

# **ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT**

## **BOARD OF TRUSTEES**



**Regular Board Meeting  
September 12, 2019  
Book 1 of 2  
(Items 5.01-14.02 )**



**Thursday, September 12, 2019  
REGULAR BOARD MEETING AGENDA**

**Type: REGULAR BOARD MEETING AGENDA**

**Time: 5:30 p.m.**

**Code: Regular #04-19/20**

**Location: ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT, 2930 Gay Avenue, San Jose, CA 95127; Board Room.**

**ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT, 2930 Gay Avenue, San Jose, CA 95127; Board Room.**

**In compliance with the Americans with Disabilities Act, if you need special assistance in order to participate in the public meeting of the Board of Trustees, please contact the Office of the Superintendent at (408) 928-6822. Notification 72 hours prior to the meeting will enable the District to make reasonable accommodations.**

**1. OPEN SESSION - CALL TO ORDER AND ROLL CALL**

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1.01 CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE -- BOARD PRESIDENT LINDA CHAVEZ.

1.02 ANNOUNCEMENT AND PUBLIC COMMENTS REGARDING ITEMS TO BE DISCUSSED IN CLOSED SESSION (Government Code Section 54957.7).

1.03 RECESS TO CLOSED SESSION: The Board will recess to Closed Session at approximately 5:35 p.m. Open Session will resume approximately 2 hours after the start of Closed Session.

**2. SPECIAL PRESENTATION/RECOGNITION**

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2.01 SPECIAL RECOGNITION: Elementary Spelling Bee Adelante I - Student Recognition.

**3. CLOSED SESSION**

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3.01 CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION (Paragraph (1) of subdivision (d) of Section 54956.9) Name of the cases: Alum Rock Union Elementary School District v. Del Terra Real Estate Services, Inc., et al., Santa Clara County Superior Court case no. 19CV354180; and, in the matter of Leal & Trejo, APC Claim for Damages and Demand for Arbitration.

3.02 CONFERENCE WITH LEGAL COUNSEL-- ANTICIPATED LITIGATION Significant exposure to Litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: Four (4) potential cases.

3.03 CONFERENCE WITH LABOR NEGOTIATORS, EMPLOYEE ORGANIZATION: AREA (Alum Rock Educator's Association); District Negotiators: (1) Hilaria Bauer, Ph.D., Superintendent; (2) Carlos Moran, Assistant Superintendent, Human Resources and (3) Jess Serna, Lead Negotiator.

3.04 CONFERENCE WITH LABOR NEGOTIATORS, EMPLOYEE ORGANIZATION: CSEA (California School Employees Association); District Negotiators: (1) Hilaria Bauer, Ph.D., Superintendent; (2) Carlos Moran, Assistant Superintendent, Human Resources and (3) Jess Serna, Lead Negotiator.

3.05 CONFERENCE WITH LABOR NEGOTIATORS, EMPLOYEE ORGANIZATION: TEAMSTERS; District Negotiators: (1) Hilaria Bauer, Ph.D., Superintendent; (2) Carlos Moran, Assistant Superintendent, Human Resources and (3) Jess Serna, Lead Negotiator.

3.06 Public Employee Performance Evaluation Title: Superintendent.

**4. RECONVENE TO OPEN SESSION - DISTRICT OFFICE BOARD ROOM**

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4.01 CALL TO ORDER / ROLL CALL --- BOARD PRESIDENT LINDA CHAVEZ.

4.02 REPORT OF ACTION TAKEN IN CLOSED SESSION.

4.03 DISCUSSION AND/OR MODIFICATION(S) OF THE AGENDA. The Board may change the order of business including, but not limited to, an announcement that an agenda item will be considered out of order, that consideration of an item has been withdrawn, postponed, rescheduled or removed from the Consent Calendar for separate discussion and possible action.

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## **5. PUBLIC HEARING**

5.01 PUBLIC HEARING: GANN Limit Calculations.

5.02 PUBLIC HEARING: Regarding Sufficiency of Instructional Materials.

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## **6. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD**

6.01 "REQUESTS TO ADDRESS THE BOARD" provides members of the public an opportunity to speak to the Board about any matter under the jurisdiction of the Board and not otherwise on the agenda. Those who wish to address specific agenda items will have an opportunity to do so when that agenda item is introduced and presented during this meeting. Individuals wishing to speak are requested to proceed to the podium. There is a three-minute time limit for each speaker. The Board will automatically refer to staff any formal written requests that are brought before them at this time. Written matters may be placed on a future meeting.

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## **7. COMMENTS AND COMMUNICATION**

7.01 Teamsters.

7.02 California School Employee's Association (CSEA).

7.03 Alum Rock Administrator's Association (ARAA).

7.04 Alum Rock Educator's Association (AREA).

7.05 Superintendent.

7.06 Board of Trustees/Communications/Comments.

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## **8. CONTRACTS OVER \$100,000-- BOARD DISCUSSION AND/OR ACTION**

8.01 Discussion/Action: Approve Contract with Accountable Healthcare Staffing for Occupational therapy services for students with this requirement in their IEP's, Special Education, \$100,800.00

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## **9. SUPERINTENDENT / BOARD BUSINESS**

9.01 DISCUSSION/ACTION: Second Reading of Amended Board Policy 1312.3 And Administrative Regulations-Uniform Complaint Procedures

9.02 CONSIDERATION/DISCUSSION: Board Bylaws 9000 series, First Reading --Board Bylaws.

9.03 CONSIDERATION/DISCUSSION: Board Policy 1114, First Reading -- Community Relations

9.04 CONSIDERATION/DISCUSSION: Board Policy 4040 Exhibit, First Reading -- Personnel

9.05 CONSIDERATION/DISCUSSION: Board Policy 4040 , First Reading --Personnel.

9.06 DISCUSSION/ACTION: Approve Board Members participation in the CSBA Masters Governance Training to address training recommended by the State Audit Report.

9.07 DISCUSSION/ACTION: Consideration of the Stipulation and order by the Fair Political Practices Commission in the matter of Dolores Marquez for School Board 2016, Dolores Marquez for Santa Clara County Board of Education 2014, Dolores Marquez, and Anjelica Frausto; FPPC No. 17/106, on August 15, 2019, and the findings therein, and applicable Board Bylaws, and options for Board action and recourse.

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## **10. INSTRUCTIONAL SERVICES**

10.01 2019 California Assessment of Student Performance and Progress(CAASPP) and English Language Proficiency Assessments for California (ELPAC)

10.02 Resolution No. 11-19/20, Regarding Sufficiency or Insufficiency of Instructional Materials

10.03 PRESENTATION EXTENDED YEAR PROGRAMS - SUMMER 2019

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**11. BUSINESS SERVICES- BOARD DISCUSSION AND/OR ACTION**

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11.01 INFORMATION/DISCUSSION: Resolution No. 20 18-19 Update Agreement Between the Governing Board of the Alum Rock Union Elementary School District and the Santa Clara County Superintendent of Schools Regarding Necessary Revisions for Compliance with Statutory Budget Requirements in Conjunction with the Local Control Accountability Plan (Education Code 42127 and 52070).

11.02 INFORMATION/ACTION: Unaudited Actual Financial Reports for 2018 – 2019 Report to the Board on Unaudited Actuals as Required by Law.

11.03 Application for Exemption from the Required Expenditures for Classroom Teachers’ Salaries.

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**12. BONDS**

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12.01 INFORMATION/DISCUSSION/ACTION: Citizen’s Bond Oversight Committee (CBOC) Appointment.

12.02 PRESENTATION AND INFORMATION: Citizen’s Bond Oversight Committee Report.

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**13. HUMAN RESOURCES**

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13.01 INFORMATION Regarding Resignations.

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**14. CONSENT CALENDAR- BOARD DISCUSSION AND/OR ACTION**

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14.01 ACTION: Approval of Minutes for the following meeting: (1) June 27, 2019, Regular Board Meeting.

14.02 Acceptance of Donations.

14.03 Approval of Fundraising Activities.

14.04 Acceptance of Vendor & Payroll Warrants.

14.05 Approve the Santa Clara County Treasury Investment Portfolio Status.

14.06 Resolution No. 02-19/20: Creating a College Culture

14.07 Resolution No. 03-19/20; Hispanic Heritage Month - September 15 - October 15, 2019

14.08 Resolution No. 04-19/20; Character Education Month - October, 2019

14.09 Resolution No. 05-19/20; Week of the School Administrator - October 13-19, 2019

14.10 Resolution No. 07-19/20; Support for California Schools and Local Communities Funding Act.

14.11 Resolution No. 06–19/20 GANN Limit Calculations.

14.12 School-sponsored Field Trip List

14.13 Approve/Ratify Notices of Employment and Changes of Status/September 12, 2019/Human Resources Department

14.14 Approve Contracts for Professional Services Firms

14.15 Approve Memorandum(s) of Understanding(s).

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**15. FUTURE BOARD AGENDA REQUESTS**

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15.01 Requests from Board of Trustees and/or from the Public.

**16. ADJOURNMENT**

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16.01 President adjourns the meeting.

**17. NEXT MEETING(S)**

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17.01 October 10, 2019 (2019-20 School Year).

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue, San Jose, CA 95127

5.01

Office of Superintendent of Schools


**ITEM REQUIRING ATTENTION - BOARD OF TRUSTEES**

To the Board of Trustees:

**Subject:**                    **Public Hearing:**  
                                 **GANN Limit Calculations**

**Staff Analysis:**    Public Hearing to review and consider the proposed GANN Limit Calculations.

**\*PUBLIC HEARING\***

Submitted by: Kolvira Chheng  Title: Assistant Superintendent, Business Services

To the Board of Trustees:

Meeting:            September 12, 2019  
                         Regular Board Meeting

**Public Hearing**

5.01

Agenda Placement

  
\_\_\_\_\_  
Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

5.02

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue, San Jose, CA 95127

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION - BOARD OF EDUCATION



To the Board of Trustees:

Date: August 26, 2019

**Subject:** Public Hearing Regarding Sufficiency of Instructional Materials

**Staff Analysis:** Education Code Section 60119 requires an annual Public Hearing and a resolution adopted in order to obtain assurance from the Governing Board that there are sufficient textbooks and instructional materials.

**\*PUBLIC HEARING\***

Submitted by: Sandra Garcia  Title: Director of State and Federal Programs  
Approved by: Rene Sanchez  Title: Assistant Superintendent of Instructional Services

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

**\*PUBLIC HEARING\***

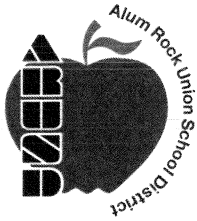
5.02  
Agenda Placement

  
Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_



# ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

2930 Gay Avenue, San José, CA 95127 · Phone: 408-928-6800 · Fax: 408-928-6416 · [www.arusd.org](http://www.arusd.org)

## **PUBLIC HEARING ANNOUNCEMENT**

Issued on August 27, 2019

An annual Public Hearing is required and a resolution adopted in order to obtain assurances from the Governing Board that the school district will comply with Education Code Section 60119, which states that the governing boards of school districts which receive funds for the instructional materials from any state source are subject to the requirements of this section. The requirements include the following:

1. The Governing Board will hold a public hearing
2. If the Governing Board determines that there are insufficient textbooks of instructional materials, the Governing Board shall provide information to the public setting for the reason that each pupil does not have sufficient textbooks or instructional materials

**Public Hearing will be held on**

**September 12, 2019**

**5:30 p.m.**

**Alum Rock Union Elementary School District  
Board Room**

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Hilaria Bauer, Ph.D., Superintendent

Board of Trustees: Linda Chavez, President · Ernesto Bejarano, Vice-President  
Dolores Márquez-Frausto, Clerk · Andrés Quintero, Member · Corina Herrera-Loera, Member

# Core Curriculum Matrix 2019-20

(Special Education students will receive the core curriculum per Board policy.)

	ading / Language Arts	English Language Development	Mathematics	History /Social Science	Science
Elementary School	<b>K</b> Benchmark: Advance Benchmark: Adelante Voyager Sopris -Read Well	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>1</b> Benchmark: Advance Benchmark: Adelante Voyager Sopris -Read Well	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>2</b> Benchmark: Advance Benchmark: Adelante Steps to Advance Voyager Sopris -Read Well	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>3</b> Benchmark: Advance Steps to Advance Benchmark: Adelante	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>4</b> Benchmark: Advance Steps to Advance Benchmark: Adelante	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>5</b> Benchmark: Advance Steps to Advance Benchmark: Adelante	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>6</b> McGraw Hill-Study Sync Houghton Mifflin-English 3D Voyager Sopris - Language Live	Houghton Mifflin-English 3D McGraw Hill-Study Sync	CPM (College Preparatory Mathematics) CC1	TCI History Alive: The Ancient World McGraw Hill-IMPACTO	Accelerate Learning: STEMscopes
	<b>7</b> McGraw Hill-Study Sync Houghton Mifflin-English 3D Voyager Sopris - Language Live	Houghton Mifflin-English 3D McGraw Hill-Study Sync	CPM (College Preparatory Mathematics) CC2	TCI History Alive: The Medieval World and Beyond McGraw Hill-IMPACTO	Accelerate Learning: STEMscopes
Middle School	<b>8</b> McGraw Hill-Study Sync Houghton Mifflin-English 3D Voyager Sopris - Language Live	Houghton Mifflin-English 3D McGraw Hill-Study Sync	CPM (College Preparatory Mathematics) CC3 Accelerated H S Course 1 Math Vision Project	TCI History Alive: The United States Through Industrialism McGraw Hill-IMPACTO	Accelerate Learning: STEMscopes

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue  
San José, CA 95127

8.01

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION – BOARD OF TRUSTEES**

To the Board of Trustees:

Date: August 28, 2019

Subject: Accountable Healthcare Staffing

Staff Analysis: The proposed contract is for occupational therapy services with Accountable Healthcare Staffing. Occupational therapist services students at various sites with occupational therapy identified needs as per the students' IEP. Therapist will provide services to all special education students in need of required educationally-related occupational therapy.

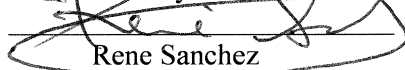
Recommendation: Staff recommends the Board approve the contract with Accountable Healthcare Staffing for the 2019-2020 school year and the 2020 Extended School Year (ESY). The cost of this contract is \$100,800.

Submitted by:

  
Anthony Colonna

Title: Director, Special Education

Approved by:

  
Rene Sanchez

Title: Assistant Superintendent, Instructional Services

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

Recommended Approval

8.01

Agenda Placement

  
Dr. Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved \_\_\_\_\_ Not Approved \_\_\_\_\_ Tabled \_\_\_\_\_





# ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

## INDEPENDENT CONTRACTOR AGREEMENT

TO: DIVISION OF BUSINESS SERVICES CONTRACT NO. \_\_\_\_\_  
 FROM: Special Education (School/Dept.) VENDOR NO. \_\_\_\_\_  
 PROGRAM MANAGER: Anthony Colonna

1. **PARTIES:** The Alum Rock Union Elementary School District (ARUESD), whose address is 2930 Gay Avenue, San Jose, CA 95127, and the following named Contractor:

Name of Individual/Company: Accountable Healthcare Staffing  
 Address: 999 Yamato Rd. #210 City: Boca Raton State: FL Zip: 33431  
 Phone: ( 888 ) 853-0979 Email Address: schools@ahcstaff.com  
 SSN: \_\_\_\_\_ or Fed I.D. #: \_\_\_\_\_

**Mutually agree and promise as follows:**

2. **CONTRACT TERM:** start date September 13, 2019 end date July 31, 2020  
 3. **CONTRACTOR'S OBLIGATION:** In consideration of the compensation, the Contractor shall provide the following services, materials, products, and/or reports:

A. Description of services to be provided and expected results (e.g. services, materials, products and/or reports). Attach proposals, exhibits and other documentation if necessary:

Occupational therapy services for students with this requirement in their IEP for the

2019-20 school year including the extended school year (ESY). Occupational therapist  
services students at various sites with occupational therapy identified needs as per the  
students' IEP.

4. **COMPENSATION:** In consideration of Contractor's provision of services as described above, and subject to the payment provisions expressed herein, ARUESD shall pay Contractor upon Contractor's submission of a properly documented demand for payment (Invoice) which shall be submitted not later than 30 days from the end of the month in which the contract services were rendered, and upon approval of such demand by ARUESD as follows: (Check either a, b, or c)

☒ a. **Fee Rate:** \$ 80/hr per hour/day of service as may be requested by ARUESD, not to exceed a maximum of \_\_\_\_\_ hours/days of services. ARUESD may, but is not obligated to, request the maximum number of hours/days of service.

\_\_\_\_\_ b. **Other:** \$ \_\_\_\_\_ (describe rate agreement) \_\_\_\_\_

5. **BUDGET CODE:**

FUND	DEPARTMENT	PROG/COUNTER	OBJECT	\$ AMOUNT	PROG. TITLE	BUS OFC
08	380	1820-H	5815	100,800		

6. **TERMINATION:** This contract may be terminated by ARUESD at its sole discretion, upon 30-day advance written notice thereof to the Contractor, or canceled immediately by written mutual consent.
7. **INDEPENDENT CONTRACTOR STATUS:** This contract is by and between two independent contractors and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association. In executing this agreement, the Contractor certifies that no one who has or who will have any financial interest under this agreement is an officer or employee of ARUESD. Additionally, as the Contractor is not an ARUESD employee, ARUESD is not responsible for obtaining workers' compensation insurance coverage for the Contractor.
8. **COMPLETENESS OF AGREEMENT:** This agreement constitutes the entire understanding of the parties and any change or modification shall be in writing and signed by both parties hereto.

**CONTRACTS MUST BE SUBMITTED 30 DAYS PRIOR TO BOARD MEETING**

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue  
San José, CA 95127

9.01

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION – BOARD OF EDUCATION**

To the Board of Trustees:

Subject: **SECOND READING OF AMENDED BOARD POLICY 1312.3  
AND ADMINISTRATIVE REGULATIONS -UNIFORM COMPLAINT PROCEDURES.**

Staff Analysis: Board Policy 1312.3 needs to be updated to reflect current legal requirements.

**DISCUSSION/ACTION**

Submitted by: Hilaria Bauer, Ph.D. Title: Superintendent

To the Board of Trustees:

Meeting:

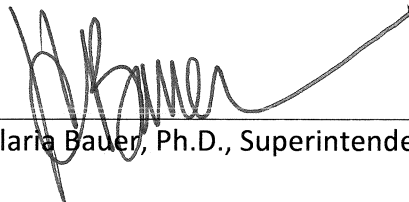
September 12, 2019

Regular Board Meeting

**Discussion/Action**

9.01

Agenda Placement

  
Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

# **Alum Rock Union ESD**

## **Administrative Regulation**

### **Uniform Complaint Procedures**

AR 1312.3

#### **Community Relations**

Except as the Governing Board may otherwise specifically provide in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.2 - Complaints Concerning Instructional Materials)  
(cf. 1312.4 - Williams Uniform Complaint Procedures)  
(cf. 4030 - Nondiscrimination in Employment)

#### **Compliance Officers**

The district designates the individual(s), position(s), or unit(s) identified below as responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). The compliance officer(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

(cf. 5145.3 - Nondiscrimination/Harassment)  
(cf. 5145.7 - Sexual Harassment)

#### **Director of Human Resources**

2930 Gay Avenue  
San Jose, CA 95127  
(408) 928-6835

#### **Superintendent**

2930 Gay Avenue  
San Jose, CA 95127  
(408) 928-6805

#### **Director of Special Education**

2930 Gay Avenue  
San Jose, CA 95127  
(408) 928-6950

Director of Student Services  
2930 Gay Avenue  
San Jose, CA 95127  
(408) 928-6945

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 4331 - Staff Development),  
(cf. 9124 - Attorney)

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

#### Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

In addition, the Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians of district students, district advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

(cf. 0420 - School Plans/Site Councils)  
(cf. 1220 - Citizen Advisory Committees)  
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)  
(cf. 5145.6 - Parental Notifications)

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group and all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy

2. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint

(cf. 0460 - Local Control and Accountability Plan)  
(cf. 3260 - Fees and Charges)

3. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities

4. A statement that a complaint regarding student fees must be filed no later than one year from the date the alleged violation occurred

5. A statement that the district will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the district, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process

(cf. 6173 - Education for Homeless Children)  
(cf. 6173.1 - Education for Foster Youth)  
(cf. 6173.2 - Education of Children of Military Families)  
(cf. 6173.3 - Education for Juvenile Court School Students)  
(cf. 6175 - Migrant Education Program)

6. Identification of the responsible staff member(s), position(s), or unit(s) designated to receive complaints

7. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant

8. A statement that the complainant has a right to appeal the district's decision to CDE by filing a written appeal, including a copy of the original complaint and the district's decision, within 15 days of receiving the district's decision
9. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable
10. A statement that copies of the district's UCP are available free of charge

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the district web site and may be provided through district-supported social media, if available.

(cf. 1113 - District and School Web Sites)  
(cf. 1114 - District-Sponsored Social Media)

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

#### Filing of Complaints

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist in the filing of the complaint. (5 CCR 4600)

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy (item #1 of the section "Complaints Subject to UCP") may be filed by any individual, public agency, or organization. (5 CCR 4630)
2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if

the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee. However, any such complaint shall be filed no later than one year from the date the alleged violation occurred. (Education Code 49013, 52075; 5 CCR 4630)

3. A complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may be filed only by persons who allege that they have personally suffered unlawful discrimination or who believe that an individual or any specific class of individuals has been subjected to unlawful discrimination. The complaint shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

4. When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

5. When the complainant of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) or the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

#### Mediation

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

### Investigation of Complaint

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Similarly, a respondent's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a



remedy in favor of the complainant. (5 CCR 4631)

#### Timeline for Final Decision

Unless extended by written agreement with the complainant, a final decision shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint. Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Final Written Decision" below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant, shall be sent the district's final written decision, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

#### Final Written Decision

For all complaints, the district's final written decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered. In reaching a factual determination, the following factors may be taken into account:
  - a. Statements made by any witnesses
  - b. The relative credibility of the individuals involved
  - c. How the complaining individual reacted to the incident
  - d. Any documentary or other evidence relating to the alleged conduct
  - e. Past instances of similar conduct by any alleged offenders

- f. Past false allegations made by the complainant
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition

For complaints of retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the disposition of the complaint shall include a determination for each allegation as to whether retaliation or unlawful discrimination has occurred.

The determination of whether a hostile environment exists may involve consideration of the following:

- a. The manner in which the misconduct affected one or more students' education
  - b. The type, frequency, and duration of the misconduct
  - c. The relationship between the alleged victim(s) and offender(s)
  - d. The number of persons engaged in the conduct and at whom the conduct was directed
  - e. The size of the school, location of the incidents, and context in which they occurred
  - f. Other incidents at the school involving different individuals
5. Corrective action(s), including any actions that have been taken or will be taken to address the allegations in the complaint and including, with respect to a student fees complaint, a remedy that comports with Education Code 49013 and 5 CCR 4600

For complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the decision may, as required by law, include:

- a. The corrective actions imposed on the respondent
  - b. Individual remedies offered or provided to the complainant or another person who was the subject of the complaint, but this information should not be shared with the respondent.
  - c. Systemic measures the school has taken to eliminate a hostile environment and prevent recurrence
6. Notice of the complainant's and respondent's right to appeal the district's decision to CDE within 15 calendar days, and procedures to be followed for initiating such an appeal

The decision may also include follow-up procedures to prevent recurrence or retaliation and for

reporting any subsequent problems.

In consultation with district legal counsel, information about the relevant part of a decision may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the decision or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the district's decision to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved is enrolled in a school at which 15 percent or more of the students speak a single primary language other than English, then the decision shall also be translated into that language pursuant to Education Code 48985. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the decision shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at [www.ed.gov/ocr](http://www.ed.gov/ocr) within 180 days of the alleged discrimination.

#### Corrective Actions

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

(cf. 5137 - Positive School Climate)

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling

(cf. 6164.2 - Guidance/Counseling Services)

2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team

(cf. 6164.5 - Student Success Teams)

6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

(cf. 6145 - Extracurricular and Cocurricular Activities)

7. Disciplinary action, such as suspension or expulsion, as permitted by law

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), that the district does not tolerate it, and how to report and respond to it.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes for students in elementary schools, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51223, 52075)

For complaints alleging noncompliance with the laws regarding student fees, the district shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

#### Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's final written decision on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 15 calendar days of receiving the district's decision. (5 CCR 4632)

The complainant shall specify the basis for the appeal of the decision and how the facts of the district's decision are incorrect and/or the law has been misapplied. The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's decision in that complaint. (5 CCR 4632)

When a respondent in any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) is dissatisfied with the district's final written decision, the respondent, in the same manner as the complainant, may file an appeal with CDE.

Upon notification by CDE that the district's decision has been appealed, the Superintendent or designee shall forward the following documents to CDE: (5 CCR 4633)

1. A copy of the original complaint

2. A copy of the written decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of the district's UCP
7. Other relevant information requested by CDE

Regulation ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
approved: July 2, 2013 San Jose, California  
Revised: September 12, 2019

# **Alum Rock Union ESD**

## **Board Policy**

### **Uniform Complaint Procedures**

BP 1312.3

#### **Community Relations**

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

#### **Complaints Subject to UCP**

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve the following complaints:

1. Any complaint alleging district violation of applicable state or federal laws or regulations governing any program subject to the UCP which is offered by the district, including After School Education and Safety programs; bilingual education; child nutrition programs; compensatory education; school safety plans; special education programs; California State Preschool Programs; and any other district-implemented state categorical program that is not funded through the local control funding formula pursuant to Education Code 64000

(cf. 3553 - Free and Reduced Price Meals)  
(cf. 3555 - Nutrition Program Compliance)  
(cf. 5148.2 - Before/After School Programs)  
(cf. 5148.3 - Preschool/Early Childhood Education)  
(cf. 6159 - Individualized Education Program)  
(cf. 6171 - Title I Programs)  
(cf. 6174 - Education for English Learners)

2. Any complaint, by a student, employee, or other person participating in a district program or activity, alleging the occurrence of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) in district programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on the person's association with a person or group with one or more of these

actual or perceived characteristics (5 CCR 4610)

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

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

3. Any complaint alleging district noncompliance with the requirement to provide reasonable accommodation to a lactating student on school campus to express breast milk, breastfeed an infant child, or address other breastfeeding-related needs of the student (Education Code 222)

(cf. 5146 - Married/Pregnant/Parenting Students)

4. Any complaint alleging district noncompliance with requirements to provide a pregnant or parenting student the accommodations specified in Education Code 46015, including those related to the provision of parental leave, right of return to the school of previous enrollment or to an alternative education program, if desired, and possible enrollment in school for a fifth year of instruction to enable the student to complete state and Board-imposed graduation requirements (Education Code 46015)

5. Any complaint alleging district noncompliance with the prohibition against requiring students to pay fees, deposits, or other charges for participation in educational activities (5 CCR 4610)

(cf. 3260 - Fees and Charges)

(cf. 3320 - Claims and Actions Against the District)

6. Any complaint alleging district noncompliance with applicable requirements of Education Code 52060-52077 related to the implementation of the local control and accountability plan, including the development of a local control funding formula budget overview for parents/guardians (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3100 - Budget)

7. Any complaint alleging noncompliance with requirements related to the development of a school plan for student achievement or the establishment of a school site council, as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64000-64001, 65000-65001)

(cf. 0420 - School Plans/Site Councils)

8. Any complaint, by or on behalf of a student who is a foster youth as defined in Education Code 51225.2, alleging district noncompliance with any requirement applicable to the student regarding placement decisions; the responsibilities of the district's educational liaison to the student; the award of credit for coursework satisfactorily completed in another school, district, or



country; school or records transfer; or the grant of an exemption from Board-imposed graduation requirements (Education Code 48853, 48853.5, 49069.5, 51225.1, 51225.2)

(cf. 6173.1 - Education for Foster Youth)

9. Any complaint alleging district noncompliance with the physical education instructional minutes requirement for students in elementary school (Education Code 51210, 51223)

(cf. 6142.7 - Physical Education and Activity)

10. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy

11. Any other complaint as specified in a district policy

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process to reach a resolution to the complaint that is acceptable to all parties. ADR such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint if different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5125 - Student Records)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

When an allegation that is not subject to UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

(cf. 3580 - District Records)

#### Non-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be referred to the specified agency: (5 CCR 4611)

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division and the appropriate law enforcement agency.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services and shall, for licensing-exempt facilities, be referred to the appropriate Child Development regional administrator.

3. Any complaint alleging fraud shall be referred to the Legal, Audits and Compliance Branch of the California Department of Education.

Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified in AR 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.

Any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, teacher vacancies and misassignments, or health and safety violations in any license-exempt California State Preschool Program shall be investigated and resolved in accordance with the procedures in AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 8235.5, 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

#### Legal Reference:

##### EDUCATION CODE

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32280-32289 School safety plan, uniform complaint procedures

33380-33384 California Indian Education Centers  
35186 Williams uniform complaint procedures  
44500-44508 California Peer Assistance and Review Program for Teachers  
46015 Parental leave for students  
48853-48853.5 Foster youth  
48985 Notices in language other than English  
49010-49014 Student fees  
49060-49079 Student records, especially:  
49069.5 Records of foster youth  
49490-49590 Child nutrition programs  
49701 Interstate Compact on Educational Opportunity for Military Children  
51210 Courses of study grades 1-6  
51223 Physical education, elementary schools  
51225.1-51225.2 Foster youth, homeless children, former juvenile court school students, military-connected students, migrant students, and newly arrived immigrant students; course credits; graduation requirements  
51226-51226.1 Career technical education  
51228.1-51228.3 Course periods without educational content  
52060-52077 Local control and accountability plan, especially:  
52075 Complaint for lack of compliance with local control and accountability plan requirements  
52160-52178 Bilingual education programs  
52300-52462 Career technical education  
52500-52616.24 Adult schools  
54000-54029 Economic Impact Aid  
54400-54425 Compensatory education programs  
54440-54445 Migrant education  
54460-54529 Compensatory education programs  
56000-56865 Special education programs  
59000-59300 Special schools and centers  
64000-64001 Consolidated application process; school plan for student achievement  
65000-65001 School site councils

#### GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state  
12900-12996 Fair Employment and Housing Act

#### HEALTH AND SAFETY CODE

1596.792 California Child Day Care Act; general provisions and definitions  
1596.7925 California Child Day Care Act; health and safety regulations  
104420 Tobacco-Use Prevention Education

#### PENAL CODE

422.55 Hate crime; definition  
422.6 Interference with constitutional right or privilege

#### CODE OF REGULATIONS, TITLE 2

11023 Harassment and discrimination prevention and correction

#### CODE OF REGULATIONS, TITLE 5

3080 Applicability of uniform complaint procedures to complaints regarding students with

disabilities

4600-4670 Uniform complaint procedures

4680-4687 Williams uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1221 Application of laws

1232g Family Educational Rights and Privacy Act

1681-1688 Title IX of the Education Amendments of 1972

6301-6576 Title I Improving the Academic Achievement of the Disadvantaged

6801-7014 Title III language instruction for limited English proficient and immigrant students

UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

6101-6107 Age Discrimination Act of 1975

12101-12213 Title II equal opportunity for individuals with disabilities

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy Act

100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

110.25 Notification of nondiscrimination on the basis of age

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample UCP Board Policies and Procedures

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter, September 22, 2017

Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

Dear Colleague Letter: Harassment and Bullying, October 2010

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002

WEB SITES

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

California Department of Education: <http://www.cde.ca.gov>

Family Policy Compliance Office: <https://www2.ed.gov/policy/gen/guid/fpco>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/ocr>

U.S. Department of Justice: <http://www.justice.gov>

Policy ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 12, 2019

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue  
San José, CA 95127

9.02

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION – BOARD OF EDUCATION**

To the Board of Trustees:

Subject: **CONSIDERATION/DISCUSSION: Board Bylaw 9000 series, First Reading—Board Bylaws**

Staff Analysis: Staff Recommends to update Board Bylaws.

**DISCUSSION/ACTION**

Submitted by: Hilaria Bauer Title: Superintendent

To the Board of Trustees:

Meeting:

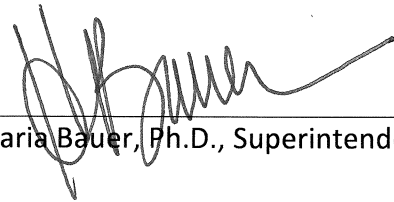
September 12, 2019

Regular Board Meeting

**Information/ Discussion/Action**

9.02

Agenda Placement



Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

# Alum Rock Union ESD

## Board Bylaw

### Public Statements

BB 9010

#### Board Bylaws

The Governing Board recognizes the responsibility of Board members in their role as community leaders to participate in public discourse on matters of civic or community interest, including those involving the district, and their right to freely express their personal views. However, to ensure communication of a consistent, unified message regarding district issues, Board members are expected to respect the authority of the Board to choose its representatives to communicate its positions and to abide by established protocols.

~~The Board of Trustees recognizes the rights of Board members to freely express their views and encourages open discussion of issues during the Board meeting. The Board believes that effective Board members have a responsibility to express themselves, whether in agreement or disagreement with the Board majority, in ways that promote the Board's ability to govern the district.~~

~~When speaking to community groups, the media, or other members of the public, individual Board members should recognize that their statements may be perceived as reflecting the views and positions of the Board. Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Board.~~

All public statements authorized to be made on behalf of the Board shall be made by the Board president or, if appropriate, by the Superintendent or other designated representative.

(cf. 2110 - Superintendent Responsibilities and Duties)

(cf. 9011 - Disclosure of Confidential/Privileged Information)(cf. 9121 - President)

(cf. 9200 - Limits of Board Member Authority)

When speaking for the district, the Board encourages its spokespersons to exercise restraint and tact and to communicate the message in a manner that promotes public confidence in the Board's leadership.

Board spokespersons shall not disclose confidential information or information received in closed session except when authorized by a majority of the Board. (Government Code 54963)

(cf. 9005 - Governance Standards)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

When speaking to community groups, the media, or other members of the public, individual Board members should recognize that their statements may be perceived as reflecting the views



and positions of the Board. Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Board.

(cf. 1100 - Communication with the Public)

(cf. 1112 - Media Relations)

In addition, the Board encourages members who participate on social networking sites, blogs, or other discussion or informational sites to conduct themselves in a respectful, courteous, and professional manner and to model good behavior for district students and the community. Such electronic communications are subject to the same standards and protocols established for other forms of communication, and the disclosure requirements of the California Public Records Act may likewise apply to them.

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

(cf. 1340 - Access to District Records)

(cf. 9012 - Board Member Electronic Communications)

#### Legal Reference:

##### EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

##### GOVERNMENT CODE

6250-6270 California Public Records Act

54960 Actions to stop or prevent violation of meeting provisions

54963 Confidential information in closed session

#### Management Resources:

##### WEB SITES

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

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019



# Alum Rock Union ESD

## Board Bylaw

### Board Member Electronic Communications

BB 9012

#### Board Bylaws

The Board of Trustees recognizes that electronic communication ~~among Board members and between Board members, district administration, and members of the public~~ is an efficient and convenient way for Board members to communicate and expedite the exchange of information within the district and with members of the public. ~~and to help keep the community informed about the goals, programs, and achievements of the district and its schools.~~ Board members shall exercise caution so as to ensure that electronic communications are not used as a means for the Board to deliberate outside of an agendaized Board meeting nor to circumvent the public's right to access records regarding district business.

(cf. 1100 - Communication with the Public)

~~(cf. 6020 - Parent Involvement)~~

(cf. 9000 - Role of the Board)

(cf. 9322 - Agenda/Meeting Materials)

A majority of the Board shall not, outside of an authorized meeting, use a series of electronic 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. (Government Code 54952.2)

(cf. 9320 - Meetings and Notices)

Examples of permissible electronic communications concerning district business include, but are not limited to, dissemination of Board meeting agendas and agenda packets, reports of activities from the Superintendent, and reminders regarding meeting times, dates, and places.

In addition, Board members may use electronic communications to discuss matters that do not pertain to district business, regardless of the number of Board members participating in the discussion.

Board members shall make every effort to ensure that their electronic communications conform to the same standards and protocols established for other forms of communication. A Board member may respond, as appropriate, to an electronic communication received from a member of the community and should make clear that his/her response does not necessarily reflect the views of the Board as a whole. Any complaint or request for information should be forwarded to the Superintendent in accordance with Board bylaws and protocols so that the issue may receive proper consideration and be handled through the appropriate district process. As

appropriate, communication received from the press-media shall be forwarded to the designated district spokesperson.

(cf. 1112 - Media Relations)  
(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.2 - Complaints Concerning Instructional Materials)  
(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 1312.4 - Williams Uniform Complaint Procedures)  
(cf. 3320 - Claims and Actions Against the District)  
(cf. 9005 - Governance Standards)  
(cf. 9121 - ~~Board~~ President)  
(cf. 9200 - Limits of Board Member Authority)  
~~(cf. 9270 - Conflict of Interest)~~

~~In order to minimize the risk of improper disclosure, Board members shall avoid reference to confidential information and information acquired during closed session.~~

~~(cf. 4112.6/4212.6/4312.6 - Personnel Files)  
(cf. 5125 - Student Records)  
(cf. 9011 - Disclosure of Confidential/Privileged Information)  
(cf. 9321 - Closed Session Purposes and Agendas)~~

~~Board members may use electronic communications to discuss matters other than district business with each other, regardless of the number of members participating in the discussion.~~

~~Like other writings concerning district business, a Board member's electronic communication may be subject to disclosure under the California Public Records Act.~~

To the extent possible, electronic communications regarding any district-related business shall be transmitted through a district-provided device or account. When any such communication is transmitted through a Board member's personal device or account, he/she shall copy the communication to a district electronic storage device for easy retrieval.

