

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

BOARD OF TRUSTEES



**Regular Board Meeting
October 10, 2019
Book 1 of 2
(Items 4.01-9.05)**



**Thursday, October 10, 2019
REGULAR BOARD MEETING AGENDA**

Type: REGULAR BOARD MEETING AGENDA

Time: 5:30 p.m.

Code: Regular #05-19/20

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

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. CLOSED SESSION

2.01 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.

2.02 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.

2.03 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.

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

2.05 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. RECONVENE TO OPEN SESSION - DISTRICT OFFICE BOARD ROOM

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

3.02 REPORT OF ACTION TAKEN IN CLOSED SESSION.

3.03 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.

4. PUBLIC HEARING

4.01 PUBLIC HEARING: Disclosure of major provisions of the collective bargaining agreement with Alum Rock Educators Association (AREA), including, but not limited to, the costs that would be incurred by the public school employer under the agreement for the current and subsequent fiscal years.

4.02 Approval and Ratification of Tentative Agreement between the Alum Rock Union Elementary School District and Alum Rock Educators Association (AREA), for the period of July 1, 2018 -June 30, 2019.

4.03 PUBLIC HEARING: Disclosure of major provisions of the collective bargaining agreement with Teamsters Local 150, including, but not limited to, the costs that would be incurred by the public school employer under the agreement for the current and subsequent fiscal years.

4.04 Approval and Ratification of Tentative Agreement between the Alum Rock Union Elementary School District and Teamsters Local 150, for the period of July 1, 2018 -June 30, 2019.

5. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD

5.01 "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.

6. COMMENTS AND COMMUNICATION

6.01 Teamsters.

6.02 California School Employee's Association (CSEA).

6.03 Alum Rock Administrator's Association (ARAA).

6.04 Alum Rock Educator's Association (AREA).

6.05 Superintendent.

6.06 Board of Trustees/Communications/Comments.

7. INSTRUCTIONAL SERVICES

7.01 Local Control Accountability Plan (LCAP) Timeline

7.02 Progress of Local Performance Indicators

8. CONTRACT EXTENSIONS OVER \$100,000-- BOARD DISCUSSION AND/OR ACTION

8.01 DISCUSSION/ACTION: Approve Second Contract Extension, Original Amount \$59,000, for Maxim Healthcare, for a Therapist to Provide Mental Health Services, Special Education, New Contract Amount \$304,840 dollars.

9. SUPERINTENDENT / BOARD BUSINESS

9.01 DISCUSSION/CONSIDERATION/ACTION: Public Censure of Board Member Dolores Marquez.

9.02 DISCUSSION/CONSIDERATION/ACTION: Dissolution of Board's Bond Facilities Committee and/or Reconsideration of Establishment of Board Bond Facilities Committee and/or Board member committee assignment.

9.03 DISCUSSION/ACTION:Annual Board Self Evaluation.

9.04 DISCUSSION/CONSIDERATION: Approve Response to Santa Clara County Civil Grand Jury.

9.05 CONSIDERATION/DISCUSSION: Board Bylaws 9000 series, Second Reading --Board Bylaws.

9.06 DISCUSSION/CONSIDERATION/ACTION: Preservation of District Art.

9.07 DISCUSSION/ACTION: Discontinue Board Policy 3547 Facilities Inspection; Adopt New Administrative Regulation 3547 "Facilities Inspection".

9.08 DISCUSSION/ACTION: Board Policy 1114, Second Reading – District Social Media Platform

9.09 DISCUSSION/ACTION: Board Policy 4040, Second Reading – Employee Use of Technology

9.10 DISCUSSION/ACTION: Exhibit 4040, Second Reading – Employee Use of Technology

9.11 CONSIDERATION/DISCUSSION: Board Policy 6163.4, First Reading – Student Use of Technology

9.12 CONSIDERATION/DISCUSSION: Exhibit 6163.4, First Reading – Student Use of Technology

9.13 DISCUSSION/ACTION: Board will reconsider setting the January 2020 Board Meeting to January 16, 2020.

10. BUSINESS--BOARD DISCUSSION AND/OR ACTION

10.01 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).

10.02 CONSIDERATION/ACTION: Review and Response to the Conditional Approval of the District's 2019-2020 Adopted Budget from the Santa Clara County Office of Education (SCCOE).

10.03 DISCUSSION/ACTION: Proposed MOU to Extend Proposition 39 Timelines for Alpha Public Schools: Blanca Alvarado School, for Charter School Facilities.

10.04 DISCUSSION/ACTION: Memorandum of Understanding (MOU) Between the District and SOMOS Mayfair .

11. HUMAN RESOURCES

11.01 INFORMATION Regarding Resignations.

12. CONSENT CALENDAR- BOARD DISCUSSION AND/OR ACTION

12.01 ACTION: Approval of Minutes for the following meetings: (1) May 30, 2019, Special Board Meeting/Study Session; (2) July 11, 2019, Regular Board Meeting; (3) August 8, 2019, Regular Board Meeting; (4) September 12, 2019, Regular Board Meeting.

12.02 Approve Contracts for Professional Services - Firms

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

12.04 Approve Contracts for Professional Services - Individuals

12.05 Acceptance of Donations.

12.06 Approval of Fundraising Activities.

12.07 Acceptance of Vendor & Payroll Warrants.

12.08 Acceptance of Enrollment/Attendance Report for Month 1 (August 20, 2019 thru September 13, 2019).

12.09 Approve/Ratify Notices of Employment and Changes of Status/October 10, 2019/Human Resources Department

12.10 School-sponsored Field Trip List

12.11 Quarterly Report on Williams Uniform Complaints

12.12 Approve Resolution No. 10-19/20 Inventory Disposal

12.13 ACTION: Approve Out of State Travel, VILs Coach Camp, Atlanta, GA, October 27-30, 2019 for Erin Amchan.
No cost.

13. RECEIVE REPORTS

14. FUTURE BOARD AGENDA REQUESTS

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

15. ADJOURNMENT

15.01 President adjourns the meeting.

16. NEXT MEETING(S)

16.01 November 14, 2019 (2019-20 School Year).

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

4.01

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION – BOARD OF EDUCATION

To the Board of Trustees:

PUBLIC HEARING: Disclosure of major provisions of the collective bargaining agreement with Alum Rock Educators Association (AREA), including, but not limited to, the costs that would be incurred by the public school employer under the agreement for the

Subject: current and subsequent fiscal years.

Staff Analysis:

The major provisions of the collective bargaining agreement with Alum Rock Educators Association (AREA) for the period of July 1, 2018 – June 30, 2019, including, but not limited to, the costs that would be incurred by the District under the agreement for the current and subsequent fiscal years, shall be disclosed in a format established for this purpose by the Superintendent of Public Instruction. (Government Code section 3547.5)

Submitted by: Kolvira Chheng

Title: Assistant Superintendent, Business Services

To the Board of Trustees:

Meeting:

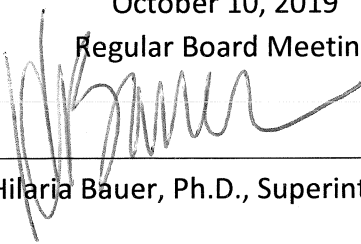
October 10, 2019

Public Hearing

Regular Board Meeting

4.01

Agenda Placement


Hilaria Bauer, Ph.D., Superintendent

DISPOSITION BY BOARD OF TRUSTEES

Motion by: _____ Seconded by: _____

Approved: _____ Not Approved: _____ Tabled: _____

DISCLOSURE OF COLLECTIVE BARGAINING AGREEMENTS

School District: <u>Alum Rock Union Elementary School District</u>	FTE: <u>957.90</u>
Bargaining Unit: <u>AREA, CSEA, Teamsters and Un-Represented</u>	
Period of Agreement: <u>7/1/2018 - 6/30/2019</u>	Date of Public Meeting: <u>10/10/19</u>

Please submit copies of the **tentative agreement(s) and updated multi-year projection** with the disclosure.

Government Code Section 3547.5: Before a public school employer enters into a written agreement with an exclusive representative covering matters within the scope of representation, the major provisions of the agreement, including but not limited to, the costs that would be incurred by the public school employer under the agreement for the current and subsequent fiscal years, shall be disclosed at a public meeting of the public school employer in a format established for this purpose by the Superintendent of Public Instruction.

SUMMARY OF AGREEMENT			
	2018-19	2019-20	2020-21
Salary Schedule increases	Yes	Re-opener	Re-opener
Off-Schedule payments	No	N/A	N/A
Health & Welfare (capped?)	Yes	N/A	N/A
<i>Details (cap limit; plan coverage, etc.):</i> District pays 85% of H/W.			
Other provisions: 3% On-salary-schedule effective July 1, 2018 for FY 2018-19. This includes "Me Too" clause for CSEA and Teamsters. Also includes salary increases for Management, although Management does not have "Me Too" clause.			

TOTAL COST INCREASE OF PROPOSED AGREEMENT IN PRESENT & FUTURE YEARS

Indicate the costs of salary and benefit increases that would be incurred under the agreement.

	2018-19	2019-20	2020-21
Salary including statutory costs*	2,611,569	2,569,059	2,569,059
Benefits	-	-	-
Other Compensation Costs	-	-	-
Other Non-Compensation Costs	-	-	-
Total Cost of Settlement	2,611,569	2,569,059	2,569,059
Total % Increase	3% On, effective 7/1/18	Re-opener	Re-opener
Projected STRS/PERS rates	16.28%/18.062%	17.10%/19.721%	18.40%/22.70%

*please include statutory costs tied to salary such as employer-paid taxes and PERS/STRS

STATUS OF BARGAINING UNIT/EMPLOYEE AGREEMENTS

Indicate the current status (whether settled or not settled) of the remaining units.

Bargaining Unit		FTE	Status
AREA		539.70	Tentative Agreement
CSEA		195.76	Tentative Agreement
Teamsters		145.44	Tentative Agreement
Un-Represented		77.00	N/A

		Year: 2019-20	Year: 2019-20	Year: 2019-20
GENERAL FUND	<i>Board Approved Budget Before Settlement</i>	<i>Adjustments as a result of the Agreement</i>	<i>Revised Budget</i>	
	<i>(Column 1)</i>	<i>(Column 2)</i>	<i>(Column 1 + 2)</i>	
Total Revenues	129,408,105	-	129,408,105	
Other Financing Sources/Uses	-	-		
Interfund Transfer In	1,800,000	-	1,800,000	
Interfund Transfer In			-	
Interfund Transfer Out			-	
Total Other	1,800,000	-	1,800,000	
Total Expenditures	\$ 132,032,021.28	\$ 5,180,508.00	137,212,529	
1000 Certificated Salaries	55,751,869	3,135,818	58,887,687	
2000 Classified Salaries	19,003,502	1,045,542	20,049,044	
3000 Benefits	33,934,750	999,148	34,933,897	
4000 Instructional Supplies	4,491,022	-	4,491,022	
5000 Contracted Services	16,916,909	-	16,916,909	
6000 Capital Outlay	183,798	-	183,798	
7000 Other	1,750,172	-	1,750,172	
Operating Surplus (Deficit)	(823,916)		(6,004,424)	
Beginning Fund Balance			-	
Projected Ending Balance	(823,916)	(5,180,508)	(6,004,424)	
Available Reserves	7,288,300		1,128,461	
Available Reserves (Include Fund 17 Special Reserve)	7,288,300		1,128,461	
Reserve For Economic Uncertainties	3,960,961		4,116,376	
Total Available Reserves	11,249,261	(6,004,424)	5,244,837	
State Required Reserve %	3%			
State Required Reserve \$	3,960,961	155,415	4,116,376	

CERTIFICATION

The above information summarizes the financial implications of the proposed agreement. This information will be publicly disclosed in accordance with AB3141 before being submitted to the Governing Board for ratification.

Chief Business Officer

Date

District Superintendent

Date

This information was publicly disclosed in accordance with AB3141 before being submitted to the Governing Board. The agreement(s) referenced above were ratified on:

Date

District Superintendent

District Board President

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

4.02

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION – BOARD OF EDUCATION

To the Board of Trustees:

Subject: **Approval and Ratification of Tentative Agreement between the Alum Rock Union Elementary School District and Alum Rock Educators Association (AREA), for the period of July 1, 2018 - June 30, 2019.**

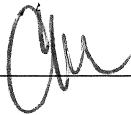
Staff Analysis:

The District and Alum Rock Educators Association (AREA) have reached the attached Tentative Agreement on collective bargaining issues for the period of July 1, 2018 - June 30, 2019.

Recommendation:

The administration is recommending that the Board of Trustees approve and ratify the Tentative Agreement.

Submitted by: Carlos Moran



Title: Assistant Superintendent, Human Resources

To the Board of Trustees:

Recommend Approval

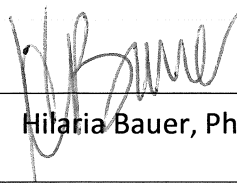
4.02

Agenda Placement

Meeting:

October 10, 2019

Regular Board Meeting



Hilario Bauer, Ph.D., Superintendent

DISPOSITION BY BOARD OF TRUSTEES

Motion by: _____ Seconded by: _____

Approved: _____ Not Approved: _____ Tabled: _____

**Tentative Agreement
Between the
Alum Rock Union School District
and the
Alum Rock Educators Association**

September 18, 2019

Article 1-Agreement
Article 3-Negotiations
Article 4-Calendar
Article 6-Employee and Association Rights
Article 7-Professional Fees and Dues
Article 8-Employee Safety and Working Conditions
Article 9-Hours of Employment
Article 10-Class Size
Article 15-Leaves
Article 16-Salary

HUMAN RESOURCES
SEP 18 2019 PM7:24

**ARTICLE I
AGREEMENT**

- 1.1 The Articles and provisions contained herein constitute a bilateral and binding agreement ("Agreement") by and between the Governing Board of the Alum Rock Union Elementary School District ("District") and the Alum Rock Educators Association, ("Association") an affiliate of CTA/NEA, the exclusive representative.
- 1.2 This Agreement is entered into pursuant to Chapter 10.7, Sections 3540-3549 of the Government Code ("Act"). This Agreement shall remain in force and effect from July 1, 2018 through June 30, 2021. Article XVI Salary and Article XVIII Benefits shall be reopened for the 2019-2020 and 2020-2021 school years. In the event a new contract has not been agreed to by June 30, 2021, this Agreement shall continue in force until a successor Agreement is reached. This Agreement shall supersede any rules, regulations, policies, procedures, or practices of the District which are, or may in the future be, contrary to or inconsistent with its terms.
- 1.3 The District shall not discriminate against any employee on the basis of race, color, creed, age, sex, national origin, political affiliation, domicile, marital status, sexual orientation, physical handicap, membership in the Association or participation in the activities of the Association. This Section is subject to the complaint procedure only.
- 1.4 The District agrees to take affirmative action to ensure that under-representation and under-utilization at all levels of responsibility for members of minority ethnic groups and/or men/women will be corrected. This Section is subject to the complaint procedure only.
- 1.5 Under the terms and conditions of this agreement, the parties agree that the relationship between members and the District shall be based on the principles of equity, just cause and due process.
- 1.6 Academic freedom shall be guaranteed to all employees in accordance with District policy, procedures, and State and Federal laws.
- 1.7 The personal life of the employee shall not be of concern to the employer unless it prevents the member from performing the member's assigned functions. The employee is entitled to full constitutional rights of citizenship, and the member's religious or political activities are not grounds for discipline or discrimination with respect to the member's professional employment, as long as he/she does not violate any local, state, or federal law.
- 1.8 The parties recognize that the Board of Trustees has the responsibility and authority to manage and direct all the operations and activities of the District and that all lawful rights and authority of the Board of Trustees not modified by this agreement are retained by the Board of Trustees.

TA. DISTRICT

Date

9/18/19

AREA

Seyon Estep

Date

9/18/19

**ARTICLE III
NEGOTIATIONS**

- 3.1 No later than February 1, 2021, unless mutually agreed upon, both parties shall, in good faith, meet and negotiate items within the scope of representation. Any agreement reached between the parties shall be reduced to writing and signed by them.
- 3.2 The District and the Association may discharge their respective duties by means of authorized officers, individuals, representatives, or committees.
- 3.3 Negotiations shall take place at mutually agreed times and places.
- 3.4 The Association shall receive a total of 115 days of release time annually, without loss of compensation to the employee. The Association shall certify that the business is Association business, and shall reimburse the District the cost of substitute(s). These days shall be entered into the sub system by the Association President or designee. These days may be in whole or half days (or as described in 6.5). Upon receipt the Association will reimburse the District for all other teacher release time unless specifically approved by District Administration.
- 3.5 Upon request, the District shall furnish the Association with two copies of any non-confidential documents or information, records, data, worksheets, and budgetary materials which may be relevant to the negotiations.
- 3.6 Upon request, the Association shall provide the District with two copies of any non-confidential documents or information, records, data, worksheets, and budgetary materials which may be relevant to the negotiations.
- 3.7 Thirty (30) days after ratification of the Agreement, the District shall provide a copy of this contract to each member of the bargaining unit. The District shall provide a copy of this contract to each new bargaining unit member upon employment. The Association shall receive at least twenty (20) copies of this contract. Copies of new salary schedules, calendars, etc. and side letters of agreement shall be provided by the District to each employee within thirty (30) business days if ratification occurs during the teaching term, or sixty (60) business days if ratification occurs during the summer.
- 3.8 Authorized representatives, officers, and committees of the Association may conduct Association business at reasonable times. Such business will not interfere with the primary job functions of employees.

TA. DISTRICT

CM

Date

6/12/18

AREA

Seym Estep

Date

6/12/18

ARTICLE IV
CALENDAR

4.1 Definitions - See Glossary for the following:

1. Calendar Days
2. Business Day
3. Work Year
4. Teaching Day
5. Teaching Term
6. Planning/Preparation Day

4.2 There shall be two (2) Planning/Preparation days scheduled prior to the first day of school. Up to two (2) hours of administrative required meetings may be held on one (1) of the Planning/Preparation Days.

4.3 For the 2018 – 2021 school years, the work year as defined and used in this Agreement shall be a one hundred eighty-five (185) day work year. The salary schedule shall increase to reflect the three (3) additional work days for the 2018-2019, 2019-2020, 2020-2021 work years and shall consist of one hundred eighty (180) instructional days and two (2) planning/preparation days, plus three (3) professional development days. The Association and the District shall jointly schedule and plan the three (3) professional development days: for purpose of this Section 4.3, “planning” by the Association is intended to mean and include direct input into the content of the professional development days. Such days may focus on Common Core and/or focus on other area needs outlined in the District’s LCAP.

TA. DISTRICT

CM

Date

6/12/18

AREA

Seymour Eskep

Date

6/12/18

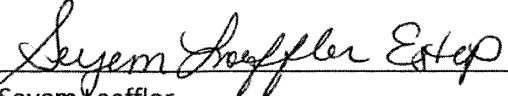
Agreement Between
Alum Rock Union Elementary School District
And
Alum Rock Educator's Association

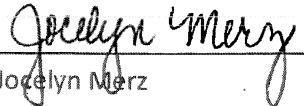
RE: 2018-2019, 2019-2020 and 2020-2021 Calendars

An agreement has been reached between the Alum Rock Union Elementary School District and the Alum Rock Educator's Association regarding the 2018-2019, 2019-2020 and 2020-2021 calendars.


Agreed and executed this 7th day of March, 2018.


**ALUM ROCK EDUCATORS ASSOCIATION,
CTA/NEA**


Seyem Loeffler
AREA Chief Negotiator


Jocelyn Merz
AREA President

**ALUM ROCK UNION ELEMENTARY SCHOOL
DISTRICT**


Jesse Serna
Interim Assistant Superintendent,
Human Resources


Carlos Moran
Director, Human Resources

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT AREA 2018-2019

JULY				
M	T	W	TH	F
		4	5	6
2	3			
9	10	11	12	13
16	17	18	19	20
23	24	25	26	27
30	31			

7/4 Fourth of July

AUGUST				
M	T	W	TH	F
		1	2	3
6	7	8	9	10
13	14	15	16	17
20	21	22	23	24
27	28	29	30	31

13

SEPTEMBER				
M	T	W	TH	F
3	4	5	6	7
10	11	12	13	14
17	18	19	20	21
24	25	26	27	28

19

9/3 Labor Day

OCTOBER				
M	T	W	TH	F
1	2	3	4	5
8	9	10	11	12
15	16	17	18	19
22	23	24	25	26
29	30	31		

23

NOVEMBER				
M	T	W	TH	F
			1	2
5	6	7	8	9
12	13	14	15	16
19*	20*	21*	22	23
26	27	28	29	30

16

11/12 Veteran's Day

11/23 Thanksgiving Day

DECEMBER				
M	T	W	TH	F
3	4	5	6	7
10	11	12	13	14
17	18	19	20	21
24	25	26*	27*	28*
31*				

15

12/25 Christmas Day

JANUARY				
M	T	W	TH	F
	1	2*	3*	4*
7	8	9	10	11
14	15	16	17	18
21	22	23	24	25
28	29	30	31	

18

1/1 New Year's Day

1/21 MLK

FEBRUARY				
M	T	W	TH	F
				1
4	5	6	7	8
11	12	13	14	15
18	19*	20*	21*	22
25	26	27	28	

15

2/18 President's Day

MARCH				
M	T	W	TH	F
				1
4	5	6	7	8
11	12	13	14	15
18	19	20	21	22
25	26	27	28	29

20

3/29 Cesar Chavez

APRIL				
M	T	W	TH	F
1	2	3	4	5
8	9	10	11	12
15	16	17	18	19
22*	23*	24*	25*	26*
29	30			

17

4/22 - 4/26 Spring Break

MAY				
M	T	W	TH	F
		1	2	3
6	7	8	9	10
13	14	15	16	17
20	21	22	23	24
27	28	29	30	31

22

5/27 Memorial Day

JUNE				
M	T	W	TH	F
3	4	5	6	7
10	11	12	13	14
17	18	19	20	21
24	25	26	27	28

7

Legal Holiday

Local Holiday

* Students Not In Attendance

Starting/Ending Dates for Students

Mandatory Teacher Work Days

Teacher Professional Development Days

180 Student Instructional Days

185 Teacher Work Days

New Teacher Institute

185

Revised 3/7/18

5

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT AREA 2019-2020

JULY				
M	T	W	TH	F
1	2	3	4	5
8	9	10	11	12
15	16	17	18	19
22	23	24	25	26
29	30	31		

7/4 Fourth of July

AUGUST				
M	T	W	TH	F
			1	2
5	6	7	8	9
12	★13	■14	■15	★16
★19	★20	21	22	23
26	27	28	29	30

13

SEPTEMBER				
M	T	W	TH	F
2	3	4	5	6
9	10	11	12	13
16	17	18	19	20
23	24	25	26	27
30				

20

9/2 Labor Day

OCTOBER				
M	T	W	TH	F
	1	2	3	4
7	8	9	10	11
14	15	16	17	18
21	22	23	24	25
28	29	30	31	

23

NOVEMBER				
M	T	W	TH	F
				1
4	5	6	7	8
11	12	13	14	15
18	19	20	21	22
25*	26*	27*	28	29

15

11/11 Veteran's Day

11/28 Thanksgiving Day

DECEMBER				
M	T	W	TH	F
2	3	4	5	6
9	10	11	12	13
16	17	18	19	20
23*	24	25	26*	27*
30*	31*			

15

12/25 Christmas Day

JANUARY				
M	T	W	TH	F
		1	2*	3*
6	7	8	9	10
13	14	15	16	17
20	21	22	23	24
27	28	29	30	31

19

1/1 New Year's Day

1/20 MLK

FEBRUARY				
M	T	W	TH	F
3	4	5	6	7
10	11	12	13	14
17	18*	19*	20*	21
24	25	26	27	28

15

2/17 President's Day

MARCH				
M	T	W	TH	F
2	3	4	5	6
9	10	11	12	13
16	17	18	19	20
23	24	25	26	27
30	31			

21

3/22 Chavez
3/23 Cesar Chavez

APRIL				
M	T	W	TH	F
		1	2	3
6	7	8	9	10
13*	14*	15*	16*	17*
20	21	22	23	24
27	28	29	30	

17

4/13 - 4/17 Spring Break




MAY				
M	T	W	TH	F
				1
4	5	6	7	8
11	12	13	14	15
18	19	20	21	22
25	26	27	28	29



20

5/25 Memorial Day

JUNE				
M	T	W	TH	F
1	2	3	4	5
8	9	10	11	12
15	16	17	18	19
22	23	24	25	26
29	30			

7

 Legal Holiday
 Local Holiday
* Students Not In Attendance
 Starting/Ending Dates for Students

 Mandatory Teacher Work Days
 Teacher Professional Development Days
180 Student Instructional Days
185 Teacher Work Days
★ New Teacher Institute

185

ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT AREA 2020-2021

JULY				
M	T	W	TH	F
		1	2	3
6	7	8	9	10
13	14	15	16	17
20	21	22	23	24
27	28	29	30	31

7/3 Fourth of July
(Observed)

JANUARY				
M	T	W	TH	F
				1
4	5	6	7	8
11	12	13	14	15
18	19	20	21	22
25	26	27	28	29

1/1 New Year's Day

1/18 MLK

AUGUST				
M	T	W	TH	F
3	4	5	6	7
10	★ 11	12	13	14
★ 17	18	19	20	21
24	25	26	27	28
31				

14

FEBRUARY				
M	T	W	TH	F
1	2	3	4	5
8	9	10	11	12
15	16*	17*	18*	19
22	23	24	25	26

2/15 President's Day

SEPTEMBER				
M	T	W	TH	F
	1	2	3	4
7	8	9	10	11
14	15	16	17	18
21	22	23	24	25
28	29	30		

21

9/7 Labor Day

MARCH				
M	T	W	TH	F
1	2	3	4	5
8	9	10	11	12
15	16	17	18	19
22	23	24	25	26
29	30	31		

3/31 Cesar Chavez

OCTOBER				
M	T	W	TH	F
			1	2
5	6	7	8	9
12	13	14	15	16
19	20	21	22	23
26	27	28	29	30

22

APRIL				
M	T	W	TH	F
			1	2
5*	6*	7*	8*	9*
12	13	14	15	16
19	20	21	22	23
26	27	28	29	30

4/2 Chavez
4/5 - 4/9 Spring Break

NOVEMBER				
M	T	W	TH	F
2	3	4	5	6
9	10	11	12	13
16	17	18	19	20
23*	24*	25*	26	27
30				

15

11/11 Veteran's Day

11/26 Thanksgiving Day

MAY				
M	T	W	TH	F
3	4	5	6	7
10	11	12	13	14
17	18	19	20	21
24	25	26	27	28
31				

5/31 Memorial Day

DECEMBER				
M	T	W	TH	F
	1	2	3	4
7	8	9	10	11
14	15	16	17	18
21*	22*	23*	24	25
28*	29*	30*	31*	

14

12/25 Christmas Day

JUNE				
M	T	W	TH	F
	1	2	3	4
7	8	9	10	11
14	15	16	17	18
21	22	23	24	25
28	29	30		

6

Legal Holiday
Local Holiday
* Students Not in Attendance
Starting/Ending Dates for Students

Mandatory Teacher Work Days
Teacher Professional Development Days
180 Student Instructional Days
185 Teacher Work Days
New Teacher Institute

185

Agreement Between
Alum Rock Union Elementary School District

And

Alum Rock Educator's Association

RE: 2018-2019, 2019-2020 and 2020-2021 Calendars

An agreement has been reached between the Alum Rock Union Elementary School District and the Alum Rock Educator's Association regarding the 2018-2019, 2019-2020 and 2020-2021 calendars.

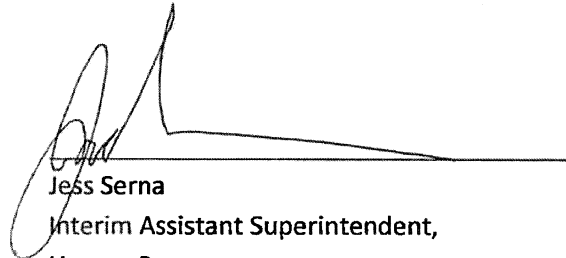
Agreed and executed this 27th day of March, 2018.

**ALUM ROCK EDUCATORS ASSOCIATION,
CTA/NEA**



Anthony Colonna
AREA Representative

**ALUM ROCK UNION ELEMENTARY SCHOOL
DISTRICT**



Jess Serna
Interim Assistant Superintendent,
Human Resources



Carlos Moran
Director, Human Resources

ARTICLE VI
EMPLOYEE AND ASSOCIATION RIGHTS

6.1 The Association and its members shall have the right to use school district equipment, buildings, and facilities for Association business.

6.2 The Association shall have the right to post notices of activities and matters of Association concerns on Association bulletin boards, at least one of which shall be provided by the District, in each school building in areas frequented by employees. The Association may use the District mail service and employee mailboxes for communication to employees.

6.3 Authorized representatives of the Association shall be permitted to transact official Association business on school property at reasonable times.

6.4 Names, addresses, and telephone numbers of all Association members shall be provided without cost to the Association no later than September 15, annually or fifteen (15) business days after hiring a new employee. Names and school sites of all employees shall be provided by the District by September 30. Information shall be provided without cost to the Association or the employee(s). The Association will use this information only for Association business. This section shall be governed by current privacy laws.

6.5 In the event that the release time referred to in Article III, Section 3.4 is not sufficient, the Association shall have the right to reopen negotiations for the specific purpose of negotiating for more release time.

6.6 A.R.E.A. Building Representatives should be excused from each school no later than 3:00 P.M. to attend Representative Council meetings.

6.7 A minimum day shall be declared for a general informational A.R.E.A. meeting prior to the ratification of the contract. The date of the general meeting shall be mutually agreed to by the Association and the District. The general meeting shall be announced to the membership ten (10) business days in advance of the meeting.

6.8 All mail and communications sent to an employee shall not be opened by anyone other than the addressee unless otherwise designated by the addressee. Internal communications shall have a return address. If the internal communication has no return address and is non-deliverable, it shall be destroyed.

6.8.1 In the event of the death or incapacitation of the employee, the District shall forward all such mail to the next of kin or estate.

6.9 Upon request, the employee shall receive a date-stamped copy, at no cost to the member, at time of delivery, or within seven (7) working days after any document(s) are received by the District.

6.10 Bargaining unit members shall not be discriminated against, coerced, restrained, or harassed for use of the rights guaranteed to them by this agreement or by the law.

6.11 The Association will cover the full cost the District incurs while paying for a temporary teacher holding the spot of the Association President.

The Association will reimburse the District the full cost of a member equivalent to Column IV, Step 1 of the salary schedule for the Association President, should the Association decide to exercise its option to release its President full-time.

14
6.12 It is the intent of the Association to have a full-time release President each year, unless, subsequent to the election of the officers of the Association, the District is informed otherwise by June 30th.

15
6.13 The Association President has the right to return to the same site that he or she was assigned to at the beginning of the president's term. With such return to the site, any impact on staffing shall be handled and administered in accordance with the involuntary excess provisions in Article 14.3.1 of the Agreement.

TA. DISTRICT CM Date 6/12/18 AREA Sign Step Date 6/12/18

Memorandum of Understanding

Between

Alum Rock Educators Association

And

Alum Rock Union Elementary School District

Regarding

EMPLOYEE AND ASSOCIATION RIGHTS

Article VI: Employee and Association Rights

16.4

The District shall notify by email the Association President and Vice President at least sixty (60) days advanced notice of the date and ten (10) days notice of the time for the beginning of the year new employee orientation. The Association shall have the right to distribute materials and membership forms. District Administrators shall not be present during the Association presentation, which shall not be less than thirty (30) minutes. CTA vendors shall be included in the orientation if requested by the Association. If requested, Association presenters shall be provided release time.

If any employee did not attend or is hired after the beginning of the year orientation, the Association shall be notified in advance of any orientation for any employee or group of employees. The District shall provide at least ten (10) days advance notice via email to the Association President and Vice President for such orientations, unless there is an urgent need critical to the District's operations that was not reasonably foreseeable. The advance notice shall be no less than twenty-four (24) hours.

26.5

Names, addresses, telephone numbers (work, home, and personal cell) and personal email addresses on file with the District of all Association members shall be provided without cost to the Association no later than September 15, annually or fifteen (15) business days after hiring a new employee. Names, job titles, departments and work locations of all employees shall be provided to the Association by the District no later than September 30, January 30, and May 30 for all bargaining unit members. Information shall be provided without cost to the Association or the employee(s). The Association will use this information only for Association business. This section shall be governed by current privacy laws.

2.9

The District shall notify the Association within three (3) calendar days from the time of receipt of request the names and contact information of any third-party person, group or organization that requests from the District the personal contact information of any bargaining unit member(s) of the Association. The District shall notify the Association within three (3) calendar days the names and contact information of any third-party or CPRA requests for any unit member's disciplinary, evaluative or personnel-record information.

11

The Association shall be given reasonable opportunity to object to disclosure of the requested information, and/or raise potential concerns before the District responds to the requestor. The District shall also give individual unit members the opportunity to object to disclosure of the requested information before the District publicizes the information. The District shall not release any information about a unit member unless required to do so by law.

6.13 2. The Association will reimburse the District the full cost of a member equivalent to Column IV, Step 1 of the salary schedule for the temporary teacher holding the spot of the Association President, should the Association decide to exercise its option to release its President.

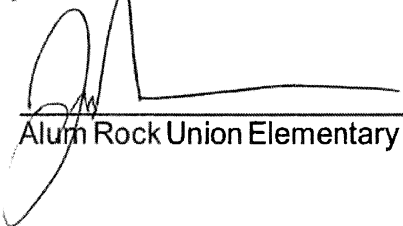
The Association will reimburse the District the cost of the Association President's percentage of Health Benefits premium and all statutory burdens.

The amount of reimbursements shall be pro-rated to the percentage of release time.

This memorandum of understanding shall be effective immediately and incorporated into the 2018 -2021 Collective Bargaining Agreement.


