AGENDA
MERCED COUNTY BOARD OF EDUCATION
May 19, 2025

REGULAR BOARD MEETING

Merced County Office of Education - 632 West 13th Street, Merced, CA 95341 – Board Room
The meeting begins at 3:00 p.m.

[These proceedings may be recorded.]

I. Open

A. Call to Order at _____ PM by Chairperson _____

B. Roll Call:

Dennis Hanks, Chairperson	_____
VACANT, Vice Chairperson	_____
Frank Fagundes, Member	_____
Rodrigo Espinosa, Member	_____
Geneva Brett, Member	_____

C. Others Present: _____

II. Flag Salute - Pledge of Allegiance to the Flag

III. Presentation

A. Presentation of Certificates of Recognition — Stacie Arancibia
   1. California Science & Engineering Fair – Top Finishers

IV. Consent Agenda: Items listed under Consent Agenda are considered to be routine administrative functions and will be acted on by the Board in one motion and one vote. Any items under the Consent Agenda may be discussed; however, if the item needs further clarification and discussion, it may be removed from the Consent Agenda at the request of the Board or the Superintendent and considered separately. Information concerning the Consent Agenda items will be provided to each Board Member for study before the meeting. It is understood that the Superintendent recommends approval of all consent items unless otherwise noted. *(Board Bylaw 9322)*

A. Minutes of Regular Meeting on April 21, 2025
B. Retirement Resolution:
   1. Resolution No. 2025-12 Honoring Tricia Ellis

Motioned by _____ Seconded by _____ Vote _____

V. Written Communications

A. Correspondence Received By Chairperson
B. Correspondence Received By Board Members:
C. Correspondence Received By Superintendent

VI. Call for Public Comments on Agenda & Non-Agenda Items

During this portion of the agenda, the public is invited to address the Board on any item of interest that is within the Board's jurisdiction *(Education Code 35145.5; Government Code 54954.3)*. The Board shall conduct no discussion, deliberation, or action on any item not appearing on the posted agenda, except as authorized by law raised (*Education Code 35145.5, Government Code 54954.2)*. Members of the public are limited to five minutes on each topic or agenda item and, public participation cannot exceed 20 minutes total for each topic or agenda item *(Government Code 54954.3; Board Bylaw 9322 & 9323)*.

VII. Future Agenda Items

A. Special Board Meeting, June 9, 2025 – Public Hearing: Adoption of 2025-2026 Merced County Office of Education Budget and Local Control Accountability Plan (LCAP).

VIII. Superintendent's and Board Members' Report (Information/Discussion Only)

A. Review of Board Bylaws: *(For approval at the June Board Meeting)* — Steve M. Tietjen

1. 9124 – Attorney
2. 9220 – County Board Elections – Bylaw and Exhibit 1
3. 9320 – Meetings and Notices
4. 9321 – Closed Session Purposes and Agenda – Bylaw, Exhibit 1 and 2
5. 9322 – Agenda/Meeting Materials
6. 9323 – Meeting Conduct
7. 9323.2 – Actions By The Board – Bylaw and Exhibit 1

B. Board Member's Report *(if any)* — Board Members

C. Superintendent's Report — Steve M. Tietjen

1. MCOE 2025 School Graduations

IX. Business Items for Action

A. Merced County Board Bylaws — Steve M. Tietjen

It is recommended that the Board of Education approve the following Board Bylaws:

1. 9010 – Public Statements
2. 9012 – Board Member Electronic Communications
3. 9100 – Organization
4. 9150 – Student Body Members *(not applicable)*
5. 9223 – Filing Vacancies
6. 9224 – Oath or Affirmation
7. 9240 – Board Training
8. 9260 – Legal Protection
9. 9270 – Conflict of Interest *(Bylaw & Exhibit)*

Motioned by _____ Seconded by _____ Vote _____

B. Conflict of Interest Code — Steve M. Tietjen

It is recommended that the Board of Education approve **Resolution No. 2025-13,** Adopting the Merced County Board of Education Conflict of Interest Code (Board Bylaw 9270 – Conflict of Interest)

Motioned by_____ Seconded by_____ Vote_____

C. Williams Uniform Complaint Report Summary — Nestor Henrriquez

It is recommended that the Board of Education review and approve the Uniform Complaint Report Summary for the Quarterly Period January 2025 through March 2025

Motioned by_____ Seconded by_____ Vote_____

D. Filling Vacancy — Steve M. Tietjen

It is recommended that the Board of Education review and select the option relative to the Vacant Board Member Position – Area #2

Motioned by_____ Seconded by_____ Vote_____

X. Call for Public Comments: Identified Closed Session Agenda Items

During this portion of the agenda, the public is invited to address the Board on identified closed session items before adjournment into Closed Session.

The Board will proceed into a Closed Session.

XI. Closed Session Pursuant to Education Code 35146 to Hear Appeal of Denial of Interdistrict Attendance Request **– Appeal # 2025-02 and 2025-03 – 3:30 PM**

XII. Closed Session to Deliberate Interdistrict Attendance **Appeal #2025-02 and 2025-03**

The Board will proceed into an Open Session.

XIII. Open Session Report Action of Interdistrict Attendance **Appeal #2025-02 and 2025-03**

Moved by_____ Seconded by_____ Roll Call Vote:

Hanks	_____
Fagundes	_____
Espinosa	_____
Brett	_____

The Board will proceed into a Closed Session.

XIV. Closed Session Pursuant to Education Code 35146 to Hear Appeal of Denial of Interdistrict Attendance Request **– Appeal # 2025-04 – 4:00 PM**

XV. Closed Session to Deliberate Interdistrict Attendance **Appeal #2025-04**

The Board will proceed into an Open Session.

XVI. Open Session Report Action of Interdistrict Attendance **Appeal #2025-04**

Moved by_____ Seconded by_____ Roll Call Vote:

Hanks	_____
Fagundes	_____
Espinosa	_____
Brett	_____

The Board will proceed into a Closed Session.

XVII. Closed Session Pursuant to Education Code 35146 for Board to Meet as Thurman Agricultural Scholarship Committee to Review Applications

The Board will proceed into an Open Session.

A. Selection of 2025 Thurman Agricultural Scholarship Recipient — Steve M. Tietjen, *County Superintendent*

Motioned by_____ Seconded by_____ Vote_____

XVIII. Adjournment: _____ PM

Motioned by _____ Seconded by _____ Vote _____

Americans With Disabilities Act Assistance: Auxiliary aids and services include a wide range of services and devices that promote effective communication for individuals with disabilities. If you require such assistance, please notify the Office of the Superintendent at (209) 381-6601 as soon as possible. Every effort will be made to give primary consideration to expressed preferences or provide equally effective means of communication to ensure equal access to the meetings of the Merced County Board of Education.
(Government Code 54954.2) (Board Bylaw 9320 & 9322)

Availability of Documents for Public Inspection: Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the Merced County Office of Education to all or a majority of the members of the Merced County Board of Education less than 72 hours before that meeting are available for public inspection in the Superintendent's Office at the Merced County Office of Education, 632 West 13th Street, Merced, CA 95341, during normal business hours. The agenda is made available on our website: www.mcoe.org *(Government Code 54957.5) (Board Bylaw 9320 & 9322)*

Merced County Board of Education

Presentation

MERCED COUNTY
Office of Education
NURTURE • SERVE • LEAD

Steve M. Tietjen, Ed.D. | County Superintendent of Schools

Merced County Board of Education

Consent Agenda

MERCED COUNTY
Office of Education
NURTURE • SERVE • LEAD

Steve M. Tietjen, Ed.D. | County Superintendent of Schools

MINUTES
MERCED COUNTY BOARD OF EDUCATION
April 21, 2025

REGULAR BOARD MEETING

Merced County Office of Education Board Room
632 W. 13th Street, Merced, CA 95341

I. Opening

A. Board Chairperson, Dennis Hanks, called the regular meeting of the Merced County Board of Education to order at 3:00 PM.

B. Members present were Dennis Hanks, Tim Razzari, Frank Fagundes, and Geneva Brett. Rodrigo Espinosa was absent.

C. Others present: Stephanie Richardson (MCOTA), Janet Riley, Yolanda Campos, Maria Cuevas, Executive Assistant to the Superintendent, Steve M. Tietjen, County Superintendent

II. Flag Salute – Pledge of Allegiance to the Flag

III. Consent Agenda: Items listed under Consent Agenda are considered to be routine administrative functions and will be acted on by the Board in one motion and one vote. Any items under the Consent Agenda may be discussed; however, if the item needs further clarification and discussion, it may be removed from the Consent Agenda at the request of the Board or the Superintendent and considered separately. Information concerning Consent Agenda items will be provided to each Board member for study before the meeting. It is understood that the Superintendent recommends approval of all consent items unless otherwise noted. *(Board Bylaw 9322)*

A. Minutes of Regular Meeting on March 17, 2025

Frank Fagundes moved, and **Geneva Brett** seconded the motion to approve the Consent Agenda as submitted. The motion carried with a vote of 4-0 *(Espinosa was absent)*.

IV. Written Communications

A. Correspondence Received By Chairperson: None.

B. Correspondence Received By Board Member: CSBA Merced County Delegate Update Letter from Zachery Ramos

C. Correspondence Received By Superintendent: None.

V. Call for Public Comments on Agenda & Non-Agenda Items

The public was invited to address agenda items, submit items within the subject matter jurisdiction of the Board for future consideration, or speak to issues related to the function and operation of the County Board of Education.

No comments were made.

VI. Future Agenda Items – MCOE School Graduation Dates

VII. Superintendent's and Board Members' Report (Information/Discussion Only)

The Board members reviewed the following Board Bylaws.

(Approval will take place at the May Board Meeting)

1. 9010 – Public Statements
2. 9012 – Board Member Electronic Communications
3. 9100 – Organization
4. 9150 – Student Body Members *(not applicable)*
5. 9223 – Filing Vacancies
6. 9224 – Oath or Affirmation
7. 9240 – Board Training
8. 9260 – Legal Protection
9. 9270 – Conflict of Interest *(Bylaw & Exhibit)*

B. Public Disclosure of Collective Bargaining Agreement (DCBA) California School Employees Association (CSEA) Chapter #541, Term 7/1/2024 to 6/30/2027 – 3 years (2024-25, 2025-26, 2026-27). Janet Riley informed the board that staff would receive an increase of 4.5 % in the first year, a 3% increase in the second year, and finally in the third year a 1% increase. Board Member Tim Razzari asked Janet if the payment to the employees would be retroactive. Janet explained that staff will see the payment in April.

C. Report on Attendance of the MCSBA Spring Dinner held on March 27, 2025. Board members, Rodrigo Espinosa and Frank Fagundes, reported that they attended, along with Steve Tietjen, Maria Cuevas, and Yolanda Campos. Awards from various districts were issued. Loretta Rose was recognized for her work with the MCSBA.

Geneva Brett reported on the Central Valley Education Coalition Luncheon held on April 10, 2025. She was pleased with the food and delighted with the entertainment. Frank Fagundes, along with Steve Tietjen, also attended the luncheon.

D. Superintendent's Report: NONE

VIII. Business Items for Action

A. Merced County School Board Association (MCSBA) Fall Conference

It was recommended that the Board of Education approve for the Board Members to attend the upcoming Annual MCSBA Fall Conference on October 10-12, 2025, at the Hyatt Regency Monterey.

Geneva Brett moved, and **Frank Fagundes** seconded a motion to approve the Board Members' attendance at the Annual MCSBA Fall Conference, October 10-12, 2025, held in Monterey, CA. The motion was carried with a vote of 4-0 *(Espinosa was absent)*.

B. MCOE Employee Recognition Resolutions

It was recommended that the Board of Education approve the MCOE Employee Recognition Resolutions as submitted.

1. **Resolution No. 2025-08** in Recognition of California Day of the Teacher, May 6, 2025, **Merced County Office Teachers Association (MCOTA)**
2. **Resolution No. 2025-09** in Recognition of California Day of the Teacher, May 6, 2025, **CSEA Chapter 856, Unit B – Head Start**
3. **Resolution No. 2025-10** in Recognition of Classified School Employees' Recognition Week – May 18-24, 2025, **CSEA Chapter 541**

4. **Resolution No. 2025-11** in Recognition of Classified School Employees' Recognition Week – May 18-24, 2025, **CSEA Chapter 856, Unit A – Head Start**

Tim Razzari moved, and **Geneva Brett** seconded a motion to approve the MCOE Employee Recognition Resolutions as submitted. The motion was carried with a vote of 4-0 *(Espinosa was absent)*.

IX. Call for Public comments: Identified Closed Session Agenda Items

During this portion of the agenda, the public was invited to address the Board on the identified items before adjournment into a Closed Session.

The Board proceeded into a Closed Session

X. Closed Session Pursuant to Education Code 35146 to Hear Appeal of Denial of Interdistrict Attendance Request – Appeal #2025-01.

XI. Closed Session to Deliberate Interdistrict Attendance Appeal

XII. Open session for the Disposition of Interdistrict Attendance Appeal # 2025-01

On the request for an appeal of the denial of the Interdistrict Attendance Request submitted on behalf of Student #2025-01, it was moved by **Geneva Brett** and seconded by **Dennis Hanks** to uphold the appeal, for the 2025-2026 school year, Gustine Unified School District decision of denying the request for an interdistrict transfer to attend school at Newman-Crows Landing Unified School District. The motion was carried with a vote of 4-0.

Vote (by roll call)

Hanks	YES
Razzari	YES
Fagundes	YES
Espinosa	ABSENT
Brett	YES

XIII. Adjournment

Tim Razzari moved, and **Frank Fagundes** seconded the motion to adjourn the regular meeting of the Merced County Board of Education at 3:50 PM. The motion was carried with a vote of 4-0 *(Espinosa was absent)*.

