

BOARD AGENDA ITEM DEVELOPMENT



San Diego County Office of Education

Presented by:

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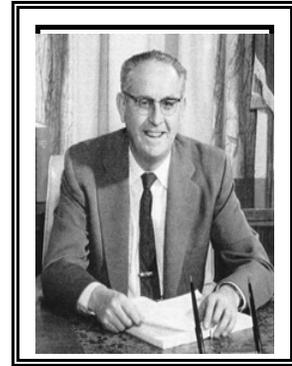
The following publication is available on the web and is published by Schools Legal Service. Neither SDCOE nor Best Best & Krieger assisted in the development of this publication. It is being provided as a resource. Any questions related to the Brown Act should be addressed to your own legal counsel.

The publication may be found at:

<http://schoolslegalservice.org/wp-content/uploads/sites/15/2016/04/In-Search-of-the-Perfect-Agenda-3-16.pdf>

IN SEARCH OF THE PERFECT AGENDA: A BROWN ACT MINI-CLINIC

Think of your agenda as the menu or roadmap for the meeting. It permits members of the public to know the issues being addressed so they can decide whether to monitor the issues or participate in the meetings. It provides other important information as to how the meeting will be conducted.



Ralph M. Brown

The agenda also serves the important purpose of guiding the business of the Board at the meeting, and so must be drafted with care. With only a few narrow exceptions, the Board may not transact or discuss business which is not described in the agenda.

The Brown Act contains a number of statutory requirements relating to the agenda. Education Code provisions may also come into play. This article will review those requirements and attempt to help you construct the perfect agenda.

I. ESSENTIAL ELEMENTS OF THE AGENDA

The following are some of the basic elements of an agenda as required in statute:

- Description of each item of business to be transacted or discussed.
- Date, time and location of the meeting
- Disability access information
- Opportunity for members of the public to address the Board
- Information on where the public can inspect open session documents provided to the Board less than 72 hours prior to a regular board meeting.

II. AGENDA DESCRIPTIONS

The Brown Act requires meeting agendas to contain a “brief general description of each item of business to be transacted or discussed, including items to be discussed in closed session.” The Act goes on to say that the description generally need not exceed 20 words.

Accordingly, the agenda does not need to educate the public on every aspect of a transaction. However, the description should be sufficient to put the public on notice as to the nature of the business under consideration so that they can observe or participate in the discussion if desired. Think about those in your community likely to care about an agenda item as it is being prepared, and make certain the description would be adequate to notify them that the Board is taking up

the issue. For example, in one case, a school board agenda read “Continuation school site change.” The reviewing court held that this was “entirely inadequate notice to a citizenry which may have been concerned with a school closure.”¹

III. CLOSED SESSION AGENDA ITEMS

The Brown Act provides a series of “canned” closed session descriptions. They are not mandatory, but if closed session items are described in substantial compliance with these samples, the District will not be held in violation of the Brown Act. There are, however, many situations when it may be advisable for political or other reasons to provide more or different information than the “canned” descriptions. A copy of the closed session agenda descriptions is included with these materials. Some of the most frequently used closed session descriptions relate to personnel matters and litigation.²

If the closed session will be held in a different location than the general session, remember to specify the closed session location.

A. Personnel Matters (Government Code section 54957)

The Brown Act permits the discussion of certain personnel matters in closed session, in order to protect the privacy of the employee and to allow the Board to have a robust discussion on the issues. This includes discussion of the initial employment of employees, their evaluation and performance, discipline, dismissal or release of employees, and the hearing of complaints or charges against the employee. The closed session descriptions in the Brown Act call for the position or job title of the person being discussed to be specified in the agenda, except in the case of discipline, dismissal or release. (See Government Code section 54954.5, 54957.)

The Brown Act’s “canned” closed session agenda items for personnel matters are as follows:

PUBLIC EMPLOYEE APPOINTMENT

Title: *[Specify description of position to be filled]*

PUBLIC EMPLOYMENT

Title: *[Specify description of position to be filled]*

¹ *Carlson v. Paradise Unified School District* (1971) 18 Cal.App.3d 196.

² Remember that, in addition to the agenda item, the Board must make an oral announcement of the items to be discussed in closed session prior to beginning the closed session. It is sufficient to refer to the item by agenda item number. There may also be “reporting out” obligations with respect to the closed session agenda items.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: *[Specify position title of employee being reviewed]*

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

[No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.]

