



**Special Study Session Meeting**

**03/30/2024 08:00 AM**

**8:00 A.M. - CALL TO ORDER/OPEN/PUBLIC  
SESSION (IN-PERSON ONLY)**

**MEETING MINUTES**

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**AGENDA FOR THE SPECIAL STUDY SESSION MEETING OF  
THE BOARD OF TRUSTEES OF THE ROSEMEAD SCHOOL DISTRICT**

**8:00 A.M. - CALL TO ORDER/OPEN/PUBLIC SESSION / (IN-PERSON ONLY)**

This meeting will be held in-person only.

**PARTICIPATION IN-PERSON:** Adherence to current Los Angeles County Department of  
Public Health, protocols:

Rosemead School District

District Office - Board Room

3907 Rosemead Blvd., Rosemead, CA 91770

Tel: (626) 312-2900 x212 | Email: board@rosemead.k12.ca.us

**Attendees**

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**Voting Members**

Ms. Nancy Armenta, Trustee

Mr. Ronald Esquivel, Trustee

Mrs. Veronica Pena, Trustee

Mr. John Quintanilla, President

Mrs. Diane Benitez, Clerk

**Non-Voting Members**

Dr. Alejandro Ruvalcaba, Superintendent

Mrs. Cynthia Bracamonte, Executive Assistant to the Superintendent

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**I. NOTICES - Public Comments / Speaker's Requests**

**II. NOTICES**

**III. Call to Order by \_\_\_\_\_ at \_\_\_\_\_ a.m.**

President Quintanilla called the meeting to order at 8:00 a.m.

**IV. Members Present\_\_\_\_\_ Members Absent \_\_\_\_\_**

President Quintanilla read the following statement:

The Rosemead School District Board of Trustees will conduct their public meetings in-person.

**V. MEETING RECORDED**

This meeting will be audio recorded. Trustees have received background information regarding each agenda item prior to the meeting thus ensuring a thorough review of each item.

**VI. APPROVAL OF AGENDA**

That the Agenda, be Approved.

Motion made by: Ms. Nancy Armenta

Motion seconded by: Mrs. Veronica Pena

Voting:

Ms. Nancy Armenta - Yes

Mr. Ronald Esquivel - Yes

Mrs. Veronica Pena - Yes

Mr. John Quintanilla - Yes

Mrs. Diane Benitez - Yes

The motion passed by a 5-0 vote.

**VII. REGULAR SESSION - 8:00 A.M.**

**VIII. PLEDGE OF ALLEGIANCE by: \_\_\_\_\_**

President Quintanilla requested for Trustee Ronald Esquivel to lead the Pledge of Allegiance.

**IX. PUBLIC COMMENT ON AGENDA ITEMS (3 minutes per person or 20 minutes per topic)**

Pursuant to Board Bylaw No. 9323, we would like to encourage members of the public to present their views to the Board regarding matters listed in the agenda. At regular meetings of the Board, members of the public may address the Board on agenda items, as well as any other items of concern that fall within the subject matter jurisdiction of the Board of Trustees. If you want to address an agenda item, you have the option of speaking at this time or at the time the item is being discussed by the Board.

Individual speakers shall be allowed three (3) minutes total to address the Board on each agenda or non-agenda item. The Board shall limit the total time for public input on each item to 20 minutes. Please state your name, make your presentation as brief as possible, and understand that the Board will not engage in a debate with visitors, but you may be given an opportunity for further questions and answers when a specific item is presented in the agenda.

Mrs. Bracamonte shared that there were two (2) submissions, as follows:

1. Ricardo Padilla

2. Qui Nguyen

*President Quintanilla recessed the meeting for a brief break at 8:13 a.m.*

*President Quintanilla reconvened the meeting to open session at 8:23 a.m.*

**X. FOCUS TOPIC(S):**

**A. Presentation on Board Governance and Board Ethics by Mrs. Christine Hsu, Legal Counsel, Olivarez Madruga Law Organization**

Legal Counsel Mrs. Christine Hsu and Ms. Katie Oh presented on the topic of Board Governance and Board Ethics. See the presentation attached.

*President Quintanilla recessed the meeting for a brief break at 10:03 a.m.*

*President Quintanilla reconvened the meeting to open session at 10:13 a.m.*

*President Quintanilla recessed the meeting for a brief break at 11:28 a.m.*

*President Quintanilla reconvened the meeting to open session at 11:35 a.m.*

*In the interest of time, it was the Board's consensus to continue the presentation during a future meeting. The Superintendent's Office will seek each Trustee's availability.*

**XI. ADJOURNMENT The meeting (be) adjourned at \_\_\_\_\_ a.m./p.m.**

President Quintanilla adjourned the March 30, 2024, Board of Trustees meeting at 11:53 a.m., be Approved.

Motion made by: Ms. Nancy Armenta

Motion seconded by: Mrs. Diane Benitez

Voting:

Ms. Nancy Armenta - Yes

Mr. Ronald Esquivel - Yes

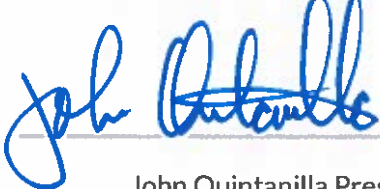
Mrs. Veronica Pena - Yes

Mr. John Quintanilla - Yes

Mrs. Diane Benitez - Yes

The motion passed by a 5-0 vote.

**XII. NEXT MEETING DATES**



John Quintanilla President



Diane Benitez, Clerk



## AB 2158 ETHICS TRAINING

March 30, 2024

Presenters:

Christine Hsu & Katie Oh

Olivarez Madruga Law Organization, LLP

## HOW DID I GET SO LUCKY TO BE HERE?



- State law requires all members of the governing board of a school district, a county board of education, or the governing board of a charter school, who are compensated for their service and/or reimbursed for expenses, to complete at least **two hours of ethics training every two years** (within one year after assuming office). [Govt. Code § 53235]

## GENERAL OVERVIEW

- I. Superintendent/Board Trustee Roles
- II. Ethics Principles
- III. Transparency Laws
- IV. Personal Financial Gain
- V. Fair Process
- VI. Perks of Office
- VII. Equity



## I. SUPERINTENDENT & BOARD OF TRUSTEES

### AGREEMENT BY EACH TRUSTEE AND SUPERINTENDENT GOVERNANCE TEAM \*STUDY SESSION TOPIC

- Superintendent - Board of Trustees = the Governance Team
  - Board of Trustees are the representatives of the community, elected to ensure the District's schools educate children
  - Superintendent is hired by the Board of Trustees to provide the professional expertise in the day-to-day operations of the District
  - The role of the Superintendent is:
    1. To work with the Board to develop an effective governance/leadership team
    2. To serve as the District's chief executive officer

### AGREEMENT BY EACH TRUSTEE AND SUPERINTENDENT

#### Trustee Responsibilities

- Recognize and respect Differences of people (gender, age, race, ethnicity, religion, sexual orientation, disability, etc.) on the Board and among staff, students, parents and the community
- Understand the distinction between Board and staff roles
- Understand the District's role and not to overstep its role
- Plan and support the Superintendent to fulfill the vision, goals and policies of the District and be implemented
- Enforce those performing management functions that are the responsibility of the Superintendent and staff

#### Superintendent Responsibilities

- Respect the role of the Board as the representative of the community
- Support the efforts of the Board to keep the District focused on learning and achievement
- Work with the Board as part of the governance team and ensure collective responsibility for building a unit, of purpose, communicating a vision/strategy and creating a positive organizational culture
- Understand the authority rests with the Board as a whole
- Provide a plan to the Board to assist in decision making
- Provide leadership based on the direction of the Board as a whole

## DUTIES OF SUPERINTENDENT BOARD POLICY ("BP") 2110

- Superintendent's responsibilities are detailed in law, Superintendent's contract, and throughout BPs and ARs
- Board shall clarify Superintendent's expectations and goals at the beginning of each evaluation year
- Chief Executive Officer of the District
- Implement all Board decisions
- Manage the instructional and noninstructional operations of the schools
- Member of District's governance team
- Responsible for supporting Board operations and decision making
- Delegates responsibilities/duties to other District staff, but remains accountable for all areas of District operation

## ROLE OF THE BOARD BOARD BYLAW 9000

- The Board of Trustees wears many hats!
- The Board of Trustees must work with the Superintendent to:
  - Set the direction for the District for student learning and achievement
  - Establish an organizational structure for the District
  - Provide support to Superintendent and staff in carrying out the Board's direction
  - Ensure accountability to the public for the performance of schools
  - Provide community leadership and advocacy on behalf of students, the district's educational program, and public education in order to build support within the local community and at state and national levels

## DUTIES OF BOARD TRUSTEES BOARD BYLAW ("BB") 9000

Board shall work with the Superintendent to fulfill its major roles, which include:

1. Setting the direction for the District by involving the community, parents/guardians, students, and staff and is focused on student learning and achievement
2. Establishing an effective and efficient organizational structure for the District by:
  1. Employing the Superintendent
  2. Overseeing development and adoption of policies
  3. Establishing teaching expectations and adopting the curriculum and instructional materials
  4. Establishing budget priorities, adopting the budget
  5. Providing safe, adequate facilities
  6. Setting negotiation parameters with employee bargaining units and ratifying collective bargaining agreements

## DUTIES OF BOARD TRUSTEES BOARD BYLAW ("BB") 9000

Board shall work with the Superintendent to fulfill its major roles, which include:

3. Providing support to the Superintendent and staff in carrying out the Board's direction by:
  1. Establishing and adhering to governance standards
  2. Making decisions and providing resources that support District priorities/goals
  3. Upholding Board Policies
  4. Being knowledgeable about District programs and efforts

## DUTIES OF BOARD TRUSTEES BOARD BYLAW ("BB") 9000

Board shall work with the Superintendent to fulfill its major roles, which include:

4. Ensuring accountability to the public by:
  1. Evaluating the Superintendent
  2. Monitoring and evaluating effectiveness of policies
  3. Serving as a judicial (hearing) and appeals body in accordance with law, Board Policies, and negotiated agreements
  4. Monitoring student achievement and program effectiveness and requesting program changes as necessary
  5. Monitoring and adopting District Policies
  6. Monitoring the collective bargaining process

## DUTIES OF BOARD TRUSTEES BOARD BYLAW ("BB") 9000

Board shall work with the Superintendent to fulfill its major roles, which include:

5. Providing community leadership and advocacy on behalf of students, the District's educational program, and public education in order to build support with the local community and at the state/national levels
- The Board is authorized to establish and finance any program or activity that is not in conflict with, inconsistent with, or preempted by law.



## REVIEW QUESTION

True or False?

The Board of Trustees' authority rests with the Board as a whole and not with individuals.