Respectfully submitted,

Steve M. Tietjen, Ed.D.
County Superintendent of Schools
Secretary to the Board of Education

SMT/mc

Merced County Board of Education
Dennis Hanks, Chairperson
Vacant, Vice Chairperson
Frank Fagundes, Member
Rodrigo Espinosa, Member
Geneva Brett, Member

Merced County Office of Education
NURTURE • SERVE • LEAD

Resolution No. 2025-12
Honoring
Tricia Ellis

Whereas, Tricia Ellis has elected to retire from her position as a Human Resources Analyst~ Certificated with the Human Resources Department with the Merced County Office of Education; and

Whereas, the Merced County Board of Education and the Merced County Superintendent of Schools hereby wish to make known their respect and admiration for Tricia's 17 years of service with the Merced County Office of Education; and,

Whereas, Tricia was always willing to help out whenever and wherever she was needed. She always had great intentions and a sincere desire to help bring new teaching talent to MCOE. Her charisma, fun-loving spirit & energy will surely be missed! MCOTA states, "They appreciate all the hard work Tricia has done. For years, Tricia was instrumental in finding members (new & seasoned) proper placement within the MCOE family, she always went above and beyond. Tricia will be hard to replace and will be deeply missed."; and,

Whereas, Tricia has loved working at MCOE and says that she has met some of the most amazingly talented, bright, and good-hearted people, some of whom have become family. And she feels very blessed to have called MCOE her home for the past 17 years; and,

Whereas, Tricia will take pleasure in spending more time with her husband of one year, her high school sweetheart, Jon Ellis, her children; three handsome sons (along with three beautiful daughters-in-law), and one very beautiful daughter, as well as her nine extremely helpful grandchildren (five boys and four girls, ranging from 2 years old to 11 years old); and,

Whereas, after retirement, Tricia plans to fly to Mexico and lose her passport! Seriously, her body is demanding rest, so she is planning on getting some much-needed rest to let her body heal and then hopefully get to feeling better and spend some quality time with family; and,

Now, Therefore Be it Resolved, that the Merced County Board of Education and the Merced County Superintendent of Schools do hereby commend Tricia for her dedicated years of service to ensure "Every Student A Success" and "Nurture, Serve, Lead" and extend their sincere best wishes for a happy, fulfilling retirement.

Adopted May 19, 2025

Steve M. Tietjen, Ed.D, Secretary to the Board
Merced County Superintendent of Schools

Merced County Board of Education

Superintendent's and Board Members Report

MERCED COUNTY
Office of Education
NURTURE • SERVE • LEAD

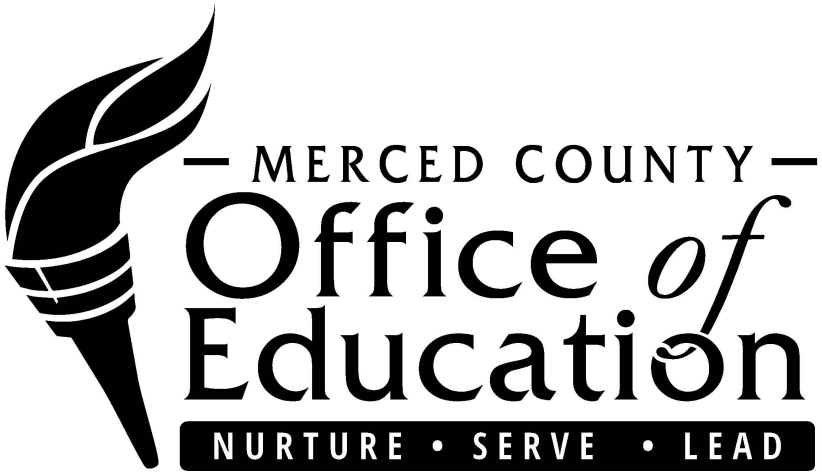
Steve M. Tietjen, Ed.D. | County Superintendent of Schools

Merced County Board of Education

Bylaws

Review - May 19, 2025
Approval - June 9, 2025

1. 9124 – Attorney
2. 9220 – County Board Elections – Bylaw and Exhibit 1
3. 9320 – Meetings and Notices
4. 9321 – Closed Session Purposes and Agenda – Bylaw, Exhibit 1 and 2
5. 9322 – Agenda/Meeting Materials
6. 9323 – Meeting Conduct
7. 9323.2 – Actions By The Board – Bylaw and Exhibit 1



The County Board of Education recognizes that the complex legal environment in which it discharges its functions creates the need for sound and dependable legal services and advice. The County Board also recognizes that a County Superintendent of Schools is not limited by statute as to what legal services they may contract with legal counsel to perform.

The County Board may arrange to obtain legal services and advice in accordance with law.

General Legal Services and Advice

If the County Board and County Superintendent cannot agree on the appointment of a shared legal counsel to jointly represent them, the County Board shall permit the County Superintendent to appoint the shared legal counsel. The shared legal counsel shall provide general legal services and advice to the County Board except when the County Board decides to exercise its right to seek special legal services and advice pursuant to Education Code 1042.

The shared legal counsel must be admitted to practice law in California but is not required to have any certification qualifications. (Education Code 35041.5)

The duties of the shared legal counsel may include:

1. Rendering legal advice to the County Board, County Superintendent, and Merced County Office of Education (MCOE) employees and officers as appropriate.

2. Serving the County Board and County Superintendent in the preparation and conduct of MCOE litigation and administrative proceedings.

3. Rendering advice in relation to school bond and tax increase measures and preparing all legal papers and forms necessary for the voting of school bond and tax increase measures in the district(s).

4. Rendering administrative duties as may be assigned by the County Superintendent or by the County Board.

The County Board may request to have shared legal counsel attend a County ~~b~~Board meeting to provide legal advice or to prepare a written legal opinion on issues within the jurisdiction of the County Board including, but not limited to, expulsion appeals, charter school petitions and appeals, interdistrict transfer appeals, open meeting laws, real property transactions, the county office budget, and the county office local control accountability plan.

The County Board may consult with the shared legal counsel on matters affecting the operations of the County Board. The County Board may consult with the shared legal counsel as a group or authorize a specific County Board member to consult with the shared

legal counsel on behalf of the County Board. Any individual County Board member who consults with the shared legal counsel on behalf of the County Board shall report the conversation to the County Board, and when requested, the shared legal counsel shall provide the advice or opinion directly to the County Board.

Consultation with the shared legal counsel shall occur in open session except when closed session is authorized by law. (Government Code 54962)

Special Legal Services and Advice

The Education Code 1042 permits county boards of education to contract with and employ any persons to provide the County Board with special services and advice in financial, economic, accounting, engineering, legal, or administrative services.

The County Board may not appoint outside counsel in addition to in-house counsel to provide unrestricted, independent advice to the board. (86 Ops. Cal. Atty. Gen. 57, April 25, 2003.) However, the County Board may contract with a trained, experienced, and competent legal ~~outside~~ counsel other than the shared legal counsel, to furnish special services and ~~to provide~~ advice to the board when the following ~~circumstances exits~~situations:

1. ~~In-house counsel has a conflict of interest;~~When, for reasons beyond the County Board's control, the shared legal counsel has a conflict of interest or has failed to render timely advice in a particular matter.

~~2. In-house counsel has failed to render timely advice in a particular matter;~~

~~3~~2. The services being sought by the County Board are in addition to those usually, ordinarily, and regularly obtained from in-house counsel~~; and~~.

4. The County Board desires a second legal opinion ~~from that provided by in-house counsel~~ in a particular matter.

In such situations, the County Board shall fix the compensation to be paid for the special services or advice, and may pay such compensation from any available funds. (Education Code 1042)

Legal Reference:

EDUCATION CODE

1042 ~~County boards: authority~~Special legal services and advice

~~1302 Increases of salary or bonus of employees by county superintendent of schools~~

~~17150 Revenue bonds~~

35041 Administrative advisor

35041.5 Legal counsel~~: Relieving duties of county counsel and district attorney~~

35161 ~~Powers and duties of governing board~~Board delegation of any powers or duties
35200-35214 Liabilities~~, especially:~~
35204 Contract with attorney in private practice
35205 Contract for legal services
GOVERNMENT CODE
814-895.8 Liability of public entities and public employees
995-996.6 Defense of public employees
26520 Legal services to school districts
26529 District Attorney
53060 Special services and advice
54950-54963 The Ralph M. Brown Act
ATTORNEY GENERAL OPINIONS
86 Ops.Cal.Atty.Gen. 57 (2003)

Management Resources:
CSBA PUBLICATIONS
The Brown Act: School Boards and Open Meeting Laws, rev. 2014
ATTORNEY GENERAL OPINION
86 Ops.Cal.Atty.Gen. 57 (2003)
STATE BAR OF CALIFORNIA PUBLICATION
California Rules of Professional Conduct
~~NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS~~
~~Selecting and Working with a School Attorney: A Guide for School Boards, 1997~~
WEB SITES
CSBA: http://www.csba.org
California County Boards of Education: http://www.theccbe.org
California County Superintendents Educational Services Association: http://ccsesa.org
Educational Legal Alliance: http://www.csba.org/Advocacy/EducationLegalAlliance.aspx
California Council of School Attorneys:
http://www.csba.org/LegislationAndLegal/Legal/CaliforniaCouncilOfSchoolAttorneys.aspx
~~National School Boards Association: http://www.nsba.org~~
State Bar of California: http://www.calbar.ca.gov

Cross References:

1160	*Political Processes*
1312.3	*Uniform Complaint Procedures*
1340	*Access to District Records*
2121	*Superintendent's Contract*
3311.2	*Lease-Leaseback Contracts*
3312	*Contracts*
3400	*Management of District Assets/Accounts*
4312.1	*Contracts*
9000	*Role of the Board*
9200	*Limits of Board Member Authority*
9260	*Legal Protection*
9321	*Closed Session*

Bylaw Adopted: 5/3/2010; **MERCED COUNTY BOARD OF EDUCATION**
Revised: 12/14/2020, FOR REVIEW 5/28/2025 Merced, California

The County Board of Education shall consist of five members whose terms shall be staggered so that, as nearly as practicable, one half of the members shall be elected at each regular County Board election. (Education Code 1000, 1007)

Election procedures shall be followed in accordance with state and federal law.

Board Member Qualifications

Any person is eligible to be a member of the County Board, without further qualifications, if ~~he/she~~the person is 18 years of age or older~~,~~; a citizen of California, a resident of the school district or, if applicable, the trustee area; a registered voter~~,~~; and not legally disqualified from holding civil office. (Education Code 1000, 1006, 35107)

~~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 county, is not eligible to be a candidate for office or be a County Board member except when he/she has been granted a pardon in accordance with law. (Education Code 35107; Elections Code 20, 321)~~

A person is not eligible to be a member of the County Board if they have been convicted of an offense(s) as specified in law and the accompanying Exhibit, except when the person has been granted a pardon in accordance with law. (Education Code 35107; Elections Code 20, 321)

Any registered voter is eligible to be a member of the County Board of Education except the County Superintendent of Schools and any member of ~~his/her~~the Merced County Office of Education (MCOE) staff, or any employee of a school district that is within the jurisdiction of the County Board. (Education Code 1000, 1006)

An ~~Merced County Office of Education (~~MCOE~~)~~ employee duly elected to the County Board shall resign ~~his/her~~from their position before being sworn in or shall have ~~his/her~~their employment automatically terminated upon being sworn into office. (Education Code 35107)

~~*(cf. 9224 - Oath of Affirmation)*~~
~~*(cf. 9270 - Conflict of Interest)*~~

The County Board encourages all candidates to become knowledgeable about the role of County Board members. A County Board candidate shall be provided, upon request by the candidate, information that will enable them to understand the responsibilities and expectations of being a County Board member, including information regarding available workshops, seminars, and/or training. Additionally, the candidate shall be provided, upon request by the candidate, the county elections official's contact information and general information about school programs, county office of education operations, and County Board responsibilities.

Recalling a County Board Member

A County Board member be recalled as permitted by Elections Code 11000-11386. To commence a recall of a County Board member, proponents shall serve, file, and publish or post a notice of intention to circulate the recall petition as specified by law and any applicable county elections official directives. Additionally, the recall petition shall be in the format provided by the Secretary of State and include, among other things, an estimate of the cost of conducting the special election, as determined by the county elections officials, in consultation with the county office of education.

Within 14 days after the County Board meeting at which a certificate of sufficiency of signatures on a recall petition is received from the county elections official, the County Board shall order an election to be held to determine whether the County Board member named in the petition shall be recalled. The election shall be held not less than 88, nor more than 125, days after the date that the County Board orders the election. However, the election may be conducted within 180 days after the issuance of the County Board's order to consolidate the election with a regularly scheduled election. (Elections Code 11240-11242)

A recall election of a County Board member shall be conducted in accordance with Elections Code 11381-11386.

If a recall of a County Board member is successful, that County Board member's seat becomes vacant and shall be filled in accordance with Education Code 5090-95 and Board Bylaw 9223 – Filling Vacancies. (Education Code 1008)

Election Date

The election of County Board members shall be consolidated with the local municipal or statewide primary or general election in accordance with a County Board resolution approved by the County Board of Supervisors. (Elections Code 1302, 10404.5)

Elections Process and Procedures *(Election by trustee area)*

For each election, upon certification by the Merced County Board of Supervisors, the County Board shall declare who has been elected to the County Board in accordance with law. (Election Code 15400)

A County Board member whose term has expired shall continue to discharge the duties of the office until ~~his/her~~ a successor has qualified by taking the oath of office. (Government Code 1302, 1360)

Following each decennial federal census the County Board shall adjust the boundaries of the MCOE's trustee areas in accordance with Elections Code 211-21180. (Education Code 5019.5)

The district is divided into trustee areas and each trustee area shall be represented by a County Board member who resides in and is elected by voters residing within that trustee area. Trustee areas shall be balanced by population as required by state and federal law. (Elections Code 14025-14032)

Prior to March 1 following the year in which the results of each decennial federal census are released, the County Board shall adjust the boundaries of MCOE's trustee areas based on population figures as validated by the Population Research Unit of the Department of Finance. (Education Code 5019.5)

To ensure ongoing compliance with the California Voting Rights Acts (CVRA), the County Board may review the MCOE's Board election method to determine whether any modification is necessary due to changes in the MCOE's population or any of its racial, color, or language minority group composition. The review shall be based on the County Superintendent or designee's report to the County Board after the release of each decennial federal census. (Elections Code 14025-14032)

Commencement of Term of Office

~~Members of the County Board shall be elected on the date and in the manner prescribed for the election of members of governing boards of school districts, provided the elections are held throughout the county on the same date; otherwise the election shall be consolidated with the direct primary election. Once established, no subsequent change of circumstances shall require that the time of holding the election be changed. Where the elections for governing board members are held on the same date, then the provisions of Section 5303 shall apply to the election of members of the County Board. Elections held pursuant to this article shall be conducted by the County Board.~~

~~Members elected at the time of the direct primary shall take office on the first day of July, and members elected at the date on which members of school district governing boards are elected shall take office on the second Friday in December subsequent to their election. The term of office for members elected in regular elections shall be four years. (Education Code 1007, 5017)~~

~~*(cf. 9110 - Terms of Office)*~~

County Board members are elected on same date as school district governing board members in county. The term of office for County Board members elected in regular elections shall be four years, commencing on the second Friday in December following their election. (Education Code 1007, 5017)

County Board election is consolidated with the direct primary election. The term of office for County Board members elected in regular elections shall be four years, commencing on the first day of July following their election. (Education Code 1007, 5017)

Consolidation of Elections

To reduce costs associated with conducting elections, the election of County Board members was consolidated with the local municipal or statewide primary or general election in accordance with the County Board Resolution # 2010-39, approved by the County Board of Supervisors on October 19, 2010. (Elections Code 1302, 10404.5)

Appointment Members Due to Failure to Elect

The provisions of Education Code Sections 5326 and 5328 shall apply to elections for membership on a county board.

