

ROLE OF THE BOARD

The Tehama County Board of Education provides leadership and citizen input for county educational programs and services operated by the Tehama County Department of Education, including services provided to school districts and the community.

Major roles of the County Board include:

1. Working with the Tehama County Superintendent of Schools to establish the direction and priorities for the Department through its budgetary responsibilities
2. Providing community leadership on behalf of the Department and public education

To fulfill these basic responsibilities, the County Board shall:

1. Maintain a cooperative and supportive working relationship with local school districts, their school boards and the community
2. Collaborate with the County Superintendent so that the shared vision, goals and policies of the Department can be implemented
3. Adopt, evaluate and update policies consistent with the law and the county Board's vision and goals
4. Maintain accountability for student learning in schools and programs operated by the Department
5. Adopt the annual budget and review interim reports of the County Superintendent
6. Approve the salary of the County Superintendent
7. Review the real property audit and acquire or dispose of real property as necessary for Department schools and programs
8. Adopt policies to ensure that a safe and appropriate educational environment is provided to all Department students
9. Conduct appeals on student expulsions and interdistrict transfers
10. Conduct public hearings when appropriate
11. Fulfill statutory responsibilities in connection with charter schools
12. Provide community leadership on educational issues and advocate on behalf of students and public education at the local, state and federal levels

ROLE OF THE BOARD (continued)

The County Board is authorized to establish and finance any program or activity that is not in conflict with, inconsistent with, or preempted by law and which is not in conflict with the purposes for which the County Board is established. (Education Code 35160)

Legal Reference:

EDUCATION CODE

1040 Duties and responsibilities; county boards of education

1042 County boards; authority

1080-1082 Transfer county board of supervisors

33319.5 Implementation of authority of local agencies

35160 Authority of county boards

47600-47616.5 Charter Schools Act of 1992, as amended

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards for County Boards, September 2001

Maximizing School Board Leadership, 1996

WEB SITES

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

GOVERNANCE STANDARDS

The Tehama County Board of Education believes that its primary responsibility is to act in the best interests of every student in every school or program operated by the Tehama County Department of Education. The County Board also has major commitments to parents/guardians, all members of the community, employees, the state of California, laws pertaining to public education, and established policies of the Department. To maximize County Board effectiveness and public confidence in its governance, County Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.

The County Board expects its members to work with each other and with the Tehama County Superintendent of Schools to ensure that a high-quality education is provided to students in Department schools and/or programs, and that high-quality services are provided to school districts within the jurisdiction of the Department and to the community. Each individual County Board member shall:

1. Keep learning and achievement for all students as the primary focus
2. Value, support and advocate for public education
3. Recognize and respect differences of perspective and style on the County Board and among staff, students, parents/guardians and the community
4. Act with dignity, and understand the implications of demeanor and behavior
5. Keep confidential matters confidential
6. Participate in professional development and commit the time and energy necessary to be an informed and effective leader
7. Understand the distinctions between County Board, County Superintendent and staff roles, and refrain from performing management functions that are the responsibility of the County Superintendent and staff
8. Understand that authority rests with the County Board as a whole and not with individual County Board members

County Board members also shall assume collective responsibility for building unity and creating a positive organizational culture. To operate effectively, the County Board shall have a unity of purpose and:

1. Keep focused on student learning and achievement, as well as the role of the Department in providing services to school districts and the community
2. Work collaboratively with the County Superintendent

GOVERNANCE STANDARDS (continued)

3. Communicate a common vision
4. Operate openly, with trust and integrity
5. Govern in a dignified and professional manner, treating everyone with civility and respect
6. Govern within County Board-adopted policies and procedures
7. Take collective responsibility for the County Board's performance
8. Periodically evaluate its own effectiveness
9. Ensure opportunities for the diverse range of views in the community to inform County Board deliberations

Legal Reference:

EDUCATION CODE

1040 Duties and responsibilities; county boards of education

1042 County boards; authority

33319.5 Implementation of authority of local agencies

35160 Authority of county boards

35164 Actions by majority vote

GOVERNMENT CODE

1090 Financial interest in contract

1098 Disclosure of confidential information

1125-1129 Incompatible activities

54950-54962 The Ralph M. Brown Act

87300-87313 Conflict of interest code

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards for County Boards, September 2001

Maximizing School Board Leadership, 1996

WEB SITES

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

PUBLIC STATEMENTS

The Tehama County Board of Education recognizes the rights of County Board members to freely express their views and encourages open discussion of issues during the County Board meeting. The County Board believes that effective County Board members have a responsibility to express themselves, whether in agreement or disagreement with the County Board majority, in ways that promote the County Board's ability to govern the Tehama County Department of Education.

When speaking to community groups, the media, or other members of the public, individual County Board members should recognize that their statements may be perceived as reflecting the views and positions of the County Board. County Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the County Board.

All public statements authorized to be made on behalf of the County Board shall be made by the County Board president or, if appropriate, by the Tehama County Superintendent of Schools or other designated representative.

Legal Reference:

EDUCATION CODE

1040 Duties and responsibilities; county boards of education

35010 Control of district; prescription and enforcement of rules

GOVERNMENT CODE

54960 Actions to stop or prevent violation of meeting provisions

DISCLOSURE OF CONFIDENTIAL/PRIVILEGED INFORMATION

The Tehama County Board of Education recognizes the importance of maintaining the confidentiality of information acquired as part of a County Board member's official duties. Confidential/privileged information shall be released only to the extent authorized by law.

Disclosure of Closed Session Information

A County Board member shall not disclose confidential information acquired during a closed session to a person not entitled to receive such information, unless a majority of the County Board has authorized its disclosure. (Government Code 54963)

Confidential information means a communication made in a closed session that is specifically related to the basis for the County Board to meet lawfully in closed session. (Government Code 54963)

The County Board shall not take any action against any person for disclosing confidential information, nor shall the disclosure be considered a violation of the law or County Board policy, when the person is: (Government Code 54963)

1. Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a County Board action that has been the subject of deliberation during a closed session
2. Expressing an opinion concerning the propriety or legality of County Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action
3. Disclosing information that is not confidential

Other Disclosures

A County Board member shall not disclose, for pecuniary gain, confidential information acquired in the course of his/her official duties. Confidential information includes information that is not a public record subject to disclosure under the Public Records Act, information that by law may not be disclosed, or information that may have a material financial effect on the County Board member. (Government Code 1098)

Disclosures excepted from this prohibition are those made to law enforcement officials or to the joint legislative audit committee when reporting on improper governmental activities. (Government Code 1098)

DISCLOSURE OF CONFIDENTIAL/PRIVILEGED INFORMATION (continued)

Legal Reference:

EDUCATION CODE

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

35146 Closed session

EVIDENCE CODE

1040 Privilege for official information

GOVERNMENT CODE

1098 Public officials and employees re confidential information

3549.1 Meeting and negotiating in public educational employment

6250-6270 Inspection of public records

54950-54963 Brown Act, especially:

54956.8 Open meeting laws

54956.9 Closed meeting for pending litigation

54957 Closed session; "employee" defined; exclusion of witnesses

54957.1 Subsequent public report and rollcall vote; employee matters in closed session

54957.5 Public records

54957.6 Closed session; representatives with employee organization

54957.7 Reasons for closed session

54963 Confidential information in closed session

ATTORNEY GENERAL OPINIONS

80 Ops.Cal.Atty.Gen. 231 (1997)

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards, November 2000

Maximizing School Board Leadership, 1996

WEB SITES

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

BOARD MEMBER ELECTRONIC COMMUNICATIONS

The Tehama County Board of Education recognizes that electronic communication among County Board members and between County Board members, Tehama County Department of Education administration, and members of the public is an efficient and convenient way to communicate and expedite the exchange of information and to help keep the community informed about the goals, programs, and achievements of the Department. County Board members shall exercise caution so as to ensure that electronic communications are not used as a means for the County Board to deliberate outside of an agendaized County Board meeting.

A majority of the County Board shall not, outside of an authorized meeting, use a series of electronic communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the County Board. (Government Code 54952.2)

Examples of permissible electronic communications concerning Department business include, but are not limited to, dissemination of County Board meeting agendas and agenda packets, reports of activities from the Tehama County Superintendent of Schools, and reminders regarding meeting times, dates, and places.

County Board members shall make every effort to ensure that their electronic communications conform to the same standards and protocols established for other forms of communication. A County Board member may respond, as appropriate, to an electronic communication received from a member of the community and should make clear that his/her response does not necessarily reflect the views of the County Board as a whole. Any complaint or request for information should be forwarded to the County Superintendent in accordance with County Board bylaws and protocols so that the issue may receive proper consideration and be handled through the appropriate process. As appropriate, communication received from the press shall be forwarded to the County Superintendent.

In order to minimize the risk of improper disclosure, County Board members shall avoid reference to confidential information and information acquired during closed session.

County Board members may use electronic communications to discuss matters other than Department business with each other, regardless of the number of members participating in the discussion.

Like other writings concerning Department business, a County Board member's electronic communication may be subject to disclosure under the California Public Records Act.