(cf. 1340 - Access to District Records)  
(cf. 3580 - District Records)

#### Legal Reference:

##### EDUCATION CODE

35140 Time and place of meetings  
35145 Public meetings  
35145.5 Agenda; public participation; regulations  
35147 Open meeting law exceptions and applications

##### GOVERNMENT CODE

6250-6270 California Public Records Act

11135 State programs and activities, discrimination

54950-54963 The Ralph M. Brown Act, especially:

54952.2 Meeting, defined

54953 Meetings to be open and public; attendance

54954.2 Agenda posting requirements, board actions

COURT DECISIONS

City of San Jose v. Superior Court (2017) 2 Cal.5th 608

Management Resources:

CSBA PUBLICATIONS

Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications, March 2017

The Brown Act: School Boards and Open Meeting Laws, rev. 20062014

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, 2003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public IV: A Guide to the Ralph M. Brown Act, rev. 2007

WEB SITES

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

CSBA, Agenda Online:

<http://www.csba.org/Services/Services/GovernanceTechnology/AgendaOnline.aspx>

<https://www.csba.org/ProductsAndServices/AllServices/AgendaOnline.aspx>

California Attorney General's Office: <https://oag.ca.gov>

Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019



# Alum Rock Union ESD

## Board Bylaw

### Organization

BB 9100

### Board Bylaws

#### Annual Organizational Meeting

Each year, The-the Board of Trustees shall hold an annual organizational meeting. In any year in which a regular election of district Board members is conducted, the organizational meeting shall be held within a 15-day period beginning from the date upon which a Board member elected at that election takes office. During non-election years, the meeting shall be held within the same 15-day period on the calendar. within the time limits prescribed by law. (Education Code 35143)

The day and time of the annual meeting shall be selected by the Board at its regular meeting held immediately prior to the first day of the 15-day period. On behalf of the Board, the Superintendent shall notify the County Superintendent of Schools of the day and time selected. Within 15 days prior to the date of the annual meeting, the clerk of the Board, with the assistance of the Superintendent, shall notify in writing all Board members and members-elect of the date and time selected for the meeting. (Education Code 35143)

At this meeting the Board shall:

1. Elect a president and a clerk and/or vice president from its -members
2. Appoint the Superintendent asa secretary to the Board
3. Authorize signatures
4. Develop-Approve a schedule of regular meetings for the year and a Board governance calendar stating the time when the Board will address important governance matters
5. ~~Develop a Board calendar for the year~~
65. Designate Board representatives to serve on committees or commissions of the district, other public agencies, or organizations with which the district partners or collaborates

(cf. 9140 - Board Representatives)

6. Review and/or consider resources that define and clarify the Board's governance and leadership roles and responsibilities including, but not limited to, governance standards, meeting protocols, Board rules and bylaws, and other Board development materials

(cf. 9000 - Role of the Board)  
(cf. 9005 - Governance Standards)  
(cf. 9230 - Orientation)  
(cf. 9240 - Board Training)  
(cf. 9320 - Meetings and Notices)  
(cf. 9323 - Meeting Conduct)

#### Election of Officers

The Board shall each year elect its entire slate of officers.

(cf. 9224 - Oath or Affirmation)

The election of Board officers shall be conducted during an open session of the annual organizational meeting.

#### Legal Reference:

##### EDUCATION CODE

5017 Term of Office

35143 Annual organizational meeting -date, and notice

35145 Public meetings

##### GOVERNMENT CODE

54953 Meetings to be open and public; attendance

##### ATTORNEY GENERAL OPINIONS

68 Ops.Cal.Atty.Gen. 65 (1985)

59 Ops.Cal.Atty.Gen. 619, 621-622 -(1976)

#### Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019

# Alum Rock Union ESD

## Board Bylaw

### Terms Of Office

BB 9110

#### Board Bylaws

The Board of Trustees shall consist of five members whose terms shall be staggered so that as nearly as practicable, one half of the members shall be elected in each ~~odd-numbered-year~~ in which the Board's elections are regularly held. (Education Code 35012).

(cf. 9220 - Governing Board Elections)

The term of office for Board members elected in regular elections shall be four years, commencing on the ~~second~~first Friday in December ~~following next succeeding~~ their election. (Education Code 5017)

(cf. 9223 - Filling Vacancies)

(cf. 9224 - Oath or Affirmation)

(cf. 9250 - Remuneration, Reimbursement, and Other Benefits)

~~Board member terms expire four years after their initial election on the first Friday in December following the election of new members.~~ (Education Code 5000)

~~A Board~~ members whose terms ~~has~~ have expired shall continue to discharge the duties of ~~the~~ office until ~~his/her~~their successors ~~have~~ has qualified by taking the oath of office. (Government Code 1302, 1360; Education Code 5017)

If a regularly scheduled Board election date is changed due to consolidation with a statewide or municipal general election, the term of incumbent Board members shall be extended to align with the next applicable election. (Elections Code 10404.5)

~~(cf. 9220 — Governing Board Elections)~~

~~(cf. 9223 — Filling Vacancies)~~

~~(cf. 9224 — Oath or Affirmation)~~

~~(cf. 9250 — Remuneration, Reimbursement, and Other Benefits)~~

Legal Reference:

EDUCATION CODE

5000-5033 Election of school district board members

35010 Control of district

35012 Board members; number, election and terms

35107 Eligibility

ELECTIONS CODE

1302 Local elections, school district election

10400-10418 Consolidation of elections

14050-14057 California Voter Participation Rights Act

GOVERNMENT CODE

1302 Continuance in office until qualification of successor

1303 Exercising functions of office without having qualified

1360 Necessity of taking constitutional oath

Management Resources:

WEB SITES

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

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019



# Alum Rock Union ESD

## Board Bylaw

### President

BB 9121

### Board Bylaws

The Board of Trustees shall elect a president from among its members to provide leadership on behalf of the Board and the educational community it serves.

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

(cf. 9100 - Organization)

To ensure that Board meetings are conducted in an efficient, transparent, and orderly manner, the president shall:

~~The president shall preside at all Board meetings. He/she shall:~~

1. Call such meetings of the Board as he/she may deem necessary, giving notice as required by law

(cf. 9320 - Meetings and Notices)

(cf. 9321 - Closed Session Purposes and Agendas)

Call the meeting to order at the appointed time

2. Consult with the Superintendent or designee on the preparation of Board meeting agendas

(cf. 9322 - Agenda/Meeting Materials)

3. Call the meeting to order at the appointed time and preside over the meeting

4. Announce the business to come before the Board in its proper order

35. Enforce the Board's ~~polieies~~ bylaws relating to the conduct of meetings and help ensure compliance with applicable requirements of the Brown Act

46. Recognize persons who desire to speak, and protect the speaker who has the floor from disturbance or interference

5. ~~Explain what the effect of a motion would be if it is not clear to every member~~

6. ~~Restriet discussion to the question when a motion is before the Board~~

7. Facilitate the Board's effective deliberation, ensuring that each Board member has an opportunity to participate in the deliberation and that the discussion remains focused



8. Rule on issues of parliamentary procedure

89. Put motions to a vote, and ~~state~~ clearly state the results of the vote

9. ~~Be responsible for the orderly conduct of all Board meetings~~

(cf. 9323 - Meeting Conduct)

The president shall have the same rights as other members of the Board, including the right to discuss and vote on all matters before the Board.

The president shall perform other duties in accordance with law and Board policy including, but not limited to:

1. Signing all instruments, acts, ~~and orders, and resolutions~~ necessary to ~~carry out~~ comply with legal requirements and carry out ~~state requirements and the will of the Board~~

2. ~~Consulting with the Superintendent or designee on the preparation of the Board's agendas~~

(cf. 9322—Agenda/Meeting Materials)

3. ~~Working with the Superintendent~~ or designee to ensure that Board members have necessary materials and information

43. Subject to Board approval, appointing and dissolving all committees

(cf. 9130 - Board Committees)

5. ~~Calling such meetings of the Board as he/she may deem necessary, giving notice as prescribed by law~~

(cf. 9320—Meetings and Notices)

(cf. 9321—Closed Session Purposes and Agendas)

64. In conjunction with the Superintendent or designee, rRepresenting the district as ~~governance the Board's~~ spokesperson; in communications with the media ~~conjunction with the Superintendent~~

(cf. 1112 - Media Relations)

5. Leading the Board's advocacy efforts to build support within the local community and at the state and national levels

~~The president shall have the same rights as other members of the Board, including the right to move, second, discuss and vote on all questions before the Board.~~

When the president resigns or is absent ~~or disabled~~, the vice president shall perform the president's duties. When both the president and vice president are absent ~~or disabled~~, the clerk shall perform the president's duties.

(cf. 9123 - Clerk)

Legal Reference:

EDUCATION CODE

35022 President of the board

35143 Annual organizational meetings; dates and notice

GOVERNMENT CODE

54950-54963 Ralph M. Brown Act

Management Resources:

CSBA PUBLICATIONS

Call to Order: A Blueprint for Great Board Meetings, 2015

Board Presidents' Handbook, revised 2002

CSBA Professional Governance Standards, 2000

~~Maximizing School Board Leadership: Boardsmanship, 1996~~

WEB SITES

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

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019

# Alum Rock Union ESD

## Board Bylaw

### Governing Board Elections

BB 9220

#### Board Bylaws

#### Board Member Qualifications

Any person is eligible to be a member of the Governing Board ~~member~~, without further qualifications, if he/she is 18 years of age or older, a citizen of ~~the state~~ California, a resident of the school district, a registered voter and not legally disqualified from holding civil office. Any person who has been convicted of a felony involving the giving, accepting, or offering of a bribe, embezzlement or theft of public funds, extortion, perjury, or conspiracy to commit any such crime, under California law or the law of another state, the United States of America, or another country, is not eligible to be a candidate for office or elected as a Board member except when he/she has been granted a pardon in accordance with law. (Education Code 35107; Elections Code 20)

A district employee elected to the Board shall resign his/her employment before being sworn in or shall have his/her employment automatically terminated upon being sworn into office.  
(Education Code 35107)

(cf. 9224 - Oath of Affirmation)

(cf. 9270 - Conflict of Interest)

The Board encourages all candidates to become knowledgeable about the role of board members. The Superintendent or designee shall provide all candidates with information that will enable them to understand the responsibilities and expectations of being a Board member, including information regarding available workshops, seminars, and/or training. The Superintendent or designee shall provide all candidates with the county election official's contact information and general information about school programs, district operations, and Board responsibilities.

(cf. 9230 - Orientation)

(cf. 9240 - Board Training)

#### Consolidation of Elections

To reduce costs associated with conducting elections, the Board may consolidate Board elections with the local municipal or statewide primary or general election in accordance with Elections Code 1302.



In addition, if a regularly scheduled Board election held other than on a statewide election date results in a decrease in local voter turnout of 25 percent or more compared to the average local turnout for the previous four statewide general elections, the Board shall take action to consolidate Board elections with statewide elections. The district shall move its election to the next state statewide election date, unless the Board has adopted a plan by January 1, 2018 to consolidate Board elections not later than the November 8, 2022 statewide general election. (Elections Code 14051, 14052)

In order to consolidate elections based on either circumstance described above, the Board shall adopt a resolution and submit it to the County Board of Supervisors for approval not later than 240 days prior to the date of the currently scheduled district election. (Elections Code 10404.5)

Whenever a regularly scheduled Board election is changed due to consolidation of elections, the terms of office of incumbent Board members shall be extended to align with the next applicable election. (Elections Code 10404.5)

(cf. 9110 - Terms of Office)

### **Elections Process and Procedures**

Board members may reside anywhere within the district's boundaries and shall be elected by all voters in the district.

To ensure ongoing compliance with the California Voting Rights Acts, the Board may review the district's Board election method to determine whether any modification is necessary due to changes in the district's population or any of its racial, color, or language minority group composition. The review shall be based on the Superintendent or designee's report to the Board after the release of each decennial federal census.

If the Board determines that a change is necessary, it shall hold public hearings in accordance with Elections Code 10100 before adopting a resolution at an open meeting specifying the change(s), and shall, in accordance with Education Code 5019, obtain approval from the county committee on school district organization having jurisdiction over the district.

(cf. 9320 - Meetings and Notices)

### **Campaign Conduct**

All candidates, including current Board members running as incumbents, shall abide by local, county, state, and federal requirements regarding campaign donations, funding, and expenditures.

A Board member shall not expend, and a candidate shall not accept, any public money for the purpose of seeking elective office. However, the district may establish a dedicated fund for those seeking election to the Board, provided that the funds are available to all candidates who are

qualified pursuant to Education Code 35107 without regard to incumbency or political preference. (Government Code 85300)

In order to help protect the public's trust in the electoral process as well as the public's confidence in the Board and district, the Board encourages all candidates to sign and adhere to the principles in the Code of Fair Campaign Practices pursuant to Elections Code 20440.

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 9005 - Governance Standards)

When possible, Board election procedures shall be conducted in accordance with the California Education Code and Elections Code.

(cf. 9110 - Terms of Office)

### **Statement of Qualifications**

On the 125th day prior to the day fixed for the general district election, the Board secretary or his/her designee shall deliver a notice, bearing the secretary's signature and district seal, to the county elections official describing both of the following: (Elections Code 10509)

1. The elective offices of the district to be filled at the general election and which offices, if any, are for the balance of an unexpired term
2. Whether the district or the candidate is to pay for the publication of a statement of qualifications pursuant to Elections Code 13307

(cf. 9223 - Filling Vacancies)

Candidates for the Board may submit a candidate statement to the elections official for inclusion in the voter's pamphlet. Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)

The district shall assume no part of the cost of printing, handling, translating, ~~or~~ mailing, or electronically distributing candidate statements filed pursuant to Elections Code 13307. As a condition of having candidate statements included in the hard copy and/or electronic voter's pamphlet, the district may require candidates ~~Candidates may be required to~~ pay their estimated pro rata share of these costs to the district in advance as specified in ~~pursuant to~~ Elections Code 13307.

The Board secretary shall notify the county clerk of this policy on or before the 125th day before each Board member election. (Elections Code 10509)

### **Tie Votes in Board Member Elections**



Whenever a tie makes it impossible to determine which of the two or more candidates has been elected to the Board, the Board shall immediately notify the candidates who received the tie votes of the time and place where the candidates or their representatives should appear before the Board. The Board at that time shall determine the winner by lot. (Education Code 5016)

~~Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)~~

#### **Limitation of Campaign Contributions and Expenditures**

The Board believes the district and community will be best served by imposing reasonable limitations on the amount of money that may be contributed to a campaign for election to district office. The Board therefore has resolved that the following limits shall apply:

1. Maximum Contribution from an individual or Entity to a candidate for district office:  
\$500
2. Maximum expenditure by a candidate for his/her campaign for election to district office:  
No Limit

#### **Aggregation of Contributions**

1. The Contributions of an Entity whose Contributions are directed and controlled by any individual shall be aggregated with Contributions made by that individual and any other Entity whose Contributions are directed and controlled by the same individual.
2. If two or more Entities make Contributions that are directed and controlled by a majority of the same persons, the Contributions of those Entities shall be aggregated;
3. Contributions made by Entities that are Majority-Owned by any person shall be aggregated with the Contributions of the majority owner and all other Entities that are Majority-Owned by that person, unless those Entities act independently in their decisions to make Contributions.

#### **Definitions**

1. As used in this section of the Bylaw, the term "Contribution" shall have the same meaning as that used in Section 18215 of the Regulations of the Fair Political Practices Commission (2 CCR 18215).
2. As used in this section of the Bylaw, the term "Entity" shall mean any incorporated or unincorporated business, association, organization or other group, other than an individual.
3. As used in this section of the Bylaw, the term "Majority-Owned" shall mean an ownership interest of more than fifty percent. (2 CCR 18215.1).

#### **~~Tie Votes in Board Member Elections~~**

~~Whenever a tie makes it impossible to determine which of the two or more candidates has been elected to the Board, the Board shall immediately notify the candidates who received the tie votes of the time and place where lots shall be cast to determine the winner. (Education Code 5016)~~

Legal Reference:

EDUCATION CODE

1000 Composition, and trustee area, county board of education  
1006 Qualifications for holding office, county board of education  
5000-5033 Elections  
5220-5231 Elections  
5300-5304 General provisions (conduct of elections)  
5320-5329 Order and call of elections  
5340-5345 Consolidation of elections  
5360-5363 Election notice  
5380 Compensation (of election officer)  
5390 Qualifications of voters  
5420-5426 Cost of elections  
5440-5442 Miscellaneous provisions  
7054 Use of district property  
35107 Eligibility; school district employees  
35177 Campaign expenditures or contributions  
35239 Compensation of governing board member of districts with less than 70 ADA

ELECTIONS CODE

20 Public office eligibility  
1302 Local elections, school district election  
2201 Grounds for cancellation  
4000-~~4004~~ 4008 Elections conducted wholly by mail  
10010 District boundaries  
10400-10418 Consolidation of elections  
10509 Notice of election by secretary  
10600-10604 School district elections  
13307 Candidate's statement  
13308 Candidate's statement contents

13309 Candidate's statement, indigence  
14025-14032 California Voting Rights Act  
14050-14057 California Voter Participation Rights Act  
20440 Code of Fair Campaign Practices

GOVERNMENT CODE

1021 Conviction of crime  
1097 Illegal participation in public contract  
12940 Nondiscrimination, Fair Employment and Housing Act

81000-91014 Political Reform Act

PENAL CODE

68 Bribes

74 Acceptance of gratuity

424 Embezzlement and falsification of accounts by public officers

661 Removal for neglect or violation of official duty

CALIFORNIA CONSTITUTION

Article 2, Section 2 Voters, qualifications

Article 7, Section 7 Conflicting offices

Article 7, Section 8 Disqualification from office

UNITED STATES CODE, TITLE 4252

~~1973-1973aa-610301-10508~~ Voting Rights Act

COURT DECISIONS

Rey v. Madera Unified School District, (2012) ~~138-203~~ Cal. ~~RptrApp. 3d 1924<sup>th</sup>~~ 1223

Randall v. Sorrell, (2006) 126 S.Ct. 2479

Sanchez v. City of Modesto, (2006) ~~51-145~~ Cal. ~~RptrApp. 3d 8214<sup>th</sup>~~ 660

Dusch v. Davis, (1967) 387 U.S. 112

ATTORNEY GENERAL OPINIONS

85 Ops.Cal.Atty.Gen. 49 (2002)

83 Ops.Cal.Atty.Gen. 181 (2000)

81 Ops.Cal.Atty.Gen. 98 (1998)

69 Ops.Cal.Atty.Gen. 290 (1986)

Management Resources:

CALIFORNIA SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Legal Alert on the Impact of Senate Bill No. 415 on School Board Elections, January 2017

WEB SITES

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

California Secretary of State's Office: <http://www.sos.ca.gov>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute for Local Self Government: <http://www.ca-ilg.org>

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 13, 2006 San Jose, California

~~revised~~Revised: July 2, 2013

~~R~~evised: February 13, 2014

~~R~~evised: March 13, 2014

Revised: September 12, 2019



# Alum Rock Union ESD

## Board Bylaw

### Resignation

BB 9222

#### Board Bylaws

~~A member of the Governing Board who wishes to resign from the Board shall file A Board of Trustees member who wishes to resign may do so by filing~~ a written resignation with the County Superintendent of Schools. (Education Code 5090)

~~The resigning Board member shall also notify the Board and give a copy of his/her written resignation to the Board secretary.~~

~~A copy shall be given to the Board secretary.~~

~~The resignation shall become~~ The written resignation is effective when filed with the County Superintendent, except when a deferred effective date is specified in the resignation. (Education Code 5090)

A Board member may not defer the effective date of his/her resignation for more than 60 days after ~~he/she files the resignation with the County Superintendent.~~ ~~filing.~~ (Education Code 5091)

~~Once filed, a~~ A written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable. ~~upon being filed.~~ (Education Code 5090)

~~A Board member who tenders his/her resignation with a deferred effective date shall, until the effective date of the resignation, continue to exercise all the powers of the office, except that he/she shall not have the right to vote for his/her successor in an action taken by the Board to make a provisional appointment. (Education Code 5091, 35178)~~

(cf. 9223 - Filling Vacancies)

~~A Board member who resigns shall file, within 30 days of leaving office, a revised Statement of Economic Interest/Form 700 covering the period of time between the closing date of the last statement required to be filed and the date he/she leaves office. (Government Code 87302, 87500)~~

~~Upon resignation, the Board member may continue to exercise all his/her powers, save that of voting for a successor, until the effective date of resignation. (Education Code 35178)~~

(cf. 9270 - Conflict of Interest)

(cf. 9270 - Conflict of Interest)

Legal Reference:

EDUCATION CODE

5090-5095 Vacancies on the board

5090 Definition (vacancy)

5091 Special Election

35178 Resignation with deferred effective date

GOVERNMENT CODE

1770 Vacancy on the board

87300-87313 Conflict of interest code

87500 Statement of economic interests

Management Resources:

CSBA PUBLICATIONS

Filling a Board Vacancy, rev. December 2010

WEB SITES

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

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019

# Alum Rock Union ESD

## Board Bylaw

### Filling Vacancies

BB 9223

### Board Bylaws

#### Events Causing a Vacancy

A vacancy on the Board of Trustees may occur for any of the following events:

1. The death of an incumbent (Government Code 1770)
2. The adjudication pursuant to a quo warranto proceeding declaring that an incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his/her office for the remainder of his/her term (Government Code 1770)
3. A Board member's resignation (Government Code 1770)

A vacancy resulting from resignation occurs when the written resignation is filed with the County Superintendent of Schools having jurisdiction over the district, except where a deferred effective date is specified in the resignation so filed, in which case the resignation shall become operative on that date. A Board member may not defer the effective date of his/her resignation for more than 60 days after he/she files the resignation with the County Superintendent. Upon being filed with the County Superintendent, a written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable. (Education Code 5090, 5091)

4. A Board member's removal from office, including by recall (Elections Code 11384; Government Code 1770)

5. A Board member's ceasing to be a resident of the district (Government Code 1770)

~~A vacancy on the Board also occurs when a Board member ceases to inhabit the trustee area which he/she represents on the Board. —(58 Ops.Cal.Atty.Gen. 888 (1975))~~

6. A Board member's absence from the state for more than 60 days, except in the following situations: (Government Code 1064, 1770)

- a. Upon district business with the approval of the Board
- b. With the consent of the Board for an additional period not to exceed a total absence of 90 days

In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limited for absence from the state may be extended by the Board.

c. For federal military deployment, not to exceed an absence of a total of six months, as a member of the armed forces of the United States or the California National Guard

If the absence of the Board member for this purpose exceeds six months, the Board may approve an additional six-month absence upon a showing that there is a reasonable expectation that the member will return within the second six-month period, and the Board may appoint an interim member to serve in his/her absence. If two or more members of the Board are absent by reason of these circumstances, and those absences result in the inability to establish a quorum at a regular meeting, the Board may immediately appoint one or more interim members as necessary to enable the Board to conduct business and discharge its responsibilities. The term of an interim member appointed in these circumstances shall not extend beyond the return of the absent Board member or beyond the next regularly scheduled election for that office, whichever occurs first.

7. A Board member's ceasing to discharge the duties of his/her office for the period of three consecutive months, except when prevented by illness or when absent from the state with the permission required by law (Government Code 1770)

8. A Board member's conviction of a felony or any offense involving a violation of his/her official duties or conviction of a designated crime resulting in a forfeiture of office (Government Code 1770, 3000-3003)

9. A Board member's refusal or neglect to file his/her required oath ~~or bond~~ within the time prescribed (Government Code 1770)

(cf. 9224 - Oath or Affirmation)

10. The decision of a competent tribunal declaring void a Board member's election or appointment (Government Code 1770)

~~11. The making of an order vacating a Board member's office or declaring the office vacant when the Board member fails to furnish an additional or supplemental bond (Government Code 1770)~~

~~1211.~~ A Board member's commitment to a hospital or sanitarium as a drug addict, dipsomaniac, inebriate, or stimulant addict by a court of competent jurisdiction, in which case the office shall not be deemed vacant until the order of commitment has become final (Government Code 1770)

~~1312.~~ A "failure to elect" in which no candidate or an insufficient number of candidates have filed to run for a Board seat(s) (Education Code 5090, 5326, 5328)

**Timelines for Filling a Vacancy**

When a vacancy occurs, the Board shall take the following action, as appropriate:

1. When a vacancy occurs within four months of the end of a Board member's term, the Board shall take no action. (Education Code 5093)
2. When a vacancy occurs longer than four months before the end of a Board member's term, the Board shall, within 60 days of the date of the vacancy or the filing of the member's deferred resignation, either order an election or make a provisional appointment, unless a special election is mandated as described in item #3 below. (Education Code 5091, 5093)
3. When a vacancy occurs from six months to 130 days before a regularly scheduled Board election at which the position is not scheduled to be filled, a special election to fill the position shall be consolidated with the regular election. The person so elected shall take office at the first regularly scheduled Board meeting following the certification of the election and shall serve only until the end of the term of the position which he/she was elected to fill. (Education Code 5093)

### **Eligibility**

In order to be appointed or elected to fill a vacancy on the Board, a person must meet the eligibility requirements specified in Education Code 35107.

(cf. 9220 - Governing Board Elections)

### **Provisional Appointments**

When authorized by law to make a provisional appointment to fill a vacancy on the Board, the Board shall advertise in the local media to solicit candidate applications or nominations. A committee consisting of less than a quorum of the Board shall ensure that applicants are eligible for Board membership and announce the names of the eligible candidates. The Board shall interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by a majority vote.

(cf. 9130 - Board Committees)

(cf. 9323.2 - Actions by the Board)

Within 10 days after the appointment is made, the Board shall post notices of the actual vacancy, or the filing of a deferred resignation, and the provisional appointment. The notice shall be published in the local newspaper pursuant to Government Code 6061 and posted in at least three public places within the district. (Education Code 5092)

The notice shall contain: (Education Code 5092)

1. The date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation

2. The full name of the appointee
3. The date of appointment
4. A statement notifying the voters that unless a petition calling for a special election pursuant to Education Code 5091 is filed in the office of the County Superintendent within 30 days of the provisional appointment, it shall become an effective appointment

The person appointed shall hold office until the next regularly scheduled election for district Board members and shall be afforded all the powers and duties of a Board member upon appointment. (Education Code 5091)

#### **Appointment Due to Failure to Elect**

When a vacancy occurs because no candidate or an insufficient number of candidates have been nominated (i.e., a failure to elect) and a district election will not be held, the Board shall appoint a qualified person to the office. This appointment shall be made at a meeting prior to the day fixed for the election and the appointee shall be seated at the organizational meeting as if elected at the district election. (Education Code 5328)

(cf. 9100 - Organization)

When an appointment is being made because of a failure to elect, the district shall publish a notice once in a newspaper of general circulation published in the district, or if no such newspaper exists, in a newspaper having general circulation within the district. This notice shall state that the Board intends to make an appointment and shall inform persons of the procedure available for applying for the appointment. (Education Code 5328.5)

The procedure for selecting and interviewing candidates shall be the same as the procedures for "Provisional Appointments," as specified above.

#### **Legal Reference:**

##### **EDUCATION CODE**

5000-5033 Elections  
5090-5095 Vacancies  
5200-5208 Districts governed by boards of education  
5300-5304 Elections  
5320-5329 Order and call of election  
5340-5345 Consolidation of elections  
5360-5363 Election notice  
5420-5426 Cost of elections  
5440-5442 Miscellaneous provisions, elections  
35107 Eligibility of board members

35178 Resignation with deferred effective date

ELECTIONS CODE

10600-10604 School district elections

11381-11386 Candidates for recall

GOVERNMENT CODE

1064 Absence from state

1770 Vacancies: definition

3000-3003 Forfeiture of office

3060-3075 Removal other than by impeachment

6061 One time notice

54950-54963 The Ralph M. Brown Act

PENAL CODE

88 Bribery, forfeiture from office

UNITED STATES CODE, TITLE 18

704 Military medals or decorations

ATTORNEY GENERAL OPINIONS

58 Ops.Cal.Atty.Gen. 888 (1975)

Management Resources:

CSBA PUBLICATIONS

Filling a Board Vacancy, rev. December 2010

WEB SITES

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

California State Attorney General's Office, Quo Warranto Applications:

[http://ag.ca.gov/opinions/quo\\_warranto.php](http://ag.ca.gov/opinions/quo_warranto.php)

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 7/12, 2019



# Alum Rock Union ESD

## Board Bylaw

### Orientation

BB 9230

### Board Bylaws

#### Board Candidate Orientation

~~The Board of Trustees desires to provide Board candidates with orientation that will enable them to understand the responsibilities and expectations of Board membership. The Superintendent or designee shall provide all candidates with general information about school programs, district operations, and Board responsibilities. He/she may also provide candidates with information about the election process, including, but not limited to, information about campaign conduct and ballot statement information.~~

~~(cf. 9200—Limits of Board Member Authority)~~

~~(cf. 9220—Governing Board Elections)~~

~~(cf. 9270—Conflict of Interest)~~

~~The Board encourages all candidates to attend public Board meetings during the period of their candidacy. Candidates shall have the same access as members of the public to district staff and information.~~

~~(cf. 1340—Access to District Records)~~

~~(cf. 9011—Disclosure of Confidential/Privileged Information)~~

#### New Board Member Orientation

The Governing Board recognizes the importance of providing all newly elected or appointed Board members with support and information to assist them in becoming effective members of the Board. Incoming Board members shall be provided an orientation designed to build their knowledge of the district and an understanding of the responsibilities of their position. Such orientation may include the provision of information, support, and/or training related to Board functions, policies, protocols, and standards of conduct.

(cf. 9000 - Role of the Board)

(cf. 9220 - Governing Board Elections)

(cf. 9223 - Filling Vacancies)

As early as possible following the election or appointment of Board members, one or more orientation sessions shall be held during open meeting(s) of the Board. The Board president and the Superintendent or designee shall develop an agenda for the meeting(s) and shall identify resources that may be useful for incoming Board members.



(cf. 9121 - President)

~~The Board shall convene a meeting to provide an orientation and information to incoming Board members to assist them in understanding the Board's functions, policies, procedures, protocols, and agreed-upon standards of conduct. Incoming Board members shall receive the district's policy manual and other materials related to the district and Board member responsibilities.~~

~~(cf. 9000 - Role of the Board)~~

~~(cf. 9005 - Governance Standards)~~

Upon their election or appointment, incoming Board members shall be provided a copy of the Brown Act and informed that, pursuant to Government Code 54952.1, they must conform to the Act's requirements as if they had already assumed office. Additional information for incoming Board members may include, but is not limited to, Board bylaws related to the limits of individual Board member authority, the conduct of Board meetings, and other Board operations; governance standards for ethical conduct; legal requirements related to conflict of interest and prohibited political activity; protocols for speaking with district staff, members of the public, and the media; and publications on effective governance practices.

(cf. 1112 - Media Relations)

(cf. 1160 - Political Processes)

(cf. 9005 - Governance Standards)

(cf. 9010 - Public Statements)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

(cf. 9012 - Board Member Electronic Communications)

(cf. 9200 - Limits of Board Member Authority)

(cf. 9270 - Conflict of Interest)

(cf. 9323 - Meeting Conduct)

~~The In addition, the Superintendent or designee shall may provide incoming Board members with additional specific background and information regarding the district, including, but not limited to, the district's vision and goals statements, operations, and current challenges in areas that include, but are not limited to, student achievement, curriculum, finance, facilities, policy, human resources, and collective bargaining.~~

local control and accountability plan and other comprehensive plans, student demographic data, student achievement data, district policy manual, district budget, and minutes of recent open Board meetings.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0400 - Comprehensive Plans)

(cf. 0460 - Local Control and Accountability Plan)

The Superintendent or designee may offer incoming Board members a tour of district schools and facilities, and may introduce them to district and school site administrators and other staff.

~~Incoming members are encouraged to attend Board meetings and review agenda materials available to the public in order to become familiar with current issues facing the district. Incoming members also may be encouraged, at district expense and with approval of the Board, to attend the California School Boards Association's Orientation for New Trustees, Institute for New and First-Term Board Members, and workshops and conferences relevant to their individual needs or to the needs of individual member, the Board as a whole, or the district.~~

(cf. 9240 - Board ~~Development~~ Training)

(cf. 9320 - Meetings and Notices)

#### Legal Reference:

##### EDUCATION CODE

33360 Department of Education and statewide association of school district boards; annual workshops

33362-33363 Reimbursement of expenses; board member or member-elect

##### ~~ELECTIONS CODE~~

~~13307 Candidate's statement~~

~~20440 Code of Fair Campaign Practices~~

##### GOVERNMENT CODE

54950-54963 The Ralph M. Brown Act, especially:

54952.1 Member of a legislative body

54952.2 Open meeting laws; posting agenda; board actions

54952.7 Copies of Brown Act to board members

#### Management Resources:

##### CSBA PUBLICATIONS

~~School Board Leadership, 2007~~

The Brown Act: School Boards and Open Meeting Laws, rev. ~~2007~~ 2009

~~Guide to Effective Meetings, 2007~~

Professional Governance Standards, 2000

~~Maximizing School Board Leadership, 1996~~

##### ~~NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS~~

~~Becoming a Better Board Member: A Guide to Effective School Board Service, 2006~~

##### WEB SITES

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

~~Fair Political Practices Commission: <http://www.fppe.ca.gov>~~

~~National School Boards Association: <http://www.nsba.org>~~

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 7/12, 2019



# Alum Rock Union ESD

## Board Bylaw

### Board ~~Development~~ Training

BB 9240

#### Board Bylaws

The Governing Board believes that the Board's ability to effectively and responsibly govern the district is essential to promoting student achievement, building positive community relations, and protecting the public interest in district schools. Board members shall be provided sufficient opportunities for professional development. Citizens elected to the Board of Trustees are entrusted with the responsibility of governing district schools. The Board recognizes that its members need training that helps them understand their responsibilities, stay abreast of new developments in education, and develop boardsmanship skills.

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

The Board and/or the Superintendent or designee shall provide an orientation to newly elected or appointed Board members which includes comprehensive information regarding Board roles, policies, and procedures and the district's vision and goals, operations, and current challenges. Throughout their first term, Board members shall continue to participate in additional educational opportunities designed to assist them in understanding the principles of effective governance, including, but not limited to, information on school finance and budgets, student achievement and assessment, labor relations, community relations, program evaluation, open meeting laws (the Brown Act), conflict of interest laws, and other topics necessary to govern effectively and in compliance with law.

(cf. 9230 - Orientation)

All Board members are encouraged to continuously participate in advanced training offered by the California School Boards Association in order to reinforce boardsmanship skills and build knowledge related to key education issues. Such activities may include online courses, webinars, webcasts, and in-person attendance at workshops and conferences. In addition, workshops and consultations may be held within the district on issues that involve the entire governance team.

Funds for board training shall be budgeted annually for the Board and each Board member. In selecting appropriate activities, the Board and/or individual Board members shall consider activities that are aligned with the district's vision and goals and the needs of the Board or individual member to obtain specific knowledge and skills. The Board shall annually develop a board training calendar in order to schedule and track board training activities and to schedule opportunities for Board members to report on the activities in which they participated.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 3100 - Budget)

(cf. 9250 - Remuneration, Reimbursement, and Other Benefits)

Board members may attend a conference or similar public gathering with other Board members and/or with the Superintendent or designee in order to develop common knowledge and understanding of an issue or engage in team-building exercises. In such cases, a majority of the Board members shall not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the district's jurisdiction, so as not to violate the Brown Act open meeting laws pursuant to Government Code 54952.2. All Board members may attend conferences for the purpose of Board development. Board business shall not be discussed at conferences.

(cf. 9230—Orientation)

(cf. 9320 - Meetings and Notices)

Board members shall report to the Board, orally or in writing, as soon as possible on the inservice-board training activities they attend, for the purpose of sharing the acquired knowledge or skills with the full Board and enlarging the benefit of the activity to the Board and district.

Funds for Board development shall be budgeted annually for each Board member.

(cf. 9250—Remuneration, Reimbursement, and Other Benefits)

Legal Reference:

EDUCATION CODE

33360—Department of Education and statewide association of school district boards; annual workshop

GOVERNMENT CODE

54950-54963 The Ralph M. Brown Act, especially:

54952.2 Meeting

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards for School Boards

WEB SITES

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

California County Boards of Education: <http://www.theccbe.org>

National School Boards Association: <http://www.nsba.org>

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019

FIRST READING



# Alum Rock Union ESD

## Board Bylaw

### Board Policies

BB 9310

### Board Bylaws

The Board of Trustees shall adopt written policies to convey its expectations for actions that will be taken in the district, clarify roles and responsibilities of the Board and Superintendent, and communicate Board philosophy and positions to ~~the~~ students, staff, parents/guardians, and the community. ~~Board policies are binding on the district to the extent that they do not conflict with federal or state law and are consistent with the district's collective bargaining agreements.~~

~~(cf. 0000—Vision)~~

~~(cf. 0100—Philosophy)~~

~~(cf. 9000 - Role of the Board)~~

The Board shall ensure that district policies align with the district's vision and goals, promote student learning and achievement, provide for consistent and fair treatment of students and staff, and proactively address equity and the provision of equal access to opportunities for all students.

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 0415 - Equity)

(cf. 0460 - Local Control and Accountability Plan)

The Board recognizes the importance of maintaining a policy manual that is up to date and reflects the mandates of law. Board policies are binding on the district to the extent that they do not conflict with federal or state law and are consistent with the district's collective bargaining agreements. No Board policy, bylaw, or administrative regulation, or any portion thereof, shall be operative if it is found to be in conflict with applicable federal or state law or regulations or court decisions. If any portion of a policy is found to be invalid, that invalidity shall not affect other provisions of the policy.

(cf. 2210 - Administrative Discretion Regarding Board Policy)

Policies shall be regularly reviewed at a time allocated for this purpose on the agenda of public Board meetings.

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agendas/Meeting Materials)

The Board shall review certain policies annually, as required by Education Code 35160.5. If no revisions are deemed necessary, the Board minutes shall nevertheless indicate that the review

was conducted. Other policies shall be monitored and reviewed as specified in the policy itself or as needed to reflect changes in law or district circumstances.

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 6145 - Extracurricular and Cocurricular Activities)

### **Policy Development and Adoption Process**

The district's policy development process shall include the following basic steps:

1. The Board and/or Superintendent or designee shall identify the need for a new policy or revision of an existing policy. The need may arise from a change in law, a new district vision statement, new or goals in the local control and accountability plan, educational research or trends, ~~or a change in the superintendency or Board membership. The need may also occur as a result of~~ an incident that has arisen in the district, or a recommendation or request from staff, a parent/guardian, or other interested persons.

2. As needed, the Superintendent or designee shall gather fiscal ~~and other~~ data, staff and public input, related district policies, sample policies from the California School Boards Association or other organizations or agencies, and other useful information and data to fully inform the Board about ~~the a particular~~ issue.