If, by 5:00 p.m. on the 83rd day prior to the day fixed for the County Board member election, only one person has been nominated for any elective office to be filled at that election, or no one has been nominated for the office, and a petition signed by 10 percent of the voters or 50 voters, whichever is the smaller number, in the district or trustee area, if elected by trustee area, requesting that a school district election be held for the offices has not been presented to the officer conducting the election, appointment will be made as prescribed by Section 5328. (Education Code 5326)

If pursuant to Section 5326 a district election is not held, the qualified person or persons nominated shall be seated at the organizational meeting of the County Board, or if no person has been nominated or if an insufficient number is nominated, the County Board shall appoint a qualified person or persons, as the case may be, at a meeting prior to the day fixed for the election, and such appointee or appointees shall be seated at the organizational meeting of the County Board as if elected at a district election. (Education Code 5328)

Campaign Conduct

All candidates, including current County Board members running as incumbents, shall abide by local, county, state, and federal requirements regarding campaign donations, funding, and expenditures.

In order to help protect the public's trust in the electoral process as well as the public's confidence in the County Board and MCOE, the County 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 MCOE Programs and Activities)*~~
~~*(cf. 9005 - Governance Standards)*~~

Statement of Qualifications

On the 125th day prior to the day fixed for the general ~~County Board~~ election, the County Board secretary or ~~his/her~~ designee shall deliver a notice, bearing the secretary's signature

and seal, to the county elections official describing both of the following: (Elections Code 10509)

1. The elective offices of the County Board to be filled at the general election and which offices, if any, are for the balance of an unexpired term;

2. Whether MCOE 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 County 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)

When the election official allows for the electronic distribution of candidate statements, a candidate for the County Board may, in addition to or instead of submitting a candidate statement for inclusion in the mailed voter's pamphlet, prepare and submit a candidate statement for electronic distribution. (Elections Code 13307)

The MCOE shall assume no part of the cost of printing, handling, translating, 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 MCOE may require candidates to pay their estimated pro rata share of these costs to the MCOE in advance pursuant to Elections Code 13307.

Tie Votes in Board Member Elections

Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the County Board, the County 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 County Board. The tie shall be resolved by the drawing of lots at the first regular meeting of the County Board following the official canvass of the vote which confirms said tie. (Education Code 1007, 5016)

Preparation of said lots shall be made by the County Superintendent, in ~~his/her~~their capacity as secretary to the County Board, or ~~his~~ designee, and the candidate receiving the shorter of the two lots shall be declared officially elected and, as such, shall be duly sworn.

Legal Reference:

EDUCATION CODE

1000 Composition, and trustee area, county board of education

1002 Trustee area boundaries and membership changes

1006 ~~Qualifications for holding office,~~Prohibition against school district employees serving on county board of education

1007 Elections
1008 County board of education vacancy procedures
1017 Expiration of terms
5000-5033 Elections of school district board members
5091 Vacancies: petition for special election
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: campaign purposes
35107 Eligibility; sSchool 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
321 Elector
1302 Local elections, school district election
2201 Grounds for cancellation
4000-4008 Elections conducted wholly by mail
10010 District boundaries
10400-10418 Consolidation of elections
10509 Notice of election by secretary
10600-10604 School district elections
11000 Recall of officers
13307 Candidate's statement
13308 Candidate's statement contents
13309 Candidate's statement, indigency)e
14025-14032 California Voting Rights Act
14050-14057 California Voter Participation Rights Act
15400 Announcement of election results
18501 Election fraud
20440 Code of Fair Campaign Practices
21100-21180 FAIR MAPS Act
GOVERNMENT CODE
1021 Conviction of crime
1097 Illegal participation in public contract
1302 Continuance in office until qualification of successor
1303 Exercising functions of office without having qualified
1360 Necessity of talking constitutional oath
1770 Vacancy of office
9055 Committing crimes against legislative power
9412 Refusing to appear
12940 Nondiscrimination, Fair Employment and Housing ActUnlawful discriminatory employment practices
81000-91014 Political Reform Act
PENAL CODE
67 Giving bribes
68 Receiving Bbribes

74 Acceptance of gratuity
88 Crimes against legislative power
98 Crimes against public justice
165 Bribes to members of city council
424 Embezzlement and falsification of accounts by public officers
661 Removal for neglect or violation of official duty
2772 Interfering with the work of prisoners
2790 Interrupting the work of prisoners
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 52
10301-10508 Voting Rights Act
COURT DECISIONS
Shelby County v. Holder, (2013) 133 S. Ct. 2612
Rey v. Madera Unified School District, (2012) 203 Cal. App. 4th 1223
Rey v. Madera Unified School District, (2012) 138 Cal. Rptr. 3d 192
Randall v. Sorrell, (2006) 126 S.Ct. 2479
Sanchez v. City of Modesto, (2006) 145 Cal. App. 4th 660
Sanchez v. City of Modesto, (2006) 51 Cal. Rptr. 3d 821
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)
105 Ops.Cal.Atty.Gen. 182 (2022)

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 County Boards of Education: http://theccbe.org
California Secretary of State's Office: http://www.ss.ca.gov
Fair Political Practices Commission: http://www.fppc.ca.gov
Institute for Local ~~Self~~ Government: http://www.ca-ilg.org

Cross References:
0410 Nondiscrimination in District Programs and Activities
9005 Governance Standards
9100 Organization
9110 Terms of Office
9223 Filling Vacancies
9224 Oath of Affirmation
9230 Orientation
9240 Board Training
9270 Conflict of Interest
9320 Meetings and Notices

Bylaw Adopted: 7/19/2010; **MERCED COUNTY BOARD OF EDUCATION**
Revised: 12/16/2013, 3/19/2018, 12/14/2020, FOR REVIEW 5/28/2025 Merced, California

This exhibit is a non-exhaustive list of offenses the conviction of which disqualifies a person from holding public office, including as a County Board member, in the State of California.

1. California Constitution, Article VII, Section 8: Giving or offering a bribe to procure personal election or appointment

2. California Constitution, Article VII, Section 8: Committing bribery, perjury, forgery, malfeasance in office, or other high crimes

3. Penal Code section 67: Giving or offering a bribe to any executive officer in the state to influence any decision made by that officer in their official capacity

4. Penal Code section 68: While an executive or ministerial officer, employee, or appointee of the state, a county, a city, or another political subdivision of the state, asking for, receiving, or agreeing to receive any bribe to influence any decision made by that person in their official capacity

5. Penal Code section 74: As a public officer, for gratuity or reward, appointing another person to public office, or permitting another person to exercise or discharge the duties of their office

6. Penal Code section 88: While a member of the Legislature or of a legislative body of a city, county, city and county, school district, or other special district, committing any of various crimes against the Legislative power, including bribery and logrolling

7. Penal Code section 98: While an officer, committing any of various bribery and corruption crimes against the public justice as specified in Penal Code 92-100, including bribing or threatening judges or jurors

8. Penal Code section 165: Giving or offering a bribe to a member of a city council or a board of supervisors to influence any decision made by that member in their official capacity

9. Penal Code section 424: While an officer of the state or of any county, city, town, or district of the state, or while otherwise charged with the receipt, safekeeping, transfer, or disbursement of public moneys, appropriating such moneys for personal use, or refusing to pay any public moneys as required by law

10. Penal Code section 2772: Interfering with the work of prisoners employed at a road camp, or giving or attempting to give such prisoners any controlled substances, intoxicating liquors, firearms, weapons, or explosives of any kind

11. Penal Code section 2790: Interrupting the work of prisoners employed at a public park or camp, or giving or attempting to give such prisoners any controlled substances, intoxicating liquors, firearms, weapons, or explosives of any kind

12. Government Code section 1021: Committing designated crimes as specified in the California Constitution or state law

13. Government Code section 1097: While a public official, being financially interested in a contract made in their official capacity, or by any body or board of which he or she is a member, or aiding or abetting a public official in committing such a violation

14. Government Code section 9055: While a member of the Legislature or of a legislative body of a city, county, city and county, school district, or other special district, committing any of various crimes against the Legislative power, including bribery and logrolling

15. Government Code section 9412: While a member of the Legislature, refusing to appear before the Senate, Assembly, or any committee of the Legislature after being summoned to testify, or while appearing before the Senate, Assembly, or any committee, refusing to be sworn or to answer any material and proper question, or refusing to produce, upon reasonable notice, any material and proper books, papers, or documents in their possession and under their control

16. Elections Code section 20: Committing a felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes

17. Elections Code section 18501: While a public official, aiding the illegal casting of a vote at an election or otherwise facilitating the perpetration of election fraud

Meetings of the County Board are conducted for the purpose of accomplishing County Board business. In accordance with state open meeting laws (Brown Act), the County Board shall hold its meetings in public and shall conduct closed sessions during such meetings only as authorized by law. To encourage community involvement, County Board meetings shall provide opportunities for questions and comments by members of the public. All meetings shall be conducted in accordance with law and the County Board's bylaws.

~~*(cf. 9321 - Closed Session Purposes and Agendas)*~~
~~*(cf. 9321.1 - Closed Session Actions and Reports)*~~
~~*(cf. 9322 - Agenda/Meeting Materials)*~~
~~*(cf. 9323 - Meeting Conduct)*~~

A County Board meeting exists whenever a majority of County Board members gather at the same time and location, including teleconference location as permitted by Government Code 54953, to hear, discuss, deliberate, or take action upon any item within the subject matter jurisdiction of the County Board. (Government Code 54952.2)

In accordance with law and as specified in Board Bylaw 9012 – Board Member Electronic Communications, ~~A~~a majority of the County Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, includ~~e~~ing social media and other electronic communications, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the County Board. (Government Code 54952.2)

However, an employee or Merced County Office of Education (MCOE) official may engage in separate conversations with County Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the County Board, as long as that employee or MCOE official does not communicate the comments or position of any County Board members to other County Board members. (Government Code 54952.2)

~~*(cf. 9012 - Board Member Electronic Communications)*~~

In order to help ensure participation of individuals with disabilities at County Board meetings, the County Superintendent or designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. Any doubt about a request for accommodation shall be resolved in favor of accessibility. Notice of the procedure for receiving and resolving such requests for accommodation shall be given in each instance in which notice of the time of a meeting is otherwise given or the agenda for the meeting is otherwise posted. (Government Code 54953, 54953.2, 54954.1, 549524.2)

Meeting notices and agendas shall specify that any individual who requires disability-related accommodations or modifications, including auxiliary aids and services, in order to

participate in the County Board meeting should contact the County Superintendent or designee at least 48 hours prior to the meeting. (Government Code 54954.2)

Each agenda shall also list the address(es) designated by the County Superintendent or designee for public inspection of agenda documents that are distributed to the County Board less than 72 hours before the meeting. (Government Code 54957.5)

~~*(cf. 9322 - Agenda/Meeting Materials)*~~

Regular Meetings

Regular meetings of the County Board shall be held at times it may determine, but not less than once per month and shall be conducted in accordance with Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code. (Education Code 1011)

The County Board shall hold regular meetings ~~immediately~~ following the Virginia Smith Trust meeting but not before 3:00 p.m. on the third Monday of the month at the Merced County Office of Education unless specifically announced for some other date, time or location.

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 and on the MCOE's Internet web site. (Government Code 54954.2)

~~*(cf. 1113 - MCOE and School Web Sites)*~~

Consistent with Government Code 54957.5 and Board Bylaw 9322 – Agenda/Meeting Materials, ~~W~~whenever agenda materials relating to an open session of a regular meeting are distributed to the County Board less than 72 hour before the meeting, the County Superintendent or designee shall make the materials available for public inspection at a public office or location designated for that purpose. The records shall be posted on the MCOE website at the time the materials are distributed to all or a majority of the County Board if distributed outside of business hours. (Government Code 54957.5)

~~*(cf. 1340 - Access to MCOE Records)*~~

Special Meetings

Special meetings of the County Board may be called at any time by the presiding officer or a majority of the County Board members on any topic withing the subject matter jurisdiction of the County Board unless otherwise prohibited by law or as specified in Board Bylaw 9323.2 – Actions by the Board. (Government Code 54956)

Upon the request of any three members, in writing, the president shall call a special meeting. However, a special meeting shall not be called regarding the salary, salary schedule, or other

compensation of the County Superintendent as described in Government Code 3511.1. (Education Code 1012; Government Code 54956)

At least 24 hours before the time of the meeting, ~~W~~written notice of special meetings shall be delivered personally or by any other means to all County Board members and the local media who have requested such notice in writing. The notice also shall be posted on the MCOE's ~~Internet~~ web site, and~~. The notice shall be received at least 24 hours before the time of the meeting. The notice shall also be posted~~ at least 24 hours before the time of the meeting, in a location freely accessible to the public. The notice shall specify the time and ~~place~~location of the meeting and the business to be transacted or discussed. No other business shall be considered at this meeting. (Education Code 35144; Government Code 54956)

Any County Board member may waive the 24-hour written notice requirement prior to the time of the meeting by filing a written waiver of notice with the clerk or secretary of the County Board or by being present at the meeting at the time it convenes. (Government Code 54956)

Every notice of a special meeting shall provide an opportunity for members of the public to directly address the County Board concerning any item that has been described in the meeting notice, before or during the item's consideration. (Government Code 54954.3)

Emergency Meetings

In the case of an emergency situation for which prompt action is necessary due to the disruption or threatened disruption of public facilities, the County Board may hold an emergency meeting without complying with the 24-hour notice and/or 24-hour posting requirement for special meetings pursuant to Government Code 54956. ~~The County Board shall comply with all other requirements for special meetings during an emergency meeting.~~ (Government Code 54956.5)

An emergency situation means either of the following: (Government Code 54956.5)

1. An *emergency*, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health and/or safety as determined by a majority of the members of the County Board;

~~*(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)*~~

2. A *dire emergency*, which shall be defined as a crippling disaster, mass destruction, terrorist act~~ivity~~, or threatened terrorist activity that poses peril so immediate and significant that requiring the County Board to provide one-hour notice before holding an emergency meeting may endanger the public health and/or safety as determined by a majority of the members of the County Board.