BOARD MEMBER ELECTRONIC COMMUNICATIONS (continued)

Legal Reference:

EDUCATION CODE

35140 *Time and place of meetings*

35145 *Public meetings*

35145.5 *Agenda; public participation; regulations*

35147 *Open meeting law exceptions and applications*

GOVERNMENT CODE

11135 *State programs and activities, discrimination*

54950-54963 *The Ralph M. Brown Act, especially:*

54952.2 *Meeting, defined*

54953 *Meetings to be open and public; attendance*

54954.2 *Agenda posting requirements, board actions*

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2006

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, 2003

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

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

WEB SITES

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

CSBA, Agenda Online:

<http://www.csba.org/Services/Services/GovernanceTechnology/AgendaOnline.aspx>

Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>

ORGANIZATION

Annual Organizational Meeting

The Tehama County Board of Education shall hold an annual organizational meeting within the time limits prescribed by law. (Education Code 35143)

At this meeting the County Board shall:

1. Elect a president from its members
2. Designate the immediate past president to be the vice president of the County Board. The vice president shall serve as acting president in the president's absence. If the past president no longer serves on the County Board, the County Board shall elect a vice president from its members
3. Develop a schedule of regular meetings for the year
3. The secretary shall be the County Superintendent of Schools

Legal Reference:

EDUCATION CODE

1009 Annual organization of board

5017 Term of Office

35143 Annual organizational meeting date, and notice

35145 Public meetings

GOVERNMENT CODE

54953 Meetings to be open and public; attendance

ATTORNEY GENERAL OPINIONS

68 *Ops. Cal. Atty. Gen.* 65 (1985)

59 *Ops. Cal. Atty. Gen.* 619, 621-622 (1976)

TERMS OF OFFICE

The Tehama County Board of Education shall consist of five members whose terms shall be staggered so that as nearly as practicable, one half of the members shall be elected in each odd-numbered year.

The term of office for members elected in regular elections shall be four years, commencing on the first Friday in December next succeeding their election. (Education Code 5017)

County Board member terms expire four years after their initial election on the first Friday in December following the election of new members. (Education Code 5000)

A member whose term has expired shall continue to discharge the duties of the office until his/her successor has qualified by taking the oath of office. (Government Code 1302, 1360; Education Code 5017)

Representation of Tehama County

The three high schools in Tehama County shall be used as boundaries for determining area representative with membership in each as follows:

1. Three members to reside in the Red Bluff Joint Union High School District representing the northern two-thirds of the county.
2. One member to reside in the Corning Union High School District.
3. One member to reside in the Los Molinos Unified School District.

Each member must reside in the trustee area that he/she represents.

Legal Reference:

EDUCATION CODE

1000-1017 Election, jurisdiction, organization, procedure

5000-5033 Election of school district board members

35010 Control of district

35012 Board members; number, election and terms

35107 Eligibility

GOVERNMENT CODE

1302 Continuance in office until qualification of successor

1303 Exercising functions of office without having qualified

1360 Necessity of taking constitutional oath

PRESIDENT

The Tehama County Board of Education shall elect a president from among its members to provide leadership on behalf of the County Board and the educational community it serves.

The president shall preside at all County Board meetings. He/she shall:

1. Call the meeting to order at the appointed time
2. Announce the business to come before the County Board in its proper order
3. Enforce the County Board's policies relating to the conduct of meetings and help ensure compliance with applicable requirements of the Brown Act
4. Recognize persons who desire to speak, and protect the speaker who has the floor from disturbance or interference
5. Explain what the effect of a motion would be if it is not clear to every member
6. Restrict discussion to the question when a motion is before the County Board
7. Rule on issues of parliamentary procedure
8. Put motions to a vote, and state clearly the results of the vote
9. Be responsible for the orderly conduct of all County Board meetings

When the president resigns or is absent or disabled, the vice president shall perform the president's duties. When both the president and vice president are absent or disabled, the County Board shall choose a president pro tempore to perform the president's duties.

Legal Reference: (see next page)

PRESIDENT (continued)

Legal Reference:

EDUCATION CODE

35022 *President of the board*

35143 *Annual organizational meetings; dates and notice*

GOVERNMENT CODE

54950-54963 *Ralph M. Brown Act*

Management Resources:

CSBA PUBLICATIONS

Board Presidents' Handbook, revised 2002

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardsmanship, 1996

WEB SITES

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

SECRETARY

The Tehama County Board of Education shall appoint the Tehama County Superintendent of Schools to serve as secretary to the County Board. The secretary to the County Board shall be responsible for maintaining an accurate and complete record of all County Board proceedings and shall:

1. Prepare, distribute and maintain the County Board agenda
2. Record, distribute and maintain the County Board minutes
3. Maintain County Board records and documents
4. Conduct official correspondence for the County Board
5. As directed by the County Board, sign and execute official papers
6. Perform other duties as assigned by the County Board

Legal Reference:

EDUCATION CODE

1009 Annual organization of board

1010 Ex officio secretary

1010

35025 Secretary and bookkeeper

35143 Annual organizational meetings; dates and notice

35250 Duty to keep certain records and reports

GOVERNMENT CODE

54950-54963 Ralph M. Brown Act

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardmanship, 1996

WEB SITES

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

ATTORNEY

The Tehama County Board of Education recognizes that the complex legal environment in which it discharges its functions creates the need for sound and dependable legal services and advice. The County Board shall arrange to obtain legal services and advice in accordance with law.

The County Board and the Tehama County Superintendent of Schools shall together appoint legal counsel and fix the compensation to be paid to the legal counsel. The legal counsel shall be admitted to practice law in California and shall not be required to have any certification qualification.

The duties of the legal counsel shall include: (Education Code 35041.5)

1. Rendering legal advice to the County Board, the County Superintendent, and other officers and employees as appropriate;
2. Serving the County Board and the County Superintendent in the preparation and conduct of litigation and administrative proceedings;
3. Performing other administrative duties as assigned by the County Board or County Superintendent.

The County Board may employ or contract with any qualified person for the provision to the County Board of special services and advice in legal matters. The County Board shall fix the compensation to be paid for the special service or advice, and may pay such compensation from any available funds. (Education Code 1042)

The County Board may consult with the legal counsel whenever a majority of its members deem such consultation necessary. The County Board may consult with the legal counsel as a group or by authorizing a specific County Board member to consult with the legal counsel on behalf of the County Board.

Legal Reference:

EDUCATION CODE

1042 County boards: authority

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

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

GOVERNMENT CODE

814-895.8 Liability of public entities and public employees

995-996.6 Defense of public employees

53060 Miscellaneous

BOARD COMMITTEES

The Tehama County Board of Education may establish Board committees on matters within its jurisdiction. The County Board shall define the duties, responsibilities, authority and term of a Board committee at the time of the committee's establishment. Unless specifically authorized by the County Board to act on its behalf, Board committees shall act in an advisory capacity only.

The Board president shall appoint all committees with County Board approval.

All County Board committees shall report their activities and/or recommendations to the County Board at an open meeting of the County Board, except in matters on which a closed session is required by law.

Board committees shall provide public notice of their meetings and conduct these meetings in accordance with state open meeting laws. An agenda of any such committee meeting shall be posted not less than 24 hours prior to the meeting. Meetings of advisory committees or standing committees for which an agenda is posted at least 72 hours in advance of the meeting, shall be considered as regular meetings of the County Board, for purposes of the Brown Act. (Government Code 54954)

Board advisory committees composed solely of less than a quorum of the members of the County Board are not subject to open meeting laws unless they are standing committees that have a continuing subject matter jurisdiction or a meeting schedule established by the County Board. (Government Code 54952)

Standing committees with continuing subject matter jurisdiction include but are not limited to those responsible for providing advice on finance, Board policy, governmental relations, curriculum development and program evaluation, at the County Board's request.

When a majority of the members of the County Board attend an open and noticed meeting of a standing committee, the County Board members who are not members of the standing committee shall attend only as observers. (Government Code 54952.2)

At the request of the County Board, the Tehama County Superintendent of Schools or designee may serve and/or nominate any Department staff member to serve as an advisor to, or as a non-voting member of a Board committee.

Whenever so charged, committees may actively seek input and participation by parents/guardians, staff, community and students and may consult with local public boards and agencies.

BOARD COMMITTEES (continued)

When a Board committee composed exclusively of County Board members has provided for public comment on an item at a public meeting before or during the committee's consideration of the item, the County Board may or may not provide for public comment on the item at a subsequent Board meeting. Public comment shall be afforded, however, if the County Board determines that the item has been substantially changed since it was heard by the committee. (Government Code 54954.3)

Legal Reference:

EDUCATION CODE

1040 Duties and responsibilities; county boards of education

1042 County boards; authority

GOVERNMENT CODE

54952 Legislative body, definition

54952.2 Definition of meeting

54954 Time and place of regular meetings; special meetings; emergencies

54954.3 Opportunity for public to address legislative body

ATTORNEY GENERAL OPINIONS

81 Ops.Cal.Atty.Gen. 156 (1998)

80 Ops.Cal.Atty.Gen. 308 (1997)

79 Ops.Cal.Atty.Gen. 69 (1996)

BOARD REPRESENTATIVES

The Tehama County Board of Education may appoint any of its members to serve as its representatives on Tehama County Department of Education committees or advisory committees of other public agencies or organizations. Due to open meeting law requirements, a majority of the County Board shall not be appointed to serve on the same committee.

