

Lozano Smith
ATTORNEYS AT LAW

Santa Barbara County School Boards Association
and Santa Barbara County Education Office

School Board Candidate Workshop

Presented by: Chelsea Olson Murphy

September 21, 2022

1

Presenter

Chelsea Olson Murphy

AT LOZANO SMITH

Chelsea Olson Murphy is a Partner at Lozano Smith. Her practice focuses on providing counsel to school districts and county offices of education in the areas of governance and labor and employment. Specifically, Ms. Olson Murphy advises school districts and county offices of education on a variety of legal matters including employee discipline and dismissal, benefits, leaves of absence and the interactive process, contract administration, conflicts of interest, the Brown Act, and the California Public Records Act.



CONNECT
colsonmurphy@lozanosmith.com
805.471.7080




2

Lozano Smith



Topics

- Election Overview
- Board Role
- Brown Act Basics
- Public Participation
- Opening Up About Closed Sessions
- Conflicts/Incompatible Offices




3




4

Board Member Election Overview

- 5 or 7 board members
- 4 year terms
- Service begins on the second Friday in December (12/9/22)
- Annual organizational meeting. Election of officers
- Staggered terms

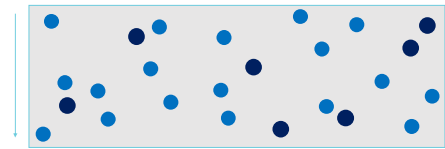



5

5


At-Large Elections

Board members may reside anywhere in the District.
Registered voters within the District may vote for all seats on the Board.



District boundaries

● = Board member ● = Registered voter


6

6

California Voting Rights Act ("CVRA")

Prohibits the use of "at-large" elections that impair the ability of a protected class to:

- elect candidates of its choice; or
- to influence the outcome of an election. (Elec. Code, § 14027)

"Racially Polarized Voting"

Proof of intent to discriminate not required



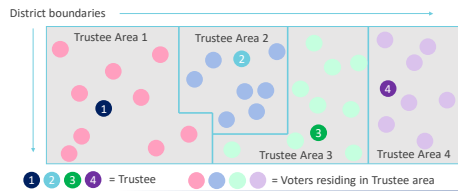
7

7

By-Trustee Area Elections- the only method of election guaranteed NOT to violate the CVRA

Trustees must reside within specific trustee areas.

Only voters residing within the specified trustee area may vote for that particular trustee.



8

8

Transition to By-Trustee Areas

County Committee hearing to grant/deny request.

Terms of current board members not changed by transition to by-trustee areas.

Trustee area maps must be adjusted after each federal census.

District boundaries themselves do not change.



9

9

Eligibility Requirements

Any person is eligible to be a member of the Board, without further qualifications, if

- he/she is 18 years of age or older,
- a citizen of California,
- a resident of the school district (or trustee area)
- a registered voter,
- and not legally disqualified from holding civil office.

LS

10

10

Board Role

11

11

LS

12

12

A Starting Point: Mission & Values

Mission and Values

Board behavior sets the standards for the entire district




13

13


The Board's Role

Focus on the "What," not the "How"

Ensure clarity of roles/responsibilities

Focus on the Big Picture

Be a Team Member


14

14

What is The Role of the School Board?



A good school Board does not run the public schools; it ensures that they are well run.


15

15

Trustee Responsibilities

- Hire and evaluate Superintendent
 - The Superintendent is the Board's only employee
 - Communicate questions and concerns to Superintendent
 - Evaluate based on agreed-upon criteria and goals
- Set direction in accordance with Board policy and local, state and federal law
- Prepare for Board meetings and inform the Superintendent regarding issues to be raised (No Surprise Rule)
- Ensure accountability
- Fiscal responsibility
- Serve as advocates for children, the school district and public education



16

16

The School District Governance Calendar

- Understand legal requirements governing the board's calendar
 - Example: Budget adoption process, LCAP adoption process; annual organizational meeting



17

17

The Board's Responsibilities at Meetings



- ✓ Be on time
- ✓ Be prepared
- ✓ Actively participate
- ✓ Maintain positive attitude
- ✓ Look for common ground
- ✓ Avoid Conflicts of Interest



18

18

The Power of an Individual Board Member

Action of the Board requires Majority vote (no individual action)

Outside of board meetings, board members have the same power as ordinary citizens - no more and no less.