(cf. 1220 - Citizen Advisory Committees)

3. The Board may hold discussions during a public Board meeting to gain an understanding of the issue and provide initial direction to the Superintendent or designee. The discussion may include, but not be limited to, ~~how the proposed policy may affect student learning, community expectations, staff recommendations, and, the expected impact of the policy~~ fiscal impact, as well as the policy's impact on student learning and well-being, equity, governance, and the district's fiscal resources and operational efficiency.

4. The Board or Superintendent may request that legal counsel review the draft policy as appropriate.

5. The Superintendent or designee shall develop and present a draft policy for a first reading at a public Board meeting. At its second reading, the Board may take action on the proposed policy. The Board may waive the second reading or may require an additional reading if necessary.

(cf. 9323 - Meeting Conduct)

Only policies formally adopted by a majority vote of the Board shall constitute official Board policy.

~~(cf. 9322—Agenda/Meeting Materials)~~

(cf. 9323.2 - Actions by the Board)

The district's policy development process may be revised or expanded as needed based on the issue being considered, the need for more information, or the desire to provide greater opportunities for consultation and public input.

Policies shall become effective upon Board adoption or at a future date if so designated by the Board at the time of adoption.

### **Board Bylaws**

The Board shall prescribe and enforce rules for its own government governance consistent with state law and regulations. (Education Code 35010)

Bylaws governing Board ~~of Trustees~~ operations may be developed, adopted, and amended following the same procedures as those used for the adoption or amendment of Board policy.

### **Administrative Regulations**

The Superintendent or designee shall be responsible for developing and enforcing administrative regulations for the operation of the district. Administrative regulations shall be consistent with law and Board policy and shall be designed to promote the achievement of district goals and objectives. Administrative regulations may describe specific actions to be taken, roles and responsibilities of staff, timelines, and/or other ~~necessary~~ provisions. The Superintendent or designee may also ~~may~~ develop procedures manuals, handbooks, or other guides to carry out the intent of Board policy.

When Board policies are amended, the Superintendent or designee shall review corresponding administrative regulations to ensure that they conform to the intent of the revised policy. In case of conflict between administrative regulation and Board policy, policy shall prevail.

The Board may review and/or approve administrative regulations for the purpose of ensuring conformity with the intent of Board policy.

### **Monitoring and Evaluation**

At ~~the any time, a policy is adopted,~~ the Board and Superintendent or designee ~~shall may~~ determine that progress reports to the Board on the implementation and/or effectiveness whether an evaluation of the policy should be scheduled, ~~and, if so,~~ the Board and Superintendent or designee shall agree upon a timeline and, as applicable, measures for evaluating the effectiveness of the policy in achieving its purpose.

(cf. 0500 - Accountability)

### **Access to Policies**

The Superintendent or designee shall ensure that all district employees and the public have



access to an up-to-date district policy manual. ~~A public copy of the policy manual shall be maintained at the district central office and at each school site. These copies policy manual~~ shall be maintained ~~either~~ electronically and/or by paper copy.

(cf. 1113 - District and School Web Sites)

(cf. 1340 - Access to District Records)

As necessary, the Superintendent or designee shall notify staff, parents/guardians, students, and other stakeholders whenever a policy that affects them is adopted or revised. He/she may determine the appropriate communications strategy depending on the issue. Policies shall be posted on the district's web site when required by law.

(cf. 1112 - Media Relations)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 5145.6 - Parental Notifications)

(cf. 6020 - Parent Involvement)

#### ~~Suspension of Policies~~

~~No Board policy, bylaw, or administrative regulation, or any portion thereof, shall be operative if it is found to be in conflict with applicable federal or state law or regulations or court decisions. If any portion of a policy is found to be invalid, that invalidity shall not affect other provisions of the policy.~~

~~(cf. 2210—Administrative Discretion Regarding Board Policy)~~

#### Legal Reference:

##### EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35160 Authority of governing boards

35160.5 Annual review of school district policies

35163 Official actions, minutes and journal

35164 Vote requirements

#### Management Resources:

##### ~~CSBA PUBLICATIONS~~

~~Targeting Student Learning: The School Board's Role as Policymaker, 2005~~

~~Maximizing School Board Leadership: Policy, 1996~~

##### WEB SITES

CSBA, Policy Services, including Policy Update Service, Governance and Management Using Technology (GAMUT Online~~TM~~), Policy Audit-Review Program, Individual District Policy Workshops, Agenda Online, and Manual Maintenance: <http://www.csba.org/ps>

~~National School Boards Association: <http://www.nsba.org>~~

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019

FIRST READING

# Alum Rock Union ESD

## Board Bylaw

### Closed Session ~~Purposes And Agendas~~

BB 9321

#### Board Bylaws

The Board of Trustees is committed to complying with state open meeting laws and modeling transparency in its conduct of district business. The Board shall hold a closed sessions during a regular, special, or emergency meeting only for purposes authorized by law. ~~A closed session may be held during a regular, special, or emergency meeting in accordance with law.~~

Each agenda shall contain a general description of each closed session item to be discussed at the meeting, as required by law and specified below. (Government Code 54954.2)

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

~~In the open session preceding the closed session, t~~The Board shall disclose ~~in open session~~ the items to be discussed in closed session. In the closed session, the Board may consider only those matters covered in its statement. (Government Code 54957.7)

After the closed session, the Board shall reconvene in open session before adjourning the meeting; and, when applicable, shall publicly disclose any action taken in the closed session, the votes or abstentions thereon, and other disclosures specified below that are applicable to the matter being addressed. Such reports may be made in writing or orally at the location announced in the agenda for the closed session. ~~in the manner prescribed by Government Code 54957.1.~~ (Education Code 32281; Government Code 54957.1, 54957.7)

~~(cf. 9321.1—Closed Session Actions and Reports)~~

When an action taken during a closed session involves final approval or adoption of a document such as a contract or settlement agreement, the Superintendent or designee shall provide a copy of the document to any person present at the conclusion of the closed session who submitted a written request. If the action taken results in one or more substantive amendments, the Superintendent or designee shall make the document available the next business day or when the necessary retyping is completed. Whenever copies of an approved agreement will not be immediately released due to an amendment, the Board president shall orally summarize the substance of the amendment for those present at the end of the closed session. (Government Code 54957.1)

## **Confidentiality**

A Board member shall not disclose confidential information received in closed session unless the Board authorizes the disclosure of that information. (Government Code 54963)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

The Board shall not disclose any information that is protected by state or federal law. In addition, no victim or alleged victim of tortious sexual conduct or child abuse shall be identified in any Board agenda, notice, announcement, or report required by the Brown Act, unless the identity of the person has previously been publicly disclosed. (Government Code 54957.7, 54961)

(cf. 1340 - Access to District Records)

~~A Board member shall not disclose confidential information received in a closed session unless the Board authorizes the disclosure of that information. (Government Code 54963)~~

~~(cf. 9011 - Disclosure of Confidential/Privileged Information)~~

## **Personnel Matters**

The Board may hold a closed session under the "personnel exception" to consider the appointment, employment, performance ~~evaluation of performance~~, discipline, or dismissal of an employee. Such a closed session shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline. (Government Code 54957)

(cf. 2140 - Evaluation of the Superintendent)

(cf. 4115 - Evaluation/Supervision)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4215 - Evaluation/Supervision)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 4315 - Evaluation/Supervision)

The Board may also hold a closed session to hear complaints or charges brought against an employee by another person or employee, unless the employee who is the subject of the complaint requests an open session. Before the Board holds a closed session on specific complaints or charges brought against an employee, the employee shall receive written notice of his/her/the right to have the complaints or charges heard in open session if desired. This notice shall be delivered personally or by mail at least 24 hours before the time of the session. (Government Code 54957)

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)



The Board may hold a closed session to discuss ~~an district~~ employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan. (Government Code 54957.10)

Agenda items related to district employee appointments and employment shall describe the position to be filled. Agenda items related to performance evaluations shall specify the title of the employee being reviewed. Agenda items related to employee discipline, dismissal, or release require no additional information. (Government Code 54954.5)

After the closed session, the Board shall report any action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a district employee and shall identify the title of the affected position. The report shall be given at the public meeting during which the closed session is held, except that the report of a dismissal or nonrenewal of an employment contract shall be deferred until the first public meeting after administrative remedies, if any, have been exhausted. (Government Code 54957.1)

(cf. 4117.7/4317.7 - Employment Status Reports)

### **Negotiations/Collective Bargaining**

Unless otherwise agreed upon by the parties involved, the following shall not be subject to the open meeting requirements of Brown Act: (Government Code 3549.1)

1. Any meeting and negotiating discussion between the district and a recognized or certified employee organization
2. Any meeting of a mediator with either party or both parties to the meeting and negotiating process
3. Any hearing, meeting, or investigation conducted by a factfinder or arbitrator
4. Any executive (closed) session of the district or between the district and its designated representative for the purpose of discussing its position regarding any matter within the scope of representation and instructing its designated representatives

(cf. 4140/4240/4340 - Bargaining Units)

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

The Board may meet in closed session, prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees, to review the Board's position and/or instruct its designated representative(s) regarding salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees.

and, for represented employees, any other matter within the statutorily provided scope of representation. ~~-Prior to the closed session, the Board shall identify its designated representative in open session.~~ Any closed session held for this purpose may include discussions of the district's available funds and funding priorities, but only insofar as they relate to providing instructions to the Board's designated representative. Final action on the proposed compensation of one or more unrepresented employees shall not be taken in closed session. (Government Code 54957.6)

(cf. 2121 - Superintendent's Contract)

~~For represented employees, the Board may also meet in closed session regarding any other matter within the statutorily provided scope of representation. (Government Code 54957.6)~~

~~Closed sessions may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees. For unrepresented employees, closed sessions held pursuant to Government Code 54957.6 shall not include final action on the proposed compensation of one or more unrepresented employees. (Government Code 54957.6)~~

The Board also may meet in closed session with a state conciliator ~~or mediator~~ who has intervened in proceedings regarding any of the purposes enumerated in Government Code 54957.6.

Agenda items related to negotiations shall specify the name(s) of the district's designated representative(s) attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the organization representing the employee(s) or the position title of the unrepresented employee who is the subject of the negotiations. (Government Code 54954.5)

Approval of an agreement regarding labor negotiations with represented employees pursuant to Government Code 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. This report shall identify the item approved and the other party or parties to the negotiation. (Government Code 54957.1)

### **Matters Related to Students**

~~The Board shall meet in closed session to consider the expulsion of a student, unless the student submits a written request at least five days before the date of the hearing that the hearing be held in open session. Regardless of whether the expulsion hearing is conducted in open or closed session, the Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code 48918)~~

~~(cf. 5144.1—Suspension and Expulsion/Due Process)~~

~~(cf. 5144.2—Suspension and Expulsion/Due Process (Students with Disabilities))~~



If a public hearing would lead to the disclosure of confidential student information, the Board shall meet in closed session to ~~address any student matter that may involve disclosure of confidential student information, or to~~ consider a suspension, disciplinary action, ~~or~~ any other action against a student except expulsion, ~~or a challenge to a student record~~. If a written request for open session is received from the parent/guardian or adult student, ~~it will be honored to the extent that it does not violate the privacy rights of any other student~~ the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any student other than the student requesting the public meeting shall be in closed session. (Education Code 35146, 48912, 49070)

(cf. 5117 - Interdistrict Attendance)  
(cf. 5119 - Students Expelled from Other Districts)  
(cf. 5125.3 - Challenging Student Records)  
(cf. 5144 - Discipline)

The Board shall meet in closed session to consider the expulsion of a student, unless the student submits a written request at least five days before the date of the hearing that the hearing be held in open session. Regardless of whether the expulsion hearing is conducted in open or closed session, the Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code 48918)

(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing" or "grade change appeal," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping. The agenda shall also state that the Education Code requires closed sessions in these cases in order to prevent the disclosure of confidential student record information.

Final action on a student matter deliberated in closed session shall be taken in open session and shall be a matter of public record. (Education Code 35146, 48918)

(cf. 5125 - Student Records)

However, in taking final action, the Board shall not release any information in violation of student privacy rights provided in 20 USC 1232g or other applicable laws. In an expulsion or other disciplinary action, the cause for the disciplinary action shall be disclosed in open session, but the Board shall refer to the student number or other identifier and shall not disclose the student's name.

## **Security Matters**

The Board may meet in closed session with the Governor, Attorney General, district attorney, district legal counsel, sheriff or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings; to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service; or to the public's right of access to public services or public facilities. Such discussions may be held in closed session during an emergency meeting called pursuant to Government Code 54956.5 if agreed to by a two-thirds vote of the Board members present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present. (Government Code 54956.5, 54957)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

(cf. 9323.2 - Actions by the Board)

~~The Board may meet in closed session during an emergency meeting held pursuant to Government Code 54956.5 to meet with law enforcement officials for the emergency purposes specified in Government Code 54957 if agreed to by a two-thirds vote of the Board members present. If less than two-thirds of the members are present, then the Board must agree by a unanimous vote of the members present. (Government Code 54956.5)~~

Agenda items related to these security matters shall specify the name of the law enforcement agency and the title of the officer, or name of applicable agency representative and title, with whom the Board will consult. (Government Code 54954.5)

The Board may meet in closed session to consult with law enforcement officials on the development of a plan for tactical responses to criminal incidents and to approve the plan. Following the closed session, the Board shall report any action taken to approve the plan, but need not disclose the district's plan for tactical responses. (Education Code 32281)

### **Conference with Real Property Negotiator**~~Negotiations~~

The Board may meet in closed session with its real property negotiator prior to the purchase, sale, exchange, or lease of real property by or for the district in order to grant its negotiator authority regarding the price and terms of payment for the property. (Government Code 54956.8)

Before holding the closed session, the Board shall hold an open and public session to identify its negotiator(s), ~~and~~ the property under negotiation, ~~and to specify~~ the person(s) with whom the negotiator may negotiate. For purposes of real property transactions, negotiators may include members of the Board. (Government Code 54956.8)

~~For purposes of real property transactions, negotiators may include members of the Board. (Government Code 54956.8)~~

Agenda items related to real property negotiations shall specify the district negotiator attending

the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the negotiating parties and the street address of the real property under negotiation. If there is no street address, the agenda item shall specify the parcel number or another unique reference of the property. The agenda item shall also specify whether instruction to the negotiator will concern price, terms of payment, or both. (Government Code 54954.5)

When the Board approves a final agreement concluding real estate negotiations pursuant to Government Code 54956.8, it shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held. If final approval rests with the other party to the negotiations, the Superintendent or designee shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the district of its approval. (Government Code 54957.1)

### **Pending Litigation**

Based on the advice of its legal counsel, the Board may hold a closed session to confer with or receive advice from its legal counsel regarding ~~a~~-pending litigation when ~~a~~-discussion of the matter in open session would prejudice the district's position in the litigation. For this purpose, "litigation" means any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)

Litigation is considered "pending" in any of the following circumstances: (Government Code 54956.9)

1. Litigation to which the district is a "party" has been initiated formally. (Government Code 54956.9(~~ad~~)(1))
2. A point has been reached where, in the Board's opinion based on the advice of its legal counsel regarding the "existing facts and circumstances," there is a "significant exposure to litigation" against the district, or the Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized. (Government Code 54956.9(~~bd~~)(2), (3))

Existing facts and circumstances for these purposes are limited to the following: (Government Code 54956.9)

- a. Facts and circumstances that might result in litigation against the district but which the district believes are not yet known to potential plaintiff(s) and which do not need to be disclosed.
- b. Facts and circumstances including, but not limited to, an accident, disaster, incident, or transactional occurrence which might result in litigation against the district, which are already



known to potential plaintiff(s) and which must be publicly disclosed before the closed session or specified on the agenda.

c. The receipt of a claim pursuant to the ~~Fort~~ Government Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.

(cf. 3320 - Claims and Actions Against the District)

d. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.

e. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the Board, provided that the district official or employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection. Such record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat of litigation on ~~his/her~~ the victim's behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.

3. Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation. (Government Code 54956.9~~(ed)~~(4))

Before holding a closed session pursuant to the pending litigation exception, the Board shall state on the agenda or publicly announce the subdivision of Government Code 54956.9 under which the closed session is being held. If authority is based on Government Code 54956.9~~(ed)~~(1), the Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the district's ability to effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage. (Government Code 54956.9)

Agenda items related to pending litigation shall be described as a conference with legal counsel regarding either "existing litigation" or "anticipated litigation." (Government Code 54954.5)

"Existing litigation" items shall identify the name of the case specified by either the claimant's name, names of parties, or case or claim number, unless the Board states that to identify the case would jeopardize service of process or existing settlement negotiations. (Government Code 54954.5)

"Anticipated litigation" items shall state that there is significant exposure to litigation pursuant to Government Code 54956.9~~(ed)~~(2) or (3) and shall specify the potential number of cases. When the district expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code 54956.9~~(ed)~~(4) and shall specify the potential number of cases. The agenda or an oral statement before the closed session may be required to provide additional information regarding existing facts and circumstances described in item #2 b-e above. (Government Code 54954.5)

Following the closed session, the Board shall publicly report, as applicable: (Government Code 54957.1)

1. Approval to legal counsel to defend, appeal or not appeal, or otherwise appear in litigation. This report shall identify the adverse parties, if known, and the substance of the litigation.

2. Approval to legal counsel to initiate or intervene in a lawsuit. This report shall state that directions to initiate or intervene in the action have been given and that the action, defendants, and other details will be disclosed to inquiring parties after the lawsuit is commenced unless doing so would jeopardize the district's ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage.

3. Acceptance of a signed offer from the other party or parties which finalizes the settlement of pending litigation. This report shall state the substance of the agreement.

If approval is given to legal counsel to settle pending litigation but final approval rests with the other party or with the court, the district shall report the fact of approval and the substance of the agreement thereon to persons who inquire once the settlement is final. (Government Code 54957.1)

### **Joint Powers Agency Issues**

The Board may meet in closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by a joint powers agency (JPA) formed for the purpose of insurance pooling or self-insurance authority of which the district is a member. (Government Code 54956.95)

Closed session agenda items related to liability claims shall specify the claimant's name and the name of the agency against which the claim is made. (Government Code 54954.5)

(cf. 3530 - Risk Management/Insurance)

Following the closed session, the Board shall publicly report the disposition of joint powers agency or self-insurance claims, including the name of the claimant(s), the name of the agency claimed against, the substance of the claim, and the monetary settlement agreed upon by the claimant. (Government Code 54957.1)

When the board of the JPA has so authorized and upon advice of district legal counsel, the Board may also meet in closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the JPA that has direct financial or liability implications for the district. During the Board's closed session, a Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to fellow Board members. (Government Code 54956.96)

~~The Board member may also disclose the confidential JPA information to district legal counsel in order to obtain advice on whether the matter has direct financial or liability implications for the district. (Government Code 54956.96)~~

Closed session agenda items related to conferences involving a JPA shall specify the name of the JPA, the closed session description used by the JPA, and the name of the Board member representing the district on the JPA board. Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives shall also be included. (Government Code 54954.5)

#### **Review of Audit Report from California State Auditor's Office~~Bureau of State Audits~~**

Upon receipt of a confidential final draft audit report from the California State Auditor's Office~~Bureau of State Audits~~, the Board may meet in closed session to discuss its response to that report. After public release of the report from the California State Auditor's Office~~Bureau of State Audits~~, any Board meeting to discuss the report must be conducted in open session, unless exempted from that requirement by some other provision of law. (Government Code 54956.75)

Closed session agenda items related to an audit by the California State Auditor's Office ~~Bureau of State Audits~~ shall state "Audit by California State Auditor's Office~~Bureau of State Audits~~." (Government Code 54954.5)

Following the closed session, the Board shall publicly confirm that the report was reviewed and a response was prepared.

#### **Review of Assessment Instruments**

The Board may meet in closed session to review the contents of any student assessment instrument approved or adopted for the statewide testing system. Before any such meeting, the Board shall agree by resolution to accept any terms or conditions established by the State Board of Education for this review. (Education Code 60617)

(cf. 6162.51 - State Academic Achievement Tests)

(cf. 6162.5 - Student Assessment)



Agenda items related to the review of student assessment instruments shall state that the Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program and that Education Code 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

Following the closed session, the Board shall confirm that the assessment instruments were reviewed. Any actions related to the review shall be taken in open session without revealing any proprietary or confidential information and shall be a matter of public record.

#### Legal Reference:

##### EDUCATION CODE

32281 School safety plans

35145 Public meetings

35146 Closed session ~~) for student suspension or disciplinary action(re student suspension)~~

44929.21 Districts with ADA of 250 or more

48912 Governing board suspension of student

48918 Rules governing expulsion procedures; hearings and notice

49070 Challenging content of students records

49073-49079 Privacy of student records

60617 Closed session (re review of contents of statewide assessment)~~Meetings of governing board~~

##### GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

6252-6270 California Public Records Act

54950-54963 The Ralph M. Brown Act

##### CALIFORNIA CONSTITUTION

Article 1, Section 3 Public right to access information

##### UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

##### CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.8 Family Educational Rights and Privacy

##### COURT DECISIONS

Moreno v. City of King, (2005) 127 Cal.App.4th 17

Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners, (2003) 107 Cal.App.4th 860

Rim of the World Unified School District v. San Bernardino County Superior Court, (2002) 104 Cal.App.4th 1393

Bell v. Vista Unified School District, ~~(2004)~~2000) 82 Cal.App. 4th 672

Fischer v. Los Angeles Unified School District, (1999) 70 Cal.App. 4th 87

Kleitman v. Superior Court of Santa Clara County, (1999) 87 Cal Rptr. 2d  
CODE OF FEDERAL REGULATIONS, TITLE 34

Furtado v. Sierra Community College District (1998) 68 Cal.App. 4th 876

Roberts v. City of Palmdale, (1993) 5 Cal.App. 4th 363

San Diego Union v. City Council, (1983) 146 Cal.App.3d 947

Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, (1968) 263 Cal.App. 2d 41

ATTORNEY GENERAL OPINIONS

94 Ops.Cal.Atty.Gen. 82 (2011)

89 Ops.Cal.Atty.Gen. 110 (2006)

86 Ops.Cal.Atty.Gen. 210 (2003)

78 Ops.Cal.Atty.Gen. 218 (1995)

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

57 Ops.Cal.Atty.Gen. 209 (1974)

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 2009rev. 2014

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, 20022003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public IV: A Guide to the Ralph M. Brown Act, rev. July 2010

WEB SITES

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

California Attorney General's Office: <http://www.oag.ca.gov>

League of California Cities: <http://www.cacities.org>

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 12, 2019

# Alum Rock Union ESD

## Exhibit

### Closed Session

E 9321

### Board Bylaws

#### Exhibit 1

#### BOARD MEETING AGENDA DESCRIPTIONS FOR CLOSED SESSION ITEMS

The Governing Board meeting agenda shall include the following description of a closed session item, as applicable:

##### Personnel Matters

##### PUBLIC EMPLOYEE APPOINTMENT

Government Code 54957

Title:

---

*(Specify position to be filled)*

##### PUBLIC EMPLOYMENT

Government Code 54957

Title:

---

*(Specify position to be filled)*

##### PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Government Code 54957

Title:

---

*(Specify position of employee being evaluated)*

##### PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Government Code 54957

*(No additional information is required. An employee's dismissal or nonrenewal shall not be reported until the employee has first exhausted any right to a hearing or other administrative remedy.)*

##### SPECIFIC COMPLAINT OR CHARGE AGAINST EMPLOYEE

Government Code 54957

*(No additional information is required.)*

EMPLOYEE APPLICATION FOR EARLY WITHDRAWAL OF FUNDS IN DEFERRED  
COMPENSATION PLAN

Government Code 54957.10

*(No additional information is required.)*

**Negotiations/Collective Bargaining**

CONFERENCE WITH LABOR NEGOTIATORS

Government Code 54957.6

District-designated representatives:

---

*(Specify names of representatives attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative as long as the name of the agent or designee is announced at an open session held prior to the closed session.)*

Employee organization:

---

*(Specify name of employee organization with which negotiations are being held.)*

or

Unrepresented employee:

---

*(Specify position of unrepresented employee who is the subject of the negotiations.)*

**Matters Related to Students**

STUDENT SUSPENSION/OTHER DISCIPLINARY ACTION

Education Code 35146

Student identification number:

---

*(It is recommended that the student's name not be listed. The district may use other means to identify the student for record-keeping purposes.)*

STUDENT EXPULSION

Education Code 48912

Student identification number:

---

*(It is recommended that the student's name not be listed. The district may use other means to identify the student for record-keeping purposes.)*

STUDENT GRADE CHANGE APPEAL

Education Code 49070

Student identification number:

---

*(It is recommended that the student's name not be listed. The district may use other means to identify the student for record-keeping purposes.)*

## CONFIDENTIAL STUDENT MATTER

Action under consideration:

---

*(If the Board is considering a confidential student matter other than those listed above, specify type of action.)*

Student identification number:

---

*(It is recommended that the student's name not be listed. The district may use other means to identify the student for record-keeping purposes.)*

## Security Matters

### THREAT TO PUBLIC SERVICES OR FACILITIES

Government Code 54957

Consultation with: \_\_\_\_\_

*(Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title, with whom the Board will consult.)*

### DEVELOPMENT/APPROVAL OF TACTICAL RESPONSE PLAN

Education Code 32281

Consultation with: \_\_\_\_\_

*(Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title, with whom the Board will consult.)*

## Real Property Negotiations

### CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Government Code 54956.8

Property: \_\_\_\_\_

*(Specify street address or, if no street address, the parcel number or other unique reference of the real property under negotiation.)*

District negotiator:

---

*(Specify names of negotiators attending the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator as long as the name of the agent or designee is announced at an open session held prior to the closed session.)*

Negotiating parties: \_\_\_\_\_  
(Specify name of party, not agent.)

Under negotiation: \_\_\_\_\_  
(Specify whether instruction to negotiator will concern price, terms of payment, or both.)

### **Pending Litigation**

#### **CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION** Government Code 54956.9(d)(1)

Name of case: \_\_\_\_\_  
(Specify by reference to claimant's name, names of parties, or case or claim numbers.)

or

Case name unspecified, as identification of the case would jeopardize service of process or existing settlement negotiations.

#### **CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION** Government Code 54956.9(d)(2) or (3)

Significant exposure to litigation pursuant to Government Code 54956.9(d)(2) or (3). Number of potential cases: \_\_\_\_\_

or

Initiation of litigation pursuant to Government Code 54956.9(d)(4). Number of potential cases: \_\_\_\_\_

If applicable, facts and circumstances: \_\_\_\_\_  
(The district may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to Government Code 54956.9(e)(2)-(5). These include facts and circumstances, such as an accident, disaster, incident, or transactional occurrence that might result in litigation against the district and that are known to potential plaintiff(s).)

### **Joint Powers Authority Issues**

#### **LIABILITY CLAIMS FOR INSURANCE-RELATED JOINT POWERS AGENCY** Government Code 54956.95

Name of claimant(s): \_\_\_\_\_



*(Specify name, except pursuant to Government Code 54961 when the claimant is a victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.)*

Name of agency against which the claim is made: \_\_\_\_\_

CONFERENCE INVOLVING INFORMATION FROM A JOINT POWERS AGENCY WITH  
DIRECT FINANCIAL OR LIABILITY IMPLICATIONS FOR DISTRICT  
Government Code 54956.96

Name of JPA: \_\_\_\_\_

Discussion will concern: \_\_\_\_\_

*(Specify closed session description used by the JPA.)*

Name of district representative on JPA board: \_\_\_\_\_

Names of agencies or titles of representatives attending the closed session as consultants or other  
representatives, if applicable: \_\_\_\_\_

#### **Review of Audit from State Auditor's Office**

AUDIT BY CALIFORNIA STATE AUDITOR'S OFFICE  
Government Code 54956.75  
*(No additional information is required.)*

#### **Review of Assessment Instruments**

REVIEW OF STUDENT ASSESSMENT INSTRUMENT  
Education Code 60617

The Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program. Education Code 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

Exhibit ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
adopted: September 12, 2019 San Jose, CA

## Exhibit 2

### REPORTS OF CLOSED SESSION ACTIONS

Following a closed session during any Governing Board meeting, the Board shall reconvene in open session to present, orally or in writing, a report of any of the following actions taken during the closed session, as applicable:

#### Personnel Matters

Title of position: \_\_\_\_\_

Action taken: \_\_\_\_\_  
(e.g., appointment/employment/evaluation/discipline/dismissal/release)

Board member votes/abstentions: \_\_\_\_\_

#### Negotiations/Collective Bargaining

Approval of final agreement with represented employees

Item approved: \_\_\_\_\_

Other party/parties to the negotiation: \_\_\_\_\_

Board member votes/abstentions: \_\_\_\_\_

#### Matters Related to Students

*(Final action must be taken in open session. It is recommended that the student's name not be disclosed.)*

#### Security Matters

Action taken: \_\_\_\_\_  
(e.g., consultation with law enforcement; approval of contract or memorandum of understanding; approval of tactical response plan, without disclosing the details of the plan)

Board member votes/abstentions: \_\_\_\_\_

#### Real Property Negotiations

Action taken: \_\_\_\_\_  
(Report if Board approves a final agreement concluding real estate negotiations. If final approval rests with the other party, report as soon as the other party has approved the agreement.)

Substance of the agreement: \_\_\_\_\_

Board member votes/abstentions: \_\_\_\_\_

### **Existing Litigation**

Action taken related to existing litigation: \_\_\_\_\_

*(e.g., approval to legal counsel to defend, appeal or not appeal, or otherwise appear in litigation; or approval to legal counsel of a settlement of pending litigation at any stage prior to or during a judicial or quasi-judicial proceeding. If final approval of settlement rests with the other party, report to any person upon request once the settlement is final.)*

Adverse party/parties, if known: \_\_\_\_\_

Substance of the litigation: \_\_\_\_\_

Board member votes/abstentions: \_\_\_\_\_

### **Anticipated Litigation**

Action taken: The Board has given approval to legal counsel to initiate or intervene in a lawsuit. The action, defendants, and other details will be disclosed to any person upon request after the lawsuit is commenced, unless doing so would jeopardize the district's ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage. *(The report does not need to initially identify the action, defendants, or other details.)*

Board member votes/abstentions: \_\_\_\_\_

### **Joint Powers Agency Issues**

#### **LIABILITY CLAIMS FOR INSURANCE-RELATED JOINT POWERS AGENCY**

Name of claimant(s): \_\_\_\_\_

Name of agency against which the claim is made: \_\_\_\_\_

Substance of the claim: \_\_\_\_\_

Monetary settlement agreed upon by the claimant: \_\_\_\_\_

Board member votes/abstentions: \_\_\_\_\_

CONFERENCE INVOLVING INFORMATION FROM A JOINT POWERS AGENCY WITH  
DIRECT FINANCIAL OR LIABILITY IMPLICATIONS FOR DISTRICT

Name of JPA: \_\_\_\_\_

Action taken: \_\_\_\_\_  
(*Law does not include any specific disclosures to be reported.*)

Board member votes/abstentions: \_\_\_\_\_

**Review of Audit from State Auditor's Office**

Action taken: The Board reviewed the confidential final draft audit report received from the California State Auditor's Office and has prepared a response.  
(*No additional information is required. Unless otherwise exempted by law, after the audit report is subsequently released to the public, any Board discussion of the report must be conducted in open session.*)

**Review of Assessment Instruments**

Action taken: The Board reviewed the contents of a student assessment instrument approved or adopted for the statewide testing system.

Exhibit ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
adopted: September 12, 2019 San Jose, California

# Alum Rock Union ESD

## Board Bylaw

### Agenda/Meeting Materials

BB 9322

#### Board Bylaws

#### Agenda Content

Board of Trustees meeting agendas shall reflect the district's vision and goals and the Board's focus on student learning.

*(cf. 0000 - Vision)*

*(cf. 0200 - Goals for the School District)*

Each agenda ~~Board of Trustees meeting agendas~~ shall state the meeting time and place and shall briefly describe each business item to be transacted or discussed, including items to be discussed in closed session. (Government Code 54954.2)

(cf. 9320 - Meetings and Notices)

(cf. 9321- Closed Session Purposes and Agendas)

The agenda shall provide members of the public the opportunity to address the Board on any agenda item before or during the Board's consideration of the item. However, the agenda need not provide an opportunity for public comment when the agenda item has previously been considered at an open meeting of a committee comprised exclusively of Board members, provided that members of the public were afforded an opportunity to comment on the item at that meeting and that the item has not been substantially changed since the committee considered it. (Government Code 54954.3)

The agenda for a regular Board meeting shall also provide members of the public an opportunity ~~to to testify at regular meetings~~ provide comment on matters which are not on the agenda but which are within the subject matter jurisdiction of the Board. (Education Code 35145.5; Government Code 54954.3)

(cf. 9323 - Meeting Conduct)

Each ~~meeting~~ agenda for a regular meeting shall list the address designated by the Superintendent or designee for public inspection of ~~agenda~~ documents related to an open session item that have been distributed to the Board less than 72 hours before the meeting. (Government Code 54957.5)

The agenda shall include information regarding how, when, and to whom a request should be made if ~~specify that~~ an individual ~~should contact the Superintendent or designee if he/she~~

requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the Board meeting. (Government Code 54954.2)

### **Agenda Preparation**

The Board president and the Superintendent, as secretary to the Board, shall work together to develop the agenda for each regular and special meeting. ~~Each agenda shall reflect the district's vision and goals and the Board's focus on student learning.~~

~~(cf. 0000—Vision)~~

~~(cf. 0200—Goals for the School District)~~

~~(cf. 9121 - President)~~

~~(cf. 9122 - Secretary)~~

Any Board member or member of the public may request that a matter within the jurisdiction of the Board be placed on the agenda of a regular meeting. The request shall be submitted in writing to the Superintendent or designee with supporting documents and information, if any, at least one week before the scheduled meeting date. Items submitted less than a week before the scheduled meeting date may be postponed to a later meeting in order to allow sufficient time for consideration and research of the issue.

The Board president and Superintendent shall decide whether a request from a member of the public is within the subject matter jurisdiction of the Board. Items not within the subject matter jurisdiction of the Board may not be placed on the agenda. In addition, before placing the item on the agenda, the Board president and Superintendent shall determine if the item is merely a request for information or whether the issue is covered by an existing policy or administrative regulation.

The Board president and Superintendent shall also decide whether an agenda item is appropriate for discussion in open or closed session, and whether the item should be an action item subject to Board vote; or an information item that does not require immediate action; ~~or a consent item that is routine in nature and for which no discussion is anticipated.~~

~~Any Board action that involves borrowing \$100,000 or more shall be discussed, considered, and deliberated upon as a separate item of business on the meeting agenda.—(Government Code 53635.7)~~

~~(cf. 9323.2—Actions by the Board)~~

~~All public communications with the Board are subject to requirements of relevant Board policies and administrative regulations.~~

~~(cf. 1312.1—Complaints Concerning District Employees)~~

~~(cf. 1312.2—Complaints Concerning Instructional Materials)~~

~~(cf. 1312.3—Uniform Complaint Procedures)~~



~~(cf. 1312.4—Williams Uniform Complaint Procedures)~~  
~~(cf. 3320—Claims and Actions Against the District)~~  
~~(cf. 5144.1—Suspension and Expulsion/Due Process)~~

### ~~Consent Agenda/Calendar~~

In order to promote efficient meetings, the Board may bundle a number of items and act upon them together by a single vote through the use of a consent agenda. Consent ~~agenda~~ items shall be items of a routine nature and items for which Board discussion is not anticipated and for which the Superintendent recommends approval.\_

When any Board member requests the removal of an item from the consent agenda, the item shall be removed and given individual consideration for action as a regular agenda item.

The agenda shall provide an opportunity for members of the public to comment on any consent agenda item that has not been previously considered. ~~However, the agenda need not provide an opportunity for public comment when the consent agenda item has previously been considered at an open meeting of a committee comprised exclusively of all the Board members provided that members of the public were afforded an opportunity to comment on the item at that meeting, unless the item has been substantially changed since the committee considered it.~~ (Government Code 54954.3)

Any Board action that involves borrowing \$100,000 or more shall be discussed, considered, and deliberated upon as a separate item of business on the meeting agenda. (Government Code 53635.7)

(cf. 9323.2 - Actions by the Board)

All public communications with the Board are subject to requirements of relevant Board policies and administrative regulations.

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.2 - Complaints Concerning Instructional Materials)  
(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 1312.4 - Williams Uniform Complaint Procedures)  
(cf. 3320 - Claims and Actions Against the District)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)

### **Agenda Dissemination to Board Members**

At least 72 hours ~~three days~~ before each regular meeting, each Board member shall be provided a copy of the agenda and agenda packet, including the Superintendent or designee's report; minutes to be approved; copies of communications; reports from committees, staff, ~~citizens~~, and others; and other available documents pertinent to the meeting.

When special meetings are called, Board members shall receive, at least 24 hours prior to the meeting, notice of the business to be transacted. (Government Code 54956)  
~~the Superintendent or designee shall make every effort to distribute the agenda and supporting materials to Board members as soon as possible before the meeting.~~

Board members shall review agenda materials before each meeting. Individual members may confer directly with the Superintendent or designee to ask questions and/or request additional information on agenda items. However, a majority of Board members shall not, outside of a noticed meeting, directly or through intermediaries or electronic means discuss, deliberate, or take action on any matter within the subject matter jurisdiction of the Board.

(cf. 9012 - Board Member Electronic Communications)

### **Agenda Dissemination to Members of the Public**

Any agenda and related materials distributed to the Board shall be made available to the public upon request without delay. The Superintendent or designee shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to any person who requests the items. The materials shall be mailed at the time the agenda is posted or upon distribution of the agenda to a majority of the Board, whichever occurs first. (Government Code 54954.1)

If a document which relates to an open session agenda item of a regular Board meeting 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 a designated location at the same time the document is distributed to all or a majority of the Board, provided the document is a- Only those documents which are disclosable public records under the Public Records Act and which relate to an agenda item scheduled for the open session portion of a regular meeting shall be made available to the public. The Superintendent or designee may also post the document on the district'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)

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. (Government Code 54954.2)

In addition, the Superintendent or designee shall post the agenda on the homepage of the district web site. The posted agenda shall be accessible through a prominent direct link to the current agenda or to the district's agenda management platform in accordance with Government Code 54954.2. When the district utilizes an integrated agenda management platform, the link to that platform shall take the user directly to the web site with the district's agendas, and the current agenda shall be the first available. (Government Code 54954.2)

(cf. 1113 - District and School Web Sites)

(cf. 1340 - Access to District Records)

If a document which relates to an open session agenda item of a regular Board meeting 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 a designated location at the same time the document is distributed to all or a majority of the Board. (Government Code 54957.5)

The Superintendent or designee shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to any person who requests the items. The materials shall be mailed at the time the agenda is posted or upon distribution of the agenda to a majority of the Board, whichever occurs first. (Government Code 54954.1)

~~Any document prepared by the district or Board and distributed during a public meeting shall be made available for public inspection at the meeting. Any document 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 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 Superintendent or designee, not to exceed the cost of providing the service.