When making such appointments, the County Board shall clearly specify, on a case-by-case basis, what authority and responsibilities are involved. County Board representatives shall not grant Department support or endorsement for any activity without prior County Board approval.

If a committee discusses a topic on which the County Board has taken a position, the County Board member may express that position as a representative of the County Board. When contributing individual ideas or opinions on other topics, he/she shall make it clear that he/she is speaking as an individual, not on behalf of the County Board.

Legal Reference:

EDUCATION CODE

4000-4014 County committees on school district organization

35020-35046 School district officers and agents (power of governing board to employ or appoint)

35160 Authority of governing boards

GOVERNMENT CODE

54952.2 Meetings

LIMITS OF BOARD MEMBER AUTHORITY

The Tehama County Board of Education has broad but clearly limited powers. The exercise of its authority is restricted to the functions required or permitted by law, and then only when it acts in a legally constituted meeting.

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

Individual members of the Board, by virtue of holding office, shall not exercise any administrative responsibility with respect to the Department or command the services of any Department employee.

Obligations of Board Members

County Board members should hold the education of children and youth above any partisan principle, group interest, or personal interest.

County Board members should understand their role and the programs offered by the Department. They should study all agenda materials before the meeting, participate in the discussion of items which come before the Board, vote on motions and resolutions, and abstain only for compelling reasons.

Board members shall refer Board-related correspondence to the Tehama County Superintendent of Schools or designee for forwarding to the Board or for placement on the Board's agenda.

Board members and persons elected to the Board are responsible for complying with the requirements of the state's open meeting laws.

Legal Reference: (see next page)

LIMITS OF BOARD MEMBER AUTHORITY (continued)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

7054 Use of district property

35010 Control of district; prescription and enforcement of rules

35100-35351 Governing boards, especially:

35160-35184 Powers and duties

35291 Rules

35292 Visits to schools (Board members)

51101 Rights of parents/guardians

GOVERNMENT CODE

54950-54962 The Ralph M. Brown Act, especially:

54952.1 Member of a legislative body of a local agency

54952.7 Copies of chapter to members of legislative body

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardmanship, 1996

WEB SITES

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

GOVERNING BOARD ELECTIONS

Any person is eligible to be a Tehama County Board of Education member, without further qualifications, if he/she is 18 years of age or older, a citizen of the state, a resident of Tehama County, a registered voter, and not legally disqualified from holding civil office. (Education Code 35107)

A Tehama County Department of Education employee elected to the County Board shall resign his/her position before being sworn in or shall have his/her employment automatically terminated upon being sworn into office. (Education Code 35107)

Whenever possible, the County Board shall consolidate County Board elections with the local municipal or statewide primary or general election. County Board election procedures shall be conducted in accordance with state and federal law.

Statement of Qualifications

The Department shall assume no part of the cost of printing, handling, translating, or mailing of candidate statements filed pursuant to Elections Code 13307.

Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)

Tie Votes in Board Member Elections

Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the County Board, the County Board shall immediately notify the candidates who received the tie votes of the time and place where the candidates or their representatives should appear before the County Board. The County Board at that time shall determine the winner by lot. (Education Code 5016)

Legal Reference: (see next page)

GOVERNING BOARD ELECTIONS (continued)

Legal Reference:

EDUCATION CODE

1000-1017 *Election, jurisdiction organization and procedure*

5000-5033 *Elections*

5220-5231 *Elections*

5300-5304 *General provisions (conduct of elections)*

5320-5329 *Order and call of elections*

5340-5345 *Consolidation of elections*

5360-5363 *Election notice*

5380 *Compensation (of election officer)*

5390 *Qualifications of voters*

5420-5426 *Cost of elections*

5440-5442 *Miscellaneous provisions*

7054 *Use of district property*

35107 *Eligibility; school district employees*

35177 *Campaign expenditures or contributions*

35239 *Compensation of governing board member of districts with less than 70 ADA*

ELECTIONS CODE

1302 *Local elections, school district election*

2201 *Grounds for cancellation*

4000-4004 *Elections conducted wholly by mail*

10400-10418 *Consolidation of elections*

10509 *Notice of election by secretary*

10600-10604 *School district elections*

13307 *Candidate's statement*

13309 *Candidate's statement, indigency*

20440 *Code of Fair Campaign Practices*

GOVERNMENT CODE

1021 *Conviction of crime*

1097 *Illegal participation in public contract*

12940 *Nondiscrimination, Fair Employment and Housing Act*

81000-91014 *Political Reform Act*

PENAL CODE

68 *Bribes*

74 *Acceptance of gratuity*

424 *Embezzlement and falsification of accounts by public officers*

661 *Removal for neglect or violation of official duty*

CALIFORNIA CONSTITUTION

Article 2, Section 2 *Voters, qualifications*

Article 7, Section 7 *Conflicting offices*

Article 7, Section 8 *Disqualification from office*

COURT DECISIONS

Randall v. Sorrell, (2006) 126 S.Ct. 2479

Legal Reference continued: (see next page)

GOVERNING BOARD ELECTIONS (continued)

Legal Reference: (continued)

ATTORNEY GENERAL OPINIONS

85 Ops.Cal.Atty.Gen. 49 (2002)

83 Ops.Cal.Atty.Gen. 181 (2000)

81 Ops.Cal.Atty.Gen. 98 (1998)

69 Ops.Cal.Atty.Gen. 290 (1986)

Management Resources:

WEB SITES

California Secretary of State's Office: <http://www.ss.ca.gov>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

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

RESIGNATION

A Tehama County Board of Education member who wishes to resign may do so by filing a written resignation with the Tehama County Superintendent of Schools. (Education Code 5090)

The written resignation is effective when filed, except when a deferred effective date is specified in the resignation. (Education Code 5090)

A County Board member may not defer the effective date of his/her resignation for more than 60 days after filing. (Education Code 5091)

A written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable upon being filed. (Education Code 5090)

Upon resignation, the County Board member may continue to exercise all his/her powers, save that of voting for a successor, until the effective date of resignation. (Education Code 35178)

Legal Reference:

EDUCATION CODE

5090 *Definition (vacancy)*

5091 *Special Election*

35178 *Resignation with deferred effective date*

FILLING VACANCIES

A vacancy on the Tehama County Board of Education may arise for any of the following reasons:

1. The occurrence of any event specified in Government Code 1770.
2. Failure to elect. (Education Code 5090)
3. Removal by recall election. (Elections Code 11384)
4. When an incumbent County Board member ceases to inhabit the trustee area he/she represents on the County Board. (58 Ops.Cal.Atty.Gen. 888 (1975))

When a vacancy occurs at least four months before the end of a Board member's term, the County Board may fill the vacancy within 60 days by making a provisional appointment or ordering an election, except when a special election is mandated or prohibited. (Education Code 5091, 5093)

A special election is mandated when the vacancy occurs during the period between six months and 130 days prior to a regularly scheduled County Board election, and the position vacated is not scheduled to be filled at that election. Such special election shall be consolidated with the regular election. The person so elected shall take office at the first regularly scheduled Board meeting following the certification of the election and shall serve only until the end of the term of the position which he/she was elected to fill. (Education Code 5093)

A special election ordered by the County Board pursuant to Education Code 5091 is prohibited, if it could be consolidated with the next regular County Board election at which the vacant position is scheduled to be filled.

If a vacancy occurs less than four months before the end of a Board member's term, the County Board shall take no action. (Education Code 5093)

Provisional Appointment Process

The County Board shall accept applications and/or nominations for Board membership at a public meeting and shall select the provisional appointee from among these applicants and/or nominees by a majority vote.

Notice and Duration of Provisional Appointment

Within 10 days after the appointment is made, the County Board shall post notices of the vacancy or deferred resignation and the provisional appointment. The notice shall be published in the local newspaper and posted in at least three public places within the county. (Education Code 5092)

FILLING VACANCIES (continued)

The notice shall contain: (Education Code 5092)

1. The date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation;
2. The full name of the provisional appointee and the date of the appointment; and
3. A statement notifying the voters that unless a petition calling for a special election pursuant to Education Code 5091 is filed in the office of the Tehama County Superintendent of Schools within 30 days of the provisional appointment, it shall become an effective appointment.