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~~*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*~~

Except in the case of a dire emergency, the County Board president or designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media that have requested notice of special meetings. All telephone numbers provided by the media in the most recent request for notification must be exhausted. If telephone services are not functioning, the notice requirement of one hour is waived and, as soon after the meeting as possible, the County Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the County Board. In the case of a dire emergency, the County Board president or designee shall give such notice at or near the time ~~he/she notifies~~notification is given to the other members of the County Board ~~about the meeting~~. (Government Code 54956.5)

The minutes of the meeting, a list of persons the County Board president or designee notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for at least 10 days in a public place as soon after the meeting as possible. (Government Code 54956.5)

Adjourned/Continued Meetings

~~A majority vote by t~~The County Board may adjourn/continue any regular or special meeting to a later time and ~~place~~location that shall be specified in the order of adjournment. Less than a quorum of the County Board may adjourn/continue such a meeting. If no County Board members are present, the secretary or the clerk may declare the meeting adjourned/continued to a later time and location and shall give notice in the same manner required for special meetings. (Government Code 54955)

Within 24 hours after the time of adjournment/continuance, a copy of the order or notice of adjournment/continuance shall be conspicuously posted on or near the door of the ~~place~~location where the meeting was held. (Government Code 54955)

Study Sessions, Retreats, Public Forums, and Discussion Meetings

The County Board may ~~occasionally~~ convene a study session or public forum to study an issue in more detail or to receive information from staff or feedback from members of the public.

The County Board may also convene a retreat or discussion meeting to discuss County Board roles and relationships. Any such meeting, regardless of title or topic, shall be held as a regular or special meeting, as appropriate, and shall comply with all other requirements for regular or special meetings. (Government Code 54956)

~~*(cf. 2000 - Concepts and Roles)*~~
~~*(cf. 2111 - Superintendent Governance Standards)*~~
~~*(cf. 9000 - Role of the Board)*~~

~~*(cf. 9005 - Governance Standards)*~~
~~*(cf. 9400 - Board Self-Evaluation)*~~

Public notice shall be given in accordance with law when a quorum of the County Board is attending a study session, retreat, public forum, or discussion meeting. All such meetings shall comply with the Brown Act and shall be held in open session and within MCOE boundaries. Action items shall not be included on the agenda for these meetings.

Other Gatherings

Attendance by a majority of County Board members at any of the following events is not subject to the Brown Act provided that a majority of the County Board members do not discuss specific MCOE business among themselves other than as part of the scheduled program: (Government Code 54952.2)

1. A conference or similar public gathering open to the public that involves a discussion of issues of general interest to the public or to school board members;

2. An open, publicized meeting organized by a person or organization other than MCOE to address a topic of local community concern;

3. An open and noticed meeting of another body of MCOE;

4. An open and noticed meeting of a legislative body of another local agency;

5. A purely social or ceremonial occasion;

6. An open and noticed meeting of a standing committee of the County Board established pursuant to Board Bylaw 9130 – Board Committees, provided that the County Board members who are not members of the standing committee attend only as observers.

~~*(cf. 9130 - Board Committees)*~~

Individual contacts or conversations between a County Board member and any other person that are not part of a series communications prohibited by ~~are not subject to~~ the Brown Act are permitted ~~except for restrictions on disclosure of confidential information from closed sessions~~. (Government Code 54952.2)

Location of Meetings

Unless the County Board is holding a teleconference meeting during a proclaimed state of emergency, all ~~M~~meetings shall be held within MCOE boundaries, except to do any of the following: (Government Code 54954)

1. Comply with state or federal law or court order or attend a judicial or administrative

proceeding to which MCOE is a party;

2. Inspect real or personal property which cannot conveniently be brought into ~~MCOE~~the county ~~boundaries~~, provided that the topic of the meeting is limited to items directly related to the property;

3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law;

4. Meet in the closest meeting facility if MCOE has no meeting facility within its boundaries or if its principal office is located outside ~~MCOE~~county;

5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting MCOE over which the state or federal officials have jurisdiction;

6. Meet in or near a facility owned by MCOE but located outside ~~MCOE~~the county, provided the meeting agenda is limited to items directly related to that facility;

7. Visit the office of MCOE's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs;

8. Interview residents ~~of another district~~outside the boundaries of the county regarding the County Board's potential appointment of an interim County Superintendent~~.~~;

9. Interview an applicant for County Superintendent outside the boundaries of the county.

~~Meetings exempted from the boundary requirements, as specified above, shall still be subject to the notice and open meeting requirements for regular and special meetings when a quorum of the County Board attends the meeting.~~

Additionally, no such ~~M~~meeting~~s~~ ~~shall~~may ~~not~~ be held in a facility that prohibits the admittance of any person on the basis of ancestry or any characteristic listed in Government Code 11135, ~~including, but not limited to, religion, sex, or sexual orientation. In addition, meetings shall not be held in a facility~~ which is inaccessible to individuals with ~~disabled persons~~disabilities, or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)

~~*(cf. 0410 - Nondiscrimination in MCOE Programs and Activities)*~~

If a fire, flood, earthquake, or other emergency renders the posted regular or special meeting ~~place~~location unsafe and the deadline for posting the location has passed, the meeting~~s~~ shall be held at a location ~~for the duration of the emergency at a place~~ designated by the County

Board president or designee, who shall so inform all news media who have requested notice of ~~special~~ meetings pursuant to Government Cod 54956 by the most rapid available means of communication. (Government Code 54954)

Traditional Teleconferencing

~~A teleconference is a meeting of the County Board in which County Board members are in different locations, connected by electronic means through audio and/or video~~A County Board member may participate in any meeting by teleconference, which includes both audio or video/audio so long as the following conditions are met~~.~~ ~~(~~Government Code 54953):

1. ~~The County Board may use teleconferences for all purposes in connection with any meeting within the County Board's subject matter jurisdiction.~~ All votes taken during ~~a teleconference~~the meeting ~~shall be~~are by roll call. ~~(Government Code 54953)~~

2. The meeting is conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

3. The location of the County Board member participating by teleconference is open and accessible to the public during the meeting, except during closed session, such that members of the public may observe in person the County Board member participating by teleconference, may hear/listen to the meeting to the same extent as the County Board member participating by teleconference, and may make public comment during the same portion of the agenda as other members of the public from the same location as the County Board member participating by teleconference.

4. The location of the County Board member participating by teleconference is noted in the agenda and the agenda is posted at the location of the County Board member participating by teleconference in advance of the meeting as statutorily required based on the type of meeting.

~~Agendas shall be posted at all teleconference locations and shall list all teleconference locations whenever they are posted elsewhere. Additional teleconference locations may be provided to the public. (Government Code 54953)~~

~~All teleconference locations shall be accessible to the public. All teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the County Board, including the right of the public to address the County Board directly at each teleconference location. (Government Code 54953)~~

5. ~~During the teleconference, a~~At least a quorum of the members ~~of the County Board shall participate from locations~~is within MCOE boundaries. (~~Government Code 54953)~~

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~~All County Board bylaws shall apply equally to meetings that are teleconferenced. The County Superintendent or designee shall facilitate public participation in the meeting at each teleconference location.~~

Teleconferencing by Individual County Board Member Due to Just Cause

Until January 1, 2026, when there is "just cause" preventing a County Board member from attending a County Board meeting in person, that County Board member may participate in that meeting by teleconference without: (Government Code 54953)

1. Including the location of the County Board member participating by teleconference in the agenda

2. Making the location of the County Board member participating by teleconference open and accessible to the public

3. Posting the agenda at the location of the County Board member participating by teleconference

A County Board member needing to participate by teleconference for just cause shall notify the County Board at the earliest possible opportunity, including at the start of a regular meeting, of the need to do so and include a general description of the circumstances relating to the need to appear by teleconference at the given meeting. (Government Code 54953)

For the County Board member to participate by teleconference under this section, all of the following are required (Government Code 54953):

1. All votes taken during the meeting are by rollcall

2. At least a quorum of the County Board participates in person from a singular physical location clearly identified on the agenda

3. The County Board member utilizes both audio and visual technology to participate in the meeting

4. The County Board member participating by teleconference publicly discloses, before any action is taken, whether any individuals 18 years of age or older are present at the County Board member's location and the general nature of the member's relationship with each such individual

5. The public is able to access the meeting via a two-way audiovisual platform or a two-way audio service and a live webcast, with real-time public comment being allowed via the platform or service, in addition to public comment being available in person

The platform or service may require members of the public to register in oder to make public comments so long as the platform or service is not controlled by the MCOE.

6. The agenda for the meeting includes information describing how members of the public can access the platform or service

If the platform or service is disrupted such that the public cannot access the meeting or give real-time public comment, the meeting may continue but the County Board may not take action on any agenda item until the disruption is resolved. (Government Code 54953)

A County Board member shall be permitted to participate by teleconference for just cause for no more than two meetings per calendar year. (Government Code 54953)

For purposes of this section, "just cause" may exist for any of the following: (Government Code 54953)

1. A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a County Board member to participate remotely

2. A contagious illness prevents a County Board member from attending in person

~~1.~~3. A County Board member has a need related to a physical or mental disability not otherwise reasonably accommodated

~~2.~~4. A County Board member is traveling while on official business of the County Board or another state or local agency

Teleconferencing by Individual County Board Member Due to Emergency Circumstances

Until January 1, 2026, when a physical or family medical emergency would prevent a County Board member from attending a County Board meeting in person, that County Board member may request to participate in such meeting by teleconference. The County Board member requesting to appear remotely shall submit the request as soon as possible and include a concise general description of the emergency that necessitated the request. The County Board member shall not be required to disclose any disability, medical diagnosis, or personal medical information exempt under existing law. (Government Code 54953)

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If the request is received timely, it shall be added to the agenda as the first item of business at the meeting, even before any closed session items. If the request is not received timely, it shall be taken up by the County Board before the first item of business at the meeting. The request shall only be granted upon a vote by the majority of the County Board. (Government Code 54953, 54954.2)

If the request is granted by the County Board, the County Board member may participate by teleconference without: (Government Code 54953):

1. Including the location of the County Board member participating by teleconference in the agenda

2. Making the location of the County Board member participating by teleconference open and accessible to the public

3. Posting the agenda at the location of the County Board member participating by teleconference

For the County Board member to participate by teleconference due to emergency circumstances, all of the following are required: (Government Code 54953):

1. All votes taken during the meeting are by rollcall

2. At least a quorum of the County Board participates in person from a singular physical location clearly identified on the agenda

3. The County Board member participating by teleconference utilizes both audio and visual technology to participate in the meeting

4. The County Board member participating by teleconference publicly discloses, before any action is taken, whether any individuals 18 years of age or older are present at the County Board member's location and the general nature of the member's relationship with each such individual

5. The public is able to access the meeting via a two-way audiovisual platform or a two-way audio service and a live webcast, with real-time public comment being allowed via the platform or service, in addition to public comment being available in person

The platform or service may require members of the public to register in order to make public comments so long as the platform or service is not controlled by the COE.

6. The agenda for the meeting includes information describing how members of the public can access the platform or service

If the platform or service is disrupted such that the public cannot access the meeting or give real-time public comment, the meeting may continue but the County Board shall not take action on any agenda item until the disruption is resolved. (Government Code 54953)

In total, a County Board member may not participate by teleconference due to emergency circumstances alone, or together with teleconference due to just cause, as specified above, for more than 20 percent of the County Board's regular meetings or for more than three consecutive months. If the County Board meets less than 10 times in a calendar year, a County Board member may not appear remotely due to emergency circumstances for more than two meetings. (Government Code 54953)

Teleconference Meetings During a Proclaimed State of Emergency

The County Board may conduct a County Board meeting entirely by teleconference during a proclaimed state of emergency pursuant to Government Code 8625-8629 in any of the following circumstances: (Government Code 54953)

1. For the purpose of determining whether meeting in person would present imminent risks to the health or safety of attendees due to the emergency

2. When the County Board has been determined, pursuant to Item #1 above, that meeting in person would present imminent risks to the health or safety of attendees due to the emergency

The County Board may hold a meeting by teleconference during a proclaimed state of emergency without: (Government Code 54953):

1. Including the location of County Board members in the agenda

2. Making the locations of County Board members open and accessible to the public

3. Posting the agenda at the locations of County Board members

For the County Board to hold such meeting, all of the following are required: (Government Code 54953):

1. All votes taken during the meeting are by rollcall

2. The public is able to access the meeting via a call-in service or an internet-based platform or service, with real-time public comment being allowed via the platform or service

   If an internet-based platform or service is utilized, it may require members of the public to register in order to make public comments so long as the platform or service is not controlled by the COE.

3. The agenda for the meeting includes information describing how members of the public can access the platform or service

If the platform or service is disrupted such that the public cannot access the meeting or give real-time public comment, the meeting may continue but the County Board may not take action on any agenda item until the disruption is resolved. (Government Code 54953)

For any public comment period with a time limit, the County Board may not close that public comment period or the opportunity to register until the full time for public comment has elapsed. For any other public comment period, the County Board shall allow a reasonable amount of time to allow members of the public to provide public comment and to register to do so. (Government Code 54953)

The County Board may continue to conduct all meetings by teleconference throughout one or more 45-day periods so long as, prior to the beginning of each 45-day period, the County Board has reconsidered the circumstances of the state of emergency and determines that it continues to directly impact the ability of the County Board to meet safely in person. (Government Code 54953)

Legal References: (next page)

Legal Reference:

EDUCATION CODE
1009 Annual organizational meeting, date, and notice
1011 Time and place of meetings
1012 Special meeting
1040-1042 Duties and responsibilities of County Boards
35140 Time and place of meetings
35143 Annual organizational meeting, date, and notice
35144 Special meeting
35145 Public meetings
35145.5 Agenda; public participation; regulations
35146 Closed sessions; student matters
35147 Open meeting laws exceptions ~~and applications~~
GOVERNMENT CODE
3511.1 Local agency executives
11135 ~~State programs and activities, discrimination~~Prohibition of discrimination
54950-54963 The Ralph M. Brown Act~~, especially:~~
54953 ~~Meetings to be open and public; attendance~~Oral summary of recommended salary and benefits of superintendent
54954 Time and place of regular meetings
54954.2 Agenda posting requirements, board actions
54956 Special meetings~~; call; notice~~
54956.5 Emergency meetings
7920.000-7930.215 California Public Records Act
8625-8629 California Emergency Services Act
UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.160 Effective communications for individuals with disabilities
36.303 Nondiscrimination on the basis of disability, public accommodations, ~~A~~auxiliary aids and services
CALIFORNIA CONSTITUTION
Article 9, Section 3 County superintendents
COURT DECISIONS
Garnier v. Poway Unified School District, No. 17-ev-2215-W (JLB), 2019 WL 4736208 (S.D. Cal. September 26, 2019)
Knight First Amendment Institute at Columbia University v. Trump, 928 F.3d 226 (2019)
Wolfe v. City of Fremont, (2006) 144 Cal.App. 5~~4~~33
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The Brown Act: School Boards and Open Meeting Laws, rev. 2019
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The ABCs of Open Government Laws
LEAGUE OF CALIFORNIA CITIES PUBLICATIONS
Open and Public ~~I~~V: A Guide to the Ralph M. Brown Act, ~~2nd Ed., July~~ 201~~0~~6