Any document prepared by the district or Board and distributed during a public meeting shall be made available for public inspection at the meeting. Any document 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 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)

Legal Reference:

EDUCATION CODE

35144 Special meetings

35145 Public meetings

35145.5 Right of public to place matters on agenda

GOVERNMENT CODE

6250-6270 Public Records Act

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 Availability of pPublic records

54960.2 Challenging board actions; cease and desist

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

COURT DECISIONS

Mooney v. Garcia, (2012) 207 Cal.App.4th 229

Caldwell v. Roseville Joint Union High School District, 2007 U.S. Dist. LEXIS 66318

ATTORNEY GENERAL OPINIONS

99 Ops. Cal. Atty. Gen. 11 (2016)

78 Ops. Cal. Atty. Gen. 327 (1995)

Management Resources:

CSBA PUBLICATIONS

Call to Order: A Blueprint for Great Board Meetings, ~~2010~~2015

The Brown Act: School Boards and Open Meeting Laws, rev. ~~2009~~2014

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, rev. 2003

WEB SITES

CSBA, Agenda Online: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019

# **Alum Rock Union ESD**

## **Board Bylaw**

### **Actions By The Board**

BB 9323.2

#### **Board Bylaws**

The Board of Trustees shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. (Education Code 35164)

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

(cf. 9012 - Board Member Electronic Communications)

(cf. 9200 - Limits of Board Member Authority)

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members
2. A collective commitment or promise by a majority of the Board members to make a positive or negative decision
3. A vote by a majority of the Board members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

The Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes. (Education Code 35145)

(cf. 9324 - Minutes and Recordings)

#### **Action on Non-Agenda Items**

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: (Government Code 54954.2)

1. When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code 54956.5
2. When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted



3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

#### Challenging Board Actions

The district attorney's office or any interested person may file an action in court ~~to for the~~ purpose of: (Government Code 54960, 54960.2)

1. ~~S~~topping or preventing the Board's violation or threats ~~of ened~~ violations of the Brown Act

~~, to-~~

2. ~~D~~etermining the applicability of the Brown Act to ongoing or future threatened Board actions;

3. Determining the applicability of the Brown Act to a past action of the Board that is not specified in Government Code 54960.1, provided that:

a. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.

b. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

c. The action is brought within the time required by Government Code 54960.2.

4. ~~to determine~~ Determining the validity, under ~~California state~~ or federal law, of any Board rule or action ~~to which~~ penalizes any of its members or otherwise discourages their ~~member's~~ expression

~~, or to-~~

~~4.5.~~ Compelling the Board to audio record its closed sessions because of a court's finding of the Board's its violation of any applicable Government Code provision: ~~(Government Code- 54960)~~

The district attorney or any interested person may ~~present a demand that the Board cure and correct a Board action which he/she alleges is~~ file an action in court to nullify a Board action which is alleged to be in violation of law regarding any of the following: (Government Code 54960.1)

1. Open meeting and teleconferencing (Government Code 54953)

2. Agenda posting (Government Code 54954.2)
3. Closed session item descriptions (Government Code 54954.5)
4. New or increased tax assessments (Government Code 54954.6)
5. Special meetings (Government Code 54956)
6. Emergency meetings (Government Code 54956.5)

Prior to bringing any action to nullify a Board action, the district attorney or other interested person shall present Any demand to "cure and correct" ~~an~~ the alleged violation. The demand shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code 54960.1)

1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.
2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.
3. Take no action. If the Board takes no action within the 30-day ~~review~~ period, its inaction shall be considered a decision not to cure or correct the challenged action.

~~In addition, the district attorney's office or any interested party may file an action in court to determine the applicability of the Brown Act to any past Board action not specified in Government Code 54960.1, if the following conditions are met: (Government Code 54960.2)~~

- ~~1. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.~~
- ~~2. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.~~

Legal Reference:  
EDUCATION CODE  
15266 School construction bonds

17466 Declaration of intent to sell or lease real property  
17481 Lease of property with residence for nondistrict purposes  
17510-~~17511~~-17512 Leasing for production of gas, Resolution-resolution requiring unanimous vote ~~of all members constituting board~~

17546 Private sale of personal property  
17556-17561 Dedication of real property  
17582-17583 District deferred maintenance fund  
35140-35149 Meetings  
35160-35178.4 Powers and duties  
48660-48661 Community day schools, establishment and restrictions

#### CODE OF CIVIL PROCEDURE

425.16 Special motion to strike in connection with a public issue  
1245.240 Eminent domain vote requirements  
1245.245 Eminent domain, resolution adopting different use

#### GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities  
53724 Parcel tax resolution requirements  
53790-53792 Exceeding the budget  
53820-53833 Temporary borrowing  
53850-53858 Temporary borrowing  
54950-54963 The Ralph M. Brown Act, especially:  
54952.6 Action taken, definition  
54953 Meetings to be open and public; attendance; prohibition against secret ballots  
54960-54960.5 Actions to prevent violations  
65352.2 Coordination with planning agency

#### PUBLIC CONTRACT CODE

3400 Bid specifications  
20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder  
20113 Emergencies, award of contracts without bids  
20114 Repairs, maintenance, and improvements to district facilities by day labor or force account  
22034 Uniform Public Construction Cost Accounting Act informal bidding ordinance  
22035 Repair or replacement of facilities in case of emergency  
22050 Emergency contracting procedures

#### COURT DECISIONS

Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313  
McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310  
Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672  
Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109

#### Management Resources:

#### CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 20092014

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Local Legislative Bodies, 2003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public IV: A Guide to the Ralph M. Brown Act, 2nd Edition, rev. July 2010 2007

WEB SITES

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

~~California Attorney General's Office: <http://www.oag.ca.gov>~~

Institute ~~of~~ for Local Government: <http://www.ca-ilg.org>

~~Office of the Attorney General: <http://www.oag.ca.gov>~~

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019



# Alum Rock Union ESD

## Exhibit

### Actions By The Board

E(+) 9323.2

#### Board Bylaws

#### Exhibit 1

~~Cautionary Notice: AB 97 (Ch. 47, Statutes of 2013) repealed Education Code 42605, which provided temporary flexibility for specified "Tier 3" categorical programs, and instead redirects the funding for those categorical programs into the Local Control Funding Formula (LCFF) (Education Code 42238.01-42251). The supplemental and concentration grant portions of the LCFF may be used for any schoolwide or districtwide educational purpose in accordance with state regulations to be adopted by January 31, 2014, with a goal of increasing or improving services for English learners, foster youth, and students eligible for free and reduced-price meals. Certain requirements related to Tier 3 categorical program(s) in the following policy or regulation are no longer applicable.~~

#### ACTIONS REQUIRING ~~MORE THAN A~~ SUPER MAJORITY VOTE

##### Actions Requiring a Two-Thirds Vote of the Board:

1. Resolution declaring the Governing Board's intention to sell or lease real property (Education Code 17466)  
  
(cf. 3280 - Sale or Lease of District-Owned Real Property)
2. Resolution declaring the Board's intent ~~of Board of Trustees~~ to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease, for up to three months, of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481)
5. Request for temporary borrowing of funds needed for immediate requirements of the district to pay district obligations incurred before the receipt of fiscal district income for the fiscal year sufficient to meet the payment(s), if implemented pursuant to Government Code 53820-53833 (Government Code 53821)



6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, ~~action to render ordering~~ city or county zoning ordinances inapplicable to a proposed use of the property by the district (Government Code 53094)

(cf. 7131 - Relations with Local Agencies)  
(cf. 7150 - Site Selection and Development)  
(cf. 7160 - Charter School Facilities)

7. Resolution to transfer excess local funds from a deferred maintenance fund when state funds are insufficient to match local funds being held in the deferred maintenance fund (Education Code 17582, 17583)

8. ~~When the district is organized to serve only grades K-8, action to establish a community day school for any of grades K-8 (Education Code 48660)~~

~~(cf. 6185 - Community Day School)~~

~~8. For districts with an ADA of 2,500 or less seeking to add a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)~~

~~99. When the district is organized to serve only grades K-8, has an average daily attendance (ADA) of 2,500 or less, or desires to operate a community day school to serve any of grades K-6 (and no higher grades) and seeks to situate a For K-8 districts (and no higher grades) seeking to add a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)~~

~~10. For districts desiring to operate a community day school on an existing school site to serve grades K-6 (and no higher grades), certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)~~

~~(cf. 6185 - Community Day School)~~

~~11. Resolution of intent to issue general obligation bonds with the approval of 55 percent of the voters of the district (Education Code 15266)~~

~~(cf. 7214 - General Obligation Bonds)~~

~~112. Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code 15266)~~

~~(cf. 7213 - School Facilities Improvement Districts)~~

~~123. Resolution to place a parcel tax on the ballot (Government Code 53724)~~

~~134. Resolution of necessity to proceed with an eminent domain action and, if the Board subsequently desires to use the property for a different use than stated in the resolution of~~

necessity, a subsequent resolution so authorizing the different use (Code of Civil Procedure 1245.240, 1245.245)

#### **Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting:**

1. Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)

2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

(cf. 9320 - Meetings and Notices)

(cf. 9321 - Closed Session Purposes and Agendas)

#### **Actions Requiring a Four-Fifths Vote of the Board:**

1. ~~E~~The expenditure and transfer of necessary funds and use of district property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense (Government Code 53790-53792)

(cf. 3110 - Transfer of Funds)

2. Resolution for district borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the district's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing (Government Code 53822, 53824)

32. Resolution for district borrowing, ~~adopted~~ between July 15 and August 30 of any fiscal year, to borrow funds of up to 25 percent of the estimated income and revenue to be received by the district during the that current fiscal year from apportionments based on average daily attendanceADA for the preceding school year (Government Code ~~53822~~53823-53824)

43. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)

(cf. 3311 - Bids)

54. When the district has a five-member or seven-member Board, action to respond to an emergency facilities condition without giving notice for bids to let contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to

take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)

65. Resolution to award a contract for a public works project at \$212,500 or less to the lowest responsible bidder, when the district is using the informal process authorized under the Uniform Public Construction Cost Accounting Act for projects of \$200,000 or less, all bids received are in excess of \$200,000, and the Board determines that the district's cost estimate was reasonable (Public Contract Code 22034)

(cf. 3311.1 - Uniform Public Construction Cost Accounting Procedures)

#### **Actions Requiring a Unanimous Vote of the Board:**

1. Resolution authorizing and prescribing the terms of a ~~community lease of district property~~ for extraction and taking of gas not associated with oil (Education Code 17510-17511)
2. Authorization of the use of day labor or force account, or wWaiver of the competitive bid process pursuant to Public Contract Code 20111, when the Board determines that an emergency exists requiring the repair, alteration, work, or improvement to any facility to permit the continuance of existing classes or to avoid danger to life or property, and upon approval of the County Superintendent of Schools (Public Contract Code 20113)

#### **Action Requiring a Unanimous Vote of the Board Members Present at the Meeting:**

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property ~~in the local dump~~ or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)

Exhibit        ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
version: July 2, 2013        —San Jose, California  
Revised: September 712, 2019

## **Alum Rock Union ESD**

### **Exhibit**

#### **Actions By The Board**

#### **Exhibit 2E(2) 9323.2** **Board Bylaws**



**Exhibit 2**

**9323.2**

**Actions By The Board**

**UNCONDITIONAL COMMITMENT LETTER**

To: *(Name of district attorney or any interested person)*

The Board of Trustees of *(name of school district)* has received your cease and desist letter dated *(date)* alleging that the following ~~described~~ past action taken by the Board violates the Ralph M. Brown Act: *(Describe alleged past action as set forth in the cease and desist letter.)*

In order to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the Board hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action described above. The Board may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address(es) you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, a notice will be delivered to you by the same means as this commitment, or by mail to an address that you have designated in writing, and you will have the right to commence legal action pursuant to Government Code 54960(a).

Sincerely,

*(Name)*

*(Title of Board President or other designee)*

Exhibit ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

version: July 2, 2013 \_\_\_\_\_ San Jose, California

Revised: September 7<sup>th</sup>, 2019

# Alum Rock Union ESD

## Board Bylaw

### Minutes And Recordings

BB 9324

#### Board Bylaws

The Board of Trustees recognizes that maintaining accurate minutes of Board meetings helps foster public trust in Board governance and provides a record of Board actions for use by district staff and the public. ~~Accurate minutes also help foster public trust that Board actions are occurring in public in accordance with law.~~

(cf. 9000 - Role of the Board)  
(cf. 9005 - Governance Standards)  
(cf. 9323 - Meeting Conduct)

The secretary of the Board shall keep minutes and record all official Board actions. The Board's minutes shall be public records and shall be made available to the public upon request.  
(Education Code 35145, 35163)

(cf. 1340 - Access to District Records)  
(cf. 9122 - Secretary)  
(cf. 9323.2 - Actions by the Board)

The minutes of Board meetings shall include, but not be limited to:

1. A notation of which members are present, in person or by teleconference, and whether a member is not present for part of the meeting due to late arrival and/or early departure

(cf. 9250 - Remuneration, Reimbursement and Other Benefits)  
(cf. 9320 – Meetings and Notices)

2. A brief summary of the Board's discussion on each agenda topic, rather than a verbatim record of each Board member's specific points of view during the discussion

3. A summary of the public comments made on agendized items and unagendized topics

4. The specific language of each motion, the names of members who made and seconded the motion

5. Any action taken by the Board and the vote or abstention on that action of each Board member present (Education Code 35145; Government Code 54953)



Upon request by a student's parent/guardian, or by the student if age 18 or older, the minutes shall not include the student's or parent/guardian's address, telephone number, date of birth, or email address, or the student's name or other directory information as defined in Education Code 49061. The request to exclude such information shall be made in writing to the secretary or clerk of the Board. (Education Code 49073.2)

(cf. 5125.1 - Release of Directory Information)

The Superintendent or designee shall distribute a copy of the "unapproved" minutes of the previous meeting(s) with the agenda for the next regular meeting. ~~At the next meeting, t~~The Board shall approve the minutes as circulated or with necessary amendments.

Upon approval by the Board, the minutes shall be signed by the Board clerk.

Official Board minutes and recordings shall be stored in a secure location and shall be retained in accordance with law.

(cf. 3580 - District Records)

~~In order to ensure that the minutes are focused on Board action, the minutes shall include only a brief summary of the Board's discussion, but shall not include a verbatim record of the Board's discussion on each agenda topic or the names of Board members who made specific points during the discussion.~~

The minutes shall include the specific language of each motion, the names of members who made and seconded the motion, and the individual votes of each member, unless the action was unanimous. When a roll call vote is taken, the names and votes of each member shall be listed. Motions or resolutions shall be recorded as having passed or failed. All motions and Board resolutions shall be numbered consecutively from the beginning of each fiscal year.

~~The minutes shall reflect the names of those individuals who comment during the meeting's public comment period as well as the topics they address.~~

~~The minutes shall record which members are present and whether a member is not present for part of the meeting due to late arrival and/or early departure.~~

~~(cf. 9250—Remuneration, Reimbursement and Other Benefits)~~

~~Official Board minutes and recordings shall be stored in a secure location and shall be retained in accordance with law.~~

~~(cf. 3580—District Records)~~

Any minutes or recordings kept for Board meetings held in closed session shall be kept separately from the minutes or recordings of regular and special meetings. Minutes or recordings of closed sessions are not public records. (Government Code 54957.2)

(cf. 9321.1 - Closed Session Actions and Reports)

### **Recording or Broadcasting of Meetings**

The district may tape, film, stream, or broadcast any open Board meeting. At the beginning of the meeting, ~~The Board president shall announce that a recording or broadcasting is being made at the beginning of the meeting~~ direction of the Board and, and that the recording or broadcast may capture images and sounds of those attending the meeting. ~~As~~ As practicable, the recorder or camera shall be placed in plain view of meeting participants.

Any district recording may be erased or destroyed 30 days after the meeting. Recordings made at the direction of the Board during a meeting are public records and, upon request, shall be made available for inspection by members of the public on ~~a~~ district recorder equipment without charge. (Government Code 54953.5)

#### Legal Reference:

##### EDUCATION CODE

35012 Number of members; terms; student board members

35145 Public meetings

35163 Official actions, minutes and journals

35164 Vote requirements

49061 Student records; definitions

49073.2 Privacy of student and parent/guardian personal information

##### GOVERNMENT CODE

54952.2 Meeting defined

54953 Meetings

54953.5 Audio or video recording of proceedings

54953.6 Broadcasting of proceedings

54957.2 Closed sessions; clerk; minute book

54960 Violations and remedies

##### PENAL CODE

632 Unlawful to intentionally record a confidential communication without consent

##### CODE OF REGULATIONS, TITLE 5

16020-16027 Classification and retention of records

#### Management Resources:

##### CSBA PUBLICATIONS

Call to Order: A Blueprint for Great Board Meetings, 2015

The Brown Act: School Boards and Open Meeting Laws, rev. ~~2007~~2014

~~Guide to Effective Meetings, rev. 2007~~

~~Maximizing School Board Leadership: Boardsmanship, 1996~~

WEB SITES

CSBA, Agenda Online: <http://www.esba.orgwww.agendaonline.com>

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 712, 2019

# Alum Rock Union ESD

## Board Bylaw

### Board Self-Evaluation

BB 9400

#### Board Bylaws

The Board of Trustees shall annually conduct a self-evaluation in order to demonstrate accountability to the community and ensure that district governance effectively supports student achievement and the attainment of the district's vision and goals.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 2140 - Evaluation of the Superintendent)

The evaluation may address any areas of Board responsibility, including, but not limited to, Board performance in relation to vision setting, curriculum, personnel, finance, policy, development, collective bargaining, and community relations, and advocacy. The evaluation also may address objectives related to Board meeting operations, relationships among Board members, relationship with the Superintendent, understanding of Board and Superintendent roles and responsibilities, communication skills, or other governance or boardmanship skills.

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

The Board shall ~~be~~ evaluated itself as a whole. Individual Board members ~~also~~ are also encouraged-expected to use the evaluation process as an opportunity to ~~privately~~ assess and set goals for their own personal performance.

Each year, the Board, with assistance from the Superintendent, shall determine an evaluation method or instrument that measures a reasonable number of key components of board responsibility and previously identified performance objectives. ~~Videotape~~ Visual and/or audio recordings of a Board meeting may only be used as an evaluation tool ~~only with the when~~ only with the when consent ~~of is given by~~ all Board members.

Any discussion ~~of~~ involving the Board's self-evaluation shall be conducted in open session.

At the request of the Board, a facilitator may be used to assist with the evaluation process. The Board may invite the Superintendent or others individual(s) with pertinent information to provide input into the evaluation process.

Following the evaluation, the Board shall ~~develop strategies for strengthening Board performance~~ set goals, define and/or refine protocols, and ~~shall~~ establish priorities and objectives



for the following year's evaluation. The Board shall also develop strategies for strengthening Board performance based on identified areas of need, including, but not limited to, Board trainings such as those offered by the California School Boards Association.

(cf. 9230 - Orientation)

(cf. 9240 - Board Development)

Legal Reference:

GOVERNMENT CODE

54950-54963 Brown Act; board self-evaluations not covered

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards, 2000

Defining Governance, Issue 3: Governance Practices, Governance Brief, April 2014

Maximizing School Board Leadership, 1996

WEB SITES

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

CSBA Board Self-Evaluation: <http://bse.csba.org>

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 12, 2019



9.03

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION – BOARD OF EDUCATION**

To the Board of Trustees:

Subject: **CONSIDERATION/DISCUSSION: Board Policy 1114, First Reading -- Community Relations**

Staff Analysis:

Attached is the new Board Policy 1114 – Community Relations. Staff recognizes the value of technology such as social media platforms in promoting community involvement and collaboration. The purpose of any district social media platform shall be to further the district's vision and mission, support student learning and staff professional development, and enhance communication with students, parents/guardians, staff, and community members.

Recommendation:

Staff recommends approval of first reading.

Submitted by: Hilaria Bauer, Ph.D. Title: Superintendent

To the Board of Trustees:

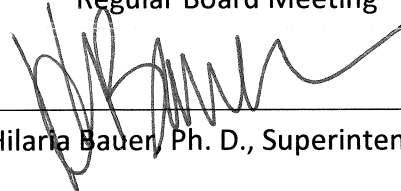
Meeting:

September 12, 2019

**Recommend Approval**

Regular Board Meeting

9.03



Agenda Placement

Hilaria Bauer, Ph. D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

# **Alum Rock Union ESD**

## **Board Policy**

### **District Social Media Platform**

BP 1114

#### **Community Relations**

The Board of Education recognizes the value of technology such as social media platforms in promoting community involvement and collaboration. The purpose of any district social media platform shall be to further the district's vision and mission, support student learning and staff professional development, and enhance communication with students, parents/guardians, staff, and community members.

#### **Definitions**

“Social Media” includes the various online technology tools that enable people to communicate easily over the internet to share information and resources. Social media can include text, audio, video, images, podcasts, and other multimedia communications. These websites not only provide information, but allows for interaction during this informational exchange through user-generated content.

“District Technology” includes, but is not limited to, computers, the district's computer network including servers and wireless computer networking technology (wi-fi), the Internet, web resources, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, telephones, cellular telephones, personal digital assistants, pagers, cameras, copiers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices.

“District Technology” is that which is owned or provided by the district.

“Personal Technology” is non-district technology.

(cf. 0000 - Vision)

(cf. 0440 - District Technology Plan)

(cf. 1100 - Communication with the Public)

(cf. 1112 - Media Relations)

(cf. 1113 - District and School Web Sites)

(cf. 4040 - Employee Use of Technology)

(cf. 6020 - Parent Involvement)

(cf. 6145.5 - Student Organizations and Equal Access)

(cf. 6163.4 - Student Use of Technology)

The Superintendent or designee shall develop content guidelines and protocols for official district social media platforms to ensure the appropriate and responsible use of these resources and compliance with law, Board policy, and regulation.

#### Requirements for Social Media Platform

1. Platform must be secure and require individual logins, no anonymous posting allowed.
2. Social media platform must be age appropriate and users must abide by the social media terms of use.
3. Must allow for more than one teacher or administrator to monitor, moderate and suspend posts and comments.
4. Direct conversations can only be educational and must use district supported platforms.
5. Student and teacher profiles must not be made public and searchable online.

#### Teacher Expectations

1. Teachers must use their district email when establishing a social media account involving any ARUESD students.
2. Each social media platform must be co-moderated by at least two staff members, including the teachers and/or administrator.
3. Before implementing a social media platform in class, teachers need to communicate with school administration and obtain approval.
4. Direct conversations with students can only be educational and must use district supported platforms.
5. Obtain parent approval prior to a student creating an account via the Acceptable Use Agreement.
6. Provide an alternative for students who do not participate in social media platforms.
7. Daily monitoring when group is active.
8. Immediate removal of inappropriate posts and reporting of any cyberbullying to school administration and law enforcement.
9. Offer parents the option to participate and view activity, and provide a handout with instructions.
10. Must be used exclusively for communication of educational or school related purposes.
11. Only district staff, enrolled students and their parents can have access.
12. All images and comments must represent the school in a professional manner.
13. Use the most restrictive security and privacy settings.
14. Posting inappropriate, threatening, harassing, racist, biased, derogatory, disparaging or bullying comments toward or about any student or employee on any website is prohibited and may be subject to discipline.

#### Staff Expectations

1. All non-certificated staff should only have access to the school's social media platform upon approval of administration.
2. All staff shall follow the District's Acceptable Use Agreement.

## Student Expectations

1. Must abide by all school rules and district policies.
2. Posting inappropriate, threatening, harassing, racist, biased, derogatory, disparaging or bullying comments toward or about any student or employee on any website is prohibited and may be subject to discipline.
3. Communication is limited to educational or school related activities only.
4. Direct conversations with teachers can only be educational and must use district supported platforms.
5. Notify teacher or parent of any inappropriate behavior or posts.

## Parent Expectations

1. Monitor their children's online activity and only allow them to register for platforms supported by the school.
2. Communicate internet safety and cyberbullying with their child.
3. Model positive online etiquette and behavior.
4. If discovered, report to school administration postings that are inappropriate, threatening, harassing, racist, biased, derogatory, disparaging or bullying comments toward or about any student or employee on any website.

## School Administration Expectations

1. Review teacher's social media platform requests prior to approval.
2. Be aware of all social media activity connected to your school site.
3. Review with teachers the district's expectations annually (see above).
4. Maintain yearly copies (digitally or on paper) of Acceptable Use Agreement.
5. Immediate removal of inappropriate posts and reporting of any cyberbullying to school administration and law enforcement.
6. School administration shall have access to social media post and/or edit rights as a moderator as needed.

## Guidelines for Content

Official district social media platforms shall be used only for their stated purposes and in a manner consistent with this policy and administrative regulation. By creating these sites and allowing for public comment, the Board does not intend to create a limited public forum or otherwise guarantee an individual's right to free speech.

Inappropriate postings may be documented by taking and printing screen shots or downloading them onto a flash drive. Evidence should be collected with the permission of the site administrator for the sole purpose of the investigative process and stored in a secured location. This evidence may be used in conference with the employee(s) or associated persons in question. Caution: Do not download or print images of minors or any content that may be considered child pornography. Law enforcement should gather evidence of child pornography, not a District employee.

(cf. 5145.2 - Freedom of Speech/Expression)  
(cf. 6145.5 - Student Organizations and Equal Access)

The Superintendent or designee shall ensure that the limited purpose of the district social media platforms is clearly communicated to users. Each site shall contain a statement that specifies the site's purposes along with a statement that users are expected to use the site only for those purposes. Each site shall also contain a statement that users are personally responsible for the content of their posts.

District social media platforms may not contain content that is obscene, libelous, or so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, violation of school rules, or substantial disruption of the school's orderly operation. Any images of students posted on any District Social Media platforms shall have the written permission from the parent/guardian.

(cf. 5131 - Conduct)

All activity on social media platforms must be for educational purposes or support school related activities. All users should conduct themselves according to the same standards set forth in the Acceptable Use Agreement. Communication regarding student performance shall not be discussed or posted in open forums. It is recommended that a disclaimer is posted on your social media page stating "The views on this page do not reflect the views of Alum Rock Union Elementary School District."

Teachers and staff should keep personal social media accounts separate from work related accounts. When a student or minor wishes to link to the employee's personal page they should be redirected to the school approved page. Any attempt to communicate privately needs to be redirected to public posts. Any school-related social media pages must have the capability of being monitored or viewed by the school site administrator and/or Educational Technology Staff.

Staff or students who post prohibited content shall be subject to discipline in accordance with district policies and administrative regulations.

(cf. 4040 - Employee Use of Technology)  
(cf. 4118 - Suspension/Disciplinary Action)  
(cf. 4119.21/4219.21/4319.21 - Professional Standards)  
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)  
(cf. 5144 - Discipline)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 6163.4 - Student Use of Technology)

Users of official district social media platforms should be aware of the public nature and accessibility of social media and that information posted may be considered a public record subject to disclosure under the Public Records Act. The Board expects users to conduct themselves in a respectful, courteous, and professional manner.



(cf. 1340 - Access to District Records)  
(cf. 9012 - Board Member Electronic Communications)

## Privacy

The Superintendent or designee shall ensure that the privacy rights of students, parents/guardians, staff, Board members, and other individuals are protected on official district social media platforms.

Board policy pertaining to the posting of student photographs and the privacy of telephone numbers, home addresses, and email addresses, as specified in BP 1113 - District and School Web Sites, shall also apply to official district social media platforms.

(cf. 5125.1 - Release of Directory Information)

Social media and networking sites and other online platforms shall not be used by district employees to transmit confidential information about students, employees, or district operations. Information gathered through the district Social Media Platform will only pertain directly to school or student safety. The district will provide students access to any information about the student obtained from social media. Information gathered will be maintained in our records within one year of the students turning 18 or discontinuing attendance, whichever is sooner.

If any third party is used to monitor student activity the information gathered will only satisfy the terms of the contract. The contract will include restrictions from selling or sharing the information with outside persons or entities and restrictions on the destruction of information by the third party.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)  
(cf. 5022 - Student and Family Privacy Rights)  
(cf. 5125 - Student Records)

## Legal Reference:

### EDUCATION CODE

32261 School safety, definitions of bullying and electronic act  
35182.5 Contracts for advertising  
48900 Grounds for suspension and expulsion  
48907 Exercise of free expression; rules and regulations  
48950 Speech and other communication  
49061 Definitions, directory information  
49073 Release of directory information  
49073.6 Collection of Student Information from Social Media  
60048 Commercial brand names, contracts or logos

## GOVERNMENT CODE

3307.5 Publishing identity of public safety officers

6250-6270 Public Records Act, especially:

6254.21 Publishing addresses and phone numbers of officials

6254.24 Definition of public safety official

54952.2 Brown Act, definition of meeting

## UNITED STATES CODE, TITLE 17

101-1101 Federal copyright law

## UNITED STATES CODE, TITLE 20

1232g Federal Family Educational Rights and Privacy Act

## UNITED STATES CODE, TITLE 29

157 Employee rights to engage in concerted, protected activity

794 Section 503 of the Rehabilitation Act of 1973; accessibility to federal web sites

## CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

## COURT DECISIONS

Page v. Lexington County School District, (2008, 4th Cir.) 531 F.3d 275

Downs v. Los Angeles Unified School District, (2000) 228 F.3d 1003

Aaris v. Las Virgenes Unified School District, (1998) 64 Cal.App.4th 1112

Perry Education Association v. Perry Local Educators' Association, (1983) 460 U.S. 37

Board of Education, Island Trees Union Free School District, et.al. v. Pico, (1982) 457 U.S. 853

## NATIONAL LABOR RELATIONS BOARD DECISIONS

18-CA-19081 Sears Holdings, December 4, 2009

Management Resources:

## FACEBOOK PUBLICATIONS

Facebook for Educators Guide, 2011

## WEB SITES

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

California School Public Relations Association: <http://www.calspra.org>

Facebook in Education: <http://www.facebook.com/education>

Facebook for Educators: <http://facebookforeducators.org>

Facebook, privacy resources: <http://www.facebook.com/fbprivacy>

Policy ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: September 12, 2019

San Jose, California

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue  
San José, CA 95127

9.04

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION – BOARD OF EDUCATION**

To the Board of Trustees:

Subject: **CONSIDERATION/DISCUSSION: Board Policy 4040 , First Reading --Personnel**

**Staff Analysis:**

Attached is the new Board Policy 4040 – Personnel. Staff recognizes that technological resources can enhance employee performance by offering effective tools to assist in providing a quality instructional program; facilitating communications with parents/guardians, students, and the community; supporting district and school operations; and improving access to and exchange of information. The Board expects all employees to learn to use the available technological resources that will assist them in the performance of their job responsibilities. As needed, employees shall receive professional development in the appropriate use of these resources.

**Recommendation:**

Staff recommends approval of first reading.

Submitted by: Hilaria Bauer, Ph.D. Title: Superintendent

To the Board of Trustees:

**Recommend Approval**

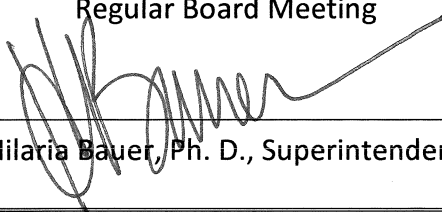
9.04

Agenda Placement

Meeting:

September 12, 2019

Regular Board Meeting

  
Hilaria Bauer, Ph. D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

# Alum Rock Union ESD

## Board Policy

### Employee Use of Technology

BP 4040

#### Personnel

The Board of Trustees recognizes that technological resources can enhance employee performance by offering effective tools to assist in providing a quality instructional program; facilitating communications with parents/guardians, students, and the community; supporting district and school operations; and improving access to and exchange of information. The Board expects all employees to learn to use the available technological resources that will assist them in the performance of their job responsibilities. As needed, employees shall receive professional development in the appropriate use of these resources.

(cf. 0440 - District Technology Plan)  
(cf. 1100 - Communication with the Public)  
(cf. 1113 - District and School Web Sites)  
(cf. 1114 - District-Sponsored Social Media)  
(cf. 4032 - Reasonable Accommodation)  
(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)

Employees shall be responsible for the appropriate use of technology and shall use the district's technological resources for purposes related to their employment.

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)  
(cf. 4119.21/4219.21/4319.21 - Professional Standards)  
(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)  
(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)  
(cf. 5125 - Student Records)  
(cf. 5125.1 - Release of Directory Information)  
(cf. 6162.6 - Use of Copyrighted Materials)  
(cf. 6163.4 - Student Use of Technology)

*District technology* includes, but is not limited to, computers, the district's computer network including servers and wireless computer networking technology (wi-fi), the Internet, web resources, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, cameras, copiers, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices.

The Superintendent or designee shall establish an Acceptable Use Agreement which outlines employee obligations and responsibilities related to the use of district technology. Upon employment and whenever significant changes are made to the district's Acceptable Use Agreement, employees shall be required to acknowledge in writing that they have read and agreed to the district's Acceptable Use Agreement.

Employees shall not use district technology to access, post, submit, publish, or display harmful or inappropriate matter that is threatening, obscene, disruptive, sexually explicit, or unethical or that promotes any activity prohibited by law, Board policy, or administrative regulations.

*Harmful matter* includes matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest and is matter which depicts or describes, in a patently offensive way, sexual conduct and which lacks serious literary, artistic, political, or scientific value for minors. (Penal Code 313)

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors and that the operation of such measures is enforced. The Superintendent or designee may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. (20 USC 6777; 47 USC 254)

The Superintendent or designee shall annually notify employees in writing that they have no reasonable expectation of privacy in the use of any equipment or other technological resources provided by or maintained by the district, including, but not limited to, computer files, email, text messages, instant messaging, and other electronic communications, even when provided their own password. To ensure proper use, the Superintendent or designee may monitor employee usage of district technology at any time without advance notice or consent and for any reason allowed by law.

In addition, employees shall be notified that records maintained on any personal device or messages sent or received on a personal device that is being used to conduct district business may be subject to disclosure, pursuant to a subpoena or other lawful request.

Employees shall report any security problem or misuse of district technology to the Superintendent or designee.

Inappropriate use of district technology may result in a cancellation of the employee's user privileges, disciplinary action, and/or legal action in accordance with law, Board policy, and administrative regulation.

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)



Legal Reference:

GOVERNMENT CODE

3543.1 Rights of employee organizations

6250-6270 California Public Records Act

PENAL CODE

502 Computer crimes, remedies

632 Eavesdropping on or recording confidential communications

VEHICLE CODE

23123 Wireless telephones in vehicles

23123.5 Mobile communication devices; text messaging while driving

23125 Wireless telephones in school buses

UNITED STATES CODE, TITLE 20

7101-7122 Student Support and Academic Enrichment Grants

7131 Internet safety

UNITED STATES CODE, TITLE 47

254 Universal service discounts (E-rate)

CODE OF FEDERAL REGULATIONS, TITLE 47

54.520 Internet safety policy and technology protection measures, E-rate discounts

COURT DECISIONS

City of San Jose v. Superior Court (2017) 2 Cal.5th 608

City of Ontario v. Quon et al. (2010) 000 U.S. 08-1332

Management Resources:

WEB SITES

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

American Library Association: <http://www.ala.org>

California Department of Education: <http://www.cde.ca.gov>

Federal Communications Commission: <http://www.fcc.gov>

U.S. Department of Education: <http://www.ed.gov>

Policy ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 12, 2019

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue  
San José, CA 95127

9.05

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION – BOARD OF EDUCATION**

To the Board of Trustees:

Subject: **CONSIDERATION/DISCUSSION: Board Policy 4040 Exhibit, First Reading -- Personnel**

**Staff Analysis:**

Attached is the new Board Policy 4040 Exhibit – Personnel. The Alum Rock Union Elementary School District authorizes district employees to use technology owned or otherwise provided by the district as necessary to fulfill the requirements of their position. The use of district technology is a privilege permitted at the district's discretion and is subject to the conditions and restrictions set forth in applicable Board policies, administrative regulations, and this Acceptable Use Agreement.

**Recommendation:**

Staff recommends approval of first reading.

Submitted by: Hilaria Bauer, Ph.D. Title: Superintendent

To the Board of Trustees:

Meeting:

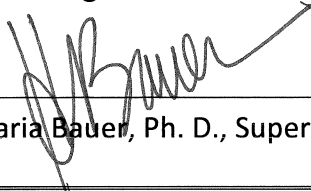
September 12, 2019

**Recommend Approval**

Regular Board Meeting

9.05

Agenda Placement

  
Hilaria Bauer, Ph. D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

# **Alum Rock Union ESD**

## **Exhibit**

### **Employee Use Of Technology**

E 4040

#### **Personnel**

#### **ACCEPTABLE USE AGREEMENT**

#### **AND RELEASE OF DISTRICT FROM LIABILITY (EMPLOYEES)**

The Alum Rock Union Elementary School District authorizes district employees to use technology owned or otherwise provided by the district as necessary to fulfill the requirements of their position. The use of district technology is a privilege permitted at the district's discretion and is subject to the conditions and restrictions set forth in applicable Board policies, administrative regulations, and this Acceptable Use Agreement. The district reserves the right to suspend access at any time, without notice, for any reason.

The district expects all employees to use technology responsibly in order to avoid potential problems and liability. The district may place reasonable restrictions on the sites, material, and/or information that employees may access through the system.

The district makes no guarantee that the functions or services provided by or through the district will be without defect. In addition, the district is not responsible for financial obligations arising from unauthorized use of the system.

Each employee who is authorized to use district technology shall sign this Acceptable Use Agreement as an indication that he/she has read and understands the agreement.

#### **Definitions**

District technology includes, but is not limited to, computers, the district's computer network including servers and wireless computer networking technology (wi-fi), the Internet, web resources, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, cameras, copiers, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices.

