

El Dorado County Board of Education Bylaws

1.	9000	BB	Role of The Board	Page 2
2.	9005	BB	Governance Standards	Page 4
3.	9010	BB	Public Statements	Page 6
4.	9011	BB	Disclosure of Confidential/Privileged Information	Page 7
5.	9012	BB	Board Member Electronic Communications	Page 9
6.	9100	BB	Organization	Page 11
7.	9121	BB	President and Other Officers	Page 12
8.	9130	BB	Board Committees	Page 14
9.	9140	BB	Board Representatives	Page 16
10.	9200	BB	Limits of Board Member Authority	Page 17
11.	9220	BB	Governing Board Elections	Page 18
12.	9222	BB	Resignation	Page 21
13.	9223	BB	Filling Vacancies	Page 22
14.	9224	BB	Oath or Affirmation	Page 26
15.	9230	BB	Orientation	Page 27
16.	9240	BB	Board Development	Page 29
17.	9250	BB	Remuneration, Reimbursement and Other Benefits	Page 30
18.	9260	BB	Legal Protection	Page 32
19.	9310	BB	Board Policies	Page 34
20.	9320	BB	Meetings and Notices	Page 36
21.	9321	BB	Closed Session	Page 42
22.	9322	BB	Agenda/Meeting Materials	Page 49
23.	9323	BB	Meeting Conduct	Page 52
24.	9323.2	BB	Actions by The Board	Page 56
25.	9324	BB	Minutes and Recordings	Page 60
26.	9400	BB	Board Self-Evaluation	Page 62
27.	9500	BB	County Superintendent's Remuneration	Page 63

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9000 - Role of The Board

The County Board of Education provides leadership and citizen oversight for educational programs and services operated by the county office of education (COE), including services provided to school districts and the community. The primary objective of the County Board is to work with the County Superintendent of Schools to establish the direction and priorities for the COE and to provide leadership to support the success of public education.

To fulfill its objective, the County Board shall:

1. Collaborate with the County Superintendent to ensure implementation of the shared vision, goals, and policies of the COE
2. Adopt and update policies for its own governance and for programs under the statutory authority of the County Board
3. Ensure accountability for student learning in schools and programs under the statutory authority of the County Board
4. Adopt the annual budget and review interim reports of the County Superintendent
5. Fix the salary of the County Superintendent in accordance with law and Board Bylaw 9500
6. Acquire, lease, lease-purchase, hold and convey real property for the purpose of housing the offices and the services of the COE
7. Along with the County Superintendent, ensure the provision of a safe and appropriate educational environment for all COE students
8. Conduct appeals on the following actions by district governing boards: student expulsions; interdistrict transfer requests; denials, nonrenewals, or revocations of charter school petitions; and other matters when required by law
9. Maintain a cooperative and supportive working relationship with local school districts, their school boards, and the community
10. Conduct public hearings when appropriate
11. Fulfill responsibilities relating to the Local Control Funding Formula (LCFF), including adopting the COE local control and accountability plan (LCAP) and any revisions and updates to it
12. Consider petitions and provide oversight for charter schools approved by the County Board and fulfill other statutory responsibilities in connection with charter schools

El Dorado County Board of Education Bylaws

13. Provide community leadership on educational issues and advocate on behalf of students and public education at the local, state, and federal levels

The County Board is authorized to establish, carry on, and finance any program or activity that is not in conflict with, inconsistent with, or preempted by law and does not conflict with the purposes for which the County Board is established.

Legal Reference:

EDUCATION CODE

- 1040 Duties and responsibilities; county boards of education
- 1042 County boards; authority
- 1240 Duties of county superintendent
- 1279 Disposal of personal property
- 1280 Budget revisions
- 33319.5 Implementation of authority of local agencies
- 35160 Authority of county boards
- 35160.1 Authority of county boards; legislative intent
- 47600-47616.5 Charter Schools Act of 1992, as amended
- 48919 Expulsion and appeals to county board
- 52066-52068 Adoption of local control and accountability plan

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 6100 Concept and Roles, BP 8010 Duties and Powers, BP 8040 Accountability, Review, and Evaluation, BP 8400 Goal Statement

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9005 - Governance Standards

The 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 county office of education (COE). The County Board has commitments to parents/guardians, all members of the community, COE employees, and the state of California. The County Board is bound by laws pertaining to public education and the established policies of the COE. 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 County Superintendent of Schools to ensure that a high-quality education is provided to all students in COE schools and programs and that high-quality services are provided to the community and to the school districts within the jurisdiction of the COE. 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 of authority between the County Board and the County Superintendent, 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 COE in providing services to school districts and the community
2. Work collaboratively with the County Superintendent

El Dorado County Board of Education Bylaws

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 the law and 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

35160-35160.1 Authority of county boards

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

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 0200 Professional Governance Standards, BP 8030 Code of Ethics, BP 8400

Goal Statement

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9010 - Public Statements

The County Board of Education recognizes the responsibility of County Board members in their role as community leaders to participate in public discourse on matters of civic or community interest, including those involving the county office of education (COE), and their right to freely express their personal views. However, to ensure communication of a consistent, unified message regarding COE issues, County Board members are expected to respect the authority of the County Board to choose its spokesperson to communicate its positions and to abide by established protocols.

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 County Superintendent of Schools or other designated spokesperson.

When speaking for the County Board, the spokesperson is encouraged to exercise restraint and tact and to communicate the message in a manner that promotes public confidence in the County Board's leadership.

When making public statements, County Board members shall not disclose confidential information or information received in closed session except when authorized by a majority of the County Board.

When speaking to community groups, members of the public, or the media, 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.

In addition, Board members who participate on social networking sites, blogs, or other discussion or informational sites are encouraged to conduct themselves in a respectful, courteous, and professional manner and to model good behavior for COE students and the community. Such electronic communications are subject to the same standards and protocols established for other forms of communication, and the disclosure requirements of the California Public Records Act may likewise apply to them.

Legal Reference:

GOVERNMENT CODE

6250-6270 California Public Records Act

54960 Actions to stop or prevent violation of meeting provisions

54963 Confidential information in closed session

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8020 Public Statements, BP 8300 Voting: General

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9011 - Disclosure of Confidential/Privileged Information

The 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 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 of a board meeting to a person not entitled to receive such information, unless a majority of the County Board has authorized its disclosure.

For these purposes, 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. 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:

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. Such a disclosure may result in criminal prosecution. For these purposes, confidential information also 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.

Disclosures made to law enforcement officials when reporting improper governmental activities are excepted from this prohibition.

Legal Reference:
EDUCATION CODE
35146 Closed session

El Dorado County Board of Education Bylaws

EVIDENCE CODE

1040 Privilege for official information

GOVERNMENT CODE

1098 Public officials and employees re confidential information

6250-6270 Inspection of public records

54950-54963 Brown Act, especially:

54956.8 Open meeting laws

54956.9 Closed meeting for pending litigation

54957.5 Public records

54957.7 Reasons for closed session

54963 Confidential information in closed session

ATTORNEY GENERAL OPINIONS

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

First Reading: December 6, 2016

Second Reading:

Adoption:

New Policy

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9012 - Board Member Electronic Communications

The County Board of Education recognizes that electronic communication provides an efficient and convenient way to communicate and expedite the exchange of information and to help keep the public informed about the goals, programs, and achievements of the County Board. County Board members shall exercise caution so as to ensure that electronic communications are not used as a means for deliberating outside of an agenda County Board meeting.

County Board members 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.