Where the Board is “hearing” complaints or charges against an employee brought by another person or employee, the employee who is the subject of the complaint must be given 24 hours written notice of his or her right to have that item discussed in open session if the employee so chooses. Compliance with this requirement is extremely important, because the Brown Act provides that if the notice is not given, any action taken by the Board (including discipline) based on the complaints heard in the closed session will be considered null and void. The determination of whether a Board is actually meeting to “hear” complaints or charges against an employee is subject to legal interpretation and has been addressed by a variety of courts in recent years. It should be discussed in advance with legal counsel as early as possible and prior to preparation of the agenda.

B. Receiving Advice From Counsel on Litigation (Government Code section 54956.9)

Often mistakenly thought of as a closed session justification for discussion of anything that could end up in litigation, the purpose of this Brown Act provision is for the Board to **confer with or receive advice from its legal counsel regarding pending litigation** when an open session discussion would prejudice the District’s position in litigation. Not every potentially uncomfortable topic which could conceivably be the subject of litigation will qualify, and advice from the attorney must be part of the equation. The Board’s attorney should be present for the meeting, or at least via teleconference. It is unclear whether a court would uphold a closed session for this purpose where the Board receives advice from its attorney via a letter, so you should consult counsel on that point with your particular circumstances.

TIP: Prior to holding a closed session to confer with or receive advice from legal counsel concerning pending litigation, the Brown Act requires the District to either state on the agenda or publicly announce the subdivision of Government Code section 54956.9 which authorizes the closed session.

The Brown Act indicates this justification is available “upon the advice of legal counsel.” Thus, the Board’s counsel should also be involved in the determination of whether a closed session is proper in the first place. Where litigation has not been formally initiated against the District, litigation will be considered “pending” at the point where, in the opinion of counsel, there is significant

exposure to litigation based on “existing facts and circumstances,” which are carefully described in the Brown Act.

Prior to holding a closed session to confer with or receive advice from legal counsel concerning pending litigation, the Brown Act requires the District to **either state on the agenda or publicly announce the paragraph of subdivision (d) of Government Code section 54956.9 which authorizes the closed session.** Paragraph (1) relates to litigation already formally filed or commenced against the District. Where this is the case, the District is required to state the title or otherwise specifically identify the litigation to be discussed, unless the Board states that to do so would jeopardize the District’s ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. With respect to special education cases, for example, in order to protect the privacy of the pupil, the agenda item typically contains only the official case number assigned by the Office of Administrative Hearings.

Paragraphs (2) and (3) of subdivision (d) of section 54956.9 relate to significant exposure to litigation as defined or to a discussion to determine whether a closed session concerning anticipated litigation is authorized. Paragraph (4) of subdivision (d) relates to the District’s consideration of the initiation of litigation.

The following are the “canned” closed session descriptions used to confer with legal counsel regarding litigation:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(Paragraph (1) of Subdivision (d) of Government Code Section 54956.9)

Name of case: *[Specify by reference to claimant's name, names of parties, case or claim numbers]* - **OR** -

Case name unspecified: *[Specify whether disclosure would jeopardize service of process or existing settlement negotiations]*

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraphs (2) or (3) of subdivision (d) of Government Code Section 54956.9: *[Specify number of potential cases]*

[In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 54956.9.]

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9: *[Specify number of potential cases]*

Sample Language for a Discussion of Special Education “Due Process” Case.

For administrative proceedings in a special education matter, a typical agenda item for the Board to discuss an existing “due process” matter would identify the case using the Office of Administrative Hearings case number rather than the student name, such as the following *[be sure to consult with counsel in individual cases]*:

CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
 (Paragraph (1) of Subdivision (d) of Government Code Section 54956.9)
 Name of case: OAH case number _____ .

IV. AGENDIZING COLLECTIVE BARGAINING MATTERS

Certain aspects of the collective bargaining process need not even be agendized. This is because the Educational Employment Relations Act exempts them from the requirements of the Brown Act.³ However, most districts do observe Brown Act requirements in agendizing matters relating to collective bargaining. The following are some sample agenda items relating to different phases of the process:

CONFERENCE WITH LABOR NEGOTIATORS (Closed Session)
 Agency designated representatives: _____
 Employee organization *[specify name of organization representing employee or employees in question]* - **OR** -
 Unrepresented Employee *[specify title of unrepresented employee who is the subject of the negotiations]*

COLLECTIVE BARGAINING: Acknowledge receipt of Initial Proposal from *[certificated/classified/other]* collective bargaining unit for the 20__-20__ school year. A public hearing regarding the proposal will be scheduled for the next Board of Trustees meeting. (No action required.)