The person appointed shall hold office until the next regularly scheduled election for Board members and shall be afforded all the powers and duties of a Board member upon appointment. (Education Code 5091)

Legal Reference:

EDUCATION CODE

1008 Vacancy on county board

1017 Term of Office

5090 Definition (vacancy)

5091 Special election or provisional appointment

5092 Public notice of vacancy and provisional appointment

5093 Re vacancies occurring near end of term and incumbent not reelected

5094 Power of president of county board of education when majority of offices vacant

5095 Powers of remaining board members and new electees or appointees

ELECTIONS CODE

10603-10604 School district elections

11384 Vacancy in office if majority vote for recall

GOVERNMENT CODE

1064 Absence from state

1770 Vacancies: definition

3060-3074 Removal other than by impeachment

6061 Publications and official advertising: manner of publication

54950-54962 The Ralph M. Brown Act, especially:

54953 Meetings open and public; secret ballots

ATTORNEY GENERAL OPINIONS

58 Ops.Cal.Atty.Gen. 888 (1975)

OATH OR AFFIRMATION

Prior to entering upon the duties of their office, all Tehama County Board of Education members shall take the oath or affirmation required by law. (California Constitution, Article 20, Section 3; Government Code 1360)

The oath may be administered by a County Board member, Tehama County Superintendent of Schools, Associate Superintendent, or any other person authorized in Education Code 60.

The executed oath shall be filed with the County Clerk. (Government Code 1363)

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

GOVERNMENT CODE

1303 Misdemeanor for failure to take oath

1360-1369 Oath of office

3100-3109 Oath or affirmation of allegiance

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

COURT DECISIONS

Chilton v. Contra Costa Community College District (1976) 55 Cal. App. 3d 544

Vogel v. County of Los Angeles (1967) 68 Cal. 2d 18, 22

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS

Remuneration

Each member of the Tehama County Board of Education may receive a monthly compensation of no more than \$40.00 per meeting, with a maximum of three meetings a month being compensated.

County Board members are not required to accept payment for meetings attended.

In order to receive compensation for attending any County Board meeting, County Board members shall be present.

Reimbursement of Expenses

County Board members shall be reimbursed for traveling expenses incurred when authorized in advance by the County Board. (Education Code 35044)

The rate of reimbursement shall be the same rate specified for Tehama County Department of Education personnel.

Health and Welfare Benefits

County Board members may participate in the health and welfare benefits program provided for Tehama County Department of Education employees.

County Board members who elect to participate shall pay the full cost of premiums.

Benefits for Retired Board Members

Retired County Board members may participate in the health and welfare benefits program provided for Department employees and shall pay the full cost of premiums.

Legal Reference: (see next page)

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS (continued)

Legal Reference:

EDUCATION CODE

1090-1097 Salaries and expenses

33050-33053 General waiver authority

33362-33363 Reimbursement of expenses (Department of Education and CSBA workshops)

35012 Board members; number, election and term

35044 Payment of traveling expenses of representatives of board

35120 Compensation (services as member of governing board)

35172 Promotional activities

44038 Cash deposits for transportation purchased on credit

GOVERNMENT CODE

20322 Elective officers; election to become member

53200-53209 Group insurance

UNITED STATES CODE, TITLE 26

403(b) Tax-sheltered annuities

COURT DECISIONS

Thorning v. Hollister School District, (1992) 11 Cal.App.4th 1598

Board of Education of the Palo Alto Unified School District v. Superior Court of Santa Clara County,

(1979) 93 Cal.App.3d 578

ATTORNEY GENERAL OPINIONS

83 Ops.Cal.Atty.Gen. 124 (2000)

Management Resources:

WEB SITES

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

Public Employees' Retirement System: <http://www.calpers.ca.gov>

LEGAL PROTECTION

Liability Insurance

The Tehama County Board of Education shall provide insurance necessary to protect County Board members, Tehama County Superintendent of Schools, and Tehama County Department of Education employees while acting within the scope of their office or employment in accordance with Education Code 35208.

Protection Against Liability

No County Board member shall be liable for harm caused by his/her act or omission when acting within the scope of Department responsibilities. The act or omission must be in conformity with federal, state and local laws and made in furtherance of an effort to control, discipline, expel or suspend a student, or maintain order or control in the classroom or school. (20 USC 6736)

The protection against liability shall not apply when: (20 USC 6736)

1. The County Board member acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the harmed person's right to safety.
2. The County Board member caused harm by operating a motor vehicle.
3. The County Board member was not properly licensed, if required, by the State for such activities.
4. The County Board member was found by a court to have violated a federal or state civil rights law.
5. The County Board member was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the County Board member has been convicted in a court.
7. The misconduct involved a sexual offense for which the County Board member has been convicted in a court.

Legal Reference: (see next page)

LEGAL PROTECTION (continued)

Legal Reference:

EDUCATION CODE

17029.5 *Contract funding; board liability*

35208 *Liability insurance*

35214 *Liability insurance (self-insurance or a combination of self-insurance and insurance through an insurance company)*

GOVERNMENT CODE

815.3 *Intentional torts*

820-823 *Tort Claims Act*

825.6 *Indemnification of public entity*

1090-1098 *Conflicts of interest, prohibitions applicable to specified officers*

54950-54963 *The Ralph M. Brown Act*

87100-89503 *Conflicts of interest*

UNITED STATES CODE, TITLE 18

16 *Crime of violence defined*

UNITED STATES CODE, TITLE 20

6731-6738 *Teacher Protection Act*

COURT DECISIONS

Caldwell v. Montoya (Paramount Unified School District) 10 Cal 4th 972 (1995)

CONFLICT OF INTEREST

The Political Reform Act of 1974 (Government Code Section 81000 et. seq.) requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (California Code Regulations Title 2, Section 18730) which contains the terms of a standard Conflict of Interest Code. This regulation, including any future amendments made by the Fair Political Practices Commission, may be incorporated by reference into a local agency’s Conflict of Interest Code. Therefore, the terms of California Code of Regulations, Title 2, Section 18730 and any future amendments to it duly adopted by the Fair Political practices Commission are hereby incorporated by reference into this Code and along with the attachments hereto constitutes the Conflict of Interest Code for the Tehama County Department of Education.

**Attachment A
Designated Employees**

Under provisions of the code, Designated Employees shall file statements of economic interests. Listed below are the designated positions for the Tehama County Department of Education and the appropriate disclosure category for filing the statement of economic interests.

Position	Disclosure Category
Associate Superintendent	1
Interim Chief Business Official	1

The following positions are not covered by the code because they must file under Government Code Section 87200 and, therefore, are listed for informational purposes only:

Governing Board Members	1
County Superintendent	1

**Attachment B
Disclosure Categories for Designated Positions**

Category 1

All sources of income, interests in real property and investments and business positions in business entities located in or doing business in Tehama County, including gifts, loans, and travel payments.

Category II

All investments and business positions in business entities and sources of income, including gifts, loans, and travel payments, which provide services, supplies, materials, machinery or equipment of the type utilized by the Tehama County Department of Education.

CONFLICT OF INTEREST (continued)

Category III

All sources of income, investments and business positions in business entities located in or doing business in Tehama County.

Category IV

Any income from any employee of the Tehama County Department of Education, including gifts, loans, and travel payments.

Category V

All interests in real property.

All investments and business positions in any business entity located in or doing business in Tehama county or income from any source if the business entity or source of income manufactures or sells supplies, machinery or equipment of the type utilized by the Tehama County Department of Education.

All investments and business positions in any business entity or income from any source if the business entity or source of income is a contractor or subcontractor engaged in the performance of work or services of the type utilized by the Tehama County Department of Education.

Attachment C
Place of Filing

Pursuant to Government Code Section 87500, Subdivisions (k) and (o), the Tehama county Board of Supervisors, as the code reviewing body for the Tehama County Department of Education, has determined that the original Form 700 – Statement of Economic Interests for each Designated Employee shall be filed with the Tehama County Department of Education. The Department shall provide a Form 700 – Statement of Economic Interests, to each Designated Employee annually and when that employee assumes or leaves any designated position. The employee shall complete the file the form with the Department at the address below within the time required by law.

WHERE: Tehama County Department of Education
1135 Lincoln Street
P.O. Box 689
Red Bluff, CA 96080

Filers designed by Government Code Section 87200 shall file TWO original Form 700 – Statement of Economic Interests. One is to be filed with the Department and one with the Clerk of the Board/Elections at the address below within the time required by law.

CONFLICT OF INTEREST (continued)

WHERE: Clerk of the Board/Elections
633 Washington Street, Room 12
P.O. Box 250
Red Bluff, CA 96080

Legal Reference:

EDUCATION CODE

1006 *Qualifications for holding office*

35107 *School district employees*

35230-35240 *Corrupt practices, especially:*

35233 *Prohibitions applicable to members of governing boards*

41000-41003 *Moneys received by school districts*

FAMILY CODE

297.5 *Rights, protections, and benefits of registered domestic partners*

GOVERNMENT CODE

1090-1099 *Prohibitions applicable to specified officers*

1125-1129 *Incompatible activities*

81000-91014 *Political Reform Act of 1974, especially:*

GOVERNMENT CODE (continued)

82011 *Code reviewing body*

87100-87103.6 *General prohibitions*

87200-87210 *Disclosure*

87300-87313 *Conflict of interest code*

87500 *Statements of economic interests*

89501-89503 *Honoraria and gifts*

91000-91014 *Enforcement*

PENAL CODE

85-88 *Bribes*

CODE OF REGULATIONS, TITLE 2

18110-18997 *Regulations of the Fair Political Practices Commission, especially:*

18702.5 *Public identification of a conflict of interest for Section 87200 filers*

COURT DECISIONS

Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655

Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

ATTORNEY GENERAL OPINIONS

92 Ops.Cal.Atty.Gen. 26 (2009)

92 Ops.Cal.Atty.Gen. 19 (2009)

89 Ops.Cal.Atty.Gen. 217 (2006)

86 Ops.Cal.Atty.Gen. 138(2003)

85 Ops.Cal.Atty.Gen. 60 (2002)

82 Ops.Cal.Atty.Gen. 83 (1999)

81 Ops.Cal.Atty.Gen. 327 (1998)

80 Ops.Cal.Atty.Gen. 320 (1997)

69 Ops.Cal.Atty.Gen. 255 (1986)

68 Ops.Cal.Atty.Gen. 171 (1985)

65 Ops.Cal.Atty.Gen. 606 (1982)

63 Ops.Cal.Atty.Gen. 868 (1980)

Management Resources (see next page)

CONFLICT OF INTEREST (continued)

Management Resources:

CSBA PUBLICATIONS

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009

Understanding the Basics of Public Service Ethics: Transparency Laws, 2009

WEB SITES

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

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute of Local Government: <http://www.ca-ilg.org>

BOARD POLICIES

Tehama County Board of Education policies are written statements adopted by the County Board which communicate the guidelines within which the Tehama County Superintendent of Schools or designee and staff may take discretionary action.

