

## **Bylaws of the Board**

### **Members**

#### **LIMITS OF BOARD MEMBERS AUTHORITY**

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. The Board has broad but clearly limited powers. The exercise of its authority is restricted to the functions required or permitted by law, and then only when it acts in a legally constituted meeting. Board members shall hold the education of students above any partisan principle, group interest, or personal interest. A Board member whose child is attending a district school should be aware of their role as a Board member when interacting with the district employees about their child.

The Board member has no individual authority. Individually, the Board member may not commit the district to any policy, act or expenditure. The Board member cannot do business with the district served, nor should the Board member have an interest in any contract with the school district in general. The Board member represents and acts for the community as a whole and does not represent any factional segment of the community.

Unless agreed to by the Board as a whole, individual members of the Board shall not exercise any administrative responsibility with respect to the schools or command the services of any school employee. Individual Board members shall submit requests for information to the Superintendent. Board members shall refer Board-related correspondence to the Superintendent for forwarding to the Board or for placement on the Board's agenda, as appropriate.

Individual Board members do not have the authority to resolve complaints. Any Board member approached directly by a person with a complaint should refer the complainant to the Superintendent or designee so that the problem may receive proper consideration and be handled through the appropriate district process.

A Board member's role in any District formal complaint procedure or investigation is extremely limited. This limited role is necessary in order to respect the parties right to due process. If a Board member were to involve themselves in a complaint in an administrative capacity and the complainant were to file a claim against the District, the district may be required to disclose that we were aware that a Board member received information from sources outside of the administrative record. This may result in the complainant claiming that the District failed to provide due process and/or the district's insurance company refusing to indemnify an individual Trustee. Additionally, if a Board member were to involve themselves in a complaint and/or investigation and findings of the matter were eventually appealed to the Board of Trustees, the Board member involved would need to recuse themselves from the appeal process in order to exercise the "disinterested diligence" that is expected from each Board member.

**LIMITS OF BOARD MEMBERS AUTHORITY (continued)**

This Board Bylaw, as well as the Board Policies / Administrative Regulations / Board Bylaws referenced below, provide examples as to why the complaint procedure requires Board members to have a limited role in investigating and/or evaluating a complaint, as well as recommending disciplinary action.

Board Policy 1312.1 - Complaints Against District Employees, states:

If the Board decides to hear the complaint, the matter shall be addressed in closed session in accordance with Government Code 54957 unless the employee requests that it be heard in open session. The Board shall review the original complaint and additional information provided by the Superintendent or designee regarding the steps taken to resolve the issue.

Administrative Regulation 1312.2 - Complaints Concerning Instructional Materials, states:

If the complainant remains unsatisfied, he/she may appeal the Superintendent's or the review committee's decision to the Board. The Board's decision shall be final.

Administrative Regulation 1312.3 - Uniform Complaint Procedures, states:

If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five business days, file his/her complaint in writing with the Board. The Board may consider the matter at its next regular Board meeting or at a Special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

Board Policy / Administrative Regulation 5144.1 - Suspension and Expulsion, states:

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

**LIMITS OF BOARD MEMBERS AUTHORITY (continued)**

This bylaw is not meant to prevent a Board member from engaging with a member of the public. This bylaw does not apply to when a Board member is sent an email, text message, runs into a parent/family member out in public, or similar form of contact. It is recommended that (especially during a formal complaint, an investigation, or an expulsion) members forward the received communication(s) to the Superintendent and/or Constituent and Customer Service. If the Board member is aware that a formal complaint has been filed, an investigation is underway, or an expulsion is in progress, Board members should feel comfortable responding to the contact (if they choose so) using one of a series of fact-based explanations for why they cannot be involved at this point in the process. Staff shall provide Board members with responses to use upon request and as part of the New Trustee Orientation process.

Board Bylaw 9270 - Conflict of Interest, 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 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.

Common Law Doctrine Against Conflict of Interest, states:

A Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

In addition to the statutory conflict of interest, courts also recognize the “common law” conflict of interest, often referred to as the “appearance of impropriety.” A common law conflict of interest exists whenever a public official cannot exercise his/her duties without disinterested diligence for the benefit of the public. If a public official cannot exercise his/her duties without “disinterested diligence” for the benefit of the public, he or she has a conflict and should not participate in the action or decision. (American Canyon Fire Protection Dist v. County of Napa (1983) 141 Cal.App.3d 100, 103-104 [common-law conflict of interest if board members serving in dual capacities cannot exercise undivided allegiance in the performance of their duties in either capacity].) The official is disqualified from participating in the matter whether the interest is financial or non financial.

Board Bylaw 9271 - Code of Ethics, states:

I will not involve myself in activities that the Board has delegated to the Superintendent.

**LIMITS OF BOARD MEMBERS AUTHORITY (continued)**

The Superintendent or designee shall provide a copy of the state's open meeting laws (Brown Act) to each Board member and to anyone who is elected to the Board but has not yet assumed office.

Board members and persons elected to the Board who have not yet assumed office are responsible for complying with the requirements of the Brown Act. (Government Code 54952.1).

- (cf. 1160 - Political Processes)
- (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. 1340 - Access to District Records)
- (cf. 3320 - Claims and Actions Against the District)
- (cf. 4031 - Complaints Concerning Discrimination in Employment)
- (cf. 4112.6/4212.6/4312.6 - Personnel Files)
- (cf. 5020 - Parent Rights and Responsibilities)
- (cf. 5144.1 - Suspension and Expulsion)
- (cf. 6020 - Parent Involvement)
- (cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)
- (cf. 9000 - Role of the Board)
- (cf. 9011 - Disclosure of Confidential/Privileged Information)
- (cf. 9270 - Conflict of Interest)
- (cf. 9271 - Code of Ethics)
- (cf. 9322 - Agenda/Meeting Materials)
- (cf. 9323 - Meeting Conduct)

Legal Reference:

**EDUCATION CODE**

- 200-262.4 Prohibition of discrimination
- 7054 Use of district property
- 35010 Control of district; prescription and enforcement of rules
- 35100-35351 Governing boards, especially:
- 35160-35184 Powers and duties
- 35291 Rules
- 35292 Visits to schools (Board members)
- 51101 Rights of parents/guardians

**GOVERNMENT CODE**

- 54950-54962 The Ralph M. Brown Act, especially:
- 54952.1 Member of a legislative body of a local agency
- 54952.7 Copies of chapter to members of legislative body

Management Resources:

**CSBA PUBLICATIONS**

- CSBA Professional Governance Standards, 2000
- Maximizing School Board Leadership: Boardmanship, 1996

**WEB SITES**

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