

## **BYLAWS OF THE BOARD**

### **Closed Sessions**

The Board may hold closed sessions only for one or more of the following purposes:

1. To consider "student personnel matters," that is, suspension, or disciplinary action, or any other action, in connection with any student in the San Joaquin County Office of Education (SJCOE) programs, if a public meeting would lead to giving out information which might violate the student's right of privacy.
2. To hear and consider "security matters" affecting the national security; to discuss with the Attorney General, district or county counsel, sheriff or chief of police, or their deputies, matters threatening SJCOE buildings or the public's right of access to SJCOE services or facilities.
3. To protect records which are exempt from public disclosure under Government Code 6254.
4. To meet with the Board's real property negotiator prior to the purchase, sale, exchange, or lease of real property in order to instruct the negotiator regarding the price and terms of the property.
  - Prior to holding the closed session, the Board shall at a public meeting identify the property(ies) under negotiation and specify the person(s) with whom the negotiator may negotiate.
5. To meet with the Board's legal counsel to confer with or receive advice regarding pending litigation which, if discussed in open session, would prejudice the Board's position in the case.

Litigation shall be considered pending when any of the following circumstances exist:

- a. An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the Board is a party, has been initiated formally.
- b. (1) A point has been reached where, in the opinion of the Board on the advice of its legal counsel based on existing facts and circumstances, there is a significant exposure to litigation against SJCOE  
  
(2) Based on existing facts and circumstances, the Board is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) above.

- c. Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the Board shall state publicly whether the closed session is being held for reasons listed in subdivision (a), (b) or (c) above. If the session is closed pursuant to subdivision (a), the Board shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the Board states that to do so would jeopardize SJCOE's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

The legal counsel of the Board shall prepare and submit to the Board a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to subdivision (a), the memorandum shall include the title of the litigation. If the closed session is pursuant to subdivision (b) or (c), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the Board prior to the closed session if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Government Code 6254.1.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

6. To discuss a claim for the payment of tort liability or public liability losses incurred by SJCOE or any member agency under the joint powers insurance pooling agency of which SJCOE is a member.

### **Time and Place of Closed Sessions**

1. The County Board of Education may hold a closed session at any time before, during or after a regular or special meeting.
2. The Board may adjourn a regular or special public meeting at any time and go into closed session, returning to public session as soon as the closed session is over. No closed session may be held during an emergency special meeting of the Board.
3. The Board may hold closed sessions outside of regular or special meetings for negotiation purposes listed below. Notification requirements shall not apply to such sessions.
  - a. Any hearing, meeting or investigation conducted by a factfinder or arbitrator.
  - b. Discussion of the Board's position on matters within the scope of representation and instruction of the Board's designated representative.

### **Statement of Purpose for Closed Session**

When it is determined that a closed session is needed during a regular public Board meeting, the presiding officer shall publicly announce the reasons before or after the closed session. If no members of the public are present, a statement shall be made after the closed session. No matters other than those given in the statement shall be discussed or acted upon during the closed session. In the case of special, adjourned or continued meetings, the statement shall be part of the notice provided for such meetings.

If the Board plans to hold a closed session, the agenda of any regular or special meeting shall state the general reasons for the closed session.

### **Discussion and/or Actions by the Board**

1. The Board may discuss any matter contained in the statement of purpose for the closed session at that closed session.
2. The Board may take action on any matter in the statement of purpose for the closed session.
3. Final action by the Board shall be taken at a public meeting with respect to suspension, disciplinary action, or any other action in connection with any student.

### **Disclosure of Confidential/Privileged Information**

All confidential/privileged information shall be released only as allowed by law.

Confidential/privileged information which is produced for; or, which comes out during closed sessions of the Board, shall not be divulged or released unless a majority of Board members agree to release the information subject to applicable laws regarding closed sessions.

This policy is not intended to cause the withholding of information about the purpose and subject(s) of the closed session as required for public information under Government Code Section 54957.7.

Information from closed sessions shall be released by the president or chairman of the meeting in which the closed session is held.

Any Board member who willfully, and for monetary gain, uses or discloses confidential/privileged information as defined in Government Code 1098 is guilty of a misdemeanor.

Any Board member who released confidential/privileged information contrary to the provisions of this bylaw may be publicly censured by a majority vote of the members of the Board.

Legal Reference:

EDUCATION CODE

35010 Power of governing board to adopt rules for its own governance

35145 Public meetings

35146 Closed session (re student suspension)

48918 Rules governing expulsion procedures; hearings and notice

49073 Release of directory information

49076 Access to records by persons without written parental consent (re invasion of privacy)

49079 Notification to teacher re: students whose actions are grounds for suspension or expulsion

GOVERNMENT CODE

1098 Public officials and employees: confidential information

3543.2 Scope of representation

3549.1 Proceedings exempt from public meetings provisions

6250-6268 California Public Records Act

11126 Closed Sessions

54950-54962 The Ralph M. Brown Act, especially

54952.6 Action taken, definition

54956.8 Closed session with negotiator regarding real property

54956.9 Closed session with legal counsel regarding pending legislation

54956.95 Closed sessions; insurance pooling

54957 Closed session; exclusion of witnesses

54957.1 Public report of any action to appoint, employ or dismiss an employee

54957.2 Taking of minutes at closed sessions; clerk; minute book

54957.6 Closed session; representatives to employee organization(s)

54957.7 Statement of reason(s) for closed session

54962 Closed session prohibited

EVIDENCE CODE

1040 Privilege for Official Information

SACRAMENTO NEWSPAPER GUILD V. SACRAMENTO COUNTY BOARD OF SUPERVISORS (1968, 263 Cal.App. 2d 41)