Alum Rock Educators Association

4-25-18
Date


Alum Rock Union Elementary School District

4-25-18
Date

T/A
12/12/18
11:10

**ARTICLE VII
PROFESSIONAL FEES AND DUES**

7.1 Any unit member who is a member of the Alum Rock Educators Association/CTA/NEA, or who has applied for membership, may sign and deliver to the District an assignment authorizing deduction of unified membership dues, initiation fees, and general assessments in the Association. Pursuant to such authorization, the District shall deduct one-tenth (1/10) of such dues from the regular salary check of the unit member each month for ten (10) months. Deductions for unit members who sign such authorization after the commencement of the school year shall be appropriately prorated to complete payments by the end of the school year. Dues may be paid in one lump sum each year.

7.2 Commencing on September 1, 1988, any unit member who is not a member of the Alum Rock Educators Association/CTA/NEA, or who does not make application for membership within thirty (30) days of the effective date of this Agreement, or within the bargaining unit, shall become a member of the Association or pay to the Association a fee in an amount equal to unified membership dues, initiation fees, and general assessments, payable to the Association in one lump sum cash payment in the same manner as required for the payment of membership dues, provided, however, that the unit member may authorize payroll deduction for such fee in the same manner as provided in Section 7.1 of this Article. In the event that a unit member shall not pay such fee directly to the Association, or authorize payment through payroll deduction, as provided in Section 7.1, the Association shall so inform the District, and the District shall immediately begin automatic payroll deduction as provided in Education Code Section 45061 and in the same manner as set forth in Section 7.1 of this Article. There shall be no charge to the Association for such mandatory agency fee deductions.

7.3 If an employee in the bargaining unit belongs to a recognized religious organization which does not permit its members to pay a representational/service fee to any employee organization, an amount equal to the fee which would have been paid, will be paid by that unit member and deposited into a Student Benefit Fund established and administered jointly by the Association and the District. If no such fund exists, the amount deducted will be deposited by the District with a recognized charitable organization designated by the unit member and approved by the Association and the District. Such organization shall be a non-religious, non-labor organization exempt from taxation under Section 503(c)(3) of Title 26 of the Internal Revenue Code. Such payment shall be made on or before October 31 of each year.

7.4 Proof of payment and a written statement of objection along with verifiable evidence of membership in a religious body whose traditional tenets or teachings object to joining or financially supporting employee organizations, pursuant to Section 7.3 above, shall be made on an annual basis to the Association and District as a condition of continued exemption from the provisions of Sections 7.1 and 7.2 above. Proof of payment shall be in the form of receipts and/or canceled checks indicating the amount paid, date of payment, and to whom payment in lieu of the service fee has been made. Such proof shall be presented on or before October 31 of each school year.

7.5 With respect to all sums deducted by the District pursuant to Sections 7.1 and 7.2 above, whether for membership dues or agency fee, the District agrees promptly to remit such monies to the Association accompanied by an alphabetical list of unit members for whom

such deductions have been made, categorizing them as to membership or non-membership in the Association, and indicating any changes in personnel from the list furnished.

7.6 The Association shall indemnify, defend and hold harmless the District against any court action and/or administrative action before the Public Employment Relations Board (PERB) challenging the legality or constitutionality of the agency fee article of this agreement or its implementation. The Association shall have the exclusive right to decide and determine whether any such claims or suits referred to in the above paragraph shall or shall not be compromised, resisted, defended, tried or appealed.

7.7 The District is committed to place a certificated employee and bargaining unit member in all bargaining unit positions and shall continue to actively advertise and recruit for appropriate certificated employees. If a current bargaining unit member pursues the training to serve in a then-vacant position, such unit member shall be given the first priority for consideration in that position.

The AREA bargaining unit is defined in Section 2.1 of the Collective Bargaining Agreement. When there is a shortage of qualified candidates to fill high need positions, or there is an inability to place qualified candidates in those positions for which the District must provide educational services, the District must prove the following:

- 1) The District has conducted its due diligence to recruit and hire for these positions; and all legitimate and reasonable efforts made by the District still fail to produce acceptable certificated recruits for bargaining unit positions. If the previous conditions hold true, then the District shall notify the AREA President in writing of the specific certificated bargaining unit vacancies for which recruiting has failed.
- 2) The District shall provide documentation that specifically lists all of the efforts the District has made and continues to make to recruit qualified persons to become employees. The list shall be provided to the AREA President no less frequently than once each quarter when such shortages occur.
- 3) Within five business days of contracting with an external agency or individual, the District shall furnish to the AREA President the names and work sites of all individuals who will provide such work, as well as copies of the employment contracts, rates of compensation, fringe benefits, and all other financial agreements entered into by the District with those individuals or their employers.
- 4) The District shall pay to AREA the current "AREA" only dues per contracted employee for the period of employment of the contracted out bargaining unit positions. For contracted employees working less than full time, the District Shall pay the appropriate dues amount as specified by Category 2-A, Category 2-B and Category 3-B.

TA. DISTRICT

Date

12/12/10

AREA

Jayem Estep

Date

10-12-

05

ARTICLE VIII
EMPLOYEE SAFETY AND WORKING CONDITIONS

8.1 Employees shall not be required to work under unsafe conditions, perform tasks which are reasonably foreseeable to be unsafe or life threatening. Employees shall provide the District with immediate notice by telephone of hazardous conditions with written confirmation within a reasonable period of time on a form specified by the District. Upon receipt of information that a hazardous condition exists, the District shall take immediate appropriate action to correct the condition. In the event an employee must be relocated as a result of a hazardous condition, the employee shall be moved by the District, have the right of first refusal to return to the original site when the condition is corrected, space becomes available, or a vacant position opens. If the employee must be relocated for more than three (3) days, a release day shall be provided. Additional days may be provided by the administrator.

8.2 An employee shall not be required to subject himself/herself to any situation a reasonable person deems dangerous or likely to become so. In the event that such a situation occurs, the employee may take prudent action.

8.3 An administrator or his/her designated representative shall be present at and/or available to each building site during school office hours to render timely assistance in the event of an emergency. An employee has the right to refuse the designation. The staff shall be notified by a posting in a prominent place of the designated representative. The employee shall not be required to perform administrative duties.

8.4 Employees who have been attacked, assaulted, or battered, or who have been threatened with injury by someone the employee reasonably believes is capable of inflicting such harm, shall immediately report the incident to their immediate supervisor and to appropriate law enforcement authorities. In the event the employee is unable to report to the appropriate law enforcement authority, the immediate supervisor shall file a report on his/her behalf. The employee's immediate supervisor shall provide all necessary assistance, including assistance with filing any report pursuant to this section.

8.5 Every room used for instruction shall be equipped with an effective means of signaling the school office of the need for immediate assistance.

8.5.1 Each school/center shall have a mutually agreed upon alternative communication procedure.

8.5.2 Each school/center shall have one outside telephone line available for use by staff.

8.6 Any employee receiving a student who has been previously documented as representing a threat to the safety of a teacher shall be notified upon placement of the student, subject to the legal limits regarding the release of such information.

8.7 Any employee receiving a student who has been previously documented as representing a threat to the health of a teacher shall be notified upon placement of the student, subject to the legal limits regarding the release of such information.

8.8 Student Discipline

8.8.1 Suspension from Class/Activity by the Employee

Employees may suspend, consistent with the requirements of the Education Code, any student from his/her class for the day of the suspension and the day following, and shall immediately report the suspension to the principal or his/her representative. (See Appendix B.)

8.8.1.1 Employees shall conference with the school administrator prior to suspension or as soon as possible thereafter, to provide an opportunity for further action.

8.8.1.2 When a student is suspended from class, the District shall make a reasonable attempt to notify the parents of the suspension. As soon as possible, follow up contact shall be made by the employee to explain the reasons for the suspension.

8.8.1.3 The employee shall request the parent to attend a face to face conference prior to readmitting the suspended student to class. If requested, the administrator shall attend the conference.

8.8.2 In-School Student Discipline

With prior notification to the site administrator, an employee may implement an in-school student discipline plan.

8.9 When an employee identifies a student as presenting a threat to his/her safety, the employee will immediately suspend the student from class and inform the building administration. If it is mutually determined that a threat does exist, the student shall not be returned to the classroom until after a conference with the parents has been held. The immediate supervisor shall establish a time for a conference which shall include his/her representative, all of the student's classroom teachers, the student, the student's parent(s), and any other appropriate District employees. The purpose of this conference shall be to inform the parent(s) of the student's behavior and to develop a plan of action for correcting that behavior. A written summary of that agreement shall be provided to each person involved. The parent(s) shall also be informed that if the student continues to present a threat to the safety of the employee, the student shall be removed from the classroom.

8.10 A student, who is suspended pending expulsion for threatening an employee's safety, shall not be returned to class without the concurrence of the employee whose class the student is being assigned.

8.11 Article VIII shall include all activities under the jurisdiction of the District which involve students.

8.12 The site administration shall assist all staff in case of emergency. This shall include the staffs of all programs at that site.

8.13 Employees may exercise reasonable means to defend themselves when they perceive that they are in imminent danger of harm.

8.14 No language negotiated in this Article will abridge the rights of regular or Special Education students given to them by Education Code or State and/or Federal law.

8.15 School Safety Plan

8.15.1 Prior to the first day of instruction every employee shall receive a copy of the annually updated school safety plan. In order to prevent campus crime and violence and to promote safe educational conditions, each school district shall adopt a comprehensive "School Safety Plan" Ed. Code 35294-35294.9.

8.16 All unit members, including itinerant teachers, shall have equitable access to all general school facilities, office and school equipment at the assigned school site, including but not limited to printers, fax, photocopiers, restrooms, and phones for use in connection with District and school business.

AREA members shall have the right to access their individual classrooms to perform their job duties after school during safe and reasonable hours and when a custodian or administrator is present. Nothing herein shall grant or allow access to the principal's office.

Each unit member shall be assigned to a designated classroom or teaching station or assignment area and shall be provided a key to access his or her assigned classroom or assigned teaching area or assignment area.

8.17 Lactation Accommodation for Teachers

All school site administrators shall provide each teacher a reasonable amount of break time to accommodate such teacher desiring to express breast milk for the teacher's infant child. The teachers shall make reasonable effort so that the break time shall, if possible, run concurrently with any break time already provided to the teacher. Otherwise, the teacher shall provide the site administrator sufficient notice to provide appropriate coverage for the teacher's class during the teacher's limited absence. If less than thirty (30) minutes notice is provided then any break time for the teacher that does not run concurrently with the rest time authorized for the teacher pursuant to this Agreement shall be unpaid. No breaks shall be requested or granted if to do so would seriously disrupt the operations of the site including, for example, lockdowns.

The site shall make reasonable efforts to provide the employee with the use of a room or other location, other than a bathroom, in close proximity to the teacher's assigned classroom or other work area, for the employee to express milk in private. The room or location may include the place where the teacher normally works if it is private and secure.

8.18 The principal, or his/her designated appointee, shall aggressively pursue every option to provide an environment free from persistent noise and interruptions in the nurses's office so testing, counseling and mandated Health Services can be accomplished with accuracy and validity.

8.19 Specific indoor areas are to be provided at each school for choir, instrumental music, and adapted physical education services that are quiet, accessible, appropriate, and have adequate storage space. If there is a change in location, the employee shall be notified at least five (5) work days in advance. (Subject to Complaint Procedure only)

1
2 8.20 Psychologist Work Area

4 To the extent possible, the principal, or his/her designated appointee, shall provide a work area for
5 the assigned psychologist. This area shall be regularly and readily available all of the time the
6 psychologist is assigned to work at the school. It shall be regularly maintained, well lighted,
7 heated, and pleasantly painted. It shall be furnished with a table and appropriate sized chairs for
8 both adults and children. It shall include storage for the psychologist's use, a full service
9 telephone, and a wall clock with a sweep second hand. It shall be private, quiet, and free from
10 distraction and interruptions. (Subject to Complaint Procedure only)

11
12 8.21 With the exception of the provisions of Article VII, no reprisals shall be taken against an
13 employee for failure to donate funds to any profit or non-profit institution.

8.22 Any school site that requires students to change attire for physical education classes,
shall provide appropriate facilities and allow for adult supervision for the students
while changing attire.

A. DISTRICT

Date 12/12/18

AREA

Leyen Estep

Date

12-12-18

**ARTICLE IX
HOURS OF EMPLOYMENT**

9.1 Schools and/or alternative programs within a school, by two-third (2/3) majority vote of their teachers, shall have the option of recommending to the principal the arranging of their day so that students arrive and depart at varying times. (Staggered Programs)

9.2 The work day for unit members shall be four hundred and five (405) minutes on campus. This time shall include at least twelve (12) minutes before the unit member's assigned class is scheduled to begin, a duty-free lunch period, all breaks and recesses, and at least twelve (12) minutes after the unit member's instructional day. The duty-free lunch may be taken off-campus.

9.2.1 At the request of a teacher(s) involved and with notification to the Association's President, the principal shall have the authority to permit teachers divergence from the regular work day not to exceed the 405 minute work day.

9.2.2 Forty (40) consecutive minutes of duty-free lunch shall be provided each unit member. Unit members in any school may opt for less than forty (40) minutes, but not less than thirty (30) consecutive minutes, by a two-thirds (2/3) vote of all unit members. All unit members, based on such vote, shall have the same amount of duty-free lunch time. The vote shall be taken annually.

9.2.3 Unit members, as a staff, may recommend to the principal starting and ending times and scheduling. These times are set annually by the Board.

9.2.4 Students' instructional day shall begin when the teacher meets his or her students at the designated assembly point. As a result of the resolution to Grievance #27 reached between the ARUESD and AREA pertaining to Start Time, the parties agree that teachers shall be with their students at the time the beginning of day bell rings. This means that, for example, if students are assembled at the blacktop as part of the morning routine, teachers will be physically with their students ready to proceed to class at the time the bell rings. Further, both parties agree that a warning bell would be helpful in preparation for a smooth opening.

9.2.5 Walking students to and from lunch shall not be a part of a member's duty-free lunch.

9.3 Except as otherwise provided in this Article IX, sections 9.3.1.2.4 and 9.5, the length of times for student instruction shall be:

Kindergarten	200
Grades 1, 2, 3	290
Grades 4 - 8	310

9.3.1 Teacher Preparation Time

Any time left after subtracting the staggered time in Section 9.1 and the student instruction time in Section 9.3 from four hundred and five (405) minutes shall be teacher preparation time. Teacher preparation time is that part of the employee's workday excluding instructional time. It shall be work time used for program duties

and curriculum activities. Teacher preparation time may be taken before or after student instructional time, and shall not be used for substituting in other classrooms.

9.3.1.1 Kindergarten teachers shall work and receive at least sixty (60) minutes of the teacher preparation time in instructional activities with Kindergarten and/or primary students according to a mutually agreed upon set daily schedule set by the teacher.

9.3.1.2 4-1 Schedule

9.3.1.2.1 The District shall implement a 4-1 schedule district-wide. A 4-1 schedule is understood to mean a school week in which the instructional minutes for each school day are rearranged to provide four (4) days of fifteen (15) minutes longer instruction and a modified day of sixty (60) minutes shorter instruction on Thursday of each week. This modification shall not increase the teacher workday of 405 minutes.

9.3.1.2.2 The sixty (60) minute block of time created by this 4-1 schedule shall be teacher directed. This time is subject, but not limited to the following activities: grade/subject level meetings, special program/events, parent conferences, long-term planning, class visitation in other districts (with administrator approval), cluster meetings with other schools (with administrator approval), and team planning.

9.3.1.2.3 The Association agrees to encourage all teachers to participate in a variety of activities which will promote and enhance the educational program at their school. Teachers shall be required to work their contractual workday and no teacher shall leave the campus during this period of time without administrator approval.

9.3.1.2.4 The length of times for student instruction shall be adjusted for the 4/1 schedule as follows:

Grade Level	Days of Week	Minutes	Day of Week	Minutes
Kindergarten	MTWF	200	Thursdays	200
Grades 1, 2, 3	MTWF	305	Thursdays	230
Grades 4 - 8	MTWF	325	Thursdays	250

9.3.2 Teacher Substitutes – Shortage/Emergency

A substitute emergency exists when a teacher is detained for a short period of time, a teacher has to leave his/her class on an emergency, pending the arrival of a substitute, or substitute services cannot provide a substitute.

9.3.2.1 On professional development days, the District shall recall unit members back from professional development first, before directing unit members at a site to cover classes.

At the elementary level, when there is a substitute shortage, the District shall pay the unit members receiving students the substitute rate prorated by the number of teachers taking on additional students.

At the middle school level, unit members are paid the extended duty hourly rate for covering a class during their prep (9.9.1.1).

9.3.3 The unit members shall share equally in providing supervision.

9.3.3.1 A duty schedule shall be developed by the building principal or designee at the school site and shall include before school, recesses, and after school. The length of after school supervision shall not exceed twelve (12) minutes, except in extraordinary circumstances and shall count as part of the four hundred and five (405) minute work day.

9.3.3.1.1 Should the designee(s) be a unit member(s), release time or extended duty time shall be provided. The principal shall assume responsibility for the duty schedule.

9.3.3.1.2 Resource specialists (K-5), psychologists, speech and language pathologists, adapted physical education specialists, music teachers, and itinerant teachers shall not be included in any duty schedule.

9.4 Meetings

9.4.1 Unit members shall not be required to attend more than two (2) hours of meetings per week nor more than thirty-five (35) hours of meetings per school year outside the unit member work day. Any fractional part of an hour that extends beyond the first hour shall count as a full hour.

9.4.1.1 Unit members shall be given one week's notice of required District/School meetings, other than staff meetings, and a two (2) day notice for required staff meetings.

9.4.1.2 Meetings shall not conflict with local, state and/or national election days.

9.4.1.3 Unit members may, with the approval of the site administrator, leave early on days when night meetings are scheduled, to compensate for the time required to remain until the end of the night activity.

9.4.2 Any staff meeting shall have an agenda that allows for input and will be emailed and/or published 24 hours in advance of the meeting.

The entire staff shall meet as one group at a staff meeting, at least once per month to address all school wide issues and concerns.

9.4.3 Required meetings (9.4.1.1) may be held before or after school as determined by two

thirds (2/3) vote of the staff. Those held after school shall begin no later than within twenty (20) minutes of the dismissal of all students. The Kindergarten day shall not be used as a basis for determining starting times of meetings held after school.

9.4.4 Any portion of a meeting scheduled on a minimum day which extends beyond the unit member work day shall be counted as one of the thirty-five (35) hours (9.4.1). The unit member shall not be required to remain in a meeting scheduled on a minimum day which extends beyond the unit member's work day unless required under 9.4.3.

9.4.5 No more than four (4) night meetings shall be required per school year.

9.4.5.1 End of the year promotion ceremonies at middle schools shall be counted as one (1) of the thirty-five (35) hours of meetings per Article 9.4.1.

9.4.6 Upon written request from at least two-thirds (2/3) of the on-site/unit employees, the principal/administrator in charge shall call a special faculty meeting at which he/she shall be present. These meetings are not included in the 9.4.1 limitations. The agenda of the special faculty meeting shall be limited to items included in the request and shall be included with the announcement of the special faculty meeting.

9.4.7 District or Site meetings, not including Governing Board meetings, shall not be held on Monday when regularly scheduled Alum Rock Educators Association meetings are conducted.

9.4.8 Individualized Education Program (IEP) Case Managers may schedule IEP team Meetings at a time during the four hundred and five (405) minute work day at a time mutually agreed to by the IEP team who shall attend the IEP meetings. A meeting that is voluntarily scheduled entirely or in part outside of said work day shall not result in extended duty pay. For the purposes of this Agreement, the IEP team members include any administrator and AREA bargaining unit member who shall be in attendance at the meeting.

If an AREA unit member of the IEP team is given a written directive by an administrator to attend an IEP meeting during their prep period entirely or in part outside the four hundred and five (405) minute workday, the AREA unit members of the IEP team will receive the extended duty hourly rate in accordance with Article XVI Section 16.6 of the District and AREA Collective Bargaining Agreement. Timesheets must be submitted by AREA bargaining unit members for extended duty pay per this Agreement. Timesheets must be submitted within 30 days of the IEP to the site administrator, on or by the last day of instruction to the administrator, who issued the directive. The teachers shall be paid out of District funds, not school site funds.

The District agrees that neither IEP nor SST meetings can be required after the instructional day on Thursdays. Such meetings scheduled during this time are considered voluntary and shall be paid.

The rules specified above shall also apply to Student Success Team (SST) meetings.

~~9.4.9 The entire staff shall meet as one group at a staff meeting, at least once per month to~~

41 ~~address all school wide issues and concerns.~~

45
46 9.5 Report Card Preparation and Parent Conferencing

47
48 There shall be thirteen (13) minimum days: twelve (12) of which shall be for report card
49 preparation and a parent-teacher conferencing period as specified on the calendar, one (1) of
50 which shall be for an Association meeting. The thirteen (13) minimum days shall each have
1 eighty (80) minutes of non-student contract time at the end of the instructional day.
2 Arrangement of time shall be mutually determined.

3
4 Kindergarten 200 minutes
5 Grades 1 - 3 210 minutes
6 Grades 4 - 8 230 minutes
7

8 9.5.1 Kindergarten teachers shall combine AM/PM classes for the purpose of report card
9 preparation and parent teacher conferences. Kindergarten teachers have the right to
10 mutually agree on another option. This Article 9.5.1 shall be suspended for the 2014-
11 2015 and 2015-2016 school years.

12
13 9.6 Itinerant teachers may use the twelve (12) minutes before class to conduct business at the
14 District Office or other District site.

15
16 9.7 Specialists and prep providers will begin direct service to students no later than five (5)
17 school days after the start of school and shall maintain service through the last day of school.

18
19 9.8 Employees may be required by the site administrator to sign in and out. The procedure used
20 will be mutually agreed upon by the staff and site administrator.

21
22 9.9 Preparation Time

23
24 9.9.1 Middle School Level

25
26 The District shall provide, at each middle school, one preparation period per
27 instructional day for each teacher. The preparation period shall result in five (5)
28 periods of instruction in a six period day. The preparation period will be
29 approximately 50 minutes in length and the equivalent of a teaching period. This
30 preparation period shall be scheduled for the same time each student day and at the
31 same period each student day. No A/B schedule shall be implemented. The
32 preparation period shall result in reduced student contact time to be used for
33 preparation.

34
35 9.9.1.1 Middle school teachers shall receive the extended duty hourly rate for
36 substitute service during a preparation period. The administrator shall consider
volunteers.

37
38 9.9.2 Elementary Level

39
40 9.9.2.1 The District shall provide two (2) preparation periods per week for each
41 teacher in grades 4-6, approximately 50 minutes in length.
42

43 9.9.2.2 Teachers at the elementary level shall receive the extended duty hourly rate for a
missed preparation period. Teachers shall submit a claim for payment to the
designated administrator on a monthly basis.

46 9.9.2.3 All RSP teachers at the elementary level (K-5) shall have the equivalent
47 of two (2) 50 minutes prep periods per week for special education
48 services including but not limited to, preparation of conducting IEPs,
49 SSTs, assessing students, and writing IEPs.
50

1 9.9.3 The preparation period schedule shall be prorated for minimum days, so that all
2 teachers receive their preparation period.
3

4 9.10 Any unit member who teaches a zero (0) instructional period, or a seventh (7th) instructional
5 period, that extends beyond the 405 minute workday, shall be paid an additional .20 (twenty
6 percent) of their salary.
7

8 9.11 Prep Period Changes for Mandated State Testing.
9 (only for: CAASPP ELA and Mathematics, CAA for ELA and Mathematics, and CAST)

The testing window for all District schools shall be at least ten (10) days within the overall five (5) week District testing window.

The daily testing minutes for the District's schools during the ten (10) days of testing shall not be limited to the first 100 minutes of each day.

The District's responsibilities shall be:

1. Alum Rock Elementary School District will develop a testing schedule for each school site which shall be provided to all teachers via e-mail no later than two weeks before the testing window opens.
2. Alum Rock Elementary School District will provide a team of substitute teachers who will be assigned to provide extra support for teacher prep periods.
3. During the ten (10) days of testing, 4-8 grade teachers will receive a shortened prep period of at least 30 minutes similar to the minimum day schedule.
4. During the ten (10) days of testing, the District shall pay the extended duty rate to each 4-8 grade teacher who receives any prep period less than 30 minutes.
5. The District shall pay each teacher in grades 4-8 one and one half times the amount of extended duty rate of pay for any prep period missed or for any prep period less than fifty (50) minutes for the 4-5 teachers or for any prep period less than a "Regular Day Schedule" prep period at the middle school after the ten *(10) days of testing during the five (5) week testing window for the teacher's school sites.
6. The teachers shall be paid out of District funds, not school site funds.

* The 10 testing days referenced above are days when prep periods are modified.

Elementary-Prep-Period

12
13 For the two week testing period, (for mandated state testing) each elementary school will use
14 the first 100 minutes of each day as a testing block. Each 4th and 5th grade teacher will then
15 receive a shortened prep period (32 minutes) similar to the minimum day schedule now in
16 use. The prep periods will begin during the 3rd instructional block as indicated on the
17 elementary school bell schedules.

18
19 Problems will occur if individual schools deviate from this schedule, as the prep providers
20 will not be able to provide coverage for the prep periods.

21
22 Each day, during the testing block, prep providers may be used to administer make-up tests
23 as needed, help monitor testing, or receive direction from the music coordinator.

24
25 Any employee who does not receive a prep period will be paid the agreed upon amount of the
extended duty rate for \$40 per prep period missed.

27
28 Middle School Prep

29
30 For the purpose of administering the state mandated tests, when it is necessary to adjust the
31 schedule to accommodate a 100 minute period, the 100 minute period shall count as first
32 period. The remaining five (5) periods shall be pro-rated. Employees who have first period
33 prep shall receive prep time equal to that of the pro-rated periods. Any time beyond that,
34 employees will help monitor testing or other duties assigned by the administrator. This
35 schedule is similar to the minimum day schedule now in use.

36
37 Middle schools that vary the order of the regular schedule will continue to provide the
38 regular prep period to each employee.

39
40 Any employee who does not receive a prep period will be paid the agreed upon amount of
41 the extended duty rate per \$40 per prep period missed.

42
TA. DISTRICT  Date 4/16/15 . AREA Seymour Estep Date 4/16/19

12-10-18 1:57

ARTICLE X CLASS SIZE

10.1 Class size means the number of students for whom an employee has responsibility at any given time. Class size shall not exceed:

TK	20	Maximum
K-3		32*24
4-8		33 31
Bilingual Classes		31-30
Combination Classes		29-28
Physical Education (Average over day)		35
(Not to exceed 40)		
Specific Learning Disability <i>Specialized Academic Instruction</i> (Special Day Class)		15 12
Visually Handicapped (Special Day Class)		10
Hearing Impaired (Special Day Class)		10
Adapted Physical Education (Case Load)		55
Speech (Case Load)		55
Resource Specialist Program (Case Load)		28
(Limit of 12 at any one time) NOT crossed out		80E 9/18/19
Autism Autistic (Special Day Class)		10
Emotionally Disturbed Class (Special Day Class)		10
Intellectual Disability Class (Special Day Class)		15 10
Non-Categorical (Special Day Class)		15 12

If more than 50% of students in a special education class meet the primary eligibility of emotional disturbance, autism, or intellectual disability, class size will default to class size limits set for those specific programs.

Any funds that are approved, allocated, and distributed by the State to the Alum Rock Union Elementary School District for the purpose of class size reduction will be negotiated with AREA prior to implementation.

~~There shall be no TK/K combos~~

~~*Pursuant to the 2010 June Primary parcel tax revenue shall be used to maintain small class sizes of 20:1 in grade K-3 for the duration of the parcel tax. (MOU dated March 8, 2010); provided, however, that pursuant to the agreement between the District and AREA dated July 21, 2014, class sizes in grades K-3 shall be increased to 21:1 for the 2014-2015 school year.~~

TK-3 Class Size Overage Payments Limits

For the 2017-2018 school year only, ~~any unit member who teaches Transitional Kindergarten/Kindergarten through Grade 3, and whose class size exceeds 24, shall be paid overages according to Article 10.1.1. Excess student overages shall be limited to two (2) students over the 24.~~ over these limits. three (3)

10.1.1 Overage Payments Class size maximums. Speech and RSP shall not exceed their case loads.

Subsequent to September 30 15 of any school year, After the fifteenth instructional day any unit member, with the exception

of P.E. and instrumental music, and choir whose class size exceeds these limits shall be paid two dollars (\$2.00) per excess student per hour/middle school period, not to exceed ten dollars (\$10.00) per student per day for self-contained classes.

~~Fifteen (15) school days after September 30-15, After the thirtieth~~
Instructional day from the start of school, any employee, with the exception of P.E., instrumental music, and choir whose class sizes exceed these limits shall be paid four dollars (\$4.00)-per excess student per hour/middle school period, not to exceed twenty dollars (\$20.00) per excess student per day for self-contained classes.

10.1.1 The excess class size stipend shall be made in two payments. The first payment will be for excess students during the months of October - December. Teachers complete and submit documentation for months 2 - 4 at the end of December. The District will pay all stipends by February 10th if all required documentation, submitted accurately and completely with required signatures, is received no later than January 10th.

10.1.1 The second payment will be for excess students during the months of January - June. Teachers complete and submit documentation for months 5 - 10 by the last day of instruction. The District will pay all stipends by July 10th if all required documentation, submitted accurately and completely with required signatures, is received no later than the last day of instruction in June. AREA and the District shall negotiate the process and form(s) used for class size overage payments.

10.1.1 Unit members teaching physical education shall receive the overage payment if their total student contact exceeds 175 and/or individual class size exceeds 40.

10.1.1 Special education students shall be counted in the class size whenever they are placed in the regular education classroom.

10.1.1 To the extent that there are available applicants who meet the posted requirements, bilingual paraprofessionals will be assigned to classes based on proficiency in the languages of instruction. Upon request, the District shall provide the Association with current applicable data.

10.2 Ratios

10.2.1 Special Education teachers, speech therapists, nurses, psychologists, counselors, librarians, prep providers, resource teachers, coaches or traveling music teachers are not to be counted in establishing the Average Student Ratio for school or District.

10.2.2 Other specialists count in determining Average Student Ratio when their primary job function requires working with groups of students without the presence of the regular classroom teacher.

10.2.3 The positions of nurses and counselors shall only be eliminated through the process of attrition.

10.2.4 The District shall maintain at least the number of school psychologists to provide basic, non-categorical services necessary to maintain the ratio of one (1) psychologist per fifteen hundred (1500) students. Staff level adjustments to maintain this ratio

shall be determined and made based upon previous year's May enrollment.

10.2.5 In laboratory classes, the number of students shall not exceed the number of basic work stations available. Basic work stations are defined as "an assigned location where a student normally spends the majority of his/her class time" and which contains the implements necessary for a student to work safely, subject to the provisions of the applicable Education Code.

10.2.6 The District shall establish and maintain staffing of the instrumental music program equivalent to the following formula:

One (1) middle school or jazz band conductorship equates to a .5 FTE.

One (1) elementary school or assistant jazz band conductorship equates to a .25 FTE.

The District Jazz Program shall be maintained as a whole at 1.0 FTE.

Assistant conductorships for the District Jazz Program may be divided into other than .25 FTE's as long as all assigned parties to the Jazz Program agree.

10.2.7 Administratively directed regrouping of students for instruction for more than a total of twenty (20) minutes/per day, between teachers shall not result in a class size that exceeds the limits as stated in the Article 10.1. ~~10.1.5, or the Class Size Reduction Program 20:1 (K-3) March 8, 2010 Tentative Agreement as modified by the agreement dated July 21, 2014, or the Memorandum of Understanding Between AREA and ARUESD Re: Extended Day Kindergarten and K-3 Class Size Overage Payments dated July 23, 2015, until the expiration of such agreements.~~

10.2.8 Special Education Paraprofessionals

~~For the 2017-2018 school year only, Any Special Education teacher who does not receive instructional assistance on any instructional day because of a vacancy or unfilled paraprofessional position and for which no substitute is provided, shall receive fifty dollars (\$50.00) per day, per paraprofessional for missed assistance. The amount of assistance currently provided for each individual Special Education teacher shall not be diminished; for the 2017-2018 school year except upon extraordinary circumstances including, but not limited to reduction in class size or changes in student IEPs.~~

~~*Paraprofessional support shall be provided in all special education classrooms. Special education classes for students with autism, emotional disturbance, or intellectually disabled shall be provided 2 (two) six-hour paraprofessionals to provide sufficient coverage to support the teacher throughout the day.*~~

~~*All other special education classes shall receive 1 (one) six-hour paraprofessional daily to provide sufficient coverage to support the teacher throughout the day.*~~

10.3 ~~Classified Special Education Students~~ Mainstreaming Special Day Class Students

38 ~~Classified Special Education Students are those students with Special Education IEP's, with~~
39 ~~the exception of those receiving only Speech Therapy, and/or Adapted P.E. IEP's.~~

40

41 ~~10.3.1 No self-contained or middle school class (excluding P.E.) shall receive more than~~
42 ~~one SDC student at any given grade until all classes in that school at that grade~~
43 ~~level/subject area have received one mainstreamed student, and no more than two~~
44 ~~students unless agreed to by the receiving teacher. Placement of mainstreamed~~
45 ~~special day class students in all schools shall be equitable throughout all available self-~~
~~contained classes/periods.~~

46

45

10.3.2 No TK-8 self-contained or middle school class ~~(excluding P.E.)~~ shall receive Additional mainstreamed SDC students
until all classes at the grade level have received 1 (one) mainstreamed
student.

No middle school class shall receive additional mainstreamed SDC students
until all subject area classes at the period have received 1 (one)
mainstreamed student. The same process applies for any additional
students.

within the first school month, more than one RSP student at any given
grade until all classes in that school at that grade level/subject area have
received one RSP student. 10.3.3 Middle School P.E. classes may include no more than four (4)
SDC students unless

1 ~~agreed to by the receiving teacher.~~

3

4 ~~10.3.4 Inequity in placement of Classified Special Education students throughout all~~
6 ~~available classes may be grounds for complaint.~~

TA. DISTRICT

Date

10-10-17

AREA

Seymour Ertup

Date

10/11/18

Change to
unit members

ARTICLE XV LEAVES

15.1 General

15.1.1 The benefits provided employees by Section 44962 through 44985 and 44800 and
OK 44801 of the Education Code are incorporated into this Agreement except as
supplemented in this Article.