## SITE VISITS • STUDY SESSION TOPIC

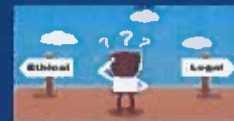
- Individual Trustees should refrain from making visits to a school site without prior notice to the Superintendent
- While visiting school sites, remember:
  - Trustees are required to act with dignity and civility
  - Understand the distinctions between Board and staff roles
  - Refrain from performing management functions that are the Superintendent/staff's responsibilities
- (AR 6200)



## II. ETHICS PRINCIPLES

## "ETHICS LAWS" VS. "ETHICS"

- The law is often the starting point in determining what is ethical.
- The law is what we **MUST DO**!
- Ethics are what we **SHOULD DO**.
- Just because something is legal doesn't mean it is Ethical.



## GOLDEN RULE

The public expects local officials, such as school district governing board members, to act ethically, whether or not doing so is required by law.



*"When a man assumes a public trust, he should consider himself as public property."*

— Thomas Jefferson

## UNIVERSAL ETHICAL VALUES

- Professional / Trustworthiness
- Loyalty
- Community First
- Respect
- Fairness
- Compassion



## ETHICS LAWS

California Law Promotes Ethics:

1. By Requiring Public Disclosure.
2. By Prohibiting Certain Actions.
3. By Punishing Violations.



## GOOD QUESTIONS TO ASK YOURSELF

1. Does it comply with State & Local rules?
2. Is it consistent with my personal values?
3. How will it look in the newspaper or social media?



## III. TRANSPARENCY LAWS

- A. The Brown Act - Open Meeting Laws
- B. Political Reform Act – Reporting Economic Interests
- C. Public Records Act

## III. TRANSPARENCY LAWS A. BROWN ACT - OPEN MEETING LAWS



## BROWN ACT – OPEN TO THE PUBLIC

### Legislative Declaration

*"The people . . . do not give their public servants the right to decide what is good for the people to know and what is not good for them to know."*

*"The people insist on remaining informed so they may retain control over the instruments they have created." [Govt. Code § 54950]*

Ralph M. Brown Act, Government Code Section 54950, et seq.



Ralph M. Brown 1959  
These contain  
the Modern Day

## BROWN ACT: GENERAL DEFAULT RULE

• "All meetings of a legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body." [Govt. Code § 54953]

### Goals of the Brown Act:

- To curb misuse of the democratic process by public bodies through secret legislation.
- To ensure the public's right to attend and participate in meetings of the District Governing Board.



## WHAT IS A LEGISLATIVE BODY?

Governing bodies of local agencies (e.g., school boards)

Commissions, committees, or other bodies of a District created by charter, ordinance, resolution, whether permanent or temporary, decision-making or advisory (e.g., Board of Trustees)

A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either: (1) is created by the elected legislative body to exercise authority that may lawfully be delegated to a private corporation, limited liability company or entity, OR (2) receives funds from a District and the membership of whose governing body includes a member of the legislative body of the District appointed as a full voting member

## BROWN ACT AND THE CALIFORNIA EDUCATION CODE

• "All meetings of the governing board of any school district shall be open to the public and shall be conducted in accordance with Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code." [Cal. Educ. Code § 35145]

## BROWN ACT AND BOARD BYLAW 9320

Rosemead School District Bylaw 9320 states:

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



## REVIEW QUESTION

What is one of the purposes of the Brown Act?

- A. To fight financial fraud
- B. To ensure student hygiene
- C. To ensure the public's right to attend and participate in school district board meetings
- D. To combat crime

## WHAT IS A MEETING?



Board Bylaw 9320:

"A Board meeting exists whenever a majority of its Trustees 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 Board"

## BEWARE OF SERIAL MEETINGS

- The Brown Act and Rosemead School District Bylaw 9320 prohibits a majority of the District's governing board from using a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item within the subject matter jurisdiction of the District's governing board.
- Such meetings deprive the public of an opportunity for meaningful participation in District decision-making.



## UNLAWFUL SERIAL MEETINGS

Unlawful *serial meetings* can occur through:

- Technological contacts (e.g., telephone, *email* chains, *text message*, and other social media communications)
- Contact with a majority of Trustees through staff or other individuals.

## SERIAL MEETING “DAISY CHAIN”

Trustee A contacts Trustee B, Trustee B contacts Trustee C, and so on until a quorum and collective concurrence is established.



## SERIAL MEETINGS “HUB AND SPOKE”

A staff member contacts each Trustee one-on-one for a decision on a proposed action revealing each Trustee's decisions to each other.



## BOARD BYLAW 9320



- “An employee or district official may engage in separate conversations or communications with Trustees in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the Board, as long as that employee or district official does not communicate the comments or position of any Trustees to other Trustees.” (Government Code 54952.2)”



## REVIEW QUESTION

True or False?

Trustees are allowed to use a series of communications to discuss, deliberate, and take action on any item within the subject matter jurisdiction of the Board.

## INFORMAL GATHERINGS

- Use caution when socializing with other Trustees outside of an open and noticed meeting.
- Example: After a District meeting, three Trustees, Armenta, Quintanilla, and Benitez decide to have dinner.
- District business under the District jurisdiction may not be discussed or transacted!



## TYPES OF BROWN ACT MEETINGS

Regular Meetings – Gov. Code, § 54954

Special Meetings – Gov. Code, § 54956

Adjourned Meetings – Gov. Code, § 54955

Emergency Meetings – Gov. Code, § 54956.5

## REGULAR MEETINGS

- Regular, regularly scheduled meetings held on the same day of the week and time.
- Meetings of the governing board of a school district must be held within the district except under certain circumstances:
  - Attend a conference on moral, restorative, or collective bargaining techniques.
  - Interview a potential employee from another district.
- Certain actions can only be made at a Regular Meeting:
  - Example: Action on salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive must be conducted at Regular Meetings.

## REGULAR MEETINGS UNDER ROSEMEAD SCHOOL DISTRICT BYLAW 9320

- First and Third Thursdays of each designated month
  - Closed session at 6:30 PM (if needed)
  - Open/Public Session at 7:30 PM
- Refer to District website for exceptions

## REGULAR MEETINGS: ORDER OF BUSINESS

- |  |  |
|--|--|
| • 1. Call to order                     | • 9. Action Items                            |
| • 2. Roll Call                         | • 10. Oral Communications                    |
| • 3. Approval of Agenda                | • 11. New Business                           |
| • 4. Closed Session                    | • 12. Board Information                      |
| • 5. Public Comments                   | • 13. Return to Closed Session, if necessary |
| • 6. Consent Agenda                    | • 14. Adjournment                            |
| • 7. Superintendent's Report           |  |
| • 8. Special Reports and Presentations |  |

## ROSEMEAD SCHOOL DISTRICT MEETING NORMS \*STUDY SESSION TOPIC

Please be respectful of everyone's time in the Board meeting!

- Example: If you discussed and received an answer for an agenda item prior to the Board meeting, there is no need to bring it up again during the meeting.
- Example: For consent calendar items, please vote on all items in one motion.

Please also remember responsibilities as a Trustee:

- "Refrain from performing management functions that are the responsibility of the Superintendent and staff"

## SPECIAL MEETINGS

- Can occur on any date or time with 24 hours' notice.
- A quorum of the Trustees or the Board President may call a special meeting.
- No violation of the Brown Act occurs when three or more Trustees meet or communicate simply to agree to call a Special Meeting or to agree on a date and time for the Special Meeting.
- The agenda shall specify the business to be transacted and no other business shall be considered at those meetings by the Trustees.
- Ed. Code, § 35150 Effective January 1, 2024, the governing board of a school district cannot terminate a superintendent or assistant superintendent of a school district, or both, without cause at a Special Meeting.

## ADJOURNED MEETINGS

- Any regular or special meeting may be adjourned to a time and place specified in a written notice or order of adjournment
  - An adjournment may be ordered if less than a quorum is present
  - If no members attend, the clerk or secretary may adjourn the meeting
- A copy of the order or notice of adjournment must be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours of the adjournment (Gov. Code, § 54955)
- A regular adjourned meeting is considered a regular meeting

## MEETING NORMS AND PROCEDURES FOR ADJOURNMENT

\*STUDY SESSION TOPIC



- Board Bylaw 9320
  - Late night participation deters public participation and can attenuate Board's decision making ability
  - Regular Board meetings shall be adjourned at 10:30 PM unless extended to a specific time determined by a majority of the Board
  - This meeting shall be extended no more than once
  - May be subsequently adjourned to a later date

## STUDY SESSION OR PUBLIC FORUMS

- Board Bylaw 9320
  - The Board may occasionally convene a study session or public forum to:
    - Study an issue in more detail
    - Receive information from staff
    - Receive feedback from members of the public
  - The Board may also convene a retreat to discuss Board roles and relationships
  - Public notice must be given when a quorum of the Board is attending a study session, retreat, or public forum
    - Must comply with Brown Act
    - Must be held in open session within District boundaries

## EMERGENCY MEETINGS



## EMERGENCY MEETING



- An Emergency is a crippling activity, work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the Board of Trustees (Gov. Code, § 54956 5(a)(1))
- Board may hold an emergency meeting without complying with the 24-hour notice or posting requirements

## DIRE EMERGENCY MEETING

- A dire emergency is a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a District's governing board to provide one-hour notice to media outlets before holding an emergency meeting may endanger the public health, safety, or both, as determined by a majority of the members of the District's governing board. (Gov. Code, § 54956 5(a)(2))
- In the case of a dire emergency, notice need only be provided at or near the time that notice is provided to the governing board of the District. (Gov. Code, § 54956 5(b)(2))





## EXCEPTIONS TO MEETING DEFINITION

Individual Contacts

Conferences

Community Meetings

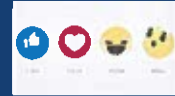
Other Legislative Bodies/other District Body

Standing Committees Attendance by committee non-members as observers only

Social/Ceremonial Events

## MEETINGS ON SOCIAL MEDIA

- Assembly Bill 992, amends the Brown Act to address social media, up until January 1, 2026.
- Prohibits Trustees from responding directly to any communication that is made, posted or shared on social media by another member of the same District's governing board regarding matters in the District's jurisdiction.
  - Includes sharing posts, commenting and using digital icons:



## SOCIAL MEDIA CONSIDERATIONS

- It is a good way to interact with members of a District.
- According to the Public Records Act, it is subject to a Public Records Request.



## SOCIAL MEDIA / FIRST AMENDMENT

- U.S. District Court for the Southern District of New York held that by holding out his Twitter account as an avenue for public engagement and by using it to release major policy announcements, President Trump made his account a "designated public forum."
- Under the First Amendment, state actors, like President Trump,
  - because of their political views.
- Takeaway: If you truly want to keep your social media page private, don't share District business and engage with District members on your personal page.

## SOCIAL MEDIA DOS AND DON'TS FOR ELECTED OFFICIALS

Do not delete or hide posts.