But...others *perceive* board members as having power. Exercise care regarding your implied powers.



19

19

Distinction Between School District Board and County Board

- Like school boards, county boards adopt rules and regulations for their own governance
- Adopt their county office's annual budget
- Serve as appellate body for student expulsions and interdistrict transfers (from districts within the County)
- Adopt courses of study and evaluate program effectiveness for certain programs including juvenile court schools and county community schools
- Establish and oversee county charter schools
- County Superintendent is an elected official and the "employer" charged with managing personnel in the county office (distinct from school boards)



20

20

Role of the Superintendent

Board's only employee-Responsible for the overall management of the district.

Work at the direction entire Board

Communicate information openly and timely to all Board members

Is the Board's educational expert, advises and educates the Board regarding educational and organizational issues.

Recommend policies and programs to the Board. Implements the Board's decision on those recommendations



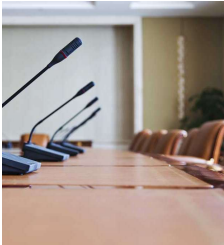
21

21

Brown Act Basics

22

Brown Act



Who is subject to the Brown Act?

- "Legislative bodies"
- Includes someone who has been elected but not yet assumed office
- Committees


LS

23

23

What Does The Brown Act Require?

- Actions & deliberations taken openly & in public
- Meetings are public, unless closed session is allowed
- Meeting agendas and packets must be available
- Agenda posted on district website



LS



24

24

What is a Meeting?

- Majority of the members at the same time and place to hear, discuss or deliberate any item in legislative body's jurisdiction.

What is **NOT** a Meeting?

LS

25

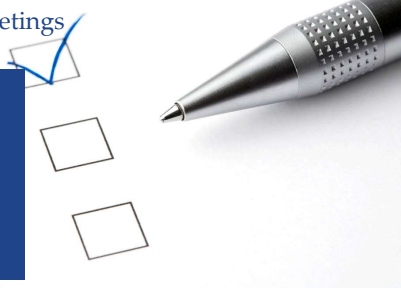
25

Three Types of Meetings

Regular

Special

Emergency meetings



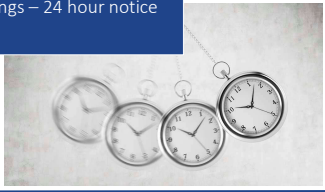
LS

26

26

When Can Governing Boards Meet?

- Regular Meetings – 72 hour notice
- Special Meetings – 24 hour notice



LS

27

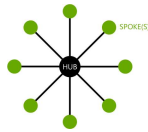
27

Serial Meetings

LINEAR OR CHAIN MEETING



HUB OR SPOKE MEETING



28

28

Serial Meetings Can Occur Through the Use of Technology

- Telephone
- Email
- Text message
- Chat room
- Social media



29

29

AB 992 (2020) - Board Member Use of Social Media

PERMITTED

- Individual Board member may engage in conversations or communications on a social media platform to:
 - (1) Answer questions from the public
 - (2) Provide information to the public
 - (3) Solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body.

PROHIBITED

- (1) A **majority** of the legislative body using a social media to discuss among themselves agency business of a specific nature that is within the subject matter jurisdiction of the agency; and
- (2) **Any member** of the legislative body responding directly to any communication from another member on an internet-based social media platform regarding a matter within their subject-matter jurisdiction.