15.1.2 Accumulated Sick Leave

Each ten-month employee shall be allowed ten (10) days of leave of absence each year at full pay. Deductions for leave of absence shall be recorded by half-days as well as by whole days. Days not used will be accumulated for use in succeeding years. The District shall provide each employee with a written statement of (1) accrued total leave; and (2) leave entitlement for the work year. Such statement shall be provided no later than October 15 of each school year.

15.1.2.1 Personal Necessity Leave

Each certificated employee is entitled to use his/her accumulated sick leave for the following reasons:

Death of a member of the family (in addition to days allowed under Certificated Bereavement Leave). Members of the family are identified in Article 15.3.1.

Illness of a family member. Members of the family are identified in Article 15.3.1.

Accident involving an employee's person or property, or the person or property of a member of a family.

Appearance in court as a litigant (Section 15.4 for other court appearances).

15.1.2.2 Personal Business Days

Each employee may use up to five (5) Personal Business Days for reasons of personal business. These days may be used for compelling personal business that cannot be accomplished outside the regular business day. Such days shall be accessed in the same manner as sick leave, and may not be accumulated.

15.1.3 Applications for Leaves

Applications for leave will be submitted in writing to the Assistant Superintendent of Human Resources. Reasons for negative decisions shall be forwarded to the employee prior to action by the Governing Board and a nameless copy shall be

forwarded to the Association at the same time.

15.1.4 Extension

Requests for extension of leaves beyond the original specified time shall follow procedures for requesting the original leave. If approved, this extension shall be for one (1) year for personal leave, except the Board may grant additional years for extenuating circumstances.

15.1.5 Return from Leave

Any employee who is on leave for six (6) months or less between October 1st and May 1st of a school year shall have the right to the same school site or special unit. Under extraordinary circumstances exceptions may be granted by the Assistant Superintendent of Human Resources.

15.1.6 Fringe Benefits

During an authorized leave, when not under salary, the ~~employee~~ ^{unit member} shall have the right to pay any or all of his/her fringe benefit premiums.

15.2 Health Related Leave

15.2.1 Illness

15.2.1.1 Days of accumulated sick leave shall be available to the ~~employee~~ ^{unit member} for use when absent due to illness, accident or quarantine.

15.2.1.2 Extended Illness

If an ~~employee~~ ^{unit member} has used all accumulated sick leave and is still absent from duties on account of illness or accident for a period of one hundred ten (110) school days or less, then the amount of salary deducted in any month shall not exceed the cost of a substitute or the amount equal to the cost of a substitute if none is used. The one hundred ten (110) days or less period during which the above deductions occur shall not begin until all other paid ~~leave provisions~~ ^{unit member} have been exhausted. ~~Employees~~ ^{unit member} returning from extended illness must furnish a physician's statement and submit a medical release upon return to work.

15.2.1.3 Industrial Accident and Illness Leave

Section 44984 ^{or} of the Education Code is implemented as follows:

- a. Allowable leave shall be for up to sixty (60) days during which the schools of the District are required to be in session or when the ~~employees~~ ^{unit member} would otherwise have been performing work for the District in any one fiscal year for the same accident;

b. The total of the employee's temporary disability indemnity and the portion of salary due him/her during his/her absence shall equal his/her full salary;

c. An employee shall be deemed to have recovered from an industrial accident or illness, and thereby able to return to work, at such time as the employee and his/her physician and/or a District physician agree that there has been such a recovery;

d. An industrial accident or illness as used in this paragraph means any injury or illness whose cause can be traced to the performance of services for the District;

e. The District's report of an industrial accident or illness shall be kept on file in the Business Office, with a copy to the employee;

f. The District shall not deduct accumulated sick leave from the sick leave allotment of an employee who is on industrial accident or illness leave.

15.2.2 Family and Medical Leave

The District will comply with the Family and Medical Leave Act and the California Family Rights Act.

15.2.3 Pregnancy Disability and Parental Leave See Appendix F

15.3 Bereavement Leave

15.3.1 Bereavement Leave is leave at full pay. An employee shall be granted five (5) days of Bereavement Leave without loss of accumulated sick leave. Death of a member of his/her immediate family includes the following: mother, father, wife, husband, son, daughter, brother, sister, grandmother, grandfather, grandchildren, son-in-law, daughter-in-law, mother-in-law, father-in-law, step-mother, step-father, step-son, step-daughter, step-brother, step-sister, fiancé(e) and/or significant other. Upon request of the employee, the Assistant Superintendent of Human Resources may grant Bereavement Leave for persons not listed above. Personal Necessity Leave may be used. Unit Members shall not be required to provide proof of death.

15.4 Civic Duties

15.4.1 Military Leave

An employee shall be granted such leave and Military Leave pay as provided in the Military and Veteran's Code.

47 15.4.2 Leave for Judicial and Official Appearances

1 Employees shall be entitled to leave without loss of pay to appear in court as a
2 witness, other than as a litigant, or to respond to an official order from duly
3 authorized government agencies, or to serve as a juror.
4

5 15.5 Educational Improvement and Leave Without Pay
6

7 15.5.1 In-service
8

9 Leave to attend educational meetings and conventions and to do other school
10 business may be granted without loss of pay or accumulated sick leave. Approval
11 shall be based on the following criteria: benefit to District, structure of conference,
12 number attending from the District, and the funds available from appropriate program
13 budget. Attendance at approved conference shall be deemed being on the job.
14

15 15.5.2 Sabbatical Leave
16

17 The District shall grant any employee a Sabbatical Leave of Absence for one year for
18 the purpose of permitting study or travel which will benefit the District. An
19 employee is eligible to apply for Sabbatical Leave after he/she has served the District
20 for seven (7) consecutive full-time years. Not more than one (1) such Sabbatical
21 Leave of Absence shall be granted per employee in each seven year period.
22

23 15.5.2.1 The equivalent of two (2) Sabbatical Leaves shall be available yearly.
24 The granting of these leaves shall be based on the value of the proposal.
25

26 15.5.2.2 The rate of pay for Sabbatical Leave shall be one-half (1/2) the
27 employee's regular salary. The employee shall agree to serve the District
28 for at least two (2) more years. The employee shall furnish a suitable
29 bond indemnifying the District against loss in the event that the employee
30 fails to render at least two (2) more years of service following the
31 Sabbatical Leave. Fringe benefits and retirement premiums shall be
32 prorated.
33

34 15.5.2.3 Sabbatical Leave proposals shall include the following:
35

- 36 - Purpose of leave
37 - Value to the employee
38 - Value to the students or District
39 - Estimated date of final report
40

41 A full report shall be presented to the District upon conclusion of the
42 Sabbatical Leave. Periodic reports may also be submitted by employees
43 on Sabbatical Leave to an appointed program manager. Any changes in
44 the originally approved program shall be submitted in writing to the
45 Assistant Superintendent of Personnel Human Resources for approval.
46

47 15.5.2.4 Sabbatical applications shall be submitted prior to April 1 of each year.
48 Prior to June 1 of each year, the Governing Board shall act upon each
49 Sabbatical application. In extraordinary circumstances, the

15.5.3 Leave Without Pay

The Governing Board shall grant one (1) year leaves of absence, without pay, to any employee who has rendered service to the District for one (1) or more years (other than probationary or temporary contract employees) provided the employee demonstrates an intention to return to the District. The Board may grant extensions of leaves of absence. (Refer to 15.1.4.) Employees must submit to the District a leave of absence request form prior to June 30 of any school year to be considered for a leave of absence without pay for the succeeding school year. Requests for a leave of absence without pay may be denied by the District for operational reasons.

15.6 There shall be a procedure governing the granting of part-time leave arrangements. Any changes in the procedure shall be made with the assistance of the Association.

15.7 Shared Contract Status

Employees may be granted shared contract status. With the supervisor's approval and mutual agreement of employees, a shared contract shall continue without reapplication from year to year. Terms of the contract shall be by mutual agreement between the employees involved.

TA. DISTRICT CM Date 6/12/18 AREA Segem Step Date 6/12/18

Pregnancy Disability and Parental Leave

Pregnancy Disability Leave

A medical note stating the first day of leave, estimated due date, and estimated return to work date shall be submitted to Human Resources (HR) prior to Pregnancy Disability Leave (PDL) (if possible).

After the birth, a medical note verifying the date of delivery shall be submitted to HR. The date of return to work is determined by the member's doctor. Six weeks is the standard disability for a non-caesarian birth without complications.

While on Pregnancy Disability Leave, accumulated sick leave will be used. When accumulated sick leave is exhausted, differential pay will commence.

Differential pay consists of a member's full pay minus the lowest substitute daily rate.

Family Medical Leave Act (FMLA)

FMLA allows members to take up to twelve (12) weeks leave due to pregnancy related illness/disability. This leave may be taken in addition to PDL. While on FMLA, accumulated sick leave may be used. If using sick leave, when accumulated sick leave is exhausted, differential pay will commence. FMLA will be unpaid if sick leave and differential pay is exhausted, or if the member elects to take unpaid leave. Health benefits remain in effect during FMLA.

California Family Rights Act (CFRA)

Members (male and female) have the option of taking up to twelve (12) weeks of CFRA bonding leave after PDL. CFRA bonding leave does not have to take place when the baby is born but must be completed within one year after the birth. While on CFRA leave, members receive full pay unless sick leave is exhausted. Once sick leave is exhausted, differential pay will commence for the remainder of the twelve (12) weeks.

Medical Insurance

The deadline to add a newborn to medical insurance is thirty (30) days after birth. Contact the Benefits Department.

9/18/19

SDS 9/18/19

ARTICLE XVI
SALARY

16.1 Salary Increases

For the ~~2017-2018~~ 2018-2019
school year:

Effective July 1, ~~2017-2018~~, AREA unit members shall receive a ~~4.0% (four percent)~~
3.0% (three percent) increase to the schedule, extended duty rate and career increments governing
the salaries of AREA unit members. *The extended duty rate will increase beginning July 1, 2019 at
the rate of \$44.67.*

16.2 Classification of Professional Preparation

16.2.1 Employees shall be placed on the appropriate column of the salary schedule in
accordance with the units of advanced preparation they have completed.
Reassignment to a higher classification shall become effective at the beginning of the
next contract year after the new classification requirements have been met.

16.2.2 Unit Conversion

Quarter units are converted to semester units by multiplying the quarter units by two-
thirds (2/3). If this multiplication results in a fraction that, when added to the other
semester units, is within a half unit from the required units for qualifying for the next
column, then the fraction shall be rounded up to the next whole number and the
employee shall be placed on the next column.

16.2.3 Unit Approval

Units for salary credit will be submitted for approval to the Assistant Superintendent
of Human Resources. Information regarding the units, the decisions of the Assistant
Superintendent and the reasons for negative decisions shall be forwarded to the
Association. Credit for upper division units (and those authorized under Section
16.2.3.1) submitted after July 1, 1976 from an accredited college or university shall
be approved if they meet any of the following requirements:

A. any course which will increase the educational competence of any employee, in a
subject area offered in the District;

B. any course taken by an employee in preparation for a credential or degree for a
position which is included in the staff of the District;

16.2.3.1 Any teacher shall get approval for lower division units taken to maintain
or develop language skills needed for instruction of EL students, or to
develop skills in classroom computer technology.

16.2.4 Unit Placement on Salary Schedule

All completed units shall be credited to a member's placement; and position on; and

11/7/19

SD 9/18/19

48 movement of step or column, effective twice each school year; on September 1st
49 and/or on February 1st.

(1) To receive such credit retroactive to the first day of school in a school year, all
1 completed units must be submitted to the Department of Human Resources on or
2 before the close of business on the last workday in August. The new placement
3 and salary shall be reflected on the member's pay warrant effective for the month
4 of October. An official record of course completion, when issued, will be
5 required for confirmation of these courses. The official record of course
6 completion shall be filed with the Department of Human Resources by
8 September 15th.

(2) To receive such credit retroactive to February 1st of the current school year all
10 completed units must be submitted to the Department of Human Resources on or
11 before the close of business on the last workday in January. The new placement
12 and salary shall be reflected on the member's pay warrant effective for the month
13 of March. An official record of course completion, when issued, will be required
14 for confirmation of these courses. The official record of course completion shall
15 be filed with the Department of Human Resources by February 15th.

17 Grade cards, when issued, will be required for confirmation of these courses. These
18 cards shall be filed with the Department of Human Resources. The District shall
19 provide each employee prior to May 1st, of each year, a statement of the number of
20 units that the District has on file for him/her.
21

22
23 16.2.5 The District shall reimburse employees pursuing a credential or other certification in
24 a District-declared special needs area for the cost of books, tuition, and fees, not to
25 exceed \$2,000.00 per employee per year. By May 31st of each school year, the
26 District shall declare the areas of special needs for the following school year. In order
27 for an AREA bargaining unit member to be eligible to receive book/tuition fees
28 reimbursement pursuant to Article 16.2.5, said member must be assigned to a
29 District-declared special needs area at the time the member's book/tuition/fees
30 expenses are incurred.

31 32 16.3 Classification of Professional Experience 33

34 16.3.1 Initial Step Placement and Transfer 35

36 Employees shall be given full credit, on a year-to-year basis, up to ten (10) years at
37 the time of initial placement on the salary schedule for previous teaching experience.
38 Teaching experience, for salary schedule placement purposes, shall include all
39 similar experience in positions requiring equal certification qualifications.

40 41 16.3.2 Step Requirements 42

43 The advancement on the salary schedule shall be at the rate of one step for each year
44 of teaching experience. If an employee is employed for at least seventy-five percent
45 (75%) of a school year, he/she shall be given credit for that year's experience for
46 salary schedule advancement purposes. Two (2) consecutive years equaling one
47 hundred percent (100%) shall be counted as one (1) year's credit.

AD 9/18/19 SDE 9/18/19

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16.3.3 Career Increments

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Employees who have completed fourteen (14) years, nineteen (19) years, and twenty-four (24) years of credited service to the District shall receive career increments.

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Effective July 1, 2017, the base for the increment at Year 15 shall be \$2,705 Year 20 shall be \$3,789, and Year 25 shall be \$3,789.

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16.3.4 Higher Degree Stipend

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Unit members who hold a Masters Degree or a National Board for Professional Teaching Standards Certificate (NBPTSC) shall receive an annual total stipend of One Thousand Dollars (\$1,000.00); If the unit member has a Doctorate Degree, then the unit member shall receive an annual total combined stipend of Two Thousand Dollars (\$2,000.00). No unit member may earn more than one NBPTSC stipend/higher degree stipend each year for a graduate higher degree/doctorate degree or NBPTSC. Graduate and doctorate degrees must be verified by submitting an official transcript from a college or university accredited by an accrediting agency recognized by the U.S. Department of Education's Office of Post-Secondary Education as qualified to accredit colleges and universities in the degree subject conferred. The last day for filing transcripts and the NBPTSC is on or before the close of business on the last workday in August. Unit members who file transcripts/NBPTSC after this date will begin receiving their stipend beginning the following school year. ~~Retroactive payments for the 2014-2015 school year shall be paid by the District no later than November 10, 2015, provided all supporting documentation is submitted to the District no later than October 10, 2015.~~

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16.4 Employees who work less than a full year or a full day shall receive salaries and fringe benefits pro-rated on the basis of their regular annual salaries.

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16.5 Employees who are required to work more than the employee work year shall be paid at their daily rate of pay or receive compensatory time at the employee's option.

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16.6 For specified meetings or activities members shall be paid the current hourly rate of extended duty pay ~~is forty (\$43.37) shall be paid as defined on the salary schedule.~~ Optional inservice may be offered without compensation or at a fixed stipend.

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~~Effective July 1, 2017, the hourly rate of pay shall increase by 4% to forty three dollars and thirty seven cents (\$43.37) for specified meetings or activities. Optional in service may be offered without compensation or at a fixed stipend.~~

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16.7 The regular payroll period shall be defined as monthly, beginning with the first (1st) of each month. Salary payments shall be made not less than the last teaching day during the payroll period. The supplemental pay period shall begin on the twenty-first (21st) of the month and end on the twentieth of the following month. Salary payments for services, in addition to the employee's regular assignments, shall be made by the tenth (10th) of the month following the close of the payroll period in which the service was performed, and shall be submitted to Payroll as of the close of business on the fifteenth (15th) of each month to receive payment

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[Type here]

on the tenth (10th) of the following month.

16.8 Salary Schedule (See attached.)

16.8.1 The annual salary for an employee's work year shall be as provided in Appendix A.

16.8.2 The annual salary for a Speech Therapists and
Psychologist's work year shall be as provided in Appendix A.

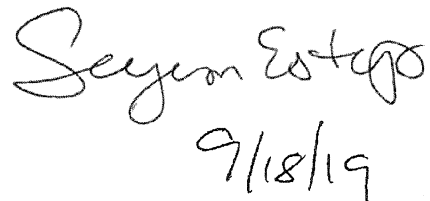
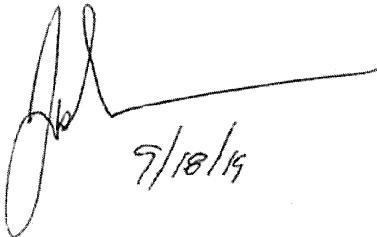
16.9 Payroll/Compensation Error Resolution

AREA and the district recognize that any amount underpaid by the district to an employee must be recovered by the employee, pursuant to law. This applies to all salary or other monetary issues.

When the district has underpaid an employee, the district shall immediately set about to determine the correct amount to make the employee whole. The district shall make every effort to complete this determination within ten (10) business days. The district shall then make every effort to pay the appropriate amount within ten (10) business days from the date of the determination.

Whenever the underpaying of an employee of any other accounting error occurs which directly results in negative financial repercussions for the employee, the district agrees to pay those costs upon presentation by the employee to the district of appropriate evidence. Examples of "negative financial repercussions for the employee" include: late fees or interest assessed by creditors, overdraft or dishonored check charges.

Such evidence must be provided to the district within 60 days of the error. The district shall make every effort to issue payments to the employee within ten (10) business days from the date appropriate evidence is provided.



ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

2930 Gay Avenue
San José, CA 95127

4.03

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION – BOARD OF EDUCATION

To the Board of Trustees:

PUBLIC HEARING: Disclosure of major provisions of the collective bargaining agreement with Teamsters Local 150, including, but not limited to, the costs that would be incurred by the public school employer under the agreement for the current and subsequent fiscal years.

Subject:

Staff Analysis:

The major provisions of the collective bargaining agreement with Teamsters Local 150 for the period of July 1, 2018 – June 30, 2019, including, but not limited to, the costs that would be incurred by the District under the agreement for the current and subsequent fiscal years, shall be disclosed in a format established for this purpose by the Superintendent of Public Instruction. (Government Code section 3547.5)

Submitted by: Kolvira Chheng

Title: Assistant Superintendent, Business Services

To the Board of Trustees:

Public Hearing

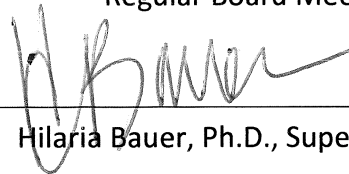
4.03

Agenda Placement

Meeting:

October 10, 2019

Regular Board Meeting



Hilario Bauer, Ph.D., Superintendent

DISPOSITION BY BOARD OF TRUSTEES

Motion by: _____ Seconded by: _____

Approved: _____ Not Approved: _____ Tabled: _____

DISCLOSURE OF COLLECTIVE BARGAINING AGREEMENTS

School District: Alum Rock Union Elementary School District
 Bargaining Unit: AREA, CSEA, Teamsters and Un-Represented FTE: 957.90
 Period of Agreement: 7/1/2018 - 6/30/2019 Date of Public Meeting: 10/10/19

Please submit copies of the **tentative agreement(s) and updated multi-year projection** with the disclosure.

Government Code Section 3547.5: Before a public school employer enters into a written agreement with an exclusive representative covering matters within the scope of representation, the major provisions of the agreement, including but not limited to, the costs that would be incurred by the public school employer under the agreement for the current and subsequent fiscal years, shall be disclosed at a public meeting of the public school employer in a format established for this purpose by the Superintendent of Public Instruction.

SUMMARY OF AGREEMENT			
	2018-19	2019-20	2020-21
Salary Schedule increases	Yes	Re-opener	Re-opener
Off-Schedule payments	No	N/A	N/A
Health & Welfare (capped?)	Yes	N/A	N/A
<i>Details (cap limit; plan coverage, etc.):</i> District pays 85% of H/W.			
Other provisions: 3% On-salary-schedule effective July 1, 2018 for FY 2018-19. This includes "Me Too" clause for CSEA and Teamsters. Also includes salary increases for Management, although Management does not have "Me Too" clause.			

TOTAL COST INCREASE OF PROPOSED AGREEMENT IN PRESENT & FUTURE YEARS

Indicate the costs of salary and benefit increases that would be incurred under the agreement.

	2018-19	2019-20	2020-21
Salary including statutory costs*	2,611,569	2,569,059	2,569,059
Benefits	-	-	-
Other Compensation Costs	-	-	-
Other Non-Compensation Costs	-	-	-
Total Cost of Settlement	2,611,569	2,569,059	2,569,059
Total % Increase	3% On, effective 7/1/18	Re-opener	Re-opener
Projected STRS/PERS rates	16.28%/18.062%	17.10%/19.721%	18.40%/22.70%

**please include statutory costs tied to salary such as employer-paid taxes and PERS/STRS*

STATUS OF BARGAINING UNIT/EMPLOYEE AGREEMENTS

Indicate the current status (whether settled or not settled) of the remaining units.

Bargaining Unit	FTE	Status
AREA	539.70	Tentative Agreement
CSEA	195.76	Tentative Agreement
Teamsters	145.44	Tentative Agreement
Un-Represented	77.00	N/A

	Year: 2019-20	Year: 2019-20	Year: 2019-20
GENERAL FUND	Board Approved Budget Before Settlement	Adjustments as a result of the Agreement	Revised Budget
	(Column 1)	(Column 2)	(Column 1 + 2)
Total Revenues	129,408,105	-	129,408,105
Other Financing Sources/Uses	-	-	-
Interfund Transfer In	1,800,000	-	1,800,000
Interfund Transfer In			-
Interfund Transfer Out			-
Total Other	1,800,000	-	1,800,000
Total Expenditures	\$ 132,032,021.28	\$ 5,180,508.00	137,212,529
1000 Certificated Salaries	55,751,869	3,135,818	58,887,687
2000 Classified Salaries	19,003,502	1,045,542	20,049,044
3000 Benefits	33,934,750	999,148	34,933,897
4000 Instructional Supplies	4,491,022	-	4,491,022
5000 Contracted Services	16,916,909	-	16,916,909
6000 Capital Outlay	183,798	-	183,798
7000 Other	1,750,172	-	1,750,172
Operating Surplus (Deficit)	(823,916)		(6,004,424)
Beginning Fund Balance			-
Projected Ending Balance	(823,916)	(5,180,508)	(6,004,424)
Available Reserves	7,288,300		1,128,461
Available Reserves (Include Fund 17 Special Reserve)	7,288,300		1,128,461
Reserve For Economic Uncertainties	3,960,961		4,116,376
Total Available Reserves	11,249,261	(6,004,424)	5,244,837
State Required Reserve %	3%		
State Required Reserve \$	3,960,961	155,415	4,116,376

CERTIFICATION

The above information summarizes the financial implications of the proposed agreement. This information will be publicly disclosed in accordance with AB3141 before being submitted to the Governing Board for ratification.

Chief Business Officer

Date

District Superintendent

Date

This information was publicly disclosed in accordance with AB3141 before being submitted to the Governing Board. The agreement(s) referenced above were ratified on:

Date

District Superintendent

District Board President

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

4.04

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION – BOARD OF EDUCATION

To the Board of Trustees:

Subject: **Approval and Ratification of Tentative Agreement Between The Alum Rock Union Elementary School District and Teamsters Local 150, for the period of July 1, 2018 - June 30, 2019.**

Staff Analysis:

The District and Teamsters Local 150 have reached the attached Tentative Agreement on collective bargaining issues for the period of July 1, 2018 - June 30, 2019.

Recommendation:

The administration is recommending that the Board of Trustees approve and ratify the Tentative Agreement.

Submitted by: Carlos Moran  Title: Assistant Superintendent, Human Resources

To the Board of Trustees:

Recommend Approval

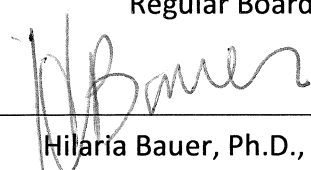
4.04

Agenda Placement

Meeting:

October 10, 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 Elementary School District and Teamsters Local 150

Tentative Agreement

September 12, 2019


Article 22.1.1 Effective January 1, 2019, the District shall increase the salary schedule for all bargaining unit members by 2%. In addition, retroactive to July 1, 2018, all bargaining unit members shall receive a one-time, Off Salary Schedule bonus payment of 1% based on the January 1, 2019 Teamsters Salary Schedule/Earnings.

For the terms of this agreement, if any other bargaining unit receives a salary schedule increase, off schedule bonus or health and welfare premium increase or reopener(s) greater than the Teamsters bargaining unit, then Teamsters shall receive the same increase.

Article 17 ARTICLE XVII: BARGAINING UNIT MEMBER AND DEPENDENT INSURANCE COVERAGE

Status quo – “Effective July 1, 2018, the District shall pay 85% of the Health and Welfare plans through the Teamsters Managed Trust.”

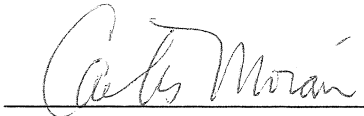
Alum Rock Union Elementary School District




Jess Serna, Chief Negotiator




Kolvira Chheng, Assistant Superintendent, Business



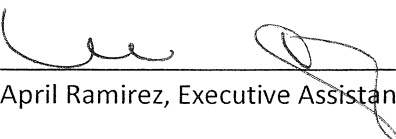
Carlos Moran, Assistant Superintendent, Human Resources



Tereasa Smith, Director, Human Resources




Daniel Flores, Director, M.O.T.




April Ramirez, Executive Assistant, Human Resources

Teamsters Local 150



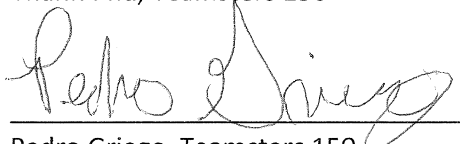
Alan Daurie, Business Agent
Teamsters 150



Buddy Parden, Teamsters 150



Thanh Phu, Teamsters 150



Pedro Griego, Teamsters 150



Elias Vidrio, Teamsters 150

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: September 30, 2019

Subject: PROGRESS OF LOCAL PERFORMANCE INDICATORS

Staff Analysis: California's accountability and continuous improvement system provides information about how local educational agencies and schools are meeting the needs of students based on a concise set of measures. LEAs are responsible for rating their progress on the local performance indicators and reporting the results to their local governing board at a regularly scheduled meeting.

Recommendation: Presentation

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: October 10, 2019
Regular Board Meeting

Presentation

7.01
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 Jose, CA 95127

Office of Superintendent of Schools

7.02

ITEM REQUIRING ATTENTION - BOARD OF EDUCATION

To the Board of Trustees:

Date: September 30, 2019

Subject: Local Control Accountability Plan (LCAP) Timeline

Staff Analysis: The Local Control Accountability Plan (LCAP) is an important component of the Local Control Funding Formula (LCFF). Under the LCFF all LEAs are required to prepare an LCAP every three years and provide an Annual Update every year. The LCAP describes how the LEAs intend to meet annual goals for all pupils, with specific activities to address state and local priorities identified pursuant to *Education Code Section 52060(d)*.

Staff will provide a Timeline for the development of the 2019-2020 Annual Update for the Local Control Accountability Plan.

Recommendation: Informational Item

Submitted by: Sandra Garcia Title: Director of State and Federal Programs

Approved by: Rene Sanchez Title: Assistant Superintendent of Instructional Services

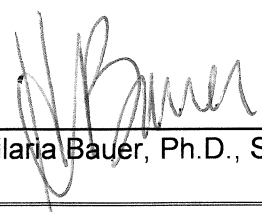
To the Board of Trustees:

Meeting: October 10, 2019
Regular Board Meeting

Information Only

7.02

Agenda Placement


Hilario Bauer, Ph.D., Superintendent

DISPOSITION BY BOARD OF TRUSTEES

Motion by: _____ Seconded by: _____

Approved: _____ Not Approved: _____ Tabled: _____

Alum Rock Union Elementary School District
Local Control Accountability Plan (LCAP) Timeline
 October 10, 2019

This summary is to provide information regarding the LCAP Timeline.

What is the LCAP?

California schools are funded under a model known as the Local Control Funding Formula (LCFF). Under this plan Districts are required to develop a Local Control Accountability Plan (LCAP) to guide priorities in the budget development process. Central to the process is providing opportunities for public input.

The LCAP must be built around eight (8) priority areas identified by the California Department of Education.

- | | |
|--------------------------|---------------------------|
| 1. Basic Necessities | 5. Student Engagement |
| 2. Implementation (CCSS) | 6. School Climate |
| 3. Parental Involvement | 7. Access to Courses |
| 4. Student Achievement | 8. Other student outcomes |

Current 2019 - 2020 LCAP goals

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 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.*

The following stakeholders will be engaged to provide input into the development of the LCAP:

- Parents & Community members via community forums, school site meetings, and on-line surveys
- AREA, CSEA & Teamsters units via input session meetings
- Elementary & Middle School students via on-line surveys
- Teachers & District Administrators via staff meetings, input sessions, and on-line surveys
- LCAP Advisory Committee (Parents/Community Members, Teachers, Site Administrators, District Administrators, MS Students)-- Meeting dates: Oct 16, Dec 11, April 22

Timeline for Stakeholder Meetings

October - December	January & February	March	April	May	June
<ul style="list-style-type: none"> LCFF/LCAP Parent Informational Meeting (Oct 29) 	<ul style="list-style-type: none"> DELAC LCAP input session (Feb3) DAC LCAP input session (Feb 10) Parent/Community input forums (Jan 23, 30 and Feb 6) AREA, CSEA, ARAA & Teamsters LCAP Review & Input Session (Feb 11) Management Team Input Session (Feb 5) 	<ul style="list-style-type: none"> Staff & Parent Input Meetings (School Sites) On-line parent, staff and student surveys (January 23 - March 6) Parent/Community input forums (Jan 23, 30 and Feb 6) Board Update (March 12) 	<ul style="list-style-type: none"> Board Update (April 9) 	<ul style="list-style-type: none"> Board Update- LCAP Draft (May 14) 	<ul style="list-style-type: none"> LCAP Public Hearing/ Stakeholder Feedback (June 11) Approval of LCAP (special Board Meeting) (TBD) Submit LCAP to Santa Clara County Office of Education for approval)

Board Updates - LCAP Board Updates will begin in March 2020.

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

Office of Superintendent of Schools

8.01

ITEM REQUIRING ATTENTION – BOARD OF TRUSTEES

To the Board of Trustees:

Date: September 24, 2019

Subject: Maxim Healthcare Services, Inc. DBA: Maxim Staffing Solutions

Staff Analysis: The proposed contract is for Mental Health/Behavioral Support services with Maxim Healthcare. We have on ongoing working relationship with Maxim Healthcare for the last several years. Therapist will provide Mental Health services and behavior clinical support to special education students/programs per an Individualized Education Plan (IEP) in the Ocala Emotional Disturbed (ED) program as well as different sites.

Recommendation: Staff recommends the Board approve the contract increase with Maxim Healthcare for the 2019-2020 school year. The additional cost of this contract will be \$181,090, for a total of \$304,840. Mental Health restricted fund will be used for this contract increase.

Submitted by:

Anthony Colonna
Anthony Colonna

Title: Director of Special Education

Approved by:

Rene Sanchez
Rene Sanchez

Title: Assistant Superintendent

To the Board of Trustees:

Meeting: October 10, 2019
Regular Board Meeting

Recommended Approval

8.01

Agenda Placement

Hilaria Bauer
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

PURCHASE ORDER / CONTRACT ADJUSTMENT

P.O. No. _____ Contract No. C1920055 Contract Original Amount: \$ 59,000

Vendor Name: Maxim Healthcare Vendor No. 16815

Please check:

☐ Cancel P.O. / Contract
☐ Change Item No.: _____
☐ Increase Amount Line Item No.: _____
☐ Decrease Amount Line Item No.: _____
☐ Add Line No.: _____
☐ Delete Line No.: _____
☐ Change org key/object code to: _____
☐ Change Vendor No. to: _____
☐ Add Freight: \$ _____
☐ Add Tax: _____ %
☐ Disencumber
☐ Change Order No.: _____
☐ Other _____


CONTRACTS ONLY

Change Orders:

Contracts Original Amount	\$ <u>59,000</u>
Change Order #: <u>1</u>	\$ <u>+64,750</u>
Change Order #: <u>2</u>	\$ <u>181,090</u>
Change Order #: _____	\$ _____
New Contract Total (including Change Orders)	\$ <u>304,840</u>

Line #	FUND	LOCATION	PROGRAM	ACCOUNT	\$ AMOUNT	Accountant Signature & Date
1	08	380	1820	5815	181,090	

Reason for Adjustment: Mental Health/Behavioral Support services with Maxim Healthcare. Behavior therapist will provide Mental Health services and behavior clinical support to special education students/programs per an Individual Educational Program (IEP).

School/Dept.: <u>Special Education</u>	Requested by: <u>LeAnne Depew</u>
Approval: _____ (for Contracts Only)	Assistant Superintendent of Business Services
	Program Manager
	Purchasing Manager
Date Requested: _____	Date Entered: _____ Entered By: _____

(Pursuant to Public Contract Code 20118.4, the total cost of change orders shall not exceed the greater of \$15,000.00 or 10% of the original contract amount. The ARUESD Board of Trustees must approve changes exceeding these limits.)

