

**CLASSIFICATION: Bylaws of the Board****ADOPTED: 3/8/95  
REVISED: 7/11/18  
REVIEWED:****SUBJECT: Actions by the Board****PAGE: 1 of 4**

---

All actions of the County Board of Education (County Board) shall be taken in official Board meetings scheduled, called, and conducted according to the Bylaws of the Board and statutes of the State of California. The County Board shall take no action outside of a public meeting except on those matters and under those conditions authorized for closed sessions.

Three or more of the members participating in a meeting shall constitute a quorum for the transaction of business.

Except as otherwise required by law, in the event a quorum (three) is present, a majority of the quorum (two) is required to act.

Actions of the County Board that require a vote by other than a majority of a quorum include, but are not limited to, those presented in Exhibit 1.

Before voting on any issue, all County Board members shall be encouraged to present whatever evidence they may feel is important to the matter at hand. The County Board shall fully consider the implications and relevancy of all information so presented. All opinions, reactions and positions shall be openly discussed, so that each member may understand all aspects of the issue before the County Board decides the outcome or direction it will take.

The County Board believes its members have a duty to vote on issues before them except in cases in which a conflict of interest exists, as defined by California law, or when approving minutes of a meeting from which the member was absent. A Board member's abstention shall count as acquiescence with the majority. However, if the Board member is abstaining due to a conflict of interest, the Board member's presence will not count toward determining whether a quorum is present for transacting business, and such abstention will not count in determining the vote.

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.

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

**CLASSIFICATION: Bylaws of the Board**

**ADOPTED: 3/8/95**  
**REVISED: 7/11/18**  
**REVIEWED:**

**SUBJECT: Actions by the Board**

**PAGE: 2 of 4**

---

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

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 threatened 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 to cure and correct a County Board action that he/she alleges is in violation of law regarding any of the following:

1. Open meeting and teleconferencing

**CLASSIFICATION: Bylaws of the Board**

**ADOPTED: 3/8/95**  
**REVISED: 7/11/18**  
**REVIEWED:**

**SUBJECT: Actions by the Board**

**PAGE: 3 of 4**

---

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 related to 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.

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.

**CLASSIFICATION: Bylaws of the Board**

**ADOPTED: 3/8/95**  
**REVISED: 7/11/18**  
**REVIEWED:**

**SUBJECT: Actions by the Board**

**PAGE: 4 of 4**

---

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.

**Board Bylaws: 9321, 9323, 9324**

**Derivation:**

Former Board Bylaw No. 9323.1, Adopted 3/8/95. Amended 11/10/99. Amended, Renamed and Renumbered 9323.2: 7/11/18.

**Legal Reference:**

**Education Code**

1013, 1014, 1015, 1042, 1047, 17466, 17481, 17510-17511, 17546, 17556-17561

**Code of Civil Procedure**

1245.240, 1245.245

**Government Code**

53090-53097.5, 53724, 53790-53792, 53820-53833, 53850-53858, 54950-54963

**Court Decisions**

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

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

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

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

**Management Resources:**

*The Brown Act: School Boards and Open Meeting Laws*, California School Boards Association, rev. 2014: [www.csba.org](http://www.csba.org)

*The Brown Act: Open Meetings for Local Legislative Bodies*, California Attorney General's Office, 2003: [www.cag.ca.gov](http://www.cag.ca.gov)

*Open and Public V: A Guide to the Ralph M. Brown Act*, League of California Cities, April, 2016

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

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) [Government Code § 53821]
2. 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 [Code of Civil Procedure §§ 1245.240, 1245.245]
3. Resolution declaring intention to sell or lease real property [Education Code § 17466]
4. Lease for a term not to exceed three months of property having a residence thereon that cannot be developed for use because of the unavailability of funds [Education Code § 17481]
5. Resolution declaring intent to convey or dedicate property for the purposes specified in Education Code section 17556 [Education Code § 17557]
6. Resolution authorizing and direction the County Board President to execute a deed of dedication or conveyance for the purposes specified in Education Code section 17556 [Education Code § 17559]

Action Requiring a Majority Vote of the Entire County Board

Issuance or renewal of teacher's certificate or adoption of any books or apparatus. [Education Code § 1014]

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

1. Determination that there is a need to take immediate action and that the need for action came to the County Board's attention after the posting of the agenda [Government Code § 54954.2]
2. Determination that a closed session is necessary during an emergency meeting [Government Code § 54956.5]

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

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 San Diego County Office of Education's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing. [Government Code §§ 53822, 53824]

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

1. Approval of 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 [Government Code §§ 53790 - 53792]
2. 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 San Diego County Office of Education 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 [Government Code §§ 53823 - 53824]

Action Requiring a Unanimous Vote of the Entire County Board

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

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 [Education Code § 17546]
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 [Education Code § 17546]

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 [Government Code § 54954.2]
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 [Government Code § 54956.5]