Do not block someone from your page.

Do not delete public comments (except under extremely specific circumstances).

Doing any of the above is a violation of the California Public Records Act and could run afoul of the First Amendment

## E-MAIL / TECHNOLOGY



Avoid sending emails to the whole body.

If necessary, provide information only.  
Do not solicit a response



Be careful replying to emails

Do not communicate your position or make a commitment on a pending matter.



Think carefully before sending emails

Remember your email can be forwarded by others to a majority of the body.

## LOCATION OF MEETINGS

With a few exceptions, meetings must be held within the District's boundaries (Gov. Code, § 54954(c)).

A meeting may not be held in any facility that prohibits the admittance of any person based on race, religion, color, national origin, ancestry, or sex, which is inaccessible to disabled persons, or where members of the public are required pay (Gov. Code, § 54954.1(a)).

Rules were relaxed under COVID-19 Executive Orders relating to teleconferenced meetings.

## BOARD PROTOCOL: NO DISCUSSION / NO ACTION

### \*STUDY SESSION TOPIC

- A District's governing board *may not* take action upon or discuss an item not listed on the agenda – except in limited circumstances. [Govt. Code § 54954.2(a)(3)]



## EXCEPTIONS NO DISCUSSION / NO ACTION

- Brief responses to a statement or questions from the public.
- Questions to staff for clarification of a matter based on public comment.
- Brief announcements or reports on member's or staff's own activities.
- Request for staff to report back at future meetings concerning any matter. [Govt. Code § 54954.2(a)(3)]



## REVIEW QUESTION

True or False?

Trustees are not allowed to take action upon or discuss items not listed on the agenda.

## BOARD MEMBERS' ROLE IN THE PUBLIC \*STUDY SESSION TOPIC

- BB 9010 Public Statements
- Board members have a right to freely express their personal views
  - However, Board members must respect the authority of the Board to choose its representatives to communicate
  - Ensure communication of a consistent/unified message
- When speaking to the public, Board members must recognize their statements may be perceived as reflecting the Board's views and positions
  - Board members must identify personal viewpoints as such

## BOARD MEMBERS' ROLE IN THE PUBLIC \*STUDY SESSION TOPIC

- All public statements made on behalf of the board shall be made by the Board president or Superintendent
- Spokespersons should exercise restraint and tact when speaking for the District
- Board members must conduct themselves in respectful, courteous, and professional manner when posting on social media
  - Same rules apply to electronic communications!



## BE MINDFUL OF PUBLIC PERCEPTION STUDY SESSION TOPIC\*

AR 9000 – Professional Governance Standards

- “To operate effectively, the Board must have a unity of purpose and communicate a common vision”
- Disagreements are a natural part of being on the board.
- However, the Board must present as a united front in public spaces.



## REVIEW QUESTION

True or False?

Individual Trustees can speak on behalf of the Board to the public.

## AGENDA OVERVIEW

Effective notice is essential for open and public meetings.



## AGENDA POSTING REQUIREMENTS



Times and dates for all meetings must be noticed and an agenda must be prepared providing a brief general description of all matters to be discussed or considered.



**General** Agenda must be posted **72 hours** before the meeting.

**Meetings:** Meeting must be held within the District's jurisdiction.



**Special Meetings:** Agenda posted **24 hours** before the meeting. May be called by a majority of the District's Trustees OR Board President.

## PARLIAMENTARY PROCEDURE \*STUDY SESSION TOPIC

- Robert's Rules of Order
- Motions
- A second isn't necessarily an endorsement of the motion
- No second = motion fails
- When to discuss



## ACTION ITEMS AND MOTIONS

- Business is brought before the Board via motions
- To make a motion
  - The Board President will read out the agenda item and then ask, "Is there a motion?"
  - Any member can then make the motion by saying "I move to approve..." or "I move to..."
  - Another member must second the motion by saying "I second the motion" or "second"
  - The Board President must re-state the motion and invite debate by asking, "It is moved and seconded that ... Is there any discussion?"
- Once a primary motion introducing new business is made, no other primary motion may be made

## DEBATING A PRIMARY MOTION

- After a motion is made and seconded, the Board President shall ask if there is any discussion.
- The Board President generally should recognize Trustees to speak in the following order:
  - Trustee who made the motion.
  - Any other Trustee who wishes to speak.
- The debate must be confined to the merits of the subject item.
- Debate can be closed by any Trustee in the following ways:
  - Postponing consideration → any matter may be postponed by a motion to postpone ("I move that we postpone this matter until...") and a second.
  - Ending the debate → any debate may be ended by a motion to take a vote on the issue ("I call for a vote" or "I call the question") and a second.
- If there is no dispute or the discussion ends, the Board President shall call for a vote. A vote is called by first asking all those in favor to say "aye," then asking all those opposed to say "nay."
  - Each member's vote must be recorded in the minutes.

## TYPES AND ORDER OF MOTIONS

While a primary motion is pending, the following motions and points can be made:

- Motion to **adjourn** ("I move that we adjourn") = to end the meeting.
  - Motion to **recess** ("I move that we recess for X minutes") = to take a break.
  - Point of **precedence** = to make a statement regarding an issue affecting a single Trustee (request for assistance, request to open the window, directly respond to a comment defaming the Trustee's character).
  - Motion to **table** ("I move that we table the present motion") = to set aside a pending motion to take up something more urgent, with expectation of returning to original motion.
  - Motion to **end debate and vote** ("I call the question").
  - Motion to **postpone** ("I move that we postpone this matter until...").
  - Motion to **amend current motion** ("I move that this motion be amended to...").
- A member may not interrupt the speaker to make any of the above motions but CAN interrupt the speaker to make a point of precedence. All motions must be seconded, except for a point of precedence.

## OTHER REQUESTS AND MOTIONS

- Point of **order**: If the meeting is not following parliamentary procedure or rules, a Trustee may make a "point of order."
- Point of **information**: when a Trustee has a question or wants more information about the facts under discussion, they may make a "point of information."
- Call for vote count to verify voice vote: before a new motion is brought, any Trustee may ask for a vote by count to verify voice count ("ayes" and "nays").
- Motion to take up matter previously tabled: to return to a matter previously tabled, a Trustee may say, "I move we take from the table..." and the President must ask for a second.
- Motion to **withdraw**: after a motion is made and discussed, the Trustee making the motion may withdraw it by saying, "I ask permission to withdraw my motion."

## REVISITING PREVIOUSLY CONSIDERED MOTIONS

- Motion to Reconsider**
  - Must be made at the same meeting.
  - A Trustee on the prevailing side of the motion must make the motion to reconsider.
- Motion to Rescind**
  - Any Trustee may make a motion to rescind something previously adopted: "I move to rescind our action relative to..." and the President must ask for a second.
  - Requires a 2/3 vote without prior notice. Majority vote with previous notice.

## TELECONFERENCING



Rosemead School District Bylaw 9320

"A teleconference is a meeting of the Board in which Trustees are in different locations, connected by electronic means through audio and/or video. (Government Code 54953)"

## TELECONFERENCING BROWN ACT TRADITIONAL RULE

Teleconferencing may be used so long as:

- A quorum of the District's governing board participates from *within the District's jurisdiction*.
- The agenda identifies each teleconference location, and that location is accessible to the public with technology being available to allow for public participation.
- Votes must be done by roll call.
- The public shall have the right to address the Board directly at each teleconference location.





## HYPOTHETICAL

Board President Quintanilla is on vacation and wants to participate in a meeting of the District's governing board and vote by cellular phone from his car while driving on the big island of Hawaii. Under Traditional Brown Act Teleconferencing laws, may he?

## ANSWER

No. Under Traditional Brown Act teleconferencing rules, Board President Quintanilla may not participate or vote because he is not in a noticed and posted teleconference location.

## AB 2449 (EFFECTIVE JANUARY 1, 2023)

- Allows Trustees to participate in a meeting remotely without disclosing or providing access to their non-public teleconference location under certain specific requirements.
- The need must be for "just cause" or an "emergency circumstance."
- At least a quorum of the members of the Board must participate in person from a singular physical location identified on the agenda, which must be open to the public and within the boundaries of the District.
- A request made for remote participation may be considered by the Board without placement on the agenda if the request is made without sufficient time permitting placement on the agenda.
- The remotely participating Trustee must publicly disclose whether any individuals over the age of 18 are present in the room at the remote location and the general nature of their relationship.

## AB 2449

- "Just cause:"
  - necessarily caregiving to a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner;
  - having a contagious illness preventing in-person attendance;
  - having a physical or mental disability that is not otherwise accommodated; or
  - traveling on official business of the local agency or another state or local agency.
- Member who participates remotely for just cause must notify the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting.
- Member is limited to two (2) remote meetings per calendar year for just cause.

## AB 2449

- "Emergency circumstance:" a physical or family medical emergency that prevents a member from attending in person.
- Remote participation due to an emergency circumstance must be requested by the member and approved by the legislative body at each meeting.
- Legislative body shall request a general description of the circumstances relating to their need to appear remotely.
- General description need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.

## AB 2449

- The Trustee appearing remotely must participate through both audio and visual technology.
- If there is a disruption during the meeting preventing broadcast, no action may be taken until public access is restored.
- The Board must provide access to the meeting for the public to hear and observe the meeting, and remotely address the Board by either:
  - A two-way audiovisual platform; or
  - A two-way telephonic service and live webcast of the meeting.
- A Trustee cannot use these procedures for a period of more than three consecutive months or 20% of the regular meetings within a calendar year.
- Teleconferencing rules under AB 2449 will expire on January 1, 2026.



## PUBLIC PARTICIPATION

- All meetings must be open to the public and all persons must be permitted to attend.
- **Public Comment:** Must provide an opportunity to address the legislative body as to *any matter within the District's jurisdiction* and on any item on the agenda before or during its consideration.
  - **Special meetings:** Comments limited to items on the agenda.
- Not an opportunity for Q&A!



## DISRUPTION AT MEETINGS

- Trustees may establish rules for the orderly conduct of business.
- May establish policies to limit the time allowed for speakers to address the legislative body.
- May shorten the time to allow every member of the public to speak.
- May prohibit the use of devices that create noise or flash.
- May require that signs not be displayed that prevents others from viewing the proceedings.
- May remove an individual for actually disrupting the meeting.

NOTE: The public may record proceedings and take photos as long as it is done in a non-disruptive manner.

## MEETINGS MINDFULNESS \*STUDY SESSION TOPIC

- Bylaw 900: "The Board expects its members to work with each other and the Superintendent to ensure that a high-quality education is provided to each student. Each individual Board member shall...recognize and respect differences of perspective and style on the Board and among staff, students, parents, and the community"
- Please be mindful of others' opinions during board meetings.
  - Please give each other the chance to speak!
- Interact and speak in a respectful manner.