9.01

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION - BOARD OF EDUCATION

To the Board of Trustees:

Date: October 10, 2019

Agenda Item:

9.01

Subject:

**DISCUSSION/CONSIDERATION/ACTION – Censure of Board
Member Dolores Marquez**

At the September 12, 2019, Board meeting the Board considered agenda item 9.07 as follows:

“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.”

A copy of the materials presented to the Board in connection with that item are attached.

At that time of the September 12 Board meeting, a draft proposed censure resolution was presented for consideration by the Board. After discussion and consideration, the Board took an action by a vote of 4-0-1 (Member Marquez absent) to agendize the matter and the proposed draft Board Resolution #08-19/20 re: Censure of Board Member Dolores Marquez for consideration and action at the regular Board meeting scheduled for Thursday, October 10, 2019. The Board action also directed that Member Marquez be provided an opportunity to respond to the draft proposed Board Resolution and the subject matter therein, and that Member Marquez be requested to respond in writing and publicly disclose and substantiate the source of the \$5,000 cashier's check referenced in the draft Board Resolution #08-19/20 and in the FPPC Order.

Board Member Marquez was informed of the Board action by letter dated September __, 2019, and which was delivered to her by certified U.S. Mail, hand delivery and via electronic mail. A copy of the letter sent to Member Marquez is attached.

As of the date of publication of this Board agenda book, Member Marquez has not provided a written response as requested by the Board. If any response is received from Member Marquez subsequent to the publication of the agenda and prior to the Board meeting, then Administration will post the response on the District website and will immediately make copies available to the Board and the public.

Recommendation:

The Board is requested to discuss and consider the status of this matter and may consider and take an action on draft proposed Board Resolution #08-19/20 re: Censure of Board Member Dolores Marquez as previously presented or as may be modified by the Board.

To the Board of Trustees:

Meeting: October 10, 2019
Regular Board Meeting

Recommend Approval

Agenda Placement



Hilana Bauer, Ph.D., Superintendent

**ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
BOARD RESOLUTION #08-19/20
CENSURE OF BOARD MEMBER DOLORES MARQUEZ**

WHEREAS, the Alum Rock Union Elementary School District Board Bylaw 9000 states “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” and further states “Establishing and adhering to standards of responsible governance”; and

WHEREAS, the Alum Rock Union Elementary School District Board Bylaw 9005 states “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”; and

WHEREAS, the Alum Rock Union Elementary School District Board Bylaw 9220 states “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 the 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”; and

WHEREAS, the Alum Rock Union Elementary School District Board Bylaw 9270 states “The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.”; and

WHEREAS, on August 15, 2019, the California Fair Political Practices Commission approved Stipulation, Decision and Order Case Number 17/0106 including the following violations by Board Member Dolores Marquez: (1) that Dolores Marquez, her 2016 Campaign Committee for Re-Election to the Alum Rock Board of Trustees, and her campaign Treasurer accepted and deposited a \$5,000 cashier’s check, in violation of Government Code Section 84300, subdivision (c), and (2) That Dolores Marquez, her 2016 Campaign Committee for Re-Election to the Alum Rock Board of Trustees, and her campaign Treasurer failed to report contributions totaling \$1,750 and failed to report expenditures totaling \$2,330 on campaign disclosure statements, in violation of Government Code Section 84211, subdivisions (f) and (k); and

WHEREAS, the California Fair Political Practices Commission Stipulation, Decision and Order Case Number 17/0106 further states:

“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.”

WHEREAS, the Alum Rock Union Elementary School District Board of Trustees finds that Board Member Dolores Marquez actions have not been consistent with the bylaws outlined above, and her behavior has not been consistent with positive, effective and responsible leadership.

NOW THEREFORE BE IT RESOLVED that, the Alum Rock Union Elementary School District Board of Trustees does hereby censure Board Member, Dolores Marquez for the conduct as described above.

BE IT FURTHER RESOLVED, that in the interest of transparency, restoring faith, and integrity of the governance of the Alum Rock Union Elementary School District, the Board requests that Dolores Marquez publicly disclose and substantiate the source of the \$5,000 cashier's check referenced above to assure the board and public there is no conflict of interest on any matters before the Board of Trustees.

BE IT FURTHER RESOLVED, that the Alum Rock Union Elementary School District Board directs that a copy of the August 15, 2019, Enforcement Decision prepared by California Fair Political Practices Commission and a copy of this Resolution be placed immediately on the District's website for a period of 45 calendar days.

PASSED AND ADOPTED by the Board of Trustees of the Alum Rock Union Elementary School District, this 10th day of October, 2019, by the following vote:

Ayes _____ Noes _____ Absent _____ Abstain _____

Board of Trustees:

Linda Chavez, President	_____
Ernesto Bejarano, Vice President	_____
Dolores Márquez-Frausto, 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 Elementary School District at a public meeting of said Board held on October 10, 2019.

Hilaria Bauer, Ph.D., Superintendent

Date



ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

2930 Gay Avenue, San José, CA 95127

Phone: 408-928-6800

Fax: 408-928-6416

www.arusd.org

September 19, 2019

**VIA CERTIFIED U.S. MAIL,
HAND DELIVERY AND ELECTRONIC MAIL**

Dolores Marquez, Board Member
Alum Rock Union Elementary School District
57 Viewmont Ave
San Jose, CA 95127

Email: doloresmarquez@att.net

**Re: Alum Rock Union Elementary School District:
Notice of Board Action taken on September 12, 2019, Agenda Item 9.07, and
Opportunity to Respond in Writing**

Dear Board Member Marquez:

This Notice is being sent on behalf of the ARUESD Board of Trustees.

At the regular meeting on September 12, 2019, the Board Agenda included item 9.07 as follows:

"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."

A copy of the memo and associated materials included in the Board agenda book as part of this item are attached.

At the time of the Board's discussion on the matter, Trustee Corina Herrera-Loera presented draft Board Resolution #08-19/20 for consideration by the Board. A copy of the draft Board Resolution #08-19/20 provided to the Board members present at the September 12 Board meeting is also attached.

After discussion, the Board took an action (4-0-1) to agendize this matter and the proposed draft Board Resolution #08-19/20 for consideration and action at the regular Board meeting scheduled for Thursday, October 10, 2019. **The Board has also directed that you be provided an opportunity to respond to draft proposed Board Resolution #08-19/20 and the subject matter therein, and has requested that you respond in writing and publicly disclose and substantiate the source of the \$5,000 cashier's check referenced in draft Resolution #08-19/20 and in the FPPC Order.**

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

Re:
Page 2 of 2
September 19, 2019

The Board agenda and Board book for the October 10 meeting will be published and posted on October 4, 2019. To ensure that any written response or other information you would like the Board to consider is included in the Board book, please provide the materials to the Superintendent's office no later than 10:00 a.m. on October 3, 2019.

Thank you for your attention to this.

Sincerely,



Dr. Hilaria Bauer
Superintendent

enclosures;

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

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dolores Marquez
 [REDACTED] Ave
 San Jose, CA 95127



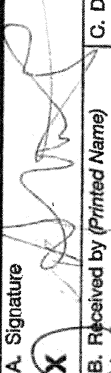
9590 9403 0401 5163 8500 13

2. Article Number (Transfer from service label)

7014 3490 0001 8000 9181

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature  ☒ Agent
☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type
- ☐ Adult Signature
 - ☐ Adult Signature Restricted Delivery
 - ☒ Certified Mail®
 - ☐ Certified Mail Restricted Delivery
 - ☐ Collect on Delivery
 - ☐ Collect on Delivery Restricted Delivery
 - ☐ Insured Mail
 - ☐ Insured Mail Restricted Delivery (over \$500)
 - ☐ Priority Mail Express®
 - ☐ Registered Mail™
 - ☐ Registered Mail Restricted Delivery
 - ☒ Return Receipt for Merchandise
 - ☐ Signature Confirmation™
 - ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

UNITED STATES Postal SERVICE
CA 945

21 SEP '19

PM 6:1

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address and ZIP+4® in this box•

Alum Rock Union School District
Superintendent's Office
2930 Gay Avenue
San Jose, Ca 95127

USPS TRACKING#



SEP 23 2019

9570 9403 0401 5163 8500 13



Maribel Carrillo <maribel.carrillo@arUSD.org>

Notice of Board Action taken on September 12, 2019, Agenda Item 9.07, and Opportunity to Respond in Writing

2 messages

Maribel Carrillo <maribel.carrillo@arUSD.org>

Thu, Sep 19, 2019 at 11:01 AM

To: doloresmarquez@att.net

Cc: Hilaria Bauer <hilaria.bauer@arUSD.org>, Rogelio Ruiz <rRuiz@rehonroberts.com>

Good Morning

Attached, please find the above referenced.

Thank you,



Maribel Carrillo


Senior Executive Assistant

Office of the Superintendent

2930 Gay Ave, San Jose CA, 95127

Desk: 408-928-6822 Fax: 408-928-6416

www.arUSD.org

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1044K

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION - BOARD OF EDUCATION

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.

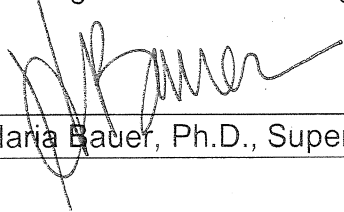
Recommendation: The Board may consider and discuss the above information. The Board may determine to take no action or, if the Board determines that it desires to consider an action to censure or some other form of reprimand, then it is recommended that the Board provide direction on the process for the preparation of such censure resolution or reprimand for consideration by the Board at an agendized 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 Act¹ ("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.²
8 Thus, it was decreed that the Act "should be liberally construed to accomplish its purposes."³

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.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵
12 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
13 "vigorously enforced."⁶

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.⁷ 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
24 ¹ 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 contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references
are to this source.

26 ² Section 81001, subdivision (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subdivision (a).

⁵ Sections 84200, *et seq.*

⁶ Section 81002, subdivision (f).

⁷ 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.⁸

3 **Prohibition Against Receiving Cash and Cash Equivalents of \$100 or More**

4 No contribution of \$100 or more may be received in cash.⁹ 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.¹⁰ 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 3rd party to issue funds, guaranteed by the bank or 3rd party.¹¹
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.¹² 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.¹³

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.¹⁴

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.¹⁵ 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.¹⁶ 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 ⁸ Section 89519, subdivision (b).

25 ⁹ Section 84300, subdivision (a).

26 ¹⁰ Section 84300, subdivision (c).

27 ¹¹ See, e.g., Cal. U. Com. Code, Sections 3103, subdivisions (a)(2), (3), and (11), and 3104, subdivisions (f) and (g)

28 ¹² Section 84104.

¹³ Regulation 18401, subdivision (a)(7).

¹⁴ Section 84211.

¹⁵ Section 82015.

¹⁶ 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.¹⁷

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.)¹⁸ 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.¹⁹ 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.²⁰

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.²¹ A treasurer and candidate may be held jointly and severally liable with the
12 committee for violations committed by the committee.²²

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 90th 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
26

27 ¹⁷ Section 84211, subdivision (g).

28 ¹⁸ Section 82025.

¹⁹ Section 84211, subdivision (k).

²⁰ Regulation 18421.6.

²¹ Sections 81004, 84100, 84104, and Regulation 18427.

²² Sections 83116.5 and 91006.

1 funds on the termination campaign statement. These errors, in the interest of a settlement, will not be
2 pursued as separate violations but will be considered as aggravating factors.

3 2016 Committee

4 Marquez was successful in her 2016 re-election campaign to the Alum Rock Union Elementary
5 School District. She is currently in office and will be up for re-election in 2020. The Committee reported
6 a total of \$18,522 in contributions and made a reported total of \$11,858 in expenditures.

7 The 2016 Committee received and deposited a \$5,000 cashier's check on October 4, 2016. This
8 contribution was reported as a loan from the candidate, Marquez. The loan constitutes about 26% of the
9 2016 Committee's reported contributions. The form of tender, a cashier's check, is not permissible for
10 contributions over \$100. Marquez and the Committee failed to produce any documentation to substantiate
11 the source of this money.

12 The 2016 Committee also failed to report about 9% of contributions and 19% of expenditures. The
13 following chart details these transactions.

14

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	

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22 **VIOLATIONS**

23 2014 Committee

24 **Count 1**

25 Prohibited Use of Surplus Funds

26 The 2014 Committee, Marquez, and Frausto transferred \$5,022 funds, as a contribution, to the 2016
27 Committee after the funds had become surplus, in violation of Government Code Section 89519.
28

1 **2016 Committee**

2 **Count 2**

3 **Prohibited Acceptance of an Over \$100 Cash Equivalent Contribution**

4 The 2016 Committee, Marquez, and Frausto accepted and deposited a \$5,000 cashier's check, in
5 violation of Government Code Section 84300, subdivision (c).

6 **Count 3**

7 **Non-reporting of Contributions and Expenditures**

8 The 2016 Committee, Marquez, and Frausto failed to report contributions totaling \$1,750 and
9 failed to report expenditures totaling \$2,330 on campaign disclosure statements, in violation of
10 Government Code Section 84211, subdivisions (f) and (k).

11 **PROPOSED PENALTY**

12 This matter consists of three counts. The maximum penalty that may be imposed is \$5,000 per
13 count. Thus, the maximum penalty that may be imposed is \$15,000.²³

14 In determining the appropriate penalty for a particular violation of the Act, the Commission
15 considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission
16 considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention
17 to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d)
18 whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were
19 filed to provide full disclosure; and (f) whether the violator has a prior record of violations.²⁴

20 Here, the actions of the Committee appear to be the result of negligence, but there is no evidence
21 of deliberate omission or attempts to conceal. The Committee, Marquez, and Frausto have prior
22 enforcement history. The Commission approved a penalty in April 21, 2016 for \$400 after Marquez and
23 the 2014 Committee admitted to the untimely filing of two semiannual campaign statements for the
24 reporting periods in 2015 (FPPC Case No. 15/1340). Additionally, the Commission considers penalties in
25 prior cases with comparable violations.

26
27
28 ²³ See Section 83116, subdivision (c).

²⁴ Regulation 18361.5, subdivision (d).

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

CONCLUSION

Complainant, the Enforcement Division of the Fair Political Practices Commission, and Respondents, Dolores Marquez for School Board 2016, Dolores Marquez for Santa Clara County Board of Education 2014, Dolores Marquez, and Anjelica Frausto, hereby agree as follows:

1. Respondents violated the Act as described in the foregoing pages, which are a true and accurate summary of the facts in this matter.

2. This stipulation will be submitted for consideration by the Fair Political Practices Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose of reaching a final disposition without the necessity of holding an administrative hearing to determine the liability of Respondents pursuant to Section 83116.

4. Respondents understand, and hereby knowingly and voluntarily waive, any and all procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to the right to appear personally at any administrative hearing held in this matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially reviewed.

5. Respondents agree to the issuance of the decision and order set forth below. Also, Respondents agree to the Commission imposing against them an administrative penalty in the amount of \$7,000. One or more cashier's checks or money orders totaling said amount—to be paid to the General Fund of the State of California—is/are submitted with this stipulation as full payment of the administrative penalty described above, and same shall be held by the State of California until the Commission issues its decision and order regarding this matter.

6. If the Commission declines to approve this stipulation—then this stipulation shall become null and void, and within fifteen business days after the Commission meeting at which the stipulation is rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to 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
12
13
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: _____

9 _____
Alice T. Germond, Chair
Fair Political Practices Commission

**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>]

**ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
BOARD RESOLUTION #08-19/20
CENSURE OF BOARD MEMBER DOLORES MARQUEZ**

WHEREAS, the Alum Rock Union Elementary School District Board Bylaw 9000 states “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” and further states “Establishing and adhering to standards of responsible governance”; and

WHEREAS, the Alum Rock Union Elementary School District Board Bylaw 9005 states “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”; and

WHEREAS, the Alum Rock Union Elementary School District Board Bylaw 9220 states “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 the 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”; and

WHEREAS, the Alum Rock Union Elementary School District Board Bylaw 9270 states “The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.”; and

WHEREAS, on August 15, 2019, the California Fair Political Practices Commission approved Stipulation, Decision and Order Case Number 17/0106 including the following violations by Board Member Dolores Marquez: (1) that Dolores Marquez, her 2016 Campaign Committee for Re-Election to the Alum Rock Board of Trustees, and her campaign Treasurer accepted and deposited a \$5,000 cashier’s check, in violation of Government Code Section 84300, subdivision (c), and (2) That Dolores Marquez, her 2016 Campaign Committee for Re-Election to the Alum Rock Board of Trustees, and her campaign Treasurer failed to report contributions totaling \$1,750 and failed to report expenditures totaling \$2,330 on campaign disclosure statements, in violation of Government Code Section 84211, subdivisions (f) and (k); and

WHEREAS, the California Fair Political Practices Commission Stipulation, Decision and Order Case Number 17/0106 further states:

“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.”

WHEREAS, the Alum Rock Union Elementary School District Board of Trustees finds that Board Member Dolores Marquez actions have not been consistent with the bylaws outlined above, and her behavior has not been consistent with positive, effective and responsible leadership.

NOW THEREFORE BE IT RESOLVED that, the Alum Rock Union Elementary School District Board of Trustees does hereby censure Board Member, Dolores Marquez for the conduct as described above.

BE IT FURTHER RESOLVED, that in the interest of transparency, restoring faith, and integrity of the governance of the Alum Rock Union Elementary School District, the Board requests that Dolores Marquez publicly disclose and substantiate the source of the \$5,000 cashier's check referenced above to assure the board and public there is no conflict of interest on any matters before the Board of Trustees.

BE IT FURTHER RESOLVED, that the Alum Rock Union Elementary School District Board directs that a copy of the August 15, 2019, Enforcement Decision prepared by California Fair Political Practices Commission and a copy of this Resolution be placed immediately on the District's website for a period of 45 calendar days.

PASSED AND ADOPTED by the Board of Trustees of the Alum Rock Union Elementary School District, this 10th day of October, 2019, by the following vote:

Ayes _____ Noes _____ Absent _____ Abstain _____

Board of Trustees:

Linda Chavez, President _____

Ernesto Bejarano, Vice President _____

Dolores Márquez-Frausto, 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 Elementary School District at a public meeting of said Board held on October 10, 2019.

Hilaria Bauer, Ph.D., Superintendent

Date

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: Dissolution of Board's Bond Facilities Committee and/or Reconsideration of Establishment of Establishment of Board Bond Facilities Committee and/or Board member committee assignment.

Submitted by: Hilaria Bauer Title: Superintendent

To the Board of Trustees:

Meeting:

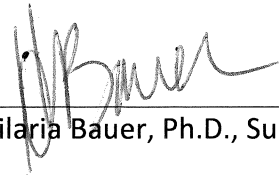
October 10, 2019

Regular Board Meeting

Discussion/Consideration/Action

9.02

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

To the Board of Trustees:

Date: October 10, 2019

Agenda Item:

9.03

Subject:

DISCUSSION/CONSIDERATION/ACTION – Annual Board Self-Evaluation

The June 2019 State Audit Report noted that the board has not conducted annual evaluations of its own performance since approximately 2014. The State Auditor recommended that to “provide additional transparency and ensure that its performance is meeting the needs of the District, the board should conduct an annual self-evaluation by November 2019 and publicize the results.”

Board Bylaw 9400 also provides for an annual Board self-evaluation. It provides:

“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.

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, collective bargaining and community relations. 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 boardsmanship skills.

The Board shall be evaluated as a whole. Individual Board members also are encouraged to use the evaluation process as an opportunity to privately assess 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 previously identified performance objectives. Videotape of a Board meeting may be used as an evaluation tool only with the consent of all Board members.

Any discussion of 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 to provide input into the evaluation process.

Following the evaluation, the Board shall develop strategies for strengthening Board performance and shall establish priorities and objectives for the following year's evaluation."

Board Bylaw 9400 does not prescribe the form of Board self-evaluation or the subject areas for self-evaluation. **It is recommended that, to meet the recommendations of the State Audit and adhere to Board Bylaw 9400, the Board should discuss and decide on the process and timing for the Board self-evaluation.**

To accomplish this task, the Board should consider and discuss whether it will develop and implement its own self-evaluation process and evaluation tool. Alternatively, the Board can use an evaluation process and tool through the California School Boards Association or other third party facilitator.

Attached are some questions prepared by Mr. Arturo Flores, facilitator in the Board's recent governance study sessions, as part of an "appreciative inquiry" process for Board members to consider when deciding upon a self-evaluation process.

Also attached are Board self-evaluation tools recently used by other school districts.

Board Develops Its Own Self-Evaluation Process

If the Board determines to develop and implement its own process, then the Board should consider using criteria for evaluation included in Board Bylaw 9400, including Board performance in relation to vision setting, curriculum, personnel, finance, policy, collective bargaining and community relations, as well as 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 boardsmanship skills.

CSBA Services and Other Third Party Consultants

CSBA has developed a Board self-evaluation survey and toolkit to assist Boards in the self-evaluation process. The cost of the survey and toolkit is \$200. The survey is an on-line tool and the survey process, from Board member input to issuance of the report summarizing the results by CSBA, is about 2 weeks. Boards can then review the survey results independently.

CSBA also provides consulting services whereby a CSBA governance facilitator meets with the Board (in an open and public setting) to review the survey results and complete the self-evaluation process. The estimated cost of facilitation services is \$2,700.00 plus reasonable travel expenses for the facilitator consultant. Attached is a copy of materials relating to the CSBA self-evaluation tools and consultants.

Finally, if the Board desires, the Board may select another third party consultant to assist the Board with the self-evaluation process.

Recommendation:

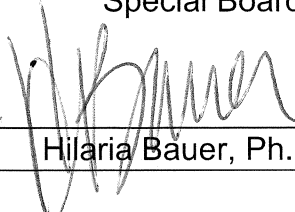
The Board should select a process, method and tool for completing the Board's annual self-evaluation. To meet the State Auditor's recommendation to complete the annual self-evaluation by November 2019, the Board should discuss and/or set meeting date(s) to conduct and complete the annual self-evaluation prior to December 1, 2019.

To the Board of Trustees:

Meeting: October 10, 2019
Special Board Meeting

Recommend Approval

Agenda Placement



Hilaria Bauer, Ph.D., Superintendent

USING THE
C S.B A
*P*ROFESSIONAL
GOVERNANCE
STANDARDS

FOR
SCHOOL BOARD SELF-EVALUATION



How DOES OUR BOARD MEASURE UP?

Governance
.. Consulting Services

OcsBA

C S B A PROFESSIONAL GOVERNANCE STANDARDS

WHY ADOPT AND UTILIZE

CSBA's PROFESSIONAL GOVERNANCE STANDARDS?

The overall purposes of CSBA's Professional Governance Standards are to:

Help increase the effectiveness of governing boards, and

Raise parent, public and media awareness about the critical role of governing boards.

**Why should boards adopt and utilize the Professional Governance Standards?
Because local governance teams are critical to positive, sustained public school reform, and because the Professional Governance Standards will:**

Help keep governance teams focused on learning and achievement for all students.

Promote dialogue about governance, which leads to a greater understanding among members of the governance team about roles and expectations.

Help establish a common vocabulary about governance and serve as a framework for building or maintaining a district culture focused on effective governance.

Publicly affirm the board's commitment to effective governance.

Demonstrate the willingness of board members to be accountable to each other and to the public.

Provide a tool for governance teams to evaluate their effectiveness.

Help governance teams identify areas where continuing education would be useful.

Help formalize a positive governance culture for when new board members or superintendents join the governance team.

Promote a greater awareness and understanding among parents, the media and the public about what boards do and how they can operate most effectively.

Help build trust and foster greater participation by parents and the public in the schools.

Provide parents, the media and the public with a meaningful basis for assessing the effectiveness of their local governance teams.

Help promote the value of local governance in our democracy.

Provide a way for effective governance teams to receive recognition.

Help educate future candidates and voters about the critical jobs of boards.

PROFESSIONAL GOVERNANCE STANDARDS

USING THE CSBA PROFESSIONAL GOVERNANCE STANDARDS FOR SCHOOL BOARD SELF-EVALUATION

Six STEPS • • •

Step 1 5

Board members meet to agree on norms for the board's self-evaluation process.

Step 2 9

Individually complete The School Board Self-Evaluation Survey Section 1 — *The Board*.

Step 3 13

Individually complete The School Board Self-Evaluation Survey Section 2 — *The Board's Jobs*.

Step 4 19

Board members meet to discuss the responses to Survey Sections 1 and 2, and to identify the Board's Governance Goals, Success Indicators and a timeline for attainment.

Step 5 21

Individually complete The School Board Self-Evaluation Survey Section 3 — *The Individual Trustee*.

Step 6 25

Individually identify personal Governance Goals, Success Indicators and a timeline for attainment.

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

STEP ONE

AGREE ON NORMS FOR THE SELF-EVALUATION PROCESS

To ensure the self-evaluation process is productive, it is important to agree on the guidelines or norms that will frame the conversation - for instance setting a respectful, collaborative tone. The standards, as levels of excellence we strive to achieve, are tools to help us become increasingly effective. Understanding this will reinforce the concept of taking personal and collective responsibility for continuous improvement. Taking time to discuss how we should act toward each other as we review our collective effectiveness is an important first step in a healthy process.

PROFESSIONAL GOVERNANCE STANDARDS

DEVELOPING NORMS

Excerpted from: *Manager's Guide: Creating Group Expectations and Norms*, Johns Hopkins Health System, The Johns Hopkins Hospital

Group expectations, also called group norms, are created to set the standards of appropriate team behavior. The norms help a group work together not only to address difficult issues in an objective and consistent way, but also to confirm what each member will do in the normal course of business to help the team succeed. The team gains in two ways. One way is that the exercise serves to confirm desired behaviors. The second way is that clear group norms provide guidance for orienting future new members to the team.

CREATING BEHAVIORAL EXPECTATIONS

Key Point: "We all didn't share the same dinner table."

Team members each grow up with different experiences, have different interpretations of common words, have different work ethics and have different personal needs.

Creating behavioral expectations can bridge the gap of various interpretations of what defines desired behavior. The result is a common language of what group members expect from each other. Behavioral expectations, fully articulated, will spell out how team members will communicate and behave in order to effectively work together.

It is important that positive behavioral expectations are identified before entering into discussions that can have significant personal and/or emotional impact on team members, such as the evaluation of the workings of the team. To reach agreement on positive norms for the evaluation process, create a discussion with team members by asking these open-ended questions:

What agreements would help us interact effectively with each other throughout our self-evaluation process?

What agreements will help us maintain honest and open dialogue throughout the self-evaluation process?

What agreements will help us keep our focus on process and away from personalities as we complete our self-evaluation?

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

SAMPLE NORMS TO CONSIDER

The following list represents norms that various school boards and COEs have developed. Your team should identify six to eight norms (creating your own, or using norms from the list below) that will help each member of your team feel comfortable and able to honestly state his or her own perspective, issues and concerns throughout your board self-evaluation process.

WE AGREE TO . . .

- respect each other's opinions
- listen "actively" to each member's ideas
- acknowledge each member's point of view
- be open to new ideas
- exhibit positive body language
- not interrupt, nor monopolize
- encourage everyone to verbalize
- disagree agreeably
- recognize the positive
- be willing to compromise
- focus on process, not personalities
- act by building on the thought of a fellow governance team member

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

WORKSHEET

NORMS FOR OUR BOARD SELF-EVALUATION PROCESS

Listed below are the norms we agree to follow so that each member of our team feels comfortable and is able to honestly state his or her own perspective, issues and concerns throughout our board self-evaluation process.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

STEP TWO

COMPLETE THE SCHOOL BOARD SELF-EVALUATION SURVEY - SECTION 1 —THE BOARD

Standard: a basis for comparison in judging quality, a level of excellence

Success indicators: measures that quantify the achievement of a result and help identify whether goals have been accomplished.

The Professional Governance Standards for effective boards are listed on the following pages. When they were originally adopted, members of the CSBA Delegate Assembly and Board of Directors discussed what the standards would look like in action. They asked themselves, "What would we be doing if we were meeting this standard?" The results of those discussions are listed as "success indicators" under each standard. As governance team members measure their own accomplishments, it may be helpful to refer to these indicators.

Individuals should record their assessments on the "School Board Self-Evaluation Survey, Section 1 —The Board" on page 12.

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

THE BOARD:

School districts and county offices of education are governed by boards, not by individual trustees. While understanding their separate roles, the board and superintendent work together as a "governance team." This team assumes collective responsibility for building unity and creating a positive organizational culture in order to govern effectively.

TO OPERATE EFFECTIVELY, THE BOARD MUST HAVE A UNITY OF PURPOSE AND:

1. Keep the district focused on learning and achievement for all students.

Recognize that children come to school with diverse educational needs.

Base decisions on the district's vision, student needs, research, empirical data and a balance of community expectations, legal constraints and resources.

Ensure that the district has established academic standards and regularly measures growth in achievement for all students.

Ensure that the district provides opportunities for all students to succeed.

2. Communicate a common vision.

Develop and adopt a written statement of the district vision and other direction-setting documents using collaborative processes that involve the staff and community.

Ensure that procedures are in place to periodically review the district vision and other direction-setting documents.

Demonstrate commitment to the vision and goals by regularly communicating them to staff and the community.

Exhibit behaviors and make decisions that support achievement of the district vision.

Keep current on trends and emerging needs in education in order to proactively participate in renewing or reviewing the district's direction and policies.

Support board decisions.

Speak with a common voice.

3. Operate openly, with trust and integrity.

Conduct district business in a fair, respectful and responsible manner.

Consider the concerns and interests of the staff and community.

Encourage thorough debate, seek to engage in dialogue for clarification and withhold judgment until all perspectives are heard.

Ensure that all members of the board have the same information —no secrets or surprises among members of the governance team.

Clearly communicate decisions to all those who are affected by them.

Keep confidential information confidential.

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

THE BOARD (CONTINUED)

4. Govern in a dignified and professional manner, treating everyone with civility and respect.

Treat the superintendent, staff, students, parents and community with dignity and respect.

Listen openly and respectfully to each other, to staff, students, parents and members of the community.

Welcome open discussion of different points of view.

Demonstrate ability to disagree on issues and still maintain trust, respect and dignity.

Work together to build consensus for decisions.

5. Govern within board-adopted policies and procedures.

Have a policy development, approval and update process in place that is understood and followed.

Understand the distinctions between the role of the board and that of the superintendent and staff and do not become involved in the day-to-day operations of the district.

Have agreed-upon norms and protocols to carry out board responsibilities.

6. Take collective responsibility for the board's performance.

Assume collective responsibility for board conduct, behavior and conflict management.

Function as a governance team with the superintendent.

Demonstrate a commitment to continually improving governance efforts.

Take responsibility for the orientation of all new members.

7. Periodically evaluate its own effectiveness.

Have procedures in place for regular, on-going self-evaluation.

Ensure meeting agendas provide for a sound order of business and facilitate maximum focus on matters related to student achievement.

Have norms and protocols in place to ensure that individual board members do not get involved in the day-to-day management of the district.

8. Ensure opportunities for the diverse range of views in the community to inform board deliberations.

Ensure board policy enables parents, staff and the public to participate in district discussions, school programs and activities in meaningful ways.

Consider the concerns and interests of all segments of the community in deliberations.

PROFESSIONAL GOVERNANCE STANDARDS

SCHOOL BOARD SELF-EVALUATION SURVEY

SECTION 1 — THE BOARD

School districts and county offices of education are governed by boards, not by individual trustees. While understanding their separate roles, the board and superintendent work together as a "governance team." This team assumes collective responsibility for building unity and creating a positive organizational culture in order to govern effectively.

To operate effectively, the board must have a unity of purpose and meet these standards:

	WE DO THIS:				
	Always	Often	Rarely	Never	Unsure
■ Keep the district focused on learning and achievement for <u>all</u> students.					
2 Communicate a common vision.					
3 Operate openly, with trust and integrity					
4 Govern in a dignified and professional manner, treating everyone with civility and respect.					
5 Govern within board-adopted policies and procedures.					
6 Take collective responsibility for the board's performance.					
7 Periodically evaluate its own effectiveness.					
8 Ensure opportunities for the diverse range of views in the community to inform board deliberations.					
TOTALS:					

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

STEP THREE

COMPLETE THE SCHOOL BOARD SELF-EVALUATION SURVEY - SECTION 2 — THE BoARD's Joes

Standard: a basis for comparison in judging quality, a level of excellence

Success indicators: measures that quantify the achievement of a result and help identify whether goals have been accomplished.

The Professional Governance Standards highlighting some of the board's most important jobs are listed on the following pages. When they were originally adopted, members of the CSBA Delegate Assembly and Board of Directors discussed what the standards would look like in action. They asked themselves, "What would we be doing if we were meeting this standard?" The results of those discussions are listed as "success indicators" under each standard. As governance team members measure their own accomplishments, it may be helpful to refer to these indicators.

Individuals should record their assessments on the separate "School Board Self-Evaluation Survey, Section 2 — The Board's Jobs" on page 18.

C S B A PROFESSIONAL GOVERNANCE STANDARDS

THE BoARD's Joas

The primary responsibilities of the board are to set a direction for the district, provide a structure by establishing policies, provide support, ensure accountability and provide community leadership on behalf of the district and public education. To fulfill these responsibilities, there are a number of specific jobs that effective boards must carry out. These standards highlight some of the most important ones.

EFFECTIVE BOARDS:

I. Involve the community, parents, students and staff in developing a common vision for the district focused on student learning and achievement and responsive to the needs of all students.

Develop and adopt the district vision and other direction-setting documents using collaborative processes that involve the staff and community.

Ensure that inclusive processes are in place to periodically review the district vision and other direction-setting documents.

See that the district vision and goals are clearly communicated to students, parents, staff and the community.

Base all decisions on the district's vision, student needs, research, empirical data and a balance of community expectations, legal constraints and resources.

