

## **Board Bylaws**

### **ACTIONS BY THE BOARD**

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

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members
2. A collective commitment or promise by a majority of the members to make a positive or negative decision
3. A vote by a majority of the members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

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

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

(cf. 9324 - Minutes and Recordings)

### **Action on Non-Agenda Items**

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: (Government Code 54954.2)

1. When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code 54956.5
2. When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted
3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

### **Challenging Board Actions**

Any interested person or the district attorney's office may present a demand that the Board cure and correct a

**BB 9323.2**

Board action which he/she alleges is in violation of Government Code 54954.2 (agenda posting), Government Code 54953 (open meeting and teleconferencing), Government Code 54954.5 (closed session item descriptions), Government Code 54954.6 (new or increased tax assessments), Government Code 54956 (special meetings), or Government Code 54956.5 (emergency meetings). (Government Code 54960.1)

Any demand to "cure and correct" an alleged violation shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the 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)

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

**Legal Reference:****EDUCATION CODE**

15266 School construction bonds  
 17466 Declaration of intent to sell or lease real property  
 17481 Lease of property with residence for nondistrict purposes  
 17510-17511 Resolution requiring unanimous vote of all members constituting board  
 17546 Private sale of personal property  
 17556-17561 Dedication of real property  
 17582-17583 District deferred maintenance fund  
 35140-35149 Meetings  
 35160-35178.4 Powers and duties  
 48660-48661 Community day schools establishment and restrictions

**CODE OF CIVIL PROCEDURE**

425.16 Special motion to strike in connection with a public issue  
 1245.240 Eminent domain vote requirements  
 1245.245 Eminent domain, resolution adopting different use

**GOVERNMENT CODE**

53090-53097.5 Regulation of local agencies by counties and cities  
 53724 Parcel tax resolution requirements

53790-53792 Exceeding the budget  
53820-53833 Temporary borrowing  
53850-53858 Temporary borrowing  
54950-54963 The Ralph M. Brown Act, especially:  
54952.6 Action taken, definition  
54953 Meetings to be open and public; attendance; secret ballots  
54960 Action to prevent violations  
65352.2 Coordination with planning agency

**PUBLIC CONTRACT CODE**

3400 Bid specifications  
20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder  
20113 Emergencies, award of contracts without bids

**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, 2009

**ATTORNEY GENERAL PUBLICATIONS**

The Brown Act: Open Meetings for Local Legislative Bodies, 2003

**LEAGUE OF CALIFORNIA CITIES PUBLICATIONS**

Open and Public IV: A Guide to the Ralph M. Brown Act, 2007

**WEB SITES**

CSBA: <http://www.csba.org>  
California Attorney General's Office: <http://www.caag.state.ca.us>  
Institute of Local Government: <http://www.ca-ilg.org>

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**FRUITVALE SCHOOL DISTRICT**, Bakersfield, CA