COLLECTIVE BARGAINING: Adopt the Public School Employer’s Initial Proposal to the *[certificated/classified/other]* bargaining unit for collective bargaining for the 20__-20__ school year. *[ADD where required by Board policy:]* A public hearing regarding the Public School Employer’s Initial Proposal will be scheduled for the next Board of Trustees meeting.

³ Meetings exempt from the Brown Act include meetings between the District and recognized or certified employee organizations; meetings of a mediator with either or both parties to the meeting and negotiations process; hearings, meetings or investigations conducted by a fact finder or arbitrator, and any closed sessions between the Board and its designated representative to discuss its position regarding any matter within the scope of representation and to instruct its representatives. (See Government Code section 3549.1.)

COLLECTIVE BARGAINING: Public hearing regarding the District's disclosure of the major provisions and costs of the Collective Bargaining Agreement between the District and the [certificated/classified/other] bargaining unit for the 20__-20__ school year (AB 1200 / Government Code section 3547.5)

COLLECTIVE BARGAINING: Acceptance and ratification of the Collective Bargaining Agreement between the District and the [certificated/classified/other] bargaining unit for the 20__-20__ school year.

IV. AGENDIZING STUDENT MATTERS

The Brown Act does not address student discipline matters. The Education Code indicates that a hearing to consider the expulsion of a pupil must take place in closed session, unless the pupil requests an open session in writing at least five days before the date of the hearing. (Even then, in cases involving sexual battery or sexual assault, the complaining witness may be entitled to have the testimony heard in closed session under certain circumstances.) Final action to expel, however, must occur in open session. (Education Code sections 35146, 48918, and 72122.)

While the Education Code indicates that expulsion records are public records, most Districts protect the privacy of pupils undergoing discipline, in compliance with the Family Education Rights Privacy Act.⁴

Sample agenda items are as follows:

HEARING(S) TO CONSIDER EXPULSION OF A PUPIL OR PUPILS

(Education Code section 48918, 72122)

Case Nos. _____.

Hearing Will Be Held in Closed Session Unless Timely Request for Open Session Received from Pupil. *[Board deliberation will be held in closed session, and in the Board's discretion, outside the presence of all parties, with final action taken in open session.]*

FINAL ACTION REGARDING EXPULSION OF PUPIL(S)

(Education Code section 48918, 72122)

Case Nos. _____.

The Education Code also provides that in the case of other student matters involving discipline other than expulsion or where disclosure would violate the privacy of student records protected from disclosure under state or federal law, closed session is the default setting unless the parent

⁴ See, *Rim of the World Unified School District v. San Bernardino County Superior Court* (2002) 104 Cal.App.4th 1393.

or student requests an open session in writing within 48 hours of receiving written notice from the District of the closed session. An appeal to the Board concerning a challenge to the content of student records is also to be held in closed session. (Education Code sections 35146, 48918, 49070, 72122, 76234.)

VI. REQUESTS FOR AGENDA ITEMS

It is the **Education Code** and not the Brown Act which permits members of the public to place items on the agenda. The requested items must pertain to matters within the subject matter jurisdiction of the Board. (Education Code section 35145.5/72121.5.) While the Board is required to place such matters on the agenda and permit the requestor to address the Board concerning them, the person requesting the agenda item cannot force the Board to discuss or take action on the item.

Many districts have adopted policies which require requests for agenda items to be submitted sufficiently in advance of the meeting with supporting documentation to allow staff to adequately prepare. (For K-12 districts, see the California School Board Association’s Board Bylaws 9322 and 9320.)

VII. THE CONSENT AGENDA

The concept of a “consent agenda” is not mentioned in the Brown Act. It is a vehicle which permits the Board to act on multiple items by a single vote. Normally these are routine items where Board discussion is not anticipated and the superintendent or chancellor has recommended approval. If a Board member requests to “pull” a particular consent agenda item, that item should be discussed and addressed individually. The public is entitled to comment on consent agenda items.

