of the Day include (but are not be limited to) adoption of interim and annual budgets and tax measure audit presentations.
- M. Public Comment on All Non-Agenda Items
- N. Student Board Members Report
- O. President's Report
- P. Superintendent's Report
- Q. Comment by Bargaining Units (5 minutes per Bargaining Unit)
- R. Adoption of the General Consent Report(s). All consent items funded, at least in part, with Bond funds shall be considered and voted on as part of a separate Bond Measure(s) Consent Report
- S. Public Hearing(s), public comment taken separately on each public hearing agenda item
- T. Unfinished Business
- U. New Business
- V. Adoption of the Pupil Discipline Consent Report

- W. Introduction of New Matter
- X. Board Members Report
- Y. Additional Public Comments On All Agenda and Non-Agenda Items
- Z. Agenda Building & Work Plan Review
- AA. Adjournment

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### **Suspension of the Order of Business**

The order of business may be suspended by the President or a committee chair or with the consent of the quorum of the respective body.

### **General Consent Report(s)**

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### **Introduction of New Matter**

Every Regular Meeting Agenda shall provide for the Introduction of New Matter. Board members, except a Student Director, desiring to have a motion, resolution, order, or other subject matter scheduled for action by the Board shall announce the subject nature of the intended matter during this item, provide written language of the specific legislative proposal and supporting documentation for such item and file it with the Superintendent. Or alternatively, the member may file his or her request in the same manner as a member of the public. The President, without objection of the majority, shall assign the subject matter to the appropriate standing or special committee, if appropriate, for consideration of its programmatic, financial and/or other impact or consideration; otherwise, the President, without objection of the majority, shall determine when the subject matter shall be taken up by the Board.

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