County Board members ~~should~~ **may** use county office of education (COE) email accounts and servers for communications related to County Board business. County Board members may use electronic communications to discuss matters that are outside the jurisdiction of the County Board, regardless of the number of members participating in the discussion, however COE email accounts and servers should not be used for these communications.

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

County Board members shall 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. As appropriate, complaints or requests for information may be forwarded to the County Superintendent so that the issue may receive proper consideration and be handled through the appropriate COE process. Communication received from the media shall be forwarded to the County Board president and the County Superintendent.

In order to minimize the risk of improper disclosure, County Board members shall not disclose confidential information or confidential information acquired during closed session.

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

Legal Reference:

EDUCATION CODE

1011 Time and place of meetings

GOVERNMENT CODE

6250-6270 California Public Records Act

11135 State programs and activities, discrimination

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

54952.2 Meeting, defined

El Dorado County Board of Education Bylaws

54953 Meetings to be open and public; attendance

54954.2 Agenda posting requirements, board actions

COURT DECISIONS

City of San Jose v. Superior Court, (2014) 225 Cal.App.4th 75

First Reading: December 6, 2016

Second Reading:

Adoption:

New Policy

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9100 - Organization

Annual Organizational Meeting

The County Board of Education shall hold an annual organizational meeting, which shall be the first meeting on or after the last Friday in November.

At the organizational meeting, the County Board shall:

1. Elect a president and a vice president from its members
2. Announce the County Superintendent as secretary/~~secretary~~ **executive officer** to the County Board
3. Authorize signatures
4. Develop a schedule of regular meetings for the year
5. ~~Develop a~~ **Review** County Board calendar for the year
6. **Review the County Board Bylaws**
- 6.7. Designate County Board representatives to County Board standing committees and, as appropriate, other public agencies or organizations of which the County Board is a member or to which the County Board is invited to participate

Election of Officers

Each year the County Board shall elect its President and may elect other officers. Election of officers shall not be done by secret ballot.

Legal Reference:

EDUCATION CODE

1007 Elections

1009 Annual organizational meeting; date and notice

1010 County Superintendent- ex-officio secretary and executive officer

1011 Regular meetings

GOVERNMENT CODE

54953 Meetings to be open and public; attendance

ATTORNEY GENERAL OPINIONS

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

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8201 Place and Time

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9121 - President and Other Officers

The 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 have the same rights as other members of the County Board, including the right to move, second, discuss and vote on all matters before the County Board. The president shall also 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 clearly state the results of the vote
9. Be responsible for the orderly conduct of all County Board meetings

The president shall perform other duties in accordance with law and County Board policy including, but not limited to:

1. Signing all instruments, acts and orders necessary to carry out state requirements and the action of the County Board
2. Calling such meetings of the County Board as he/she may deem necessary, giving notice as prescribed by law
3. Appointing members of the County Board to fill the vacant seats of a school district board when a majority of those seats are vacant
4. Subject to County Board approval, appointing and dissolving all committees
5. Subject to County Board approval, appointing County Board members to serve as representatives on committees on matters of concern to the County Board, the county office of education, or the districts, schools, and students within its jurisdiction

El Dorado County Board of Education Bylaws

6. Representing the County Board as spokesperson

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

Legal Reference:

EDUCATION CODE

1009 Annual organization of the board

1012 Special meetings

5094 Power to fill district board vacancies

GOVERNMENT CODE

54950-54963 Ralph M. Brown Act

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8120 Officers

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9130 - Board Committees

The County Board of Education may establish Board committees on matters whenever it determines that such a committee is within its jurisdiction and would benefit the county office of education (COE). The County Board shall define the duties, responsibilities, authority, and term of a committee at the time of the committee's establishment. Unless specifically authorized by the County Board to act on its behalf, such committees shall act in an advisory capacity only.

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

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

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

Committee Meetings

County Board committees, other than advisory committees with less than a majority of Board members as discussed below, 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 committee for purposes of the Brown Act.

Standing committees with continuing subject matter jurisdiction include, but are not limited to, those which at the County Board's request are responsible for providing advice on finance, policy, governmental relations, curriculum development, and program evaluation. An ad hoc committee formed for a limited term and charged with accomplishing a specific task in a short period of time is not a standing committee. 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.

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.

Committee Reports and Recommendations

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 or allowed by law.

El Dorado County Board of Education Bylaws

When an item has already been considered at a public meeting by a County Board committee composed exclusively of County Board members, and the meeting provided for public comment on the item before or during the committee's consideration of the item, the County Board may or may not provide for additional public comment on the item at a subsequent County 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.

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

54956 Special meeting notices

54956.5 Emergency meeting notices

ATTORNEY GENERAL OPINIONS

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

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

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

First Reading: December 6, 2016

Second Reading:

Adoption:

New Policy

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9140 - Board Representatives

The County Board of Education recognizes that effective performance of its community leadership responsibilities may require its participation on various committees on matters of concern to the County Board, the county office of education (COE), or the districts, schools, and students within its jurisdiction. The County Board may appoint any of its members to serve as its representative on a committee of another public agency or organization of which the County Board is a member or to which the County Board is invited to participate.

If a committee discusses a topic on which the County Board has taken a position, the County Board member shall express the position of the County Board. When contributing his/her own ideas or opinions, the representative shall very clearly indicate that he/she is expressing his/her individual idea or opinion and not the opinions of the County Board.

When making such appointments, the County Board shall clearly specify the authority and responsibilities of the representative(s), including, but not limited to, reporting back to the County Board regarding committee activities and/or actions. County Board representatives shall not exercise the authority of the County Board without prior County Board approval.

Legal Reference:

EDUCATION CODE

1040-1047 Duties of county boards of education

35160-35160.2 Authority of governing boards

GOVERNMENT CODE

54952.2 Meetings

First Reading: December 6, 2016

Second Reading:

Adoption:

New Policy

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9200 - Limits of Board Member Authority

The County Board of Education recognizes that it has authority only as unit and that a County Board member has no individual authority. County Board members shall hold the education of students above any partisan principle, group interest, or personal interest.

Unless agreed to by the County Board as a whole, individual members of the County Board shall not exercise any authority with respect to any matter within the jurisdiction of the County Board. In appropriate circumstances individual County Board members may independently submit requests for information to the secretary of the County Board.

Individual County Board members do not have the authority to resolve complaints. Any County Board member approached directly by a person with a complaint should refer the complainant to the County Superintendent or designee so that the problem may receive proper consideration and be handled through the appropriate process. For the purpose of requesting information, County Board members shall also refer County Board-related correspondence to the president and the secretary of the County Board for dissemination to the rest of the County Board or placement on the agenda, as appropriate

A County Board member whose child is attending a school within the jurisdiction of the county office of education (COE) should be aware of his/her role as a County Board member when interacting with COE employees about his/her child. The County Board member should inform the County Superintendent before volunteering in his/her child's classroom.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

1040-1042 Duties and responsibilities

35160-35160.2 Powers and duties

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

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8020 Public Statements, BP 8030 Code of Ethics

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9220 - Governing Board Elections

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

Each member of the Board shall be an elector of the Trustee Area which he/she represents and shall be elected by the electors of the Trustee Area in the manner prescribed by the Education and Election Codes. Also in conformance with Education Code § 5019.5, any or all of the County Board of Education Trustee Areas shall be reconfigured following each decennial federal census, and using population figures as validated by the Population Research Unit of the Department of Finance, so that one or both of the following conditions is satisfied: 1) The population of each area is, as nearly as may be, the same proportion of the total population of the district as the ratio that the number of governing board members elected from the area bears to the total number of members of the governing board; and/or 2) the population of each area is, as nearly as may be, the same proportion of the total population of the district as each of the other areas.