#### **Employee Obligations and Responsibilities**

Employees are expected to use district technology safely, responsibly, and for work-related purposes. Any incidental personal use of district technology shall not interfere with district business and operations, the work and productivity of any district employee, or the safety and

security of district technology. The district is not responsible for any loss or damage incurred by an employee as a result of his/her personal use of district technology.

The employee in whose name district technology is issued is responsible for its proper use at all times. Employees shall not share their assigned online services account information, passwords, or other information used for identification and authorization purposes, and shall use the system only under the account to which they have been assigned. Employees shall not gain unauthorized access to the files or equipment of others, access electronic resources by using another person's name or electronic identification, or send anonymous electronic communications. Furthermore, employees shall not attempt to access any data, documents, emails, or programs in the district's system for which they do not have authorization.

Employees are prohibited from using district technology for improper purposes, including, but not limited to, use of district technology to:

1. Access, post, display, or otherwise use material that is discriminatory, defamatory, obscene, sexually explicit, harassing, intimidating, threatening, or disruptive
2. Disclose or in any way cause to be disclosed confidential or sensitive district, employee, or student information without prior authorization from a supervisor
3. Engage in personal commercial or other for-profit activities without permission of the Superintendent or designee
4. Engage in unlawful use of district technology for political lobbying
5. Infringe on copyright, license, trademark, patent, or other intellectual property rights
6. Intentionally disrupt or harm district technology or other district operations (such as destroying district equipment, placing a virus on district computers, adding or removing a computer program without permission, changing settings on shared computers)
7. Install unauthorized software
8. Engage in or promote unethical practices or violate any law or Board policy, administrative regulation, or district practice

## Privacy

Since the use of district technology is intended for use in conducting district business, no employee should have any expectation of privacy in any use of district technology.

The district reserves the right to monitor and record all use of district technology, including, but not limited to, access to the Internet or social media, communications sent or received from district technology, or other uses within the jurisdiction of the district. Such monitoring/recording may occur at any time without prior notice for any legal purposes

including, but not limited to, record retention and distribution and/or investigation of improper, illegal, or prohibited activity. Employees should be aware that, in most instances, their use of district technology (such as web searches or emails) cannot be erased or deleted.

All passwords created for or used on any district technology are the sole property of the district. The creation or use of a password by an employee on district technology does not create a reasonable expectation of privacy.

#### Personally Owned Devices

If an employee uses a personally owned device to access district technology or conduct district business, he/she shall abide by all applicable Board policies, administrative regulations, and this Acceptable Use Agreement. Any such use of a personally owned device may subject the contents of the device and any communications sent or received on the device to disclosure pursuant to a lawful subpoena or public records request.

#### Records

Any electronically stored information generated or received by an employee which constitutes a district or student record shall be classified, retained, and destroyed in accordance with BP/AR 3580 - District Records, BP/AR 5125 - Student Records, or other applicable policies and regulations addressing the retention of district or student records.

#### Reporting

If an employee becomes aware of any security problem (such as any compromise of the confidentiality of any login or account information) or misuse of district technology, he/she shall immediately report such information to the Superintendent or designee.

#### Consequences for Violation

Violations of the law, Board policy, or this Acceptable Use Agreement may result in revocation of an employee's access to district technology and/or discipline, up to and including termination. In addition, violations of the law, Board policy, or this agreement may be reported to law enforcement agencies as appropriate.

#### Employee Acknowledgment

I have received, read, understand, and agree to abide by this Acceptable Use Agreement, BP 4040 - Employee Use of Technology, and other applicable laws and district policies and regulations governing the use of district technology. I understand that there is no expectation of privacy when using district technology or when my personal electronic devices use district technology. I further understand that any violation may result in revocation of user privileges, disciplinary action, and/or appropriate legal action.

I hereby release the district and its personnel from any and all claims and damages arising from



my use of district technology or from the failure of any technology protection measures employed by the district.

Name: \_\_\_\_\_ Position: \_\_\_\_\_  
(Please print)

School/Work Site: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Exhibit           ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
adopted:       September 12, 2019           San Jose, California

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue  
San José, CA 95127

9.06

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION – BOARD OF EDUCATION**

To the Board of Trustees:

Subject: **Approve Board members' participation in the CSBA Masters Governance Training**

Staff Analysis: Recommendation from the State Auditors.

**DISCUSSION/ACTION**

Submitted by: Hilaria Bauer Title: Superintendent

To the Board of Trustees:

Meeting:

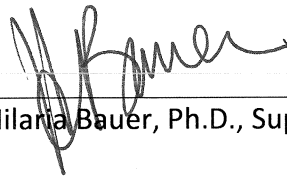
September 12, 2019

Regular Board Meeting

**Discussion/Action**

9.06

Agenda Placement



Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_

Not Approved: \_\_\_\_\_

Tabled: \_\_\_\_\_

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION - BOARD OF EDUCATION**

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To the Board of Trustees:

Date: September 12, 2019

Agenda Item: 9.07

**Subject: DISCUSSION/ACTION: Consideration of the Stipulation and Order by the Fair Political Practices Commission in the Matter of Dolores Marquez for School Board 2016, Dolores Marquez for Santa Clara County Board of Education 2014, Dolores Marquez, and Anjelica Frausto; FPPC No. 17/106, on August 15, 2019, and the findings therein, and applicable Board Bylaws, and options for Board action and recourse**

**Background**

The California Fair Political Practices Commission published on its website that on August 15, 2019, at a meeting of the FPPC, it approved an enforcement decision naming Board Member Dolores Marquez, Dolores Marquez for School Board 2016, Dolores Marquez for Santa Clara County Board of Education 2014, and Anjelica Frausto as respondents; FPPC matter no. 17/106. (<http://www.fppc.ca.gov/media/press-releases/2019-news-releases/enf-decisions-aug-2019.html>)

The August 15 agenda for the FPPC included the following agenda item no.6:

**In the Matter of Dolores Marquez for School Board 2016, Dolores Marquez for Santa Clara County Board of Education 2014, Dolores Marquez, and Anjelica Frausto; FPPC No. 17/106.** Staff: Commission Counsel Theresa Gilbertson and Special Investigator Garrett Micheels. Dolores Marquez was a successful candidate for School Board of Alum Rock Union Elementary School District in the 2016 General Election and is still in office. Dolores Marquez for School Board 2016 is her candidate-controlled committee. Anjelica Frausto is the Committees Treasurer. The Committee, Marquez, and Frausto failed to report contributions and expenditures on two pre-election campaign statements, in violation of Government Code Section 84211, subdivisions (f) and (k) (1 count), and accepted a prohibited cash contribution, in violation of Government Code Section 84300, subdivision (c) (1 count). Marquez also ran unsuccessfully for Santa Clara County Board of Education in the November 4, 2014 General Election. Dolores Marquez for Santa Clara County Board of Education 2014 was her candidate-controlled committee, and Anjelica Frausto was the Committees treasurer. The Committee, Marquez, and Frausto transferred the 2014 Committee's surplus funds to the 2016 Committee, as a contribution, in violation of Government Code Section 89519 (1 count.) **Total Proposed Penalty: \$7,000.**

The FPPC agenda item included a copy of an unsigned “Stipulation, Decision and Order”, the form of which was approved by the FPPC that day. A copy of the Stipulation, Decision and Order is attached. (The FPPC agenda and the Stipulation, Decision and Order are at: <http://www.fppc.ca.gov/content/fppc-www/about-fppc/hearings-meetings-workshops/current-agenda/past-agendas/2019-agendas/aug-2019-agenda.html>)

An uncertified transcription of the FPPC’s discussion and approval of that agenda item is also attached; the video of the FPPC August 15 meeting including the Commission’s discussion can also be found on the above website.

### **Board Bylaws**

Board Bylaw 9000 provides in part

“The Board of Trustees has been elected by the community to provide leadership and citizen oversight of the district. The Board shall ensure that the district is responsive to the values, beliefs, and priorities of the community.

The Board shall work with the Superintendent to fulfill its major responsibilities, which include:

3. Providing support to the Superintendent and staff as they carry out the Board's direction by:
  - a. Establishing and adhering to standards of responsible governance
  - b. Making decisions and providing resources that support district priorities and goals
  - c. Upholding Board policies”

Board Bylaw 9005 provides in part:

“To maximize Board effectiveness and public confidence in district governance, Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.”

Board Bylaw 9220 provides in part:

“The Board believes the district and community will be best served by imposing reasonable limitations on the amount of money that may be contributed to a campaign for election to district office. The Board therefore has resolved that the following limits shall apply:

1. Maximum Contribution from an individual or Entity to a candidate for district office: \$500”

### **Additional Considerations**

Education Code section 35010(b) provides, “The governing board of each school district shall prescribe and enforce rules not inconsistent with law, or with the rules prescribed by the State Board of Education, for its own government.”

Education Code section 35177 provides that the governing board of a district may by resolution limit campaign contributions in elections to district offices. Section 35177, however, does not provide any enforcement mechanism. Therefore, Section 35177 does not authorize a Board to remove any member from office or to take any other action to strip any member of the benefits of office including, e.g, Board member stipends or benefits as allowed by law or voting privileges.

Censure is a formal resolution of the Board officially reprimanding one or more of its members, which could include violations of Board Bylaws or Board Policy.

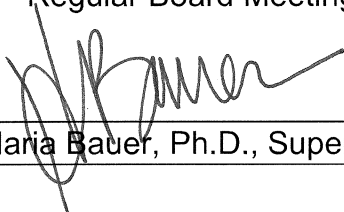
**Recommendation:** The Board may consider and discuss the above information. The Board may determine to take no action or, if the Board determines that it desires to consider an action to censure or some other form of reprimand, then it is recommended that the Board provide direction on the process for the preparation of such censure resolution or reprimand for consideration by the Board at an agendaized meeting, and set a date for the consideration of such action and resolution and opportunity for response by Board Member Marquez.

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

**Recommend Approval**

\_\_\_\_\_  
Agenda Placement

  
\_\_\_\_\_  
Hilaria Bauer, Ph.D., Superintendent



GALENA WEST  
Chief of Enforcement  
THERESA GILBERTSON  
Commission Counsel  
Fair Political Practices Commission  
1102 Q Street, Suite 3000  
Sacramento, CA 95811  
tgilbertson@fppc.ca.gov

Attorneys for Complainant

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
STATE OF CALIFORNIA

In the Matter of:

DOLORES MARQUEZ FOR SCHOOL  
BOARD 2016. DOLORES MARQUEZ  
FOR SANTA CLARA COUNTY BOARD  
OF EDUCATION 2014, DOLORES  
MARQUEZ, AND ANJELICA  
FRAUSTO,

Respondents.

FPPC Case No. 2017/00106

STIPULATION, DECISION AND ORDER

**INTRODUCTION**

Respondent Dolores Marquez (“Marquez”) is a current member of the Alum Rock Union Elementary School District. She was elected to her current office in 2012 and was re-elected in 2016. Her term expires in 2020. Dolores Marquez for School Board 2016 (“2016 Committee”) was her candidate-controlled committee for her re-election campaign in the November 8, 2016 General Election. In 2014, Marquez ran unsuccessfully for the office of Board Member for the Santa Clara County Board of Education. Dolores Marquez for Santa Clara County Board of Education 2014 (“2014 Committee”) was her candidate-controlled committee for the November 4, 2014 General Election. For both committees, Anjelica Frausto (“Frausto”) served as the treasurer.

1 The Respondents committed numerous violations of the Political Reform Act<sup>1</sup> (“Act”), including  
2 improper use of surplus funds, acceptance of a cashier’s check, and failure to fully adhere to campaign  
3 disclosure requirements.

## 4 SUMMARY OF THE LAW

### 5 Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act

6 When enacting the Political Reform Act, the people of California found and declared that previous  
7 laws regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup>  
8 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”<sup>3</sup>

9 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in  
10 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper  
11 practices are inhibited.<sup>4</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>5</sup>  
12 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be  
13 “vigorously enforced.”<sup>6</sup>

### 14 Surplus Funds

15 The Act defines surplus funds as funds remaining in a campaign account 90 days after a triggering  
16 event, including when the candidate leaves the elective office or following the postelection reporting period  
17 after the defeat for elective office.<sup>7</sup> Surplus campaign funds must be reported and may be used only for the  
18 following purposes: the payment of outstanding campaign debts or elected officer's expenses, the  
19 repayment of contributions, donations to any bona fide charitable, educational, civic, religious, or similar  
20 tax-exempt, nonprofit organization, contributions to a political party committee, contributions to support  
21 or oppose any candidate for federal office, any candidate for elective office in a state other than California,  
22  
23

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24 <sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections  
25 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission  
are to this source.

26 <sup>2</sup> Section 81001, subdivision (h).

27 <sup>3</sup> Section 81003.

28 <sup>4</sup> Section 81002, subdivision (a).

<sup>5</sup> Sections 84200, *et seq.*

<sup>6</sup> Section 81002, subdivision (f).

<sup>7</sup> Section 89519, subdivision (a).

1 or any ballot measure, the payment for professional services reasonably required by the committee to assist  
2 in the performance of its administrative functions.<sup>8</sup>

### 3 **Prohibition Against Receiving Cash and Cash Equivalents of \$100 or More**

4 No contribution of \$100 or more may be received in cash.<sup>9</sup> No contribution of \$100 or more, other  
5 than an in-kind contribution, may be made unless in the form of a written instrument containing the name  
6 of the donor and the name of the payee and drawn from the account of the donor or intermediary.<sup>10</sup> A  
7 cashier's check or money order is a written instrument that is not drawn from the account of the remitter,  
8 but rather, the remitter pays the bank or a 3<sup>rd</sup> party to issue funds, guaranteed by the bank or 3<sup>rd</sup> party.<sup>11</sup>  
9 ADD a sentence here regarding the recordkeeping requirements that support sourcing cash equivalents  
10 used. Committees, candidates, and treasurers must maintain detailed accounts, records, bills, and receipts  
11 necessary to prepare and substantiate campaign statements.<sup>12</sup> For loans received, the committee must  
12 maintain detailed information about the source of the loan and the original source documents to reflect the  
13 indebtedness.<sup>13</sup>

### 14 **Campaign Reporting**

15 The Act provides that each campaign statement must contain certain information about the  
16 campaign's financial activity, including total contributions, total expenditures, and identifying information  
17 about sources of contributions and recipients of expenditures.<sup>14</sup>

18 Campaign contributions include payments, forgiveness of a loan, payment of a loan by a third party,  
19 or an enforceable promise to make a payment, including non-monetary or in-kind contributions.<sup>15</sup> For  
20 contributions of \$100 or more, including loans, the statement must include the name, street address,  
21 occupation, employer, and amount received from each source.<sup>16</sup> For loans, the statement must include the  
22 original date and amount of each loan, the due date and interest rate of the loan, the cumulative payment  
23

24 <sup>8</sup> Section 89519, subdivision (b).

25 <sup>9</sup> Section 84300, subdivision (a).

26 <sup>10</sup> Section 84300, subdivision (c).

27 <sup>11</sup> See, e.g., Cal. U. Com. Code, Sections 3103, subdivisions (a)(2), (3), and (11), and 3104, subdivisions (f) and (g)

28 <sup>12</sup> Section 84104.

<sup>13</sup> Regulation 18401, subdivision (a)(7).

<sup>14</sup> Section 84211.

<sup>15</sup> Section 82015.

<sup>16</sup> Section 84211, subdivision (f).

1 made or received to date, the outstanding balance at the end of the reporting period, and the cumulative  
2 amount of contributions.<sup>17</sup>

3 Campaign expenditures include monetary payments, forgiveness of a loan, payment of a loan by a  
4 third party, or an enforceable promise to make a payment (also known as an accrued expense.)<sup>18</sup> For  
5 expenditures of \$100 or more, the statement must include the name of the payee, the street address, the  
6 amount of each expenditure, and a brief description of each expenditure.<sup>19</sup> An accrued expense must be  
7 reported as of the date on which the goods or services are received and must be reported on subsequent  
8 statements until the debt is paid or forgiven.<sup>20</sup>

### 9 **Joint and Several Liability of Committee, Candidate, and Treasurer**

10 It is the duty of a committee treasurer and the candidate to ensure that the committee complies with  
11 the Act's campaign reporting.<sup>21</sup> A treasurer and candidate may be held jointly and severally liable with the  
12 committee for violations committed by the committee.<sup>22</sup>

## 13 **SUMMARY OF THE FACTS**

### 14 2014 Committee

15 Marquez was unsuccessful in her 2014 campaign for the Santa Clara County Board of Education.  
16 The 2014 Committee reported a total of \$10,425 in contributions and made a reported total of \$2,126 in  
17 expenditures. The remaining funds became surplus on March 31, 2015, the 90<sup>th</sup> day after the post-election  
18 reporting period. The 2014 Committee remained open and paid various expenditures, including the annual  
19 fee to the Secretary of State and bank fees. On August 8, 2016, the remaining cash balance, totaling  
20 approximately \$5,021 was transferred to the 2016 Committee. Contributions to a California state or local  
21 election is a prohibited use of surplus funds.

22 In addition, the bank records revealed additional reporting violations of the Act including that the  
23 2014 Committee failed to report about \$1,128 in expenditures and did not report the transfer of surplus  
24  
25

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26 <sup>17</sup> Section 84211, subdivision (g).

27 <sup>18</sup> Section 82025.

<sup>19</sup> Section 84211, subdivision (k).

28 <sup>20</sup> Regulation 18421.6.

<sup>21</sup> Sections 81004, 84100, 84104, and Regulation 18427.

<sup>22</sup> Sections 83116.5 and 91006.

funds on the termination campaign statement. These errors, in the interest of a settlement, will not be pursued as separate violations but will be considered as aggravating factors.

### 2016 Committee

Marquez was successful in her 2016 re-election campaign to the Alum Rock Union Elementary School District. She is currently in office and will be up for re-election in 2020. The Committee reported a total of \$18,522 in contributions and made a reported total of \$11,858 in expenditures.

The 2016 Committee received and deposited a \$5,000 cashier's check on October 4, 2016. This contribution was reported as a loan from the candidate, Marquez. The loan constitutes about 26% of the 2016 Committee's reported contributions. The form of tender, a cashier's check, is not permissible for contributions over \$100. Marquez and the Committee failed to produce any documentation to substantiate the source of this money.

The 2016 Committee also failed to report about 9% of contributions and 19% of expenditures. The following chart details these transactions.

Contributor	Amount	Check Dated	Deposited
SMT Property Services	\$500	09/30/16	10/13/16
IBEW 332 Education Fund	\$500	09/28/16	10/13/16
Plumbers, Steamfitters & Refrigeration Fitters Local 383 Small Contributor Committee	\$500	09/21/16	10/13/16
Sprinkler Fitters and Apprentices Local 483	\$250	10/14/16	01/03/17
Payee	Amount	Check Dated	
Secretary of State	\$50	08/03/16	
Registrar of Voters (Filing Fee)	\$2,060	08/11/16	
Charles Carrillo (memo: Banners & T-shirts for campaign)	\$220	10/18/16	

## **VIOLATIONS**

### 2014 Committee

#### **Count 1**

#### Prohibited Use of Surplus Funds

The 2014 Committee, Marquez, and Frausto transferred \$5,022 funds, as a contribution, to the 2016 Committee after the funds had become surplus, in violation of Government Code Section 89519.



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1 For Count 1, a comparable case involving prohibited use of surplus funds is *In the Matter of*  
2 *Geraldine "Gerri" Guzman, Friends to Elect Gerri Guzman for School Board, and Charlotte Trujillo,*  
3 FPPC No. 13/134 (The Commission approved a stipulation April 21, 2016) Respondents spent  
4 approximately \$3,000 of surplus funds improperly, primarily payments for gas and meals. The Commission  
5 approved a penalty of \$2,500 for the violation. Though Marquez spent more of her surplus funds, she did  
6 so in one transfer, compared to the 24 instances in *Guzman*. For this reason, a penalty of \$2,500 is  
7 recommended.

8 For Count 2, a comparable case involving the prohibited acceptance and use of cash and cash  
9 equivalents is *In the Matter of Luis Castro, Committee to Elect Luis Castro for Calexico City Council*  
10 *Member 2012, and Ana Castro*, FPPC No. 13/1200. (The Commission approved a stipulation October 20,  
11 2016). The Committee accepted an excess of \$5,800 in contributions and made payments in excess of  
12 \$4,700 in the form of cash. The Commission approved a penalty of \$2,500 for the violation. In *Castro*,  
13 there was a pattern of using cash for multiple transactions, making it difficult to audit the activities of the  
14 committee. In contrast, the case here involves one transaction, a large loan that comprises approximately  
15 26% of the entire contributions for the 2016 campaign. The loan is purportedly from Marquez but was not  
16 drawn from an account in Marquez's name and no documentation was provided to substantiate this claim.  
17 Under these circumstances, a penalty of \$2,500 is recommended.

18 For Count 3, a comparable case involving non-reporting of campaign activity is *In the Matter of*  
19 *Quality Education in Support of Recall Lorona Orosco, Lopez; Sara Rodriguez; Harpreet Purewal; Frank*  
20 *Hoyt; and John Hoyt*, FPPC No. 16/414 (The Commission approved a stipulation August 16, 2018).  
21 Respondents failed to report nonmonetary contributions totaling approximately \$2,604 or about 15% of  
22 the total contributions for the committee. The Commission approved a penalty of \$2,000 for the violation.  
23 Here, the amount that was not reported by Respondents comprised about 9% of the contributions and about  
24 19% of the expenditures. This is similar to the comparable case. Therefore, a penalty of \$2,000 is  
25 recommended.

26 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, a  
27 penalty of \$7,000 is recommended.  
28

1 **CONCLUSION**

2 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
3 Respondents, Dolores Marquez for School Board 2016, Dolores Marquez for Santa Clara County Board  
4 of Education 2014, Dolores Marquez, and Anjelica Frausto, hereby agree as follows:

5 1. Respondents violated the Act as described in the foregoing pages, which are a true and  
6 accurate summary of the facts in this matter.

7 2. This stipulation will be submitted for consideration by the Fair Political Practices  
8 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

9 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose  
10 of reaching a final disposition without the necessity of holding an administrative hearing to determine the  
11 liability of Respondents pursuant to Section 83116.

12 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all  
13 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.  
14 This includes, but is not limited to the right to appear personally at any administrative hearing held in this  
15 matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine all  
16 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial  
17 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially  
18 reviewed.

19 5. Respondents agree to the issuance of the decision and order set forth below. Also,  
20 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
21 \$7,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General  
22 Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative  
23 penalty described above, and same shall be held by the State of California until the Commission issues its  
24 decision and order regarding this matter.

25 6. If the Commission declines to approve this stipulation—then this stipulation shall become  
26 null and void, and within fifteen business days after the Commission meeting at which the stipulation is  
27 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to  
28 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before

1 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
2 shall be disqualified because of prior consideration of this Stipulation.

3 7. The parties to this agreement may execute their respective signature pages separately. A  
4 copy of any party's executed signature page, including a hardcopy of a signature page transmitted via fax  
5 or as a PDF email attachment, is as effective and binding as the original.

6  
7 Dated: \_\_\_\_\_

\_\_\_\_\_  
Galena West, Chief of Enforcement  
Fair Political Practices Commission

8  
9  
10 Dated: \_\_\_\_\_

\_\_\_\_\_  
Dolores Marquez, individually and on behalf of Dolores  
Marquez for School Board 2016 and Dolores Marquez for  
Santa Clara County Board of Education 2014

11  
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14 Dated: \_\_\_\_\_

\_\_\_\_\_  
Anjelica Frausto, individually and on behalf of Dolores  
Marquez for School Board 2016 and Dolores Marquez for  
Santa Clara County Board of Education 2014

1 The foregoing stipulation of the parties “In the Matter of Dolores Marquez for School Board 2016,  
2 Dolores Marquez for Santa Clara County Board of Education 2014, Dolores Marquez, and Anjelica  
3 Frausto,” FPPC Case No. 17/0106 is hereby accepted as the final decision and order of the Fair Political  
4 Practices Commission, effective upon execution below by the Chair.

5  
6 IT IS SO ORDERED.

7  
8 Dated: \_\_\_\_\_

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9 Alice T. Germond, Chair  
Fair Political Practices Commission  
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**UNOFFICIAL TRANSCRIPTION OF PORTION OF FAIR POLITICAL PRACTICES COMMISSION  
MEETING OF AUGUST 15, 2019**

(Agenda Item 3.7(6) In the Matter of Dolores Marquez for School Board 2016, Dolores Marquez for Santa Clara County Board of Education 2014, Dolores Marquez, and Anjelica Frausto; FPPC No. 17/106, at 16:10 – 18:50 minutes)

Chair Richard Miadich:        Alright, moving to item 6, Commissioner Hayward, you had expressed an interest in discussing item 6.

Commissioner Hayward:        Yeah, I just wanted to, um, say a couple of things more or less just for the record, um, to clarify what I had noted in this matter, um, about the, the \$5,000 cashier's check. Um, the way I read this stip, um, especially the language on page 7, um, which reads, "The loan is purportedly from Marquez but was not drawn from an account in Marquez' name and no documentation was provided to substantiate this claim." That is the, the, um, cashier's check. I read that to mean that we had, like we knew it had come from some secret place, and we, and therefore, all sorts of alarm bells went off in my head about intent and fraud, potentially, and other things. Um, I think Ms. West, um, outside of our meeting today, um, clarified for me that this was not the case, but can you just elaborate on that a little bit?

Galena West:                    Certainly. Galena West, Chief of Enforcement. Yes, 'cause the way that sentence was written is a reflection of the statute, which is not drawn on the name of an account, which is the requirement for cash expenditures, contributions, and, uh, and what it should have said, or meant, was the cashier's check didn't indicate what account it was drawn from. And so different, different language would probably made that interpretation a little easier, but yes, so we were just reciting kind of the statutory requirement for the violation as opposed to trying to make a statement as to conclusively we knew it wasn't her money.

Commissioner Hayward:        I just wanted that clarified, you know, with anyone looks at this stip ever again in the future, they'll maybe have a little more clarity. And with that I would move approval of 6.

Chair Miadich:                Is there additional commissioner comment?



Commissioner Hatch: Just for further clarification on that, so are you saying you knew the source and you knew it wasn't from her. It was...

Galena West: We don't know the source, but we don't know it's not from her. She purports that it is from her, but didn't have the documentation.

Commissioner Hatch: Oh, so you don't, you don't have the ability to determine...

Galena West: Exactly.

Commissioner Hatch: Ok.

Chair Miadich: Is there any public comment on item 6? Seeing none, do I have a motion?

Comm. Hayward: I will move approval of item 6 now.

Comm. Hatch: Second.

Clerk: Commissioner Cardenas.

Comm. Cardenas: Yes.

Clerk: Commissioner Hatch.

Comm. Hatch: Aye.

Clerk: Commissioner Hayward.

Comm. Hayward: Yes.

Clerk: Chair Miadich.

Chair Miadich: Yes.

Clerk: The motion passes.

[Taken from FPPC meeting video at <http://www.fppc.ca.gov/content/fppc-www/about-fppc/hearings-meetings-workshops/current-agenda/past-agendas/2019-agendas/aug-2019-agenda.html>]

Office of Superintendent of Schools

10.01

**ITEM REQUIRING ATTENTION - BOARD OF EDUCATION**

To the Board of Trustees:

Date: August 21, 2019

**Subject:** 2019 California Assessment of Student Performance and Progress (CAASPP)  
and English Language Proficiency Assessments for California (ELPAC)

**Staff Analysis:** The purpose of the presentation is to inform the Board of Trustees about the District's performance on the CAASPP and ELPAC assessments in the 2018-2019 school year.

**Information/Presentation**

Submitted by: Brittany Rykels

*BR*

Title: Coordinator, Academic Services

Approved by: Rene Sanchez

*/R.S.*

Title: Assistant Superintendent, Instructional Services

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

Information Only

10.01

Agenda Placement

*Hilaria Bauer*

Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue, San Jose, CA 95127

10.02

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION - BOARD OF EDUCATION**


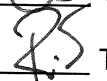
To the Board of Trustees:

Date: August 22, 2019

**Subject:** Resolution No. 11-19/20, Regarding Sufficiency or Insufficiency of Instructional Materials

**Staff Analysis:** Education Code Section 60119 requires that the Governing Board adopt a resolution determining that every student is provided with sufficient textbooks and instructional materials aligned to the academic content standards and consistent with the cycles and content of the curriculum frameworks. Staff evaluation of all sites has determined that this is the case.

**Recommendation:** Staff recommends approval of Resolution No. 11-19/20, Sufficiency of Instructional Materials as presented.

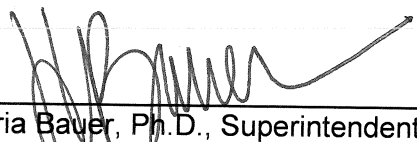
Submitted by: Sandra Garcia  Title: Director of State and Federal Programs  
Approved by: Rene Sanchez  Title: Assistant Superintendent of Instructional Services

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

**Recommend Approval**

10.02  
Agenda Placement

  
Hilaria Bayer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

**RESOLUTION No. 11-19/20**  
**REGARDING SUFFICIENCY OR INSUFFICIENCY OF INSTRUCTIONAL MATERIALS**

**WHEREAS**, the Governing Board of Alum Rock Union School District, in order to comply with the requirements of *Education Code Section 60119* held a public hearing September 12, 2019 at 5:30 p.m., which is on or before the eighth week of school (between the first day that students attend school and the eighth week from that day) and which did not take place during or immediately following school hours, and;

**WHEREAS**, the Governing Board provided at least 10 days notice of the public hearing posted in at least three public places within the district that stated the time, place, and purpose of the hearing, and;

**WHEREAS**, the Governing Board encouraged participation by parents/guardians, teachers, members of the community, and bargaining unit leaders in the public hearing, and;

**FOR A FINDING OF SUFFICIENT INSTRUCTIONAL MATERIALS:**

**WHEREAS**, information provided at the public hearing and to the governing board at the public meeting detailed the extent to which textbooks and instructional materials were provided to all students, including English learners, in the Alum Rock Union School District, and;

**WHEREAS**, the definition of "sufficient textbooks or instructional materials" means that each student, including English learners, has a textbook or instructional materials, or both, to use in class and take home, and;

**WHEREAS**, between 2008-2009 through 2019-2020 fiscal years, the definition of "sufficient textbooks or instructional materials" also means that all students who are enrolled in the same course within the Alum Rock Union School District, have standards-aligned textbooks or instructional materials from the same adoption cycle, and;

**WHEREAS**, sufficient textbooks and instructional materials were provided to each student, including English learners that **are aligned to the academic content standards** and consistent with the cycles and content of the curriculum frameworks in the following subjects:

- Mathematics – (See attached list of adopted textbooks or instructional materials for this subject for each grade level or school)
- Science – (See attached list of adopted textbooks or instructional materials for this subject for each grade level or school)
- History – Social Science – (See attached list of adopted textbooks or instructional materials for this subject for each grade level or school)
- English/language arts, including the English language development component of an adopted program – (See attached list of adopted textbooks or instructional materials for this subject for each grade level or school)

**THEREFORE, IT IS RESOLVED** that for the 2019-2020 school year, the Alum Rock Union School District has provided each student with sufficient textbooks and instructional materials aligned to the academic content standards and consistent with the cycles and content of the curriculum frameworks.

---

**PASSED AND ADOPTED** this 12th day of October 2019, by the Board of Trustees of the Alum Rock Union School District, County of Santa Clara, State of California.

Ayes \_\_\_\_\_

Noes \_\_\_\_\_

Absent \_\_\_\_\_

Abstain \_\_\_\_\_

**Board of Trustees:**

Linda Chavez, President

\_\_\_\_\_

Ernesto Bejarano, Vice President

\_\_\_\_\_

Dolores Márquez-Frausto, Board Clerk

\_\_\_\_\_

Andrés Quintero, Member

\_\_\_\_\_

Corina Herrera-Loera, Member

\_\_\_\_\_

**I HEREBY CERTIFY** that the foregoing resolution was duly and regularly introduced, passed, and adopted by the members of the Board of Trustees of the Alum Rock Union School District at a public meeting of said Board held on September 12, 2019.

---

Hilaria Bauer, Ph.D., Superintendent

---

Date

# Core Curriculum Matrix 2019-20

(Special Education students will receive the core curriculum per Board policy.)

	Reading / Language Arts	English Language Development	Mathematics	History / Social Science	Science
Elementary School	<b>K</b> Benchmark: Advance Benchmark: Adelante Voyager Sopris -Read Well	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>1</b> Benchmark: Advance Benchmark: Adelante Voyager Sopris -Read Well	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>2</b> Benchmark: Advance Benchmark: Adelante Steps to Advance Voyager Sopris -Read Well	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>3</b> Benchmark: Advance Steps to Advance Benchmark: Adelante	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>4</b> Benchmark: Advance Steps to Advance Benchmark: Adelante	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
Middle School	<b>5</b> Benchmark: Advance Steps to Advance Benchmark: Adelante	Benchmark: Advance Benchmark: Adelante	Pearson:enVision Math	Benchmark	Learning A-Z: Science A-Z Online
	<b>6</b> McGraw Hill-Study Sync Houghton Mifflin-English 3D Voyager Sopris - Language Live	Houghton Mifflin-English 3D McGraw Hill-Study Sync	CPM (College Preparatory Mathematics) CC1	TCI History Alive: The Ancient World McGraw Hill-IMPACTO	Accelerate Learning: STEMscopes
	<b>7</b> McGraw Hill-Study Sync Houghton Mifflin-English 3D Voyager Sopris - Language Live	Houghton Mifflin-English 3D McGraw Hill-Study Sync	CPM (College Preparatory Mathematics) CC2	TCI History Alive: The Medieval World and Beyond McGraw Hill-IMPACTO	Accelerate Learning: STEMscopes
	<b>8</b> McGraw Hill-Study Sync Houghton Mifflin-English 3D Voyager Sopris - Language Live	Houghton Mifflin-English 3D McGraw Hill-Study Sync	CPM (College Preparatory Mathematics) CC3 Accelerated H S Course 1 Math Vision Project	TCI History Alive: The United States Through Industrialism McGraw Hill-IMPACTO	Accelerate Learning: STEMscopes

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue, San Jose, CA 95127

Office of Superintendent of Schools

10.03

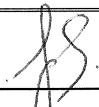
**ITEM REQUIRING ATTENTION - BOARD OF EDUCATION**

To the Board of Trustees:


Date: September 6, 2019

**Subject: PRESENTATION EXTENDED YEAR PROGRAMS – SUMMER 2019**

**Presentation/Information Only**

Submitted by: Jason Sorich 

Title: EdTech Administrator, Academic Services

Approved by: Rene Sanchez 

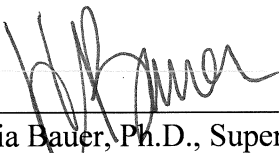
Title: Assistant Superintendent, Instructional Services

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

**Presentation/Information Only**

10.03  
Agenda Placement

  
Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_



ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue, San Jose, CA 95127

Office of Superintendent of Schools

11.01

**ITEM REQUIRING ATTENTION - BOARD OF TRUSTEES**

To the Board of Trustees:

Date: August 28, 2019

**Subject: Resolution No. 20-18/19 UPDATE**  
**Agreement Between the Governing Board of the Alum Rock Union Elementary School District and the Santa Clara County Superintendent of Schools Regarding Necessary Revisions for Compliance with Statutory Budget Requirements in Conjunction with the Local Control Accountability Plan (Education Code § 42127 and 52070)**

At a regular board meeting held on December 13, 2018, the board adopted RESOLUTION NO. 20-18/19, a resolution establishing agreement between the governing board of the Alum Rock Union Elementary School District (ARUSD) and the Santa Clara County Superintendent of Schools regarding necessary revisions for compliance with the statutory budget requirements in conjunction with the Local Control Accountability Plan (LCAP). As a result, the District is required to comply with the recommendations and necessary revisions as outlined in said resolution. Staff will provide a status update to the board on a monthly basis.

**\*\*INFORMATION/UPDATE\*\***

Approved by: Kolvira Chheng Title: Assistant Superintendent, Business Services

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

**INFORMATION/UPDATE**

11.01  
Agenda Placement

Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_



# ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

2930 Gay Avenue, San José, CA 95127

Phone: 408-928-6800

Fax: 408-928-6416

www.arusd.org

To: Hilaria Bauer, Ph.D., Superintendent

From: Kolvira Chheng, Assistant Superintendent, Business Services

Re: Resolution No. 20-18/19 Update

Date: September 12, 2019

At a regular board meeting held on December 13, 2018, the board adopted RESOLUTION NO. 20-18/19, a resolution establishing agreement between the governing board of the Alum Rock Union Elementary School District (ARUSD) and the Santa Clara County Superintendent of Schools regarding necessary revisions for compliance with the statutory budget requirements in conjunction with the Local Control Accountability Plan (LCAP). As a result, the District is required to comply with the recommendations and necessary revisions as outlined in said resolution. Staff will provide a status update to the board on a monthly basis.

**Below are updates at the August 8, 2019 Board Meeting**

Pursuant of RESOLUTION NO. 20-18/19, the District is required to comply with the following items:

1. Starting in January 2019 and continuing at a minimum through January 2020, the District will present to the board a monthly report of certificated FTE. The monthly report of FTE will be reconciled monthly with payroll to ensure the accuracy of the count. The monthly report of FTE will be compared to the current budgeted FTE to ensure the budget is on track.

**Status**

Completed and ongoing. Attachment A includes the position control report, only. The payroll register report is not available for August since teachers are 10 month employees.

2. Starting in January 2019 and continuing at a minimum through January 2020, the District will present to the board a monthly report of cash reconciliation for all funds.

**Status**

Completed and ongoing. July's cash reconciliation will be completed once year end closing is completed and board approved to allow the District to incorporate actual cash balance as of July 1, 2019.