## CLOSED SESSION

WHAT?  
I thought  
EVERYTHING  
needed to be done  
publicly!



## CLOSED SESSION \*STUDY SESSION TOPIC



**Purpose:** Allows for discussion and deliberation on certain specific subject matters where it is in the public interest to ensure confidentiality.



**Agenda Requirements:** Agendas must include description of matters to be discussed in closed session.



**Disclosure of Confidential Information:** A closed or closed session is prohibited. Only the legislative body acting as a whole may agree to divulge confidential closed session information.



**Consequences of Divulging Confidential Closed Session Information:** Includes injuries or relief, disciplinary action (employees), or referral to a grand jury (Trustees).

## CLOSED SESSION PERMISSIBLE TOPICS

### Conference with Legal Counsel:

- Existing Litigation [Gov. Code § 54956.9(d)(1)]
- Anticipated Litigation [Gov. Code § 54956.9(d)(2)]
- Initiation of Litigation [Gov. Code § 54956.9(d)(4)]

### General Employment and Discipline Matters:

- Appointment and Employment Issues
- Employee Performance Evaluation
- Employee Discipline and Dismissal
- Complaints or Charges Against Employee [Gov. Code § 54957(b)(1)-(4)]

## CLOSED SESSION PERMISSIBLE TOPICS

### Conference with Real Property Negotiator:

- Instruction on price and terms of payment [Gov. Code § 54956.8]

### Conference with Employment/Labor Reps.:

- Conference with District's own employment/labor rep. to discuss salaries, fringe benefits, the District's available funds, or funding priorities. [Gov. Code § 54957.6]

## CLOSED SESSION PERMISSIBLE TOPICS

### Student suspension or disciplinary action

### Deliberation and determination of student expulsion (with exceptions)

### Security matters

### Joint powers agency issues

### Review of audit report from California State Auditor's Office

### Review Assessment Instruments

## CLOSED SESSION- GOVERNING BOARD OF SCHOOL DISTRICTS

Governing Board shall, unless a request by the parent has been made pursuant to this section, hold closed sessions if the board is considering the suspension or disciplinary action or any other action except expulsion in connection with any pupil of the school district [Cal. Educ. Code § 35146]

Before calling such closed session to consider these matters, the governing board shall, in writing, notify the student or his parents/ guardians of the intent of the governing board of the district to call and hold such closed session. [Cal. Educ. Code § 35146]

Unless the student or his parent/guardians provide in writing a request within 48 hours of notice that the hearing be held as a public meeting, the hearing shall be conducted in closed session [Cal. Educ. Code § 35146]

Regardless of whether the matter is considered at a closed session or at a public meeting, the final action shall be taken at a public meeting and the result shall be a public record. [Cal. Educ. Code § 35146]

## CLOSED SESSION- BOARD BYLAW 9321

- The Board must meet in closed session to consider the expulsion of a student, unless the student submits a written request at least 5 days before the date of the hearing that the hearing be held in open session
- The Board may still meet in closed session for the purposes of determining whether the student should be expelled

(Education Code 48918)

## CLOSED SESSION AGENDA ITEMS

- Board Bylaw 9321:
- Agenda items relating to student matters shall briefly describe:
  - The reason for the closed session (ex. "student expulsion hearing")
  - Student's name shall not be on the agenda
  - A number may be assigned to the student in order to facilitate record keeping
  - Agenda must also state the Education Code section that requires closed sessions to prevent disclosure of confidential student record information

## CLOSED SESSION REPORTING REQUIREMENTS

- Government Code section 54957.1 prescribes reporting requirements for closed session items, which can differ depending on the circumstances.
- Reporting requirements typically include:
  - The Trustees who were present;
  - The action taken in closed session; and
  - The vote or abstention on that action.





## REVIEW QUESTION

Which is/are considered permissible topics for closed session?

- A. Student suspension/disciplinary action
- B. Discussing student expulsion (with exceptions)
- C. Superintendent salary
- D. All of the above

## DISCLOSURE OF CLOSED SESSION INFORMATION

- Board Bylaw 9011:
  - Trustees may not disclose confidential information acquired during a closed session to a person not entitled to receive such information unless a majority of the board authorizes its disclosure
  - Trustee must not disclose, for pecuniary gain, confidential information acquired during the course of their duties
  - Includes information that is not public record, may not be disclosed by law, or may have material financial effect on a Board member
  - Exception: reporting to law enforcement officials or joint legislative audit committee

## CONFIDENTIALITY REMINDER

### \*STUDY SESSION TOPIC



- Board Bylaw 9005:
  - Each individual Board member shall... Keep confidential matters confidential

## HYPOTHETICAL

Trustee Esquivel tells his wife some information he heard regarding a student's expulsion during a closed session. Is this permissible?

## ANSWER

No. Trustee Esquivel is not allowed to disclose confidential information acquired during a closed session to a person not entitled to receive such information unless a majority of the Board authorizes its disclosure.

## BROWN ACT VIOLATIONS

- **Criminal Sanctions:** Violation of Brown Act by any member of a legislative body may be guilty of a *misdemeanor*.
- **Civil Remedies:** Interested persons can file a lawsuit to prevent a pending or future violation or may *invalidate actions taken in violation of the Brown Act*.
- A **Written Demand** shall be made within 30 days from the date of violation unless:
  - if the violation was in open session and in violation of Section 54953.3, the written demand shall be made within 30 days from the date of violation.
- Upon receipt of **Written Demand**, Board has **30 days** to cure or correct the challenged action and inform the demanding party in writing of its action to cure or correct or of its decision not to cure or correct.
- **No Action** = Decision not to cure or correct the challenged action.
- Within 15 days of receipt of District's written notice or 15 days of expiration of the District's 30-day period to cure or correct, whichever is earlier, the demanding party is required to commence action, or thereafter be barred from commencing action.
- **Penalties:** Court costs and reasonable attorneys' fees.

## BROWN ACT BOTTOM LINE



The Brown Act requires:

Openness  
Transparency  
Public access to  
information



*Any gathering of a majority of the District's governing board that involves any aspect of the decision-making process triggers Brown Act open meeting requirements.*

## HYPOTHETICAL

Ms. Dee Veloper is meeting with Trustees Peña and Armenta at her proposed project site. After they discuss whether the project would be eligible for a fee waiver, Dee mentions that Trustee Esquivel also liked the project and would support a fee waiver.

What mistake, if any, was made?



## ANSWER

The developer was acting as an intermediary in a serial meeting.

- A majority of the Trustees of the District's governing board shall not...use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the District's governing board.
- Individual contacts or conversations between a Trustee and any other person are otherwise permissible.

## PRACTICAL TIPS

- The Brown Act doesn't require Trustees to stop engaging with the public.
- But it does prevent them from learning about the other Trustees' perspectives through the public.
- Before meeting or discussing District business with the public, warn them that you cannot discuss the views of others.

## HYPOTHETICAL

Following a lengthy staff presentation, Board President Quintanilla asks each Trustee individually to express their opinion on an item before the District. A motion and a second is made to approve the project. President Quintanilla then opens public comment, hears the testimonies of angry District parents and two proponents. He closes public comment and calls for a vote on the motion, which passes.

What mistake, if any, was made?

## ANSWER

**Public comment was taken after significant deliberations occurred.**

- The agenda must provide an opportunity for the public to comment on agenda items before or during the consideration of the item.
- Soliciting input after deliberations are concluded arguably does not satisfy this requirement.

(Government Code Section 54954.3)

## HYPOTHETICAL

Reverend Brimstone regularly comments at District governing board meetings because a Town Crier reporter always attends and he wants publicity. During the comment period of one meeting, he accuses Board President Quintanilla of being a "sinner" because the District's governing board has approved projects the Reverend does not agree with. Clerk Benitez turns off the microphone at the Presiding Trustee's request.

What mistake, if any, was made?

## ANSWER

The District's governing board cannot prohibit public criticism of policies, procedures, programs, or services of the District or the omissions of the District's governing board itself.

- Expressions of support or opposition to matters before the District (provided they are not overly disruptive) constitute protected speech.
- The District's governing board may not preclude speech based on its content. It may only adopt content-neutral restrictions, such as time limits, on public comments.

## PRACTICAL TIPS

- The 1st Amendment is a highly protected right, so err on the side of allowing speech.
- Be prepared to receive harsh comments.
- Let the public use their three minutes as they wish. This avoids escalating the issue and potentially drawing additional criticism.

## III. TRANSPARENCY LAWS B. POLITICAL REFORM ACT – REPORTING ECONOMIC INTERESTS



## DUTY TO REPORT CERTAIN FINANCIAL INTERESTS



- When people become public servants, the public gets to learn a great deal about their financial lives.
- California voters established some of these disclosure requirements when they approved the *Political Reform Act* in 1974.
- Those entering public service sacrifice a degree of their privacy.

### WHO ENFORCES THE POLITICAL REFORM ACT?

#### Fair Political Practices Commission (FPPC)

- Enforcement Division: Audit, Investigates and Prosecutes.
- Legal and Education Divisions: Advice, Training and Education.
- Statute of Limitations:
  - 5 years
  - Can be tolled with probable cause report, tolling agreement, or if the intent to conceal is found.

### III. TRANSPARENCY LAWS C. PUBLIC RECORDS ACT



### PUBLIC RECORDS ACT

- Purpose
- What, Who and How of a Record
- Duty and Timing to Respond
- Exemptions
- Penalties



### PURPOSE: FUNDAMENTAL RIGHT OF ACCESS TO INFORMATION

The Legislature declared "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."

Government records shall be disclosed to the public, upon request, *unless* there is a specific reason not to do so

General policy favors disclosure and transparency.

### BOARD POLICY 1340: ACCESS TO DISTRICT RECORDS

Board of Trustees recognizes the right of citizens to have access to public records of district and intends to provide reasonable access to public records of the schools and district during normal business hours.

District may charge for copies of public records based on cost of duplication

Public access shall not be given to records listed as exempt from public disclosure in the California Public Records Act

### WHAT IS A RECORD?



"Any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics."



A *writing* means any form used to record information by a public agency (e.g., text, email, social media, paper, audio tape, video tape, CD, DVD, fax, computer hard drive, etc.)



Examples:

- Your records of attendance at this training
- Your Form 700

### NOT ALL WRITTEN INFORMATION IS A "PUBLIC RECORD"

#### Key Hypotheticals to ask...

Is the document something *normally kept* by the District in the *general course of business*?

Is the document purely *personal* in nature?

Does it memorialize an *official transaction*?

Is it merely *temporary*, reflecting only a step in the process (e.g., a Draft)?



## WHO CAN MAKE A RECORD REQUEST? HOW IS A RECORD REQUEST MADE?

- WHO: Any person or entity may:
  - (1) *inspect*; or
  - (2) receive a *copy* of identifiable public records.
- HOW: Requests for public records may be in:
  - Writing, Phone, Email, Fax, in Person, etc.