To reduce costs associated with conducting elections, the County Board election may be consolidated with the local municipal or statewide primary or general election upon adoption of a resolution by the County Board and approval of the County Board of Supervisors.

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

Eligibility

Any person other than the County Superintendent of Schools, a member of his/her staff, or an employee of a school district that is within the jurisdiction of the County Board, is eligible to be a member of the County Board if he/she is an elector of the trustee area he/she is to represent and is not legally disqualified from holding civil office.

Any person who has been convicted of a felony involving the giving, accepting, or offering of a bribe, embezzlement or theft of public funds, extortion, perjury, or conspiracy to commit any such crime, under California law or the law of another state, the United States of America, or another country, is not eligible to be a candidate for office or be a County Board member except when he/she has been granted a pardon in accordance with law.

Term of Office

The term of office for members elected in regular elections shall be four years, commencing on the last Friday in November following their election.

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.

Campaign Conduct

In order to help protect the public's trust in the electoral process as well as the public's confidence

El Dorado County Board of Education Bylaws

in the County Board and the county office of education, the County Board encourages all candidates to sign and adhere to the principles in the Code of Fair Campaign Practices pursuant to Elections Code 20440.

Statement of Qualifications

The County Board shall assume no part of the cost of printing, handling, translating, or mailing of candidate statements filed pursuant to Elections Code 13307. As a condition of having candidate statements included in the voter's pamphlet, the County Board may require candidates to pay their estimated pro rata share of these costs to the County Board in advance pursuant to Elections Code 13307.

On the 125th day prior to the day fixed for the general election, the County Board secretary or his/her designee shall deliver a notice, bearing the secretary's signature and seal, to the county elections official describing both of the following:)

1. The elective offices of the County Board to be filled at the general election and which offices, if any, are for the balance of an unexpired term
2. Whether the County Board or the candidate is to pay for the publication of a statement of qualifications pursuant to Elections Code 13307

Candidate statements shall be limited to no more than 200 words.

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. At that time the County Board shall determine the winner by lot.

Legal Reference:

EDUCATION CODE

- 1000 Composition, and trustee area, county board of education
- 1002 Trustee area boundaries and membership changes
- 1006 Qualifications for holding office, county board of education
- 1007 Elections
- 1017 Expiration of terms
- 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

ELECTIONS CODE

El Dorado County Board of Education Bylaws

20 Public office eligibility
321 Elector
1302 Local elections
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, indigence
14025-14032 California Voting Rights Act
20440 Code of Fair Campaign Practices
GOVERNMENT CODE
1021 Conviction of crime
1302 Continuance in office until qualification of successor
1303 Exercising functions of office without having qualified
1360 Necessity of taking constitutional oath
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
UNITED STATES CODE, TITLE 52
10301-10508 Voting Rights Act
COURT DECISIONS
Shelby County v. Holder, (2013) 133 S. Ct. 2612
Rey v. Madera Unified School District, (2012) 138 Cal. Rptr. 3d 192
Randall v. Sorrell, (2006) 126 S.Ct. 2479
Sanchez v. City of Modesto, (2006) 51 Cal.Rptr.3d 821
Dusch v. Davis, (1967) 387 U.S. 112
ATTORNEY GENERAL OPINIONS
85 Ops.Cal.Atty.Gen. 49 (2002)
83 Ops.Cal.Atty.Gen. 181 (2000)
81 Ops.Cal.Atty.Gen. 98 (1998)
69 Ops.Cal.Atty.Gen. 290 (1986)

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8110 Members, BP 8114 Elections

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9222 - Resignation

A County Board of Education member who wishes to resign shall file a written resignation with the County Superintendent of Schools.

The resignation shall become effective when filed with the County Superintendent unless a deferred effective date is specified in the resignation. The effective date may not be deferred for more than 60 days after filing.

A written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable once filed.

A County Board member who tenders his/her resignation with a deferred effective date shall, until the effective date of the resignation, continue to exercise all the powers of the office except those involving the provisional appointment of his/her successor.

A County Board member who resigns shall file a revised Statement of Economic Interest/Form 700 covering the period of time between the closing date of the last statement and the date he/she leaves office within 30 days of leaving office.

Legal Reference:

EDUCATION CODE

1008 Vacancies; procedure for filing

5090-5095 Definition (vacancy)

35178 Resignation with deferred effective date

GOVERNMENT CODE

1770 Vacancies: definition

87300-87313 Conflict of interest code

87500 Statements of economic interests

First Reading: December 6, 2016

Second Reading:

Adoption:

New Policy

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9223 - Filling Vacancies

Events Causing a Vacancy

A vacancy on the County Board of Education may occur for any of the following events:

1. The death of an incumbent
2. The adjudication pursuant to a quo warranto proceeding declaring that an incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his/her office for the remainder of his/her term
3. A County Board member's resignation
4. A County Board member's removal from office, including by recall
5. A County Board member's ceasing to inhabit the trustee area which he/she represents on the County Board
6. A County Board member's absence from the state for more than 60 days, except in the following situations:
 - a. Upon County Board business with the approval of the County Board
 - b. With the consent of the County Board for an additional period not to exceed a total absence of 90 days

In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limited for absence from the state may be extended by the County Board.

- c. For federal military deployment, not to exceed an absence of a total of six months, as a member of the armed forces of the United States or the California National Guard

If the absence of the County Board member for military deployment exceeds six months, the County Board may approve an additional six-month absence upon a showing that there is a reasonable expectation that the member will return within the second six-month period, and the County Board may appoint an interim member to serve in his/her absence.

If two or more members of the County Board are absent by reason of military deployment, and those absences result in the inability to establish a quorum at a regular meeting, the County Board may immediately appoint one or more interim members as necessary to enable the County Board to conduct business and discharge its responsibilities. The term of an interim member appointed in these circumstances

El Dorado County Board of Education Bylaws

shall not extend beyond the return of the absent County Board member or beyond the next regularly scheduled election for that office, whichever occurs first.

7. A County Board member's ceasing to discharge the duties of his/her office for the period of three consecutive months, except when prevented by illness or when absent from the state without the permission required by law
8. A County Board member's conviction of a felony or any offense involving a violation of his/her official duties or conviction of a designated crime resulting in a forfeiture of office
9. A County Board member's refusal or neglect to file his/her required oath within the time prescribed)
10. The decision of a competent tribunal declaring void a County Board member's election or appointment
11. A County Board member's commitment to a hospital or sanitarium as a drug addict, dipsomaniac, inebriate, or stimulant addict by a court of competent jurisdiction, in which case the office shall not be deemed vacant until the order of commitment has become final
12. A "failure to elect" in which no candidate or an insufficient number of candidates have filed to run for a County Board seat(s)

Timelines for Filling a Vacancy

When a vacancy occurs, the County Board shall take the following action, as appropriate:

1. When a vacancy occurs within four months of the end of a County Board member's term, the County Board shall take no action.
2. When a vacancy occurs more than four months before the end of a County Board member's term, the County Board shall either order an election or make a provisional appointment within 60 days of the date of the vacancy or the filing of the member's deferred resignation unless a special election as described in item #3 below is required.
3. When a vacancy occurs between six months and 130 days before a regularly scheduled County Board election but the vacant position is not scheduled to be filled during that election, a special election to fill the position shall be consolidated with the regular election. The person elected shall take office at the first regularly scheduled County Board meeting following the certification of the election and shall serve until the end of the term of the position which he/she was elected to fill.

Eligibility

In order to be appointed or elected to fill a vacancy on the County Board, a person must meet the eligibility requirements specified in Education Code 1000 and 1006 and described in Board Bylaw 9220.