# **ATTACHMENT**

## **A**

**Monthly Report of Certificated FTE for Month of August 30, 2019**  
**Position Control - Ran on August 27, 2019**

Class Type                      Certificated  
FTE                                  FTE

Sum of fill_fte Distr classify	title	location	acct 1100
<b>2000</b>	<b>TEACHER - ELEMENTARY</b>	010 CURETON ELEMENTARY	13
		020 LINDA VISTA ELEM	18
		030 LYNDAL ELEMENTARY	11.8
		040 MCCOLLAM ELEMENTARY	19
		060 CHAVEZ ELEMENTARY	13
		080 HUBBARD ELEMENTARY	18
		100 RYAN ELEMENTARY	12
		120 APTITUD COMM AT GOSS	11
		140 ARBUCKLE ELEMENTARY	5
		150 DORSA ELEMENTARY	13
		160 PAINTER ELEMENTARY	11
		180 MEYER ELEMENTARY	12
		200 CASSELL ELEMENTARY	14
		240 SAN ANTONIO ELEM	12
		270 L.U.C.H.A. ACADEMY	11
		280 ADELANTE ACADEMY	16
		285 ADELANTE II	9
		320 RUSSO/MCENTEE ACDMY	17
<b>2000 Total</b>			<b>235.8</b>
<b>2001</b>	<b>TEACHER-MIDDLE SCHOOL</b>	050 MATHSON MDD SCHOOL	11
		080 HUBBARD ELEMENTARY	5
		120 APTITUD COMM AT GOSS	6
		130 FISCHER MIDD SCHOOL	10
		170 SHEPPARD MDD SCHOOL	20
		250 GEORGE MIDD SCHOOL	18
		260 OCALA MDD SCHOOL	17
		280 ADELANTE ACADEMY	6
		290 RENAISSANCE ACADEMY	11
		295 RENAISSANCE II	11
<b>2001 Total</b>			<b>115</b>
<b>2004</b>	<b>SDC, SPECIAL ED</b>	380 SPECIAL EDUC DEPT.	28
<b>2004 Total</b>			<b>28</b>
<b>2008</b>	<b>TEACHER, PREP</b>	300 INST. SERVICES	4
<b>2008 Total</b>			<b>4</b>
<b>2009</b>	<b>TEACHER, MUSIC</b>	300 INST. SERVICES	14.75
<b>2009 Total</b>			<b>14.75</b>
<b>2013</b>	<b>ADDITIONAL FTE</b>	260 OCALA MDD SCHOOL	0.2
<b>2013 Total</b>			<b>0.2</b>
<b>2014</b>	<b>ADAPTED P.E.</b>	380 SPECIAL EDUC DEPT.	3
<b>2014 Total</b>			<b>3</b>
<b>2015</b>	<b>SPEECH THERAPIST</b>	380 SPECIAL EDUC DEPT.	14.1
<b>2015 Total</b>			<b>14.1</b>
<b>2016</b>	<b>SDC, PRE K</b>	380 SPECIAL EDUC DEPT.	7
<b>2016 Total</b>			<b>7</b>
<b>2017</b>	<b>BEHAVIOR SPECIALIST</b>	380 SPECIAL EDUC DEPT.	1
<b>2017 Total</b>			<b>1</b>
<b>2019</b>	<b>RSP, SPECIAL ED</b>	380 SPECIAL EDUC DEPT.	24.6
<b>2019 Total</b>			<b>24.6</b>
<b>Grand Total</b>			<b>447.45</b>

1100 - TEACHER SALARIES

Job ClassAdditional FTE - Middle school teachers working additional time

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue, San Jose, CA 95127

Office of Superintendent of Schools

11.02

**ITEM REQUIRING ATTENTION - BOARD OF TRUSTEES**



Date: August 28, 2019

To the Board of Trustees:

**Subject:** **Unaudited Actual Financial Reports for 2018 – 2019**  
***Report to the Board on Unaudited Actuals as Required by Law***

**Staff Analysis:** Staff will provide an update on the Unaudited Actuals Financial Report for Fiscal Year 2018 – 2019. Education Code section 42100 requires that the Governing Board of each school district approve an annual statement for all revenues and expenditures of the district for the fiscal year.

**Recommendation:** Staff recommends that the Board approve the 2018 – 2019 Unaudited Actuals Financial Report.

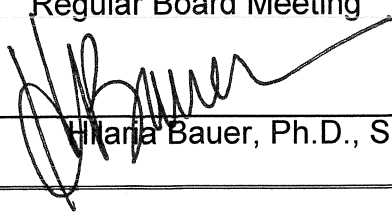
Prepared by: Efrain Robles  Title: Director, Fiscal Services  
Submitted by: Kolvira Chheng  Title: Assistant Superintendent, Business Services

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

**Recommend Approval**

11.02  
Agenda Placement

  
Hilana Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

11.03

**ITEM REQUIRING ATTENTION - BOARD OF EDUCATION**

To the Board of Trustees:

Date: August 28, 2019

**Subject:** **Application for Exemption from the Required Expenditures for Classroom Teachers' Salaries**

**Staff Analysis:** Pursuant of Education Code 41372, elementary school districts shall expend during each fiscal year at least 60% of the district's current expense of education for the payment of salaries of classroom teachers. For 2018-19 fiscal year, the Alum Rock Union Elementary School District did not spend the minimum percentage of its budget on classroom teacher salaries as required by EC Section 41372 and, therefore, is requesting from the County Superintendent of Schools an exemption from this requirement. Per attached End of Year Report (Third Interim), having to meet this requirement would result in the District not meeting its 3% minimum reserve requirement. As reported by School Services of CA, Inc., over 40% of elementary school districts in the State did not meet this requirement in fiscal year 2017-18.

**Recommendation:** Staff recommends that the Board of Trustees approve the application for exemption from the required expenditures for classroom teachers' salaries.

Approved by: Kolvira Chheng  Title: Assistant Superintendent, Business Services

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

**Recommend Approval**

11.03  
Agenda Placement

  
Hilary Bauer, Ph.D., Superintendent

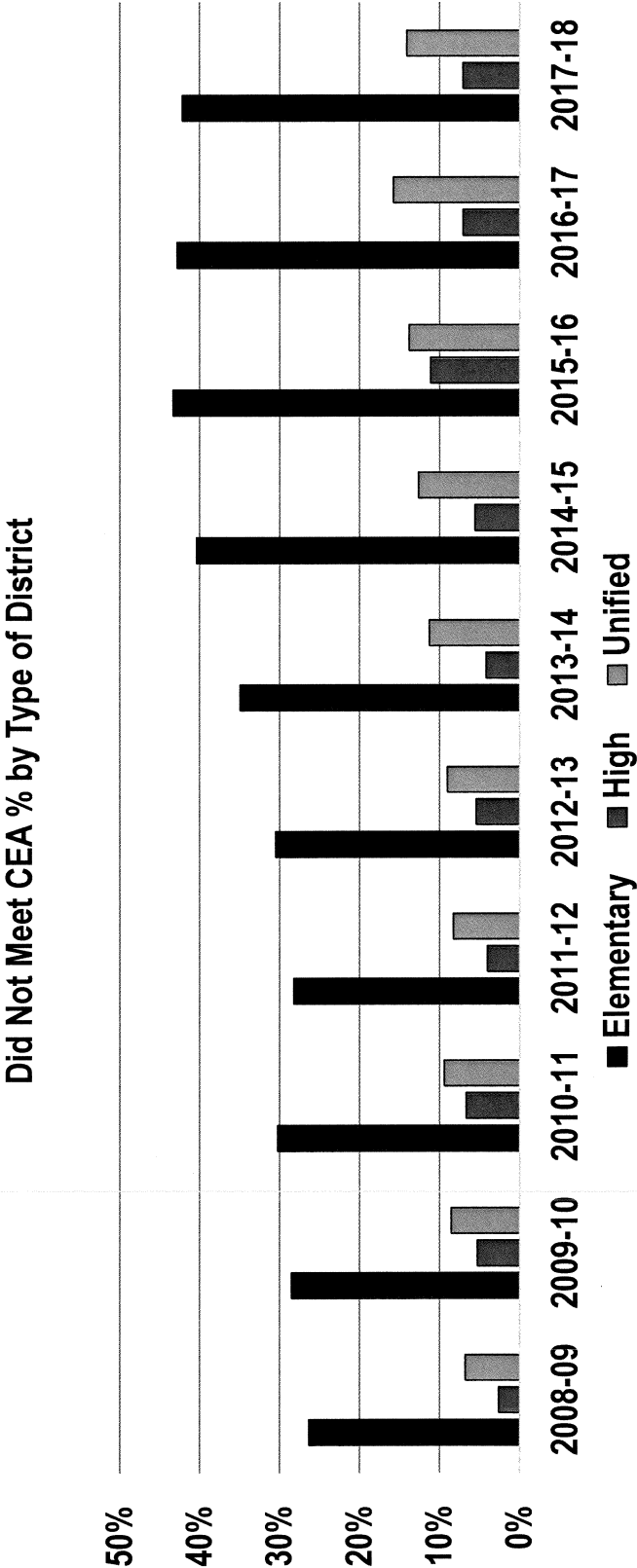
**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_



Overall, the percentage of districts unable to meet the threshold decreased slightly in 2017-18



## Application for Exemption from the Required Expenditures for Classroom Teachers' Salaries

*Pursuant to Education Code Section 41372*

To: County Superintendent of Schools

For 2018-19 fiscal year, the Alum Rock Union Elementary School District did not spend the minimum percentage of its budget on classroom teacher salaries as required by *EC* Section 41372. We are requesting an exemption from this requirement as provided by law.

Reason for request (Check one):

- ☒ X Serious hardship to the school district  
(Please attach a written explanation, the district's latest interim report, and a multiyear projection for the current and two subsequent fiscal years that reflects the financial impact of meeting the requirement of *EC* 41372.)
- ☐ Payment of classroom teacher salaries that are in excess of those paid by other comparable school districts  
(Please attach a classroom teacher salary & benefits comparison for at least three other comparable school districts. The comparison should include annual classroom teacher salaries paid at the beginning, average, and maximum salary levels plus the average annual employer contributions for health & welfare benefits.)
- ☐ Deficiency is less than \$1,000.00 (exemption is automatically approved)

### **A. Deficiency Amount**

(Source: Form CEA)

- |   |                  |
|---|------------------|
| 1. Enter the minimum percentage for your district type.<br>(60% Elementary/ 50% High School/ 55% Unified) | 60%              |
| 2. Enter the percentage spent by your district.   | 57.62%           |
| 3. Percentage below the minimum.<br>(Line 1 minus line 2)   | 2.38%            |
| 4. Enter the district's current expense of education (Form CEA)   | \$134,080,471.62 |
| 5. Deficiency Amount.<br>(Line 3 times line 4)  | \$3,191,115.22   |

### **B. Certification of the School District Governing Board**

It is hereby certified that the information contained in this application is true and correct.

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print Name of Authorized Official

\_\_\_\_\_  
Date

**C. Decision of the County Superintendent of Schools**  
(Completed by the County Superintendent of Schools or Designee)

Based on my review of the information contained with this application, I have taken the following action with respect to the school district named on this application (Check one):

\_\_\_\_\_ I am granting the request for exemption from the requirements of *Education Code* Section 41372.

\_\_\_\_\_ I am granting a partial exemption from the requirements of *Education Code* Section 41372. The amount not exempted is \$\_\_\_\_\_ (A written explanation of the reason(s) for approving a partial exemption is attached.)

\_\_\_\_\_ I am denying the request for exemption from the requirements of *Education Code* Section 41372. (A written explanation of the reason(s) for denying the exemption is attached.)

It is hereby certified that the information contained in this application has been reviewed and is true and correct.

\_\_\_\_\_  
Signature of County Superintendent

\_\_\_\_\_  
County Office/Date

\_\_\_\_\_  
Signature of Authorized Designee

\_\_\_\_\_  
Title of Authorized Designee/Date

PART I - CURRENT EXPENSE FORMULA	Total Expense for Year (1)	EDP No.	Reductions (See Note 1) (2)	EDP No.	Current Expense of Education (Col 1 - Col 2) (3)	EDP No.	Reductions (Extracted) (See Note 2) (4a)	Reductions (Overrides)* (See Note 2) (4b)	EDP No.	Current Expense-Part II (Col 3 - Col 4) (5)	EDP No.
1000 - Certificated Salaries	60,394,243.98	301	0.00	303	60,394,243.98	305	953,234.35		307	59,441,009.63	309
2000 - Classified Salaries	19,556,816.88	311	8,817.07	313	19,547,999.81	315	2,083,824.95		317	17,464,174.86	319
3000 - Employee Benefits	40,175,370.62	321	1,959.52	323	40,173,411.10	325	1,461,565.81		327	38,711,845.29	329
4000 - Books, Supplies Equip Replace. (6500)	4,241,382.51	331	65,427.52	333	4,175,954.99	335	875,824.45		337	3,300,130.54	339
5000 - Services. . . & 7300 - Indirect Costs	19,526,886.16	341	47,000.01	343	19,479,886.15	345	4,316,574.85		347	15,163,311.30	349
TOTAL					143,771,496.03	365	TOTAL			134,080,471.62	369

Note 1 - In Column 2, report expenditures for the following programs: Nonagency (Goals 7100-7199), Community Services (Goal 8100), Food Services (Function 3700), Fringe Benefits for Retired Persons (Objects 3701-3702), and Facilities Acquisition & Construction (Function 8500).

Note 2 - In Column 4, report expenditures for: Transportation (Function 3600), Lottery Expenditures (Resource 1100), Special Education Students in Nonpublic Schools (Function 1180), and other federal or state categorical aid in which funds were granted for expenditures in a program not incurring any teacher salary expenditures or requiring disbursement of the funds without regard to the requirements of EC Section 41372.

\* If an amount (even zero) is entered in any row of Column 4b or in Line 13b, the form uses only the values in Column 4b and Line 13b rather than the values in Column 4a and Line 13a.

PART II: MINIMUM CLASSROOM COMPENSATION (Instruction, Functions 1000-1999)			Object	EDP No.
1. Teacher Salaries as Per EC 41011. . . . .	1100	48,839,244.41		375
2. Salaries of Instructional Aides Per EC 41011. . . . .	2100	2,657,480.21		380
3. STRS. . . . .	3101 & 3102	14,982,433.90		382
4. PERS. . . . .	3201 & 3202	1,003,887.25		383
5. OASDI - Regular, Medicare and Alternative. . . . .	3301 & 3302	983,047.88		384
6. Health & Welfare Benefits (EC 41372) (Include Health, Dental, Vision, Pharmaceutical, and Annuity Plans). . . . .	3401 & 3402	7,496,585.14		385
7. Unemployment Insurance. . . . .	3501 & 3502	26,285.56		390
8. Workers' Compensation Insurance. . . . .	3601 & 3602	1,621,862.03		392
9. OPEB, Active Employees (EC 41372). . . . .	3751 & 3752	0.00		
10. Other Benefits (EC 22310). . . . .	3901 & 3902	22,034.21		393
11. SUBTOTAL Salaries and Benefits (Sum Lines 1 - 10). . . . .		77,632,860.59		395
12. Less: Teacher and Instructional Aide Salaries and Benefits deducted in Column 2. . . . .		0.00		
13a. Less: Teacher and Instructional Aide Salaries and Benefits (other than Lottery) deducted in Column 4a (Extracted). . . . .		379,964.28		396
b. Less: Teacher and Instructional Aide Salaries and Benefits (other than Lottery) deducted in Column 4b (Overrides)*. . . . .				396
14. TOTAL SALARIES AND BENEFITS. . . . .		77,252,896.31		397
15. Percent of Current Cost of Education Expended for Classroom Compensation (EDP 397 divided by EDP 369) Line 15 must equal or exceed 60% for elementary, 55% for unified and 50% for high school districts to avoid penalty under provisions of EC 41372. . . . .		57.62%		
16. District is exempt from EC 41372 because it meets the provisions of EC 41374. (If exempt, enter 'X') . . . . .				

PART III: DEFICIENCY AMOUNT		
A deficiency amount (Line 5) is only applicable to districts not meeting the minimum classroom compensation percentage required under EC 41372 and not exempt under the provisions of EC 41374.		
1. Minimum percentage required (60% elementary, 55% unified, 50% high) . . . . .	60.00%	
2. Percentage spent by this district (Part II, Line 15) . . . . .	57.62%	
3. Percentage below the minimum (Part III, Line 1 minus Line 2) . . . . .	2.38%	
4. District's Current Expense of Education after reductions in columns 4a or 4b (Part I, EDP 369). . . . .	134,080,471.62	
5. Deficiency Amount (Part III, Line 3 times Line 4) . . . . .	3,191,115.22	

PART IV: Explanation for adjustments entered in Part I, Column 4b (required)	

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue, San Jose, CA 95127

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION - BOARD OF EDUCATION**

To the Board of Trustees:

Date: August 28, 2019

**Subject:** **Citizen's Bond Oversight Committee (CBOC) Appointment**

**Staff Analysis:** Alum Rock Union Elementary School District Independent Citizen's Bond Oversight Committee (CBOC) Bylaws; "Bylaws" defines Membership, Qualification Standards, Ethics: Conflict of Interest, Term, Appointment and Removal Process.


Based on the membership requirements, defined in the Bylaws, the CBOC is a seven (7) members committee, which consists of one (1) Senior Citizen Group, two (2) Community-at-Large, two (2) PTA/SCC/Parent, one (1) Taxpayer's Organization and one (1) Business Representative. The CBOC currently has two vacancies, which include one (1) Business Representative and one (1) Senior Citizen's Group.

The following individual has applied for the vacant position:

Jesse Alcaraz      Business Representative

**Recommendation:** Superintendent has reviewed the application and recommends that the Board appoint accordingly the following applicant to the CBOC:

Jesse Alcaraz      Business Representative

Approved by: Kolvira Chheng 

Title: Assistant Superintendent, Business Services

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

**Recommend Approval**

12.01  
Agenda Placement

  
Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

**Measures J and I**  
**Citizens' Oversight Committee**  
**for**  
**Alum Rock Union Elementary School District**

On July 10, 2008, the Board of Trustees approved the formation of the Oversight Committee and Bylaws; on August 14, 2008, the Board adopted and certified a resolution to officially enter the minutes of the election results. With the voters of Alum Rock Union Elementary School District, Measure J was passed on November 6, 2012, a \$125 million Facilities Bond, followed with passing of Measure I, a \$140 million on June 7, 2016 to continue to fund school renovations and construction. This is an application for Citizens' Oversight Committee (COC) consideration.

Printed Name of Applicant Jesse Alcaraz

**Application for Appointment**

By submitting this application, I certify that I meet the following criteria:

1. Willingness and ability to work collaboratively in a group with diverse opinions
2. Commitment to regular attendance at meetings of the Citizens' Oversight Committee (COC)
3. Willingness to abide by the Code of Conduct established by the COC
4. Willingness to communicate responsibly to the community
5. Understand and accept the role of the COC related to the Bond Measures
6. Possess necessary background and experience to serve on the COC
7. Live within the boundaries of Alum Rock Union Elementary School District (ARUESD)
8. I am not a consultant, contractor, employee or vendor of ARUESD

**Term: 2 year term\***

\*commencing as of the date of appointment by the Board

**(Submit Completed Applications to the Business Office, c/o Assistant  
Superintendent of Business Services)**

Signature 

Note: The Board will appoint seven (7) members of the Citizens' Oversight Committee at a regularly scheduled Board Meeting.



### **Citizens' Oversight Committee Membership:**

California law requires certain persons to be represented on the Citizens' Oversight Committee ("Committee"). Please indicate all Committee designation(s) for which you are qualified:

☒ Business Representative \_\_\_\_\_ Active member of Senior Citizen Group  
Company Name: Alcaraz Trans. Inc. Group Name: \_\_\_\_\_  
☐ Member of Taxpayer Organization ☒ Parent/Guardian of a School District Student  
Org. Name: \_\_\_\_\_ Student/School Name: Sofia Alcaraz / Linda Vista  
☐ Active PTA, Site Council, School District ☒ Community at Large (2)  
Name of PTA/SSC: \_\_\_\_\_ Community Name: \_\_\_\_\_

- If possible, please provide a contact person and phone number of the organization on which you are active. The school District may contact these organizations to verify your participation.

### **General Information:**

Name: Jesse Alcaraz  
Home Address: 166 Fleming Ave.  
San Jose CA Zip: 95127  
Home Telephone: (408) 591-6970 E-mail: alcaraztransportation@gmail.com

### **Employer Information:**

Name of Employer: Alcaraz Transportation Inc.  
Work Address: 166 Fleming Ave.  
S.J. CA 95127  
Work Telephone: (408) 591-6970 E-mail: alcaraztransportation@gmail.com

**Educational Background:**

(Response optional you may attach a resume or additional pages, if needed.)

College and/or University: \_\_\_\_\_

Degree/Major: \_\_\_\_\_

Vocational and/or Other Institutions: \_\_\_\_\_

**Additional Information:**

1. Have you been a member of any school district committee?

\_\_\_\_ Yes      X No      If so, in what capacity and when?

\_\_\_\_\_  
\_\_\_\_\_

2. Are you, or have you or a member of your immediate family, ever been employed by the school district?

(Note: Employees are prohibited by law from being members of the Committee)

\_\_\_\_ Yes      X No      If yes, please explain:

\_\_\_\_\_  
\_\_\_\_\_

3. Are you a vendor, contractor or consultant to the school district? (**NOTE:** Vendors, contractors, and consultants of the school district are prohibited by law from being members of the COC.)

\_\_\_\_ Yes      X No

4. List present or past membership in any community service (e.g. volunteer, civic or youth organizations).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Qualifications:

1. Describe your skills, training and experience in finance, facilities and/or construction. (You may attach an additional page or resume, if needed.)

I have owned my company since 1998. I am personally involved in all aspects of running it. Some of the tasks I am familiar with are bookkeeping, tax preparation, payroll, maintenance of equipment, sales, estimating, etc.

2. Describe your involvement with Alum Rock Union Elementary School District or its schools.

I am the proud father of 2 children in the school district.  
Fabian attends Russo, while Sofia attends Linda Vista.

**Please Answer the following Questions:**

1. How long have you been a resident within the District? 8 Years 5 Months
2. Do you have any children or grandchildren who now attend (or have attended) Alum Rock Union Elementary schools? X Yes        No

Which schools: Russo & Linda Vista

3. Do you know of any reason such as a potential conflict of interest, which would adversely affect your ability to serve on the Measures J and I Committee?

\_\_\_\_ Yes    X No    If yes, please explain: \_\_\_\_\_

4. Explain why you would like to be appointed to this Committee. (You may attach additional pages, if needed.)

I would like to put my life experience, both personal and business, to work for the common cause of bettering our schools in every aspect possible. Thank you

5. Are you able to complete at least 1 term (2 years) as a member of the COC and refrain from becoming an employee, vendor, contractor, or consultant of the School District during such time period?

X Yes      \_\_\_\_\_ No

6. Are you available to attend Committee meetings on weeknights?

X Yes      \_\_\_\_\_ No      If no, please explain.


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7. Members of the COC will be required to file financial disclosure/conflict of interest statements pursuant to rules and forms established by the Fair Political Practices Commission. Are you willing to file such financial disclosure statement if appointed to the COC?

X Yes      \_\_\_\_\_ No

**Certificate of Application:**

All answers and statements in this document are true and complete to the best of my knowledge and belief.

Signature:  Date: 8/21/19

Please submit a completed signed application to Patricia Tovar in the Business Services Department, Alum Rock Union Elementary School District Office, 2930 Gay Avenue, San Jose, CA 95127. If you plan to fax your application (408 928-6445) or email ( [patricia.tovar@arusd.org](mailto:patricia.tovar@arusd.org) ), it is your responsibility to call to confirm that your fax/email has been received. Application forms are available on the web page at [www.arusd.org](http://www.arusd.org) or from the district office by contacting Patricia Tovar at 408 928-6846.

Please be aware completed applications are public records available for public review.

Office of Superintendent of Schools

12.02

**ITEM REQUIRING ATTENTION - BOARD OF EDUCATION**

To the Board of Trustees:

Date: August 30, 2019

**Subject:** **Citizen's Bond Oversight Committee Report**

**Staff Analysis:** The Measure J and Measure I Independent Citizen's Bond Oversight Committee (CBOC) will present its Annual Report. The report will reflect the Committee's oversight of Bond projects and expenditures between July 1, 2017 through June 30, 2018. The report will be presented by the committee members.

**\*\*FOR INFORMATION ONLY\*\***

Approved by: Kolvira Chheng Title: Assistant Superintendent, Business Services

To the Board of Trustees:

Meeting: September 12, 2019  
Regular Board Meeting

**FOR INFORMATION ONLY**

12.02  
Agenda Placement

Hilaria Bauer, Ph.D.,  
Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

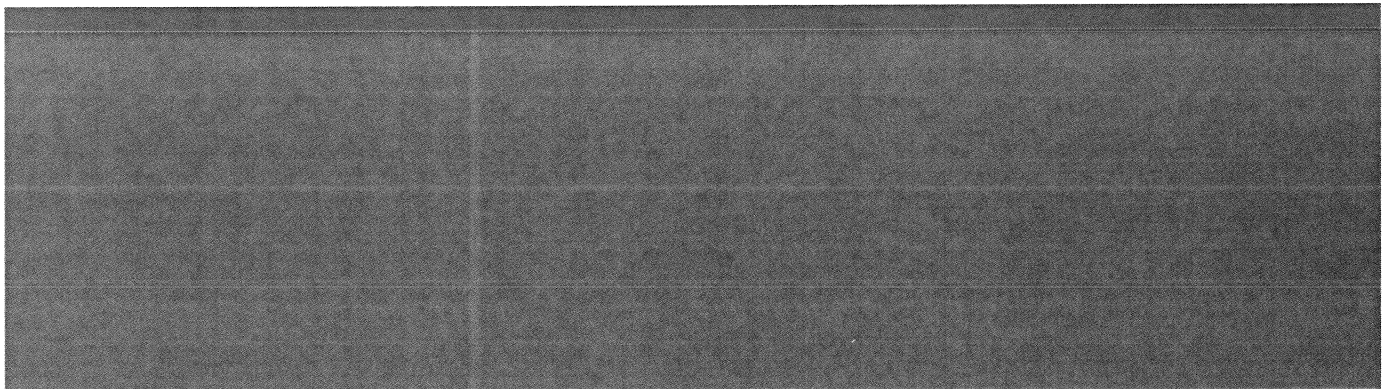
Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

# 2018 Annual Report of the Citizens' Bond Oversight Committee

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ALUM ROCK UNION SCHOOL DISTRICT  
2017 / 2018 FISCAL YEAR





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# 2018 ANNUAL REPORT OF THE CITIZENS' BOND OVERSIGHT COMMITTEE

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2017/2018 FISCAL YEAR

The Alum Rock Union Elementary School District in San Jose is nestled in the beautiful foothills of the Santa Clara Valley in the San Francisco Bay Area. Alum Rock is a family-oriented community committed to its children and schools, and serves a student body of 9,700 rich in racial, ethnic, and cultural diversity. Many families are active in supporting the educational community.

The district has successfully forged partnerships with programs such as Head Start, Foothill Community Health Center, the San Jose Public Library, and Somos Mayfair to offer programs that empower families and support health and achievement for students.

The district's schools have won several awards. In 2016, Adelante and LUCHA were honored with California's Gold Ribbon Award for demonstrating exemplary achievements in implementing state standards in priority areas. In 2017, Renaissance Fischer and Renaissance Mathson were honored with the California Gold Ribbon Award.

We are pleased to deliver the Citizens' Bond Oversight Committee's 2018 Annual Report to the Alum Rock Community. This Annual Report will include a response to the bond performance and financial audits. The Citizens' Bond Oversight Committee (CBOC) currently oversees funds from Measure J, and is also responsible for oversight of Measure I, where bonds have yet to be issued.



Figure 1: CBOC members visit LUCHA (1964) to inspect completed work.

## INTRODUCING THE CBOC

California Proposition 39, known as the School Facilities Local Vote Act, passed November 7, 2000. Prop 39 reduced the threshold needed to pass local California school district bond issues from a two-thirds supermajority vote to a 55 percent vote. California Education Code Section 15728 establishes requirements for a Citizen's Bond Oversight Committee to be established when bond measures are passed under Prop 39. This is a committee of local residents whose main charge is to inform the public of how their bond dollars are spent.

The California Education Code specifies requirements for seven committee members: a member of a business organization, a parent of an ARUSD student who is also a member of a parent organization, a member of a taxpayers' organization, a member of a senior citizens' organization, a parent of an ARUSD student, and two at-large community members. The CBOC does not currently have a limit on the number of members beyond those required by law, and accepts applications for membership at all times. Applications are available in [Spanish](#) and [English](#) on the ARUSD website. Community members with experience in construction, accounting, bookkeeping, working with contractors, or any related fields are especially encouraged to apply. The CBOC holds regular meetings each month.

The CBOC actively reviews and reports on the expenditure of taxpayers' money for school construction to ensure the bond funds are spent in accordance with the provisions of the Bond. The CBOC is accountable to the public and is not under the authority of the ARUSD Board. The CBOC's purpose is oversight of the bond program, transparency, and communication with the public about bond expenditures. It does not have authority to choose, prioritize, or direct bond projects. During the 2017/2018 fiscal year, your committee was comprised of 7 appointed members, including a chairperson and vice chairperson. District staff provide technical and administrative assistance to the committee.

Position	Name	Member Since
<b>Chair (Business Organization)</b>	Raymond Mueller	2013
<b>Vice Chair (Parent/PTA)</b>	Alison Cingolani	2017
<b>Secretary (Taxpayers Organization)</b>	Minh Pham	2017
<b>Member (Senior Citizens Organization)</b>	Frank Chavez	2017
<b>Member (Community at Large)</b>	Francine Brissey	2018
<b>Member (Community at Large)</b>	Robert Duran	2018
<b>Member (Parent)</b>	Flor DeLeon	2018

## COMMITTEE ACTIVITIES

The committee convened and participated in several key activities central to their main charge, such as preparing the Annual Report and reviewing program expenditures and annual audits. The CBOC met on 8 occasions during the 2017/2018 fiscal year. At times the Committee experienced challenges maintaining a quorum due to committee vacancies, but ultimately achieved full membership. Recruitment to fill vacancies was done through web and direct outreach at Board meetings and meetings of other parent committees, and by individual recruitment. Proceedings of CBOC meetings included:

- Appointment and Election of Chair, Vice Chair, and Secretary
- Review of Financial and Performance Audit
- Review and Revision of Committee Bylaws
- Review of Roles and Responsibilities
- Review of Ballot Languages for Bond Measures
- Review of Brown Act Requirements
- Review of Proposition 39
- Review of Program Management Fees
- Review of Project Status Reports
- Review of Expenditure Reports

## ABOUT MEASURE J

Measure J was on the November 6, 2012 ballot where it was approved by 18,442 votes or 79.43%. The bond was issued for \$125 million.

The Ballot Language:

"To improve neighborhood schools by removing mold and asbestos; fixing leaky, deteriorated roofs; replacing inefficient/ aging heating, ventilation, and electrical systems to save money; improving fire safety/ security; updating computer technology/ science labs for 21st century learning; repairing aging restrooms; and acquiring, constructing, and repairing sites/ facilities, shall Alum Rock Union Elementary School District issue \$125 million in bonds at legal rates with required independent financial audits, citizens' oversight and no money for administrators' salaries?"

**Alum Rock Union  
Elementary School  
buildings were built  
between 1952 and 1967,  
making them between 52  
and 67 years old.**

## ABOUT MEASURE I

Measure I was on the June 7, 2016 ballot where it was approved by 12,461 voters or 78.75%. The bond was issued for approximately \$140 million.

**According to California's Education Code, bond funds must be spent exactly as approved by voters. The CBOC examines all bond spending to ensure it is spent in accordance with the law, and reports to the Alum Rock community.**

### The Ballot Language:

"To improve local neighborhood schools, fix leaky, deteriorated roofs, improve fire safety, repair/upgrade classrooms, improve student safety and security, renovate outdated restrooms, upgrade heating/ventilation/electrical systems for energy efficiency, and computer technology, shall \$139,999,671.60 of Alum Rock Union Elementary School District bonds approved by the voters in June 2008, be reapproved at legal rates to renovate, acquire, construct, repair classrooms, sites, facilities/equipment, with independent audits, citizens' oversight, no money for administrators' salaries and all money controlled locally?"



Figure 2: A mural at San Antonio Elementary (1967)

## NEEDS OF ARUSD FACILITIES

ARUSD is made up of 25 district schools, most of which were built in the fifties and sixties. In addition, ARUSD owns facilities leased by 3 charter schools, and is responsible for maintaining those buildings.

As district facilities age, it becomes critical to invest in infrastructure projects such as renovating bathrooms, roofing, and adding or modernizing HVAC systems. This investment is key to maintaining a safe and welcoming environment for our community's children to learn and our educators to work.

In addition, the Board had begun planning for new multipurpose buildings to be built at George and Fischer, although those projects have been placed on an indefinite hold. More information about the multipurpose building projects can be found on page 10 of this report.

**Alum Rock's aging buildings will continue to create the need for more capital investment over time.**

<b>District Schools</b>	
<b>Adelante Dual Language Academy</b>	1967
<b>Alum Rock District Office</b>	1962
<b>Aptitud Community Academy at Goss</b>	1961
<b>Arbuckle/ Adelante II</b>	1961
<b>Cassell Elementary</b>	1963
<b>Chavez Elementary</b>	1962
<b>Cureton Elementary</b>	1952
<b>Dorsa Elementary</b>	1960
<b>Fischer Middle School/ Renaissance I</b>	1960
<b>George Middle School</b>	1969
<b>Hubbard Media Arts Academy</b>	1959
<b>Linda Vista Elementary</b>	1959
<b>LUCHA Elementary</b>	1964
<b>Lyndale Elementary</b>	1959
<b>Mathson Institute of Technology/ Renaissance II</b>	1960
<b>McCollam Elementary</b>	1959
<b>Meyer Elementary</b>	1962
<b>Ocala STEAM Academy</b>	1972
<b>Painter Elementary</b>	1961
<b>Russo McEntee Academy</b>	1956
<b>Ryan STEAM Academy</b>	1967
<b>San Antonio Elementary</b>	1967
<b>Sheppard Middle School</b>	1961
<b>Charter Schools</b>	
<b>Alpha (formerly Slonaker)</b>	1962
<b>KIPP Heartwood (formerly Miller)</b>	1959
<b>Escuela Popular (formerly Pala)</b>	1960



The major areas addressed in the 2017-2018 projects were roofing, the planning, design, and bid process for HVAC systems (including asbestos removal), restroom refurbishment, planning and design work for the Fischer and George Multipurpose buildings, and the Hubbard K-8 expansion. Generally, the school year is spent planning, reviewing, and getting all the required permits and approvals, so that as much as possible, the actual construction work can be accomplished while school is closed for the summer. There are a large number of agencies that are involved in planning and approving these projects. The city is involved in traffic flow analysis and permits. The Division of the State Architect reviews and approves all the building plans and issues permits to the School District. The federal government is involved indirectly, as the *Americans with Disabilities Act* imposes additional requirements on construction. These processes can entail several months of reviews and revisions before final approval.

While all of our school sites require investment, it is necessary to prioritize work to ensure our bond dollars are spent where most needed. Projects completed during the 2017-2018 fiscal year were prioritized based on a needs assessment conducted in 2008, inspections performed by the district maintenance department staff, and feedback from school site staff. The Bonds, Facilities and Finance subcommittee of the Board of Trustees reviews needs and provides recommendations to the Board, which makes final decisions on which projects move forward. During the 2017-2018 fiscal year, this subcommittee was chaired by Trustee Dolores Marquez. The Citizens' Bond Oversight Committee has no authority to prioritize or direct the expenditure of bond money.

#### CONDITIONS IMPACTING THE ARUSD BOND PROGRAM 2017 / 2018

Beginning in 2016 and continuing through 2018, audits and investigations conducted by multiple outside agencies expressed concern about poor Board governance, repeated instances of the Board and district staff not following Board and district policy, and a lack of internal fiscal controls at the district level. These include the Financial Crisis & Management Assistance Team (FCMAT) Audit (2016 / 2017), the Santa Clara County Civil Grand Jury Report (2017 / 2018), the district's own Annual Bond Fiscal and Performance Audits (completed annually by an outside auditing firm), and the Joint Legislative Audit Committee (2018 / 2019). All audits identified similar issues, but only the district's audits have been repeated, allowing the community to see progress on individual audit recommendations. All other audits were completed only once, so the progress of the Board and district on specific audit recommendations is sometimes difficult for the CBOC to measure.

Standard & Poor's downgraded the District's credit rating as a result of audit findings in October 2017, making the issuance of bonds far more expensive to district taxpayers. In March of 2018 the Santa Clara County Board of Education (SCCOE) assumed veto

power over any of the Board's financial decisions that could put the District at further risk. SCCOE also appointed a Fiscal Advisor to assist the Board and District in making more fiscally prudent decisions and implementing necessary controls. Because of concerns about Board governance and District fiscal controls, SCCOE declined to approve the Board's attempts to issue Measure I bonds.

Although the District has made great strides in correcting operational weaknesses with the support of SCCOE, and three of the five Board members were replaced during or after the 2018 elections, there was not enough bond money available during the 2017-2018 fiscal year to fund the district's remaining HVAC needs.