## CONTENT OF THE REQUEST

- Request must reasonably describe an *identifiable* record.
- *BUT*, if a request is not clear or is overly broad, the District must still *assist* the requester to make the request more clear or less broad.
- The District is NOT required to create *documents* or lists.



## DUTY TO RESPOND

- The District **MUST** respond to a public records request:
  - A Response  Production of Records.
  - Within **10 days** of receiving the request, the District must notify the requester *whether* the records will be produced.
  - In *unusual circumstances*, the District may have a **14-day extension** to initially respond. (E.g., volume of records, searching in separate office, need to consult another agency, compile data, or construct computer report, etc.).

NOTE: Even if the record *does* not exist or is exempt from disclosure, the District **MUST** respond.

## TIMING OF DISCLOSURE



No precise definition as to **when** a District must provide the records



Copies of records must be provided "promptly" or as soon as possible.



The District may not delay or obstruct the inspection or copying of public records.

## TYPES OF RESPONSES

- Disclose the record.
- Withhold the record:
  - (1) Exemptions, or
  - (2) public's interest in *not* disclosing *clearly outweighs* disclosure of record
- Disclose the record in redacted form.



## EXEMPTIONS - MOST FREQUENTLY USED

Preliminary drafts, notes and memoranda,

Documents related to pending litigation,

Private personal information;

Personnel records, medical records or similar,

Investigative, security and intelligence information,

Privileged documents or exempt by some other statute;

Public interest balancing test - "Catchall."



## ARE PERSONAL ACCOUNT(S) & DEVICES SUBJECT TO THE PUBLIC RECORDS ACT?

- YES. In 2017, California Supreme Court case held that *communications* by public agency employees regarding *agency business through personal email accounts, cell phones and computers*, may be *subject to disclosure* under the California Public Records Act.

(City of San Jose v. Superior Ct., 2 Cal. 5th 608, 619 (2017))

## CITY OF SAN JOSE V. SUPERIOR COURT



### Court's objective:

Prevent public employees, such as Trustees, from hiding communications from disclosure under the PRA by using their personal devices and accounts



### District's responsibilities:

Conduct searches "reasonably calculated to locate responsive documents."

## BEST PRACTICES TO COMPLY WITH CITY OF SAN JOSE

### 1. Train District Employees and Board Trustees

- Distinguishing between personal records and public records.
- Require District employees to only use government accounts or require them to copy / forward all email / text messages to the District's official recordkeeping system.
- Retention of records.

### 2. Written Statement / Affidavit

- Require District employees/Board Trustees who claim they do not have any responsive records to submit a written statement or affidavit.

## PENALTY FOR IMPROPER WITHHOLDING OF PUBLIC RECORDS



Civil action for injunctive or declaratory relief or writ of mandate to enforce a right to inspect or receive a copy of any public record.



Court costs and attorney's fees if the court finds that the case was clearly frivolous. The court will award court costs and attorney's fees to the district school board.



On the other hand, a district school board may never initiate legal action and preemptively have record destroyed and displace



## REVIEW QUESTION

When must the District respond to a Public Records Act request?

- A. The District does not need to respond
- B. Within 10 days of receiving the request
- C. Within 30 days of receiving the request
- D. Within 60 days of receiving the request

## REQUESTS FOR INFORMATION • STUDY SESSION TOPIC

- Board Bylaw 2000: Limits of Board Member Authority
- Board Trustee requests for information must be directed to the Superintendent
- Individual Trustees do not have the authority to resolve complaints
- If a Trustee is approached directly by a person with a question or complaint, Trustee should refer the person to the Superintendent



## REVIEW QUESTION

True or False?

A Board Trustee may resolve community members' complaints individually without consulting the Superintendent.

## III. PERSONAL FINANCIAL GAIN BY PUBLIC SERVANTS

"A public official ...shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest."



## III. PERSONAL FINANCIAL GAIN BY PUBLIC SERVANTS

- A. Laws Prohibiting Bribery
- B. Conflicts of Interest under the Political Reform Act
- C. Contractual Conflicts of Interest
- D. Conflicts of Interest and Campaign Contributions
- E. Conflicts of Interest when Leaving Office – Revolving Door Restrictions

## CONFLICT OF INTEREST AND THE STATEMENT OF ECONOMIC INTEREST FORM

Board Policy 9270-E(1):

The Superintendent's office must make and retain copies of all statements of economic interest filed by the Board of Trustees and designated District employees and forwards the originals to the Executive Office of the Board of Supervisors of Los Angeles County.

All retained statements, original or copied, shall be available for public inspection and reproduction.

### WHO MUST FILE? (Bylaw 9270)

- Gov. Code 87200 Filers**
  - City public officials (includes employees who manage public investments, such as Trustees)
  - Chief administrative officers ( District's governing board)
- Designated Employees (aka "Code Filers")**
  - Most department heads
  - Certain mid-management supervisors and employees.

#### How?

- Use Form 700

#### When?

- Assuming Office
- Leaving Office
- Annually by April 1st

Signell Under Penalty of Perjury

### Bylaw 9270:

"The Board shall adopt for the District a conflict of interest code that incorporates the provisions of 1 CCR 18730 by reference, specifies the District's designated positions, and provides the disclosure categories required for each position."

#### DESIGNATED POSITIONS

Exhibit "B" to Conflict of Interest Code

Designated Position	Disclosure Categories
Board of Trustees	1, 2, 3
Superintendent	1, 2, 3
Assistant Superintendent, Administrative Services	1, 2, 3
Deputy Board President/Candidate	1, 2, 3
Director, Fiscal Services	1, 2, 3
Director, Services and Information	1, 2, 3
Assistant Superintendent, Technical Services	1, 2, 3
Principal	1, 2, 3
Assistant Administrator	1, 2, 3
Comptroller, New Position	1, 2, 3

Revised School District Bylaw Exhibit 9270-E(1)

#### DISCLOSURE CATEGORIES

Exhibit "A" to Conflict of Interest Code  
Category 1: Persons in this category shall disclose all interest in real property within the jurisdiction. Real property shall be deemed to be within the jurisdiction if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the agency.

Persons are not required to disclose a residence, such as a home or vacation abode, used exclusively as a personal residence; however, a residence in which a person rents out a room or for which a person rents a business reduction may be reportable.

#### Category 2

Persons in this category shall disclose all investments and business interests.

#### Category 3

Persons in this category shall disclose all income (including receipt of gifts, loans and travel payments) received from business entities that manufacture, provide or sell services and/or supplies of a type utilized by the agency and associated with the job assignment of designated positions assigned to this disclosure category.

#### Category 4

Persons in this category shall disclose all business positions, investments in, and income (including receipt of gifts, loans and travel payments) received from business entities that manufacture, provide or sell services and/or supplies of a type utilized by the agency and associated with the job assignment of designated positions assigned to this disclosure category.

## FORM 700

	Common Reportable Interests	Non-Reportable Interests
<b>Schedule A-1</b>	Stocks, including those held in an IRA or a 401K	Insurance policies, government bonds, diversified mutual funds and certain other funds and investments held in certain retirement accounts
<b>Schedule A-2</b>	Business entities such as sole proprietorships, partnerships, LLCs, corporations, and trust	Savings and checking accounts and annuities
<b>Schedule B</b>	Rental property in the jurisdiction	Residence used exclusively as a personal residence such as a home or vacation cabin
<b>Schedule C</b>	Non-governmental salaries of public official and spouse/registered domestic partner	Governmental salary
<b>Schedule D</b>	Gifts from businesses (such as tickets to sporting or entertainment events)	Gifts from family members
<b>Schedule E</b>	Travel payments from third parties	Travel paid by your government agency

## FORM 700

Public records subject to disclosure.

Filed with District.

Subject to penalties for late filing.

## IV. PERSONAL FINANCIAL GAIN A. LAWS PROHIBITING BRIBERY

Public officials may not:

- Solicit, receive or agree to receive,
- A benefit,
- In exchange for their official actions.



## REVIEW QUESTION

True or False?

Technically, bribery only involves the exchange of an official action for money.

## BRIBERY: PENALTIES

- Felony charges and up to four years in state prison.
- Loss of office.
- Barred from holding office.
- Fines/restitution
- Federal prosecutions; stiffer penalties.



## IV. PERSONAL FINANCIAL GAIN B. IDENTIFY CONFLICTS OF INTEREST – USING FPPC FOUR-PART TEST

1. Is it "reasonably foreseeable" that the decision will have a financial effect on the Trustee's economic interests?

2. Is the financial effect **material**?

3. Is the financial effect **indistinguishable** from its effects on the public generally?

4. Is the Trustee "making, participating in making or attempting to" influence a **governmental decision**?

## CONFLICT OF INTEREST: FINANCIAL INTERESTS



### What are some examples an official's financial interests?

- **Business:** (a) investment of more than \$2,000 in a for-profit organization or (b) a business position
- **Real Property:** equity or lease interest in real property worth more than \$2,000, "500 Feet Rule" decision affecting real property value located within 500 feet of the property

## CONFLICT OF INTEREST: FINANCIAL INTERESTS (CONT'D)



- **Source of Income:** any source that provided or promises \$500 or more in prior 12 months
- **Source of Gifts:** a person or business that gave gifts totaling \$590 or more in prior 12 months. Giving or receiving gifts can create an economic interest.
- **Personal Finances:** expenses, income, assets, liabilities

## STEP #1 – FINANCIAL EFFECT REASONABLY FORESEEABLE

### A financial effect is reasonably foreseeable if:

1. The official's economic interest is expressly involved, or
2. The financial effect "is a realistic possibility and more than hypothetical or theoretical."

## STEP #2 – FINANCIAL EFFECT MATERIAL

Rule of Thumb: if the economic interest is expressly involved in the decision, then the impact is presumed to be material.

Not material if it is nominal, inconsequential, or insignificant

For example, under Personal Finances, the financial effect of a governmental decision are material if the Trustee or the Trustee's immediate family member will receive a "measurable financial benefit or loss" from the decision."



## HYPOTHETICAL

The District's governing board is set to review a proposal to lease land to Acme Inc. that pays Trustee Esquivel a monthly salary of \$4,000. The governing board's decision would have no effect on the Trustee's salary.

Can he participate in the decision?

## ANSWER

- No
- He receives income over \$590 in the 12 months preceding the decision. The effect on his salary is irrelevant.





### STEP #3 – FINANCIAL EFFECT INDISTINGUISHABLE FROM ITS EFFECTS ON THE PUBLIC

It is indistinguishable from the effect on the "public generally" if the official establishes:

1. Significant segment of the public (at least 25%) is affected; and
2. The effect on his or her financial interest is not unique.