El Dorado County Board of Education Bylaws

Provisional Appointments

When a special election is not required, the County Board is authorized by law to make a provisional appointment to fill a vacancy on the County Board. Before making a provisional appointment, the County Board shall advertise in the local media to solicit candidate applications or nominations. The County Board shall ensure that applicants are eligible for County Board membership, interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by a majority vote.

The person appointed shall be afforded all the powers and duties of a County Board member immediately upon appointment and shall hold office until the next regularly scheduled election for County Board members.

Within 10 days after the appointment is made, the County Board shall post notices of the actual vacancy, or the filing of a deferred resignation, and the provisional appointment. The notice shall be published in the local newspaper pursuant to Government Code 6061 and posted in at least three public places within the jurisdiction of the County Board.

The notice shall contain:

1. The date that the vacancy occurred or the date of the filing of, and the effective date of, the resignation
2. The full name of the provisional appointee
3. The date of appointment
4. 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 County Superintendent within 30 days of the provisional appointment, the appointment shall become effective

Appointment Due to Failure to Elect

When a vacancy occurs because no candidate or an insufficient number of candidates have been nominated (i.e., a failure to elect) and an election will not be held, the County Board shall appoint a qualified person to the office. This appointment shall be made at a meeting prior to the day fixed for the election and the appointee shall be seated at the organizational meeting as if elected at the election.

When an appointment is being made because of a failure to elect, the County Board shall publish a notice once in a newspaper of general circulation published in the county, or if no such newspaper exists, in a newspaper having general circulation within the county. This notice shall state that the County Board intends to make an appointment and shall inform persons of the procedure available for applying for the appointment.

The procedure for selecting and interviewing candidates shall be the same as the procedures specified above in the "Provisional Appointments" section.

El Dorado County Board of Education Bylaws

Legal Reference:

EDUCATION CODE

1000 Composition and trustee area, county board of education
1006 Qualifications for holding office, county board of education
1007 Elections
5090-5095 Vacancies
5300-5304 General provisions (conduct of elections)
5320-5329 Order and call of election
5340-5345 Consolidation of elections

ELECTIONS CODE

10600-10604 School district elections
11381-11386 Candidates for recall

GOVERNMENT CODE

1064 Absence from state
1770 Vacancies: definition
3000-3003 Forfeiture of office
3060-3075 Removal other than by impeachment
6061 One time notice
54950-54963 The Ralph M. Brown Act

PENAL CODE

88 Bribery, forfeiture from office

UNITED STATES CODE, TITLE 18

704 Military medals or decorations

ATTORNEY GENERAL OPINIONS

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

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

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8114 Elections

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9224 - Oath or Affirmation

Prior to entering upon the duties of their office, all members of the County Board of Education shall take the oath or affirmation required by law.

The oath may be administered and certified by any County Board member, the secretary/executive officer to the County Board, the County Superintendent of Schools, the Superintendent of Public Instruction, or any other person authorized in Education Code 60 or Government Code 1225.

The executed oath shall be filed with the County Clerk.

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

GOVERNMENT CODE

1225 Right to administer and certify oaths

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

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8114 Elections

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9230 - Orientation

County Board Candidate Orientation

The County Board of Education and County Superintendent of Schools desire to provide County Board candidates with information that will enable them to understand the responsibilities and expectations of County Board membership. The County Superintendent or designee shall provide all candidates with general information about county office of education programs and operations, County Board member responsibilities, and the county election official's contact information.

The County Board encourages all candidates to attend public County Board meetings during the period of their candidacy. Candidates shall have the same access as members of the public to County Board and COE staff and information.

New County Board Member Orientation

The County Board shall provide an orientation and information to incoming County Board members to assist them in understanding the County Board's functions, policies, procedures, protocols, and agreed-upon standards of conduct. Incoming County Board members shall receive, **electronically when practical**, the COE policy manual and other materials related to the COE and County Board member responsibilities.

Upon their election, incoming County Board members shall be ~~provided a copy of the Brown Act and~~ informed that, pursuant to Government Code 54952.1, they must conform to the **Brown Act's** requirements as if they had already assumed office.

The County Superintendent may provide incoming County Board members with additional background and information regarding the COE's vision and goals, operations, and current challenges in areas that include, but are not limited to, student achievement, curriculum, finance, facilities, and policy.

Incoming members are encouraged to attend County Board meetings and review agenda materials available to the public in order to become familiar with current issues facing the COE. Incoming members also may, at COE expense and with prior approval of the County Board, attend workshops and conferences relevant to their individual needs or to the needs of the County Board or the COE as a whole.

Legal Reference:

EDUCATION CODE

33360 Department of Education and statewide association of school district boards; annual workshops

33362-33363 Reimbursement of expenses; board member or member-elect

ELECTIONS CODE

13307 Candidate's statement

20440 Code of Fair Campaign Practices

GOVERNMENT CODE

El Dorado County Board of Education Bylaws

54950-54963 The Ralph M. Brown Act, especially:
54952.1 Member of a legislative body
54952.7 Copies of Brown Act to board members

First Reading: December 6, 2016

Second Reading:

Adoption:

New Policy

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9240 - Board Development

Citizens elected to the County Board of Education are entrusted with the responsibility of governing the county office of education. The County Board recognizes that its members need training that helps them understand their responsibilities, stay abreast of new developments in education, and develop boardsmanship skills.

All County Board members may, at COE expense and with prior approval of the County Board, attend conferences for the purpose of County Board development. County Board business shall not be discussed at conferences.

County Board members shall report to the County Board, orally or in writing, as soon as possible on the inservice activities they attend.

Funds for County Board development shall be budgeted annually for each County Board member.

Legal Reference:

EDUCATION CODE

33360 Department of Education and statewide association of school district boards; annual workshop

GOVERNMENT CODE

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

54952.2 Meeting

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8110 Members

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9250 - Remuneration, Reimbursement and Other Benefits

Compensation

Each member of the County Board of Education who attends all of the board meetings in a month may receive the maximum monthly compensation **designed for the class of county** as provided for in Education Code 1090.

On an annual basis, the County Board may increase the compensation of County Board members beyond the limit delineated in Education Code 1090 in an amount not to exceed five percent based on the present monthly rate of compensation.

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

Any County Board member who does not attend all County Board meetings during the month is eligible to receive only a percentage of the monthly compensation equal to the percentage of meetings he/she attended, unless otherwise authorized by the County Board in accordance with law.

Reimbursement of Expenses

County Board members shall be reimbursed for actual and necessary expenses for travel, printing, or membership in any state or local organization of governing boards of school districts or county boards of education. County Board members shall also be reimbursed for the actual expenses of attending, with prior approval, meetings or conferences of any society, association, or organization to which the County Board subscribes for membership.

Personal expenses shall be the responsibility of individual County Board members. Personal expenses include, but are not limited to, the personal portion of any trip, tips or gratuities, alcohol, entertainment, laundry, expenses of any family member who is accompanying the County Board member on official business, personal use of an automobile, and personal losses and traffic violation fees incurred while on official business.

Health and Welfare Benefits for Current Board Members

County Board members may participate in the health and welfare benefits program provided for county office of education (COE) employees.

Health and welfare benefits for County Board members shall be no greater than that received by nonsafety employees with the most generous schedule of benefits.

County Board members electing to participate in the County Board's health and welfare benefits program shall have the premiums required for the benefit selected paid to the same extent as COE employees.

Legal References follow on next page.