Figure 3 CBOC members inspect completed roof restoration at Mathson (1960)

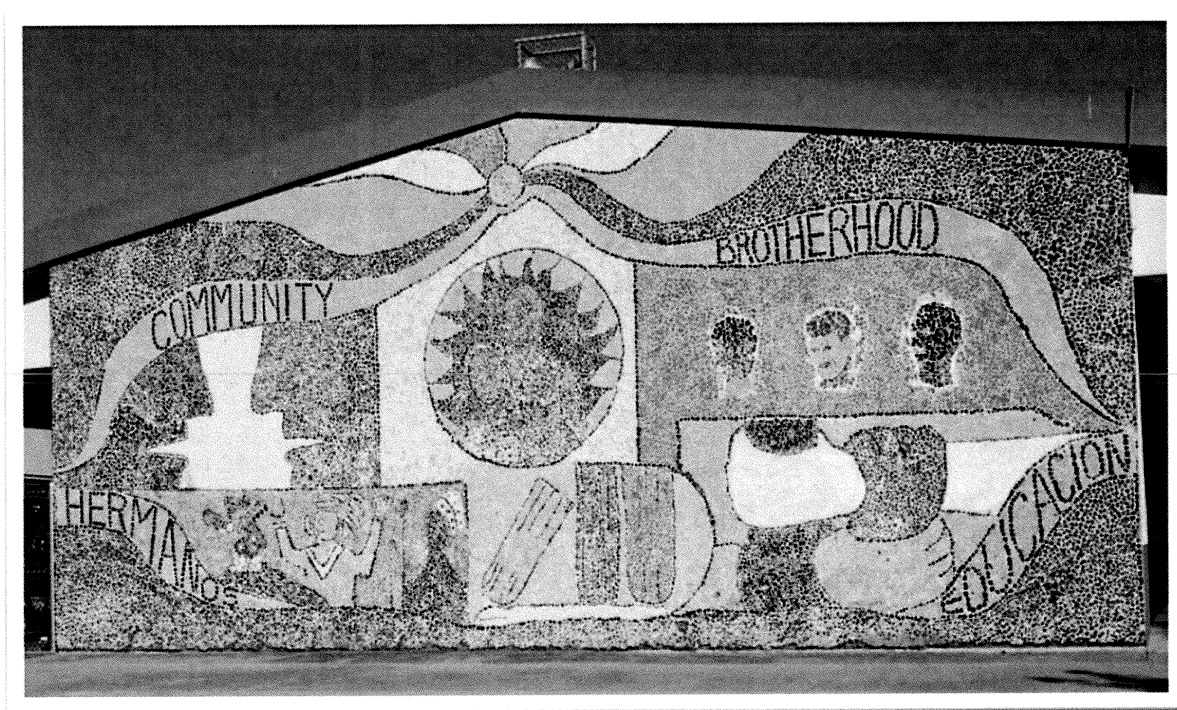


Figure 4: A mosaic at LUCHA (1964) shows Alum Rock community values

## BOND PROJECTS ACTIVE IN 2017 / 2018

The projects summarized in the table below were begun or completed in the 2017 / 2018 fiscal year using money from Measure J bonds. More specific information about the HVAC system projects and multipurpose building projects follows the table. Dollar amounts marked by an asterisk (\*) indicate projects that were or will be funded over multiple fiscal years. The amount listed is the amount paid in the 2017-2018 fiscal year only.

Project	Cost
HVAC for Arbuckle, planning and bid process	*\$151,720
HVAC for Cureton, planning and bid process	*\$159,053
HVAC for McCollam, planning and bid process	*\$158,960
HVAC for Russo McEntee, planning and bid process	*\$228,832
HVAC for Ryan, planning and bid process	*\$229,560
HVAC at LUCHA	*\$2,654,736
HVAC at Dorsa	*\$2,833,282
Multipurpose Building at Fischer, planning and design	*\$285,289
Multipurpose Building at George, planning and design	*\$132,427
Multipurpose Building at Mathson, planning and design for restoration of existing structure	*\$58,708
Reroofing at Kipp	*\$149,847
Reroofing at District Office	\$51,068
Reroofing at LUCHA	\$377,751
Roof Restoration at Mathson	\$239,299
Reroofing at Russo McEntee	\$69,939
Restroom refurbishment at Mathson	\$875,141
K-8 Expansion at Hubbard	*\$2,174,142

### HVAC SYSTEMS:

The installation of HVAC systems at LUCHA and Dorsa were planned and begun in the 2016 / 2017 fiscal year, and were completed in the 2017 / 2018 fiscal year.

The process for HVAC installations at Arbuckle, Cureton, McCollam, Russo McEntee, and Ryan was begun in the 2017 / 2018 fiscal year, but installation was not able to be completed due to lack of bond funds. Plans and recommendations for each of the five school sites were drawn up by an architect. The next step in the installation process was a Request for Proposal (RFP), when the district publicized the scope and details of the projects and invited construction companies to submit proposals including cost. When the HVAC projects bids were received, it was apparent that the District did not

have adequate funds to complete any of the projects without issuance of Measure I bonds, which they were not permitted to issue for the reasons noted in the section “Conditions Impacting the ARUSD Bond Program 2017 / 2018.” All five of these schools remain without permanent HVAC systems, although all five schools without permanent HVAC systems have temporary air conditioning units in place.

#### MULTIPURPOSE BUILDINGS:

The concept of a multipurpose building is to provide a large assembly space, gym, and classrooms that can be used by ARUSD students and community members. The expense of building new multipurpose buildings at George and Fischer has been hotly debated by Board members and the community because the multipurpose buildings represent a large expenditure at a time when our existing buildings are in need of ongoing investment due to aging. In addition, a fault line was found to run directly beneath the George multipurpose building site, which would require extensive revisions to the original plans and more expensive building methods and materials.

The District already owns one existing multipurpose building on the Mathson campus. The building has stood vacant for multiple years and has been subjected to repeated vandalism. Restoring the building would require a substantial investment of funds, but would likely be less costly than constructing new multipurpose buildings. In addition, the building is home to many murals, still in good condition, of cultural significance. During the 2017-2018 fiscal year for the reasons noted in the section “Conditions Impacting the ARUSD Bond Program 2017 / 2018,” there was not enough bond money available to move forward with the construction of new multipurpose buildings or the restoration of the existing multipurpose building.

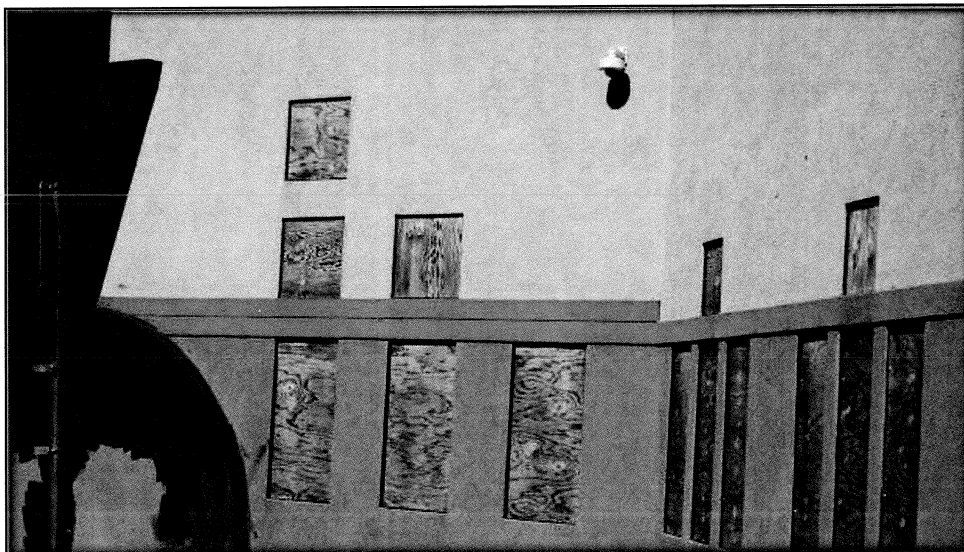


Figure 5: Work remains at the Mathson multipurpose building

## SUMMARY OF MEASURE J PERFORMANCE AUDIT, FINANCIAL STATEMENTS, AND INTERNAL CONTROLS REPORT

### PERFORMANCE AUDIT SUMMARY:

The independent auditing firm Crowe LLP drafted and submitted a performance audit of Measure J General Obligation Bonds for the fiscal year beginning July 1<sup>st</sup>, 2017 and ending June 30<sup>th</sup>, 2018 on April 9<sup>th</sup>, 2019 to the Board of Trustees of the Alum Rock Union Elementary School District. This audit is mandated under the requirements of Proposition 39 (2000), under Section 1(b)(3) C of Article 13A of the California Constitution.

The scope of the audit was based on a list of all identified Measure J project expenditures for Fiscal Year 2017-18, which totaled \$6,285,064. The methodology used by the auditing firm included verifying the mathematical accuracy of the expenditure list and reconciling it to those reported by the District in its audited Measure J Bonds financial statements for Fiscal Year 2017-18. Crowe LLP selected a sample of expenditures totaling \$5,451,795. This data set was selected to provide a representation of data across a range of expenditures on construction projects and vendors, and covered 87% of the fiscal year's total spending. Salaries of district employees, to the extent that they performed administrative oversight on construction projects authorized by a voter approved bond measure were included per California State Attorney General's Opinion 04-110 of November 9, 2004.<sup>i</sup>

Based on the information provided, the auditing firm concluded that "in all significant respects, the District expended Measure J General Obligation Bond funds for Fiscal Year 2017-18 only for the specific projects developed by the Board of Trustees and approved by the voters in accordance with Proposition 39, per Section 1(b)(3)(C) of Article 13A of the California Constitution."<sup>ii</sup>

### FINANCIAL STATEMENT SUMMARY:

To support the performance audit, the auditing firm performed an audit of the District's financial statements of the "Balance Sheet" and "Statement of Revenues, Expenditures, and Change in Fund Balance" for the period of July 1<sup>st</sup>, 2017 through June 30<sup>th</sup>, 2018. Currently, there are \$26,413,045 in assets (which includes \$15,978,487 in cash at the

County Treasury and \$10,434,558 in “Inter-Fund Transactions” which consisted of a transfer of \$2,315,512 from the District’s County School Facilities Fund to reimburse for prior year payments of the Districts Certificates of Participation, and a transfer of \$10,434,558 for the District’s Building Fund to reimburse for project costs authorized under the District’s Measure I Bond Authorization), which reconciles with the liability and fund balance total of \$26,413,045 (made up of \$58,389 in Accounts Payable and \$26,354,656 in the fund balance).<sup>iii</sup>

As for the “Statement of Revenues, Expenditures, and Change in Fund Balance,” there were revenues of \$140,659 for Fiscal Year 2017-18, all of which were derived from other local sources. There were expenditures of \$6,285,064 composed of \$150,478 in salaries, \$67,130 in benefits, \$1,089 in books & supplies, \$377,301 for contract services, and \$5,689,066 in capital outlays. During Fiscal Year 2017-18, there was a deficiency of revenues that was insufficient to cover expenditures, thus the District transferred \$12,750,070 from separate funds. Though the expenditures deducted \$6,285,064 from the existing fund balance of \$19,748,999 on July 1<sup>st</sup>, 2017, the transfer of funds from the district covered the deduction and added an additional \$6,605,665 to the existing fund balance, thus leaving the Measure J Bond fund balance at \$26,354,656 as of June 30<sup>th</sup>, 2018.<sup>iv</sup>

#### INTERNAL CONTROLS REPORT SUMMARY:

Included with the audit of the financial statements for Measure J General Obligation Bonds for Fiscal Year 2017-18, the auditing firm performed a report on “internal control over financial reporting and other matters based on an audit of financial statements performed in accordance with Government Auditing Standards.”

The reason for this report on internal controls was to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing the auditing firm’s opinion on the financial statement.<sup>v</sup> Though there were no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*, there were deficiencies in internal control which together were determined to be a material weakness.<sup>vi</sup> The deficiencies that collectively form the material weakness are as follows:

- The District has outsourced both bond program and construction management services to a third-party vendor. As part of that contract, the vendor is to



provide documentation to assist with the financial reporting and internal control procedures. The lack of documentation provided by the vendor constitutes a deficiency in internal control.

- The District's third-party vendor for program and construction management services incurred time and costs under the terms of the contract which have not paid at the direction of the Santa Clara County Office of Education. There are remaining invoiced expenses which have not been accrued as a payable at June 30, 2018.
- The District's evidence in support of internal controls related to pay rate changes and the reconciliation between the Payroll Prelist and the Final Payroll Register identified that these control activities were not consistently completed on a timely basis. Further, evidence supporting approval by a supervisor for employee absences and timecards were not consistently documented with the respective District forms.<sup>vii</sup>

The effect meant that the auditors were required to significantly adjust the Unaudited Actual financial report provided by the District to arrive as the audited financial statement balances. In addition, the auditors were unable to substantiate that appropriate internal controls have been implemented to ensure the accuracy of financial reporting. The auditors recommend that the District implement internal controls to ensure the accuracy of financial reporting and has noted the agreement of District management with the recommendations and has noted the District's actions in taking actions to make the changes to correct the material weakness.<sup>viii</sup>

#### CITIZENS' BOND OVERSIGHT COMMITTEE RESPONSE:

##### CONCERNS AND QUESTIONS:

Regarding the audits provided by Crowe LLP on April 9<sup>th</sup>, 2019, the Citizens' Bond Oversight Committee would like to thank the auditors for their work, as well as the District staff for their ongoing technical support of the Committee's work. At this time, the Committee has noted some issues of concern brought up in the audit, as well as some of the financial transactions taken by the District which were noted in the audit.

Originally, the audits were scheduled to be due in January 2019. However, the completion of the audit was delayed until April 2019. The Committee was informed then that the delay was due to the auditing firm needing to confer with the California State Controller's Office. Given the concerns about bond oversight raised in Fiscal Year

2016-17, the Committee is concerned about why the State Controller's Office asked the auditors to meet with them prior to the completion and release of the Fiscal Year 2017-18 audit. Not only is a timely dissemination of the audit is important so that an accurate annual report be produced for the Alum Rock School District Community, but all additional doubts about the financial soundness of the bond issues must be addressed in the soonest possible manner. The reviews of the financial statements, bond performance, and the response to governmental inquiries are needed in order to maintain public confidence that the bonds issued by the District are indeed used for facility improvements to be enjoyed by all the students and families of the District.

Beyond that, there are a few questions across the audits that the Committee are concerned about and requests the District and the auditing firm, Crowe LLP, to address. These questions are listed below:

1. What were the sources of the \$140,659 listed as "Other Local Revenues"?
2. In the Fiscal Year 2016-17, a total of \$154.864 was spent on salaries and benefits allowed under California Attorney General's Opinion 04-110 of November 9, 2004 (respectively \$107,224 on salaries and \$47,640 in benefits) administering \$11,211,400 in Measure J Bond expenditures.<sup>ix</sup> In Fiscal Year 2017-18, though bond expenditures decreased to \$6,285,064, spending in allowable salaries and benefits increased to \$217,608 (respectively \$150,748 in salaries and \$67,130 in benefits).<sup>x</sup> What caused the increase in expenditures for salaries and benefits?
3. Responding to the deficiency between bond revenues and expenditures, the District transferred \$12,750,070 (composed of \$2,315,512 from the District's County School Facilities Fund and \$10,434,558 from the District's Building Fund).<sup>xi</sup> Will these funds need to be repaid back into their original funds at a later date? If they are required to be paid back, by what date will the funds need to be repaid?
4. The second condition of the material weakness noted by the auditor noted that the former third party vendor for bond and construction management, Del Terra, incurred costs under contract terms that have not been paid per the Santa Clara County Office of Education with remaining invoiced expenses which have not been accrued as a payable at June 30, 2018.<sup>xii</sup> Understanding that the District is no longer financially independent and that the County Education Office has ultimate approval over expenditures, will these invoiced expenses have any effects on the credit of the District along with any other possible fiscal effects in the foreseeable future?
5. As a follow up to the above question, what was the specific nature of those incurred costs?

6. Since the previous third part vendor for bond program and construction management services is no longer working for the District since the termination of payments from the County Office of Education, has the District identified any possible vendors to each take on bond program management and construction management going forward?
7. As the balance sheet and the statement of revenues, expenditures, and change in fund balance for Measure J Bonds are consistent, what were the specific school site projects funded by the Fiscal Year 2017-18 expenditures?

#### DISTRICT'S ANSWERS TO THE QUESTIONS RAISED BY THE CBOC:

At the June 17 and July 15, 2019 meetings of the Citizens' Bond Oversight Committee, Fiscal Services Director Efrain Robles and Assistant Superintendent Kolvira Chheng, provided responses to some of the above questions. The Committee was informed that the District was the subject of an audit from the State Controller at the request of State Senator Jim Beall and State Assemblyman Ash Kalra, who both represent the legislative constituencies of which the District is a part. The legislators have raised concerns over the financial situation of the District, and called for a further examination of the fiscal situation by a state-level agency. Beyond that, there were constructive answers to several of the questions posed above which are listed as follows:

- ✓ On Question 1 regarding the source of "Other Local Revenues," it was determined that they were from bond interest monies paid to the District.
- ✓ For Question 2, the increase in bond funds for employee salaries was due to the additional bond audit and accounting work that arose from the task of preparing the annual audit as well as the additional audit from the State Controller.
- ✓ Regarding Question 3, the transferred funds were to finish off bond projects for San Antonio School. They were funds in support for Measure I Bonds, but as they are not yet sold, the costs were covered from remaining Measure J Funds and will not need to be paid back.
- ✓ Concerns raised in Question 4 were allayed as Assistant Superintendent Chheng informed the Committee that the auditing firm, Crowe LLP, has concurred that the incurred unpaid costs to Del Terra that cannot be paid (as those charges were disapproved by the County Education Office) will not affect the credit rating of the District nor will it have any negative fiscal effects for the future.
- ✓ Furthermore, as Question 5 asked about the nature of the costs from Del Terra, it was clarified to the Committee that the costs were due to fee-based bond and construction management program costs which included the design and preparation of bond projects for public bidding and the construction costs for heating, ventilation, and air-conditioning installation at LUCHA and Dorsa school sites.

- ✓ Addressing Question 6, there is District discussion about an open bid request for a bond program manager and a construction management vendor once the Santa Clara County Office of Education gives the District approval to sell Measure I bonds.
- ✓ To answer Question 7, the completed school site projects included HVAC installation at LUCHA and Dorsa; re-roofing at KIPP (formerly Miller), the District Office, LUCHA, and Russo/McEntee; roof restoration at Mathson; and the expansion of Hubbard from an elementary school site to a K-8 campus.

Further background technical information and updates on the District's progress on making the changes noted in the previous year's audit were provided by Mr. Robles and representatives from the auditing firm, Crowe LLP. From the auditor's presentation and subsequent follow-up from Mr. Robles, the Citizens' Bond Oversight Committee is pleased that much of the conditions for the material weakness reported in this year's audit were issued that carried over from the last fiscal year and that District has agreed with the recommendations have begun to make changes. The changes include:

- ❖ The training and assigning of staff to perform monthly reconciliations of cash, account payables, and receivables to ensure their accuracy and completion in a timely manner.<sup>xiii</sup>
- ❖ Reforming human resource processes to ensure that pay rate changes and the reconciliation between the Payroll Prelist and the Final Payroll Register have the required signatures from authorized officials in the Payroll and Human Resources departments.
- ❖ Ensuring that invoices are approved by the designated business office designee by improved tracking and record keeping practices consistent with systems used by the Santa Clara County Office of Education going forward from last year's audit.

#### CONCLUSIONS OF THE COMMITTEE:

The Committee, while noting that there is still room for improvement, would like to thank the District for constructively embarking and implementing these much needed reforms to address the material weakness specified by the auditors.

Based upon this information, the Committee would like to thank Fiscal Director Efrain Robles, Assistant Superintendent Kolvira Chheng, his administrative coordinator Patricia Tovar, as well as the professional staff of the District for their efforts on addressing the issues raised by Crowe LLP (the auditing firm) in the audit of Measure J Performance, Financial Statements, and Internal Controls. We are appreciative of the fact that the District is working to ensure that Measure J Bond funds are properly spent

for their intended purpose of maintaining and upgrading educational facilities for the Alum Rock Union Elementary School District Community.

As described above, progress on the Measure J bond programs, along with important reforms of fiscal and business processes remain a “work in progress.” It is our hope to hear from the Board of Trustees on these matters in the near future. On that note, the Committee looks forward to discussing the completion of the District’s corrective actions along with the school site projects funded in Fiscal Year 2017-18.

At the time of issue for this report, the Committee finds to the best of its knowledge, per Article 13A, Section 1(b) (3) of the California Constitution, that the Measure J Bond funds were spent only for the specific projects developed by the District’s Board of Trustees and approved by the voters. However, the questions noted by the Committee in this paper raise valid issues regarding the ability of the District to accurately ensure that bond funds are spent properly and the community truly receives the best value for the limited funds. With such concerns noted, there are still doubts within the community-at-large regarding their confidence in the strength of the bond measure, should these issues not be addressed promptly. Though the Board of Trustees accepted the audits from Crowe LLP at their meeting on April 11<sup>th</sup>, 2019, the Committee reserves the right to submit an amended response at a later date contingent on any subsequent amendments to the audit and/or the submission of new information regarding Measure J Bond funds for the 2017-18 fiscal year that was not covered in the submitted audit.

Without confidence in Measure J Bonds, it would be difficult for the District to be able to support further bond measures in the future, depriving the community of its ability to maintain quality public school facilities. It is the hope of the Citizens’ Bond Oversight Committee that the District (and all other involved parties) will complete the work of addressing these important issues as soon as possible.

#### LINKS TO CITED REPORTS:

[Alum Rock Union Elementary School District Measure J General Obligation Bonds Performance Audit, by Crowe LLP](#)

[Alum Rock Union Elementary School District Measure J General Obligation Bonds Financial Statement, by Crowe LLP](#)

[Alum Rock School District Board: Time to Put “Trust” Back in Trustee, by Santa Clara County Civil Grand Jury](#)

## FAQ'S

### WHAT IS A GENERAL OBLIGATION BOND?

General obligation bonds fund projects such as the renovation of existing classrooms and school facilities, as well as construction of new schools and classrooms. Similar to a home loan, general obligation bonds are typically repaid over 30 years. The loan repayment comes from a tax on all taxable property – residential, commercial, agricultural and industrial – located in the District.

### WHAT IS THE CITIZENS' BOND OVERSIGHT COMMITTEE AND WHY DOES IT MATTER TO ME?

As required by Education Code Section 15278, the District appoints a committee of local residents, whose main charge is to inform the public about how the bond dollars are being spent. The committee, known as the Citizens' Bond Oversight Committee, actively reviews and reports on the expenditure of taxpayer's money for school construction to ensure that bond funds are spent in accordance with the provisions of the bond. The committee is comprised of volunteers who represent specific constituencies, such as senior citizens, parents, businesses, or the community-at-large. This additional oversight is important because you pay for these bonds as part of your property taxes.

### HOW CAN I BE SURE THAT GENERAL BOND OBLIGATION FUNDS WILL BE SPENT ON IMPROVING OUR SCHOOLS?

Each year, a fiscal and performance audit of bond expenditures is conducted. The audits verify that ARUSD complied in all material respects with bond measure requirements to expend proceeds only on the school facilities projects specified in the bond measure legislation. The CBOC is responsible for reviewing the audit reports and is required to present this information to the public each year.

### CAN BOND FUNDS BE USED FOR TEACHER OR ADMINISTRATIVE SALARIES?

No. Only personnel working directly for the bond program are charged to the bond. To manage and coordinate a construction project to completion, personnel need to monitor contracts and project funding, oversee construction progress, and perform overall project management and accounting. Bond funds cannot be used to pay teacher or site administrator salaries, pensions or benefits. The annual fiscal and performance audit of the bond measures reviews all personnel charged to the bond and verifies that they are charged properly and meet state requirements.

**DOES THE CITIZENS' BOND OVERSIGHT COMMITTEE OVERSEE THE ACTUAL CONSTRUCTION?** No. A team of consultants and professional management companies are contracted to provide these services.



HOW ARE CONSTRUCTION  
MANAGEMENT, ARCHITECTS/  
ENGINEERS, CONTRACTORS  
AND PROFESSIONAL  
CONSULTANTS FOR BOND  
PROJECTS SELECTED?

District administration defines specific requirements, and then solicits proposals from qualified companies willing to work on a project. Contract award recommendations are made to the Board of Trustees for final approval.

WHY DO THE COSTS OF THE  
PROJECTS OFTEN FLUCTUATE  
FROM THE ORIGINAL ESTIMATED  
COSTS? Construction costs change depending on the cost of materials and the current economy. When the prices of raw materials such as steel or copper wiring rise, it can dramatically increase the cost of the project. Also if there are a lot of construction projects underway in the area, it can result in strained labor resources and bids tend to come in higher.

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<sup>i</sup> Crowe Horwath LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds

Performance Audit, June 30, 2017" April 24, 2018, pg. 3.

<sup>ii</sup> Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Performance

Audit, June 30, 2018" April 9, 2019, pg. 3.

<sup>iii</sup> Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial

Statements, June 30, 2018" April 9, 2019, pgs. 3-6.

<sup>iv</sup> Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial

Statements, June 30, 2018" April 9, 2019, pg. 4.

<sup>v</sup> Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial

Statements, June 30, 2018" April 9, 2019, pg. 8.

<sup>vi</sup> Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial

Statements, June 30, 2018" April 9, 2019, pgs. 8-10.

<sup>vii</sup> Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial

Statements, June 30, 2018" April 9, 2019, pg. 10.

<sup>viii</sup> Ibid.

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ix Crowe Horwath LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds

Financial Statements, June 30, 2017" April 24, 2018, pg. 4.

x Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial

Statements, June 30, 2018" April 9, 2019, pg. 4.

xi Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial

Statements, June 30, 2018" April 9, 2019, pg. 6.

xii Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial

Statements, June 30, 2018" April 9, 2019, pg. 10.

xiii Ibid.

## Bibliography

Crowe Horwath LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds

Performance Audit, June 30, 2017" April 24, 2018.

Crowe Horwath LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds

Financial Statements, June 30, 2017" April 24, 2018.

Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Performance

Audit, June 30, 2018" April 9, 2019.

Crowe LLP, "Alum Rock Union Elementary School District: Measure J General Obligation Bonds Financial

Statements, June 30, 2018" April 9, 2019.

13.01

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION – BOARD OF EDUCATION**

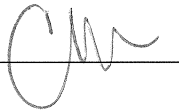
To the Board of Trustees:

Subject: Information Regarding Resignations

Staff Analysis:

Pursuant to Board Policy 4117.2 the Superintendent or her designee has accepted the following resignations.

Submitted by: Carlos Moran



Title: Assistant Superintendent, Human Resources

To the Board of Trustees:

**Information Only**

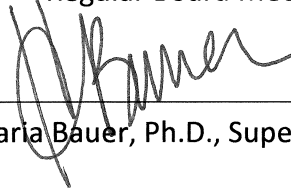
13.01

Agenda Placement

Meeting:

September 12, 2019

Regular Board Meeting



Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_

Not Approved: \_\_\_\_\_

Tabled: \_\_\_\_\_

**HUMAN RESOURCES DEPARTMENT  
MEETING OF THE BOARD OF TRUSTEES**

**September 12, 2019**

**CLASSIFIED RESIGNATIONS:**

**I. Resignations:**

- |                           |  |          |
|---------------------------|--|----------|
| 1. DeManriquez, Elizabeth | Campus Paraeducator/George   | 08/19/19 |
| 2. Ceja, Mayra            | Child Nutrition Assistant I/Hubbard  | 08/15/19 |
| 3. Rodriguez, Angel       | Executive Assistant-Superintendent Communication Support/<br>Superintendent's Office | 08/12/19 |

**ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT-  
HUMAN RESOURCES DEPARTMENT  
MEETING OF THE BOARD OF TRUSTEES**

**September 12, 2019**

**CERTIFICATED RESIGNATIONS:**

**I. Resignations:**

1. Amer, Anessa	K/San Antonio Elementary	08/05/2019
2. Spatola, Veronica	PLOA 2018/19	06/30/2019

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue  
San José, CA 95127

14.01

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION – BOARD OF EDUCATION**

To the Board of Trustees:

Subject: **APPROVAL OF BOARD MEETING MINUTES FOR THE  
FOLLOWING DATE:**

- June 27, 2019, Regular Board Meeting, 5:30 pm

**ACTION**

Submitted by: Hilaria Bauer, Ph.D. Title: Superintendent

To the Board of Trustees:

Meeting:

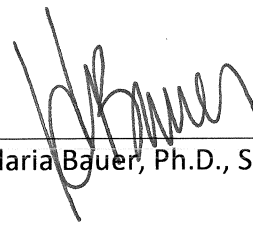
September 12, 2019

Regular Board Meeting

**Recommend Approval**

14.01

Agenda Placement



Hilaria Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_



**DRAFT MINUTES**  
**ALUM ROCK ELEMENTARY SCHOOL DISTRICT**  
**2930 Gay Avenue**  
**San Jose, CA 95127**

**MINUTES OF A REGULAR MEETING OF THE BOARD OF TRUSTEES**  
**of the Alum Rock Union School District**  
**Held on Thursday, June 27, 2019, 5:32 p.m. at the Alum Rock Union School**  
**District Office Board Room, 2930 Gay Avenue, San Jose, CA 95127**  
**Meeting #20-18/19**

**1. OPEN SESSION**

**1.01 Call to Order / Roll Call / Pledge of Allegiance**

President Linda Chavez welcomed everyone in the audience. President Linda Chavez called the Board Meeting to order at 5:30 p.m. followed by Roll Call.

Board Members Present:

Linda Chavez	President
Ernesto Bejarano	Vice-President
Dolores Marquez-Frausto	Clerk
Andrés Quintero	Member ( <i>arrived late at 5:34 p.m.</i> )
Corina Herrera-Loera	Member

Administrative and Support Staff Members Present:

Dr. Hilaria Bauer	Superintendent
Rene Sanchez	Assistant Superintendent, Instructional Services
Jess Serna	Interim Assistant Superintendent, Human Resources
Kolvira Chheng	Assistant Superintendent, Business Services
Marie Sanchez	Sr. Executive Assistant, Superintendent's Office
Maribel Carrillo	Sr. Executive Assistant, Superintendent's Office ( <i>in transition</i> )

President Linda Chavez welcomed everyone and led the Pledge of Allegiance at this time.

**1. OPEN SESSION** *(continued)*

**1.02 Announcement and Public Comments Regarding Items to be Discussed In Closed Session**

President Linda Chavez announced the items that would be discussed in Closed Session.

**1.03 Adjournment Closed Session.**

President Linda Chavez announced that the Board would reconvene to Open Session at approximately 6:32 p.m. The Board adjourned to Closed Session at 5:32 p.m.

**3. RECONVENE TO OPEN SESSION**

**3.01 Call to Order / Roll Call**

The Board reconvened to Open Session at 7:19 p.m. President Linda Chavez welcomed everyone and took a second Roll Call in which all Board Members were present.

Member Andrés Quintero requested that the record reflects that he was here in the beginning of closed session.

**3.02 Report of Action Taken in Closed Session**

Superintendent Bauer reported that the Board took the following action:

**2.01 *To approve Public Employee Appointment/Employment Government Code Section 54957): Title: (1) Assistant Principals; and (2) Principals, with a unanimous vote.***

Superintendent Bauer reported that there was no other action to report at this time.

**3.03 Agenda Review and Adoption**

Clerk Dolores Marquez-Frausto asked to move the following agenda items after **Agenda Item 6.02 Agenda Review and Adoption.**

**10.05 *Approve Delegation of Authority to Approve Bids and Award Contracts for Facilities Improvements in the Event of any Unforeseen Urgent Need District Wide***

**10.06 *Approve Delegation of Authority to Approve Bids and Award Contracts for BOND Projects Improvements in the Event of any Unforeseen Urgent Need District Wide.***

**10.07 *Approve Resolution No. 48-18/19 Delegation of Authority in Regard to Awarding of Emergency Contracts.***

### **3.03 Agenda Review and Adoption (continued)**

President Linda Chavez stated that members of the public asked to move the following agenda items after *Agenda Item 6.01 Agenda Review and Adoption*.

#### **9.01 Review and Approve the Annual Update for the Local Control Accountability Plan**

#### **9.03 Review and Approve the LCAP Federal Addendum**

There was board discussion on the order of business.

Clerk Dolores Marquez-Frausto asked if the Public Hearing was going to be open all night.

Superintendent Bauer responded that they usually remain open until the LCAP hearing. That was her recommendation.

## **4. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD**

### **4.01 Requests to Address the Board**

President Linda Chavez said that because the meeting is behind schedule, they will be allowing 2 minutes to speak. The Board will automatically refer any formal requests to staff and they will be presented in a future meeting.

Public Comments:

- 1) Mr. Robert Duran spoke about the Citizens Oversight Committee positions that are opened. He stated that if anyone is interested, to send their requests to Assistant Superintendent Chheng.
- 2) Ms. Maria Martinez invited parents to a training on July 14. She stated that there will be voting on July 11 regarding a bill for Charter Schools to be opened. She asked that parents send letters to the senators.

Clerk Dolores Marquez-Frausto stated that she was confused regarding the dates given and asked if the voting is on July 11 and if the training is going to be on July 14. If so, it is after the fact. She also wanted to know where the voting for July 11 would take place.

### **4.01 Requests to Address the Board**

Superintendent Bauer responded that it was at the senate level.

Clerk Dolores Marquez-Frausto asked who is presenting the bill.

#### **4. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD** *(continued)*

Superintendent Bauer asked if anyone in the public had more information regarding this bill. She said that all three bills, AB1505, AB1506 and AB1507, are still alive and there is not a lot of support for them. She asked for public input.

Clerk Dolores Marquez-Frausto asked where one can send an opinion or message.

Superintendent Bauer asked counsel if it is okay to respond and give information on how to send an opinion to the senate.

Counsel Rogelio Ruiz responded that it was okay to give information.

Superintendent Bauer stated that, in the senate and assembly, there is a website that has a portal where you can send your comments and they go to all the education committee members.

Clerk Dolores Marquez-Frausto asked if the comments go to the senate or the assembly and does everyone receive them.

Superintendent Bauer stated yes and that the voting for the senate is on July 11.

Clerk Dolores Marquez-Frausto asked Dr. Bauer to send her the information.

Superintendent Bauer said that she would send out the information to the Board.

- 3) Senior Executive Assistant Marie Sanchez thanked everyone and said that she is going to miss everyone.

The Board and Superintendent Bauer thanked Ms. Sanchez for all the work she did.

- 4) Female Speaker said she is Senior Executive Assistant Marie Sanchez's daughter and that she is happy because Marie was going to retire and spend more time with her family.

#### **5. COMMENTS AND COMMUNICATION**

##### **5.01 Teamsters**

There were no representatives from Teamsters at this time.

##### **5.02 California School Employee's Association (CSEA)**

There were no representatives from CSEA at this time

## **5. COMMENTS AND COMMUNICATION *(continued)***

### **5.03 Alum Rock Administrator's Association (ARAA)**

Director of Child Nutrition Service Denisse Mendez thanked the Board President, the Board, Superintendent Bauer and Cabinet. She said that CNS will start a new program and announced the new ARAA officers.

### **5.04 Alum Rock Educator's Association (AREA)**

Sandra Rivera thanked Senior Executive Assistant Marie Sanchez for her years of service. She encouraged the Board to have a contract resolution with AREA.

### **5.05 Superintendent**

Superintendent Bauer thanked Senior Executive Assistant Marie Sanchez for all the work she did.

### **5.06 Board of Trustees/Communication/Comments**

Vice-President Ernesto Bejarano asked if there could be a post in social media about participation on the Citizens Bond Oversight Committee so there could be a quorum.

President Linda Chavez asked if the district can schedule a Budget Committee Meeting to stay abreast of what is happening with the budget.

Member Corina Herrera-Loera stated that she is scheduled to be in Mexico during the July 11 Board Meeting. She apologized that she will not be present physically, but she will be present by teleconference.

Member Andrés Quintero said that he does not like surprises of cancelled meetings. He stated that the President does not have the authority to cancel meetings. He said it needs to be done as a body. He is looking forward to taking care of business for the people in July.

Clerk Dolores Marquez-Frausto thanked everyone and stated that when she was President, there were no meetings in July. She said this was done by consensus and it was announced a month before. She commented that she was happy that there was going to be a July meeting because there is a lot of work to be done. She looked forward to having a Budget Committee Meeting.

## 6. Public Hearing

### 6.01 LCAP 2019-20 Local Control Accountability Plan (LCAP) continued Public Hearing from the June 13, 2019 Regular Board Meeting.

President Linda Chavez opened it up for any public comments.

- 1) Maria Martinez thanked Director Sandra Garcia for all the information regarding LCAP.
- 2) Lilzia Gonzalez thanked Director Sandra Garcia, Assistant Superintendent Sanchez and Superintendent Bauer for answering all her questions. She said that it was transparent.

President Linda Chavez closed the public hearing at 7:56 p.m.

## 9. INSTRUCTIONAL SERVICES

### 9.01 Review and Approve the Annual Update for the Local Control Accountability Plan (LCAP) 2017-2020

Ms. Sandra Garcia, Director of State & Federal, gave a Power Point presentation. Some of the highlights included the following:

Oct-Dec	Jan-Feb	March	April	May	June
-Parent Informational mtgs.	-Input sessions from DAC, DELAC, Community Forums, AREA/CSEA/Teamsters and Management	-Staff/parent mtgs. -Online staff/parent/student surveys -Board update	-Board update with Initial Findings	-Board update & draft presented to Board	-Public Hearing/stakeholder feedback -Special Board Mtg. for approval -Submit LCAP to SCCOE for approval

Stakeholder Input – Parents, community, staff and students. Input gathered with community forums, school input sessions, and the surveys.

#### Trends/Findings (all stakeholders)

- Goal 1 - Provide all students with a rigorous, challenging, and innovative instructional program that prepares them for college-readiness and for excellence in the 21st century.
- Goal 2 - English Learners will have the required skills to reach grade level standards/proficiency.
- Goal 3 - Provide all students and families with a safe, welcoming, and caring environment conducive to learning.
- Goal 4 - Engage stakeholders in a meaningful way that promotes a positive learning, working, and community environment that is geared toward student achievement.



## 9. INSTRUCTIONAL SERVICES *(continued)*

### Next Step:

- Submit LCAP annual update to the SCCOE for approval

President Linda Chavez asked if anyone had questions.

Vice-President Ernesto Bejarano thanked Director Sandra Garcia for the presentation. He asked what was encompassed and if it included the LCAP, a Federal Addendum and CARS or was it altogether.

President Linda Chavez said that Superintendent Bauer was going to answer.

Superintendent Bauer asked the Board, very respectfully, to consider hearing 9.01, 9.03 and 9.05 altogether even though 9.01 was not moved up.

Vice-President Ernesto Bejarano thanked Director Sandra Garcia for answering questions that he had about the report. He asked if there could be modifications made to the LCAP.

Director Sandra Garcia responded and said as long as they do not modify the goals and actions.

Vice-President Ernesto Bejarano asked to review item 9.01 regarding the acronyms used which may be a challenge for parents to understand. He said under the section Parent, Family and Engagement, he would like to request a video library on the new website to help parents learn how to engage with the school system. On item 9.03, there is something grammatical that needs to be fixed.

Member Corina Herrera-Loera thanked Director Sandra Garcia for answering her questions. She said that on 3.11 page 128 section 2017-2018 action services, 1.03 is noted all the way across. She wanted to make sure that the correct number is reflected, which is 11.

Vice-President Ernesto Bejarano commented that he would like to get materials sooner to review. He said because it takes time to review the materials and there are so many that are received.

Superintendent Bauer thanked Vice-President Ernesto Bejarano for his request. She said that she will work on that. She commented that the LCAP was received beforehand and most materials are not new. They are added on from previous materials that were already given to the Board.