### STEP 4: GOVERNMENTAL DECISION IS BEING MADE



Occurs when an official:

- Authorizes or directs any action;
- Votes;
- Appoints a person;
- Obligates or commits the District to a course of action; or
- Enters into a contract on behalf of the District.

### NOT INCLUDED IN "INFLUENCING DECISIONS"



Ministerial actions:

Decisions on his or her own employment.

Public speaking to the general public/media.

Academic decisions.

Architectural and engineering documents, and

Additional consulting services.

### IF A FINANCIAL CONFLICT EXISTS, THE OFFICIAL MUST



### WHAT IF I AM DISQUALIFIED?

- Don't discuss or influence (staff or colleagues)
- Identify nature of conflict at meeting
- Leave room (unless on consent)
- No voting or discussing the matter



#### NOTE:

You do not count towards a quorum!!

### LIMITED EXCEPTIONS TO "LEAVE THE ROOM"

- Trustee may speak on a matter as a member of the general public during the period for public comment about a matter related to his or her personal interests
- For agenda items on consent calendar- Trustee may remain in the room during the consent calendar. However, Trustee must either make a motion to remove the item from the consent calendar or abstain from voting on the consent calendar.
- Official must still disclose conflict.
- NOTE: To disqualify oneself (e.g., live within 500 feet of project) is the responsible course of action. Improper to not acknowledge those interests.



## WHAT HAPPENS IF I HAVE A DISQUALIFYING FINANCIAL INTEREST IN A GOVERNMENTAL DECISION?

### Closed Session –

- Trustee must disclose the interest orally during the open session preceding the closed session. The disclosure must be limited to a declaration that the recusal is due to a conflict of interest pursuant to Government Code 87100.
- Trustee shall not be present when item is considered in closed session.
- Trustee must not obtain or review a recording or any nonpublic information regarding the Board's decision.

(Bylaw 9270)



## PENALTIES FOR FAILURE TO STEP ASIDE

- Invalidate Decision
- Misdemeanor
- Loss of Office
- Fines
- Embarrassment



## HYPOTHETICAL:

### True or False

Participating in a contract decision in which a Trustee has a financial interest may subject the official to particularly harsh sanctions?



## IV. PERSONAL FINANCIAL GAIN C. CONTRACTUAL CONFLICTS OF INTEREST

### General Rule - Government Code 1090:

A school District's governing board and District employees are prohibited from having financial interests in contracts made by them or by their board.

Purpose: Prohibit against "self dealing"



### QUESTION

Trustee Peña owns a large parcel within District boundaries. The District is looking to purchase land for a new athletic field. Trustee Peña sells the parcel *below market value* to a property developer, who then sells it to the District.

To be safe, Trustee Peña abstains from the final decision to purchase the property.

Did she violate Section 1090?

### ANSWER

- YES! *Thomson v. Call*, 38 Cal. 3d 633, 699 (1985)

- Peña has to give back the money received from the property developer plus interest to District.

## EXCEPTIONS TO SECTION 1090

1. Remote Interest and:
  - a. Official's disclosure interest on the record;
  - b. Disqualifies himself / herself;
  - c. Does not influence or attempt to influence other voting members; and
  - d. Governing Board acts in good faith with disqualified member's vote not counted.
2. Non-Interests – While abstention not required, disclosure sometimes required, or
3. Rule of Necessity – Extremely limited and fact-specific. Applied to a conflicted Trustee in order carry out its essential functions when no other is competent to do so. FACT SPECIFIC.

## EFFECTS OF SECTION 1090 CONFLICT

- District barred from entering contract
- Abstention/disclosure do not cure conflict
- Contracts made in violation of Section 1090 are void and unenforceable
- Good faith reliance on counsel's advice is not a defense
- Penalties
  - Willful violation = Felony (min. \$1,000 fine and state prison)
  - Disgorgement of contract proceeds
  - Lifetime disqualification from holding office in the California



### IV. PERSONAL FINANCIAL GAIN

#### D. CONFLICT OF INTEREST & CAMPAIGN CONTRIBUTIONS THE LEVINE ACT: GOV'T CODE § 84308

- Board Trustee may not participate in a proceeding to approve a license, permit or other use entitlement if he or she accepted, solicited, or directed campaign contributions in excess of \$250 from any participant or financially interested party in the proceeding or their agents during the previous 12 months.
- Options: Disclosure and recusal or Return and participate
- Effective January 1, 2023:
  - The ban extends from 3 months after the proceedings are completed to 12 months.

#### D. SCOPE OF THE LEVINE ACT: GOV'T CODE § 84308

- Only applies in specific context: entitlement for use proceedings
  - Business, professional, trade, and land use licenses and permits
  - Entitlements for land use
  - Contracts (except competitively-bid, labor, or employment contracts)
  - Franchises
- Section 84308 does not apply to:
  - Proceedings involving general policy decisions
  - Rules where the interests affected are many and diverse
  - Ministerial decisions

#### D. SCOPE OF THE LEVINE ACT: GOV'T CODE § 84308

- Proceedings involving specific, identifiable parties directly affected by the proceeding or participants that would experience a substantial financial impact
- General question to ask yourself: "Does this proceeding involve an identifiable person or persons seeking some type of permission or allowance, specific to them, from the District?"



### REVIEW QUESTION

What are a Board Trustee's options for participating in an entitlement for use proceeding if he/she accepted campaign contributions above \$250 from another participant?

- A. Disclosure and recusal
- B. Return and participate
- C. All of the above
- D. None of the above

#### IV. PERSONAL FINANCIAL GAIN E. CONFLICTS WHEN LEAVING OFFICE – REVOLVING DOOR ISSUES BEFORE LEAVING OFFICE

- Expands conflict of interest rules where a decision will have a reasonably foreseeable material financial effect on prospective employer even though the official does not yet have an economic interest in the employer.
- Note: Does not apply if prospective employer is a governmental agency.
- Following contacts will trigger the ban:
  - ✦ An interview with an employer or his/her agent.
  - ✦ Discussing an offer of employment with an employer or his/her agent.
  - ✦ Accepting an offer of employment.



#### REVOLVING DOOR ISSUES: AFTER LEAVING OFFICE / 1-YEAR BAN

- For one year following their departure from a school district, Trustees cannot make:
  - any oral or written communications with the District in the capacity of a compensated agent trying to advocate on behalf of a third party who has business with the District.

#### V. FAIR PROCESS

1. Common Law Bias
2. Due Process
3. Incompatible Offices
4. Competitive bidding for public contracts
5. Nepotism

#### FAIR PROCESS IN GENERAL

- Even if no financial conflict under Political Reform Act or conflict due to a contract under Govt. Code § 1090, through case law, Judges have created a common law conflict of interest.



#### 1. COMMON LAW BIAS

A Board Trustee has a fiduciary duty to exercise the powers of office for the benefit of the public and is not permitted to use those powers for the benefit of private interests.

#### FORMS OF COMMON LAW BIAS

1. **Personal Interests in a Decision's Outcome** – Trustees cannot use their position for personal gain.
2. **Personal Bias** – Strong animosity about an employee based on conduct that occurred outside a hearing or certain beliefs/ideologies that could bias a Trustee.
3. **Factual Bias** – Information a Trustee receives outside of a public hearing that causes the Trustee to have a closed mind to information presented at the meeting.



## REVIEW QUESTION

True or False?

A Board Trustee has a fiduciary duty NOT to participate in a decision-making process if he/she possesses some form of common law bias.

## 2. DUE PROCESS: LEGISLATIVE VS. QUASI-JUDICIAL

- **Quasi-judicial:** When a body acts to apply such laws or regulations to a particular situation (e.g., personnel disciplinary actions)
- **Legislative:** When a body acts to create laws or regulations (e.g., adopting a new Board Policy)
- Due process requires a decision-maker to be fair and impartial when the decision-making body is sitting in a "quasi-judicial" capacity. (14<sup>th</sup> Amendment to U.S. Constitution)

## DISQUALIFICATION VS. ABSTENTION

**Disqualification** – Trustee is legally required to not participate in the decision-making process due to financial or other conflicting relationships.

**Abstention** – Trustee voluntarily does not participate in the decision-making process based on his/her own concerns about an ability to make a fair decision.

## POTENTIAL CONSEQUENCES OF BIAS

- Can create a risk that the decision will be set aside by a court if challenged.
- If the violation rises to the level of a denial of due process under the Constitution, the affected individual(s) may seek damages, costs and attorney's fees. 42 USC 1983 and 1988.
- Rule does not preclude holding opinions, philosophies or strong feelings about issues or specific projects; or expression of views important to the community.

## KEY TAKEAWAY



When acting in a quasi-judicial capacity, decision-makers should:

- Hear all of the evidence before drawing or expressing conclusions about the matter under consideration.
- Evaluate the matter under consideration using the criteria established by ordinance or law (not by ad hoc factors)
- Maintain an open mind while matter is pending.

## 3. DOCTRINE OF INCOMPATIBLE OFFICES

- If appointed or elected to another public office, a Board Trustee may lose their seat if:
  - Potential for significant clash or division of loyalty;
  - Holding two offices would violate public policy; or
  - One office supervises, audits, or can remove the other



## BOARD BYLAW 9270: CONFLICT OF INTEREST

- Trustee shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the Trustee's duties as an officer of the District.

## 4. FAIR PROCESS COMPETITIVE BIDDING

- Process usually involves public advertisement for the submission of sealed bids, the public opening of bids, and the award of contracts to the lowest responsive bidder that is responsive to the solicitation for bids.
- Almost exclusively governed by statute.
- Pursuant to California Public Contract Code, with limited exceptions, public agencies have a duty to publicly bid certain contracts, particularly construction contracts.



## PUBLIC CONTRACT CODE SECTION 1100

Contains an express declaration of legislative intent, stating that the purpose of the code is to:

- To clarify the law with respect to competitive bidding requirements
- To ensure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds.
- To provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices.
- To eliminate favoritism, fraud, and corruption in the awarding of public contracts.

## FAIR PROCESS: COMPETITIVE BIDDING



- Public Projects
- Other Purchases
  - District's Own Purchasing Policy
- Purpose
  - Get the best deal for the agency's money
  - Ensure the process is fair, avoids favoritism

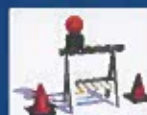
## COMPETITIVE BIDDING REQUIREMENTS FOR PUBLIC CONTRACTS

- Exceptions:
  - Emergency;
  - Professional Services; and
  - Special Services
- Must:
  - Award to lowest responsive and responsible bidder;
  - Use state licensed contractor; or
  - Reject all bids and re-advertise.

## FAIR PROCESS: COMPETITIVE BIDDING

### Consequences:

- If public works contract is not awarded to the lowest responsive, responsible bidder, the agency may be liable for reimbursing the low bidder's cost in submitting the bid.