The County Superintendent or designee shall present drafts or suggestions for new policy and policy revisions when changes in law occur and when specific needs arise.

The County Board encourages members of the community to contribute information and opinions for the County Board's consideration and to propose revisions to policy. When drafting or revising policies which affect other governmental agencies/ the County Board welcomes input from these agencies and will cooperate with them in addressing matters of mutual concern.

The County Superintendent or designee shall provide for the continuous orderly review of existing policies at a time allocated for this purpose on the agenda of regular County Board meetings.

The County Board shall review certain policies annually, as required by law. (Education Code 35160.5)

The adoption of policy shall conform with County Board bylaws governing agendas, meetings, and voting. Only those written statements adopted and recorded in the minutes shall constitute official County Board policy.

Before adoption, policies shall normally be given two readings by the County Board.

At its second reading, the policy may be adopted by a majority vote of all members of the County Board. The County Board may waive the second reading or may require additional readings.

When policies are amended the County Superintendent or designee shall review corresponding administrative regulations to ensure that they conform to the intent of the revised policy.

Suspension of Policies, Bylaws, Administrative Regulations

Policies, bylaws and administrative regulations may be suspended for a specific purpose and limited time by majority vote.

Suspension of any policy, bylaw or administrative regulation shall undergo the following consideration:

1. Policies, bylaws or administrative regulations shall be reviewed on their own merits rather than the circumstances of the moment.

BOARD POLICIES (continued)

2. The County Board shall decide whether the policy, bylaw or administrative regulation reflects the intent of the County Board and the law. If so, the suspension will be denied and the policy, bylaw or administrative regulation reaffirmed in the minutes.

Superintendent's Authority

The County Superintendent may suspend all or part of any policy, bylaw or administrative regulation when it conflicts with state or federal law or regulations. The County Superintendent shall report the suspension to the County Board. Suspension shall be valid until the policy, bylaw or administrative regulation is rescinded, amended or reaffirmed.

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35160 Authority of governing boards

35160.5 Annual review of school district policies

35163 Official actions, minutes and journal

35164 Vote requirements

Management Resources:

CSBA PUBLICATIONS

Targeting Student Learning: The School Board's Role as Policymaker, 2005

Maximizing School Board Leadership: Policy, 1996

WEB SITES

CSBA, Policy Services, including Policy Update Service, Governance and Management Using Technology (GAMUT Online™), Policy Audit Program, Individual District Policy Workshops, Agenda Online, and Manual Maintenance: <http://www.csba.org/ps>

National School Boards Association: <http://www.nsba.org>

MEETINGS AND NOTICES

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

A County Board meeting exists whenever a majority of County Board members gather at the same time and place to hear, discuss, or deliberate upon any item within the subject matter jurisdiction of the County Board. (Government Code 54952.2)

A majority of the County Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the County Board. However, an employee or Tehama County Department of Education official may engage in separate conversations with County Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the County Board, as long as that employee or Department official does not communicate the comments or position of any County Board members to other County Board members. (Government Code 54952.2)

In order to help ensure participation in the meeting by disabled individuals, the County Tehama County Superintendent of Schools or designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. (Government Code 54953.2, 54954.1)

Meeting notices and agendas shall specify that any individual who requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the County Board meeting should contact the County Superintendent or designee. (Government Code 54954.2)

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

Regular Meetings

The County Board shall hold one regular meeting each month. Regular meetings shall be held at 5:00 p.m. on the third Wednesday of each month at 1135 Lincoln Street, Red Bluff.

At least 72 hours prior to a regular meeting, the agenda shall be posted at one or more locations freely accessible to members of the public and on the department's Internet website. (Government Code 54954.2)

MEETINGS AND NOTICES (continued)

Special Meetings

Special meetings of the County Board may be called at any time by the presiding officer or a majority of the County Board members. (Government Code 54956)

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

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

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

Emergency Meetings

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

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

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

MEETINGS AND NOTICES (continued)

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

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

Adjourned/Continued Meetings

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

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

Other Gatherings

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

1. A conference or similar public gathering open to the public that involves a discussion of issues of general interest to the public or to school board members
2. An open, publicized meeting organized by a person or organization other than the Department to address a topic of local community concern
3. An open and noticed meeting of another body of the Department

MEETINGS AND NOTICES (continued)

4. An open and noticed meeting of a legislative body of another local agency
5. A purely social or ceremonial occasion

Individual contacts or conversations between a County Board member and any other person are not subject to the Brown Act. (Government Code 54952.2)

Location of Meetings

Meetings shall not be held in a facility that prohibits the admittance of any person on the basis of ancestry or any characteristic listed in Government Code 11135, including, but not limited to, religion, sex, or sexual orientation. In addition, meetings shall not be held in a facility which is inaccessible to disabled persons or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)

Meetings shall be held within County boundaries, except to do any of the following: (Government Code 54954)

1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the Department is a party
2. Inspect real or personal property which cannot conveniently be brought to the Department location, provided that the topic of the meeting is limited to items directly related to the property
3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law
4. Meet in the closest meeting facility if the Department has no meeting facility within its boundaries or if its principal office is located outside the Department
5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the Department over which the state or federal officials have jurisdiction
6. Meet in or near a facility owned by the Department but located outside the Department, provided the meeting agenda is limited to items directly related to that facility
7. Visit the office of the Department's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs

MEETINGS AND NOTICES (continued)

Meetings exempted from the boundary requirements, as specified in items #1-7 above, shall still be subject to the notice and open meeting requirements for regular and special meetings when a quorum of the County Board attends the meeting.

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

Teleconferencing

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

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

During the teleconference, at least a quorum of the members of the County Board shall participate from locations within County boundaries. (Government Code 54953)

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

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

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

MEETINGS AND NOTICES (continued)

Legal Reference:

EDUCATION CODE

- 35140 Time and place of meetings
- 35143 Annual organizational meeting, date, and notice
- 35144 Special meeting
- 35145 Public meetings
- 35145.5 Agenda; public participation; regulations
- 35146 Closed sessions
- 35147 Open meeting law exceptions and applications

GOVERNMENT CODE

- 11135 State programs and activities, discrimination
- 54950-54963 The Ralph M. Brown Act, especially:
- 54953 Meetings to be open and public; attendance
- 54954 Time and place of regular meetings
- 54954.2 Agenda posting requirements, board actions
- 54956 Special meetings; call; notice
- 54956.5 Emergency meetings

UNITED STATES CODE, TITLE 42

- 12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

- 35.160 Effective communications
- 36.303 Auxiliary aids and services

COURT DECISIONS

- Wolfe v. City of Fremont, (2006) 144 Cal.App. 544

ATTORNEY GENERAL OPINIONS

- 88 Ops. Cal. Atty. Gen. 218 (2005)
- 84 Ops. Cal. Atty. Gen. 181 (2001)
- 84 Ops. Cal. Atty. Gen. 30 (2001)
- 79 Ops. Cal. Atty. Gen. 69 (1996)
- 78 Ops. Cal. Atty. Gen. 327 (1995)

Management Resources:

CSBA PUBLICATIONS

- The Brown Act: School Boards and Open Meeting Laws, rev. 2006

ATTORNEY GENERAL PUBLICATIONS

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

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

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

WEB SITES

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

CSBA, Agenda Online:

<http://www.csba.org/Services/Services/GovernanceTechnology/AgendaOnline.aspx>

California Attorney General's Office: <http://www.caaag.state.ca.us>

Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>

CLOSED SESSION PURPOSES AND AGENDAS

The Tehama County Board of Education may hold closed sessions only for purposes identified in law. The County Board may hold a closed session at any time during a regular or special meeting and during emergency meetings in accordance with law. (Government Code 54956.5, 54957.7, 54962)

The agenda shall contain a brief general description of all closed session items to be discussed. (Government Code 54954.2)

The County Board shall disclose in open meeting the items to be discussed in closed session. In the closed session, the County Board may consider only those matters covered in its statement. (Government Code 54957.7)

No agenda, notice, announcement, or report required by the Brown Act need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed. (Government Code 54961)

In accordance with law, a County Board member shall not disclose confidential information received in a closed session unless the County Board authorizes the disclosure of that information. (Government Code 54963)

Matters Related to Students

The County Board shall meet in closed session to conduct expulsion appeals hearings or interdistrict transfer appeals hearings for students in school districts in Tehama County, unless the student submits a written request at least five days before the date of the hearing that the hearing be held in open session. Regardless of whether the expulsion hearing is conducted in open or closed session, the County Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code 48918)

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion appeals hearing," "interdistrict transfer appeals hearing," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping.