The consent agenda format is not appropriate for certain matters, including:

- Approval of a comprehensive school safety plan.
- Approval of an unconditional commitment to cease and desist from certain Brown Act violations or a rescission of an unconditional commitment. (Government Code section 54960.2.)
- Approval of a motion to approve a declaration of need in connection with K-12 emergency teacher or specialist permits or visiting faculty permits cannot be part of the consent agenda. (Education Code sections 44300 and 44300.1.)
- Approval of certain post-retirement work. (Education Code section 24214.5(b).)

VIII. POSTING

Regular board meeting agendas must be posted at least 72 hours in advance of the meeting time. The Attorney General has ruled that this can include weekend hours, although the public may frown on that practice in your district.⁵ It must be posted in a location freely accessible to members of the public. The Attorney General has interpreted this as meaning that the place is accessible 24 hours per day.

“Amendments” to the agenda on less than 72 hours notice are generally not permitted, although the Brown Act does permit the transaction of urgent business on shortened notice in certain narrowly defined situations.⁶ It is also sometimes feasible to transact urgent business on the day of the Board meeting by noticing a special meeting on 24 hours notice, to take place before or after the regular meeting.

Notice of special meetings must be delivered to each board member (unless waived in writing) and each newspaper or general circulation, radio or television station requesting notice in writing. The agenda must be posted at least 24 hours prior to the time of the meeting, and, as with a regular meeting agenda, in a place freely accessible to the public.

IX. ACCESS FOR PEOPLE WITH DISABILITIES

If requested, the agenda must be made available in appropriate alternative formats to people with disabilities as required by the Americans with Disabilities Act and its implementing regulations. In addition, to help ensure participation in the meeting by people with disabilities, the agenda must state that anyone who requires disability-related accommodations or modifications, including auxiliary aids and services, to participate in the board meeting should contact the Superintendent or designee. (Government Code sections 54954.1, 54954.2, 54953.2.)

Board meetings cannot be held in a location which prohibits admission of people based specified characteristics (e.g., religion, sex, sexual orientation) or one which requires a payment or purchase to enter.

⁵ 78 Opinions of the California Attorney General 327.

⁶ For example, where an urgent matter requiring action comes to the attention of neither Board nor staff prior to posting the agenda (Government Code section 54954.2). This requires a two-thirds vote of members present or all of those present if fewer than two-thirds of the members are present.

X. TELECONFERENCES

When Board members need to be out of town or at different locations within the District, audio or video teleconferencing can be used to permit them to participate so long as at least a quorum participates from locations within District boundaries and the other requirements of the Brown Act are met. (See Government Code section 54953.)

Agendas need to be posted at all teleconference locations, and each teleconference location should be specified in the agenda. Remember that all votes taken in a teleconferenced meeting must be by roll call.

Teleconferencing may not be suitable for all meetings or agenda items. The Brown Act states that the meeting must be conducted “in a manner that protects the statutory and constitutional rights of the parties or the public” appearing before the Board. So, for example, when an agenda item requires the Board to observe the demeanor of witnesses, as in the case of student expulsions, an audio teleconference may not be appropriate. Each location must be accessible to the disabled so that they can testify.

Remember that when teleconferencing is used, a quorum of the Board must participate from within District boundaries. All teleconference locations must be listed on the agenda, and the agenda posted at those locations. All votes must be taken by roll call.

XI. AGENDA PACKETS AND COPIES FOR THE PUBLIC

The Brown Act imposes several obligations to make agenda and board meeting materials available to the public:

- Upon receiving a written request for a copy of the agenda or agenda packet, the materials must be mailed at the earlier of the time the agenda is posted or distributed to a least a majority of board members. A standing request can be made for the calendar year, but it must be renewed from year to year.
- Materials distributed to a Board majority for open session items are considered public records which must be made available upon request.
- Where open session materials are made available to a majority of Board members within 72 hours of a regular meeting, they must be available to inspect upon request at a location designated in the agenda.
- Writings distributed during the meeting must be available for public inspection at the meeting if prepared by the Board or staff. Materials prepared by some other person can be made available after the meeting.

A fee can be charged for providing the materials requested, not to exceed the cost of providing the service. (Government Code section 54954.1.)