El Dorado County Board of Education Bylaws

Legal Reference:

EDUCATION CODE

1090-1096 Stipends and expenses

FAMILY CODE

297-297.5 Rights, protections and benefits under law; registered domestic partners

300 Definition of marriage

GOVERNMENT CODE

8314 Use of public resources

20322 Elective officers; election to become member

20420-20445 Membership in Public Employees' Retirement System; definition of safety employees

53200-53209 Group insurance

54952.3 Simultaneous or serial meetings; announcement of compensation

HEALTH AND SAFETY CODE

1373 Health services plan, coverage for dependent children

INSURANCE CODE

10277-10278 Group and individual health insurance, coverage for dependent children

UNITED STATES CODE, TITLE 26

403 Tax-sheltered annuities

UNITED STATES CODE, TITLE 42

18011 Right to maintain existing health coverage

CODE OF FEDERAL REGULATIONS, TITLE 26

1.403(b)-2 Tax-sheltered annuities, definition of employee

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

91 Ops.Cal.Atty.Gen. 37 (2008)

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

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8110 Members, BP 3210 Travel Expenses of the Governing Board

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9260 - Legal Protection

Liability Insurance

The County Board of Education shall provide insurance necessary to protect its members against liability for death, personal injury, or damage or loss of property caused by their negligent act or omission when acting within the scope of their office.

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 his/her responsibilities for the county office of education. 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.

The protection against liability shall not apply when:

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:

EDUCATION CODE

35208 Liability insurance

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

El Dorado County Board of Education Bylaws

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)

First Reading: December 6, 2016

Second Reading:

Adoption:

New Policy

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9310 - Board Policies

The County Board of Education shall adopt written policies to convey its expectations for actions that will be taken by the county office of education (COE), clarify roles and responsibilities of the County Board, and communicate County Board philosophy and positions to the students, staff, parents/guardians and the community.

The County Board recognizes the importance of maintaining a policy manual that is up to date and reflects the mandates of law. Policies shall be regularly reviewed at a time allocated for this purpose on the agenda of public County Board meetings.

Policy Development and Adoption Process

The County Board's policy development process shall include the following basic steps:

1. The County Board shall identify the need for a new policy or revision of an existing policy. The need may arise from a change in law, a new vision statement, new goals in the local control and accountability plan, educational research or trends, or a change in the superintendency or County Board membership. The need may also occur as a result of an incident that has arisen in the jurisdiction of the County Board or a recommendation or request from the County Superintendent of Schools, COE staff, or other interested persons,
2. As needed, the County Board shall gather fiscal data, input from the County Superintendent, COE staff, and the public, sample policies from other organizations or agencies, and other useful information and data to fully inform the County Board about issues relating to County Board policies.
3. The County Board may hold discussions during a public County Board meeting to gain an understanding of the issue. The discussion may include, but not be limited to, how the proposed policy may affect student learning, community expectations, and the COE, as well as the policy's fiscal impact and impact on governance and operational efficiency.
4. The County Board may request that legal counsel review the draft policy as appropriate.
5. The County Superintendent or designee shall develop and present a draft policy for a first reading at a public County Board meeting. At its second reading, the County Board may take action on the proposed policy. The County Board may waive the second reading or may require an additional reading if necessary.

Only policies formally adopted by a majority vote of the County Board shall constitute official County Board policy.

The policy development process may be revised or expanded as needed based on the issue being considered, the need for more information, or to provide greater opportunities for consultation and public input.

Policies shall become effective upon adoption or at a future date designated by the County Board at the time of adoption.

El Dorado County Board of Education Bylaws

The County Board shall adopt rules and regulations for its own government consistent with state law and regulations.

Bylaws governing County Board operations may be developed, adopted, and amended following the same procedures as those used for the adoption or amendment of County Board policy.

Administrative Regulations

It is the responsibility of the County Superintendent or designee to develop and enforce administrative regulations for the operation of the COE. The County Superintendent or designee also may develop procedures manuals, handbooks, or other guides to carry out the intent of County Board policy.

The County Board may review regulations for the purpose of determining conformity with the intent of County Board policy.

Monitoring and Evaluation

At the time a policy is adopted, the County Board shall determine whether an evaluation of the policy should be scheduled and, if so, shall agree upon a timeline and measures for evaluating the effectiveness of the policy in achieving its purpose.

Access to Policies

A public copy of the policy manual shall be maintained at the COE either electronically or by paper copy.

As necessary, the County Board or County Superintendent shall determine the appropriate communications strategy to notify COE staff, parents/guardians, students, and other stakeholders whenever a policy that affects them is adopted or revised.

Suspension of Policies

No County Board policy, bylaw, or administrative regulation, or any portion thereof, shall be operative if it is in conflict with applicable federal or state law or regulations or court decisions. If any portion of a policy is found to be invalid, that invalidity shall not affect other provisions of the policy.

Legal Reference:

EDUCATION CODE

1015 Vote requirements

1040-1042 Duties and responsibilities of County Boards

35160-35160.2 Authority of governing boards

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8010 Duties and Powers, BP 8440 Policy Development

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9320 - Meetings and Notices

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

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.

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, the County Superintendent of Schools or a county office of education (COE) employee or 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 person does not communicate the comments or position of any County Board members to other County Board members.

In order to help ensure the participation of individuals with disabilities at County Board meetings, appropriate disability-related accommodations or modifications shall be provided upon request in accordance with the Americans with Disabilities Act.

Regular Meetings

The County Board shall hold **one** regular meeting each month. Regular meetings shall be held at **12:30 p.m. on the first Tuesday of the month** at the **El Dorado County Office of Education, Placerville, CA.**

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 County Board's and/or COE's web site.

Whenever agenda materials relating to an open session of a regular meeting are distributed to the County Board less than 72 hours before the meeting, the secretary to the County Board or his/her designee shall make the materials available for public inspection at a public office or location designated for that purpose.

Special Meetings

Special meetings of the County Board may be called by the board president when exigencies require them to be held, or whenever any three members of the County Board make a written request for such a meeting. However, a special meeting shall not be called regarding the salary,

El Dorado County Board of Education Bylaws

salary schedule, or other compensation of the County Superintendent.

Written notice of special meetings shall be delivered personally or by any other means to all County Board members and the local media who have requested such notice in writing. The notice also shall be posted on the County Board's and/or COE's web site. 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.

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 secretary of the County Board or by being present at the meeting at the time it convenes.

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.

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.

An emergency situation means either of the following:

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

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.

El Dorado County Board of Education Bylaws

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.

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 or the clerk may declare the meeting adjourned to a later time and shall give notice in the same manner required for special meetings.

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.

Study Sessions, Retreats, Public Forums, and Discussion Meetings

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

The County Board may also convene a retreat or discussion meeting to discuss County Board roles and relationships.

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

Other Gatherings

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

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 County Board or COE to address a topic of local community concern
3. An open and noticed meeting of another body of the COE
4. An open and noticed meeting of a legislative body of another local agency
5. A purely social or ceremonial occasion
6. An open and noticed meeting of a standing committee of the County Board, provided that the County Board members who are not members of the standing committee attend only as observers.

El Dorado County Board of Education Bylaws

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

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 individuals with disabilities or where members of the public must make a payment or purchase in order to be admitted.

Meetings shall be held within the county, except to do any of the following:

1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the COE is a party
2. Inspect real or personal property which cannot conveniently be brought into the county, 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 COE has no meeting facility within its boundaries or if its principal office is located outside the county
5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the COE over which the state or federal officials have jurisdiction
6. Meet in or near a facility owned by the COE but located outside the county, provided the meeting agenda is limited to items directly related to that facility
7. Visit the office of the County Board's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs
8. Interview residents of another county or district regarding the County Board's potential employment of an applicant for interim County Superintendent

Meetings exempted from the boundary requirements, as specified in items #1-8 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.