~~*Open and Public IV: A Guide to the Ralph M. Brown Act Supplement, September 2013*~~

WEB SITES

CSBA: http://www.csba.org

CSBA, GAMUT Meetings:
http://www.csba.org/ProductsAndServices/AllServices/GamutMeetingsPolicy

California Attorney General's Office: http://www.ag.ca.gov

Institute for Local Government: http://www.ca-ilg.org

League of California Cities: http://www.cacities.org

Cross References:

0410 Nondiscrimination in County Office Programs and Activities
0420.4 Charter School Authorization
0420.43 Charter School Revocation
0420.44 Appeals of District Decisions Regarding Charter Schools
0450 Comprehensive Safety Plan
0460 Local Control and Accountability Plan
1113 District and School Websites
1160 Political Processes
1220 Citizen Advisory Committee
1330 Use of School Facilities
1340 Access to District Records
1431 Waivers
2000 Concepts and Roles
2111 Superintendent Governance Standards
2121 Superintendent's Contract
2210 Administrative Discretion Regarding Board Policy
3100 Budget
3280 Sale or Lease of District-Owned Real Property
3311 Bids
3312 Contracts
3314 Payment for Goods and Services
3516 Emergencies and Disaster Preparedness Plan
4117.14 Postretirement Employment
4141.6 Concerted Actions/Work Stoppage
4241.6 Concerted Action/Work Stoppage
4312.1 Contracts
4317.14 Postretirement Employment
6112 School Day
6117 Year-Round Schedules
6173.1 Education for Foster Youth
7150 Site Selection and Development
7214 General Obligation Bonds
7310 Naming of Facility
9000 Role of the Board
9005 Governance Standards
9012 Board Member Electronic Communications
9100 Organization
9121 President
9130 Board Committees
9140 Board Representatives
9220 Governing Board Elections
9230 Orientation
9240 Board Training

9270 Conflict of Interest
9310 Board Policies
9321 Closed Session
9322 Agenda/Meeting Materials
9323.2 Actions by the Board
9324 Minutes and Recordings
9400 Board Self-Evaluation
9500 County Superintendent's Remuneration

Bylaw Adopted: 7/19/2010; **MERCED COUNTY BOARD OF EDUCATION**
Revised: 9/17/12, 12/14/2020, 3/15/21, FOR REVIEW 5/28/2025 Merced, California

The County Board is committed to complying with state open meeting laws and modeling transparency in its conduct of Merced County Office of Education (MCOE) business. The County Board shall hold a closed session~~s~~ 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.~~ (Government Code 54950-54963)

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.~~in the accompanying Exhibit (1). (Education Code 35145; Government Code 54954.2, 54954.5, 54957)

~~*(cf. 9320 - Meetings and Notices)*~~
~~*(cf. 9322 - Agenda/Meeting Materials)*~~

In the open session preceding a closed session, ~~T~~the County Board shall disclose ~~in open session~~ the items to be discussed in closed session either by stating the information on the agenda or referring the public to the item(s) as listed by number or letter on the agenda. In the closed session, the County Board may consider only those ~~matters so disclosed~~items covered in its statement. (Government Code 54957, 54957.7)

After the closed session, the County Board shall reconvene in open session before adjourning the meeting~~,~~ and, when applicable, shall publicly ~~report~~disclose any actions taken in the closed session ~~actions~~, the votes or abstentions thereon, and other applicable disclosures as specified ~~below that are applicable to the matter being addressed~~in this bylaw or the accompanying Exhibit (2). Such reports may be made in writing or orally at the location announced in the agenda for the closed session, so long as the location is open to the public at the time of announcement. (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, that becomes public upon approval or adoption, ~~a copy of the document shall be provided to~~ any person present at the conclusion of the closed session who submitted a written request shall be provided a copy of the document. If the action taken results in one or more substantive amendments, the document shall be made available the next business day or when the necessary ~~retyping is~~changes to the document are completed. Whenever copies of an approved agreement will not be immediately released due to an amendment, the County Board chairperson shall orally summarize the substance of the amendment for those present at the end of the closed session. (Government Code 54957.1)

Confidentiality

A County Board member shall not disclose confidential information received in a closed session unless the County Board authorizes the disclosure of that information or, as

authorized by the County Board, the information has been publicly reported by the County Board or the County Superintendent of Schools. (Government Code 54963)

~~*(cf. 9011 - Disclosure of Confidential/Privileged Information)*~~

The County Board shall not disclose any information that is protected by state or federal law. In addition, no victim or alleged victim of tortious sexual ~~mis~~conduct or child abuse shall be identified in any County 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 MCOE Records)*~~

Matters Related to Students

The County Board shall meet in closed session to consider the appeal of an 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. 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. Regardless of whether the expulsion hearing is conducted in open or closed session, the County Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code 35146, 48912, 48918, 48920, 49070)

~~*(cf. 5144.1 - Suspension and Expulsion/Due Process)*~~
~~*(cf. 5144.2 - Suspension Due Process (Students with Disabilities))*~~
~~*(cf. 5144.3 - Student Expulsion Appeals)*~~
~~*(cf. 9323.3 - Interdistrict Attendance Appeals)*~~
~~*(cf. 9323.4 - Student Expulsion Appeals)*~~

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing," 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.

~~*(cf. 5125 - Student Records)*~~

In taking final action, the County Board shall not release any information in violation of student privacy rights provided in 20 USC 1232g or other applicable laws. In an expulsion appeal, the County Board shall refer to the student number or other identifier and shall not disclose the student's name.

The County Board shall meet in closed session to address any student matter over which it has statutory authority, when the matter may involve disclosure of confidential student information.

Real Property Negotiations

The County 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 MCOE 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 County 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. (Government Code 54956.8)

For purposes of real property transactions, negotiators may include members of the County Board. (Government Code 54956.8)

Agenda items related to real property negotiations shall specify the MCOE 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 County 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 County 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 MCOE of its approval. (Government Code 54957.1)

Pending Litigation

Based on the advice of its legal counsel, the County Board may hold a closed session to confer with or receive advice from its legal counsel regarding pending litigation when a discussion of the matter in open session would prejudice MCOE'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" when any of the following circumstances exist: (Government Code 54956.9)

1. Litigation to which MCOE is a "party" has been initiated formally; (Government Code 54956.9(d)(1))

2. A point has been reached where, in the County Board's opinion based on the advice of legal counsel and on the "existing facts and circumstances," there is a "significant exposure to litigation" against MCOE, or the County Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized; (Government Code 54956.9(d)(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 MCOE but which the administration believes are not yet known to potential plaintiffs 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 MCOE, which are already known to potential plaintiffs and which must be publicly disclosed before the closed session or specified on the agenda.

c. The receipt of a claim pursuant to the 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 MCOE)*~~

d. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the County Board;

e. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the County Board, provided that the MCOE 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 on his/her 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 County Board has decided to initiate or is deciding whether to initiate litigation. (Government Code 54956.9(d)(4)).

Before holding a closed session pursuant to the pending litigation exception, the County 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(d)(1), the County Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the MCOE'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 "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 and case or claim number, unless the County 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(d)(2) or (3) and shall specify the potential number of cases. When the MCOE 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(d)(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 County 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 ability to serve process on unserved parties or the 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 and if final approval rests with the other party or with the court, the County Board shall report the fact of approval, and

the substance of the agreement to persons who inquire once the settlement is final. (Government Code 54957.1)

Review of Student Assessment Instruments

The County 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 County 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. 6162.5 – Student Assessment)*~~

Agenda items related to the review of student assessment instruments shall state that the County 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.

Other Matters for Closed Session

1. **Security Matters**

The County Board may meet in closed session with the Governor, Attorney General, MCOE attorney, 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 County Board members present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present. (Government Code 545956.5, 54957)

~~*(cf. 0450 – Comprehensive Safety Plan)*~~
~~*(cf. 3515 – MCOE Security)*~~
~~*(cf. 3516 – Emergencies and Disaster Preparedness Plan)*~~
~~*(cf. 9323.2 – Actions by the Board)*~~

Agenda items related to 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 County Board will consult. (Education Code 32281; Government Code 5495~~4.5~~7)

2. **Tactical Response Plan**

The County 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 County Board shall report any action taken to approve the plan, but need not disclose the COE's plan for tactical responses. (Education Code 32281)

3. **Joint Powers Agency Issues**

The County 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 MCOE 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)*~~

When the board of the JPA has so authorized and upon advice of district legal counsel, the County Board may 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 liability implications for the MCOE. During the County Board's closed session, a County Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to fellow County Board members. (Government Code 54956.96)

The County Board member may also disclose the confidential JPA information to MCOE legal counsel in order to obtain advice on whether the matter has direct financial or liability implications for the MCOE. (Government Code 54956.96)

Closed session agenda items related to conferences involving a JPA shall specify the closed session description used by the JPA and the name of the County Board member representing MCOE 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)

The County Board shall 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)

4. **Review of Audit Report from California State Auditor's Office**

Upon receipt of a confidential final draft audit report from the California State Auditor's Office, the County 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, any County 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 shall state "Audit by California State Auditor's Office." (Government Code 54954.5)

Following the closed session, the County Board shall publicly confirm that the report was reviewed and a response was prepared.

Legal Reference:

EDUCATION CODE
1040 Duties and responsibilities; county boards of education
1042 County boards; authority
1700 County school service fund
1703 Coordination services
1730 Supervision of instruction
1740 Supervision of attendance
1750 Supervision of health
1760 Provision of guidance services
32281 Comprehensive ~~S~~school safety plans
35145 Public meetings
35146 Closed session ~~(r~~efor student suspension~~)~~ or disciplinary action
44929.21 Notice of reelection decisions; ~~D~~districts with ADA of 250 or more
48912 Governing board suspension
48918 Rules governing expulsion procedures; hearings and notice
49070 Challenging ~~content of~~ student records
49073-49079 Privacy of student records
60617 ~~Meetings of governing board~~Closed session (re-review of contents of statewide assessment)
GOVERNMENT CODE
815-818.9 California Government Claims Act
3540-3549.3 Educational Employment Relations Act
6252-6270 California Public Records Act
54950 Brown Act: Meetings
54950-54963 The Ralph M. Brown Act
7920.000-7930.215 California Public Records Act
CALIFORNIA CONSTITUTION
Article 1, Section 3 Public right to access information
UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act (FERPA) of 1974
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 (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 813
Furtado v. Sierra Community College District (1998) 68 Cal. App. 4th 876
Gillespie v. San Francisco Public Library Commission, (1998) 67 Cal.App.4th 1165
Roberts v. City of Palmdale (1993) 5 Cal.4th 363
Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, (1968) 263 Cal.App. 2d 41
San Diego Union v. City Council, (1983) 146 Cal.App. 3d 947
Fowler v. City of Lafayette (2020) 45 Cal.App.5th 68
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94 Ops.Cal.Atty.Gen. 82 (2011)
89 Ops.Cal.Atty.Gen. 110 (2006)
86 Ops.Cal.Atty.Gen. 210 (2003)
85 Ops.Cal.Atty.Gen. 77 (2002)
78 Ops.Cal.Atty.Gen. 218 (1995)
59 Ops.Cal.Atty.Gen. 532 (1976)
57 Ops.Cal.Atty.Gen. 209 (1974)

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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 2nd Edition, rev. July 2010
Open and Public IV: A Guide to the Ralph M. Brown Act Supplement, September 2013
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California Attorney General's Office: http://www.oag.ca.gov
League of California Cities: http://www.cacities.org

Cross References:

0430	*Comprehensive Local Plan for Special Education*
0450	*Comprehensive Safety Plan*
1160	*Political Processes*
1220	*Citizen Advisory Committees*
1312.1	*Complaints Concerning District Employees*
1312.3	*Uniform Complaint Procedures*
1340	*Access to District Records*
2120	*Superintendent Recruitment and Selection*
2121	*Superintendent's Contract*
2140	*Evaluation of the Superintendent*
3280	*Sale or Lease of District-Owned Real Property*
3320	*Claims and Actions Against the County Office of Education*
3515	*Campus Security*
3516	*Emergencies and Diaster Preparedness Plan*
3530	*Risk Management/Insurance*
3555	*Nutrition Program Compliance*
4030	*Nondiscrimination in Employment*
4112.6	*Personnel Files*
4112.9	*Employee Notifications*
4115	*Evaluation/Supervision*
4118	*Dismissal/Suspension/Disciplinary Action*
4119.23	*Unauthorized Release of Confidential/Privileged Information*

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4140	*Bargaining Units*
4143	*Negotiations/Consultation*
4143.1	*Public Notice – Personnel Negotiations*
4144	*Complaints*
4212.6	*Personnel Files*
4212.9	*Employee Notifications*
4215	*Evaluation/Supervision*
4218	*Dismissal/Suspension/Disciplinary Action*
4219.23	*Unauthorized Release of Confidential/Privileged Information*
4240	*Bargaining Units*
4243	*Negotiations/Consultation*
4244	*Complaints*
4312.1	*Contracts*
4312.6	*Personnel Files*
4315	*Evaluation/Supervision*
4319.23	*Unauthorized Release of Confidential/Privileged Information*
4340	*Bargaining Unit*
4344	*Complaints*
5117	*Interdistrict Attendance*
5117.1	*Interdistrict Attendance Appeals*
5119	*Students Expelled From Other Districts*
5125	*Student Records*
5125.3	*Challenging Student Records*
5144	*Discipline*
5144.1	*Suspension and Expulsion/Due Process*
5144.2	*Suspension and Expulstion/Due Process (Students With Disabilities)*
5144.3	*Student Expulsion Appeals*
6162.5	*Student Assessment*
6162.51	*State Academic Achievement Tests*
9011	*Disclosure of Confidential/Privileged Information*
9121	*President*
9124	*Attorney*
9130	*Board Committees*
9150	*Student Board Members*
9270	*Conflict of Interest*
9320	*Meetings and Notices*
9322	*Agenda/Meeting Materials*
9323	*Meeting Conduct*
9323.2	*Actions By The Board*
9500	*County Superintendent's Remuneration*

Bylaw Adopted: 7/19/2010; **MERCED COUNTY BOARD OF EDUCATION**
Revised: 2/19/13, 6/15/15, 10/18/16, 11/16/2020, FOR REVIEW 5/28/25 Merced, California

BOARD MEETING AGENDA DESCRIPTIONS FOR CLOSED SESSION ITEMS

The Merced County Board of Education meeting agenda shall include the following description of a closed session item, as applicable:

Matters Related to Students

CONFIDENTIAL STUDENT MATTER
Education Code 35146, 48918

Action under consideration: _____
(Specify type of action, e.g., expulsion appeal, etc.)