XII. STICK TO THE AGENDA!

With limited exceptions, the Board is prohibited from taking up the discussion of or action on items not placed on the agenda. The following are some potential exceptions:

- Board members can make a brief announcement or a brief report of their activities, or ask for clarification in response to a question from the public, or provide a reference to staff or other resources for factual information, or request staff to report back on a matter at a subsequent meeting, or take action to direct staff to place a matter of business on a future agenda.
- Emergencies, as defined (see below—a tough standard to meet)
- Where the Board determines by two-thirds vote of the members present (or by unanimous vote if less than two-thirds of the board is present) that immediate action is required and cannot reasonably wait until the next regular meeting and the matter did not come to the attention of the board or staff until after the agenda was posted.

XIII. ADJOURNMENTS

The Board can adjourn a meeting to another place and time. If a quorum is not present, the remaining members can do so. If there are no members present, the clerk or secretary can adjourn the meeting.

Notice of the adjournment should be provided in the same way as notice is given for special meetings. Within 24 hours of the adjournment, a copy of the order or notice of adjournment must be at or near the door of the place where the adjourned meeting was held.

If these protocols are observed, the continued adjourned meeting is considered a regular meeting for all purposes.

If an item is posted on the agenda, the Board may continue the discussion on that item to a subsequent meeting. If the subsequent meeting is held within five days, the item need not be re-posted on the agenda for the subsequent meeting. (Government Code section 54954.2(b)(3).)

XIV. EMERGENCY MEETINGS

“Emergency” meetings are appropriate only in specific and dire circumstances spelled out in the Brown Act (crippling disaster, mass destruction, terrorist activity, etc.)

Sample regular and emergency agendas are attached as appendices.

A sample agenda for an emergency meeting, with boxes to be checked to identify the type of emergency, is included with these materials.

XV. CONSEQUENCES OF AN AGENDA GONE WRONG

If the Board discusses or acts on matters not on the agenda, or not adequately described on the agenda, a member of the public may decide to file a legal challenge. Typically the Board will have and opportunity to “cure or correct” any defect, but depending on the circumstances, a correction may not be possible. For example, a legal deadline may have already expired at the time the challenge is filed. If the challenge is successful, the Board’s action may be declared invalid and the District may be liable for the attorney’s fees of the challenger. A court could also take other action to prevent a district from engaging in future violations. If the violation involves closed session matters, a court can even order the Board to tape record its closed sessions.

Each Board member who attends a meeting at which action is taken in violation of the Brown Act, with wrongful intent to deprive the public of information to which it is entitled under the Act, is guilty of a misdemeanor, punishable by a fine of up to \$500 and /or six months’ imprisonment.

XVI. WHAT ABOUT THE MINUTES?

The minutes serve as the record of the Board's actions. They are also an important tool for communication with the community, staff and other interested groups. The minutes are not substantively discussed in or required by the Brown Act, and are only briefly mentioned in the Education Code.

Education Section 35145/72121 provides,

Minutes shall be taken at all of those [governing board] meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.

Section 35163/72000 goes on to say,

Every official action taken by the governing board of every school district shall be affirmed by a formal vote of the members of the board, and the governing board of every school district shall keep minutes of its meetings, and shall maintain a journal of its proceedings in which shall be recorded every official act taken.

Style and practice vary widely among districts as to the content and level of detail found in their minutes beyond recording the actions of the governing board. Most include only a short summary of Board action or discussion, while others record the discussion and public comments almost verbatim. Typically, the minutes reflect the "culture" in a district as well as historical practice. At a minimum, the minutes should record each Board action, the Board members who made and seconded motions, the votes taken and the names and votes of members where a roll call vote is required, such as with a teleconference.

When the law requires a report of action taken in closed session, the vote or abstention of every Board member present must be announced and should be recorded in the minutes. The same is now required for actions taken in open session. The minutes should either reflect the name and vote of each board member present (example: Ayes: W, X; Nays: Y; Abstention: Z), or a description sufficient to make clear how each board member voted (for example, for a five-member board, "motion carried, 4-1, trustee Smith opposed").

The names of members of the public who comment and the subject of their comments are often recorded, although this is not required. The minutes should reflect the times at which the meeting begins, recesses, and adjourns, and the names of Board members present. They should also indicate when a Board member joins the meeting in progress or leaves before adjournment so that the record will reflect that a quorum is present at all times.

Draft minutes are usually prepared after the meeting and included in the agenda packets for the following meeting, at which time Board members review and approve the minutes, with or without changes.