Pending Litigation

Based on the advice of its legal counsel, the County Board may hold a closed session to confer with or receive advice from its legal counsel regarding pending litigation when a discussion of the matter in open session would prejudice the County Board's position in the case. For this purpose, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

Litigation is considered "pending" when any of the following circumstances exist:

1. Litigation to which the County Board is a party has been initiated formally. (Government Code 54956.9(a))
2. A point has been reached where, in the County Board's opinion based on the advice of legal counsel and on the existing facts and circumstances, there is a significant exposure to litigation against the Tehama County Department of Education, or the County Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized. (Government Code 54956.9(b))
3. Based on existing facts and circumstances, the County Board has decided to initiate or is deciding whether to initiate litigation. (Government Code 54956.9(c))

"Existing facts and circumstances" authorizing a closed session pursuant to Government Code 54956.9(b) as described in item #2 above are limited to the following: (Government Code 54956.9)

1. Facts and circumstances that might result in litigation against the Department but which the Department believes are not yet known to potential plaintiffs and which do not need to be disclosed.
2. Facts and circumstances including, but not limited to, an accident, disaster, incident or transactional occurrence which might result in litigation against the Department, which are already known to potential plaintiffs, and which must be publicly disclosed before the closed session or specified on the agenda.
3. The receipt of a claim pursuant to the Tort Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.
4. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the County Board.
5. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the County Board, provided that the Department official or employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection.

CLOSED SESSION PURPOSES AND AGENDAS (continued)

The above record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat on his/her behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.

Before holding a closed session pursuant to this section, the County Board shall state on the agenda or publicly announce the subdivision of Government Code 54956.9 under which the closed session is being held. If authority is based on Government Code 54956.9(a), the County Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the Department's ability to effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage. (Government Code 54956.9)

Agenda items related to "pending litigation" shall be described as a conference with legal counsel regarding "existing litigation" or "anticipated litigation." (Government Code 54954.5)

"Existing litigation" items shall identify the name of the case specified by either the claimant's name, names of parties and case or claim number, unless the County Board states that to identify the case would jeopardize service of process or existing settlement negotiations. (Government Code 54954.5)

"Anticipated litigation" items shall state that there is significant exposure to litigation pursuant to Government Code 54956.9(b) and shall specify the potential number of cases. When the Department expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code 54956.9(c) and shall specify the potential number of cases. The agenda or an oral statement before the closed session may be required to provide additional information pursuant to items #2-5 above. (Government Code 54954.5, Government Code 54956.9(b)(3)(B-E))

Review of Audit Report from Bureau of State Audits

Upon receipt of a confidential final draft audit report from the Bureau of State Audits, the County Board may meet in closed session to discuss its response to that report. After public release of the report from the Bureau of State Audits, any County Board meeting to discuss the report must be conducted in open session, unless exempted from that requirement by some other provision of law. (Government Code 54956.75)

Closed session agenda items related to an audit by the Bureau of State Audits shall state "Audit by Bureau of State Audits." (Government Code 54954.5)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

Review of Assessment Instruments

The County Board may meet in closed session to review the contents of any student assessment instrument approved or adopted for the statewide testing system. Before any such meeting, the County Board shall agree by resolution to accept any terms or conditions established by the State Board of Education for this review. (Education Code 60617)

Agenda items related to the review of student assessment instruments shall state that the County Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program and that Education Code 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

Legal Reference: (see next page)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

Legal Reference:

EDUCATION CODE

35145 *Public meetings*

35146 *Closed session (re student suspension)*

44929.21 *Districts with ADA of 250 or more*

48918 *Rules governing expulsion procedures; hearings and notice*

49073 *Release of directory information*

49076 *Access to records by persons without written parental consent*

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

60617 *Meetings of governing board*

GOVERNMENT CODE

3540-3549.3 *Educational Employment Relations Act*

6250-6268 *California Public Records Act*

54950-54963 *The Ralph M. Brown Act*

COURT DECISIONS

Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners (2003) 107 Cal.App.4th 860

Bell v. Vista Unified School District (2001) 82 Cal.App. 4th 672

Fischer v. Los Angeles Unified School District (1999) 70 Cal.App. 4th 87

Furtado v. Sierra Community College District (1998) 68 Cal. App. 4th 876

Roberts v. City of Palmdale (1993) 5 Cal.4th 363

Sacramento Newspaper Guild v. Sacramento County Board of Supervisors (1968) 263 Cal.App. 2d 41

ATTORNEY GENERAL OPINIONS

86 *Ops. Cal. Atty. Gen. 210 (2003)*

78 *Ops. Cal. Atty. Gen. 218 (1995)*

59 *Ops. Cal. Atty. Gen. 532 (1976)*

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 2003

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, California Attorney General's Office, 2002

CALIFORNIA CITY ATTORNEY PUBLICATIONS

Open and Public III: A User's Guide to the Ralph M. Brown Act, 2000

WEB SITES

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

California Attorney General's Office: <http://www.caag.state.ca.us>

CLOSED SESSION ACTIONS AND REPORTS

No matters other than those announced in open session shall be acted upon during the closed session. (Government Code 54957.7)

The Tehama County Board of Education shall reconvene in open session before adjourning and report closed session actions, the votes or abstentions thereon, and other disclosures required by Government Code 54957.1. These disclosures may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing them. (Government Code 54957.7)

Student Matters

In school district expulsion appeals and interdistrict attendance appeals, the student's name shall not be disclosed. No information shall be released in violation of student privacy rights provided in law. (Education Code 35146, 48918; 20 USC 1232)

Real Estate Negotiations

Approval of an agreement concluding real estate negotiations shall be reported after the agreement is final. If the County Board renders the agreement final, it shall report that approval, the votes or abstentions thereon, and the substance of the agreement in open session at the public meeting during which the closed session is held. If final approval rests with the other party, the Tehama County Superintendent of Schools or designee shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the Tehama County Department of Education of its approval. (Government Code 54957.1)

Pending Litigation

The County Board shall report the following actions related to pending litigation, and the votes or abstentions thereon, at the public meeting during which the closed session is held: (Government Code 54957.1)

1. Approval to legal counsel to defend, appeal or not appeal, or otherwise appear in litigation. This report shall identify the adverse parties, if known, and the substance of the litigation.
2. Approval to legal counsel to initiate or intervene in a lawsuit. This report shall state that directions to initiate or intervene in the action have been given and that details will be disclosed to inquiring parties after the lawsuit is commenced unless doing so would jeopardize the Department's ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage.

CLOSED SESSION ACTIONS AND REPORTS (continued)

3. Acceptance of a signed offer from the other party or parties which finalizes the settlement of pending litigation. This report shall state the substance of the agreement.

If approval is given to legal counsel to settle pending litigation and if final approval rests with the other party or with the court, the Department shall report the fact of approval, the substance of the agreement and the vote and abstentions thereon to persons who inquire once the settlement is final. (Government Code 54957.1)

JPA/Self-Insurance Claims

The County Board shall report the disposition of joint powers authority or self-insurance claims and the votes or abstentions thereon at the public meeting during which the closed session is held. This report shall include the name of the claimant(s), the name of the agency claimed against, the substance of the claim and the monetary settlement agreed upon by the claimant. (Government Code 54957.1)

Legal Reference:

EDUCATION CODE

35145 *Public meetings*

35146 *Closed session (re student matters)*

48918 *Rules governing expulsion procedures; hearings and notice*

49073-49079 *Privacy of student records*

60617 *Meetings of governing board*

GOVERNMENT CODE

54950-54963 *The Ralph M. Brown Act, especially:*

54957.1 *Closed sessions; public report of action taken*

54957.6 *Closed sessions; representatives to employee organization(s)*

54957.7 *Disclosure of items to be discussed*

UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.8 *Family Educational Rights and Privacy*

COURT DECISIONS

Kleitman v. Superior Court of Santa Clara County 87 Cal Rptr. 2d (1999)

ATTORNEY GENERAL OPINIONS

80 *Ops. Cal. Atty. Gen.* 85 (1997)

AGENDA/MEETING MATERIALS

Agenda Content

Tehama County Board of Education meeting agendas shall state the meeting time and place and shall briefly describe each business item to be transacted or discussed, including items to be discussed in closed session. (Government Code 54954.2)

The agenda shall provide members of the public the opportunity to address the County Board on any agenda item before or during the County Board's consideration of the item. The agenda shall also provide members of the public an opportunity to testify at regular meetings on matters which are not on the agenda but which are within the subject matter jurisdiction of the County Board. (Education Code 35145.5; Government Code 54954.3)

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

The agenda shall specify that an individual who requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the County Board meeting should contact the County Superintendent or designee. (Government Code 54954.2)

Agenda Preparation

A County Board member or member of the public may request that a matter within the jurisdiction of the County Board be placed on the agenda of a regular meeting. The request shall be in writing and be submitted to the County Superintendent or designee with supporting documents and information, if any, at least one week before the scheduled meeting date. Items submitted less than a week before the scheduled meeting date may be postponed to a later meeting in order to allow sufficient time for consideration and research of the issue.

