

CLASSIFICATION: Bylaws of the Board**ADOPTED: 3/8/95****REVISED: 1/9/08****SUBJECT: Closed Sessions****PAGE: 1 of 6**

The County Board of Education (Board) may hold closed sessions only for purposes identified in law and disclosed in the manner required by law. The Board may hold a closed session at any time during a regular or special meeting or during emergency meetings in accordance with law.

The Board may hold closed sessions for any of the following purposes:

1. Discuss personnel matters, specifically, the appointment, employment, evaluation of performance, discipline, or dismissal of the County Superintendent of Schools or to hear complaints or charges brought against the County Superintendent of Schools, unless he/she requests a public session.
2. Meet with the designated representative of the County Superintendent of Schools for the purpose of discussing matters that have been placed in negotiations.
3. Meet with a state conciliator or a mediator who has intervened in negotiation proceedings.
4. Consider student matters, such as suspension or disciplinary action or any other action in connection with any student, if a public meeting would lead to giving out information that would violate the student's right of privacy.
5. Hear and/or deliberate on an appeal of an expulsion order of a pupil expelled by a local school district.
6. Hear and consider matters affecting security: to discuss with the United States or State Attorney General, district attorney, legal counsel, sheriff or chief of police or their deputies, or a security consultant or operations manager, matters threatening the security of buildings of the County Office of Education, essential public services, or the public's right of access to services or facilities of the County Office of Education.
7. Protect records that are exempt from public disclosure under Government Code section 6254.

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8. Meet with the designated negotiator prior to the purchase, sale, exchange, or lease of real property in order to grant authority to the negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease. The Board may discuss eminent domain proceedings.
9. Based upon advice of its legal counsel, meet with legal counsel to confer with or receive advice regarding pending litigation, which, if discussed in open session, would prejudice the Board's position in the litigation.

Litigation includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. Litigation shall be considered pending when any of the following circumstances exist:

- A. Litigation to which the Board is a party has been initiated formally.
 - B. A point has been reached where, in the opinion of the Board on the advice of its legal counsel, based on existing facts and circumstances, there is significant exposure to litigation against the Board or County Superintendent of Schools; or the Board is meeting solely to determine whether, based on existing facts and circumstances, a closed session is authorized.
 - C. Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation.
10. Discuss a claim for payment of tort liability losses, public liability losses, or workers' compensation liability filed with the San Diego County Schools Risk Management Joint Powers Authority.
 11. Discuss the Board's response to a confidential final draft audit report from the Bureau of State Audits.

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12. Review the contents of any student assessment instrument approved or adopted for the statewide testing system, provided the Board agrees by resolution to accept any terms or conditions established by the State Board of Education to maintain the confidentiality of the assessment under review.

Time and Place of Closed Sessions

The Board may adjourn a regular or special public meeting at any time and go into closed session, returning to public session as soon as the closed session is concluded. The Board may adjourn to closed session during an emergency meeting called pursuant to Government Code section 54956.5 if agreed to by a two-thirds vote of the members or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

For purposes specified in law, the Governing Board may hold closed sessions outside of regular or special meetings and exempted from notification requirements as authorized by law.

Statement of Purpose for Closed Session

The agenda of any regular or special meeting that includes a closed session shall contain a brief general description of each item of business to be discussed in closed session. In the case of special, adjourned, or continued meetings, the statement shall be part of the notice provided for such meetings.

Descriptions of agenda items for closed sessions authorized by the Government Code shall include all information necessary to ensure substantial compliance with Government Code section 54954.5. Agenda items for closed sessions authorized by the Education Code shall be described in a manner that complies with the requirements of the authorizing law.

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Prior to holding any closed session, the President shall publicly disclose in an open meeting the item(s) to be discussed in the closed session, including any specific information required by law. The disclosure may take the form of a reference to the item or items as listed by number or letter on the agenda.

Discussions and/or Actions by the Board

The Board may consider only those matters on the posted agenda for the closed session and disclosed in open session.

Following any closed session, the Board shall reconvene in open session prior to adjournment and report any action taken in closed session, including the vote or abstention on that action of every member present. The content of the public report shall include any disclosures required by Government Code section 54957.1.

The Board may exclude from the closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the Board.

Final action by the Board with respect to suspension or discipline or any other action in connection with any student in a County Superintendent of Schools operated school or program, whether the matter is considered at a closed session or a public meeting, shall be taken in an open public session.

The Board shall hear an appeal of an expulsion order of a local school district in closed session, unless the pupil requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted in a public meeting. Whether the meeting is conducted in a closed or open session, the Board may meet in a closed session for the purpose of deliberations. Final action by the Board shall be taken in an open public session.

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Confidential Information

A Board member shall not disclose confidential information acquired during a closed session unless a majority of the Board authorizes the disclosure of that information. Confidential information means a communication made in a closed session that is specifically related to the basis for the Board to meet lawfully in closed session.

The 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 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 Board action that has been the subject of deliberation during a closed session.
2. Expressing an opinion concerning the propriety or legality of 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.

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

Minutes

Minutes may be taken in closed session but are not subject to public inspection under the California Public Records Act and shall be kept confidential. The Board may choose to make minutes of a closed session, if any, public information.

SAN DIEGO COUNTY OFFICE OF EDUCATION

BYLAW NO. 9321

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Derivation: Adopted 3/8/95. Amended 4/14/99, 3/12/03, 1/9/08.

Board Bylaw Nos.: 9320, 9322

Board Policy No: 5144

Legal Reference: Education Code

1040, 35146, 48919, 48920, 60617

Government Code

1098, 3549.1, 6254, 54954.2, 54954.5, 54956.5, 54956.7, 54956.75, 54956.8,
54956.95, 54957, 54957.1, 54957.2, 54957.6, 54957.7, 54957.9, 54957.10, 54961 -
54963

Labor Code

1102