El Dorado County Board of Education Bylaws

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.

The County Board may use teleconferences for all purposes in connection with any meeting within its subject matter jurisdiction. All votes taken during a teleconference meeting shall be by roll call.

During the teleconference, at least a quorum of the members of the County Board shall participate from locations within the County.

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.

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 to address the County Board directly at each teleconference location.

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

Legal Reference:

EDUCATION CODE

1009 Annual organizational meeting, date, and notice

1011 Time and place of meetings

1012 Special meeting

1040-1042 Duties and responsibilities of County Boards

GOVERNMENT CODE

3511.1 Local agency executives

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

El Dorado County Board of Education Bylaws

35.160 Effective communications

36.303 Auxiliary aids and services

CALIFORNIA CONSTITUTION

Article 9, Section 3 County superintendents

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)

First Reading: December 6, 2016

Second Reading:

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El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9321 - Closed Session

The County Board of Education is committed to complying with state open meeting laws and modeling transparency in the conduct of its business. The County Board shall hold a closed session only for purposes authorized by law. A closed session may be held during a regular, special, or emergency meeting in accordance with law.

Each agenda shall contain a general description of each closed session item to be discussed at the meeting, as required by law.

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

The County Board shall not disclose any information that is protected by state or federal law. In addition, no victim or alleged victim of sexual misconduct or child abuse shall be identified in any County Board agenda, notice, announcement, or report required by the Brown Act, unless the identity of the person has previously been publicly disclosed.

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

After each closed session, but before adjourning the meeting, the County Board shall reconvene in open and, when applicable, report closed session actions, the votes or abstentions thereon, and other disclosures required by Government Code 54957.1.

Matters Related to Students

The County Board shall meet in closed session to consider the appeal of an expulsion of a student, unless the student submits a written request at least five days before the date of the hearing that the hearing be held in open session. 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 deliberations.

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping. The agenda shall also state that the Education Code requires closed sessions in these cases in order to prevent the disclosure of confidential student record information.

Actions related to student matters shall be taken in open session and shall be a matter of public record. No information shall be released in violation of student privacy rights provided in law.

In an expulsion action, the student's name shall not be disclosed. ~~but the cause for the expulsion shall be disclosed in open session.~~

El Dorado County Board of Education Bylaws

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

Conference with Real Property Negotiator

The County Board may meet in closed session with its real property negotiator prior to the purchase, sale, exchange, or lease of real property by or for the County Board or county office of education (COE) in order to grant its negotiator authority regarding the price and terms of payment for the property.

Before holding the closed session, the County Board shall hold an open and public session to identify its negotiator(s) and the property under negotiation and to specify the person(s) with whom the negotiator may negotiate.

For purposes of real property transactions, negotiators may include members of the County Board.

Agenda items related to real property negotiations shall specify the negotiator attending the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the negotiating parties and the street address of the real property under negotiation. If there is no street address, the agenda item shall specify the parcel number or another unique reference of the property. The agenda item shall also specify whether instruction to the negotiator will concern price, terms of payment, or both.

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 County Superintendent or designee shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the COE of its approval.

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 a pending litigation when a discussion of the matter in open session would prejudice the COE or the County Board's position in the litigation. For this purpose, "litigation" means any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

Litigation is considered "pending" in any of the following circumstances:

1. Litigation to which the COE or County Board is a "party" has been initiated formally.
2. A point has been reached where, in the County Board's opinion based on the advice of its legal counsel regarding the "existing facts and circumstances," there is a "significant

El Dorado County Board of Education Bylaws

exposure to litigation" against the County Board or COE, or the County Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized.

Existing facts and circumstances for these purposes are limited to the following:

- a. Facts and circumstances that might result in litigation against the County Board or COE but which the County Board believes are not yet known to potential plaintiffs and which do not need to be disclosed.
 - b. Facts and circumstances including, but not limited to, an accident, disaster, incident, or transactional occurrence which might result in litigation against the County Board or COE, which are already known to potential plaintiffs and which must be publicly disclosed before the closed session or specified on the agenda.
 - c. The receipt of a claim pursuant to the Tort Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.
 - d. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the County Board.
 - e. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the County Board, provided that the employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection. Such record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat on his/her behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.
3. Based on existing facts and circumstances, the County Board has decided to initiate or is deciding whether to initiate litigation.

Before holding a closed session pursuant to the pending litigation exception, the County Board shall state on the agenda or publicly announce the subdivision of Government Code 54956.9 under which the closed session is being held. If authority is based on Government Code 54956.9(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 ability to effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage.

Agenda items related to pending litigation shall be described as a conference with legal counsel regarding either "existing litigation" or "anticipated litigation."

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

El Dorado County Board of Education Bylaws

"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 County Board 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 regarding existing facts and circumstances described in item #2b-e above.

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:

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 ability to serve process on unserved parties or the ability of the COE to conclude existing settlement negotiations to its advantage.
3. Acceptance of a signed offer from the other party or parties which finalizes the settlement of pending litigation. This report shall state the substance of the agreement.

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

Review of Student Assessment Instruments

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

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.

At the public meeting during which the County Board holds a closed session to review student assessment instruments, the County Board shall confirm that this review was made. Any actions related to the review shall be taken in open session without revealing any proprietary or confidential information and shall be a matter of public record.

El Dorado County Board of Education Bylaws

Other Matters for Closed Session

When appropriate, the County Board may also hold a closed session to discuss any of the following:

1. Security Matters

The County Board may meet in closed session with the Governor, Attorney General, district attorney, legal counsel, sheriff or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings; to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service; or to the public's right of access to public services or public facilities.

The County Board may meet in closed session during an emergency meeting held pursuant to Government Code 54956.5 to meet with law enforcement officials for the emergency purposes specified in Government Code 54957 if agreed to by a two-thirds vote of the County Board members present. If less than two-thirds of the members are present, then the County Board must agree by a unanimous vote of the members present.

Agenda items related to security matters shall specify the name of the law enforcement agency and the title of the officer, or name of applicable agency representative and title, with whom the County Board will consult.

2. Joint Powers Agency/Self-Insurance Authority Claims

The County Board may meet in closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by a joint powers agency (JPA) formed for the purpose of insurance pooling or self-insurance authority of which the COE is a member.

Closed session agenda items related to liability claims shall specify the claimant's name and the name of the agency against which the claim is made.

When the board of the JPA has so authorized and upon advice of legal counsel, the County Board may meet in closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the JPA. During the County Board's closed session, a County Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to other County Board members.

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

Closed session agenda items related to conferences involving a JPA shall specify the closed session description used by the JPA and the name of the County Board member representing the County Board on the JPA board. Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives shall also be included.

El Dorado County Board of Education Bylaws

The County Board shall report the disposition of joint powers agency 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.

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

Upon receipt of a confidential final draft audit report from the California State Auditor's Office, the County Board may meet in closed session to discuss its response to that report. After public release of the report from the California State Auditor's Office, any County Board meeting to discuss the report must be conducted in open session, unless exempted from that requirement by some other provision of law.

Closed session agenda items related to an audit by the California State Auditor's Office shall state "Audit by California State Auditor's Office."