30

30

Public Participation

31

Public Participation

Board meeting **IS**:

Meeting of the Board in public to conduct the District's business

Board meeting is **NOT**:

A meeting of the public

A townhall meeting

A press conference



LS

32

32

Public Participation Opportunities

- Right to attend open session
- Public comment on open and closed session agenda items
- Public comment on items not on the agenda
- Special v. regular meeting public comment rules

LS

33

33



34



35



36

Closed Sessions



Closed session items must be identified on the agenda


LS

37

37

Boards May Meet in Closed Session

- Real Property Transactions
- Litigation
- Personnel Exception
- Labor Negotiations
- Student Discipline
- Public Safety




LS

38

38

Meeting Materials – Closed Session

Writings distributed for closed session are generally exempt from public disclosure under the Public Records Act.



LS

39

39

Confidentiality of Closed Session Discussions

No person may publicly disclose information that has been received and discussed in closed session unless the information is authorized by law to be disclosed or the legislative body authorizes the disclosure.



LS

40

40

Reports from Closed Session



LS

41

41

A Note About Conflicts and Incompatible Offices

42

Incompatible Offices

- Prohibition against the holding of “incompatible offices.” This doctrine restricts the ability of public officials to hold two different public offices simultaneously if the offices have overlapping and conflicting public duties. (Gov. Code section 1099)



43

43

Employees Serving on Boards

- 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 section 35107)
- Any registered voter is allowed to be a member of the County Board of Education except the County Superintendent of Schools or any member of his/her staff, or any employee of a school district within the jurisdiction of the County Board of Education. (Education Code section 1006)



44

44

Prohibited Financial Interest: Contracts

- Public officers may not be financially interested in a contract.
- Prohibits participating in the development, negotiation, or execution of the contract.
- The School District cannot enter into a contract if a member has a financial interest in the contract.
- Abstention insufficient.



45

45

Prohibited Financial Interest: Contracts

Harsh Penalties and Remedies

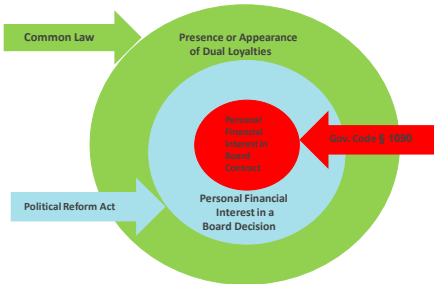
- Contract is void and unenforceable.
- Criminal, civil, and administrative sanctions.
- With conviction, public official is forever banned from holding any office.



46

46

Conflicts of Interest



47

47

California Political Reform Act 1974



"Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them."



48

48

What if a Red Flag Is Raised?




LS

49

49

Questions



LS

50

50



Thank you from
Lozano Smith.

Together with you, we're impacting communities and lives through:

- Professional development
- Volunteer projects
- Sponsorships and award programs
- Scholarships

#BlueHatProject
#LozanoSmithFoundation

LS

51

51



Subscribe on your favorite app or device.

LS

Stay informed on your time.

Lozano Smith Podcast

lozanosmith.com/podcast

52

52

For more information, questions and comments about the presentation, please feel free to contact:

Chelsea Olson Murphy
Partner

Tel: [805.471.7080]
colsonmurphy@lozanosmith.com

Or any of the attorneys in one of our 8 offices.

LS

53

53

@LozanoSmith

Disclaimer: These materials and all discussions of these materials are for informational purposes only and do not constitute legal advice. If you need legal advice, you should contact your local counsel or an attorney at Lozano Smith. If you are interested in having other in-service programs presented, please contact clerk@lozanosmith.com or call (531) 431-5800.

Copyright © 2020 Lozano Smith. All rights reserved. No portion of this work may be copied, distributed, sold or used for any commercial advantage or private gain, nor any derivative work prepared therefrom, nor shall any sub-license be granted, without the express prior written permission of Lozano Smith through its Managing Partner. The Managing Partner of Lozano Smith hereby grants permission to any client of Lozano Smith to whom Lozano Smith provides a copy to use such copy intact and solely for the internal purposes of such client. By accepting this product, recipient agrees it shall not use the work except consistent with the terms of this limited license. W016-8830648

LS

54

54