Engage in annual planning and regularly review progress toward achievement of the vision and goals.

2. Adopt, evaluate and update policies consistent with the law and the district's vision and goals.

Have a working knowledge of district policies.

Establish a clear, understandable process for adopting, updating and communicating district policies.

Ensure policies reflect the needs, wishes and desires of the community.

Recognize it is the board's role to adopt policies and the superintendent's role to implement them and report back to the board as necessary.

Follow a regular schedule for reviewing and updating policies as necessary due to new mandates by law, contract negotiations, emerging community issues or other circumstances.

3. Maintain accountability for student learning by adopting the district curriculum and monitoring student progress.

Engage the staff and community in order to set the direction for district curriculum.

Articulate the district's goals for student achievement.

Recognize the connection between the implementation of an effective curriculum and the acquisition and allocation of resources.

Provide time to staff for program development, implementation and professional growth.

PROFESSIONAL GOVERNANCE STANDARDS

THE BOARD'S Joes (CONTINUED)

Ensure that the district maintains reliable internal assessment data to use in making decisions.

Utilize reliable assessment data to adopt and update policies for curriculum, instruction and assessment in alignment with state requirements and local needs.

Establish regular reviews of student performance data and empower the superintendent and staff to monitor performance and develop new strategies.

Regularly report to the community on student performance.

4. Hire and support the superintendent so that the vision, goals and policies of the district can be implemented.

Establish selection criteria for a new superintendent based on the district vision and goals.

Value a long-term relationship between the board and superintendent and conduct all contractual negotiations in a professional manner.

Understand that the superintendent is the board's administrative link to the district.

5. Conduct regular and timely evaluations of the superintendent based on the vision, goals and performance of the district, and ensure that the superintendent holds district personnel accountable.

Ensure that the district evaluation system holds all staff responsible for improving student achievement.

Collaborate in setting goals and priorities as the basis for the superintendent's annual evaluation.

Ensure that the evaluation process supports the professional growth of the superintendent and the continuous improvement of the district.

Ensure that the evaluation process provides opportunities to take timely corrective action to avoid major disagreements between the board and superintendent.

Utilize a clearly defined, ongoing and interactive evaluation process that results in written documentation and is consistent with legal and contractual requirements.

Have policies and procedures in place for personnel accountability that are consistent with legal requirements and provide for due process.

Perform a judicial role in personnel issues, not an investigative role.

Have policies and procedures in place for recognizing outstanding performance by employees.

C S B A PROFESSIONAL GOVERNANCE STANDARDS

THE BOARD'S Joes (CONTINUED)

6. Adopt a fiscally responsible budget based on the district's vision and goals, and regularly monitor the fiscal health of the district.

Adopt guidelines, policies and procedures for developing the budget that ensure sound financial processes.

Recognize that the superintendent and staff develop the budget, the board adopts the budget, and the superintendent and staff implement the budget.

Understand that budget assumptions may change throughout the year.

Weigh the financial impact of possible changes to the vision and goals against existing programs.

Ensure that state, federal and other fiscal issues that impact the budget are monitored and addressed.

Monitor the external auditing process and ensure that audit recommendations are addressed.

Require that the budget be presented in an understandable and useful format.

See that the budget is utilized as a policy document to enhance student achievement and implement the priorities of the district.

Establish a process to regularly inform the community about the financial health of the district.

7. Ensure that a safe and appropriate educational environment is provided to all students.

Adopt, update and monitor policies pertaining to safety and cleanliness of facilities.

Support a long-range facility management and funding plan that reflects the vision and goals of the district.

Advocate at the local, state and federal levels for appropriate funding for school facilities.

Seek and consider alternative funding sources for facilities (such as bond elections, public-private partnerships or other types of financial instruments and agreements).

8. Establish a framework for the district's collective bargaining process and adopt responsible agreements.

Set parameters for collective bargaining that are linked to the vision and priorities of the district.

Recognize that collective bargaining is an ongoing process, not an isolated activity.

Support the role of the superintendent to manage the negotiations process: analyzing contract proposals, recommending changes to the contract, keeping the board informed about the progress of negotiations and administering the contract.

Support the position of the district throughout the negotiation process.

Adhere to legal, ethical, confidential and contractual requirements of collective bargaining.

Consider the immediate and long-term fiscal, program and personnel impacts of negotiations before adopting the collective bargaining agreement.

P C S B A ROFESSIONAL GOVERNANCE STANDARDS

THE BOARD'S Joas (CONTINUED)

9. Provide community leadership on educational issues and advocate on behalf of students and public education at the local, state and federal levels.

Ensure that effective methods are used to gather information and encourage involvement from the entire community.

Adopt a communications plan, which includes a system to report student achievement.

Have a working knowledge of the district's programs and build support for them among the public, community organizations and local agencies.

Communicate with local, state and federal policymakers about matters pertaining to student achievement, district programs and public education.

C S B A **PROFESSIONAL GOVERNANCE STANDARDS**

SCHOOL BOARD SELF-EVALUATION SURVEY

SECTION 2 -THE BoARD's Joes

The primary responsibilities of the board are to set a direction for the district, provide a structure by establishing policies, provide support, ensure accountability and provide community leadership on behalf of the district and public education. To fulfill these responsibilities, there are a number of specific jobs that effective boards must carry out. These standards highlight some of the most important ones.

Effective boards meet these standards:

WE DO THIS:

Always Often Rarely Never Unsure

■ Involve the community, parents, students and staff in developing a common vision for the district focused on student learning and achievement and responsive to the needs of <u>all</u> students.					
2 Adopt, evaluate and update policies consistent with the law and the district's vision and goals.					
3 Maintain accountability for student learning by adopting the district curriculum and monitoring student progress.					
4 Hire and support the superintendent so that the vision, goals and policies of the district can be implemented.					
5 Conduct regular and timely evaluations of the superintendent based on the vision, goals and performance of the district, and ensure that the superintendent holds district personnel accountable.					
6 Adopt a fiscally responsible budget based on the district's vision and goals, and regularly monitor the fiscal health of the district.					
7 Ensure that a safe and appropriate educational environment is provided to all students.					
8 Establish a framework for the district's collective bargaining process and adopt responsible agreements.					
9 Provide community leadership on educational issues and advocate on behalf of students and public education at the local, state and federal levels.					
TOTALS:					

C S B A PROFESSIONAL GOVERNANCE STANDARDS

STEP FOUR

DETERMINING THE BOARD'S GOVERNANCE GOALS

Standard: a basis for comparison in judging quality, a level of excellence

Success indicators: measures that quantify the achievement of a result and help identify whether goals have been accomplished.

Abiding by the agreed-upon Norms for Our Board Self-Evaluation Process, the board should have a discussion about individual responses to Sections 1 and 2 of the Board Self-Evaluation Survey. The discussion should focus on areas where the board agrees a standard is not being met or where board members have significantly different opinions about whether a standard is being met (e.g., some members responding "we do this always," others saying the board "does this rarely" or "not at all.")

The purpose of the discussion is to identify why the board is not meeting the standard and/or why there is such a wide range of opinions about whether a standard is being met, and to develop ways to improve. Answering the following questions can help direct the conversation.

Can we come to agreement on what this standard means to us?

What would it look like if we were meeting this standard? What would we be doing?

How would others know we are meeting the standard?

Do we need to create any norms or protocols to help us attain the standard?

How and when will we measure improvement or successful attainment of the standard?

As a result of the discussion, the board should come to agreement on two to three Standards or Success Indicators from Sections 1 and/or 2 of the Board Self-Evaluation Survey that will become the board's Governance Goals during the next year.

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

THE BOARD'S GOVERNANCE GOALS

Based on the board's discussion of team member responses to The Board and The Board's Jobs sections of the self-evaluation survey, choose two to three standards the board agrees to focus on for governance growth over the next year.

Goal 1:

To us this means...

What we will do...

How and when we will measure improvement or success...

Goal 2:

To us this means...

What we will do...

How and when we will measure improvement or success...

Goal 3:

To us this means...

What we will do...

How and when we will measure improvement or success...

C S B A PROFESSIONAL GOVERNANCE STANDARDS

STEP FIVE

COMPLETE THE SCHOOL BOARD SELF-EVALUATION SURVEY - SECTION 3 — THE INDIVIDUAL TRUSTEE

Standard: a basis for comparison in judging quality, a level of excellence

Success indicators: measures that quantify the achievement of a result and help identify whether goals have been accomplished.

The Professional Governance Standards for individual trustees are listed on the following pages. When they were originally adopted, members of the CSBA Delegate Assembly and Board of Directors discussed what the standards would look like in action. They asked themselves, "What would I be doing if I were meeting this standard?" The results of those discussions are listed as "success indicators" under each standard. As governance team members measure their own accomplishments, it may be helpful to refer to these indicators.

It's vital to understand that this portion of the self-evaluation is a personal self-reflection, not a judgment of others.

Individuals should record their assessments on the separate "School Board Self-Evaluation Survey, Section 3 — The Individual Trustee" on page 24.

C S B A PROFESSIONAL GOVERNANCE STANDARDS

THE INDIVIDUAL TRUSTEE:

In California's education system, a trustee is a person elected or appointed to serve on a school district or county board of education. Individual trustees bring unique skills, values and beliefs to their board. In order to govern effectively, individual trustees must work with each other and the superintendent to ensure that a high quality education is provided to each student.

TO BE EFFECTIVE, AN INDIVIDUAL TRUSTEE:

1. Keeps learning and achievement for all students as the primary focus.

Recognizes that children come to school with diverse educational needs.

Seeks to build consensus for decisions based on the district's vision, student needs, research, empirical data and a balance of community expectations, legal constraints and resources.

2. Values, supports and advocates for public education.

Actively supports the district's educational programs.

Helps create a supportive climate of excellence for the staff.

Seeks to build community support for the district's programs.

Actively supports public education.

3. Recognizes and respects differences of perspective and style on the board and among staff, students, parents and the community.

Honors each individual's right to express an opinion.

Is able to disagree on issues and still maintain respect and trust.

Listens respectfully to other members of the team, and to staff, students, parents and the community.

Seeks to engage in dialogue for clarification and withholds judgment until all perspectives are considered.

4. Acts with dignity, and understands the implications of demeanor and behavior.

Performs responsibilities in a manner that reflects service to the community on behalf of students.

Listens to other members of the team and strives to maintain trust.

Demonstrates a commitment to continually improving teamwork and problem-solving skills.

Shares important information with other members of the team.

5. Keeps confidential matters confidential.

Does not discuss or distribute information about confidential matters outside of closed session.

Understands the legal requirements for confidentiality.

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

THE INDIVIDUAL TRUSTEE (CONTINUED)

6. Participates in professional development and commits the time and energy necessary to be an informed and effective leader.

Regularly attends meetings, having read the agenda and background materials in advance, and comes prepared to discuss agenda items.

Visits schools and attends school functions in accordance with board protocol.

Has a working knowledge of the district's programs, goals and policies.

Is familiar with general education trends and issues as well as the overall state and federal educational system.

Participates in continuing education and professional development activities and shares knowledge gained with board members, staff, parents and the community as appropriate.

7. Understands the distinctions between board and staff roles, and refrains from performing management functions that are the responsibility of the superintendent and staff.

Clearly understand the roles and responsibilities of board members, the superintendent and the governance team.

Uses performance of governance responsibilities to impact district efforts.

Understands that the superintendent is the board's primary link with the district staff.

Does not become involved with day-to-day management or operations of the district.

8. Understands that authority rests with the board as a whole and not with individuals.

Strives to build consensus for decisions.

Recognizes that the board, not individuals, takes action and gives direction, and only at properly called board meetings.

Promotes district priorities, not a personal agenda.

Supports decisions of the board.

PROFESSIONAL GOVERNANCE STANDARDS

SCHOOL BOARD SELF-EVALUATION SURVEY

SECTION 3 • THE INDIVIDUAL TRUSTEE

In California's education system, a trustee is a person elected or appointed to serve on a school district or county board of education. Individual trustees bring unique skills, values and beliefs to their board. In order to govern effectively, individual trustees must work with each other and the superintendent to ensure that a high quality education is provided to each student.

To be effective, an individual trustee meets these standards:

		DO THIS:				
		Always	Often	Rarely	Never	Unsure
■	Keeps learning and achievement for <u>all</u> students as the primary focus.					
2	Values, supports and advocates for public education.					
3	Recognizes and respects differences of perspective and style on the board and among staff, students, parents and the community.					
4	Acts with dignity, and understands the implications of demeanor and behavior.					
5	Keeps confidential matters confidential.					
6	Participates in professional development and commits the time and energy necessary to be an informed and effective leader.					
7	Understands the distinctions between board and staff roles, and refrains from performing management functions that are the responsibility of the superintendent and staff.					
8	Understands that authority rests with the board as a whole and not with individuals.					
TOTALS:						

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

STEP SIX

DETERMINING MY PERSONAL GOVERNANCE GOALS

As we strive to govern effectively, we have the greatest control over our own actions, behaviors and attitudes. This section of the self-evaluation is an opportunity for board members to set personal goals that will enhance the governance team's collective efforts.

P C S B A PROFESSIONAL GOVERNANCE STANDARDS

MY PERSONAL GOVERNANCE GOALS

Based on the discussion and Governance Goals agreed to by the board, and your responses to the Individual Trustee section of the Board Self-Evaluation Survey, choose two to three Standards or Success Indicators you want to focus on for personal growth over the next year.

Goal 1:

To me this means...

What I will do...

How and when I will measure improvement or success...

Goal 2:

To me this means...

What I will do...

How and when I will measure improvement or success...

Goal 3:

To me this means...

What I will do...

How and when I will measure improvement or success...

NOTES

[illegible]



School District Governance Team Board Self-Evaluation Survey

Overview

One of the primary ways a governance team can strengthen or maintain its effectiveness is to periodically assess its own performance. A governance team self-assessment provides the opportunity to step back and reflect on how well it is meeting its responsibilities. This governance team self-assessment will provide the board and superintendent with valuable perception data, revealing the range of perceptions among board members regarding the performance of the board and the governance team.

Individuals will rank the performance of the board and governance team on important characteristics. CSBA determined these characteristics through collaborative efforts with board members from around the state who defined the CSBA *Professional Governance Standards* for boards; and through our experiences providing board development to school boards across California for more than 30 years.

Content

The evaluation is divided into two parts. Part one consists of questions regarding the conditions of effective governance. Part two contains questions that address the board's five major responsibilities. For each statement, Individuals should select the descriptor that most accurately describes the extent to which the board demonstrates the quality or characteristic.

Board Self-Evaluation Result

SAMPLE



1. Conditions of Effective Governance

Number of members responded

Almost Always Often Less Often Rarely Not Sure

Board unity

1. The board is focused on achievement for all students.		2	1	1	1	0
2. The board is committed to a common vision.		3	2	0	0	0
3. The board stays focused on district priorities.		4	1	0	0	0
4. The board works well together.		1	1	3	0	0
5. The board commits the time to become informed.		2	3	0	0	0
6. Individual board members do not undermine board decisions.		1	1	2	1	0

Roles and responsibilities

7. Board members agree on the role and responsibilities of the board and the superintendent.		3	1	1	0	0
8. Board members follow board agreements regarding speaking for the board.		4	1	0	0	0
9. Board members keep confidential matters confidential.		5	0	0	0	0
10. The board gives direction to the superintendent only at board meetings.		1	2	1	0	1
11. Individual board members do not attempt to direct the superintendent.		0	0	0	2	3

Board culture

12. The board treats the superintendent with respect.		3	1	0	0	1
13. The board manages internal conflicts in a productive manner.		4	1	0	0	0



A strength for most members



A strength for simple majority



Area of growth for simple majority



Area of growth for most members

Other topic discussed:

1. Conditions of Effective Governance

Board operations

Board meetings

Board development

2. Board Responsibilities

Setting directions

Structure

Support

Accountability

Community leadership

FactSheet

November 2017

Board Self-Evaluation: Results and Recommendations from an Analysis of CSBA's Board Survey Tool

by Michael S. Hill and Mary Briggs

Introduction

School boards support improved student outcomes by creating and sustaining the conditions that support effective and equitable teaching and learning.¹ Governance teams bring together community members with a broad range of backgrounds, educational experience, and goals. Board training can improve the likelihood that boards will be able to coordinate their efforts on behalf of students.

Board self-evaluation is one powerful way to support effective governance. Since 2011, CSBA's Governance Consulting Services Department has offered boards a tool and access to consultants to help them evaluate their local practices. The tool includes a survey designed to be completed by each member of a participating board. Once the survey responses are collected, CSBA generates a report that serves as the foundation for a facilitated conversation on how to build on strengths and address areas for improvement.

Overview: The CSBA Board Survey Tool

The CSBA Board Survey Tool aligns with the Association's Professional Governance Standards, research, and good governance practice, and is divided into two areas: (1) Conditions of Effective Governance and (2) Board Responsibilities. Questions are divided into subcategories within each section. Participants rank their district or county board performance on a four-point scale: Almost Always (4), Often (3), Less Often (2), Rarely (1), or Not Sure (not weighted).

CSBA's Governance Consulting Services Department provides two options for conducting the self-evaluation. Following completion of the electronic survey, participating districts either review the results on their own, using written guidance provided by CSBA, or with in-person facilitation by a CSBA consultant.

In this fact sheet, you'll find:

- » A description of CSBA's Board Self-Evaluation Tool
- » Key findings from prior participants in the Board Self-Evaluation process
- » Planned modifications to the survey

Recent Analysis of the Survey Tool

CSBA Member Services recently evaluated the survey tool to ensure it provides meaningful, accurate information to participating boards. Michael S. Hill, a consultant from the University of California, Davis, analyzed the existing data to ensure that the survey reliably measures what it is intended to measure. The analysis revealed opportunities for improvements and offered insight into board member perspectives about governance within their districts or county offices of education.

Our sample included 478 surveys completed by 351 board members. Because some districts conduct regular self-evaluation, approximately one-fifth of the districts completed the survey more than once. When districts took the survey more than once, only the results from the first administration were included in the analysis to avoid skewing the data.

Excerpted Findings

Data from boards that have taken the survey in the past offer insights into what participants perceive to be their governance team's strengths and areas for growth. The results

could inform future professional learning opportunities that CSBA offers our members. Importantly, each district voluntarily opted to participate in the self-evaluation, so the findings might not be broadly representative of all CSBA members. Despite that caveat, the perceptions of 70 different boards point to common themes that can inform the professional development that CSBA offers and can prompt rich dialogue within local governance teams.

In general, average responses suggest members have confidence in board operations and support for the district priorities and superintendent. Yet they also noted room for improvement in the areas of community leadership and regular review of board performance and actions.

Board Strengths

- » Board members generally reported their superintendents were met with respect (78%) and their board demonstrated support for the superintendent in carrying out board directives (75%).
- » On most boards, participants reported that the role of the board president was clear (80%).
- » Most participants reported their board meeting agendas reflected district priorities (77%).
- » Respondents rated their board's fiscal planning responsibilities highly (75% for budget adoptions aligned with district goals and 79% for monitoring).
- » Items related to board support of district goals were also rated highly:
 - » 78% of participants reported their boards as a whole were focused on achievement for all students *always* or *often*.
 - » 76% also reported their boards *always* or *often* demonstrated commitment to district priorities and goals.

Areas for Growth

- » Half of the participants reported that individual members attempt to influence superintendents *often* or *always*.
- » Nearly half of participants reported that the effective orientation of new members and the review of governance procedures are conducted *less often* or *rarely*.

- » Board members reported that they do not frequently engage in self-evaluation; nearly 60% of board members indicated board self-evaluation is done *less often* or *rarely*.
- » Board members indicated that their governance teams could strengthen their community leadership:
 - » 51% reported their boards *always* or *often* advocate on behalf of students and public education at the local state and federal level.
 - » 55% reported they *always* or *often* inform the community about district priorities, progress, needs, and opportunities for involvement.

Upcoming Changes to the Survey

While the statistical analysis indicated that the existing Board Self-Evaluation Tool is a valid and meaningful survey, the consultant's report recommended several small modifications that CSBA could make to improve the survey, primarily through reorganization and shortening of the sections. These adjustments will maintain the overall validity of the tool while reducing the time it will take for participants to complete the survey.

Conclusion

Self-evaluation allows boards to pause and reflect on how well they are meeting their responsibilities, as well as potential changes to positively impact governance on behalf of students. CSBA's analysis of existing board self-evaluation results shows how these boards learned about their strengths as well as areas for improvement. Districts that are interested in conducting a board self-evaluation can reach out to CSBA's Governance Consulting Services.

Endnotes

- 1 Briggs, M., Buenrostro, M., & Maxwell-Jolly, J. (2017). *The school board role in creating the conditions for student achievement: A review of the research*. Sacramento, CA: California School Boards Association.

Michael S. Hill is a Ph.D. candidate at the UC Davis School of Education. His work focuses on quantitative analysis and educational program evaluation.

Mary Briggs is an Education Policy Analyst for the California School Boards Association.

**“APPRECIATIVE INQUIRY” QUESTIONS FOR CONSIDERATION FOR
BOARD SELF-EVALUATION PROCESS**

[Prepared By Governance Workshop Facilitator Arturo Flores]

A. GENERAL

1. As a board member, and from your perspective, what is working well?
2. As a board member, what would you define as exceptional behavior by board members that moved to action in a positive way?
3. Do you believe that all board members agree on a common vision, if not, what needs to be done in order to reach a new vision?
4. What should board members do to inspire their superintendent and staff to a common vision for the district?
5. In your opinion, what should the board do collectively to assure actions are taken with integrity?
6. What in your opinion are measurable indicators that demonstrate the board is functioning in an accountable manner?
7. What unique skills or abilities do you believe board members should possess in order to help move the district in a positive direction? What type of professional development would help the full board to accomplish the above?
8. describe the most important factors that have helped move the district in a common direction, and what do you believe needs to continue?
9. As trust is addressed for the full board, what 3-5 aspirations do you have for yourself and the full board?
10. List the most outstanding or noteworthy achievements that represent the board and district that you consider exemplary actions. What would you like to see continue?
11. What are three things that the board does best? What three things need to be addressed that would enhance the smooth functioning of the board?
12. What three things need to happen in order to continue a healthy dialogue by the board and to maintain the vitality needed to stay the course to exemplary status?
13. What three positive things does the board do that needs to continue in order to change the future of the district.
14. Do you maintain a clear understanding of the board functions, roles, and responsibilities needed to move the district? What professional development will be required in order to achieve the above?

15. Will a strategic plan be helpful and will it enhance the board's direction to the superintendent and district staff? What is a realistic timeline to accomplish a comprehensive strategic plan?
16. Describe a time when you felt the board was fully functioning as a strong team? What energized you about that time?
17. Will there be a time when other data is needed to move the alum rock board to exemplary status? If yes, please describe.
18. What do you value most about a self-evaluation and how might it help the smooth functioning of the board and represent a common direction for the community? What do you value most about your own growth as a board member and how will you react positively as needed focus areas are brought to your attention?
19. Do you believe there is value in building self-evaluation capacity? What in your opinion will quickly but efficiently address the building of this capacity?
20. What do you as an individual board member need to do to assist the full board with establishing a positive and credible team?
21. In your opinion should other stakeholders be involved in assessing and evaluating the alum rock board? If yes, what partners or stakeholders would you recommend?
22. What areas do you want the full board to address in order to continue functioning as an innovative, credible and resourceful entity?
23. Will you positively want to use the findings of the self-evaluation to guide and change the board?
24. What needs to be acted upon immediately, prior to any self-evaluation that would demonstrate to all that the intent of the board is to move to a new era and exemplary status?
25. If you had three wishes for the full board that would ensure relationships are being strengthened and that the community and staff perceives a renewed commitment, what would they be?
26. The full board supports the president in his her role, and offers feedback with respect and integrity.
27. All board members make a sincere effort to be informed on all agenda items and board policies within a realistic timeline and understand what process to follow to get the needed information.
28. The full board acts with integrity, respect and acts according to the adopted code of conduct.
29. The full board and individual board members strive to maintain an open and respectful dialogue with the public, staff and governmental agencies and leaders in accordance with the adopted bps and code of conduct.
30. Individual board members demonstrate sincere and unselfish interests in students, staff and parents.
31. Individual and all board members inform the public of actions and decisions in accordance with board policies.

32. Individual board members and the full board are committed understanding all sides of issue before taking action.

B. BOARD /SUPERINTENDENT RELATIONS:

1. The Board President as well as other Board members on special committees communicate their questions, concerns, issues in a timely and clear manner.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

2. The Board President and full Board respectively discuss areas of Board Policies that might require review in a timely manner and with clear direction.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

3. The full Board is careful and cautious to avoid infringing on the Superintendent's responsibilities in order to move the district forward as well as enhance the relationship.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

4. Board members refrain from public scrutiny of staff and the Superintendent and believe in honoring the established protocol for bringing items to their attention.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

5. Board members are self-reflective and when issues arise, they respond in a professional manner.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

6. Board members honor the established protocols for school site visitations and do not offer criticism or point out issues to the school site staff without first informing the Superintendent.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

7. Board members honor the protocol established that allows Board members to seek clarification from staff, only after seeking direction from the Superintendent.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

8. One-on-one meetings with the Superintendent are useful and the Superintendent is afforded the opportunity to clarify any action in advance. This process avoids public scrutiny or appearance to the public that there is major disagreement.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

9. At all costs the Board demonstrates professionalism and respect towards their Superintendent and staff.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

C. BOARD QUALITIES

1. Board members possess or seek to possess a full understanding of the educational processes of the Alum Rock Joint Union Elementary School District.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

2. Board members strive toward growth and seek a commitment from others to continue moving toward exemplary status as a district and full board.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

3. With the assistance of the Superintendent, attend planned sessions and workshops with a purpose and intended outcome, such as seeking exemplary status.

4. Annually assess Board members growth through planned opportunities in coordination with the Superintendent and staff, eg., LCAP, Special Education, ELL and CSBA professional development.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

5. The Alum Rock Board develops, implements and evaluates Board Policies in accordance with related governmental requirements.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

6. The Board allows for feedback, assessment and legal input for all Board Policies and duties relegated to committees and sub-committees.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

7. The Board establishes clear goals, vision statements and mission statements commensurate with a comprehensive strategic plan or district plan that focuses on all areas of the educational processes established by the district.

Strongly agree

Strongly support the process

Strongly feel other areas of focus will help support the Board

Board Self-evaluation

Introduction

School Board Self Evaluation

Why Evaluate?

The culture of an organization is set at the top, and it is no different for school and educational organizations. School boards must be strong, effective leaders to meet the challenges faced by public education today. School board members direct the affairs of the district by setting goals, developing policy, communicating and evaluating, all with a focus on the achievement and best interests of all students in the district. Self-assessment by the board provides valuable information, discussion and communication.

Self-evaluation by the board:

- Holds the board accountable to itself, the staff and the community.
- Allows for reflection by board members on their individual and collective behavior and performance.
- Fosters open communication.
- Improves decision making by enhancing a common understanding of philosophies and goals.
- Resolves differences of opinion and challenges assumptions.
- Provides insight into how and why decisions are reached.
- Allows new board members an opportunity to understand board processes.
- Identifies strengths and weaknesses of individual board member performance and that of the board as a whole.
- Holds the board accountable in its role as representative of the public.
- Provides a starting point for effective goal setting and long range planning.

Board self-evaluation provides more than just accountability and communication. It provides an opportunity for building the best possible leadership for the school system and community. Commitment to quality, excellence, continuous learning, and local control of the educational system is demonstrated when boards lead by example.

The *Board Self-Evaluation* document is designed to provide both a clear objective system for board evaluation and flexibility. Part 1 of the evaluation follows a set of performance standards focused on the roles, responsibilities and work of the board.

Board Self Evaluation Forms

Part 1. Performance Standards

Part 1. Performance Standards

Instructions

1. Attached are the forms to be completed by each board member rating each of the eleven performance standards. A separate page is provided for each performance standard. Each board member should rate all eleven of the performance standards.
2. Each performance standard has performance indicators listed below it. These performance indicators suggest objective measures to consider; do not rate each performance indicator separately. Only rate the overall performance standard.
3. Your comments in support of your rating will be helpful during the board discussion of the results of the evaluation.
4. Each board member's forms should be returned to the consultant, board chair or designated board member for compilation. Your board may also have chosen to fill it out online for electronic compilation.
5. The board will meet to discuss the results and future steps to improve or build upon the prior year's results.

Part 1. Performance Standards

Standard 1: LEADERSHIP: MISSION, VISION AND GOALS

The board of education annually reviews the districts vision and mission statements, and annually adopts board and district goals which support the district vision and mission.

Indicators

- The board, along with the superintendent, has reviewed and re-adopted the written district vision and mission statements in a three-year cycle.
- Board members can clearly articulate the vision, mission and goals of the district.
- Annually the board, with the superintendent's input and collaboration, has reviewed, rewritten, and adopted the board and district goals.
- The board has adopted objectives, activities and a calendar to monitor action plans on agreed upon goals, including periodic superintendent updates as part of regular board meetings.
- The board has delegated to the superintendent the authority to administer and evaluate the adopted action plans.
- The board and superintendent have mutually agreed which goals and expected performance indicators will be included in the superintendent's formal evaluation.
- The superintendent's evaluation instrument for the current year has been developed and adopted by the board.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Part 1. Performance Standards

Standard 2: POLICY AND GOVERNANCE

The board establishes and follows local policies, procedures and good governing practices.

Indicators:

- The board has established, adopted and revised policies so that they are clear, up to date and in compliance with state and federal laws and rules.
- The board requests the superintendent's recommendation on all proposed policies.
- The board provides opportunities for public and staff review of proposed policies before they are given to the board for final action.
- A procedure is in place for established policies to be reviewed on a regular basis.
- The board follows its own policies regarding board operations.
- The board delegates all decisions regarding district operations, personnel management and procedures to the superintendent.
- The board sets annual goals and keeps those goals at the forefront of all board and district decisions throughout the year.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Part 1. Performance Standards

Standard 3: COMMUNITY RELATIONS

The board establishes and promotes effective two way communication with parents, students, staff and community members.

Indicators:

- The board and individual board members demonstrate respect and cooperation in their relationships with the community and staff.
- The board works with the superintendent to seek and receive input from citizens on matters relating to the school district using an agreed upon process.
- The board has collaboration agreements with local and state agencies.
- The board communicates with the community using forums, groups, the media and/or other vehicles following agreed upon procedures.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Part 1. Performance Standards

Standard 4: CULTURAL RESPONSIVENESS AND EDUCATIONAL EQUITY

The board develops and promotes understanding and awareness of cultural diversity and ensures fair and equitable policies, practices and educational opportunities for all members of the educational community.

Indicators:

- Board outreach and community engagement activities accommodate cultural differences in values and communication.
- The board actively encourages and expects the superintendent to facilitate the participation of culturally diverse groups.
- The board has a process to review policies for cultural, racial and ethnic bias.
- Board members approach decision making from multiple perspectives, asking questions regarding the impact of each decision on diverse cultures.
- District staff is representative of the community.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Part 1. Performance Standards

Standard 5: ACCOUNTABILITY AND PERFORMANCE MONITORING

The board constantly monitors progress towards district goals and compliance with written Board policies using data as the basis for assessment.

Indicators:

- The board regularly conducts a self-evaluation to monitor its performance.
- The board models a culture of high expectations throughout the district.
- The board's priority and focus are on curriculum, student achievement, and student success.
- The board appropriates resources based on student achievement priorities.
- The board supports reward, consequence, and recognition systems to encourage high levels of staff and student achievement.
- Student results are measured against expectations set by district standards.
- The board and all stakeholders clearly understand, and are held accountable for, their roles and responsibilities in creating and supporting a culture of high expectations throughout the system.
- The board uses data to identify discrepancies between current and desired outcomes.
- The board identifies and addresses priority needs based on data analysis.
- The board communicates to the public how policy decisions are linked to student achievement data.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Part 1. Performance Standards

Standard 6: BOARD OPERATIONS – Meetings

Board meetings are effective, efficient, orderly and respectful. The board members focus on the policy and governance roles of the board.

Indicators:

- The agenda is properly posted and developed according to board policy.
- Board members know how to add or change agenda items both before and during a meeting and do so in a clear, constructive manner that does not allow for surprises.
- The board agenda reflects the goals, policies and appropriate governance role of the board and is followed by the board.
- The board has procedures in place to allow for public input in a respectful manner.
- The chair runs an orderly meeting, with clear instructions and directions to the public as well as board members.
- The board discusses only those topics that the majority of board members wish to take up.
- Everyone in attendance can clearly hear board discussion.
- Board discussions are effective and result in clear decisions.
- Minutes properly record actions of the board and are maintained as required by the public records law.
- Board members respect the confidentiality of executive sessions.
- Board members do not surprise the administration or fellow board members at meetings.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Part 1. Performance Standards

Standard 7: BOARD OPERATIONS – Board member communications

Board members are all kept equally fully informed on matters of board business, and communicate with each other in a respectful and lawful manner.

Indicators:

- Board members all receive the same information from the district office on matters of board business.
- Board members share information appropriately through the chair between meetings and do not surprise each other in public.
- Board members communicate with each other in a respectful manner.
- Board members respect the right of the public to observe discussion of board and district business by board members.
- All deliberation and discussion between board members is held at properly posted public meetings.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Part 1. Performance Standards

Standard 8: BOARD OPERATIONS – Board-staff relations

Board members are respectful of staff members in all communications and follow board- staff communication policy and procedures.

Indicators:

- The board recognizes and protects the chain of command.
- The board works with the superintendent to provide a process, and the board follows that process, to receive input from the staff in decision-making on significant issues where staff input is appropriate.
- Board members treat staff members in a respectful manner at all times.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Part 1. Performance Standards

Standard 9: BOARD OPERATIONS – Board-superintendent relations

The board and superintendent have an established operating agreement, treat each other honestly and respectfully and communicate openly in a professional manner.