Student identification number: _____
(It is recommended that the student's name not be listed. The Merced County Office of Education (MCOE) 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 County 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 County 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.)

MCOE 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 MCOE 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 MCOE and that are known to potential plaintiff(s).)

Joint Powers Authority (JPA) 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 MCOE
Government Code 54956.96

Name of JPA: _____

Discussion will concern: _____
(Specify closed session description used by the JPA.)

Name of MCOE 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 County 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.

REPORTS OF CLOSED SESSION ACTIONS

Following a closed session during any meeting of the Merced County Board of Education, the County 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:

Matters Related to Students

Action taken: _____

(Final action must be taken in open session, not just announced in public. It is recommended that the student's name not be disclosed. The County Board that has tentatively decided a student's case in closed session should reconvene in open session and vote publicly) (Education Code 35146, 48918)

Board member votes/abstentions: _____

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) (Education Code 32281, Government Code 54957)

Board member votes/abstentions: _____

Real Property Negotiations

Action taken: _____

(Report if County 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.) (Government Code 54956.8)

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.) (Government Code 54956.9(d)(1))

Adverse party/parties, if known: _____

Substance of the litigation: _____

Board member votes/abstentions: _____

Anticipated Litigation

Action taken: The County 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 Merced County Office of Education's (MCOE) ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage.
(The report need not initially identify the action, defendants, or other details.) *(Government Code 54956.9(d)(2) or (3))*

Board member votes/abstentions: _____

Joint Powers Agency Issues

LIABILITY CLAIMS FOR INSURANCE-RELATED JOINT POWERS AGENCY
(Government Code 54956.95)

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 COE
(Government Code 54956.95)

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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 County 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 County Board discussion of the report must be conducted in open session.) *(Government Code 54956.75)*

Review of Assessment Instruments

(Government Code 60617)

Action taken: The County Board reviewed the contents of a student assessment instrument approved or adopted for the statewide testing system.

Agenda Content

County Board meeting agendas shall reflect the Merced County Office of Education's (MCOE) vision and goals and its focus on student learning and well-being.

~~*(cf. 0000 - Vision)*~~
~~*(cf. 0200 - Goals for the MCOE)*~~

County Board 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)*~~

In order to promote efficient meetings, the County 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 address matters ~~be items~~ of a routine nature ~~and items~~ for which ~~no~~ County Board discussion is not anticipated and for which the County Superintendent recommends approval. When any County Board member request~~s~~ 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 members of the public the opportunity to address the County Board on any agenda item, including any consent agenda item, before or during the County Board's consideration of the item. The agenda for a regular County Board meeting shall also provide members of the public an opportunity to provide comment on matters which are not on the agenda but which are within the subject matter jurisdiction of the County Board. (Education Code 35145.5; Government Code 54954.3)

~~*(cf. 9323 - Meeting Conduct)*~~

However, the agenda need not provide an opportunity for public comment ~~when the~~on an agenda item that has previously been considered at an open meeting ~~of~~by a committee comprised exclusively of County Board members, provided that members of the public were afforded an opportunity to comment on the item, before or during the committee's consideration of the item, and the item has not been substantially changed since the committee considered it. (Government Code 54954.3)

The agenda shall include information regarding how, when, and to whom a request for disability-related accommodations or modifications, including auxiliary aids and services, may be made by an individual who requires accommodations or modifications in order to participate in the County Board meeting as well as the procedure for receiving and resolving such requests as required by law. Individuals should contact the County Superintendent or designee at least 48 hours prior to the meeting. (Government Code 54953, 54954.2)

Each agenda for a regular meeting shall list the address designated by the County Superintendent or designee for public inspection of agenda documents related to an open session item, or for records of a statement threatening litigation against the MCOE to be discussed in closed session, when such documents ~~that~~ have been distributed to the County Board less than 72 hours before the meeting. (Government Code 54956.9, 54957.5)

Each agenda shall include a statement regarding the option for students and parents/guardians to request that directory information or personal information of the student or parent/guardian, as defined in Education Code 49061 and/or 49073.2, be excluded from the minutes. The agenda shall also state that the request must be made in writing to the secretary or clerk of the County Board.

Agenda Preparation

The County Board chairperson and the County Superintendent, as secretary to the County Board, may work together to develop the agenda for each regular and special meeting.

~~*(cf. 9121 - Officers and Duties)*~~

Any County Board member or member of the public may request that a matter within the jurisdiction of the County Board be placed on the agenda of a regular meeting. The request shall be in writing and be submitted to the County Superintendent or designee with supporting documents and information, if any, at least one week before the scheduled meeting date. The agenda item information provided must be of sufficient content to adequately describe the item to the County Board and public. 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 County Board chairperson or County Superintendent shall decide whether a request from a member of the public is within the subject matter jurisdiction of the County Board. Items not within the subject matter jurisdiction of the County Board may not be placed on the agenda. In addition, the County Board chairperson or County Superintendent shall determine if the item is merely a request for information, and if so, respond accordingly or whether the issue is covered by an existing policy or regulation before placing the item on the agenda.

The County Board chairperson or County Superintendent shall 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 County Board vote, 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 County 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 County Board are subject to requirements of relevant policies and regulations.

~~*(cf. 1312.1 - Complaints Concerning MCOE 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 MCOE)*~~
~~*(cf. 5144.1 - Suspension and Expulsion/Due Process)*~~

Agenda Dissemination to Board Members

At least 72 hours before each regular meeting, a copy of the agenda and agenda packet shall be forwarded to each County Board member, including ~~the~~any reports from the County Superintendent or designee~~'s reports~~; 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, County Board members shall receive, at least 24 hours prior to the meeting, notice of the business to be transacted. (Government Code 54956)

County Board members shall review agenda materials before each meeting. Individual members may confer directly with the County Superintendent or designee to ask questions and/or request additional information on agenda items. However, a majority of County 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 County Board.

~~*(cf. 9012 - Board Member Electronic Communications)*~~

Agenda Dissemination to Members of the Public

~~Any a~~Agenda and related materials distributed to the County Board shall be made available to the public upon request without delay. However, ~~O~~only those documents which are public records under the Public Records Act and which relate to an agenda item scheduled for the open session portion of a regular meeting or which contain a claim or written threat of litigation which will be disclosed in closed session shall be made available to the public. (Government Code 54956.9, 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 agenda shall be posted on the homepage of the MCOE web site. The posted agenda shall be accessible through a prominent direct link to the current agenda or to the MCOE's agenda management platform in accordance with Government Code 54954.2. When the MCOE utilizes an integrated agenda management platform, the link to that platform shall take the user directly to the web site with the County Board meeting agendas, and the current agenda shall be the first available. (Government Code 54954.2)

~~*(cf. 1113 - MCOE Web Sites)*~~
~~*(cf. 1340 - Access to MCOE Records)*~~

If a document which relates to an open session agenda item of a regular County Board meeting is distributed to the County Board less than 72 hours prior to a meeting, the County 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 County Board. (Government Code 54957.5)

The County 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 County Board, whichever occurs first. (Government Code 54954.1)

The County Superintendent or designee shall email a copy of, or a web site link to, the agenda or a copy of all the documents constituting the agenda packet to any person who requests such items to be delivered by email. If the County Superintendent or designee determines that it technologically infeasible to do so, a copy of the agenda or a web site link to the agenda and a copy of all other documents constituting the agenda packet shall be sent to the person who has made the request in accordance with mailing requirements specified in law. (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 County Superintendent or designee, not to exceed the cost of providing the service.

Any document prepared by MCOE or the County Board and distributed during a public meeting shall be made available for public inspection at the meeting. Any documents prepared by another person and presented at the meeting 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 County 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~~Agenda; public participation and regulations
49061 Student records; definitions
49073.2 Privacy of student and parent/guardian personal information; minutes of board meeting
GOVERNMENT CODE
6250-6270 Public Records Act
53635.7 Separate item of business
54953 Meetings; Americans with Disabilities Act accessibility
54954.1 Mailed ~~agenda of meeting~~notice to property owners
54954.2 Agenda posting requirements; board actions
54954.3 Opportunity for public to address legislative body
54954.5 Closed session item descriptions
54956 ~~Brown Act open meeting laws; s~~Special meetings
54956.5 Emergency meetings
54956.9 Lawyer client privilege for purpose of conducting closed session
54957.5 Public records
54960.2 Challenging board actions; cease and desist
7920.000-7930.170 California Public Records Act
7920.000-7930.215 California Public Records Act
95000-95029 California Early Intervention Services Act
UNITED STATES CODE, TITLE 42
12101-12213 ~~Americans with Disabilities Act~~Equal opportunity for individuals with disabilities
CODE OF FEDERAL REGULATIONS, TITLE 28
35.160 Effective communications
36.303 Nondiscrimination on the basis of disability; public accommodations; ~~A~~auxiliary aids and services
COURT DECISIONS
Fowler v. City of Lafayette (2020) 45 Cap.App.5th 68
Sierra Watch v. County of Placer (2022) 69 Cal.App.5th 86
Mooney v. Garcia, (2012) 207 Cal.App.4th 229
Caldwell v. Roseville Joint Union HSD, 2007 U.S. Dist. LEXIS 66318
ATTORNEY GENERAL OPINIONS
99 Ops.Cal.Atty.Gen. 11 (2016)
99 Ops.Cal.Atty.Gen. 18 (2016)
78 Ops.Cal.Atty.Gen. 327 (1995)

Management Resources:

CSBA PUBLICATIONS
Call to Order: A Blueprint for Great Board Meetings, 2018
The Brown Act: School Boards and Open Meeting Laws, rev. 2019

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ATTORNEY GENERAL PUBLICATIONS
The Brown Act: Open Meetings for Legislative Bodies, California Attorney General's Office, rev. 2003
WEB SITES
CSBA, Agenda Online: http://www.csba.org
California Attorney General's Office: http://www.oag. ca.gov

Cross References:

0000	*Vision*
0200	*Goals for the School District*
0410	*Nondiscrimination in County Office Programs and Activities*
0420.44	*Appeals of District Decisions Regarding Charter Schools*
1100	*Communication with the Public*
1112	*Media Relations*
1113	*County Office of Education and School Websites*
1312.1	*Complaints Concerning District Employees*
1312.2	*Complaints Concerning Instructional Materials*
1312.3	*Uniform Complaint Procedures*
1312.4	*Williams Uniform Complaint Procedures*
1340	*Access to District Records*
1400	*Relations Between Other Governmental Agencies and the Schools*
2210	*Administrative Discretion Regarding Board Policy*
3100	*Budget Adoption and Revision*
3312	*Contracts*
3320	*Claims and Actions Against the District*
3460	*Financial Reports and Accountability*
4312.1	*Contracts*
5144.1	*Suspension and Expulsion/Due Process*
6161.1	*Selection and Evaluation of Instructional Materials*
9012	*Board Member Electronic Communications*
9121	*President*
9122	*Secretary*
9130	*Board Committees*
9150	*Student Board Members*
9200	*Limits of Board Member Authority*
9310	*Board Policies*
9320	*Meetings and Notices*
9321	*Closed Session*
9323	*Meeting Conduct*
9323.2	*Actions by the Board*
9324	*Minutes and Recordings*

Bylaw Adopted: 8/16/2010; **MERCED COUNTY BOARD OF EDUCATION**
Revised: 12/16/13, 11/16/2020, 6/21/22, FOR REVIEW 5/28/2025 Merced, California

The County Board endeavors to conduct its business efficiently and in a manner that promotes a full and fair consideration of the issues before it, and allows for meaningful participation of members of the public.

Notices and Agenda

The Merced County Office of Education (MCOE) shall forward by mail, email, fax or other means, the agenda and supporting materials.

When a special meeting is called, the County Superintendent and County Board chairperson shall make every effort to distribute the agenda and support materials to County Board members as soon as possible.

At least 72 hours prior to a regular meeting, the County Superintendent shall post the agenda at one or more locations freely accessible to the public. (Government Code 54954.2)

At least 24 hours prior to a special meeting, the County Superintendent shall post the call and notice for the special meeting at one or more locations freely accessible to the public. (Government Code 54956)

The County Board may hold an emergency meeting without complying with the 24-hour notice requirement in the following cases: (Government Code 54956.5)

1. A work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the County Board;

2. A crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the County Board.

The County Board chairperson or designee shall give notice of the emergency meeting to the local media which have requested notice of special meetings, by telephone, at least one hour before the meeting. If telephone services are not functioning, the one-hour notice requirement is waived, and as soon after the meeting as possible, the County Board shall notify those media representatives, of the emergency meeting and shall describe the purpose of the meeting and any action taken by the County Board. (Government Code 54956.5)

In the event of an emergency, or where a majority of County Board members will not be able to attend a regular meeting due to a reason approved by resolution of the County Board, the County Board chairperson may change the date and/or time for the regular meeting. Such situations shall include but not be limited to, fire, flood, earthquake, absence of County Board members due to attendance at a County Board-sanctioned conference, or illness/injury. Where the schedule for a regular meeting is to be changed, the County Superintendent shall inform all County Board members and the public by the most rapid means of communication available.

If a fire, flood, earthquake or other emergency renders the regular meeting place unsafe, meetings may temporarily be held at a place designated by the chairperson or designee, who shall so inform all news media that have requested notice of special meetings, by the most rapid means of communication available. (Government Code 54954)

Meeting Procedures

All County Board meetings shall begin on time and shall be guided by an agenda prepared in accordance with County Board bylaws and posted and distributed in accordance with the Ralph M. Brown Act (open meeting requirements) and other applicable laws.

~~*(cf. 9322 - Agenda/Meeting Materials)*~~

The County Board Chairperson shall conduct County Board meetings in accordance with County Board bylaws and procedures that enable the County Board to efficiently consider issues and carry out the will of the majority. ~~At all County Board meetings, where existing bylaws do not prescribe the procedure, the County Board shall be guided by the parliamentary procedures set forth in Robert's Rules of Order.~~

~~*(cf. 9121 - Officers and Duties)*~~

The County Board believes that late night meetings deter public participation, can affect the County Board's decision-making ability, and can be a burden to staff. Regular County Board meetings shall be adjourned at 10:30 p.m. unless extended to a specific time determined by a majority of the County Board. The meeting shall be extended no more than once and, if necessary, may subsequently ~~may~~ be adjourned to a later date.