Vice-President Ernesto Bejarano stated that he is aware that there are some materials that are added on, but some materials are not. They are new items. He said that he wants a formalized process.

## **9. INSTRUCTIONAL SERVICES (continued)**

Clerk Dolores Marquez-Frausto thanked Director Sandra Garcia for the report. She said that she agreed with her colleague that they do get materials late. She stated that it takes time away from her family. She would like to get materials in a timely matter.

President Linda Chavez asked if there is a motion to approve 9.01, 9.03 and 9.05.

**9.01 Review and Approve the Annual Update for the Local Control Accountability Plan (LCAP) 2017-2020.**

**9.03 Review and Approve the LCAP Federal Addendum.**

**9.05 Consolidated Application and Reporting System (CARS) 2017/18-2018/19 Reporting and 2019-2020 Application for Funding.**

**MOTION #20-01 by Clerk Dolores Marquez-Frausto to approve Action Items 9.01, 9.03 and 9.05 as presented. MOTION #20-01 was seconded by Vice-President Ernesto Bejarano.**

***MOTION #20-01 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

Vice-President Ernesto Bejarano said that he had a question on item 9.05, page 1 of 2 on recruitment, training, retention and expenditures. He wanted to know why the numbers reflect zero and why there is no budget tied to this.

Assistant Superintendent Rene Sanchez stated that the items are in different categories and some funding comes out of the LCAP. He said that Title II was a separate budget.

Vice-President Ernesto Bejarano referred to page 6 of 7, item number 2A, he said that would like to review the policies and practices to ensure that homeless youth are not stigmatized as segregated.

Superintendent Bauer said that she will provide Vice-President Ernesto Bejarano the information that he requested.

Vice-President Ernesto Bejarano said that he had a question on page 6 of 7 on homeless children expenditures. He said that there is \$3,555,000. It is allocated and there is \$15,000. He wondered what is going to happen with the remaining money.

Director Sandra Garcia said that \$3,000,000. is the total number of the allocation and 15 thousand is for the homeless youth.

Assistant Superintendent Sanchez stated that Title I requires for a certain amount to be spent on specific areas for professional development, families and homeless youth. He said that this report is not broken down on how all the money is utilized. He said that they can definitely provide a more thorough report for the Board.

## 9. INSTRUCTIONAL SERVICES *(continued)*

Vice-President Ernesto Bejarano asked if that was the total that has been spent on homeless students. He understands that this is not our form and he is aware that this is what the state requires.

Assistant Superintendent Sanchez said that the state has asked the district to spend the money like it is in the form.

Clerk Dolores Marquez-Frausto wanted clarification on what the balance is of the \$3.5 million. She said that she understands that it is broken up and allocated. She also wanted to know if it goes to each school who has homeless children only.

Assistant Superintendent Sanchez said that Title I funds are specifically for low income students. He stated that all the schools receive money depending on the number of students that they have on the school site and it is not all for homeless students.

Clerk Dolores Marquez-Frausto asked if only \$15 thousand dollars is all that can be spent on homeless students.

Assistant Superintendent Sanchez stated that there is a minimum requirement that the district can spend. He said that they offer afterschool programs for low income students and that the report does not capture homeless students.

Clerk Dolores Marquez-Frausto asked if homeless students are segregated at the afterschool program or are they are put together.

Assistant Superintendent Sanchez said that the district offers homeless students different programs but it reaches out to them for the afterschool program.

Clerk Dolores Marquez-Frausto said that the way it is written, it looks like that is all the district is spending on homeless students. She is asking for a report that itemizes what services are provided to homeless students.

Assistant Superintendent Sanchez stated that this is the exact same report that the state provided the district. He said that he could provide a thorough report for the Board.

President Linda Chavez asked if there was any final comment on 6.02.

Superintendent Bauer said that she did not know that the agenda items were going to be moved around and that they go together as a pattern. She respectfully asked Board President Chavez to move item 6.02 and 10.01 so that they can be put together.

## **9. INSTRUCTIONAL SERVICES (continued)**

Clerk Dolores Marquez-Frausto asked Board President Chavez to formally record that they are moving 10.01 to where the other items are. She said that way they can be in order.

President Linda Chavez said the items can be moved together.

Clerk Dolores Marquez-Frausto commented that the Board needs to take a vote on item number 10.01 because they had already voted on the other items.

President Linda Chavez asked if there are any Public Comments.

Public Comments:

- 1) Maria Martinez asked why the LCAP and the Budget are presented separately.

Clerk Dolores Marquez-Frausto said that Maria Martinez is asking why they are dealt with separately if they amounted to \$104 million dollars altogether. She said that is what she understands to be her question.

Assistant Superintendent Chheng answered that it is that way because it also captures the Charter Schools, so it is included in the LCAP. He said that the Charter Schools are not independent. They are part of the district's budget.

Superintendent Bauer asked Maria Martinez if that answered her question.

- 2) Maria Martinez said she wanted to know where she could find the Board page for the updated 2016-2017 Aptitud LCAP.

Vice-President Ernesto Bejarano requested that the Board refer her questions to the staff.

President Linda Chavez asked if there was any more Public Comment.

President Linda Chavez closed the hearing for the Budget at 8:37 p.m.

## **10. Business**

President Linda Chavez asked for a Motion to approve 10.01.

### **10.01 Adoption of the District's Proposed 2019-2020 Budget.**

**MOTION #20-02 by Clerk Dolores Marquez-Frausto to approve Action Item 10.01 as presented. MOTION #20-02 was seconded by Member Corina Herrera-Loera.**

**10. Business (continued)**

Vice-President Ernesto Bejarano asked Assistant Superintendent Chheng if there are any significant changes to the Budget.

Assistant Superintendent Chheng responded that there are no significant changes to the Budget.

***MOTION #20-02 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

**10.05 Approve Delegation of Authority to Approve Bids and Award Contracts for Facilities Improvements in the Event of any Unforeseen Urgent Need District Wide.**

**10.06 Approve Delegation of Authority to Approve Bids and Award Contracts for BOND Projects Improvements in the Event of any Unforeseen Urgent Need District Wide.**

**10.07 Approve Resolution No. 48-18/19 Delegation of Authority in Regard to Awarding of Emergency Contacts.**

Clerk Dolores Marquez-Frausto commented that she will not supporting items 10.06 and 10.07. She felt that delegating the authority to one person is not right when there is already a process in place that the Board follows from the state. She said that there was someone working in Bonds who was let go due to lack of funds. She hopes that her colleagues table these items.

Vice-President Ernesto Bejarano stated that after meeting with Superintendent Bauer and Assistant Superintendent Chheng, he was provided clarification to his questions. He had asked Superintendent Bauer if something would happen again like it happened at Mathson, how would we do it differently. He was told that we would follow the process in place. He felt comfortable handing unlimited powers to someone to make decisions at the moment that it happens with Board approval.

Superintendent Bauer said that she wanted to make it clear that they are not asking the Board to sell Bonds. She said, last year, they were granted the authority with a different Board. She said that she was going to turn it over to Assistant Superintendent Chheng to explain the limits of authority.

Assistant Superintendent Chheng said that there is a process in place. He stated that if a pipe would break that he would get three proposals and then present them to the Board for approval.

Clerk Dolores Marquez-Frausto said that if it was a new administration asking that would be different. She said that someone that knew Bonds lost his job and it did not help the deficit at all.

**10. Business (continued)**

Vice-President Ernesto Bejarano said that this was not a mistake that was done over and over. This was a mistake that was done. He stated that his role is to work with staff and hold them accountable. He asked if he could review the process in place.

Assistant Superintendent Chheng said that he will give a copy of the process in place to Vice-President Ernesto Bejarano.

Vice President Ernesto Bejarano said that he wanted to make it clear that the way to hold staff accountable is to know the process. He asked what happens if the work is done and the Board does not approve it.

Counsel Rogelio Ruiz said that there are two different issues going on. He said item 10.05 gives authority to the Superintendent to enter into contracts and then they need to be presented to the Board for ratification. He stated that items 10.06 and 10.07 deal with emergency situations. He said that item 10.07 gives authority to the Superintendent to enter into contracts without going through the public bidding process.

Vice President Ernesto Bejarano asked what is the process is when it is declared an emergency after the fact.

Counsel Rogelio Ruiz said that it could be declared an emergency or it could be a special meeting process. He commented that at Mathson, there was an action taken with the contracts without public bidding which requires a 4/5 vote. He said that it is laid out in item 10.7 and there has to be a super majority.

Member Andrés Quintero said, in regards to Mathson, there were mistakes made and there was an issue with prior counsel. It was handed to the District Attorney to get to the bottom of what happened and nothing happened. They did not find anything. He stated that mistakes were made and he would like to move forward.

Clerk Dolores Marquez-Frausto commented that just because nothing has been heard from the District Attorney does not mean that the case is closed. She said that no one has been held accountable. She stated that the MOT director did not bid out the contract and he hired his previous employer. She said that Teamsters asked her to do something about it.

Vice President Ernesto Bejarano said that what happened at Mathson and what is in front of them are separate but related. He commented that if something happens in a school at 3:00am he wants to have the confidence that someone will see to it that the work gets done. He said that this procedure needs to be done.

Member Corina Herrera-Loera asked if they were dealing with items 10.5 through 10.07 together.

President Linda Chavez responded yes, they are all related.



**10. Business (continued)**

Member Corina Herrera-Loera said that she wanted to piggyback on what Vice President Ernesto Bejarano said. She trusts that the staff will do the right thing for an unforeseen situation or an emergency. She stated that, as a responsible Trustee, she would like to make a motion to approve items 10.05, 10.6 and 10.07.

Member Andrés Quintero seconded the motion.

Counsel Rogelio Ruiz said that he would like to request that items 10.05, 10.6 and 10.07. be handled separately.

President Linda Chavez spoke on these items.

President Linda Chavez opened it up for Public Comments.

Public Comments:

- 1) Frank Chavez said that item 10.06 is about a Bond Project that requires a Project Manager that can deal with Bond projects. He said that money from the Bond is not paid through the school district. He asked if the district has a delegate for emergencies according to Ed Code.

Superintendent Bauer said that if she does not have the authority, she cannot.

Frank Chavez said according to the Ed Code, you do.

Counsel Rogelio Ruiz said that only if the Board approves it.

Superintendent Bauer said she will not be able to do anything if there is a fire at a school.

- 2) Brenda Zenedejas asked what constitutes an emergency and if all schools and district office are included.

Member Andrés Quintero stated that this entire situation with Mathson keeps coming up and he wanted to clarify that for every cent that was spent, the district was made whole. He wanted to make sure that the public was not under the impression that the money disappeared. He said that the insurance company paid.

Clerk Dolores Marquez-Frausto stated that her colleague keeps stating that mistakes were made. She said that she was worried about awarding them the authority and having that happen again. She commented that \$2.4 million dollars is not accounted for and that the insurance company did not do anything other than pay. She stated that she was disappointed that Superintendent Bauer said that she could not do anything if Russo caught fire. She asked that the Board table item 10.07.

**10. Business (continued)**

President Linda Chavez had a question about what one of the speakers said regarding what constitutes an emergency. President Chavez did not say that Superintendent Bauer is going to take advantage, but if something else comes down the line, someone can misuse the funds. She stated that there is a process in place and if there is an emergency, she trusts the MOT staff to take care of the emergency. She does not feel that extra authority needs to be delegated.

Vice-President Ernesto Bejarano asked a question regarding the difference between emergency and urgent. He said that his understanding is that an emergency is an act of God and an example of urgent is if a pipe breaks.

Counsel Rogelio Ruiz stated that it is defined in the Public Contract based on section 11.02. He stated that an emergency is an unforeseen event. He said that items 10.05 and 10.06 delegate the authority to enter into certain contracts and it needs to be ratified by the Board. He said that items 10.05 and 10.06 do not alter the public bidding. They still need to follow the proper process.

Vice-President Ernesto Bejarano asked, at the point of ratification, what occurs if the Board does not ratify the work that has been done.

Counsel Rogelio Ruiz said that formal contracts can be terminated if they are not ratified. He stated that if there is an actual emergency, there would need to be a Special Board Meeting within 72 hours.

Vice-President Ernesto Bejarano said that the Board would have to delegate if it had a problem with the person it selected.

President Linda Chavez asked Counsel Rogelio Ruiz if someone with the delegation of authority can get creative with the language and take advantage later on down the road.

Counsel Rogelio Ruiz responded that it is a very specific issue of emergency under the Public Contract Code to declare an emergency.

Member Andrés Quintero said that the past Board granted the delegation of authority and that same Board wanted to fire Superintendent Bauer every month. If the roof collapses like it did at Dorsa, he reminded the Board that these are old buildings.

Clerk Dolores Marquez-Frausto said that she is not going to speak on this anymore. She said that they got rid of the Bond Director and now her colleague is talking about a roof collapsing. That is why they have MOT. She stated that delegation of authority does not need to be given to someone that made a big mistake and it is still being investigated by the District Attorney.

**10. Business (continued)**

Vice-President Ernesto Bejarano stated that he was supporting these items based on best logic and based on emotion.

Member Corina Herrera-Loera said that this is 2019-2020 and she does not foresee having a different Superintendent here.

President Linda Chavez stated this Board is responsible not like the past Board. She had gone to a funeral and she was present for the Board Meeting. Her concern is that someone down the line may come and take advantage of the authority.

**MOTION #20-03 by Member Corina Herrera-Loera to approve Action Item 10.05 as presented. MOTION #20-03 was seconded by Vice-President Ernesto Bejarano.**

***MOTION #20-03 carried with a vote of 3 in favor; 2 oppositions (President Linda Chavez and Member Dolores Marquez-Frausto); no absent; and no abstention.***

**MOTION #20-04 by Member Andrés Quintero to approve Action Item 10.06 as presented. MOTION #20-04 was seconded by Member Corina Herrera-Loera.**

***MOTION #20-04 carried with a vote of 3 in favor; 2 oppositions (President Linda Chavez and Member Dolores Marquez-Frausto); no absent; and no abstention.***

**MOTION #20-05 by Vice-President Ernesto Bejarano to approve Action Item 10.07 as presented. MOTION #20-05 was seconded by Member Andrés Quintero.**

The Board had discussion on item 10.07 and requested feedback from Counsel Rogelio Ruiz.

***MOTION #20-05 failed with a vote of 2 in favor (Member Corina Herrera-Loera and Member Andrés Quintero); 2 in opposition (President Linda Chavez and Clerk Dolores Marquez-Frausto); no absent; and one abstention (Vice President Ernesto Bejarano).***

**7. New Contracts Over \$100,000**

President Linda Chavez asked if they put items 7.01, 7.02 and 7.03 together. The Board decided to hear them separately.

The Board had discussion on items 7.01, 7.02 and 7.03.

**7.01 Approve Contract with Think Together to provide TK/Kinder Academy programs at Meyer, Ryan, Lyndale, Adelante, Linda Vista, & McCollam, to reinforce skill building in English Language Arts & Math, State & Federal, \$508,558.00.**

**7. New Contracts Over \$100,000 (continued)**

Clerk Dolores Marquez-Frausto asked if these funds were coming out of the LCAP and nowhere else.

Director Sandra Garcia said that these funds are from the LCAP.

**MOTION #20-06 by Member Corina Herrera-Loera to approve Action Item 7.01 as presented. MOTION #20-06 was seconded by Member Andrés Quintero.**

***MOTION #20-06 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

**7.02 Approve Contract with YMCA of Silicon Valley, to provide TK/Kinder Academy programs at Aptitud, Cassell, Chavez, Cureton, Dorsa, Lucha, Arbuckle/Adelante II, & San Antonio, to reinforce skill-building in English Language Arts & Math, State & Federal, \$590,462.00.**

**MOTION #20-07 by Vice President Ernesto Bejarano to approve Action Item 7.02 as presented. MOTION #20-06 was seconded by Member Corina Herrera-Loera.**

President Chavez opened it up for discussion.

Vice-President Ernesto Bejarano had a question for Counsel Rogelio Ruiz regarding the distinction between contractors and partners. In reference to page 4, section 8, he asked if there is a reason that they need to distinguish between a partner and contracted agency.

Counsel Rogelio Ruiz said that a partner has fiduciary obligations but they are very few and very specific and the other reason for a liability standpoint. He stated if the other person does something wrong, the district is exposing themselves.

Vice-President Ernesto Bejarano said that a contractor as a partner is still questionable.

Counsel Rogelio Ruiz said that it is very common to refer to contractors as partners.

Vice-President Ernesto Bejarano in reference to page 7 of the evaluation report, asked if the contractor be providing data to the Board.

Superintendent Bauer responded that the Board will be provided reports throughout the year.

Vice-President Ernesto Bejarano asked if the Board usually sees the evaluation reports.

Superintendent Bauer responded that the Board does not usually see them because they are lengthy, but the Board does get a report.

## **7. New Contracts Over \$100,000 (continued)**

Clerk Dolores Marquez-Frausto asked from what budget will this be funded.

Director Sandra Garcia responded that the funds come out of the LCAP.

Vice- President Ernesto Bejarano asked if the contractor will be providing a report.

Director Sandra Garcia responded the report will be included in the ASES information.

***MOTION #20-07 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

**7.03 Approve Think Together to provide TK/Kinder Academy programs at Painter, Russo/McEntee, & Hubbard to reinforce skill-building in English Language Arts & Math, State & Federal, \$200,000.**

Clerk Dolores Marquez-Frausto asked if the \$200,000.00 covers everything.

Assistant Superintendent Sanchez responded that for these group of students are covered through the San Jose Learners grant.

Clerk Dolores Marquez-Frausto asked if there is no cost to the district.

Assistant Superintendent Sanchez responded that it does not cost the district anything.

**MOTION #20-08 by Member Corina Herrera-Loera to approve Action Item 7.03 as presented. MOTION #20-08 was seconded by Clerk Dolores Marquez-Frausto.**

***MOTION #20-08 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

## **8. Superintendent/Board Business**

**8.01 Board Bylaw 9006, Second Reading—Board of Trustees' Code of Conduct.**

**MOTION #20-09 by Vice-President Ernesto Bejarano to approve Action Item 8.01 as presented. MOTION #20-09 was seconded by Member Dolores Marquez-Frausto.**

Public Comments:

- 1) Loretta Tanner said that she has seen rules have been broken. She asked if these rules are going to be enforced.

***MOTION #20-09 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

## **8. Superintendent/Board Business *(continued)***

### **8.02 Board Bylaw 9250, First Reading – Remuneration, Reimbursement and Other Benefits.**

**MOTION #20-09 by Vice-President Ernesto Bejarano to accept as the First Reading Action Item 8.02 as presented. MOTION #20-09 was seconded by Member Corina Herrera-Loera.**

***MOTION #20-09 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

### **8.03 Exhibit 9250, First Reading—Remuneration, Reimbursement and Other Benefits.**

Superintendent Bauer said that this is the first reading of Exhibit 9250 and that items 8.02 and 8.03 go together.

**MOTION #20-10 by Member Andrés Quintero to adopt the First Reading Action Item 8.03 as presented. MOTION #20-10 was seconded by Member Corina Herrera-Loera.**

The Board had discussion.

***MOTION #20-10 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

### **8.04 State Audit Report Follow-Up Regarding Board Member Attendance and Stipends.**

**MOTION #20-11 by Vice-President Ernesto Bejarano to approve Action Item 8.04 as presented. MOTION #20-11 was seconded by Member Andrés Quintero.**

Public Comments:

- 1) Female speaker said that a Board member who has been paid should pay back the money that they received. She said that she is happy about this item because this will make the Board members take their responsibility more seriously.

Vice-President Ernesto Bejarano said that all these items being discussed have been in effect according to the Education Code.

Counsel Rogelio Ruiz affirmed this.

Vice-President Ernesto Bejarano asked if there was any action that could be taken for not following the process.

## **8. Superintendent/Board Business** *(continued)*

Counsel Rogelio Ruiz responded that the state audit does not make a recommendation about that and the Education Code is silent about that. He said the stipends are paid by district to the Board members. He stated that it is a legal situation whether it is paid back to the district or to the tax payer.

Member Andrés Quintero asked that under this item it is for future.

Counsel Rogelio Ruiz responded that we are dealing with the state audit as part of the first reading and he is not making any other recommendation.

Member Andrés Quintero said that he was concerned that if he was a part of the Board while this was happening, he would need to excuse himself of the matter. He stated that he wished that the Board would have drafted a resolution on its own. He said that whatever is decided, this will allow the Board to move forward. He commented that whenever he is not able to be present, he always informs Superintendent Bauer.

Clerk Dolores Marquez-Frausto commented that she had 11 deaths in her family from both sides and she had been ill as well. She said that this came about because someone had gone to a concert. She asked Counsel Rogelio Ruiz if she needed to get an attorney.

Counsel Rogelio Ruiz responded that this item is prospective on how to implement this moving forward. He said that in the state audit, Board members were absent from several meetings and some more than others. He stated that if the Board decided this is to seek recovery, that creates a conflict of interest. His recommendation is that if this is a recovery situation, that it be organized in a future meeting and affected Board members should excuse themselves. He said that, for now, the Board needed to vote to respond to the state audit.

Clerk Dolores Marquez-Frausto asked if she needed to get an attorney for the future meeting.

Counsel Rogelio Ruiz responded that he could not give Clerk Dolores Marquez-Frausto any legal advice.

Clerk Dolores Marquez-Frausto said that she does not have anything to worry about and that everything she said was true. She did not go to a concert. She said that out of the 11 years she had been as a Board member, this was never brought up.

Counsel Rogelio Ruiz commented that the state auditor did not mention any criminal activity. All that was said is that this is the law and here is a policy.

Vice-President Ernesto Bejarano asked if he attended two out of three meetings, would that make him eligible to receive the stipend.



## **8. Superintendent/Board Business (continued)**

Counsel Rogelio Ruiz responded that in order for you to receive the stipend you need to attend 50% of that particular meeting.

***MOTION #20-11 carried with a vote of 5 in favor; no opposition; no absent; and no abstention***

**8.05 State Audit Report Follow-Up and District Response Regarding Governance Training, Brown Act Training, and Development of Governance Handbook. Proposed dates in August include: August 10, 17, 24, and 31; Proposed dates in September include: September 7, 14, 21 and 28.**

Member Corina Herrera-Loera said that she has some things planned for those dates. Asked if the dates can be confirmed at the July board meeting.

Superintendent Bauer said that the Board had time to select dates and that Arturo Flores of ACSA is present at the Board meeting. He is helping us facilitate the training.

The Board had dialogue on the selection of dates.

Vice-President Ernesto Bejarano asked about the Governance Training and if a Governance Handbook is a required for the purpose of the state audit.

Counsel Rogelio Ruiz responded that it is not a requirement from the state audit to develop a process and procedure and that the Board can develop a Governance Handbook.

Vice-President Ernesto Bejarano asked if the Governance Handbook needed to be physical or could it be online.

Counsel Rogelio Ruiz responded that it could be online. He said that item 8.05 called for an action from the Board.

**MOTION #20-12 by Vice-President Ernesto Bejarano to Approve Action Item 8.05 as presented. MOTION #20-12 was seconded by Member Corina Herrera-Loera.**

***MOTION #20-12 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

### **8.06 Approve Draft Form Response Letter to the State Auditor.**

**MOTION #20-12 by Vice President Ernesto Bejarano to Approve Action Item 8.05 as presented. MOTION #20-12 was seconded by Clerk Dolores Marquez-Frausto.**

***MOTION #20-12 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

**8. Superintendent/Board Business (continued)**

**8.07 CSBA Membership Dues, Period from July 1, 2019 through June 30, 2020, \$13,724.00. Dues not processed before September 15, 2019 will incur a 10% late fee and all services will be discontinued after September 16, 2019.**

**MOTION #20-13 by Vice President Ernesto Bejarano to Approve Action Item 8.05 as presented. MOTION #20-13 was seconded by Member Andrés Quintero.**

***MOTION #20-13 carried with a vote of 4 in favor; one opposition (Clerk Dolores Marquez-Frausto); no absent; and no abstention.***

**8.08 CSBA Educational Legal Alliance (ELA) Membership Dues, Period from July 1, 2019 through June 30, 2020, \$3,431.00. Dues not processed before September 15, 2019 will incur a 10% late fee and all services will be discontinued after September 16, 2019.**

**MOTION #20-14 by Clerk Dolores Marquez-Frausto to Not Approve Action Item 8.08 as presented. MOTION #20-14 was seconded by Vice-President Ernesto Bejarano.**

Clerk Dolores Marquez-Frausto said that Latinos do not have a voice and primarily whites make the rules for the district.

Vice President Ernesto Bejarano said that Alum Rock School District has a large Latino population and that the district does represent other ethnicity groups. He said that he will be supporting item 8.08.

Member Andrés Quintero said that CSBA left them hanging when Alum Rock was sued for a child that did not even attend Alum Rock. Since then he had changed his mind about CSBA because the district has benefited from them.

Vice-President Ernesto Bejarano asked if CSBA Educational Legal Alliance advocates for the district.

Member Andrés Quintero responded that they take on bigger and broader issues. He commented that the Board supported them last year.

Clerk Dolores Marquez-Frausto stated that CSBA Educational Legal Alliance charges a 10% late fee.

***MOTION #20-14 failed with a vote of 1 in favor (Dolores Marquez-Frausto); 4 in opposition (President Linda Chavez, Vice President Ernesto Bejarano, Member Corina Herrera-Loera and Member Andrés Quintero); no absent; and no abstention.***

**MOTION #20-15 by Member Andrés Quintero to Approve Action Item 8.08 as presented. MOTION #20-15 was seconded by Member Corina Herrera-Loera.**

## **8. Superintendent/Board Business *(continued)***

***MOTION #20-15 carried with a vote of 4 in favor; one opposition (Clerk Dolores Marquez-Frausto); no absent; and no abstention.***

**8.09 CSBA Manual Maintenance Services, Period from July 1, 2019 through June 30, 2020, \$3,485.00. Services must be renewed by September 15, 2019 to keep uninterrupted access to service.**

**Motion made by Member Corina Herrera-Loera to extend the meeting until 11:00pm. Second by Vice President Ernesto Bejarano.**

**MOTION #20-16 by Member Corina Herrera-Loera to Approve Action Item 8.09 as presented. MOTION #20-16 was seconded by Vice President Ernesto Bejarano.**

***MOTION #20-16 carried with a vote of 4 in favor; one opposition (Clerk Dolores Marquez-Frausto); no absent; and no abstention.***

**8.10 CSBA GAMUT Online, Period from July 1, 2019 through June 30, 2020, \$3,485.00. Services must be renewed by September 15, 2019 to keep uninterrupted access to service.**

**MOTION #20-17 by Vice President Ernesto Bejarano to Approve Action Item 8.10 as presented. MOTION #20-17 was seconded by Member Andrés Quintero.**

***MOTION #20-17 carried with a vote of 4 in favor; one opposition (Clerk Dolores Marquez-Frausto); no absent; and no abstention.***

## **10. Business**

**10.02 Approve Grant Agreement. The United States Soccer Federation Foundation, Inc. ("Foundation") has offered a grant to ARUSD for installation of a mini-pitch soccer field at Hubbard Media Arts Academy and Ben Painter Elementary School.**

**MOTION #20-18 by Member Corina Herrera-Loera to Approve Action Item 10.02 as presented. MOTION #20-18 was seconded by Member Andrés Quintero.**

Vice-President Ernesto Bejarano asked who would be responsible for the maintenance.

Assistant Superintendent Chheng responded that the foundation would be responsible for the maintenance.

Clerk Dolores Marquez-Frausto asked who would be liable.

## **10. Business (continued)**

Assistant Superintendent Chheng responded that the district would be liable.

Superintendent Bauer reminded the Board that Ocala has one already and that the students would be benefiting from it.

Member Andrés Quintero commented that it would be a small space and that the City of San Jose has one for the community. It is very successful. He said that maintenance is very minimal.

***MOTION #20-18 carried with a vote of 3 in favor; no opposition; two absent (President Linda Chavez and Member Dolores Marquez-Frausto); and no abstention.***

### **10.3 Approve Kidango's Proposal to Replace Playground Structures at Linda Vista Elementary School and Ryan STEAM Academy.**

Vice-President Ernesto Bejarano said that it is very important to have wheelchair access for children. He said to consider the needs of the children.

Superintendent Bauer said that she had spoken to Kidango and they have created a design and it is ready to go. She said that she is respectfully asking the Board to approve item 10.03.

Clerk Dolores Marquez-Frausto asked if the district is liable.

Counsel Rogelio Ruiz said the district is liable.

Public Comments:

- 1) Female speaker asked if Linda Vista has access to the playground

Assistant Superintendent Chheng responded that Linda Vista does have access.

Vice-President Ernesto Bejarano asked that the Board not engage in too much Public Comment and to refer them to staff.

- 2) Female speaker said that she is a kindergarten teacher and is concerned about the tanbark because of broken glass.

Vice President Ernesto Bejarano asked if they have any details of service.

Assistant Superintendent Chheng replied that he does not know any details.

## **10. Business (continued)**

### **10.04 Approve Amendment of Ground Lease Agreement between Alum Rock Union Elementary School District and Across the Bridge Foundation, dba Downtown College Prep-Termination of Building C Option.**

**MOTION #20-19 by Clerk Dolores Marquez-Frausto to Approve Action Item 10.04 as presented. MOTION #20-19 was seconded by Member Andrés Quintero and Vice President Ernesto Bejarano.**

Member Corina Herrera-Loera said that she received a packet on this item and she wanted to know if there were any changes.

Assistant Superintendent Chheng responded that it was on a different agreement.

***MOTION #20-19 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

## **11. Human Resources**

### **11.01 Information Regarding Resignations.**

Clerk Dolores Marquez-Frausto thanked Alyssa Neusel, Lyssa Perry, Liana Pellegrino and Michael Kretsch.

Vice-President Ernesto Bejarano wanted to also thank everyone for their service in Alum Rock. He said a parent wanted to thank Mr. Kretsch.

### **11.02 Approve Resolution No. 49-18/19 Reducing/Laying Off Classified Employee Services.**

Superintendent Bauer wanted to remind the Board that this is a position that was paid with county monies and that they no longer will be supporting that position to that level. She said that employees have been notified.

Clerk Dolores Marquez-Frausto asked about the nature of these services.

Superintendent Bauer responded that it was a coordinator position in Student Services.

Vice-President Ernesto Bejarano said he works in this area and he said that they work with families that have the same zip codes that are in the district's area.

## **11. Human Resources (continued)**

**MOTION #20-20 by Vice President Ernesto Bejarano to Approve Action Item 11.02 as presented. MOTION #20-20 was seconded by Member Corina Herrera-Loera.**

***MOTION #20-20 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

## **12. Consent Calendar**

*There was consensus from the Board to combine and take action on Agenda Items 12.02, 12.03, 12.04, 12.05, 12.06, 12.07, 12.08, 12.09, and 12.11 to discuss.*

*Member Corina Herrera-Loera asked to pull Agenda Item 12.10 Approve City Year San Jose/Silicon Valley Contract Reduction to be discussed separately.*

*Vice President Ernesto Bejarano asked to pull Agenda Item 12.01 Approve Contracts for Professional Services to be discussed separately.*

**12.02 Approve Adoption of Piggyback Able Contracts for Equipment, Materials, Supplies and Supplies, and Services (that are not construction services).**

**12.03 Approve School Plan for Student Achievement (SPSA) 2019-2020.**

**12.04 Approve/Ratify Notices of Employment and Changes of Status/June 27, 2019/Human Resources Department.**

**12.05 Approve ARUESD 2019-2020 Instructional Calendar.**

**12.06 Approve Start and End Times for School Year 2019-2020.**

**12.07 Approve Out of State Travel, CSEA Annual Conference, Las Vegas, NV, July 28-August 4, 2019 for Melody Todd, LeAnne Depew & Magdalena Grimaldo. No cost.**

**12.08 Approve out of State Travel, National Spanish Spelling Bee, Denver, CO, July 11-14, 2019 for Ma. Elena Villegas & Patricia Sarkes. Estimated cost \$3733.15.**

**12.09 Approve Revised Out of State Travel, New Tech Annual Conference, Orlando, FL, July 15-19, 2019 for JoAnn Sanchez, Jesse Springer, Linda Templeton, Jackie Montejano, Jasmine Woods, Amber Johnstone & Kevin Fuller. Estimated Cost \$11,350.00.**

**12.11 Approve the School-Sponsored Field Trip.**

Member Andrés Quintero moved to approve everything and asked to discussion Real Options separately.

## **12. Consent Calendar (continued)**

***MOTION #20-21 by Member Andrés Quintero to approve Agenda Items 12.02, 12.03, 12.04, 12.05, 12.06, 12.07, 12.08, 12.09, and 12.11 as presented. MOTION #20-21 was seconded by Member Corina Herrera-Loera.***

***MOTION #20-21 carried with a vote of 5 in favor; no opposition; no absent; and no abstention.***

***MOTION #20-22 by Member Corina Herrera-Loera to approve Agenda Items 12.01 as presented. MOTION #20-22 was seconded by Vice President Ernesto Bejarano.***

Vice-President Ernesto Bejarano commented that Real Options focuses on life skills and he appreciates their services.

Clerk Dolores Marquez commented that there are 8 sessions and they are 1 ½ hours. She asked if they are in the morning or in the afternoon.

Superintendent Dr. Bauer responded that she would get the schedule for the Board.

President Linda Chavez commented that Real Options also performs abortions.

The representative from Real Options spoke about their programs they offer.

Superintendent Bauer commented that they are trying to offer students information for free services.

***MOTION #20-22 carried with a vote of 3 in favor; one opposition (Member Andrés Quintero); no absent; and one abstention (Dolores Marquez-Frausto).***

***MOTION #20-23 by Member Corina Herrera-Loera to approve Agenda Items 12.10 as presented. MOTION #20-23 was seconded by Member Andrés Quintero.***

Member Corina Herrera thanked Superintendent Bauer for going above and beyond and she was able to receive a 10% discount.

Vice President Ernesto Bejarano wants to make a point of order to encompass the votes as there are being taken.

***MOTION #20-23 carried with a vote of 4 in favor; no opposition; no absent; and one abstention (Dolores Marquez-Frausto).***



**13. FUTURE BOARD AGENDA REQUESTS**

**13.01 Requests from Board of Trustees and/or from the Public**

**14. ADJOURNMENT**

**14.01 President Adjourns the Meeting**

**15. Next Meeting (s)**

**15.02 July 11, 2019, Regular Board Meeting**

**15.03 August 8, 2019, Regular Board Meeting**

President Linda Chavez adjourned the meeting at 10:58 p.m.

Respectfully submitted,

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Dolores Marquez-Frausto  
Board Clerk  
mc

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT  
2930 Gay Avenue, San Jose, CA 95127

Office of Superintendent of Schools

**ITEM REQUIRING ATTENTION - BOARD OF EDUCATION**

14.02


To the Board of Trustees:

Date: August 28, 2019

**Subject:**                    **Acceptance of Donations**

**Staff Analysis:**        The District has received donations as summarized on the sheet dated September 12, 2019.

**Recommendation:** Staff recommends approval for acceptance of these donations.

Approved by: Kolvira Chheng  Title: Assistant Superintendent, Business Services

To the Board of Trustees:

Meeting:        September 12, 2019  
                     Regular Board Meeting

**Recommend Approval**

14.02  
Agenda Placement

  
Hilana Bauer, Ph.D., Superintendent

**DISPOSITION BY BOARD OF TRUSTEES**

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Tabled: \_\_\_\_\_

**ACCEPTANCE OF DONATIONS**

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<b><u>DONOR NAME</u></b>	<b><u>DESCRIPTION OR PURPOSE</u></b>	<b><u>ESTIMATED VALUE</u></b>	<b><u>RECEIVING SCHOOL OR DEPARTMENT</u></b>
The Benevity Community Impact Fund	Materials & Supplies	\$ 864.12	Dorsa Elementary
Community Matters, Inc.	Materials & Supplies	\$ 2,400.00	George Middle
Lifetouch	Materials & Supplies	\$ 274.70	Ryan Elementary



# DORSA ELEMENTARY SCHOOL

1290 Bal Harbor Way

San José, CA 95122

Phone: 408•928•7400

Fax: 408•928•7401

August 7, 2019

ARUESD Board Members  
2930 Gay Avenue  
San Jose, CA 95127

Dear Board Members:

On behalf of the Dorsa Elementary School community, I would like to petition your approval to accept the following donation in the amount of \$864.12

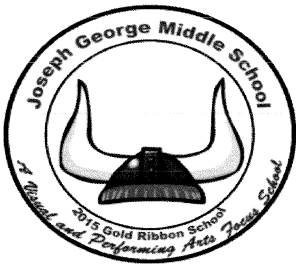
These donations will be used to pay for classroom materials/Fieldtrips

Thank you in advance for supporting our school by accepting these donations.

Respectfully Yours,

Albert Moreno  
Interim Principal,  
Dorsa Elementary School

AM/jmm



## Joseph George Middle School

277 Mahoney Drive San Jose, CA 95127  
408-928-7600 [www.arusd.org/georgems](http://www.arusd.org/georgems)

Fax- 408-928-7601

Tara Bickford, Principal  
Juan Flores, Assistant Principal

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Date: 03/25/19

To: Honorable Board Members  
Alum Rock Union Elementary School District

From: Tara Bickford, Principal

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Please accept a donation check in the amount of \$2,400.00 from Community Matters, Inc. This money will go into our donation account 06-250-2110-0-8699.

Thank you in advance for your approval.

Sincerely,

Tara Bickford  
Principal  
Joseph George Middle School

# **Thomas P. Ryan Elementary School**

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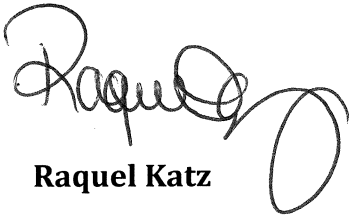
1241 McGinness Ave San Jose CA 95127

Phone: (408)298-8653 FAX: (408)928-8651

August 14, 2019,

Please accept this donation from Lifetouch National School Studios in the form of a check for the amount of \$274.70 (Check#3360836). The funds will be utilized for classroom supplies and field trips at Ryan Elementary. Please deposit these funds in our donations account# 06-100-2110-8699

Sincerely,

A handwritten signature in cursive script, appearing to read 'Raquel Katz', with a large loop at the end.

**Raquel Katz**

**Principal**