Legal Reference:

EDUCATION CODE

1040 Duties and responsibilities; county boards of education

1042 County boards; authority

1700 County school service fund

1703 Coordination services

1730 Supervision of instruction

1740 Supervision of attendance

1750 Supervision of health

1760 Provision of guidance services

35145 Public meetings

35146 Closed session (re student suspension)

48912 Governing board suspension

48918 Rules governing expulsion procedures; hearings and notice

49070 Challenging content of students records

60617 Meetings of governing board

GOVERNMENT CODE

815-818.9 California Government Tort Claims Act

3540-3549.3 Educational Employment Relations Act

6252-6270 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

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

Gillespie v. San Francisco Public Library Commission (1998) 67 Cal.App.4th 1165

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

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

El Dorado County Board of Education Bylaws

ATTORNEY GENERAL OPINIONS

94 Ops.Cal.Atty.Gen. 82 (2011)

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

85 Ops.Cal.Atty.Gen. 77 (2002)

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

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

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Supersedes: BP 8201 Place and Time

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9322 - Agenda/Meeting Materials

Agenda Content

County Board of Education meeting agendas shall reflect the County Board's vision and goals and its focus on student learning. Each agenda 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.

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.

Each meeting agenda shall list the address designated for public inspection of agenda documents that have been distributed to the County Board less than 72 hours before the meeting.

The agenda shall specify that an individual should contact the County Board secretary or designee if he/she requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the County Board meeting.

Agenda Preparation

The County Board president and the County Superintendent of Schools, as secretary to the County Board, shall work together to develop the agenda for each regular and special meeting.

Any County Board member or member of the public may request that a matter within the jurisdiction of the County Board be placed on the agenda of a regular meeting. The request shall be submitted in writing to the County Superintendent and County Board president with supporting documents and information.

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 shall not be placed on the agenda. In addition, before placing the item on the agenda, 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 County Board policy.

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.

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.

El Dorado County Board of Education Bylaws

Consent Agenda/Calendar

In order to promote efficient meetings, the County Board may bundle a number of items and act upon them together by a single vote through the use of a consent agenda. Consent agenda items shall be items of a routine nature and items for which County Board discussion is not anticipated and for which approval is recommended.

When any County Board member requests the removal of an item from the consent agenda, the item shall be removed and given individual consideration for action as a regular agenda item.

The agenda shall provide an opportunity for members of the public to comment on any consent agenda item that has not been previously considered. However, the agenda need not provide an opportunity for public comment when the consent agenda item has previously been considered at an open meeting of a committee comprised exclusively of all the County Board members provided that members of the public were afforded an opportunity to comment on the item at that meeting, unless the item has been substantially changed since the committee considered it.

Agenda Dissemination to County Board Members

At least three days before each regular meeting, each County Board member shall be provided a copy of the agenda and agenda packet, including any reports from the County Superintendent; 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 ask questions and/or request additional information on agenda items. However, a majority of County Board members shall not directly or through intermediaries or electronic means discuss, deliberate, or take action on any matter within the subject matter jurisdiction of the County Board.

Agenda Dissemination to Members of the Public

As County Board secretary, it is the responsibility of the County Superintendent or his/her designee to 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.

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

El Dorado County Board of Education Bylaws

Any document prepared by the County Board or county office of education and distributed during a public meeting shall be made available for public inspection at the meeting. Any document prepared by another person and presented at the meeting shall be made available for public inspection after the meeting. These requirements shall not apply to a document that is exempt from public disclosure under the Public Records Act.

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.

~~Any~~ Requests 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.~~

~~Persons requesting mailing of the agenda or agenda packet shall pay an annual fee, as determined by the County Superintendent or designee, not to exceed the cost of providing the service.~~

Legal Reference:

EDUCATION CODE

35145.5 Right of public to place matters on agenda

GOVERNMENT CODE

6250-6270 Public Records Act

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

54960.2 Challenging board actions; cease and desist

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

Mooney v. Garcia, (2012) 207 Cal.App.4th 229

Caldwell v. Roseville Joint Union High School District, 2007 U.S. Dist. LEXIS 66318

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8203 Minutes

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9323 - Meeting Conduct

The 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.

Meeting Procedures

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

The County Board president shall conduct meetings in accordance with County Board bylaws and approved meeting procedures.

The County Board believes that late night meetings discourage public participation, can affect the County Board's decision-making ability, and can be an unnecessary burden on Board members, the County Superintendent, and his/her staff. Regular Board meetings shall be adjourned at the time, if any, set by the County Board at the annual organizational meeting.

Quorum and Abstentions

A majority of the members of the County Board shall constitute a quorum for the transaction of business.

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.

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.

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, his/her abstention shall not be counted as an affirmative vote for purposes of determining whether a majority of the membership of the County Board has taken action.

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.

In order to conduct business in an orderly and efficient manner, the County Board requires that

El Dorado County Board of Education Bylaws

public presentations to the County Board comply with the following procedures:

1. The County Board shall give members of the public an opportunity to address the County Board on any item of interest to the public that is within the subject matter jurisdiction of the County Board, either before, during, or after the County Board's consideration of the item.
2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the County Board matters that are not listed on the agenda. The County Board shall take no action or discussion on any item not appearing on the posted agenda, except as authorized by law.
3. Without taking action, County Board members or county office of education (COE) 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 or COE staff member may ask a question for clarification, make a brief announcement, or make a brief report on his/her own activities.

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

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 the item, the County Board shall provide an opportunity for the public to speak.
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.

El Dorado County Board of Education Bylaws

8. The County Board may not prohibit public criticism of persons employed directly by the County Board.

Whenever a member of the public initiates specific complaints or charges against a COE employee, the County Board president shall inform the complainant that employment matters are the jurisdiction of the County Superintendent and shall advise the complainant to address his/her complaint to the County Superintendent using the appropriate complaint procedure.

9. The County Board president shall not permit any disruption or willful interruption of County Board meetings. Persistent disruption by an individual or group shall be grounds for the president to terminate the privilege of addressing the County Board.

The County Board may remove disruptive individuals 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 individuals not participating in such disturbances may be allowed to remain at the discretion of the County Board. When the room is ordered cleared due to a disturbance, further proceedings shall concern only matters appearing on the agenda.

When such disruptive conduct occurs local law enforcement shall be contacted.

Recording by the Public

The County Board shall designate locations from which members of the public may broadcast, photograph, or tape record open meetings without causing a distraction.

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.

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

35165 Effect of vacancies upon majority and unanimous votes by seven member board

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

El Dorado County Board of Education Bylaws

54957 Closed sessions

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

PENAL CODE

403 Disruption of assembly or meeting

COURT DECISIONS

McMahon v. Albany Unified School District, (2002) 104 Cal.App.4th 1275

Rubin v. City of Burbank, (2002) 101 Cal.App.4th 1194

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

ATTORNEY GENERAL OPINIONS

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

66 Ops.Cal.Atty.Gen. 336 (1983)

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

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

55 Ops.Cal.Atty.Gen. 26 (1972)

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

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Second Reading:

Adoption:

Supersedes: BP 8030 Code of Ethics

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9323.2 - Actions by The Board

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

An "action" by the County Board means:

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

The County Board shall not take action by secret ballot, whether preliminary or final.

Actions taken by the County Board in open session shall be recorded in the County Board minutes.

Action on Non-Agenda Items

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

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

Actions Requiring a Two-Thirds Vote of the Entire County Board

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

1. Request for temporary borrowing pursuant to Government Code 53820-53833, to pay obligations incurred before the receipt of income for the fiscal year sufficient to meet the payment(s)
2. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by the county office of education (COE)

El Dorado County Board of Education Bylaws

3. Resolution of necessity to proceed with an eminent domain action and, if the County Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use.

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

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

1. Determination that there is a need to take immediate action and that the need for action came to the County Board's attention after the posting of the agenda
2. Determination that a closed session is necessary during an emergency meeting

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

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

A four-fifths vote of the County Board membership shall be required for any resolution for borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the COE's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing.