~~*(cf. 9100 - Organization)*~~
~~*(cf. 9320 - Meetings and Notices)*~~

Quorum and Abstentions

The County Board shall act by majority vote of all of the membership constituting the County Board. (Education Code 35164)

~~*(cf. 9323.2 - Actions by the Board)*~~

A majority of the members of the County Board shall constitute a quorum for the transaction of business. (Education Code 1013)

Unless otherwise provided by law, an affirmative vote~~s~~ by a majority of all the membership of the County Board are required to approve any action under consideration, regardless of the number of members present. At least a majority (three) of the members must vote in the affirmative in order to approve action.

~~*(cf. 9323.2 - Actions by the Board)*~~

On a call by any County Board member, ~~the ayes and the nays~~a voice vote shall be ~~counted~~taken upon any proposition and the vote shall be recorded in the minutes. (Education Code 1015)

~~*(cf. 9324 - Minutes and Recordings)*~~

Votes taken during a teleconference shall only be by roll call. (Government Code 54953)

Teleconference is a meeting of the County Board in which County Board members are at different locations and are connected by electronic means through video and/or audio.

Direct communication, personal intermediaries, and technological devices shall not be used by a majority of County Board members to develop a collective concurrence as to an action that members will take on any item of County Board business. (Government Code 54952.2)

The County Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a member abstains for any reason other than conflict of interest, the abstention shall be considered to concur with the action taken by the majority of those who vote, whether affirmatively or otherwise.

~~*(cf. 9270 - Conflict of Interest)*~~

Public Participation

Members of the public are encouraged to attend County Board meetings and to address the County Board concerning any item on the agenda or within the County Board's jurisdiction. So as not to inhibit public participation, persons attending County Board meetings shall not be required to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting, except that if the meeting is conducted with remote public participation or a County Board member attending remotely pursuant to Government Coed 54953, a member of the public desiring to provide comment through the use of a third party internet website or online platform may be required to register as required by the third party provider. ~~However, t~~The County Board Chairperson may ask any speaker to identify ~~himself/herself~~themself for proper recording of the minutes.

In order to conduct the County Board's business in an orderly and efficient manner, the County Board requires that public presentations to the County Board comply with the following procedures:

1. The County Board shall give members of the public an opportunity to address the County Board on any item of interest to the public that is within the subject matter jurisdiction of the County Board, either before or during the County Board's consideration of the item. (Education Code 35145.5, Government Code 54954.3)

2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the County Board~~, at a regular meeting,~~ matters that are not listed on the agenda, but are within the County Board's jurisdiction. The County Board may refer such a matter to the County Superintendent or take it under advisement, but shall take no action or discussion on any item not appearing on the posted agenda, except as authorized by law. The matter may be placed on the agenda of a subsequent meeting for action or discussion by the County Board. (Education Code 35145.5; Government Code 54954.2, 54954.3)

3. Without taking action, County Board members, the County Superintendent and/or staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. Additionally, on their own initiative or in response to questions posed by the public, a County Board member, the County Superintendent or a staff member may ask a question for clarification, make a brief announcement, or make a brief report on their own activities. (Government Code 54954.2)

Furthermore, the County Board or a County Board member may provide a reference to the County Superintendent or other resources for factual information, ask the County Superintendent to report back to the County Board at a subsequent meeting concerning any matter, or take action directing the County Superintendent to place a matter of business on a future agenda. (Government Code 54954.2)

4. The County Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of County Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the County Board determines that the item has been substantially changed since the committee heard it, the County Board shall provide an opportunity for the public to speak. (Government Code 54954.3)

~~*(cf. 9130 - Board Committees)*~~

5. A person wishing to be heard by the County Board shall first be recognized by the Chairperson and shall then proceed to comment as briefly as the subject permits.

Individual speakers shall be allowed five minutes to address the County Board on each agenda or nonagenda item. The County Board shall limit the total time for public input on each item to 20 minutes. With County Board consent, the chairperson may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The Chairperson may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add.

In order to ensure that non-English speakers receive the same opportunity to directly address the County Board, any member of the public who utilizes a translator shall be provided at least twice the allotted time to address the County Board, unless simultaneous translation equipment is used to allow the County Board to hear the translated public testimony simultaneously. (Government Code 54954.3)

6. The County Board Chairperson may rule on the appropriateness of a topic, subject to the following conditions:

   a. If the topic would be more suitably addressed at a later time, the Chairperson may indicate the time and place when it should be presented.

   b. The County Board shall not prohibit public criticism of its policies, procedures, programs, services, acts or omissions. (Government Code 54954.3)

   c. The County Board shall not prohibit public criticism against MCOE employees. However, whenever a member of the public initiates specific complaints against an individual employee, the County Board Chairperson shall inform the complainant that employment matters are the jurisdiction of the County Superintendent and advise the complainant to address the complaint to the County Superintendent using the appropriate MCOE complaint procedure.

~~*(cf. 1312.1 - Complaints Concerning MCOE Employees)*~~
~~*(cf. 9321 - Closed Session Purposes and Agendas)*~~

7. The County Board Chairperson shall not permit any disturbance or willful interruption of County Board meetings. Persistent disruption by an individual or group or any conduct or statements that threaten the safety of any person(s) at the meeting shall be grounds for the County Board Chairperson to terminate the privilege of addressing the County Board.

   The County Board Chairperson or designee may remove an individual for actually disrupting the meeting. Prior to removal, the individual shall be warned that their behavior is disrupting the meeting and that failure to cease the disruptive behavior may result in removal. If, after being warned, the individual does not promptly cease the disruptive behavior, the County Board Chairperson, or designee, may then remove the individual from the meeting. (Government Code 54957.95)

   When an individual's behavior constitutes the use of force or a true threat of force, the individual shall be removed from a County Board meeting without a warning. (Government Code 54957.95)

When such disruptive conduct occurs, the County Superintendent or designee shall contact local law enforcement as necessary.

Any person who willfully disturbs any public school meeting is guilty of a misdemeanor and shall be punished by a fine of not more than $500.

Disrupting means engaging in behavior during a County Board meeting that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to Section 54954.3 or any other law, or engaging in behavior that constitutes use of force or a true threat of force. (Government Code 54957.95)

True threat of force means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat. (Government Code 54957.95)

Additionally, ~~T~~the County Board Chairperson may have disruptive individuals removed and order the room cleared if necessary. In this case, members of the media not participating in the disturbance shall be allowed to remain, and individual(s) not participating in such disturbances may be allowed to remain at the discretion of the County Board. When the room is ordered cleared due to a disturbance, further County Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

When disruptive conduct occurs, the County Board may decide to recess the meeting to help restore order, or if removing the disruptive individual(s) or clearing the room is infeasible, move the meeting to another location. Law enforcement shall be contacted as necessary.

Recording by the Public

Members of the public may record an open County Board meeting using an audio or video recorder, still or motion picture camera, cell phone, or other device, provided that the noise, illumination, or obstruction of view does not persistently disrupt the meeting. The County Superintendent or designee may designate locations from which members of the public may make such recordings without causing a distraction.

~~*(cf. 9324 - Minutes and Recordings)*~~

If the County Board finds that noise, illumination or obstruction of view related to these activities would persistently disrupt the proceedings, these activities shall be discontinued or restricted as determined by the County Board. (Government Code 54953.5, 54953.6)

Legal Reference:

EDUCATION CODE
1013 Quorum
1015 Voting
1040 Duties and responsibilities; county boards of education
1042 County boards; authority
1090 County board member compensation
5095 Powers of remaining board members and new appointees
32210 Willful disturbance of public school or meeting a misdemeanor
35010 Control of district; ~~P~~prescription and enforcement of rules
35145.5 Agenda; public participation; regulations
35163 Official actions, minutes and journal
35164 Actions by ~~M~~majority vote
35165 Effect of vacancies upon majority and unanimous votes by seven member board
CODE OF CIVIL PROCEDURE
527.8 Workplace Violence Safety Act
ELECTION CODE
18430 Prevention or hinderance of electors assembling in public meeting
GOVERNMENT CODE
54953.3 ~~Prohibition against conditions for attending a board meeting~~Meetings to be open and public; remote attendance
54953.5 Audio or video tape recording of proceedings
54953.6 Broadcasting of proceedings
54954.2 Agenda~~;~~ posting requirements; board actions ~~on other matters~~
54954.3 Opportunity for public to address legislative body~~; regulations~~
54957 Closed session~~s~~ personnel matters
54957.9 Disorderly conduct of general public during meeting; clearing of room
54957.95 Opening meetings; orderly conduct
PENAL CODE
403 Disruption of assembly or meeting
COURT DECISIONS
City of San Jose v. William Garbett, (2019) 190 Cal.App.4th 526
Norse v. City of Santa Cruz, (9th Cir. 2010) 629 F3d 966
McMahon v. Albany Unified School District, (2002) 104 Cal.App.4th 1275
Rubin v. City of Burbank, (2002) 101 Cal.App.4th 1194
Baca v. Moreno Valley Unified School District, (1996) 936 F.Supp. 719
ATTORNEY GENERAL OPINIONS
90 Ops.Cal.Atty.Gen. 47 (2007)
76 Ops.Cal.Atty.Gen. 281 (1993)
66 Ops.Cal.Atty.Gen. 336 (1983)
63 Ops.Cal.Atty.Gen. 215 (1980)
61 Ops.Cal.Atty.Gen. 243, 253 (1978)
59 Ops.Cal.Atty.Gen. 532 (1976)
55 Ops.Cal.Atty.Gen. 26 (1972)

Management Resources:

CSBA PUBLICATIONS
Call to Order: A Blueprint for Great Board Meetings, 201~~5~~8
The Brown Act: School Boards and Open Meeting Laws, rev. 201~~4~~9

ATTORNEY GENERAL PUBLICATIONS
The Brown Act: Open Meetings for Local Legislative Bodies, 2003
WEB SITES
CSBA: http://www.csba.org
California Attorney General's Office: https://oag.ca.gov

Cross References:
1000 Concepts and Roles
1100 Communication with the Public
1220 Citizen Advisory Committees
1312.1 Complaints Concerning District Employees
1313 Civility
3100 Budget Adoption and Revision
3270 Sale and Disposal of Books, Equipment and Supplies
3312 Contracts
9005 Governance Standards
9100 Organization
9121 President
9130 Board Committees
9200 Limits of Board Member Authority
9230 Orientation
9270 Conflict of Interest
9310 Board Policies
9321 Closed Session
9322 Agenda/Meeting Materials
9323.2 Actions by the Board
9324 Minutes and Recordings

Bylaw Adopted: 8/16/2010; **MERCED COUNTY BOARD OF EDUCATION**
Revised: 8/21/17, 11/16/2020, FOR REVIEW 5/28/2025 Merced, California

The County Board shall act by a majority vote of all of the membership constituting the County 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 County Board means: (Government Code 54952.6)

1. A collective decision by a majority of the County Board members;

2. A collective commitment or promise by a majority of the members to make a positive or negative decision;

3. A vote by a majority of the members when sitting as the County Board upon a motion, proposal, resolution, order or ordinance.

The County Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the County Board in open session shall be recorded in the County Board minutes. (Education Code 1015, 35145)

~~*(cf. 9324 - Minutes and Recordings)*~~

Action on Non-Agenda Items

After publicly identifying the item, the County Board may take action in a regular meeting on a subject not listed on the published agenda only when it publicly identifies the item to be acted upon in conjunction with one of the following circumstances: (Government Code 54954.2)

1. The County Board, by majority vote of its members, determines that the action responds to an emergency situation, as defined for emergency meetings pursuant to Government Code 54956.5;

2. The County Board determines, either by a two-thirds majority vote of the members present at the meeting or, if less than two-thirds of the members are present, then by a unanimous vote of all members present, that the need to take immediate action came to the Merced County Office of Education's (MCOE) attention after the posting of the agenda;

3. The matter was properly posted for a previous meeting occurring not more than five days earlier and was continued to the meeting at which action is being taken.

~~*(cf. 9320 - Meetings and Notices)*~~
~~*(cf. 9322 - Agenda/Meeting Materials)*~~
~~*(cf. 9323 - Meeting Conduct)*~~

4. Until December 31, 2025, when a County Board member requests to participate remotely 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.

~~**Actions Requiring a Two-Thirds Vote of the County Board**~~

~~For an action requiring a two-thirds vote to pass, a five-member County Board will need four members to vote in favor of the item.~~

~~A two-thirds vote of the County Board membership shall be required for the following actions:~~

~~1. Request for temporary borrowing of funds needed for immediate requirements of the county office of education (COE) to pay obligations incurred before the receipt of income for the fiscal year sufficient to meet the payment(s) (Government Code 53821)~~

~~2. Resolution of necessity to proceed with an eminent domain action and, if the County 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; Education Code 1047)~~

~~**Actions Requiring a Two-Thirds Vote of the County Board Members Present at the Meeting**~~

~~A two-thirds vote of the County Board members present at the meeting shall be required for the following actions:~~

~~1. Determination that there is a need to take immediate action and that the need for action came to the County Board's attention after the posting of the agenda (Government Code 54954.2)~~

~~2. Determination that a closed session is necessary during an emergency meeting (Government Code 54956.5)~~

~~If less than two-thirds of the County Board members are present at the meeting, a unanimous vote of all members present shall be required for the above actions.~~

~~Action Requiring a Four-Fifths Vote of the County Board~~

~~For an action requiring a four-fifths vote to pass, a five-member County Board will need four members to vote in favor of the item.~~

~~A four-fifths vote of the County Board membership shall be required for:~~

~~1. Any resolution for borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the COE'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)~~

~~2. Resolution for borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by the COE during that fiscal year from apportionments based on the average daily attendance (ADA), for the preceding school year, of schools operated by the County Board (Government Code 53823-53824)~~

~~3. Declaration of an emergency in order to authorize the COE to include a particular brand name or product in a bid specification (Public Contract Code 3400)~~

~~4. If the COE has adopted the procedures set forth in the Uniform Public Construction Cost Accounting Act (UPCCAA), action to respond to an emergency facilities condition without giving notice for bids to let contracts. Such action may include the repair or replacement of COE 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 County Superintendent or designee to take such action, and the determination during a regular County Board meeting of the need to continue the action. (Public Contract Code 22035, 22050)~~

~~5. Resolution to award a contract for a public works project at $212,500 or less to the lowest responsible bidder, when the COE is using the informal process authorized under the UPCCAA for projects of $200,000 or less, all bids received are in excess of $200,000, and the County Board determines that the COE's cost estimate was reasonable (Public Contract Code 22034)~~