The Brown Act indicates that keeping a confidential minute book of closed session meetings is optional, and would not be considered a public record. (Government Code section 54957.2). Our office recommends against maintaining minutes or recordings of closed sessions. However, districts should consider having a designated person keep confidential notes indicating actions taken in the closed session and the votes of board members, particularly where the action may not be something which the Board is required to report out in open session.

Districts often maintain a board policy concerning the required elements of the minutes. K-12 districts which are members of the California School Boards Association should refer to Board Bylaw 9324, "Minutes and Recordings."

Minutes are considered Class 1 Permanent Records, so the original, or an exact copy, must be retained indefinitely unless microfilmed. (Title 5, California Code of Regulations, Section 16023). If microfilmed or electronically scanned and preserved in accordance with the procedure outlined in Title 5, the hard copies of the minutes can then be classified as Class 3 Disposable Records and destroyed four years after the new classification.

There are a few occasions where the Education Code specifically requires information to be entered into the minutes. (See Education Code sections 44300 [declaration of need for K-12 emergency teaching or specialist permits]; 44300.1 [declaration of need for K-12 visiting faculty permit]; 48308 [reasons for board determination and reasons for rejection of application to transfer to K-12 school district of choice]).

February 2, 2016

GOVERNMENT CODE

§ 54954.5. Description of closed session items

For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators 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 so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to paragraphs (2) to (5), inclusive, of subdivision (e) of Section 54956.9.)

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

PERFECT UNION SCHOOL DISTRICT
REGULAR MEETING OF THE BOARD OF TRUSTEES
AGENDA

Meeting Date & Time: October 31, 20xx, 6:00 p.m.
Place of Meeting: District Office, Board Room, 123 Oleander Avenue, Bakersfield, CA
Closed Sessions Will be Held in Conference Room A, same address.

☞ Required by
Brown Act,
§54954.2

Any materials required by law to be made available to the public prior to a meeting of the Board of Trustees of the District can be inspected at the following address during normal business hours: [list address]

☞ Required by
Brown Act,
§54954.1

For information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation to participate in the public meeting, please contact _____.

☞ Required by
Brown Act,
§54952.2

Members of the public shall have an opportunity to address the Board of Trustees either before or during the Board's consideration of each item of business to be discussed at regular or special board meetings, including closed session items. In addition, with limited exceptions, the Board will provide an opportunity at regular meetings to address the Board on any other item of interest which is within the subject matter jurisdiction of the District. In order to efficiently manage the business of the Board, the Board President may limit the amount of time allocated for public testimony for each individual speaker to _____ minutes, and to limit the total time allocated on a particular issue to _____, pursuant to Board policy.

☞ Required by
Brown Act,
§54954.3

I. CALL TO ORDER AND FLAG SALUTE

II. ANNOUNCEMENT OF CLOSED SESSION ITEMS AND PUBLIC COMMENT ON CLOSED SESSION ITEMS.

III. CLOSED SESSION

- A. PUBLIC EMPLOYEE APPOINTMENT
Job Title: Director of Business Services
- B. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
- C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Government Code section 54956.9: 2 potential cases.
- D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Government Code section 54956.2).
Case Name: OAH Case Number _____.
- E. HEARING(S) TO CONSIDER EXPULSION OF A PUPIL OR PUPILS
(Education Code section 48918, 72122) Pupil Nos. _____.
Hearing Will Be Held in Closed Session Unless Timely Request for Open Session Received from Pupil
(Board deliberation will be held in closed session, with final action taken in open session).

☞ "Canned" safe
harbor closed
session
descriptions – see
Brown Act,
§54954.5

IV. RECONVENE TO OPEN SESSION

- A. Reports from closed session, if required.
- B. Approval of Minutes from meeting(s) of _____.

V. PUBLIC COMMENT

VI. COLLECTIVE BARGAINING

Acceptance and ratification of the Collective Bargaining Agreement between the District and the certificated bargaining unit for the 20xx-20xx school year.

VII. REPORT OF BOARD MEMBERS

VIII. SUPERINTENDENT'S REPORT

IX. CONSENT AGENDA (Attachment A)

X. APPROVAL OF CHANGE ORDERS AND CONTRACTS

XI. ADJOURNMENT

Notice of Teleconferencing: Government Code section 54953 permits the Board of Trustees to conduct its meeting from different locations via teleconference provided that at least a quorum of the Trustees participate from locations within District boundaries. This meeting shall be conducted using teleconferencing at the following locations, which shall be accessible to the public: [specify locations]. Members of the public shall be afforded the opportunity to address the Board as permitted under Government Code section 54954.3 at each teleconference location. Voting at this meeting shall be by roll call.