## COMPETITIVE BIDDING: IPAD SCANDAL



- LAUSD had planned to buy some 700,000 iPads for its students and teachers. The Apple tablets were to include learning software built by publishing giant Pearson.
- But Superintendent John Deasy ended up canceling the contract and had to restart the bidding process.
- The decision was as a result of NPR member station KPCC, *obtaining emails between Deasy and tech executives that brought into question whether the initial bidding process was fair.*

## 5. ANTI-NEPOTISM LAWS

Policies intended to avoid the appearance of impropriety or favoritism.

State law does not specifically address the issue of nepotism in local agency hiring decisions.

Public agencies are allowed to adopt anti-nepotism policies.

Acting to hire a relative could trigger disqualifying conflict-of-interest issues if you have an economic interest.

## BOARD BYLAW 9270: CONFLICT OF INTEREST

- Trustee shall abstain from voting on personnel matters that uniquely affect the Trustee's relatives
- May vote on CBAs and personnel matters that affect a class of employees to which Trustee's relative belongs
- Definition of relative: related to Trustee by blood, affinity, or adoption within 3<sup>rd</sup> degree
  - Relationships within the 3<sup>rd</sup> degree include: Trustee's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse, registered domestic partner, unless the Trustee is divorced or widowed.

## VI. CLAIMING PERKS OF OFFICE

1. Limitations on Gifts
2. Honoraria
3. Free or Discounted Transportation
4. Misuse of Public Funds
5. Prohibition Against Gifting Public Funds
6. Mass Mailing Restrictions
7. Election Campaigns



### 1. GIFTS



**DISCLOSE**  
\$50 or more  
(calendar year)

**DISQUALIFY**  
over \$500  
(rolling 12 mos.)

**REFUSE**  
over \$500+  
(calendar year)

IF GIFT WOULD PUT YOU OVER \$500 IN TOTAL GIFTS FROM THAT SINGLE SOURCE or EXCEEDS \$500

RETURN, REIMBURSE, OR DONATE TO DESIGNATED 501 C(3) NON-PROFIT WITHIN 30 DAYS OF RECEIPT

## GIFTS DON'T ALWAYS HAVE BOWS

- Meals, food and drink (including receptions)
- Entertainment (concerts & sporting events)
- Certain kinds of travel and lodging



## GIFT TO FAMILY = GIFT TO OFFICIAL



- "Family member" includes the Trustee's:
  - Spouse, Registered domestic partner, Minor child who can be claimed as dependent; (Child of official 16-19 in school, who lives at home and provides less than 1/3 of his/her own support).
- Payment to a Trustee's family member is deemed a gift to the Trustee if:
  - There is no established working, social or similar relationship between the donor and the family member; or
  - There is evidence to suggest the donor had a purpose to influence the Trustee.

(FPPC Reg. 1894.3)

## COMMON GIFT EXCEPTIONS



- Gifts returned or donated to a charity within 30 days without being claimed as a tax deduction.
- Campaign contributions.
- Personalized plaques or trophies valued less than \$250.
- Home hospitality under specified circumstances.
- Banet is commonly exchanged between the official and non-lobbyist on a holiday, birthday or other similar occasion, including reciprocal exchanges made in the context of a social relationship (e.g., rotating payment for lunches, rounds of golf, etc.) – must be proportional and cannot exceed \$500 annual gift limit.
- Bereavement offerings.
- Acts of neighborliness (e.g., loan of tools, occasional ride, help making repairs, feeding the cat, etc.).

## SPECIAL ISSUE: TICKETS TO FUNDRAISERS



- FPPC Regulation 18946.4 provides special rules for tickets provided to public officials to fundraisers for *nonprofit* and *political* organizations.
- Such tickets are *not* considered reportable gifts if certain conditions apply.

## SPECIAL ISSUE: TICKETS TO FUNDRAISERS NOT REPORTABLE OR SUBJECT TO GIFT LIMIT

- Two admission tickets to **501(c)(3) fundraisers** (must be received from the organization).
- Two tickets to **campaign fundraisers** (must be received from candidate/committee).

## SPECIAL ISSUE: TICKETS TO FUNDRAISERS REPORTABLE AND SUBJECT TO GIFT LIMIT

- Tickets to 501(c)(3) and political events provided by third party source.
- Tickets benefiting other types of non-profits, such as 501(c)(4) or 501(c)(6)s.
- Value: Pro-rata share of food and entertainment or non-deductible portion of the ticket or admission.

### HYPOTHETICAL

Board Trustee Benitez is invited to attend a fundraiser for the local Boys and Girls Club, which is a 501(c)(3) organization. The Boys and Girls Club directly provides Board Trustee Benitez with the tickets, which are valued at \$100 each.

Does Board Trustee Benitez have to report the tickets? What amount is subject to the gift limitation?

## ANSWER

- No. Tickets received directly from 501(c)(3).

- No amount is subject to the gift limitation.

FPPC Reg. 18916.4

## HYPOTHETICAL

Board Trustee Esquivel is invited to attend a fundraiser to benefit the local Chamber of Commerce, which is a 501(c)(6) organization. The Chamber directly provides Board Trustee Esquivel with the tickets, which are each valued at \$100 each and indicate that the donation portion is \$75 of the \$100 total.

Does Board Trustee Esquivel have to report the tickets? What amount is subject to the gift limitation?

## ANSWER

- Yes. \$25 – the non-donation portion covering food, entertainment, etc.
- If the organization sponsoring the event says what portion of the ticket price is the donation, the public official can deduct that from the face value of the ticket to determine the value of the ticket(s) for the purposes of California's gift rules.
- Otherwise, the value of the benefit the official receives is the per-guest share of the cost of food, entertainment and any other items provided to all guests at the event. Other specific benefits attendees receive (for example, golf greens fees) are valued at fair market value. This is the same approach for valuing attendance at invitation-only events.

## SPECIAL ISSUE: DROP-IN VISITS

hello...  
goodbye...

- If you (and an accompanying guest) are invited to an event, you do not have to report any gifts relating to the event so long as you do not:
  - Consume a meal at the event (minimal appetizers and drinks ok);
  - Stay for any entertainment.
- Does not apply to events sponsored by lobbyist, lobbying firm or lobbyist's employer.

## SPECIAL ISSUE: DISTRICT-PROVIDED TICKETS

A District-provided ticket to you is *not* reportable on your Form 700 or subject to the gift limit if:

- The ticket is not earmarked for a particular official;
- The ticket is distributed in accordance with the District's ticket distribution policy in furtherance of a "public purpose"; and
- Your name (as recipient) is identified on the District's Website on a Form 802 indicating the original source of ticket.



## BOARD BYLAW 9270: GIFTS

- Trustees may accept gifts only under the conditions and limitations specified in Gov. Code 89503
- Limitation on gifts does not apply to wedding gifts and gifts on birthdays and holidays, provided the gifts are not substantially disproportionate in value
- Limitation on gifts also does not apply to information materials (books, reports, pamphlets, calendars, etc.)





## REVIEW QUESTION

A Board Trustee must disclose a gift on a Form 700 if the amount exceeds:

- A. \$1
- B. \$5
- C. \$10
- D. \$50

## 2. HONORARIA



Definition: "Honorarium" means

- a payment (e.g., gift cards);
- in consideration for;
- a speech given (or other form of oral presentation), article published, or attendance at any public or private conference, meeting, or like gathering.

**General Rule:** No local elected officeholder, candidate for local elected office, individual specified in Gov't. Code § 87200, or employee required to report income/gifts on Form 700 may accept any honorarium.

## EXEMPTIONS TO HONORARIA BAN: NOT SUBJECT TO BAN / NOT REPORTABLE

Payment returned (unused) to donor within 30 days of receipt.

Payment donated to the District's General Fund within 30 days of receipt without being claimed as a tax deduction.

Payment made not to you, but directly to tax-exempt organization, under certain conditions (can't claim on deduction on taxes for donation).

Payments from family members, up to first cousin (cannot be acting as agent/intermediary for another).

## EXEMPTIONS TO HONORARIA BAN: REPORTABLE

Admission to an event where Board Trustee gives a speech, participates on a panel or provides similar services and related refreshments and other nominal benefits (includes in-California transportation and necessary lodging in connection with same).

Earned income from a bona fide trade or profession and the services are customarily provided in connection with the business, trade or profession (E.g., Teaching, Medicine, Law).  
- Exception does NOT apply if the business is predominantly devoted to making speeches.

## 3. FREE OR DISCOUNTED TRAVEL

Payments for travel for a public official are generally subject to the annual gift limit of \$590 unless the payment is somehow exempt.

Travel is deemed to include:

- Any payment that provides transportation;
- Cost of lodging and food connected with the travel.

## TRAVEL EXCEPTIONS

The following are NOT considered gifts, income or honorarium and NOT reportable.

- Travel and per diem for education, training or inter-agency programs
- Certain travel from a government agency or 501(c)(3) as part of the official's employment with the agency or 501(c)(3)
- Payments for official District business



## TRAVEL EXCEPTIONS (CONT'D)

NOT considered gifts, income, or honorarium and NOT reportable, potentially disqualifying, or subject to any gift limit.

- Payment for travel that constitutes a campaign contribution.
- Sharing a ride with another official.
- Travel from a source who is not subject to reporting on your Form 700.

## TRAVEL PAYMENTS THAT ARE REPORTABLE ON FORM 700 & POTENTIALLY DISQUALIFYING

Travel payments and related lodging and subsistence related to a legislative or governmental purpose or an issue of state, national or international policy so long as the travel is *either*:

- (a) Travel for speech which is given by the Trustee and lodging and subsistence expenses are limited to a *day immediately before, day of and day after speech and within the US.*
- (b) Travel paid by a governmental agency or 501(c)(3).

## HYPOTHETICAL

Board Trustee Armenta has been invited to make a presentation at a one-day CSBA conference to occur on Wednesday. She arrives on the Monday before the conference, conducts her presentation, and leaves the next day, Thursday. CSBA pays for her lodging, food, and transportation costs, which totaled \$4,000.



Are these expenses exempt from gift/honoraria limits and reporting by Trustee Armenta?

## ANSWER

- No.
- These expenses are only covered on the day before, the day of, and the day after the event. The Monday expenses would be subject to gift/honoraria limits and reporting. They would also likely be grounds for potential disqualification on conflict of interest grounds.

## LOANS TO PUBLIC OFFICIALS



- Loans constitute "income" for Form 700 purposes, other than loans from commercial lending institutions in the ordinary course of business made on terms available to the general public.
- An elected officer may not accept *personal* loans of \$500 or more unless the loan's terms are clearly set forth in writing.
- No Trustee may receive a personal loan in excess of \$250 from an officer, employee, member or consultant for the District or any other agency over which the District exercises direction and control.

