

### ACTIONS BY THE BOARD

The Governing Board shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. (Education Code 35164 35165)

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)

For districts with a five-member board, an item will pass with three votes, even if only three members are present or there is a vacancy.

#### Action on Non-Agenda Items

The Board may take action on a subject not appearing on the posted meeting agenda only after publicly identifying the item and if any one of the following conditions are met: (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
4. Until December 31, 2025, when a Board member requests to participate by teleconference due to emergency circumstances pursuant to Government Code 54953 so long as the timing of the request did not allow for sufficient time to place it on the agenda

#### Challenging Board Actions

Before seeking to file a civil action to stop or prevent a Brown Act violation or to invalidate a prior action taken by the Board, the district attorney's office or interested person shall first present a demand to "cure and correct" the alleged violation to the district. If the district receives a proper demand from the district attorney's office or any interested person to "cure and correct" an alleged violation of the Brown Act, the Board shall consult with legal counsel on if and how to respond as provided by law. (Government Code 54960-54960.5)

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
- 17510-17512 Leasing for production of gas; resolution requiring unanimous vote
- 17546 Private sale of personal property
- 17556-17561 Dedication of real property
- 35140-35149 Meetings
- 35150 Termination of the superintendent
- 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
- 54230.5 Disposal of surplus land and receipt of notice of violation
- 54230.7 Disposal of surplus land and receipt of notice of violation
- 54950-54963 The Ralph M. Brown Act
- 54952.6 Action taken, definition
- 54953 Meetings to be open and public; attendance
- 54960-54960.5 Actions to prevent violations
- 65352.2 Communicating and coordinating of school sites

PUBLIC CONTRACT CODE

- 3400 Bid specifications
- 20110-20118.44 School district contracts
- 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
- 3400 Bid specifications

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, rev. 2023

ATTORNEY GENERAL PUBLICATIONS

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

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public IV: A Guide to the Ralph M. Brown Act, 2<sup>nd</sup> Edition, rev. July 2010  
WEB SITES

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

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

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

CSBA District and County Office of Education Legal Services

ADOPTED: 11/18/2015

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