☞ Required by
Brown Act,
§54953 for
teleconferences

SCHOOLS LEGAL SERVICE

PERFECT UNION SCHOOL DISTRICT
EMERGENCY MEETING OF THE BOARD OF TRUSTEES
AGENDA

Meeting Date and Time: October 31, 20xx, 6:00 p.m.

Place of Meeting: District Office, Board Room, 123 Oleander Avenue, Bakersfield, CA
Closed Sessions Will Be Held in Conference Room A, same address.

In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with notice and posting requirements for special meetings. The Board may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of Board members present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

Members of the public shall have an opportunity to address the Board of Trustees either before or during the Board's consideration of each item of business to be discussed. In order to efficiently manage the business of the Board, the Board President may limit the amount of time allocated for public testimony for each individual speaker to _____ minutes, and to limit the total time allocated on a particular issue to _____, pursuant to Board policy

I. CALL TO ORDER AND FLAG SALUTE

II. DETERMINATION OF EMERGENCY [Select Option A or B below]

 A The Board determines that an emergency exists, defined as a work stoppage, crippling activity or other activity which severely impairs public health, safety or both. The emergency necessitates the holding of a Board meeting without the usual posting and notice requirements.

 B The Board determines that a "dire emergency" exists, defined as a crippling disaster, mass destruction, terrorist act, threatened terrorist activity that poses peril so immediate and significant that require the Board to provide one-hour notice before holding the emergency meeting may endanger the public health, safety or both.

Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the Board or designee. Notification shall be provided at least one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the Board of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the Board, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

The minutes of this meeting, a list of persons who the presiding officer 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 a minimum of ten days in a public place as soon as possible after the meeting.

III. SCHOOL CLOSURE AND ALTERATION OF SCHOOL CALENDAR

IV. REVIEW COMPREHENSIVE SAFETY PLAN

V. AUTHORIZATION OF EMERGENCY REPAIRS

VI. ADJOURNMENT

For information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation to participate in the public meeting, please contact _____.

Any materials required by law to be made available to the public prior to a meeting of the Board of Trustees of the District can be inspected at the following address during normal business hours: [list address]

Notice of Teleconferencing: Government Code section 54953 permits the Board of Trustees to conduct its meeting from different locations via teleconference provided that at least a quorum of the Trustees participate from locations within District boundaries. This meeting shall be conducted using teleconferencing at the following locations, which shall be accessible to the public: [specify locations]. Members of the public shall be afforded the opportunity to address the Board as permitted under Government Code section 54954.3 at each teleconference location. Voting at this meeting shall be by roll call.

_____ **SCHOOL DISTRICT**
Business Services

TOPIC:

Delegation of Power to Contract to the Superintendent or Designee

BACKGROUND:

Education Code 17604 in stating that the power to contract is invested in the Governing Board. However, the Board may, by a majority vote, delegate the power to enter into contracts on behalf of the district to the Superintendent or designee.

The attached resolution provides for this delegation.

PLAN:

Approval of this resolution will formally delegate the power to contract to the Superintendent. The Superintendent, in turn, will designate certain district staff by position to enter into contracts as set forth in the attached memo.

As stated in Education Code, no contract made pursuant to this delegation and authorization will be enforceable until such contract is approved and/or ratified by the Governing Board. Pursuant to Education Code 17605, all approvals by any of the designated officers of the District will be subject to ratification by the Board within 60 days.

This resolution for delegation of power to contract will be brought forward on an annual basis for Board approval.

Can be annual or until rescinded or superseded.

FISCAL IMPACT:

None. All agreements and contracts executed by District staff are subject to board approval.

RECOMMENDED ACTION:

Adoption of Resolution # _____ Authorizing Delegation of Power to Contract to the Superintendent of _____ School District or Designee.