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

A two-thirds vote of the County Board members present at the meeting shall be required to approve the expenditure and transfer of necessary funds and use of property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense.

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

Action Requiring a Unanimous Vote of the Entire County Board

A unanimous vote of the County Board membership shall be required for any resolution authorizing and prescribing the terms of a community lease for extraction of gas.

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

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

1. Determination that surplus property is not worth more than \$2,500, and the subsequent authorization of a private sale of such property without advertisement

El Dorado County Board of Education Bylaws

2. Determination that the value of surplus property would not defray the cost of arranging its sale, and the subsequent authorization to dispose of such property in the local dump or donate it to a charitable organization
3. If less than two-thirds of the County Board members are present at the meeting, determination that there is a need to take immediate action and that the need for action came to the County Board's attention after the posting of the agenda
4. If less than two-thirds of the County Board members are present at the meeting, determination that a closed session is necessary during an emergency meeting.

Challenging Board Actions

The district attorney's office or any interested person may file an action in court to stop or prevent the County Board's violation or threats of violations of the Brown Act, to determine the applicability of the Brown Act to ongoing or future threatened County Board actions, to determine the validity, under California or federal law, of any County Board rule or action to penalize any of its members or otherwise discourage the member's expression, or to compel the County Board to audio record its closed sessions because of its violation of any applicable Government Code provision.

The district attorney or any interested person may present a demand that the County Board cure and correct a County Board action which he/she alleges is in violation of law regarding any of the following:

1. Open meeting and teleconferencing
2. Agenda posting
3. Closed session item descriptions
4. New or increased tax assessments
5. Special meetings
6. Emergency meetings

Any demand to "cure and correct" an alleged violation shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the County Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place.

Within 30 days of receiving the demand, the County Board shall do one of the following:

1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.
2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.

El Dorado County Board of Education Bylaws

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.

In addition, the district attorney's office or any interested party may file an action in court to determine the applicability of the Brown Act to any past County Board action not specified in Government Code 54960.1, if the following conditions are met:

1. Within nine months of the alleged violation, a cease and desist letter is submitted to the County Board, clearly describing the past action and the nature of the alleged violation.
2. The time for the County Board to respond has expired and the County Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

Legal Reference:

EDUCATION CODE

1015 Recording votes

1042 Power to hold and convey real property

1047 Eminent domain

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

35164 Vote requirements

CODE OF CIVIL PROCEDURE

1245.240 Eminent domain vote requirements

1245.245 Eminent domain, resolution adopting different use

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities

53724 Parcel tax resolution requirements

53790-53792 Exceeding the budget

53820-53833 Temporary borrowing

53850-53858 Temporary borrowing

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

54952.6 Action taken, definition

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

54960-54960.5 Actions to prevent violations

65352.2 Coordination with planning agency

COURT DECISIONS

Los Angeles Times Communications LLC v. Los Angeles County Board of Supv.(2003) 112 Cal.App.4th 1313

McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310

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

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

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8010 Duties and Powers, BP 8300 Voting: General, BP 8310 Voting Procedures

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9324 - Minutes and Recordings

The County Board of Education recognizes that maintaining accurate minutes of County Board meetings provides a record of official actions for use by county office of education (COE) staff and the public and helps foster public trust in County Board governance.

The County Board shall keep a record of its proceedings and shall record the votes of County Board members in the meeting minutes.

The County Board's minutes shall be public records and shall be made available to the public upon request.

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

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 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 and the names of the County Board members who made and seconded the motion.

The minutes shall also report any action taken and the vote or abstention on that action of each County Board member present.

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

The secretary of the County Board or his/her designee shall distribute a copy of the "unapproved" minutes of the previous meeting(s) with the agenda for the next regular meeting. The County Board shall approve the minutes as circulated or with necessary amendments.

Upon approval by the County Board, the minutes shall be signed by **the President of the County Board**.

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.

Legal References on following page.

El Dorado County Board of Education Bylaws

Legal Reference:

EDUCATION CODE

1011 County board meetings

1015 Recording votes

1040 Duties of the County Board

GOVERNMENT CODE

6250-6270 Public Records Act

54952.2 Meeting defined

54953 Meetings

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

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8203 Minutes

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Bylaw

BB 9400 - Board Self-Evaluation

The County Board of Education ~~shall annually~~ **can, at its discretion,** conduct a self-evaluation in order to demonstrate accountability to the community and ensure that governance effectively supports student achievement and the attainment of the County Board's vision and goals.

The evaluation may address any areas of County Board responsibility, including, but not limited to, County Board performance in relation to vision setting, finance, policy, and community relations. The evaluation also may address objectives related to County Board meeting, relationships among County Board members and with the County Superintendent of Schools, understanding of County Board and County Superintendent roles and responsibilities, communication skills, or other boardsmanship skills.

~~The County Board shall be evaluated as a whole. Individual County Board members also are encouraged to use the evaluation process as an opportunity to privately assess their own personal performance.~~

~~Each year~~ **At its discretion,** the County Board shall determine an evaluation method or instrument that measures a reasonable number of previously identified performance objectives. Videotape of a County Board meeting may be used as an evaluation tool only with the consent of all County Board members.

Any discussion of the County Board's self-evaluation shall be conducted in open session. At the request of the County Board, a facilitator may be used to assist with the evaluation process. The County Board may invite the County Superintendent or others to provide input into the evaluation process.

Following the evaluation, the County Board shall develop strategies for strengthening its performance and shall establish priorities and objectives for the following year's evaluation.

Legal Reference:

GOVERNMENT CODE

54950-54963 Brown Act; board self-evaluations not covered

First Reading: December 6, 2016

Second Reading:

Adoption:

New Policy

El Dorado County Board of Education Bylaws

El Dorado County Board of Education Policy

BP 9500 - County Superintendent's Remuneration

The County Board of Education believes that the County Superintendent of Schools renders services that promote the success of students and of the educational programs of the county office of education, and that anyone occupying the position should be fairly compensated for his/her service. In accordance with law, the County Board shall fix the salary of the County Superintendent and may adopt a remuneration package that includes, but is not limited to, salary, allowances, health and welfare benefits, and other benefits as appropriate.

The Attorney General has opined that a County Board may increase or decrease the County Superintendent's salary at any point during the term for which the County Superintendent was elected, but that any salary decrease may not be retroactive. Due to the conflict recognized by the Attorney General between the California Constitution and Education Code 1207, prior to decreasing a County Superintendent's salary, the County Board should first contact legal counsel.

Any discussion and/or action take on the County Superintendent's remuneration shall take place in open session, at a regularly scheduled meeting of the County Board.

Any changes to the County Superintendent's salary, financial remuneration, or any benefit, for any reason, may only be made upon approval of the County Board after discussion at a regularly scheduled meeting of the County Board.

The County Superintendent shall receive reimbursement for his/her actual and necessary traveling expenses.

Legal Reference:

EDUCATION CODE

1200-1209 Appointment, qualifications, salary and expenses of county superintendent

GOVERNMENT CODE

3511.1-3511.2 Local agency executives

53243.3-53243.4 Abuse of office

54954 Time and place of regular meetings

54957 Closed session personnel matters

CALIFORNIA CONSTITUTION

Article 9, Section 3.1 County Superintendent qualifications and salaries

COURT DECISIONS

Woodcock v. Dick, (1950) 36 Cal 2d 146

ATTORNEY GENERAL OPINIONS

61 Ops.Cal.Atty.Gen. 384 (1978)

62 Ops.Cal.Atty.Gen. 356 (1979)

First Reading: December 6, 2016

Second Reading:

Adoption:

Supersedes: BP 8050 Administrative Salaries