The County Board president and County Superintendent shall decide whether a request is within the subject matter jurisdiction of the County Board. Items not within the subject matter jurisdiction of the County Board may not be placed on the agenda. In addition, the County Board president and County Superintendent shall determine if the item is merely a request for information or whether the issue is covered by an existing policy or administrative regulation before placing the item on the agenda.

The County Board president and County Superintendent shall decide whether an agenda item is appropriate for discussion in open or closed session, and whether the item should be an action item subject to County Board vote, an information item that does not require immediate action, or a consent item that is routine in nature and for which no discussion is anticipated.

AGENDA/MEETING MATERIALS (continued)

Any County Board action that involves borrowing \$100,000 or more shall be discussed, considered, and deliberated upon as a separate item of business on the meeting agenda. (Government Code 53635.7)

All public communications with the County Board are subject to requirements of relevant County Board policies and administrative regulations.

Agenda Dissemination to Board Members

At least three days before each regular meeting, a copy of the agenda and agenda packet shall be forwarded to each County Board member, including the County Superintendent or designee's report; minutes to be approved; copies of communications; reports from committees, staff, citizens, and others; and other available documents pertinent to the meeting.

When special meetings are called, the County Superintendent or designee shall make every effort to distribute the agenda and supporting materials to County Board members as soon as possible before the meeting.

County Board members shall review agenda materials before each meeting. Individual members may confer directly with the County Superintendent or designee to request additional information on agenda items.

Agenda Dissemination to Members of the Public

The County Superintendent or designee shall mail or e-mail a copy of the agenda or a copy of all the documents constituting the agenda packet to any person who requests the items. The materials shall be mailed at the time the agenda is posted or upon distribution of the agenda to a majority of the County Board, whichever occurs first. (Government Code 54954.1)

If a document is distributed to the County Board less than 72 hours prior to a meeting, the County Superintendent or designee shall make the document available for public inspection at the time the document is distributed to a majority of the County Board provided that the document is a public record under the Public Records Act and relates to an agenda item for an open session of a regular County Board meeting. The County Superintendent or designee may also post the document on the Department's web site in a position and manner that makes it clear that the document relates to an agenda item for an upcoming meeting. (Government Code 54957.5)

AGENDA/MEETING MATERIALS (continued)

Any documents prepared by the Department or the County Board and distributed during a public meeting shall be made available for public inspection at the meeting. Any documents prepared by another person shall be made available for public inspection after the meeting. These requirements shall not apply to a document that is exempt from public disclosure under the Public Records Act. (Government Code 54957.5)

Upon request, the County Superintendent or designee shall make the agenda, agenda packet, and/or any writings distributed at the meeting available in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act. (Government Code 54954.1)

Any request for mailed copies of agendas or agenda packets shall be in writing and shall be valid for the calendar year in which it is filed. Written requests must be renewed following January 1 of each year. (Government Code 54954.1)

Legal Reference: (see next page)

AGENDA/MEETING MATERIALS (continued)

Legal Reference:

EDUCATION CODE

35144 *Special meetings*

35145 *Public meetings*

35145.5 *Right of public to place matters on agenda*

GOVERNMENT CODE

6250-6270 *Public Records Act*

53635.7 *Separate item of business*

54954.1 *Mailed agenda of meeting*

54954.2 *Agenda posting requirements; board actions*

54954.3 *Opportunity for public to address legislative body*

54954.5 *Closed session item descriptions*

54956.5 *Emergency meetings*

54957.5 *Public records*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.160 *Effective communications*

36.303 *Auxiliary aids and services*

COURT DECISIONS

Caldwell v. Roseville Joint Union HSD, 2007 U.S. Dist. LEXIS 66318

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2007

Guide to Effective Meetings, rev. 2007

Maximizing School Board Leadership: Boardmanship, 1996

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, California Attorney General's Office, rev. 2003

CALIFORNIA CITY ATTORNEY PUBLICATIONS

Open and Public III: A User's Guide to the Ralph M. Brown Act, 2000

WEB SITES

CSBA, *Agenda Online:*

<http://www.csba.org/Services/Services/GovernanceTechnology/AgendaOnline.aspx>

California Attorney General's Office: <http://www.caag.state.ca.us>

MEETING CONDUCT

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

Notices and Agenda

The Tehama County Superintendent of Schools shall forward by mail, e-mail, fax or other means, the agenda and supporting materials, to be received by each County Board member at least three days before each regular meeting.

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

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

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

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

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

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

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

MEETING CONDUCT (continued)

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

Meeting Procedures

All County Board meetings shall begin on time and shall be guided by an agenda delivered in advance to all County Board members, and to other persons upon request.

The County Board president shall conduct County Board meetings in accordance with County Board bylaws and procedures adopted for the orderly conduct of the County Board's business. At all County Board meetings, where existing bylaws do not prescribe the procedure, the County Board shall be guided by the parliamentary procedures set forth in Robert's Rules of Order.

Quorum

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

Unless otherwise provided by law, affirmative votes by a majority of all the membership of the County Board are required to approve any action under consideration, regardless of the number of members present.

Voting and Abstentions

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

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

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

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

MEETING CONDUCT (continued)

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

Public Participation

Members of the public are encouraged to attend County Board meetings and to address the County Board concerning any item on the agenda or within the County Board's jurisdiction. So as not to inhibit public participation, persons attending County Board meetings shall not be required to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting. However, the County Board president may ask any speaker to identify himself/herself for proper recording of the minutes.

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

1. The County Board shall give members of the public an opportunity to address the County Board either before or during the County Board's consideration of each item of business to be discussed at regular or special meetings. (Government Code 54954.3)
2. At a time so designated on the agenda, members of the public may bring before the County Board, at a regular meeting, matters that are not listed on the agenda, but are within the County Board's jurisdiction. The County Board may refer such a matter to the County Superintendent or take it under advisement, but shall not take action at that time except as allowed by law. The matter may be placed on the agenda of a subsequent meeting for action or discussion by the County Board. (Government Code 54954.2)
3. Without taking action, County Board members, the County Superintendent and/or staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. Additionally, on their own initiative or in response to questions posed by the public, a County Board member, the County Superintendent or a staff member may ask a question for clarification, make a brief announcement, or make a brief report on his/her own activities. (Government Code 54954.2)

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

MEETING CONDUCT (continued)

4. The County Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of County Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the County Board determines that the item has been substantially changed since the committee heard it, the County Board shall provide an opportunity for the public to speak. (Government Code 54954.3)
5. A person wishing to be heard by the County Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits.

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

6. The County Board president may rule on the appropriateness of a topic. If the topic would be more suitably addressed at a later time, the president may indicate the time and place when it should be presented.
7. The County Board shall not prohibit public criticism of its policies, procedures, programs, services, acts or omissions. (Government Code 54954.3)
8. The County Board president shall not permit any disturbance or willful interruption of County Board meetings. Persistent disruption by an individual or group shall be grounds for the County Board president to terminate the privilege of addressing the County Board. The County Board president may have disruptive individuals removed and order the room cleared if necessary. In this case, members of the media not participating in the disturbance shall be allowed to remain, and individual(s) not participating in such disturbances may be allowed to remain at the discretion of the County Board president. When the room is ordered cleared due to a disturbance, further County Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

Recording by the Public

The County Superintendent shall designate locations from which members of the public may telecast, broadcast, photograph or tape-record open meetings without causing a distraction, pursuant to Government Code 54953.5.

MEETING CONDUCT (continued)

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

Legal Reference:

EDUCATION CODE

1013 Quorum

1015 Voting

1040 Duties and responsibilities; county boards of education

1042 County boards; authority

1090 County board member compensation

32210 Willful disturbance of public school or meeting a misdemeanor

35164 Majority vote

GOVERNMENT CODE

54952.2 Meetings defined

54953 Teleconferencing

54953.5 Audio or video tape recording of proceedings

54953.6 Broadcasting of proceedings

54954 Time and place of regular meetings

54954.2 Agenda; posting; action on other matters

54954.3 Opportunity for public to address legislative body; regulations

54956 Special meetings

54956.5 Emergency meetings

54957 Closed sessions

54957.9 Disorderly conduct of general public during meeting; clearing of room

COURT DECISIONS

Baca v. Moreno Valley Unified School District, (C.D. Cal. 1996) 936 F.Supp. 719

ATTORNEY GENERAL OPINIONS

76 *Ops.Cal.Atty.Gen.* 281 (1993)

66 *Ops.Cal.Atty.Gen.* 336, 337 (1983)

63 *Ops.Cal.Atty.Gen.* 215 (1980)

61 *Ops.Cal.Atty.Gen.* 243, 253 (1978)

59 *Ops.Cal.Atty.Gen.* 532 (1976)

ACTIONS BY THE BOARD

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

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

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

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

1. The County Board, by majority vote of its members, determines that the action responds to an emergency situation.
2. The County Board determines, either by a two-thirds majority vote of the members present at the meeting or, if less than two-thirds of the members are present, by a unanimous vote of all members present, that the need to take immediate action came to the Tehama County Department of Education's attention after the posting of the agenda.
3. The matter was properly posted for a previous meeting occurring not more than five days earlier and was continued to the meeting at which action is being taken.