Indicators:

- The board supports the school administration before critical groups and individuals in the community.
- The board reserves statements critical of the superintendent's actions, and evaluation of the superintendent for executive sessions.
- Board members fully inform the superintendent of situations arising in the district that impact the district.
- Board members do not interfere in district operations, and fully delegate and respect the delegations of, operational decisions to the superintendent and administration.
- Board members do not avoid difficult decisions when requested or required to take a position.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Part 1. Performance Standards

Standard 10: VALUES, ETHICS AND RESPONSIBILITY FOR SELF

The board, collectively and individually, takes full responsibility for Board activity and behavior, the work it chooses to do and how it chooses to do the work.

Indicators:

- The board polices its own members when they step outside of board policy and agreements.
- The board leads the district with clear goals, policies and expectations and does not expect others to interpret the board's intent.
- Board members do not participate in discussion or deliberation of those topics which may result in a decision which might bring them personal benefit or avoidance of a detriment.
- Board deliberations and actions are limited to board work, not staff work.
- Board members only exercise their authority as a board of the whole at properly posted meetings.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Part 1. Performance Standards

Standard 11: BOARD SYSTEMATIC IMPROVEMENT

The board participates in annual training and professional development, and at least annually participates as a team with the superintendent in a team building retreat focused on assessment and goals.

Indicators:

- Each board member participates in training and professional development available through OSBA conferences, conventions, workshops or online.
- The board annually evaluates its performance in fulfilling the board's duties, responsibilities, and the board's ability to work as a team.
- The Board and Superintendent meet in a retreat environment to review:
 - Progress made on, and revision of, action plans to accomplish the district's vision/philosophy/goals.
 - The strengths and improvements needed in the district.
 - Any compelling problem(s) or emerging issue(s).
 - Trends, opportunities, and anticipated challenges in the school district.
 - Board leadership and educational philosophy and performance.
 - Board/superintendent operational agreements and evaluation documents.

Board performance for this standard:

- 0 UNACCEPTABLE**
- 1 NEEDS IMPROVEMENT**
- 2 GOOD**
- 3 EXCELLENT**
- 4 OUTSTANDING**

Comments:

Fairfield-Suisun Unified School District
PROTOCOLS AND PROCEDURES



Governing Board Self-Evaluation Protocol #16

Guiding Principles

- In order to function as an effective Governance Team, the Board should annually evaluate and quarterly assess its own performance in working together as a team.
- Each member should contribute by assessing his or her view of the Board's performance.
- The Board will utilize the self-evaluation meeting to develop goals for strengthening Board performance, and will determine success indicators for the next year's self-evaluation.

Board Performance Assessment

1. On an annual basis, the Board shall meet in a stand-alone, two hour special meeting to consider its effectiveness and efficiency as a Board. The Governing Board Self-Evaluation Survey (Attachment #1) shall be used as a guideline to cover the range of responsibilities of the Board/Governance Team.
2. Three weeks prior to the annual self-evaluation special meeting of the Governing Board, the Board Secretary shall distribute electronically the Governing Board Self-Evaluation Survey.
3. The Governing Board Self-Evaluation Survey must be completed by individual members, and submitted to the Board Secretary two weeks prior to the special meeting.
4. Compiled survey results will be provided to the Board and public 72 hours in advance of the special meeting of the Governing Board.
5. Individual Board members will review the survey results and come prepared to discuss commendations and areas of growth.
6. The Governing Board Self-Evaluation Meeting shall be structured as follows:
 - a. Review summary data from the Governing Board Self-Evaluation Survey.
 - b. Discuss and reach consensus on the top three commendation areas and on two areas of growth.
 - c. Discuss and reach consensus on one goal and corresponding growth indicator(s) for each identified area of growth to be addressed in the upcoming year.

7. All Board members should be cognizant of time during this special meeting, so that goals and success indicators can be developed. If all three steps of the Board Self-Evaluation are not completed at the conclusion of two hours, the meeting will be extended.
8. The Board President completes the Governing Board Self-Evaluation Consensus Template (Attachment #2) and agendaizes the goals and success indicators for adoption at the next regularly scheduled meeting of the Board.
9. The goals and success indicators are placed quarterly on regularly scheduled Board meeting agendas to discuss progress toward goal attainment. Additionally, they are reviewed at the annual self-evaluation meeting.

Adopted: November 15, 2012

Revised: June 26, 2014

Revised: May 28, 2015

Revised: December 10, 2015

Board Self-Evaluation (Attachment #1)

The primary responsibilities of the Board are to set a direction for the District, provide a structure by establishing policies, provide support, ensure accountability, and provide community leadership on behalf of the District and public education. To fulfill these responsibilities, there are a number of specific jobs that effective boards must carryout.

In order to function as an effective governance team, the Board will annually evaluate its own performance in working together as a team. The Board will review the summary data from this survey during a Special Board Meeting that is dedicated to the Governing Board Self-Evaluation.

Base your responses on your evaluation of the Governance Board, not individual Board members.

* Required

1. As a Governing Board, we _____. *

This question will specifically ask about one of the two goals and success indicators identified during the previous Board Self-Evaluation process. As goals were not established during the 2015 Board Self-Evaluation, this question will not be asked during the 2016 Board Self-Evaluation.

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

2. As a Governing Board, we _____. *

This question will specifically ask about one of the two goals and success indicators identified during the previous Board Self-Evaluation process. As goals were not established during the 2015 Board Self-Evaluation, this question will not be asked during the 2016 Board Self-Evaluation.

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

3. As a Governing Board, we involved the community, parents, students, and staff in developing a common vision for the District that was focused on learning and achievement and responsive to the needs of all students. *

- ☐ Always

- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

4. As a Governing Board, we adopted, evaluated, and updated policies consistent with the law and the District's vision and goals. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

5. As a Governing Board, we maintained accountability for student learning by adopting the district curriculum and monitoring student progress. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

6. As a Governing Board, we supported the superintendent so that the vision, goals, and policies of the District can be implemented. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

7. As a Governing Board, we conducted regular and timely evaluations of the superintendent based on the vision, goals, and performance of the District, and ensured that the superintendent holds District personnel accountable. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

8. As a Governing Board, we adopted a fiscally responsible budget based on the District's vision and goals, and regularly monitored the fiscal health of the district. *

- ☐ Always
- ☐ Often
- ☐ Rarely

- ☐ Never
- ☐ Unsure

9. As a Governing Board, we ensured that a safe and appropriate educational environment is provided to all students. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

10. As a Governing Board, we established a framework for the District's collective bargaining process and adopted responsible agreements. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

11. As a Governing Board, we provided community leadership on educational issues and advocated on behalf of students and public education at the local, state, and federal levels. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

12. As a Governing Board, we kept the District focused on learning and achievement for all students. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

13. As a Governing Board, we communicated a common vision. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

14. As a Governing Board, we operated openly, with trust and integrity. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

15. As a Governing Board, we governed in a dignified and professional manner, treating everyone with civility and respect. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

16. As a Governing Board, we governed with Board-adopted policies and procedures. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

17. As a Governing Board, we took collective responsibility for the Board's performance. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

18. As a Governing Board, we annually evaluated our own effectiveness. *

- ☐ Always
- ☐ Often
- ☐ Rarely
- ☐ Never
- ☐ Unsure

19. As a As a Governing Board, we ensured opportunities for the diverse range of views in the community to inform Board deliberations. *

- ☐ Always
- ☐ Often
- ☐ Rarely

- ☐ Never
- ☐ Unsure

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Fairfield-Suisun Governing Board Self-Evaluation

Attachment #2

Governing Board Self-Evaluation Consensus Template

To be completed by the Governing Board President as a result of the results of the Individual Board Member Self-Evaluation Template.

The top three things our Governing Board does well are as follows:

1.

2.

3.

Two areas in which our Board needs to set as growth areas:

1.

2.

Growth area 1: _____

Suggested Goal:

Suggested Success Indicator(s):

Growth area 2: _____

Suggested Goal:

Suggested Success Indicator(s):

9.04

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION - BOARD OF EDUCATION

To the Board of Trustees:

Date: **October 10, 2019**

Agenda Item:

9.04

Subject:

DISCUSSION/CONSIDERATION/ACTION – Approve Response to Santa Clara County Civil Grand Jury

On June 21, 2018, the Santa Clara County Civil Grand Jury issued its report titled “Alum Rock School District Board: Time to Put ‘Trust’ Back in Trustee”. A copy of the Grand Jury Report is included. The Grand Jury Report made 7 separate findings and 8 separate recommendations to the District for which the Grand Jury requested written responses from the District.

At the October 11, 2018, Board meeting, the Board in a 4-1-1 vote (Members Herrera, Tran and Marquez voting “yes”, Member Quintero voting “no”, and Member Martinez absent) authorized the District’s official written response to the Grand Jury Report. That response was sent by the District’s former counsel Leal & Trejo. A copy of the Board-approved response is included.

The Grand Jury’s Recommendation #5 was:

“The Board should obtain comprehensive Brown Act training from a qualified third party, by December 31, 2018, and within 30 days of the swearing in of new Trustees.”

The Board’s response to the Grand Jury’s Recommendation #5 was as follows:

“The members of the governing Board already participate in Brown Act trainings from statewide and national organizations, including, but not limited to the California School Boards Association and the National School Board’s Association. The Board will continue taking such trainings and will encourage newly elected Board members to do the same. Legally, this Board cannot impose the requirement on future elected Board members. The permissible portion of this recommendation has already been implemented. The District does agree that District staff and all consultants assigned to work for the District, including but not limited to the SCCOE fiscal advisors should receive training on the Brown Act.”

The Grand Jury’s Recommendation #6 was:

“All current Board members should sign a declaration saying they have read, understood and will comply with the Board’s by-Laws, and any subsequent

revisions, by Sept. 30, 2018. Future Trustees should sign the same declaration within 30 days of their swearing in.”

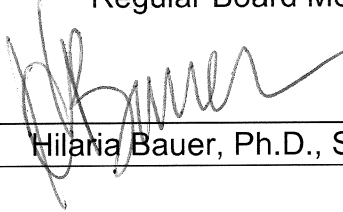
The Board-approved response to recommendation #6 was:

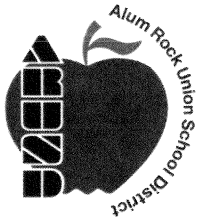
“The members of the governing Board already comply with and are legally required to comply with their own adopted By-Laws. Signing an arbitrary declaration, by an arbitrary date, saying they will do what they must do by law does not add further force or effect to a legally required mandate. This governing Board does not have the legal authority to impose conditions for holding office for future Board members. There is no need to implement this recommendation given that the compliance portion of the recommendation has already been implemented.”

In a letter dated September 19, 2019, to Board President Linda Chavez, the foreperson of the Grand Jury (Karla Fukushima) requested proof of Brown Act training for each current Board member, District staff and consultant, and further requested an explanation of the District’s method, or methods, for ensuring compliance with the By-Laws, including any relevant materials. The Grand Jury has requested a response no later than October 19, 2019.

Attached for consideration by the Board is a draft response to the Grand Jury.

Recommendation: The Board is requested to consider and approve a response to the September 19, 2019, letter from the Santa Clara County Civil Grand Jury.

To the Board of Trustees:	Meeting: October 10, 2019 Regular Board Meeting
Recommend Approval	
_____ Agenda Placement	_____ Hilaria Bauer, Ph.D., Superintendent



ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

2930 Gay Avenue, San José, CA 95127 · Phone: 408-928-6800 · Fax: 408-928-6416 · www.arusd.org

October 11, 2019

Karla Fukushima, Foreperson
2019-2020 Santa Clara County Civil Grand Jury
Superior Court Building
191 North First Street
San Jose, CA 95113

Re: Alum Rock Union Elementary School District
Response to Letter dated September 19, 2019

Dear Ms. Fukushima:

Thank you for your letter dated September 19, 2019, to Board President Linda Chavez. In your letter you requested proof of Brown Act training for each current Board member, District staff and consultant, and further requested an explanation of the District's method, or methods, for ensuring compliance with the Board's Bylaws, including any relevant supporting materials. The Grand Jury has requested a response and update no later than October 19, 2019. Please accept this as the Board-approved response to your September 19 letter.

BACKGROUND

On June 21, 2018, the Santa Clara County Civil Grand Jury issued its report titled "Alum Rock School District Board: Time to Put 'Trust' Back in Trustee". The Grand Jury Report included that the Grand Jury "found the Board, controlled by a three-Trustee bloc" had "failed to meet its governance standards and its fiduciary responsibility." The report identified the three-Trustee bloc as Dolores Marquez, Esau Herrera and Khanh Tran.

In its June 2018 Report the Grand Jury made 7 separate findings and 8 separate recommendations to the District for which the Grand Jury requested written responses from the District.

At its October 11, 2018, the Board, by a 3-1-1 vote (Members Herrera, Tran and Marquez voting "yes", Member Quintero voting "no", and Member Martinez absent) authorized the District's official written response to the Grand Jury Report. That response had been prepared by former District counsel Leal & Trejo and was dated and sent to the Grand Jury on October 18, 2019. A copy of the Board-approved response is included.

The Grand Jury's Recommendation #5 in its report was:

"The Board should obtain comprehensive Brown Act training from a qualified third party, by December 31, 2018, and within 30 days of the swearing in of new Trustees."

The District's response to the Grand Jury's Recommendation #5 was as follows:

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

"The members of the governing Board already participate in Brown Act trainings from statewide and national organizations, including, but not limited to the California School Boards Association and the National School Board's Association. The Board will continue taking such trainings and will encourage newly elected Board members to do the same. Legally, this Board cannot impose the requirement on future elected Board members. The permissible portion of this recommendation has already been implemented. The District does agree that District staff and all consultants assigned to work for the District, including but not limited to the SCCOE fiscal advisors should receive training on the Brown Act."

The Grand Jury's Recommendation #6 in its report was:

"All current Board members should sign a declaration saying they have read, understood and will comply with the Board's by-Laws, and any subsequent revisions, by Sept. 30, 2018. Future Trustees should sign the same declaration within 30 days of their swearing in."

The Board-approved District response to recommendation #6 was:

"The members of the governing Board already comply with and are legally required to comply with their own adopted By-Laws. Signing an arbitrary declaration, by an arbitrary date, saying they will do what they must do by law does not add further force or effect to a legally required mandate. This governing Board does not have the legal authority to impose conditions for holding office for future Board members. There is no need to implement this recommendation given that the compliance portion of the recommendation has already been implemented."

UPDATE OF BOARD STATUS AND KEY EVENTS

As noted, the June 2018 Grand Jury report focused primarily on the actions of the three-Trustee bloc, including Dolores Marquez, and then-Board members Esau Herrera and Khanh Tran.

In November 2018, Esau Herrera and Khan Tran were not re-elected to the Board of Trustees. At that election, two new Board members were elected by the voters and assumed office in December 2018: Linda Chavez (current Board President) and Ernesto Bejarano (current Board Vice President).

In December 2018 then-Board Member Karen Martinez resigned from her position on the District's Board of Trustees.

Also in December 2018, the District terminated its remaining agreements with Del Terra Real Estate Services, Inc., the District former bond program manager and construction manager that was also the subject of the Grand Jury report.

In January 2019, the Board, following a public selection process, appointed Corina Herrera-Loera to the Board to fill the Board vacancy resulting from Karen Martinez's resignation.

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

As a result, the District's Board of Trustees is now comprised of a majority of members (Chavez, Bejarano and Herrera-Loera) who were not in office at the time the Grand Jury report was issued or when the District's response was approved by the "three-Trustee bloc" (Dolores Marquez, and then-Board members Esau Herrera and Khanh Tran).

RESPONSE TO SEPTEMBER 19 LETTER

District's Response to Recommendation #5:

With respect to the Grand Jury's recommendation and the District's response, you have requested proof of Brown Act training for each current Board member, District staff and consultant. This documentation should clearly identify the date, time and place of training sessions; the qualified third-party compliance professional used; and the dollar amount of stipends or other compensation paid to current Board members for attendance at Brown Act training, if any.

Board President Linda Chavez attended a Brown Act training workshop at the 2018 California School Boards Association (CSBA) Annual Education Conference which was held November 28 - December 1, 2018, in San Francisco, California. Ms. Chavez is also completing the Masters in Governance program through CSBA, and she expects to complete all 5 governance workshops through that program by November 2019.

On February 28, 2019, the Board held a special meeting and approximately 3 hour training session which included Brown Act, governance and ethics training. That public training session was held at the District's administrative offices and was provided by attorney Catherine Groves, Esq., Senior Counsel with the Hanson Bridgett, LLP law firm. All Board members were present for that training. The training was also attended by Superintendent Hilaria Bauer, Ph.D., Rene Sanchez, Assistant Superintendent of instructional Services, Kolvira Chheng, Assistant Superintendent of Business Services, and Marie Sanchez, Senior Executive Assistant, Superintendent's Office. Except for the regular monthly stipend paid to Board members pursuant to Education Code section 35120, no compensation or stipend was paid to any Board member for attendance at that training session. A copy of the minutes for that February 28 training session are attached.

On September 7, 2019, from 8:30 a.m. – 2:00 p.m., the Board held a Special Meeting and Board Training session. The training that day included a 2-hour training session on the Brown Act. The training was held at the District's administrative offices and was provided by Rogelio M. Ruiz, Esq. of the Rehon & Roberts, APC firm, which is legal counsel to the District. That meeting and training session also included a review of the roles of the Board of Trustees and the role of the Superintendent in the governance and operation of the District, and a review of the Board Bylaws. That training was attended by all Board members. That meeting and training was open to the public and was also attended by Superintendent Hilaria Bauer, Ph.D., Rene Sanchez, Assistant Superintendent of instructional Services, Kolvira Chheng, Assistant Superintendent of Business Services, Carlos Moran, Assistant Superintendent of Human Resources, and Maribel Carrillo, Senior Executive Assistant, Superintendent's Office. A copy of the published agenda for the September 7, 2019, Training Session is attached. Except for the regular monthly stipend

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

paid to Board members pursuant to Education Code section 35120, no compensation or stipend was paid to any Board member for attendance at that training session.

On September 14, 2019, from 8:30 a.m. – 2:00 p.m., the Board held a Special Meeting and Board Training session. The training that day included a 2-hour review of District business operations and contracting practices provided by District Counsel Rogelio Ruíz, and a presentation and dialogue regarding the attributes of an exemplary district, as well as a discussion surrounding strategic planning, establishing a vision for the District, and the development of a Board Governance Handbook. The September 14 meeting and training session was attended by all but one trustee (Dolores Marquez was absent) and was also attended by Superintendent Hilaria Bauer, Ph.D., Rene Sanchez, Assistant Superintendent of instructional Services, Kolvira Chheng, Assistant Superintendent of Business Services, Carlos Moran, Assistant Superintendent of Human Resources, and Maribel Carrillo, Senior Executive Assistant, Superintendent's Office. A copy of the published agenda for the September 14, 2019, Board meeting and training session is attached.

District Response to Recommendation #6:

With respect to the District's response to the Grand Jury's recommendation #6, you have requested that the District provide an explanation of the ARUSD's method, or methods, for insuring compliance with the By-Laws and to include any relevant supporting materials.

Education Code 35010(b) "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." The Board's bylaws for its own governance are contained in Board Bylaws 9000 – 9400 and are available through the District's website (<https://www.arusd.org/board-of-trustees/board-policies>).

As noted above, on February 28, 2019, the Board held a special meeting and approximately 3 hour training session which included Brown Act, governance and ethics training. That public training session was held at the District's administrative offices and was provided by attorney Catherine Groves, Esq., Senior Counsel with the Hanson Bridgett, LLP law firm. All Board members were present for that training. A copy of the training materials presented and discussed are attached.

At the Board's regular meeting held on June 27, 2019, the Board adopted a "Board of Trustees' Code of Conduct". A copy of the Board-approved Code of Conduct is attached.

Also as noted above, on September 7, 2019, the Board held a Special Meeting and Board Training session which included training and review of the roles of the Board of Trustees and the role of the Superintendent in the governance and operation of the District, and the Board Bylaws. All Board members were in attendance at that training session and each of the Board members was provided a copy the Board Bylaws and proposed updates and revisions at that time. A copy of the materials provided at that training session is included.

The District administration with the support of legal counsel has undertaken a review and update of all Board Bylaws. The proposed amended bylaws were presented to the Board for a "first reading" at the Board's September 12, 2019, Board meeting. A copy of those agenda

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

Re:
Page 5 of 5
October 4, 2019

materials are attached. The draft proposed amended bylaws were presented for a second reading, and adopted, at the Board's October 10, 2019, regular meeting. A copy of the amended Board Bylaws adopted by the Board are attached.

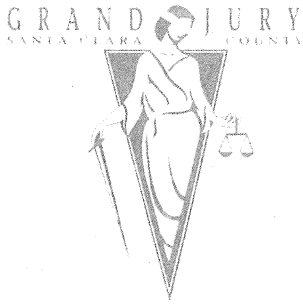
The Board of Trustee's hopes that the above information and attached materials demonstrate the Board's commitment to restoring transparent and responsible governance to the Alum Rock Union Elementary School District.

Sincerely,

Linda Chavez
President of the Board of Trustees,
Alum Rock Union Elementary School District
On behalf of the Board of Trustees

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



Sent by email and by USPS

September 19, 2019

Linda Chavez
Board President
Alum Rock Union Elementary School District
2930 Gay Avenue
San Jose, California 95127
Email: linda.chavez@arUSD.org

Dear Ms. Chavez:

As you know, the 2017-18 Civil Grand Jury of Santa Clara County issued a report, *Alum Rock Union Elementary School District: Time to Put "Trust" Back in Trustee*, dated June 21, 2018. The ARUSD response, dated October 18, 2018, stated that the District had implemented or would implement certain recommendations made in that report.

So that we may verify implementation, the 2019-20 Santa Clara County Civil Grand Jury is requesting the following materials:

- Regarding Recommendation 5, ARUSD responded "members of the governing Board already participate in Brown Act trainings" and "District staff and all consultants assigned to work for the District [...] should receive training on the Brown Act." Please provide proof of Brown Act training for each current Board member, District staff and consultant. This documentation should clearly identify the date, time and place of training sessions; the qualified third-party compliance professional used; and the dollar amount of stipends or other compensation paid to current Board members for attendance at Brown Act training, if any.
- Regarding Recommendation 6, ARUSD responded "members of the governing Board already comply with and are legally required to comply with their own adopted By-Laws." Please provide an explanation of the ARUSD's method, or methods, for insuring compliance with the By-Laws; include any relevant supporting materials.

We would appreciate this information be sent in electronic form to the attention of the Grand Jury's Continuity Committee at cgj@scscourt.org no later than 30 days from the date of this letter.

If you have any questions, contact me at kfukushima.cgj@scscourt.org or 408-931-5760.

Respectfully,

A handwritten signature in cursive script that reads "Karla Fukushima".

Karla Fukushima, Foreperson

2019-2020 Santa Clara County Civil Grand Jury

**Alum Rock School District Board:
Time To Put 'Trust' Back In Trustee**



**2017-2018 Civil Grand Jury
of Santa Clara County**

June 21, 2018

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SUMMARY

Parents and residents of the Alum Rock Union Elementary School District (District) have criticized the actions of the District Board of Trustees (Board) for decades. The Santa Clara County Civil Grand Jury (Grand Jury) has issued reports on the District as far back as 1995.

The 2017-18 Grand Jury found the Board, controlled by a three-Trustee bloc, has failed to meet its governance standards and its fiduciary responsibility.

Many of the recent concerns question the Board and the District's relationship with contractor Del Terra Real Estate Services (Del Terra).

In September 2017, the Grand Jury received a complaint from a resident of the District. The new complaint focused on the actions of a three-Trustee bloc of the five-person Board.

By the time the Grand Jury received the complaint, the Board's actions regarding the Del Terra contracts and use of bond proceeds had already been questioned by District staff, independent consultant Ryland, the Santa Clara County Office of Education (SCCOE) and the State Fiscal Crisis Management Assistance Team (FCMAT). In addition, the Santa Clara County District Attorney (DA) had begun an investigation. The Securities and Exchange Commission (SEC) would soon begin its own investigation, and the District's bond rating would soon be lowered.

Three Trustees who frequently vote as a bloc have lost the community's trust. Elected officials including State Sen. Jim Beall and San Jose Mayor Sam Liccardo are asking for further investigations of the Trustees' actions. The Grand Jury recommends the three Trustees — Dolores Marquez, Esau Herrera and Khanh Tran — immediately resign their seats on the Board.

In addition, the District should terminate its contracts with Del Terra, and issue Requests for Proposals (RFP) to hire separate Construction Managers and Project Managers. Due to Brown Act open-meeting violations and the failure to follow Board By-Laws, the Grand Jury also recommends that Trustees receive comprehensive training on governance.

BACKGROUND

The District serves more than 10,000 students in grades K-8 in 15 elementary schools, eight middle schools and two K-8 schools in East San Jose. District voters have approved two

recent bond measures, J in 2012 and I in 2016¹, for school repairs, upgrades and new construction.

These measures granted the Board authority to issue a total of \$265 million in bonds. The Board approved contracts with Del Terra to act as both Program Manager and Construction Manager for the bond projects. Program Managers plan and oversee projects from start to finish. Construction Managers supervise daily activities for construction projects.

Chronology of Key Events

- Sept. 5, 2016 — The District Chief Business Officer (CBO) issues a report to the District Superintendent that addresses possible fraudulent activity related to billings by contractor Del Terra.
- Oct. 13, 2016 — CBO report is presented to Board in closed session, but Trustees take no action.
- Oct. 13, 2016 — District-hired consultant Ryland releases report that also addresses the Del Terra contract and reaches similar conclusions as the report by senior staff about possible fraudulent activity. The Board refuses to discuss this report.
- October 2016 — In response to the CBO raising the issue about Del Terra's billing practices in the written report, Trustee Herrera tells the CBO that "by the time I am done with you, you won't recognize your name." FCMAT will later report that staff members at times felt threatened by Trustees.
- October 2016 – As reported by FCMAT, the Board tells the District Superintendent to reissue the Request for Proposal (RFP) for the Clean Energy contract to allow Del Terra to bid, though a number of contractors had bid on the RFP by the deadline.
- Oct. 13, 2016—The District Superintendent recommends the Board not approve a contract for Measure I Program Management and Construction Management without going through a Request for Qualifications (RFQ) process.
- Oct. 19, 2016 — The Board directs staff to prepare Measure I and Measure J Program Management and Construction Management contracts to Del Terra without using an RFP/RFQ process.
- Nov. 10, 2016 — The Board approves Measure I and Measure J Program Management and Construction Management contracts for Del Terra.
- November 2016 — The County Superintendent of Schools receives both the CBO and consultant Ryland reports from an anonymous source.

¹ Bond Measure J preceded Measure I.

TIME TO PUT 'TRUST' BACK IN TRUSTEE

- December 2016 — As per the FCMAT report, the Board instructs District staff to reissue an RFP allowing an architect working with Del Terra to bid on a contract, though the District had received qualified bids for the original RFP.
- Dec. 8, 2016 — Trustees elect Tran as Board President.
- June 9, 2017 — FCMAT releases its 142-page report.² It found “sufficient evidence to demonstrate that fraud, misappropriation of funds and/or assets, or other illegal activities may have occurred in the specific areas reviewed.”
- June 9, 2017 — FCMAT report details FPPC³ Form 460s indicated that more than \$30,000 was contributed to the Measure I bond campaign by Del Terra, and \$55,000 by architectural firms that have done work for Del Terra.
- June 2017 — Multiple media sources report the DA Major Fraud Unit is investigating the District and Del Terra.⁴
- June 28, 2017 — State Department of Education revokes the District’s fiscal independence, effective July 1, 2017.
- Aug. 30, 2017 — Trustees elect Herrera as Board President.
- Sept. 29, 2017 — S&P Global Ratings lowers the District’s bond rating four levels from AA- to BBB+.
- October 2017 (or earlier) — Security and Exchange Commission opens an investigation.
- Nov. 8, 2017 — District legal consultant Rogelio Ruiz opines “that Del Terra had a financial interest in the 2016 Measure J CM agreement and the 2016 Measure I Program and Construction Management Agreement prohibited by section 1090.” Ruiz “strongly” recommends the Board promptly consider terminating Del Terra Measures J and I Construction Manager contracts, but the Board takes no action. On Nov. 9, 2017, the Board votes to waive the attorney-client privilege and releases the Ruiz memorandum.
- Nov. 9, 2017 — The Board votes 3-2, with the bloc in the majority, to move forward with two multi-purpose buildings, even though the District Superintendent and staff recommend against proceeding because of lack of funding and ongoing investigations. Trustee Tran states that the District should go forward even if deficit spending is required.
- Nov. 16, 2017 — Trustees elect Andres Quintero as Board President.
- Jan. 11, 2018 — The Board votes 3-2, with the bloc in the majority, to hire a new District general counsel without vetting the six RFQ proposals. The firm chosen, which was one of those that responded to the RFQ, had not submitted any letters of recommendation.

² <http://fcmat.org/wp-content/uploads/sites/4/2017/06/Alum-Rock-UESD-final-report.pdf>

³ California Fair Political Practices Commission

⁴ <https://www.mercurynews.com/2017/06/09/alum-rock-audit-fear-of-fraud-mismanagement-involving-school-district/>

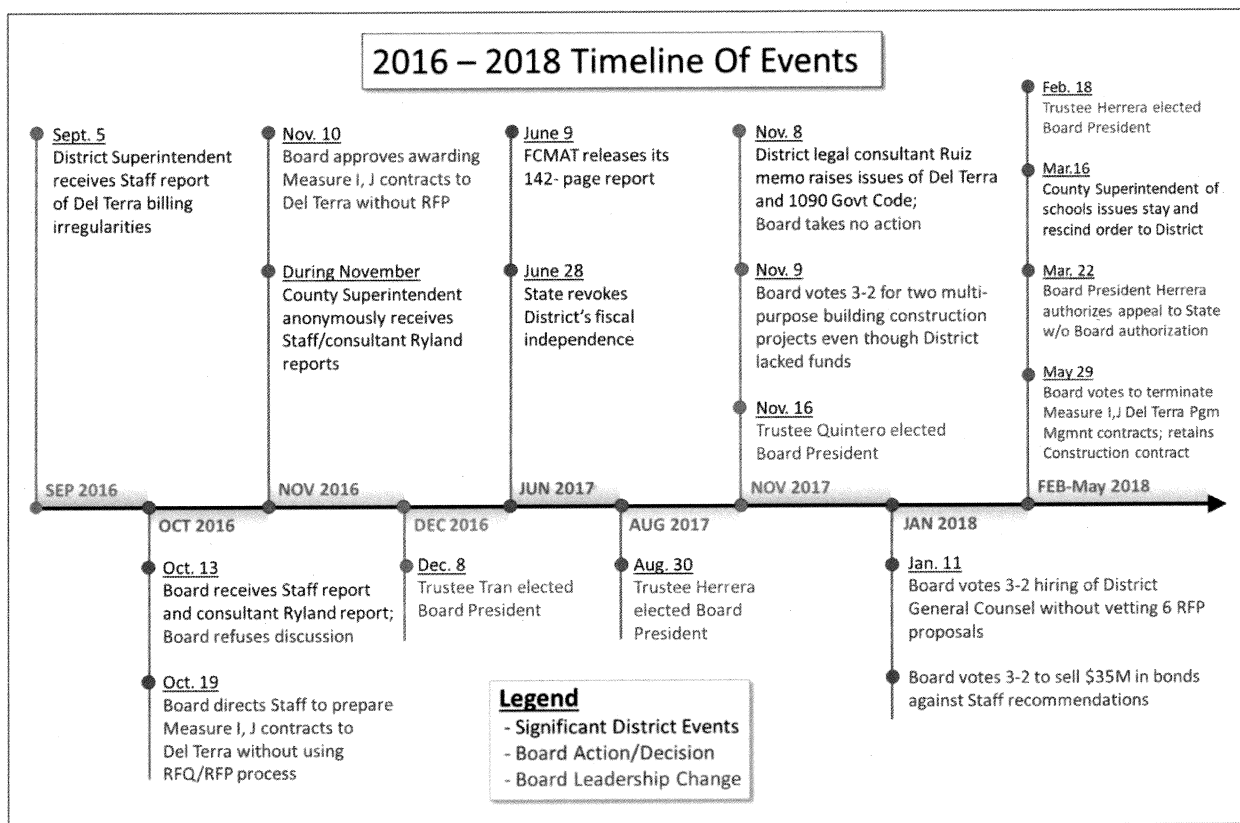
TIME TO PUT 'TRUST' BACK IN TRUSTEE

- Jan. 11, 2018 — Board votes 3-2, with the bloc in the majority, to sell \$35 million in bonds, counter to staff's advice and despite the lower bond rating.
- Feb. 8, 2018 — Trustees elect Herrera as Board President.
- Feb. 8, 2018 — District Superintendent requests job performance evaluation be conducted in public session.⁵
- Feb. 27, 2018 — At a special Board meeting, 33 residents speak in support of the District Superintendent, many pointing out that the Superintendent has requested a public performance evaluation. Trustees choose to conduct the evaluation in closed session.
- March 16, 2018 — County Superintendent of Schools issues a stay and rescind order that transfers financial control from the District to the SCCOE. The order cites governance and fiscal management issues.
- March 22, 2018 — Board President Herrera authorizes an appeal of the stay and rescind order to the State Department of Education (DOE) without authorization of the Board.
- April 5, 2018 — The DOE denies the appeal as unauthorized and untimely.
- April 13, 2018 — The SCCOE's fiscal advisor reports that the Board committed a closed-session Brown Act violation the previous day by failing to give advance notice of charges against an employee, presumably the Superintendent.
- May 29, 2018 — Board votes to terminate the Measure I and J Program Management contracts held by Del Terra but retains the Construction Management contracts.
- October 2017-May 2018 — At every Board meeting, the agenda includes a closed-session item labeled "Employee Discipline, Dismissal or Release." The Board has authority only over one employee, the Superintendent.
- 2017-2018 — Trustees violate Board By-Laws by electing a Board President multiple times in one year.