~~Action Requiring a Four-Fifths Vote of the Board Members Present at the Meeting~~

~~A four-fifths vote of the County Board members present at the meeting shall be required to approve the expenditure and transfer of necessary funds and use of 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)~~

~~**Actions Requiring a Unanimous Vote of the Board Members Present at the Meeting**~~

~~A unanimous vote of the County Board members present at the meeting shall be required for the following actions:~~

~~1. If less than two-thirds of the County Board members are present at the meeting, determination that there is a need to take immediate action and that the need for action came to the County Board's attention after the posting of the agenda (Government Code 54954.2)~~

~~2. If less than two-thirds of the County Board members are present at the meeting, determination that a closed session is necessary during an emergency meeting (Government Code 54956.5)~~

Challenging Board Actions

The district attorney's office or any interested person may file an action in court for the purpose of: (Government Code 54960, 54960.2)

1. Stopping or preventing the County Board's violation or threatened violations of the Brown Act

2. Determining the applicability of the Brown Act to ongoing or future threatened County Board actions

3. Determining the applicability of the Brown Act to a past action of the County 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 County Board, clearly describing the past County Board action and the nature of the alleged violation.

   b. The time for the County Board to respond has expired and the County 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. Determining the validity, under California or federal law, of any County Board rule or action to penalize any of its members or otherwise discourage the member's expression

5. Compelling the County Board to audio record its closed sessions because of a court's finding of County Board's violation of any applicable Government Code provision. (Government Code 54960)

The district attorney or any interested person may file an action in court to nullify a County Board action which is alleged to be a violation of law regarding any of the following: (Government Code 54960.1)

1. Government Code 54954.2, regarding agenda posting;

2. Government Code 54953, regarding open meeting and teleconferencing;

3. Government Code 54954.5, regarding closed session item descriptions;

4. Government Code 54954.6, regarding new or increased tax assessments;

5. Government Code 54956, regarding special meetings;

6. Government Code 54956.5, regarding emergency meetings.

Prior to bringing any action to nullify a County Board action, the district attorney or other interested person shall present a demand to "cure and correct" the alleged violation. The demand shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the County 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~~-54960.5)

Within 30 days of receiving the demand, the County 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 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 County Board takes no action within the 30-day period, its inaction shall be considered a decision not to cure or correct the challenged action.

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE

1000 County boards consist of five or seven members
1015 Recording votes
1042 Authorization to hold and convey real property
1047 Eminent domain
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 Prohibition to terminate superintendent or assistant superintendent at specified meetings or times
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 requirement
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, especially:
54952.6 Action taken, definition
54953 Meetings to be open and public; attendance; secret ballots
54960-54960.5 Action to prevent violations
65352.2 Coordination with planning agency

PUBLIC CONTRACT CODE

3400 Bid specifications
20110-20118.44 School district contracts
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
22000-22045 Uniform Construction Cost Accounting Procedures, especially:
22034 Uniform Public Construction Cost Accountability 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, 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 Supplement, September 2013
Open and Public IV: A Guide to the Ralph M. Brown Act, 2nd 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-il.org

Cross References:

3260	*Fees and Charges*
3270	*Sale and Disposal of Books, Equipment and Supplies*
3280	*Sale or Lease of District-Owned Real Property*
3311	*Bids*
3311.1	*Uniform Public Construction Cost Accounting Procedures*
3471	*Parcel Taxes*
6185	*Community Day School*
7131	*Relations with Local Agencies*
7150	*Site Selection and Development*
7160	*Charter School Facilities*
7213	*School Facilities Improvement Districts*
7214	*General Obligation Bonds*
9000	*Role of the Board*
9005	*Governance Standards*
9012	*Board Member Electronic Communications*
9150	*Student Board Members*
9200	*Limits of Board Member Authority*
9223	*Filling Vacancies*
9260	*Legal Protection*
9310	*Board Policies*
9320	*Meetings and Notices*
9321	*Closed Session*
9322	*Agenda/Meeting Materials*
9324	*Minutes and Recordings*

Bylaw Adopted: 8/16/2010; **MERCED COUNTY BOARD OF EDUCATION**
Revised: 7/11/11, 12/16/13, 6/15/15, 11/16/2020, FOR REVIEW 5/28/25 Merced, California

RESTRICTIONS ON COUNTY BOARD ACTIONS

This exhibit is a non-exhaustive list of actions by the Merced County Board of Education that require more than a majority vote as well as restrictions and prohibitions on when the County Board may take certain actions. Other such actions may exist and may be identified in the future.

~~**ACTIONS REQUIRING A SUPER MAJORITY VOTE**~~

Actions Requiring a Two-Thirds Vote of the Membership of the County Board:

1. Resolution declaring intention to sell or lease real property; (Education Code 17466)

~~*(cf. 3280 - Sale, Lease and Rental of MCOE-Owned Real Property)*~~

2. Resolution declaring intent of County Board 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 County 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 Merced County Office of Education (MCOE) purposes because funds are unavailable; (Education Code 17481)

5. Request for temporary borrowing of funds needed for immediate requirements of MCOE to pay MCOE obligations incurred before receipt of MCOE income for the fiscal year sufficient to meet payment(s); (Government Code 53821)

6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by MCOE; (Government Code 53094)

~~*(cf. 7131 - Relations with Local Agencies)*~~
~~*(cf. 7150 - Site Selection and Development)*~~
~~*(cf. 7160 - Charter School Facilities)*~~

7. When the MCOE is organized to serve only grades K-8 and seeks to establish a community day school for any of grades K-8 (Education Code 48660)

~~*(cf. 6185 - Community Day School)*~~

8. When the MCOE 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 community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)

9. Resolution of intent to issue general obligation bonds with the approval of 55 percent of the voters of the MCOE (Education Code 15266)

~~*(cf. 7214 - General Obligation Bonds)*~~

10. Resolution of intent to issue bonds within a school facilities improvement MCOE with the approval of 55 percent of the voters of the school facilities improvement MCOE (Education Code 15266)

~~*(cf. 7213 - School Facilities Improvement Districts)*~~

11. Resolution to place a parcel tax on the ballot (Government Code 53724)

12. Resolution of necessity to proceed with an eminent domain action and, if the County 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. (Education Code 1047, 1080; Code of Civil Procedure 1245.240, 1245.245)

Actions Requiring a Two-Thirds Vote of the County 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 MCOE's attention after the posting of the agenda. If less than two-thirds of the County 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 County 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 Membership of the County Board:

For an action requiring a four-fifths vote to pass, a five-member board will need four board members to vote in favor of the item.

~~1. The expenditure and transfer of necessary funds and use of MCOE 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~~1. Resolution for MCOE borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of MCOE'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)

~~3~~2. Resolution for MCOE borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by MCOE during that fiscal year from apportionments based on ADA for the preceding school year; (Government Code 53823-53824)

~~4~~3. Declaration of an emergency in order to authorize MCOE to include a particular brand name or product in a bid specification. (Public Contract Code 3400)

~~*(cf. 3311 – Bids)*~~

~~5~~4. When the ~~district has a five-member or seven-member County Board~~MCOE has adopted the procedures set forth in Uniform Public Construction Cost Accounting Act (UPCCAA), action to respond to an emergency facilities condition without giving notice for bids to let contracts, including the repair or replacement of MCOE 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 County Superintendent or designee to take such action, and the determination during a regular County Board meeting of the need to continue the action (Public Contract Code 22035, 22050)

~~6~~5. Resolution to award a contract for a public works project at $212,500 or less to the lowest responsible bidder, when the MCOE is using the informal process authorized under the ~~Uniform Public Construction Cost Accounting Act~~UPCCAA for projects of $200,000 or less, all bids received are in excess of $200,000, and the County Board determines that the MCOE's cost estimate was reasonable (Public Contract Code 22034)

~~*(cf. 3311.1 – Uniform Public Construction Cost Accounting Procedures)*~~

Actions Requiring a Four-Fifths Vote of the County Board Members Present at the Meeting:

1. Approval of ~~T~~the expenditure and transfer of necessary funds and use of MCOE property or personnel to meet a national or local emergency created by war, military,

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naval, or air attack, or sabotage, or to provide for adequate national or local defense; (Government Code 53790-53792)

~~*(cf. 3110 - Transfer of Funds)*~~

Actions Requiring a Unanimous Vote of the Membership of the County Board:

1. Resolution authorizing and prescribing the terms of a lease of MCOE 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 waiver of the competitive bid process pursuant to Public Contract Code 20111, when the County 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 County 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 County 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)*~~

Prohibitions on Certain County Board Actions:

1. When the County Board is disposing of surplus land and has received a notification from the Department of Housing and Community Development pursuant to Government Code 54230.5 with regard to the surplus land, final action to ratify or approve the proposed disposal of surplus land unless the County Board holds an open and public meeting in compliance with Government Code 54230.7 to review and consider the substance of the notice.

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Exhibit-1 Adopted: 8/16/2010; **MERCED COUNTY BOARD OF EDUCATION**
Revised: 12/16/13, 6/15/15, 10/18/16, 11/13/17, 11/16/2020, Merced, California
FOR REVIEW 5/28/2025

MERCED COUNTY OFFICE OF EDUCATION
2025



School Graduations

Atwater Valley Community School
DATE: Tuesday, June 3rd
TIME: 5:30 PM
LOCATION: Dr. Lee Andersen Center-Atwater
1800 Matthew Drive, Atwater, CA (Gym)

Come Back Charter
DATE: Monday, June 2nd
TIME: 6:00 PM
LOCATION: MCOE Downtown Center,
Mondo Building, 1715 Canal Street, Merced

Los Banos Valley Community
(Independent Study, Hybrid & Daily)
DATE: Wednesday, June 4th
TIME: 6:00 PM
LOCATION: Los Banos Fairgrounds,
403 F Street, Los Banos, CA (O'Banion Auditorium)

Merced Scholars Charter School Dual Language Immersion
(Kindergarten Promotion)
DATE: Wednesday, June 4th
TIME: 9:00 AM
LOCATION: MCOE Education Center
1850 Wardrobe Avenue, Merced, CA (Gym)

Merced Scholars Charter Schools
(Middle School 8th Grade)
DATE: Wednesday, May 28th
TIME: 10:00 AM
LOCATION: Dr. Lee Andersen Center-Atwater
1800 Matthew Drive, Atwater, CA (Gym)

(High School)
DATE: Wednesday, May 28th
TIME: 6:00 PM
LOCATION: Dr. Lee Andersen Center-Atwater
1800 Matthew Drive, Atwater, CA (Gym)

Merced Valley Community School
DATE: Tuesday, June 3rd
TIME: 6:00 PM
LOCATION: MCOE Downtown Center,
Mondo Building, 1715 Canal Street, Merced, CA

MERCED COUNTY Office of Education
NURTURE • SERVE • LEAD
Steve M. Tietjen, Ed.D.
County Superintendent of Schools

Merced County Board of Education

Business Items for Action

MERCED COUNTY
Office of Education
NURTURE • SERVE • LEAD

Steve M. Tietjen, Ed.D. | County Superintendent of Schools

Merced County Board of Education

Bylaws

Review - April 21, 2025
Approval - May 19, 2025

1. 9010 – Public Statements
2. 9012 – Board Member Electronic Communications
3. 9100 – Organization
4. 9150 – Student Body Members (not applicable)
5. 9223 – Filing Vacancies
6. 9224 – Oath or Affirmation
7. 9240 – Board Training
8. 9260 – Legal Protection
9. 9270 – Conflict of Interest (Bylaw & Exhibit)



Merced County Board of Education
Dennis Hanks, Chairperson
VACANT, Vice Chairperson
Frank Fagundes, Member
Rodrigo Espinosa, Member
Geneva Brett, Member

RESOLUTION No. 2025-13
OF THE MERCED COUNTY BOARD OF EDUCATION
ADOPTING CONFLICT OF INTEREST CODE

WHEREAS, the Political Reform Act, Government Code 87300-87313, requires each public agency in California to adopt a conflict of interest code; and

WHEREAS, the Merced County Office of Education has previously adopted a local conflict of interest code; and

WHEREAS, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to the Merced County Office of Education's conflict of interest; and

WHEREAS, a regulation adopted by the Fair Political Practices Commission, 2 CCR18730, provides that incorporation by reference of the terms of that regulation, along with an agency-specific appendix designating positions and disclosure categories, shall constitute the adoption and amendment of a conflict of interest code in conformance with Government Code 87300 and 87306; and

WHEREAS, the Merced County Office of Education has recently reviewed its position and the duties of each position and has determined that changes to the current conflict of interest code are necessary; and

WHEREAS, any earlier resolutions, bylaws, and/or appendices containing Merced County Office of Education's conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

NOW THEREFORE BE IT RESOLVED that the Merced County Office of Education adopts the following conflict of Interest Code, including its Appendix of Designated Employees and Disclosure Categories.

PASSED AND ADOPTED THIS **19th** day of **May 2025,** at a duly noticed public meeting, by the following vote:

AYES: NOES: ABSENT: ABSTAIN:

Steve M. Tietjen, Ed.D., Secretary to the Board
Merced County Superintendent of Schools

Quarterly Williams Reports

2024-2025

Merced County Districts Quarterly Williams Uniform Complaint Summary Reports	1st Qrt. July-Sep	2nd Qrt. Oct-Dec	3rd Qrt. Jan-March	4th Qrt. Apr-June
Atwater Elementary	*0*	*0*	*0*	
Ballico-Cressey	*0*	*0*	*0*	
Delhi Unified	*0*	*0*	*0*	
Dos Palos/Oro Loma Unified	*0*	*0*	*0*	
El Nido Elementary	*0*	*0*	*0*	
Gustine Unified	*0*	*0*	*0*	
Hilmar Unified	*0*	*0*	*0*	
Le Grand Elementary	*0*	*0*	*0*	
Le Grand Union High	*0*	*0*	*0*	
Livingston Union High	*0*	*0*	*0*	
Los Banos Unified	*0*	*0*	*0*	
McSwain Union Elementary	*0*	*0*	*0*	
Merced City	*1*	*0*	*0*	
Merced County Office of Education	*0*	*0*	*0*	
Merced River Union Elementary	*0*	*0*	*0*	
Merced Union High	*0*	*0*	*0*	
Plainsburg Union Elementary	*0*	*0*	*0*	
Planada	*0*	*0*	*0*	
Snelling-Merced Falls Union Elementary	*0*	*0*	*0*	
Weaver Union Elementary	*0*	*0*	*0*	
Winton Elementary	*0*	*0*	*0*	

Details of District Complaints can be obtained from Erika Davalos-Lemus 24-25

Note: 3rd Qrt (24-25) - Sent to Yolanda via email - 5/7/25