## 4. MISUSE OF PUBLIC RESOURCES



It is unlawful for any elected local officer, including any local appointee, employee or consultant to *use or permit others to use* public resources for campaign activities or person or other purposes which are not authorized by law.

## "PUBLIC RESOURCES"



- Money or anything paid for with public money:
  - Staff time
  - Office space
  - Equipment
  - Supplies

## CONSEQUENCES OF VIOLATIONS



- Civil penalties: \$1,000/day fine + 3X value of resource used.
- Criminal penalties: 2-4 year prison term + disqualification from holding office in California

## REIMBURSEMENT OF EXPENSES

- State law requires school districts to adopt policies for the reimbursement of "actual and necessary expenses" incurred by Trustees in the performance of their official duties.
- Reimbursement materials are public records



## BOARD BYLAW 9250: REIMBURSEMENT OF EXPENSES

- Trustees shall be reimbursed for actual and necessary expenses when performing authorized services for the District.
- Allowed expenses for travel, telephone, business meals, or other authorized purposes shall be in accordance with policies established for District personnel and at the same rate of reimbursement.
- Trustees shall be reimbursed for travel expenses incurred when performing services directed by the Board:
  - Attending educational seminars or conferences
  - Participating in regional, state, national organizations whose activities affect the District's interests
  - Attendance at District or community events
  - Meetings with state or federal officials on issues of community concern

## BOARD BYLAW 9250: REIMBURSEMENT OF EXPENSES

- Personal expenses shall be the responsibility of individual Trustees.
- Personal portion of any trip
- Tips or gratuities
- Alcohol
- Entertainment
- Expenses of any family member who is accompanying the Trustees on District-related business
- Personal use of an automobile
- Personal losses and traffic violation fees incurred while on District business
- Any questions regarding the propriety of a particular type of expense should be resolved by the Superintendent or designee before the expense is incurred.

## FPPC FINES FORMER CONTRA COSTA COUNTY OFFICIAL \$150,000 FOR MISUSE OF CAMPAIGN FUNDS

- One of the largest penalties involve a former public official who used campaign funds for himself in 2019.
- \$150,000 penalty was levied against former Contra Costa County Clerk/Recorder Joe Canciamilla for personal use of campaign funds, one of the most serious violations of the Political Reform Act.
- Canciamilla was found to have used the funds to remodel a vacation home in Hawaii and for a vacation to Asia.
- Canciamilla fully reimbursed the committee for the \$130,529 improperly used and the approved settlement required Canciamilla to pay half the penalty with his own personal funds



## PROFESSIONAL DEVELOPMENT

### BOARD BYLAW 9240: BOARD TRAINING

#### \*STUDY SESSION TOPIC

- All Trustees are encouraged to participate in advanced training offered by CSBA or other organizations to reinforce boundaries in policy and build knowledge related to key education issues.
  - Including online courses, webinars, in-person workshops and conferences.
- Board training funds shall be budgeted annually for the Board of Trustees and each Trustee.
  - Board shall annually develop a board training calendar.
  - To schedule and track trainings.
  - To schedule opportunities for Trustees to report on the trainings they participated in.
- Trustees may attend conferences with other Trustees and/or Superintendent.
  - In such case, shall not discuss specific District business unless part of the scheduled program so as to not violate the Brown Act.
- Trustees shall report to the Board, orally or in writing, on the training activities they attend.
  - Purpose: sharing acquired knowledge or skills with the full Board.

## PROFESSIONAL DEVELOPMENT

#### \*STUDY SESSION TOPIC

- CSBA Workshops/Conferences
- Legislative Day
- HALEO
- Sexual Harassment Training
- Ethics training
- Mandated Reporter Training

\*Board may develop a board training calendar if one does not already exist

## 4. PROHIBITIONS AGAINST GIFTS OF PUBLIC FUNDS

Expenditures of public funds must be for a public purpose.

#### Test

- Is the expenditure for a public purpose?
- Does it advance the agency's purpose?

#### Gifts of Public Funds

- Includes any financial aid (including credit) or any other "thing of value."
- Must be a reasonable basis for finding a public purpose exists.
- Incidental, private benefit is okay.

## 5. POLITICAL USE OF PUBLIC RESOURCES – BALLOT MEASURES

By individuals or agency itself (support of ballot measures)

- Materials that urge voters to either "VOTE YES" OR "VOTE NO" on a measure constitute campaign advocacy.
- Use of public funds to provide material that is purely **objective** and **informational** is permitted.



## 6. POLITICAL USE OF PUBLIC RESOURCES – MASS MAILING



- A newsletter or other "mass mailing" shall NOT be sent at public expense.
- A prohibited "mass mailing" meets the following criteria:
  - Involves delivery of a tangible item (written doc, videotape, record, etc.).
  - Item features an elected official (name, photo, etc.).
  - Costs (design, printing, etc.) exceed \$50 or more, and
  - 100 or more copies sent out.

## 7. ELECTION CAMPAIGNS

### BOARD BYLAW 9220: GOVERNING BOARD ELECTIONS

- Candidates, including incumbents, shall abide by local, county, state, and federal requirements regarding campaign donations, funding, and expenditures.
- Candidates shall not accept any public money for the purpose of seeking elective office.
- District may establish a dedicated fund for those seeking Board election if the funds are available to all qualified candidates.
- Board encourages all candidates to sign and adhere to the Code of Fair Campaign Practices (Elections Code 20440).



## TAKE AWAY



Your reputation is everything.

You were appointed to serve the public.

Don't be an example of what not to do.

Don't end your career in handcuffs.

## OBTAINING ADVICE FROM THE FPPC INFORMAL ADVICE



- Can be provided by either telephone or email.
- Email: [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov).
- Telephone: (866) ASK-FPPC or 1-916-322-5660.
- Does NOT provide the requestor with immunity.

## OBTAINING ADVICE FROM THE FPPC FORMAL ADVICE



- Request must be in writing and mailed to:
  - Fair Political Practices Commission:
  - 428 J Street, Suite 620
  - Sacramento, CA 95814
- The request may also be faxed to:
  - (916) 322-0886
- **Important:** Provides the requestor with immunity
- **Ask in Advance:** Takes at least One Month to get a response



**Equity in Education**

## VII. EQUITY

## EQUITY

- Acknowledge the role that implicit bias may play in inequity and disparity in the District.

## EQUITY V. EQUALITY

- Equality – same treatment of all students
- Equity – addresses the unique needs and expression of students as individuals

## DISPARITY IN EDUCATION

- Educational barriers as a result of implicit bias, prejudice, and discrimination.
- Results in prejudicial learning outcomes based on race, class, socioeconomics, gender, ethnicity, sexual orientation, gender identity, cognitive and physical ability, diverse language fluency, religion.

## CREATING EQUITY IN SCHOOLS

- Create expectations that level the playing field and emphasize a higher quality of education for all students.
- Provide each student and school with the appropriate resources necessary to achieve success.
- Provide safe school environments for all students.

## IMPLICIT BIAS

Attitudes and stereotypes that unconsciously affect people's perceptions, actions, and decisions.

## IMPLICIT BIAS IN SCHOOLS

Implicit bias in educational settings affects all aspects of a student's education by creating opportunity and achievement gaps, and overrepresentation of disadvantaged groups in disciplinary matters.

## IMPLICIT BIAS IN SCHOOLS

- Implicit bias may prevent the unique educational needs of students from being met by District Staff.
- This prevents these students from achieving optimally, creates barriers to opportunities, and damages their self-worth and identity.

## COMBATTING IMPLICIT BIAS

Board members and District Staff must take conscious steps to regularly approach and discuss their own implicit bias, and the implicit bias present within our schools and community.

## COMBATTING IMPLICIT BIAS

Active awareness of implicit biases will allow Board Members and District Staff to interrupt their unconscious assumptions and redirect them, maintaining an emphasis on compassionate teaching.

## ACKNOWLEDGING BIASES AND INEQUITY

- Accept that equity of educational opportunity requires proactive steps to address implicit bias and institutional barriers to equity.
- Acknowledging that historically and currently, such biases and barriers disproportionately affect students of color.

## CREATING EQUITABLE SCHOOLS

Accepting that equity of educational opportunity requires proactive steps to address implicit biases and institutional barriers to equity.

## CREATING EQUITABLE SCHOOLS

- Challenging intolerant behavior that jeopardizes the safety, wellbeing, or learning of students.
- Removing biases and barriers that contribute to achievement gaps.

## CREATING EQUITABLE SCHOOLS

- Committing to ensuring fairness, equity, and inclusion into all policies, programs, operations, and practices.
- Creating multiple learning pathways that widen access to educational opportunities and lifelong success.

## CREATING EQUITABLE SCHOOLS

- Adopting a teaching and learning culture that includes high expectations of students and staff, varied learning and learning styles, and individualized as well as systemic support for teachers and students.

## CREATING EQUITABLE SCHOOLS

- Providing high quality, culturally relevant and responsive curricula for all students and teachers regardless of learning sites
- Eliminating District structures and practices that perpetuate inequities and contribute to disproportionality of access and outcomes

## CREATING EQUITABLE SCHOOLS

- Facilitating equitable access to co-curricular and extra-curricular activities, social services, and enrichment opportunities.
- Ensuring that every student has access to the opportunities, resources, and educational rigor they need to maximize academic success and social-emotional well-being.

## CREATING EQUITABLE SCHOOLS

- Viewing each student's individual characteristics as valuable.
- Ability: cognitive, social emotional, physical.
- Ethnicity, family structure, gender identity and expression, language, race, religion, sexual orientation, and socio-economics.

## BOARD'S ROLE IN CREATING EQUITY

Engaging and collaborating with our families, students, communities, and stakeholders as the Board recognizes that their active involvement is essential to the Board's own responsibility for effective and equitable governance.

## BOARD'S ROLE IN CREATING EQUITY

Holding itself and District Staff accountable for building a District-wide culture of equity.

## RSD'S COMMITMENT TO EQUITY

- The District is committed to actively and continuously eliminating disparities in educational opportunities in all its schools, and creating and supporting an environment of equal, unbiased, and culturally responsive learning in a fair and safe system.



## RSD'S COMMITMENT TO EQUITY

- The District shall take active measures to provide an inclusive and emotionally supportive environment, free from discrimination.
- All schools shall take active measures to provide every student with equal access to quality and relevant curriculum, instruction, support, facilities, and educational resources and opportunities.

## RESOURCES

- For a copy of the Political Reform Act, regulations, fact sheets, Commission meeting materials, or general information:
  - Visit the Commission's web site ( )
  - Call (855) ASK-FPPC (Toll-free) or (916) 322-5650
- **Institute for Local Self-Government** ( ) Contains various ethics related publication and self-study materials
- **California Attorney General:**
  - Open Government ( )
  - Conflict of Interest ( )
  - Links to AG publications, including Attorney General's Opinions ( )

## CONGRATULATIONS!