⁵ <https://www.arusd.org/cms/lib/CA01001158/Centricity/Domain/11/February.8.%202018.Reg.Bd.Mtg.FINAL.pdf>

TIME TO PUT 'TRUST' BACK IN TRUSTEE

Figure 1: 2016 – 2018 Timeline of Events



METHODOLOGY

Grand Jury members attended a dozen Alum Rock School Board meetings covering nearly 75 hours, with many ending after midnight. The Grand Jury attended every meeting from October 2017 until June 2018. Jurors observed how trustees interacted with each other and the community. In addition, the Grand Jury visited all but one of the District's 25 schools.

The Grand Jury interviewed more than 25 local, county and state school officials and former officials.

The Grand Jury also reviewed hundreds of pages of published documents. These included the 142-page report by the Fiscal Crisis Management Assistance Team (FCMAT).

Additionally, the Jury reviewed a half-dozen legal opinions that various watchdog agencies had provided regarding District and Board actions and inactions. The Grand Jury kept up to date on SCCOE directives and numerous newspaper articles that have been written about the District and Board.

DISCUSSION

Del Terra Contracts

Public entities are generally obligated to follow a competitive bidding process for contracts.

The Board awarded Program Management and Construction Management contracts to Del Terra without using a competitive process (RFP/RFQ) despite recommendations against such awards from at least two District CBOs, consultant Ryland, FCMAT and District legal consultant Rogelio Ruiz. For public works, in general, the RFP process involves public advertisement for the submission of sealed bids, the public opening of bids, and the award of contracts to the lowest responsible bidder.

There are permitted exceptions to this general rule. Trustees said they believed Del Terra was doing a good job and that they saw no need to seek a competitive RFP/RFQ. The Grand Jury offers no opinion on whether the Board was obligated to follow the RFP/RFQ process. Public bidding encourages governmental entities to open the contracts process to public bidding to eliminate favoritism, fraud and corruption; avoid misuse of public funds; and stimulate advantageous market place competition.⁶

The Board did not use a competitive RFP/RFQ process in awarding Del Terra the Construction Manager contract for Measure J, on May 8, 2014, according to Ruiz and FCMAT. This occurred despite the District counsel's warning at the time that such an action is contrary to terms of the Program Manager agreement, puts the District at a pricing disadvantage, and leaves the District open to serious criticism from the public, potentially auditors and other stakeholders for questionable contracting practices.

Two years later, on Nov. 10, 2016, the Board approved Construction and Program Management agreements with Del Terra for Measure I and a retroactive extension for Measure J, also without seeking RFP/RFQs. Board minutes show the Measure J Construction Management contract had expired on Sept. 30, 2015.

On May 29, 2018, the Board voted to terminate the Measures I and J Program Management contracts, even though the advice from Ruiz six months earlier had been to terminate the Construction Management agreements.

⁶ See e.g., Public Contracting Code Section 1100 et seq.

Chief Business Officer's Report

The District hired a new Chief Business Officer (CBO) in August 2016. Information was brought to the CBO's attention about issues with invoices submitted by Del Terra. These invoices lacked the necessary documentation. Del Terra had submitted construction management bills for the construction of a multipurpose building where construction had not begun.

The CBO investigated these concerns and on Sept. 5, 2016, drafted a report to the District Superintendent. The CBO's report concluded that the cost structure of the Construction Management and Program Management agreements favored Del Terra to the disadvantage of the District.

The CBO report concluded that a single Del Terra employee was performing both the Program Management and Construction Management roles. The CBO report also said that none of the five 2016 projects at Hubbard School, managed by Del Terra, was completed on time.

The CBO also advised that Program Management and Construction Management contracts should be put out for competitive bid via RFP or RFQ.

The Superintendent gave Board President Marquez a copy of the CBO Report in October 2016. Marquez, however, refused to read the report and refused to put a review of the report on the Board agenda.⁷

The Superintendent independently put review of the CBO's report on the Board's agenda as a closed-session item, and emailed copies of the report to all Board Trustees. The CBO presented his report at closed session⁸ on Oct. 13, 2016. The closed session became contentious, according to persons interviewed by the Grand Jury. Trustee Herrera, upset with the report, told the CBO "by the time I am done with you, you won't recognize your name." The Grand Jury could not find any action ever taken by the Board on the CBO report.

⁷ The Board President and Superintendent jointly establish agendas.

⁸ Notably, the Grand Jury did not inquire about communications made during closed-session discussions. Pursuant to Government Code section 54963(e), however, it is not a violation of the confidentiality that applies to closed session for a person to complain to the Grand Jury regarding a perceived violation of law for actions taken in closed session; express an opinion concerning the propriety or legality of actions taken by a legislative body during closed session; or disclose information that is not confidential information.

Rather, less than a month later, the Board in an open session on Nov. 10, 2016, awarded new multimillion-dollar contracts with Del Terra for both Program Management and Construction Management services for Measure I projects without using an RFP process.

Ryland School Business Consulting Report

The District Superintendent responded to the CBO Report by hiring a third-party consultant, Ryland School Business Consulting (Ryland)⁹, to independently review the Del Terra contracts and invoices. Ryland issued a report on Oct. 16, 2016, confirming the CBO's findings and making additional findings that were more critical of the Del Terra contracts than the CBO's report. Ryland found:

- Del Terra's invoices lacked detail.
- Del Terra's 6% (Construction Management) and 4% (Program Management) combined were "extremely high."
- Del Terra was both Construction Manager and Program Manager, which is not considered a best practice for proper oversight.
- The Del Terra contracts were not drafted in the District's best interest.

County Superintendent of Schools

Jon Gundry, then the County Superintendent of Schools, in November 2016, received copies of the CBO Report and the Ryland Report from an anonymous person. Based on this information, Gundry asked the State Superintendent of Instruction to engage a FCMAT team to audit Alum Rock.

The information regarding potential fraud present in the CBO and Ryland reports prompted County Superintendent Gundry to refer the matter to the DA.

Fiscal Crisis Management Assistance Team

The State Superintendent of Instruction can call on the Fiscal Crisis Management Assistance Team (FCMAT) to investigate local school districts. The independent FCMAT advises school districts on fiscal and management practices, business policies and procedures, and organizational structure. After seven months of investigation ending in June 2017, FCMAT submitted 61 recommendations to then County Superintendent Gundry.

⁹ Ryland, in business since 2004, assists school districts with financial analysis and fiscal adviser services. It has done work for the Alum Rock District previously.

TIME TO PUT 'TRUST' BACK IN TRUSTEE

Key FCMAT recommendations included:

- Follow industry best practices by using a competitive RFQ/RFP process for procuring Program Management and Construction Management
- Renegotiate all Del Terra contracts
- Require all project files and documents to be immediately turned over in an organized fashion
- Enforce all aspects of the contract scope of work
- Enforce the contract language requiring Del Terra to develop and maintain with district staff to establish an overall bond program financial management system in the area of accounting

Among its findings, FCMAT also found "sufficient evidence to demonstrate that fraud, misappropriation of funds and/or assets, or other illegal activities may have occurred in the specific areas reviewed." The areas reviewed included:

- Del Terra billing
- internal control deficiencies
- conflicts of interest
- debt repayment
- fiscal independence

The FCMAT report described the many obstacles the team encountered in its investigation, including a finance department in disarray because:

- The District had employed five CBOs in the past five years
- Its financial software was outdated
- Many staff members had resigned in recent years, resulting in a lack of institutional knowledge

FCMAT found records were missing that related to District construction projects and use of bond proceeds. FCMAT reported that "Requests for documents from Del Terra Group have gone unanswered. Del Terra's lack of cooperation regarding requests for interviews and lack of documents violate the program services agreement"

FCMAT reported that Del Terra donated \$30,000 to the Measure I bond campaign. The Board subsequently, at its Oct. 19, 2016, meeting awarded Del Terra the Measure I Program Management and Construction Management contracts without use of the RFP process. This

TIME TO PUT 'TRUST' BACK IN TRUSTEE

went against the advice of the District Superintendent and staff, who recommended the District issue an RFP.

FCMAT also reported that several architectural firms that had previously done work with the earlier Del Terra-managed Measure J bond projects had donated \$55,000 to the Measure I campaign. Del Terra later awarded some of these architectural firms Measure I bond fund contracts.

The FCMAT report explains that these donations raise questions of potential conflicts of interest between the Board and Del Terra.

On another matter, FCMAT expressed concern about how the Board regularly disregards District staff recommendations.

One example occurred at the Board's Nov. 9, 2017, meeting, where Trustees discussed at length the construction of two multi-purpose buildings using bond proceeds. The District Superintendent recommended that bond proceeds not be used until the completion of a detailed assessment of the needs of each school because of limited funds.

By 3-2 vote, with the bloc in the majority, the Board approved the projects, rejecting the Superintendent's recommendation. Trustee Tran stated in the open meeting that he was willing to go into deficit spending to fund the projects.

In another example, the Board at its Jan. 11, 2018, meeting voted to proceed with a bond sale against the advice of the District Superintendent, who wanted to wait until the midyear budget report on the District's fiscal condition.

FCMAT also noted a number of financial irregularities. The District implemented new financial strategies to correct some of these financial irregularities. The District also responded that it would complete or implement other new procedures by Oct. 31, 2017, but as of this report had failed to do many of these items.

On July 28, 2017, the Board responded to the FCMAT report. The Board wrote that the District has consistently audited the Bond program and the District's outside auditor found no problems. The Board wrote that there was no evidence of fraud.

Government Code Section 1090

California Government Code Section 1090 regulates financial self-dealing among government officials and contractors and provides for criminal prosecution and/or civil

TIME TO PUT 'TRUST' BACK IN TRUSTEE

liability and/or penalties. Section 1090 prohibits public officials from being financially interested "in any contract made by them in their official capacity, or by any body or board of which they are members." Section 1090 can apply to independent contractors and consultants who have influence and authority over the contracting decisions of a public agency.

In an Oct. 27, 2017, special meeting, the Board voted to renegotiate the contracts between the District and Del Terra in response to FCMAT's recommendations. This decision likely prompted District legal consultant Ruiz to evaluate whether there was a legal obstacle to renegotiating the contract under Section 1090.

On Nov. 8, 2017, Ruiz rendered a legal opinion that there was a "material risk that a finder of fact could reasonably conclude that the 2016 Measure J Construction Management agreement and the 2016 Measure I Program and Construction Management agreement between the District and Del Terra violate the prohibitions of Government Code Section 1090, and that any Board-approved re-negotiated agreements would also violate Section 1090." The Board, at its Nov. 9, 2017, meeting, made public Ruiz's legal opinion of the previous day.

Trustees had mixed reactions to this opinion. Trustees Martinez and Quintero were concerned about this legal opinion, but the three-Trustee bloc of Marquez, Tran and Herrera were not concerned.

Ruiz also opined that Del Terra was making or participating in the making of the contract; that Del Terra had a financial interest in the contract; and that no legal exceptions applied. He advised the District that courts have voided contracts in violation of Section 1090. Ruiz also noted that some courts have found that the contractor could not recover from the public agency any compensation for goods or services, and, further, that some offending parties have been required to return the profits.

Ruiz "strongly" recommended that the Board consider terminating the Measure J and I Construction Management agreements with Del Terra and consider possible action and possible remedies and/or correction measures regarding the existing Construction Management services agreements.

As stated above, on May 29, 2018, the Board voted to terminate Del Terra's Measures I and J Program Management contracts. The District has not publicly indicated that it will pursue legal remedies against Del Terra.

Santa Clara County Superintendent of Schools

In a letter to the District on Sept. 15, 2017, the SCCOE conditionally approved¹⁰ the District's 2017-18 budget, which requires closer oversight by the SCCOE. It also requested additional financial information from the District in order to determine whether the budget should be approved.

On Nov. 8, 2017, the SCCOE sent a letter granting approval of the District budget, but pointed to long-term issues demonstrating financial distress, as defined by the Educational Code. As a result, the SCCOE said it would assign a fiscal expert to oversee District finances. In January 2018, a three-member "fiscal expert team" began advising the District. It continues in this role.

On March 16, 2018, the County Superintendent, in a letter to the Board President, described additional steps the SCCOE would take to address ongoing financial, governance and operational problems in the District. The Superintendent wrote that she "shall exercise the authority to stay and rescind any action by the District that is determined to be inconsistent with the District's ability to meet its obligations"

The County Superintendent further outlined what she considered to be deficiencies:

- Instability in leadership.
- A lack of accountability with statutory guidelines.
- Credible allegations of conflict of interest.
- Allegations of intimidation and retaliation by Trustees involving employees
- The three-Trustee bloc voted to sell \$35 million in bonds against the advice of the District's Bond Counsel.
- The District's credit rating had been significantly lowered.
- Inadequate internal controls.
- The District completion of their 2016-17 internal audit was delayed three times.

The letter also points out that the Board has done little to address the FCMAT recommendations.

In April 2018, the SCCOE appointed a fiscal advisor to, among other things, implement the stay and rescind order¹¹ as well as lead the fiscal expert team.

¹⁰ California Educational Code 42127.4.

¹¹ California Education Code 42127.6.

Appeal to State Superintendent of Instruction

Board President Herrera, on his own, directed the District Counsel to file an appeal of the County Superintendent's stay and rescind order with the State Superintendent of Instruction. The District Counsel submitted the appeal in a letter dated March 22, 2018.

In a letter dated April 5, the State Superintendent denied the appeal. The State noted that the appeal was the action of a single member. The State said the letter from the District Counsel "does not indicate that this appeal was authorized by the District's Board in compliance with the Brown Act."

In addition, the State said the appeal was filed nearly two months after the deadline for such appeals.

Brown Act Meetings

The Ralph M. Brown Act¹² open-meetings law governs the actions of governmental bodies as well as elected officials in how and when they notice and conduct meetings.

Trustees have violated the law in at least two instances and, the Grand Jury believes, have misused the law at other times with both their actions and their inactions.

The SCCOE fiscal advisor wrote to Board President Herrera on April 13 stating that the Board violated the Brown Act during an April 12, 2018, closed-session meeting. The violation occurred when Trustees attempted to discipline the District Superintendent without giving her proper notification.

In the second violation of the Brown Act, the Board's Facilities/Bonds Projects Committee, which is subject to this law, has failed to consistently provide proper notices and minutes for its meetings, the Grand Jury found. Marquez chairs this committee.

Among other instances that have attracted the attention of agencies, the California Department of Education pointed out that the Board President should have obtained Board

¹² The District is governed by the Brown Act, which has the express purpose of assuring that local government agencies conduct the public's business openly and publicly. Courts and the California Attorney General usually broadly construe the Brown Act in favor of greater public access and narrowly construe exemptions to its general rules. Under the Brown Act, the District is required to prepare an agenda, must state the meeting time and place, and must contain "a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session." California Government Code Section 54951

TIME TO PUT 'TRUST' BACK IN TRUSTEE

approval through an appropriately noticed meeting for the appeal against the stay and rescind order from the SCCOE.

In another questionable action, the Board continuously lists on its closed-session agenda¹³ an item identified as "Employee Discipline/Dismissal/Release." The Grand Jury attended every Board meeting from October 2017 through May 2018, and this item was on every agenda. The only public employee the Board can discipline, dismiss or release is the Superintendent.

This tactic enables the Board to terminate the District Superintendent's contract at every meeting. The Superintendent was repeatedly told by Trustee Tran that Trustees Herrera and Marquez wanted his vote to terminate the Superintendent's contract. The Grand Jury offers no opinion on whether the District was appropriately using this closed-session exception to the Brown Act. The Grand Jury, however, is concerned that this exception was used as a standing item on the District's agenda because it created the constant threat to the Superintendent that she could be evaluated and possibly terminated at any meeting. While the Superintendent is an at-will employee, the Grand Jury considers this Board tactic to be abusive.

Board By-Laws

On a 3-2 vote, the three-Trustee bloc awarded Measure I Program Management and Construction Management contracts to Del Terra without an RFP/RFQ process. The Grand Jury believes the Trustees failed to adhere to Board By-Law, Section 9005, which in part states "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."

The Grand Jury found another possible example of failing to adhere to Section 9005 was the process of selecting a new District General Counsel. On Jan. 11, 2018, the three-Trustee bloc voted to hire a new General Counsel using Requests for Qualifications but did not vet the proposals or even interview the candidates. The firm chosen had not submitted any required letters of recommendation.

Another By-Law violation, as noted in the Brown Act section above, occurred when Board President Herrera, without approval of the Board, filed an appeal of the action of the County

¹³ The District is permitted to meet in private in what is called a "closed session meeting," as authorized by the Brown Act. If the District convenes a closed session, it must include the section of the Brown Act authorizing the closed session in advance on the agenda and it must make a public announcement prior to the closed-session discussion.

Superintendent to the State Superintendent of Education. This unilateral action violated Board By-Law, Section 9200. It states, in part: "The Board of Trustees recognizes that the Board is the unit of authority over the district and that a Board member has no individual authority. Board members shall hold the education of students above any partisan principle, group interest, or personal interest."

The Grand Jury also believes Trustees violated Board By-Laws Section 9005 by voting to reissue RFPs for a Clean Energy consultant and for Measure I architectural services to allow Del Terra or a firm that previously worked with Del Terra to bid, even though contractors had bid on the RFPs by the deadline. While Trustees are entitled to vote to reissue an RFP, taking that action to benefit a single group risks an agreement disadvantageous to the District.

Securities and Exchange Commission Investigation

Due to allegations that Bond money might have been used improperly, the U.S. Securities and Exchange Commission (SEC) launched an investigation by October 2017. The SEC informed the District that it should not destroy any records.

One type of violation the SEC investigates is the misrepresentation or omission of important information about securities. Individuals or entities found to violate SEC laws can face serious monetary and civil penalties.

At their Dec. 14, 2017, meeting, Trustees discussed the SEC investigation. They said they had done nothing wrong and that they would not hire legal counsel to represent them in the matter. Trustee Herrera stated that any member of District staff could prepare and provide the information that the SEC might request.

The SCCOE fiscal advisor pointed out another inappropriate action by the Board. In a May 8, 2018, letter, the advisor states that "the actions of the governing board to restrict the Superintendent's involvement with the review and audit of the Del Terra contracts, and ongoing investigation by the SEC and the district attorney are also destabilizing for the District's fiscal health, in that it improperly interferes with the District's business operations and ongoing investigations regarding critical financial matters."

S&P Global Ratings

S&P Global Ratings (S&P) makes recommendations on the financial viability of an organization.

S&P significantly downgraded the District's credit rating¹⁴ to BBB+ from AA- , a drop of four levels, on Sept. 29, 2017. S&P said it took this action in reaction to the FCMAT report, "confirmation" of the DA's ongoing investigation and concerns addressed by the SCCOE.

This lower credit rating will increase interest rate charges on future bond sales, which will result in higher taxes for District property owners. At the Jan. 11, 2018, Board meeting, the District's bond advisors estimated the impact of such a downgrade for a \$35 million, 30-year bond, at more than \$850,000, based on market rates as of that date.

CONCLUSIONS

The Grand Jury through research and interviews concluded that the three-Trustee bloc of Herrera, Marquez and Tran has failed to adequately fulfill their fiduciary duties and governance responsibilities to the Alum Rock Union Elementary School District.

The District's many challenges have been made worse by the actions and inactions of these Trustees. Since the Grand Jury started attending Board meetings, more than 100 parents and residents appear at almost every meeting to demand improvements. Residents who attend the meetings seek the resignations of the bloc of three trustees, the termination of the Del Terra contracts and the retention of the current District Superintendent.

The Board has been presented with credible evidence that its relationship with Del Terra is not serving the best interests of the District. Persons or agencies investigating or critical of the Board include:

- District Chief Business Officer
- Ryland School Business Consulting
- Santa Clara County Office of Education
- State Fiscal Crisis Management Assistance Team
- District legal consultant
- Securities and Exchange Commission

¹⁴ <https://www.arusd.org/cms/lib/CA01001158/Centricity/Domain/23/SandP.ARUSD.841329.pdf>

TIME TO PUT 'TRUST' BACK IN TRUSTEE

- S&P Global Ratings
- Various elected officials

All of the issues discussed in this report demonstrate the mismanagement by the Board, controlled by the three-Trustee bloc, and show that significant changes are needed to put trust back into the Trustees.

FINDINGS AND RECOMMENDATIONS

Finding 1

Alum Rock Union Elementary School District Board Trustees Herrera, Marquez and Tran, by action and/or inaction, have subjected the District to financial peril, public scorn and distrust.

Recommendation 1

Trustees Herrera, Marquez and Tran should immediately resign their positions on the Board.

Finding 2

District's legal counsel concluded that Measure I and Measure J Construction Management contracts between the District and Del Terra likely violate Government Code Section 1090.

Recommendation 2a

The Board should terminate the Measure I and Measure J Construction Management contracts between the District and Del Terra by Oct. 1, 2018.

Recommendation 2b

The District should retain an outside legal consultant by Oct. 1, 2018, to consider options to evaluate remedies against Del Terra.

Finding 3

The District does not consistently use best practices in awarding contracts.

Recommendation 3

The District should immediately begin using competitive bidding (e.g., RFP/RFQ) for all construction projects and professional services.

Finding 4

Using the same contractor for both Construction Management and Program Management is not an accepted best practice and, according to the District's legal consultant, can put the District in financial and legal jeopardy.¹⁵

Recommendation 4a

The District should enact a Board policy prohibiting the award of future Construction Management and Program Management contracts to the same company, by Dec. 1, 2018.

Recommendation 4b

The District should award all future Construction Management and Program Management contracts to unrelated contractors.

Finding 5

The Board has repeatedly not followed the Brown Act requirements.

Recommendation 5

The Board should obtain comprehensive Brown Act training from a qualified third party, by Dec. 31, 2018, and within 30 days of the swearing in of new Trustees.

Finding 6

The Board failed to follow their own Board By-Laws on numerous occasions.

Recommendation 6

All current Board members should sign a declaration saying they have read, understood and will comply with the Board's By-Laws, and any subsequent revisions, by Sept. 30, 2018. Future Trustees should sign the same declaration within 30 days of their swearing in.

Finding 7

The Board did not adequately vet all applicants in the selection of the current General Counsel.

¹⁵ Legal memorandum, Nov. 8, 2017, from Rogelio Ruiz to District Superintendent; <https://www.mercurynews.com/2017/11/16/del-terra-contracts-illegal-alum-rocks-own-attorney-tells-its-board/>

Recommendation 7

The Board should terminate the contract with its General Counsel and use a competitive process (RFP/RFQ) that includes a proper vetting mechanism to hire new General Counsel, by Dec. 31, 2018.

Finding 8

The Grand Jury commends District Superintendent Bauer for persevering during her four years while staying committed to improving student education and parental involvement.

Finding 9

The Grand Jury commends Trustees Quintero and Martinez for their continuing efforts to steer the Board in a positive direction.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

Responding Agency	Finding	Recommendation
Alum Rock Union Elementary School District	1, 2, 3, 4, 5, 6, 7	1a, 1b, 2, 3, 4, 5, 6, 7

From the following individuals:

Responding Individual	Finding	Recommendation
Alum Rock Union Elementary School District Trustee Esau Herrera	1, 2, 3, 4, 5, 6, 7	1a, 1b, 2, 3, 4, 5, 6, 7
Alum Rock Union Elementary School District Trustee Dolores Marquez	1, 2, 3, 4, 5, 6, 7	1a, 1b, 2, 3, 4, 5, 6, 7
Alum Rock Union Elementary School District Trustee Khanh Tran	1, 2, 3, 4, 5, 6, 7	1a, 1b, 2, 3, 4, 5, 6, 7

TIME TO PUT 'TRUST' BACK IN TRUSTEE

This report was **ADOPTED** by the 2017-2018 Santa Clara County Civil Grand Jury on this 18 day of June, 2018.

A handwritten signature in black ink, appearing to read 'Peter L. Hertan', written over a horizontal line.

Peter L. Hertan

Foreperson

LEAL-TREJO
ATTORNEYS AT LAW
A PROFESSIONAL CORPORATION

(ENDORSED)
FILED
OCT 19 2018
Clerk of the Court
Superior Court of CA County of Santa Clara
BY Janice Jones DEPUTY

H. FRANCISCO LEAL
WILLIAM J. TREJO
MARIBEL S. MEDINA
DAVID J. ALVAREZ
MICHAEL E. WOLFSOHN
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October 18, 2018

Honorable Patricia Lucas, Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

**RE: Response to Grand Jury Report titled, "Alum Rock School District Board:
Time to Put 'Trust' Back in Trustee"**

Dear Honorable Lucas:

We write on behalf of the Alum Rock Union Elementary School District ("District") in response to the above referenced Grand Jury Report ("Report"). The District's Governing Board ("Board") approved the following responses to the Report at their October 11, 2018 regular public Board meeting by a vote of 3-1, as follows: yes: President Esau Ruiz Herrera, Trustee Dolores Marquez, and Trustee Khanh Tran; no: Trustee Andres Quintero-absent; and Vice President Karen Martinez was absent.

The Report raises important issues and concerns regarding the District's contracting practices. The Board of Education shares the civil grand jury's interest in ensuring the District is complying with laws and regulations relating to public contracting and ensuring the District is aware of and implements best contracting practices.

Grand Jury Exceeded its Statutory Authority

The District would however, like to bring to the Honorable Presiding Judge's attention that certain findings and recommendations by this grand jury exceed the grand jury's legal authority. The general powers and duties of a grand jury are codified in California Penal Code §§ 914-945. Relevant here, Penal Code section 933.5 authorizes the grand jury to examine the books and records of districts. However, section 933.5 does not authorize the grand jury to widen the scope of its investigation into matters which otherwise it is not authorized to investigate." 46 Ops. Cal. Atty. Gen. 144 (1965). In *Unnamed Minority Members etc. Grand Jury v. Superior Court*, 208 Cal.App.3d 1344, 1347-48 (1989), citing to the Supreme Court, held "with respect to a grand jury's powers and limitations . . . '[b]road though they are, the grand jury's powers are only those which

the Legislature has deemed appropriate. Attempts to exercise powers other than those expressly conferred by statute have been consistently rebuffed.” (citing to *McClatchy Newspapers v. Superior Court*, 44 Cal.3d 1162, 1179 (1945); 46 Ops. Cal. Atty. Gen. 144 (citing to *Allen v. Payne*, 1 Cal. 2d 607 (1934) (although the grand jury is an agency of the court, the grand jury has no inherent investigatory powers beyond those granted by the Legislature). In fact, through an extensive legislative analysis and statutory construction, the Attorney General specifically concluded that a grand jury was **not legally authorized** to inquire “as to the merit, wisdom, or expediency of substantive policy determinations which may fall within the jurisdiction of [a school district].” (95 Ops. Cal. Atty. Gen. 113, 118 (1995)). Inquiring as to the duly elected governing Board’s merit or wisdom of substantive policy determinations is what the grand jury has done in this Report.

Grand Jury Report Violates Constitutional Voting Rights

In addition, the grand jury calling for the resignation of three of the five duly elected Trustees implicates the individual Trustees’ First Amendment associational rights and the Fourteenth Amendment equal protection rights, as well as the Alum Rock voter’s rights to be meaningfully represented by the candidates **of their choice**. (*Buckley v. Valeo* (1976) 424 U.S. 1, 53) (emphasis added). The abuse of the grand jury process is most notable in Recommendation 1 whereby the grand jury calls for the resignation of certain Trustees. In California, the right to vote is expressly enshrined in the state Constitution. Article I, Section 7 subdivision (a) guarantees that “[a] person may not be . . . denied equal protection of the laws.” The United States Supreme Court in *Hadley v. Junior Coll. Dist. of Metro. Kansas City, Mo.*, 397 U.S. 50, 58 (1970), held “Where a State chooses to select members of an official body by appointment rather than election, and that choice does not itself offend the Constitution, the fact that each official does not ‘represent’ the same number of people does not deny those people equal protection of the laws . . . but once a State has decided to use the process of popular election and once the class of voters is chosen and their qualifications specified, **we see no constitutional way by which equality of voting power may be evaded.**” (See also *Sailors v. Bd. of Ed. Of Kent County*, 387 U.S. 105, 108, (1967); *Gray v. Sanders*, 372 U.S. 368, 381 (1963)) (emphasis added). Recommendation 1 at minimum disenfranchises the voters of Alum Rock who elected the three Trustees.

Furthermore, it appears the makeup of the grand jury is not reflective of the voters of the Alum Rock community. Two of the Board members being asked to resign are Latinos, one is Asian. Yet, the grand jury asking for their resignation is comprised exclusively of white jurors. The timing of the grand jury’s recommendation is also highly troubling. Three of the five Trustees are up for re-election in November of this year. Constitutionally, the voters of Alum Rock, and not the members of an all-white grand jury should decide through the power of the ballot box who serves on the district’s governing board.

We ask the Court to examine whether the grand jury stayed within their statutorily authorized role and if the recommendation calling for the resignation of three duly elected Trustees violates the constitutional rights of the individual Trustees and the voters of the Alum Rock community.

Grand Jury Report Calls for Violation of Brown Act

We would also like to draw your Honor’s attention to the demand by the grand jury that three of the five duly elected Trustees-a quorum- commit to actions on matters that fall within their subject matter jurisdiction in violation of the Ralph M. Brown Act (“Brown Act”). Government Code section 54952.2 (b)(1) provides:

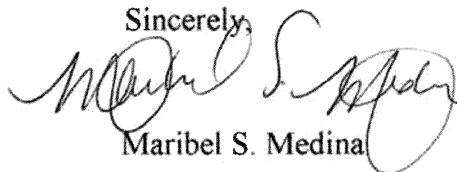
“A majority of the members of a legislative body **shall not, outside a meeting** authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.” (emphasis added)

Page 23 of the Report provides, “[p]ursuant to Penal Code sections 933 and 933.05, the Grand Jury request responses as follows . . . Responding individuals, Alum Rock Union Elementary School District Trustee[s] Esau Herrera . . . Trustee Dolores Marquez . . . Trustee Khanh Tran . . . Findings 1, 2, 3, 4, 5, 6, 7 . . . Recommendations 1a, 1b, 2, 3, 4, , 6, 7.” Recommendation 2a calls for the termination of the District’s multi-million-dollar bond construction contract. Recommendation 2b calls for entering into a new legal services agreement. Recommendation 3 calls for a decision to use one of numerous contracting options permitted by state law. Recommendation 4 calls for the exclusion of a District vendor in any future district contract. Recommendation 7 calls for the termination of the District’s current legal services agreement and the use of a very specific contracting practice. Each one of these recommendations is a matter which falls squarely within the Board’s subject matter jurisdiction as provided in Government Code section 54952.2(b)(1).

The issuance of responses by individual Trustees to these Findings and commitments to the Recommendations absolutely constitutes “discussion, deliberation and action” on items of business that fall within the subject matter jurisdiction of the legislative body, in violation of the Brown Act. The Brown Act does not include an exception for grand jury responses. In fact, here the grand jury would be the intermediary for the Brown Act violation. (*Stockton Newspapers, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95, 103). The Court of Appeal in *Stockton Newspapers* concluded that a series of individual telephone calls between the agency attorney and members of the body constituted a meeting. *Id.* at 105. The attorney individually polled the members of the body for their approval for a real estate transaction. Here the grand jury is the intermediary, polling individual Trustees on contracts that must, pursuant to state law, be discussed and deliberated at a duly noticed public meeting.

The grand jury has placed the three Trustees in the untenable position of either violating the Brown Act or violating the Penal Code. We request that this Court issue an order striking the request for individual Trustees to respond to the Findings and Recommendations of the Report as they are matters that fall within the subject matter of the Board of Education. Responses by three of the five Trustees is a majority.

Sincerely,



Maribel S. Medina

cc: Alum Rock Elementary Union School District Board of Education

Enclosures

FINDINGS AND RESPONSES

Finding 1.

Alum Rock Union Elementary School District Board Trustees Herrera, Marquez and Tran by action and/or inaction, have subjected the District to financial peril, public scorn and distrust.

District Response to Finding 1.

Disagree. The District is comprised of approximately 11,270 students. According to the California Department of Education's Data Reporting Office, approximately 86.5% of the students are Latino and 79.2% qualify for free and reduced lunch.

On June 7, 2016, the District asked the voters of Alum Rock to approve a bond measure titled, "Alum Rock Union School District, California, Bond Issue, Measure I (June 2016). ("Measure I").

The following question appeared on the ballot:

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 administrator salaries and **all money controlled locally?** (emphasis added).

A fifty-five (55%) supermajority vote was required for the approval of measure I. The Alum Rock voters responded to the bond measure with a resounding, "yes" and approved Measure I by 78.75%-significantly higher than the statutorily required supermajority. Despite the loud mandate by the Alum Rock taxpayers to fix the local schools, the governing Board's efforts to move forward with their bond program has been largely derailed due to the Santa Clara County Office of Education and the County Superintendent, Mary Ann Dewan's consistent interference with the governing Board's attempt to comply with the voter mandate.

Board President Herrera, and Trustees Marquez and Tran who were duly elected by the voters of the Alum Rock community to the District's Board of Education have been diligent stewards of tax payer dollars and made decisions they believe are in the best interest of the students and families of the District. Board President Herrera, and Trustees Marquez and Tran are cognizant of the demographics of the families the District serves-immigrant, working class, and the mandate of the voters who approved their bond program.

Pursuant to the Constitution, the voters of Alum Rock decide who will be entrusted with the oversight of their local schools. They have spoken loud and clear, time and time again. Board President Herrera has been re-elected to his seat by the voters of Alum Rock six times. Trustee Marquez has been reelected to her seat on the Board three times. On two of the three occasions, Trustee Marquez received the most votes out of all candidates. Trustee Tran ran for a congressional seat in June 2018 and came in third, countywide, on the ballot against a sitting Congressional incumbent.

Finding 2.

District's legal counsel concluded that Measure I and Measure J Construction Management contracts between the District and Del Terra likely violate Government Code section 1090.

District's Response to Finding 2.