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

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

Challenging Board Actions

Any demand by the Department attorney's office or any interested person to correct a County Board action shall be presented to the County Board in writing within 90 days of the date when the action was taken. Such demand shall allege a violation of any of the following: (Government Code 54960.1)

1. Government Code 54953, regarding open meeting and teleconferencing

ACTIONS BY THE BOARD (continued)

2. Government Code 54954.5, regarding closed session item descriptions
3. Government Code 54954.6, regarding new or increased tax assessments
4. Government Code 54956, regarding special meetings
5. Government Code 54956.5, regarding emergency meetings

If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.1)

Any demand to "cure and correct" an alleged violation shall clearly describe the challenged action and the nature of the alleged violation. (Government Code 54960.1)

Within 30 days of receiving the demand, the County Board shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct. If the County Board decides to not cure or correct the challenged action, the demanding party shall be informed in writing of that decision. (Government Code 54960.1)

If the County Board takes no action within the 30-day review period, its inaction shall be considered a decision not to cure or correct the action. (Government Code 54960.1)

Legal Reference:

EDUCATION CODE

- 15266 School construction bonds
- 17466 Declaration of intent to sell or lease real property
- 17481 Lease of property with residence for nondistrict purposes
- 17510-17511 Resolution requiring unanimous vote of all members constituting board
- 17546 Private sale of personal property
- 17556-17561 Dedication of real property
- 17582 District deferred maintenance fund
- 17583 Deferred maintenance fund; transfer of excess local funds
- 35144 Special meeting
- 35145 Public meetings
- 35164 Majority vote of all members constituting board for board action
- 35165 Vacancies, effect on majority and unanimous vote
- 48660 Establishment of community day schools
- 48661 School site restrictions for community day schools

Legal Reference: (continued next page)
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ACTIONS BY THE BOARD (continued)

Legal Reference: (continued)

CODE OF CIVIL PROCEDURE

1245.240 Eminent domain vote requirements

1245.245 Eminent domain, resolution adopting different use

GOVERNMENT CODE

53094 Authority to render zoning ordinance inapplicable

53097 Compliance with ordinances

53097.3 Charter school ordinances

53724 Parcel tax resolution requirements

53790-53792 Exceeding the budget

53820-53833 Temporary borrowing

53850-53858 Temporary borrowing

54950 Meetings: declaration; intent; sovereignty

54952.6 Action taken, definition

54953 Meetings to be open and public; attendance; secret ballots

54953.5 Right to record proceedings; conditions

54954.2 Agenda posting requirements; board actions

54954.5 Closed session item descriptions

54954.6 New or increased taxes or assessments; hearings; notice

54956 Special meetings; call; notice

54956.5 Emergency meetings in emergency situations

54960 Action to prevent violations

54960.1 Challenge of governing board actions

54960.5 Costs and attorney fees

65352.2 Coordination with planning agency

PUBLIC CONTRACT CODE

3400 Bid specifications

20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

20113 Emergencies, award of contracts without bids

COURT DECISIONS

Bell v. Vista Unified School District, (2002) 82 Cal.App.4th 672

Boyle v. City of Redondo Beach, (1999) 70 Cal.App.4th 1109

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 1999

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, California Attorney General's Office, 2002

CALIFORNIA CITY ATTORNEY PUBLICATIONS

Open and Public III: A User's Guide to the Ralph M. Brown Act, 2000

WEB SITES

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

California Attorney General's Office: <http://www.caag.state.ca.us>

ACTIONS BY THE BOARD

ACTIONS REQUIRING MORE THAN A MAJORITY VOTE

Actions Requiring a Two-Thirds Vote of the Board:

1. Resolution declaring intention to sell or lease real property (Education Code 17466)
2. Resolution declaring intent of Tehama County Board of Education to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the County Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease for up to three months of school property which has a residence on it and which cannot be developed for Tehama County Department of Education purposes because funds are unavailable (Education Code 17481)
5. Temporary borrowing before receipt of fiscal income, if implemented pursuant to Government Code 53820-53833 (Government Code 53821)
6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, ordering city or county zoning ordinances inapplicable to a proposed use of the property by the Department (Government Code 53094)
7. Resolution to transfer excess local funds from a deferred maintenance fund when state funds are insufficient to match local funds being held in the deferred maintenance fund (Education Code 17582, 17583)

Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting:

1. Determination that there is a need to take immediate action and that the need for action came to the Department's attention after the posting of the agenda. If less than two-thirds of the County Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)
2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the County Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

ACTIONS BY THE BOARD (continued)

Actions Requiring a Four-Fifths Vote of the Board:

1. The expenditure and transfer of necessary funds and use of Department property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense (Government Code 53790-53792)
2. Resolution, adopted between July 15 and August 30, to borrow funds of up to 25 percent of the estimated income and revenue to be received by the Department during the current fiscal year from apportionments based on average daily attendance for the preceding school year (Government Code 53822-53824)
3. Declaration of an emergency in order to authorize the Department to include a particular brand name or product in a bid specification (Public Contract Code 3400)

Actions Requiring a Unanimous Vote of the Board:

1. Resolution authorizing and prescribing the terms of a community lease for extraction of gas (Education Code 17510-17511)
2. Waiver of the competitive bid process pursuant to Public Contract Code 20111 when the County Board determines that an emergency exists and upon approval of the Tehama County Superintendent of Schools (Public Contract Code 20113)

Action Requiring a Unanimous Vote of the Board Members Present at the Meeting:

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property in the local dump or donation to a charitable organization requires the unanimous vote of the County Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

MINUTES AND RECORDINGS

The Tehama County Board of Education recognizes that maintaining accurate minutes of County Board meetings provides a record of County Board actions for use by Tehama County Department of Education staff and the public. Accurate minutes also help foster public trust that County Board actions are occurring in public in accordance with law.

The secretary of the County Board shall keep minutes and record all official County Board actions. The County Board's minutes shall be public records and shall be made available to the public upon request. (Education Code 35145, 35163)

The Tehama County Superintendent of Schools or designee shall distribute a copy of the "unapproved" minutes of the previous meeting(s) with the agenda for the next regular meeting. At the next meeting, the County Board shall approve the minutes as circulated or with necessary amendments.

In order to ensure that the minutes are focused on County Board action, the minutes shall include only a brief summary of the County Board's discussion, but shall not include a verbatim record of the County Board's discussion on each agenda topic or the names of County Board members who made specific points during the discussion.

The minutes shall include the specific language of each motion, the names of members who made and seconded the motion, and the individual votes of each member, unless the action was unanimous. When a roll call vote is taken, the names and votes of each member shall be listed. Motions or resolutions shall be recorded as having passed or failed. All motions and County Board resolutions shall be numbered consecutively from the beginning of each fiscal year.

The minutes shall reflect the names of those individuals who comment during the meeting's public comment period as well as the topics they address.

The minutes shall record which members are present and whether a member is not present for part of the meeting due to late arrival and/or early departure.

Official County Board minutes and recordings shall be stored in a secure location and shall be retained in accordance with law.

Any minutes or recordings kept for County Board meetings held in closed session shall be kept separately from the minutes or recordings of regular and special meetings. Minutes or recordings of closed sessions are not public records. (Government Code 54957.2)

MINUTES AND RECORDINGS (continued)

Recording or Broadcasting of Meetings

The Department may tape, film, or broadcast any open County Board meeting. The County Board president shall announce that a recording or broadcasting is being made at the beginning of the meeting and, as practicable, the recorder or camera shall be placed in plain view of meeting participants.

Any Department recording may be erased or destroyed 30 days after the meeting. Recordings made during a meeting are public records and, upon request, shall be made available for inspection by members of the public on a Department recorder without charge. (Government Code 54953.5)

Legal Reference:

EDUCATION CODE

35145 *Public meetings*

35163 *Official actions, minutes and journals*

35164 *Vote requirements*

GOVERNMENT CODE

54952.2 *Meeting defined*

54953.5 *Audio or video recording of proceedings*

54953.6 *Broadcasting of proceedings*

54957.2 *Closed sessions; clerk; minute book*

54960 *Violations and remedies*

PENAL CODE

632 *Unlawful to intentionally record a confidential communication without consent*

CODE OF REGULATIONS, TITLE 5

16020-16027 *Classification and retention of records*

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2007

Guide to Effective Meetings, rev. 2007

Maximizing School Board Leadership: Boardmanship, 1996

WEB SITES

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