Agree that the District's previous legal counsel Rogelio Ruiz from Rehon & Roberts prepared a memorandum in which he stated, "there is a material risk that a fact finder could reasonably conclude that the referenced contracts violate Government Code section 1090." "Material risk" is not to be confused with a legal determination by judge or jury. "Material risk" means instead that there is a potential that the contracts in question might run afoul of Government Code section 1090. It means that it is also possible that a finder a fact could conclude the contracts do not run afoul of Government Code section 1090. That determination, as referenced in the Ruiz opinion, should be left to a "fact finder" in a court of competent jurisdiction, where a judge should make that legal determination. Therefore, disagree with the conclusion that the contracts likely violate Government Code section 1090.

The District and governing Board relied on the legal guidance of the attorney's retained by the District at that time, in awarding, drafting and approving the contracts referenced in Mr. Ruiz' legal opinion. The alleged legal deficiencies were never brought to the Board's attention when the contracts were awarded. It is also important to note, that in an effort of full transparency, the governing Board voted to waive the attorney-client privilege and disclose the Rehon & Roberts memorandum.

Finding 3.

The District does not consistently use best practices in awarding contracts.

District's Response to Finding 3.

Agree that District staff would benefit from training on public entity contracting. After going through the last several years with six interim Chief Business Officials ("CBO"), the District has now hired a permanent CBO. The Board is confident that with a permanent CBO coupled with training for staff the District contract awarding practices will follow statutorily prescribed laws and regulation.

Finding 4.

Using the same contractor for both Construction Management and Program Management is not an accepted best practice, and according to the District's legal consultant, can put the district in financial and legal jeopardy.

District's Response to Finding 4.

Disagree. School districts and community college districts throughout the State award construction management and program management contracts to the same contractor. Through its wisdom, the Legislature has authorized various project delivery models and delegated to local school governing boards the ability to select among the various construction delivery models which option best fits the

needs of the district. There are four project delivery methods available to school districts: (1) design/bid/build, (2) design/build, (3) lease-lease back, and (4) construction management. (See Education Code §17400 *et. seq.*; Government Code §4525). School construction in California, using any of these delivery models, is governed by comprehensive and complex laws and regulations and requires school districts to employ experts in numerous fields including, architecture, finance, environmental, legal, etc. Thus, many school districts, such as Alum Rock do not have the staff capacity to manage multi-million-dollar school construction programs in house and rely on a construction delivery method that provides for a company that manages both the bond program side and the construction side of the bond program—a legally permissible and frequently used project delivery method.

Inherently, a multi-million-dollar construction project, for a private company or any public entity carries with it the possibility of legal exposure. However, it is absolutely an incorrect conclusion that a construction management/program management delivery option per se, puts the district any more “in financial and legal jeopardy” than any other construction delivery model. Prior to the Santa Clara County Office of Education’s involvement in the District’s bond program, the litigation or threat of litigation related to the bond program was minimal, if at all.

Finding 5.

The Board has repeatedly not followed the Brown Act requirements.

District’s Response to Finding 5.

Disagree. The Ralph M. Brown Act (“Brown Act”) codified in the Government Code requires that all meetings of a legislative body be open and public, except under limited situations. Cal. Gov’t. Code §§54950 *et. seq.* The Brown Act allows a legislative body during a meeting to convene a closed session in order to meet privately with its advisors on specifically enumerated topics. The Report identifies two instances where the Santa Clara County’s Office of Education’s (“SCCOE”) fiscal advisors wrote to the Board President regarding what they alleged were Brown Act violations. The Report states, “the violation occurred when Trustees attempted to discipline the District Superintendent without giving her proper notification.” The second alleged violation occurred with the “Board’s Facilities/Bond Projects Committee . . . failed to provide proper notice and minutes.”

The alleged violation was written in a letter from SCCOE’s fiscal advisor. It is worth noting that the fiscal advisor is not an attorney. The letter suggests a complete lack of understanding of the Brown Act. The Brown Act does allow closed session related to personnel matters. Relevant here and most importantly, the Brown Act also allows closed session to discuss anticipated litigation. The Board discussed an ongoing investigation regarding potential illegal conduct under anticipated litigation as legally permitted under Government Code section 54956.9(d)(2). Although the agenda also included an agenda item titled, Public Employee Discipline/Dismissal/Release (Government Code Section 54957), the Board did not have a discussion under this item.

Even assuming the Board had discussed personnel matters, which it did not, the Courts have held that a notice requirement to an employee only apply when the proceeding is adjudicative in character. See *Fischer v. Los Angeles Unified Sch. Dist.*, 70 Cal. App. 4th 87, 93 (1999); *Furtado v. Sierra Cmty. Coll.*, 68 Cal. App. 4th 876, 879 (1998); *Bollinger v. San Diego Civil Serv. Com.*, 71 Cal. App. 4th 568, 571 (1998); *Kolter v. Comm’n. on Prof’l. Competence of Los Angeles Unified Sch. Dist.*, 170

Cal. App. 4th 1346., 1349 (2009). Not only was SCCOE's fiscal advisor's letter incorrect as to the law, his role as a fiscal advisor to the District calls for him to act in a neutral, objective capacity.

The District cannot address the broad, general alleged second violation since the Report does not provide any examples of when and how notice for the Facilities subcommittee was not properly given, nor is it clear to the District how the minutes relate to the alleged noncompliance with the Brown Act.

Finding 6.

The Board failed to follow their own Board By-Laws on numerous occasions.

District's Response to Finding 6.

Disagree. The Report's alleged finding related to awarding of a construction contract based on a vote of three in favor and two against. The Reports finding claims that Board By-Law 9005, "which in part states, to 'maximize Board effectiveness and public confidence in district governance, board members are expected to govern responsibly and hold themselves to the highest standard of ethical conduct'" was violated. The alleged supporting fact for this finding is nonsensical. In an effort to be responsive, the District responds that the governing Board has acted in a manner that addresses first and foremost the educational needs of the students. As outlined in response to Finding 4, the Board has complied with the complex statutory regulations governing school construction projects. They have done so in a thoughtful and ethical manner in full compliance with Board By-Law 9005.

Finding 7.

The Board did not adequately vet all applicants in the selection of the current General Counsel.

District's Response to Finding 7.

Disagree. On October 27, 2017 the District released a Request for Proposals for Legal Services, (RFP No. 1718-BUS02) (Exhibit 1). The purpose and intent stated in the RFP was "to competitively solicit firms." The responses to the RFP were due to the District on November 22, 2017. The District received six (6) responsive proposals from law firms statewide. The Board members received copies of the proposal to review and analyze. The Board agendized the awarding of the contract at three (3) public hearings before awarding the contract. The successful firm was selected at the Board's February 8, 2018 Board meeting, four months after the RFP was issued and three months after all the responsive proposal were distributed to the Board and staff.

The Legislature has broadly authorized contracting for specified "special" services and codified such exception at Government Code section 53060, which provides:

"The legislative body of any public or municipal corporation or district may contract with and employ persons for the furnishing of the corporation or district special services and advice in financial, economic, accounting, engineering, **legal** or administrative matters if such persons are specially trained and experienced and competent to perform the special services required." (emphasis added)

Although the governing Board was not legally required to competitively bid legal services, it did. It did so, through a very comprehensive, public and competitive process requiring detailed information on the prospective law firm's legal experience. Of the thirty-two (32) school districts in Santa Clara

County, including the Santa Clara County Office of Education, one would be hard pressed to find an RFP for general counsel services. The District's governing Board went above and beyond what is legally required to obtain the most qualified law firm for their immediate legal needs. The selection process lasted months in order to ensure a thorough vetting and significant public input.

RECOMMENDATIONS AND RESPONSES

Recommendation 1.

Trustees Herrera, Marquez and Tran Should immediately resign their positions on the Board.

District's Response to Recommendation 1.

Given that the grand jury does not have the legal authority to dictate who should hold an elected position on Alum Rock Union School District's governing Board, this recommendation will not be implemented.

The District will not agree to strip the voters of the Alum Rock community of their constitutional right to elect Trustees to govern their local school district. The District has requested that the Presiding Judge determine if this recommendation is a violation of the constitutional rights of the individual Trustees and the voters of the Alum Rock community; notably, in light of the fact that the grand jury calling for the resignation of three of the five governing Board Members is comprised of an all-white jury, not reflective of the Alum Rock community.

Recommendation 2a.

The Board should terminate the Measure I and Measure J Construction Management contracts between the District and Del Terra by October 1, 2018.

District's Response to Recommendation 2a.

The Board has a fiduciary obligation to consider any legal risk associated with terminating a contract, evaluate the implications to its bond program related to the delay in selecting a new construction company, consider increasing costs associated with school construction delay and ultimately how these issues impact the educational needs of the students. As a responsible elected body, the District will not rush to terminate its contract with the District's bond's Construction Management company by an arbitrary date. It is the Board's obligation to act as prudent stewards of the Alum Rock tax payer's monies, and to manage the construction program in a manner that is most beneficial to the students and families of Alum Rock. The recommendation with an arbitrary date to terminate the contract will not be implemented. In addition, the grand jury is legally precluded from inquiring as to the merit, wisdom or expediency of policy determinations which fall exclusively within the Board's authority. Any such consideration by the Board of this recommendation will be done in a duly noticed meeting in full compliance with the Ralph M. Brown Act ("Brown Act").

Recommendation 2b.

The District should retain an outside legal consultant by October 1, 2018, to consider options to evaluate remedies against Del Terra.

District's Response to Recommendation 2b.

As described in response to Finding 7, the District issued a Request for Proposals and solicited proposals from law firms across the State. Retaining new legal counsel was further done in response to the Fiscal Crisis Management Assistance Team ("FCMAT") recommendation. However, as stated in response to Recommendation 2a, the District will not agree to rush and get involved in costly, protracted litigation. The Board will continue to be prudent and thorough in evaluating how to proceed in the best interest of the students, families and taxpayers of Alum Rock. The recommendation directing the District to get involved in costly protracted litigation will not be implemented. Any further consideration of this recommendation will be done at a duly noticed meeting in full compliance with the Brown Act.

Recommendation 3.

The District should immediately begin using competitive bidding (e.g. RFP/RFQ) for all construction projects and professional services.

District's Response to Recommendation 3.

As a public entity, the process by which contracts are awarded are statutorily regulated, including but not limited to the requirement that all contracts be ratified by the Board at a duly noticed meeting. In addition to ensuring that the District fully complies with all legal requirements in awarding contracts, the Board takes into consideration which contracting approach best meets the needs of the District, as way of example, piggybacking of the approved list of vendors from another local, state or federal agency. In addition, state law permits, and the educational needs of students demand that in instances of emergencies, as way of example, using an RFP/RFQ would be detrimental to the educational needs of the students. This broad sweeping recommendation is unreasonable and impractical and therefore will not be implemented.

Recommendation 4a.

The District should enact a Board policy prohibiting the award of future Construction Management and Program Management contracts to the same company by December 1, 2018.

District's Response to Recommendation 4a.

In making decisions on which school construction delivery model to use, the Board will be guided not only by what is legally permitted, but also by what is in the best interest of the District. Please see response to Finding 4 for additional information. This recommendation will not be implemented. In addition, the grand jury is legally precluded from inquiring as to the merit, wisdom or expediency of policy determinations which fall exclusively within the Board's authority.

Recommendation 4b.

The District should award all future Construction Management and Program Management contracts to unrelated contractors.

District's Response to Recommendation 4b.

In making decision on which school construction delivery model to use, the Board will be guided not only by what is legally permitted, but also by what is in the best interest of the District. Please see

response to Finding 4 for additional information. This recommendation will not be implemented. In addition, the grand jury is legally precluded from inquiring as to the merit, wisdom or expediency of policy determinations which fall exclusively within the Board's authority.

Recommendation 5.

The Board should obtain a comprehensive Brown Act training from a qualified third party, by December 31, 2018, and within 30 days of the swearing in of new Trustees.

District's Response to Recommendation 5.

The members of the governing Board already participate in Brown Act trainings from statewide and national organizations, including, but not limited to the California School Boards Association and the National School Board's Association. The Board will continue taking such trainings and will encourage newly elected Board members to do the same. Legally, this Board cannot impose the training requirement on future elected Board members. The permissible portion of this recommendation has already been implemented. The District does agree that District staff and all consultants assigned to work for the District, including but not limited to the SCCOE fiscal advisors should receive training on the Brown Act.

Recommendation 6.

All current Board members should sign a declaration saying they have read, understood and will comply with the Board By-Laws, and any subsequent revisions, by September 30, 2018. Future Trustees should sign the same declaration within 30 days of their swearing in.

District's Response to Recommendation 6.

The members of the governing Board already comply with and are legally required to comply with their own adopted By-Laws. Signing an arbitrary declaration, by an arbitrary date, saying they will do what they must do by law does not add any further force or effect to a legally required mandate. This governing Board does not have the legal authority to impose conditions for holding office for future Board members. There is no need to implement this recommendation given that the compliance portion of the recommendation has already been implemented.

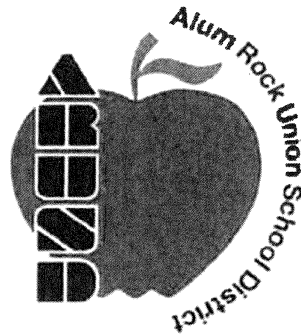
Recommendation 7.

The Board should terminate the contract with its General Counsel and use a competitive process (RFP/RFQ) that includes a proper vetting mechanism to hire new General Counsel by December 31, 2018.

District's Response to Recommendation 7.

As discussed in more detail in response to Finding 7, on October 27, 2017 the District released a very comprehensive and thorough Request for Proposals for Legal Services, (RFP No. 1718-BUS02). The responses to the RFP were due to the District on November 22, 2017. District staff and the Board members took nearly three months to review and vet the responsive proposals. The District does not see the need to implement this recommendation by reissuing a new RFP for legal services since the

last RFP was issued and a new law firm selected only a few months ago. Any further discussion regarding this recommendation will take place at a duly noticed meeting in full compliance with the Brown Act.



REQUEST FOR PROPOSAL

RFP No. 1718-BUS02

FOR
LEGAL SERVICES

Deadline: 3:00 p.m., Wednesday, November 22, 2017

(NOTE: The time clock in the Purchasing Department will be used as the official time.)

Alum Rock Union Elementary School District

2930 Gay Avenue

San Jose, CA 95127

<http://www.arusd.com>

For Information Contact:

Kolvira Chheng

Assistant Superintendent, Business Services

2930 Gay Avenue

San Jose, CA 95127

408-928-6847

kolvira.chheng@arusd.org

**REQUEST FOR PROPOSAL
FOR
LEGAL SERVICES**

INVITATION AND BACKGROUND

NOTICE IS HEREBY GIVEN that the Alum Rock Union Elementary School District ("District") is seeking proposals from qualified firms to provide legal services in conjunction with the District's operations, and to support its educational and facilities programs. The District will receive sealed proposals for the award of contract(s) for legal services effective no later than, 3:00 p.m. on November 22, 2017.

The Alum Rock Union Elementary School District serves students in grades TK - 8th, as well as special education and preschool programs. The District has 22 campuses, along with a central district office. The expenditures for legal fees and costs for 2016-2017 were approximately \$600,000.00

District demographics and quick facts:

Enrollment	10,000
Grades	TK - 8
Employees	1,212 (approx.)
Operating Budget	138,492,459
Board of Trustees	Five elected board members
Instructional Days	180
Website	http://www.arusd.com

PURPOSE AND INTENT

The purpose of this Request For Proposal (RFP) is to competitively solicit firms and establish a bench of specialized consultants for advice and legal counsel.

INSTRUCTIONS

All proposals shall be submitted in the format specified by the District as defined in this RFP.

Four (4) paper copies and one (1) electronic PDF version on a flash drive of the proposal shall be submitted in a sealed envelope, no later than 3:00 p.m. on November 22, 2017 and clearly marked RFP No. 1718-BUS02. Each firm is responsible for the delivery of their proposals. If the proposal is delivered to the wrong office, by any delivery method, the bidder bears full responsibility. No fax or phone proposals will be accepted. Proposals received after the above stated time and date will be returned to vendor unopened. The selection process will include a screening review and evaluation of proposals by District staff members. The time clock in the Purchasing Department will be used as the official time.

Sealed proposals will be received at:

**Alum Rock Union Elementary School District
Purchasing Department
2930 Gay Avenue
San Jose, CA 95127
Attn: Mr. Kolvira Chheng, Assistant Superintendent Business Services**

District office hours are Monday through Friday, 7:30 a.m. to 4:30 p.m. Questions regarding this proposal should be submitted to Mr. Kolvira Chheng, via email at kolvira.chheng@arUSD.org. Mr. Chheng can also be reached at 408-928-6847.

All proposals received as part of this solicitation become the property of the District and shall be considered public record. The cost to prepare and submit the proposals is at the sole expense of each firm. The emphasis of your proposal should be on completeness, adherence to directions and format requirements, brevity, and clarity of content.

The District reserves the right to reject any and all proposals and to waive informalities and minor irregularities in any proposal reviewed. The District may reject any proposal that does not conform to the instructions herewith. Additionally, the District reserves the right to negotiate all final terms and conditions of any preliminary agreement entered into with the legal firm. The District makes no representations that any contract will be awarded to any respondent.

Contact with any individual(s) in the District, other than the individual(s) specifically named herein, is prohibited, and may result in rejection of the proposal.

TENTATIVE TIMELINE

The anticipated schedule for completion of this RFP is shown below. Please note: Dates are subject to change.

Milestone	Date
Release of Request For Proposal (RFP)	October 27, 2017
Deadline for Questions/Clarifications	November 10, 2017
Responses to Request for Clarification	November 17, 2017
Proposal Due Date	November 22, 2017
Screening/Interviews/Reference Checks/Contract Negotiations	November 27 – 30, 2017
Board Approval	December 14, 2017

INSTRUCTIONS FOR SUBMITTING PROPOSALS FOR LEGAL SERVICES

SCOPE OF SERVICES TO BE PROVIDED - AREAS OF SPECIALIZATION

Your response to this Request for Proposal must include sufficient evidence to document the firm's capability to perform, such as the experience and qualifications pertinent to the requirements of this request for qualifications.

Areas of Specialization - Requirements

1) Human Resources - Labor and Employment

Contractor shall provide, as requested, legal advice related to labor and employment law including, without limitation: union negotiations, contractual arbitration, matters before the Public Employee Relations Board, disputes, collective bargaining, California Labor Code, Personnel Commission rules, employment contracts, State and Federal law, and labor-related matters in Superior or Federal court.

Legal service may include, without limitation: filing complaints, answers, and motions, preparing and responding to discovery, representing the District in jury or court trials, and representing the District on appeal. In addition, the Contractor may be called upon to retain experts when related to advice or service requested.

2) General Education Law

Contractor shall provide, as requested, legal advice related to general education law including, without limitation: child custody, child abuse, academic calendars, charter school law, Federal and State implementation and compliance of categorical programs, desegregation and civil rights law, disputes, and school law enforcement.

Legal service may include, without limitation: filing complaints, answers, and motions, preparing and responding to discovery, representing the District in jury or courts trials, and representing the District on appeal. In addition, the Contractor may be called upon to retain experts when related to advice or service requested.

3) Facilities Services

Contractors shall provide, as requested, services in the following areas:

- a. Land acquisition and real estate matters
- b. Construction and construction delivery methods
- c. Public Works and Public Contract Code

- d. Construction litigation
- e. California Environmental Quality Act (CEQA) and DTSC Compliance
- f. Construction related labor relations support
- g. Facility mitigation agreements, developer fees, Mello Roos and Community Facility Districts
- h. Public Finance: Bond/Debt obligations, regulatory compliance and school finance

4) Special Education

Contractor shall provide, as requested, services in the following areas:

- a. General Special Education compliance advice and training including, but not limited to:

Charter/private schools, non-public school placement, issues involving appropriate educational programs, jurisdictional questions, applicability of Individuals with Disabilities Education Act (IDEA), provision of related services, Section 504 issues, state compliance investigations, suspension and expulsion of Special Education students, and IDEA procedural issues.

- b. Free and Appropriate Public Education (FAPE) negotiations, Special Education due process proceedings, and Special Education litigation support.

Represent the District at Special Education Due Process hearings regarding the delivery of educational services to children with physical, emotional and learning disabilities. Advise the District with respect to its rights and obligations to students with disabilities. The work may include: legal research, case analysis, preparation of statutory offers, drafting and responding to motions, preparing and interviewing witnesses for Due Process Hearings, preparing for and advocating on behalf of the District at Due Process Hearings, drafting pleadings and relevant legal documents related to Due Process Hearings. In addition, expertise is required to support and manage Special Education litigation as well as negotiate and draft language for mediation agreements, contracts, and settlement agreements.

5) Business and Procurement Services - Contract Support

Contractor shall provide, as requested, legal advice and legal services related to drafting, reviewing, negotiating, and enforcing the contracts pursuant to which the District procures goods and services, including professional services, computer hardware and software, machinery, equipment, furniture, utilities, material, supplies, and vehicles. Contractor shall provide legal advice and legal services related to enforcing contracts, or otherwise representing the District's interests in connection with contracts entered into by the District and other contract matters.

6) Government Relations

Contractor shall provide, as requested, services in the following areas:

- a. Board of Trustees Counsel and Support: Contractor shall provide, as requested, legal advice and legal services related to Board matters, including, but not limited to, Board policies, election issues, media relations, individual Board Member liability, and communication with the public and media by Board Members.
- b. Brown Act: Contractor shall provide, as requested, legal advice and legal services related to Brown Act matters, including, but not limited to: open meeting law, agenda requirements, closed session law, participation in public meetings, distribution of documents, and Robert's Rules of Order.
- c. Public Law: Contractor shall provide, as requested, legal advice and legal services related to public law, including, but not limited to: public agency conduct and meetings, election and political issues, Public Records Act requests, ethics and conflicts of interest, and intergovernmental relations. Legal service should also include analyses and advice related to mandated cost issues.

END OF SCOPE OF SERVICES TO BE PROVIDED

PROPOSAL FORMAT

Each respondent should submit one (1) proposal for any or all areas of specialization listed herein. Proposals should be organized in the following manner and limited to the following number of pages for each section.

Section	<u>Page(s)</u>	<u>Notes</u>
1. Executive Summary	1	One page maximum
2. Narrative & Biographic Info	12	Two-page maximum for each area of specialization; maximum of 12 pages if responding to all six areas.
3. Reference List	1	One page maximum
4. Fees/Services Schedule	1	Use Enclosed Form-Page 13
5. Certification	1	Use Enclosed Form - Page 14
6. Criminal Records Certification	1	Use Enclosed Form-Page 16
7. Insurance Requirements	1	Provide Copy of Insurance Certificate(s) with endorsements
8. IRS Form W-9	1	IRS Form W-9 is available at: www.irs.gov/pub/irs-pdf/fw9.pdf
9. Conflict of Interest Certification	2	Use Enclosed Form - Pages 17 & 18
10. Letters of Recommendation	3	Submit no more than three

AREAS OF SPECIALIZATION

1. Human Resources - Labor and Employment
2. General Education Law
3. Facilities Services
4. Special Education
5. Business and Procurement Services - Contract Support
6. Government Relations

END OF PROPOSAL FORMAT

PROPOSAL COMPONENTS

1. **Executive Summary (one page)** - The **Executive Summary** should contain a statement of interest and a brief summary of qualifications to engage in a professional relationship with the Alum Rock Union Elementary School District.
2. **Narrative and Biographical Information (up to 12 pages)** - Provide a description of your qualifications for providing legal services in the area(s) of specialization you desire to perform services. Include descriptive and supportive evidence of how your firm will maintain a close working relationship with the District. Indicate ongoing commitments to the professional education of staff members, association with school connected organizations (i.e. CASBO, CASH), total number of permanent employees, and any other data that may assist the evaluation team in understanding your qualifications and expertise.

The narrative should outline the tasks and services your firm will perform for each area of specialization. Include a short biographical vita on each member of the firm you propose to assign to the District for each area of specialization you are responding to.

This section shall contain no more than 12 pages: two-page maximum per area of specialization with a maximum of 12 pages total if responding to all six areas of specialization.

3. **Reference List (one page)** - Provide a list of contracts from the past five (5) years for services similar in scope to this proposal. Include a minimum of three (3) educational client references with whom you have contracted within the last three (3) years. List must include the following information for each contract:
 - Client name and complete address
 - Contact name and telephone number
 - Dates of service
 - Description of service
 - Fee Schedule
4. **Fees/Services Schedule** - Respondent is requested to submit a proposal to furnish all of the labor, materials, and other related items required for the performance of the contract resulting from this RFP on a labor rate basis. Be as thorough and specific as possible as this will form the basis of any contract for services that may be presented by the District. Provide your fees on the Pricing Sheet included with this RFP (page 13).
5. **Certification** - Complete, sign, and date the enclosed "Certification" with this RFP (page 14).
6. **Certification by Contractor of Criminal Records Check** - Pursuant to Education Code 45125.1, complete, sign, and date the enclosed form AB 1610, 1612, and 2102 included with this RFP (page 16).

7. **Insurance Requirements** - Respondent shall submit with their proposal, certificate(s) of insurance, or evidence that they can obtain insurance prior to Contract award. The following coverages are required:

- Commercial General Liability: \$1,000,000 per occurrence, and \$3,000,000 general aggregate for bodily injury, personal injury and property damage.
- Automobile Liability: \$1,000,000 Combined Single Limit for owned, hired and non-owned auto.
- Errors and Omissions: All professionals and firms shall carry, or agree to obtain prior to the commencement of legal work for the District, an amount of Errors and Omissions Insurance sufficient to provide adequate protection to the District given the anticipated scope and volume of work to be assigned to the professional or firm by the District.
- Workers' Compensation: As required by the State of California *

Part A: Statutory Requirements

Part B: Employer's Liability: \$1,000,000 per injury, \$1,000,000 per disease, and \$1,000,000 aggregate

*If the Contractor is a sole proprietor with no employees, proof of Workers' Compensation and Employer's Liability insurance coverage will not be required.

For all insurance coverage provided by the Contractor, the following terms apply:

- A. Any deductibles, or self-insured retentions, shall be declared in writing to the District; District approval is required for any amounts over \$25,000.
- B. Insurance shall be placed with California admitted insurers with a current A.M. Best Company rating of "no less than A" unless otherwise approved by the District. The State Compensation Fund of California is acceptable for Workers' Compensation insurance.
- C. Workers' Compensation and Employer's Liability policies shall contain a waiver of subrogation.
- D. General liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
 - a. Contractor agrees to defend, indemnify, save and hold harmless, Alum Rock Union Elementary School District (District), its officers, agents, representatives, employees, and Board of Trustees, and provides named additional insured endorsements for the District, its officers, agents, representatives, employees, and Board of Trustees. They are to be covered as insured with respect to: liability arising out of activities

performed by, or on behalf of, the Contractor, products and completed operations of the Contractor, premises owned, occupied or used by the Contractor, or automobiles owned, leased, hired, or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the District, its subsidiaries, officials, employees, and the Board of Trustees.

- b. For any claims related to the services, the Contractor's insurance coverage shall be primary insurance with respect to the District, its subsidiaries, officials, employees, and the Board of Trustees. Any insurance or self-insurance maintained by the District, its subsidiaries, officials, employees, and the Board of Trustees shall be excess of the Contractor's insurance and shall not contribute to it.
- c. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits, except after a thirty (30) day prior written notice by certified mail, return receipt requested, has been given to the District.

The Contractor shall furnish the District original endorsements affecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District before work commences.

- 8. **IRS Form W-9** - All Proposals must include the following Internal Revenue Service form:

IRS Form W-9 Request for Taxpayer Identification Number and Certification
(Revised December, 2014).
Form W-9 is available at: www.irs.gov/pub/irs-pdf/fw9.pdf

- 9. **Conflict of Interest Certification** - Complete, sign, and date the enclosed Conflict of Interest certification included with this RFP (pages 17 & 18).
- 10. **Letters of Recommendation (three pages)** - Include no more than three recent letters of recommendation from school district clients.

END OF PROPOSAL COMPONENTS

9.05

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

Office of Superintendent of Schools

ITEM REQUIRING ATTENTION – BOARD OF EDUCATION

To the Board of Trustees:

Subject: Board Bylaws 9000 series, Second Reading—Board Bylaws

Submitted by: Hilaria Bauer Title: Superintendent

To the Board of Trustees:

Meeting:

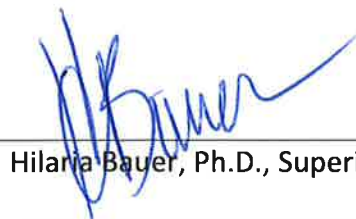
October 10, 2019

Regular Board Meeting

Consideration/ Discussion

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

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 7/2019 October 10, 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. ~~2006~~2014

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.eacities.org/index.jsp?zone=ilsg>~~

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: September 7~~1~~2October 10, 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 7~~October 10, 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~~es 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 7~~ October 10, 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 policies-bylaws related 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. ~~Restrict 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, r~~Representing 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 7~~ October 10, 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)

The Board shall set aside \$10,000 annually in a dedicated fund for those seeking elective office, which shall be split equally amongst all individuals who have filed as candidates with the County Registrar of Voters. Amount distributed shall not exceed \$3,000 per candidate.

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:

~~\$5001,000~~

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-1924th 1223

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

Sanchez v. City of Modesto, (2006) 51-145 Cal. RptrApp. 3d-8214th 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 12October 10, 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 7~~ October 10, 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)~~

~~12~~11. 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)

~~13~~12. 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.

The Board President shall establish the time limits and schedule to interview candidates. The Board President shall establish the questions that will be utilized during the candidate interviews. The Board shall utilize a Forced Ranking system to score the responses of each candidate. The candidate shall be determined by the aggregate score of all Board member scoring.

Special Meeting One Week Before Appointment:

1. Community will be provided an opportunity to provide public comment to express what applicant characteristics would be important to them in the selection process

2. Qualifying applicants will present themselves to the board and the community and will be given up to 10 minutes each to provide an introductory statement to the Board and the community

3. Board will develop VALUES that current Board Members determine are vital to be a high functioning team member of the governing body. These values are intended to be the foundation of their assessment of applicants

4. Board members shall introduce two questions each that will be included in the applicant interviews (one for the first round, one for the second round, if necessary)

Special Meeting to Interview and Select Appointee:

1. Opportunity for public comment to hear any community feedback on applicants introductory statements and qualifications

2. Names shall be drawn at random for order of interview question response

3. Applicants wait in separate room* during public comment and interview responses of individual applicants

4. Applicants shall have a sum total of 10 minutes to respond to all questions

SCORING

1. Board shall use a forced ranking system** to order individual applicants after each applicant provides their interview responses.

2. After the final applicant has provided their interview response, a numeric value shall be assigned by each Board Member to each individual applicant, with their top choice receiving the largest number (ex. If there are 5 applicants, a Board Member's top choice will receive 5 points, and their lowest choice will receive 1 point)

3. Publicly record each Board Member's score for each candidate, and then tally the scores of all applicants. ONCE BOARD MEMBERS HAVE SUBMITTED THEIR SCORES, THERE SHALL BE NO CHANGES MADE

4. If there are 5 applicants or less, the applicant with the highest point value shall be recommended for appointment by Board action.***

5. If there are 6 applicants or more, the top 3 shall move forward to the second round and the process will be repeated using the interview questions for the second round. The top vote getter in this second round shall be recommended for appointment by Board action.

6. IN THE EVENT OF A TIE in the first round where there are 6 candidates or more, the top 2 vote getters shall move forward to round 2, and those applicants who are tied for the 3rd highest vote tallies shall ALL move forward to the second round

7. IN THE EVENT OF A TIE in the first round where there are 5 candidates or less, ONLY THOSE APPLICANTS who are tied for the highest votes shall be considered. Ties for second or third place shall not be of consequence.

8. APPLICANTS TIED FOR FIRST PLACE in the first round when there are 5 applicants or less, or APPLICANTS TIED FOR FIRST PLACE in the second round when there are 6 applicants or more shall be the subjects of a public discussion among Board Members who will refer to the predefined values to assess which of the applicants tied for first place will be the most appropriate appointee.

9. If there is not a unanimous (?) vote**** after this process, the board will in effect recommend a special election to elect the new Trustee.

* Since it is a public meeting the applicants cannot be required to wait in a separate room at any time during the process. However, applicants will usually be “asked” to remain in a separate room while others are being interviewed.

** Counsel Rogelio Ruiz recommends a more detailed description of what a “forced ranking system” is so that there is no ambiguity.

*** It does not state how or who will make the “recommendation”. Ultimately, the appointment has to happen through Board action, ie, a vote. If the intention is that the scoring will determine who the Board shall vote on for appointment then I think the process needs to be spelled out more clearly. For example: “the Board will consider and vote on first the applicant with the highest point value.”

**** This would impose a unanimous vote requirement on the process. Please note, however, that the District’s Board Bylaw 9323.2 provides that, “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).” There is nothing in the law that specifies a unanimous vote requirement for provisional appointments. Also, Education Code section 5091 provides: “In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the county superintendent of schools shall order an election to fill the vacancy.”

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

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: ~~September 7~~ October 10, 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~~ are 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 7/2October 10, 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 7~~12~~October 10, 2019

SECOND 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 OnlineTM), 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 7~~October 10, 2019

SECOND 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, ~~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

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 ~~Tort~~ 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/herthe 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(ad)(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(bd)(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 12October 10, 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~~ October 10, 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, 20102015

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

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 712October 10, 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~~stopping or preventing the Board's violation or threats ~~of ened~~ violations of the Brown Act

~~; to~~

2. ~~D~~determineing 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. Ceompelling~~ Ceompelling 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 712October 10, 2019

Alum Rock Union ESD

Exhibit

Actions By The Board

E(1) 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 attendance ADA 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 w~~Waiver~~ 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~~October 10, 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 minutes shall include 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, tThe Board president shall announce that a recording or broadcasting is being made at the beginning of the meetingdirection of the Board and, and that the recording or broadcast may capture images and sounds of those attending the meeting. Aas 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.org>www.agendaonline.com

Bylaw ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT

adopted: July 2, 2013 San Jose, California

Revised: ~~September 7~~October 10, 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 boardsmanship 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~~ 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~~October 10, 2019