Originating Department: Purchasing

Submitted/Recommended By:

Approved for Submission to the Governing Board:

Deputy Superintendent,
Business Services

Superintendent

Resolution No. _____

RESOLUTION TO DELEGATE POWER TO CONTRACT TO THE SUPERINTENDENT

On motion of Member _____, seconded by Member _____, the following resolution is adopted:

WHEREAS, Education Code Section 17604 provides that wherever in the code the power to contract is invested in the governing board of the school district or any member thereof, such power may by a majority vote of the board be delegated to its district superintendent, or to such persons as the superintendent may designate; and

WHEREAS, Education Code Section 17605 further provides that no contract made pursuant to such delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, said approval or ratification to be evidenced by a motion of said board duly passed and adopted;

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED that pursuant to Education Code Section 17604 the power to contract on behalf of the Governing Board of the _____ School District of _____ County, California, is hereby delegated to the Superintendent or such persons as the Superintendent may designate during the _____ fiscal year, provided that no contract made pursuant to such delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until same shall have been approved or ratified by the Governing Board, said approval or ratification to be evidenced by a motion duly passed and adopted.

BE IT FURTHER RESOLVED that the Governing Board hereby delegates the authority to the Superintendent, or such person as the Superintendent may designate during the _____ fiscal year to (i) call for bids, including placing advertisements as required pursuant to the Public Contract Code; (ii) reject all bids if rejection is determined by District staff to be in the best interests of the District; (iii) re-call and re-advertise for bids; and (iv) take such other action as may be reasonably necessary to accomplish those tasks delegated pursuant to this Section.

PASSED AND ADOPTED by the Governing Board of the Grossmont Union High School District at _____, California, on this ____ day of _____, _____, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

STATE OF CALIFORNIA)
)
COUNTY OF _____)

I, _____, Clerk of the Governing Board of the _____ School District of _____, California, do hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by said Board at the regular meeting thereof at the time and place of vote stated, which resolution is on file and of record in the office of said Board.

Clerk of the Governing Board

Date

SCHOOL DISTRICT

Business Services Division

Governing Board Meeting:

Insert Date

Topic:

Delegation of Authority in Regard to award of Public Works Contracts, Bidding, and Management of Proposition ____ and Other Capital Improvement Projects.

Issue:

Education Code Section 35161 authorizes the Board to delegate to any officer or employee of the District any power or duty delegated to the District or the Board by law, although the Board retains responsibility over the performance of the powers or duties so delegated. Education Code 17604 and 17605 authorizes the delegation of authority to enter into contracts and purchases supplies, materials, and services.

The delegation of authority will permit the District to move projects forward and avoid delays while maintaining the integrity of the contracting process. Pursuant to Education Code 17605, all approvals by any of the designated officers of the District will be subject to review by the Board within 60 days.

Plan:

The adoption of resolution (#_____) will provide the necessary authorization for the District Superintendent, the Deputy Superintendent of Business Services, and/or the Executive Director of Facilities Management or to their designee the authority award public works contracts up to \$175,000, advertise for bids, to reject all bids and re-call or re-advertise, and approve change orders subject to subsequent award or rejection of bids by the Board.

Fiscal Impact:

There is no fiscal impact generated from the adoption of this resolution.

Recommended Action:

Adoption of Resolution (#_____) Delegation of Authority in Regard to Award of Public Works Contracts, Bidding and Management of Proposition ____ and Other Capital Improvement Projects

Originating Department: Purchasing

Submitted/Recommended By:

Approved for Submission to the Governing Board:

Deputy Superintendent,

Superintendent Business Services

Resolution No. _____

**DELEGATING AUTHORITY IN REGARD TO BIDDING AND MANAGEMENT OF PROPOSITION _____
AND OTHER CAPITAL IMPROVEMENT PROJECTS**

On motion of Member _____, seconded by Member _____, the following resolution is adopted:

WHEREAS, Public Contract Code Section 22002(c) defines a public works project generally as work including the construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair of any publicly owned, leased, or operated facility; and

WHEREAS, the Governing Board ("Board") of the _____ School District ("District"), when undertaking a public project in excess of \$175,000, is required pursuant to Public Contract Code Section 22000 et seq. to award the contract(s) for such work to the lowest responsible bidder(s) or reject all bids; and

WHEREAS, Public Contract Code Section 22037 requires the Board to advertise for bids for public projects by publishing a notice calling for bids in a newspaper of general circulation published within the District at least 14 calendar days prior to opening of bids; and

WHEREAS, Education Code Section 35161 authorizes the Board to delegate to any officer or employee of the District any power or duty delegated to the District or the Board by law, although the Board retains responsibility over the performance of the powers or duties so delegated; and

WHEREAS, on _____, the voters residing within the District's boundaries approved Proposition _____, thereby providing for issuance of general-obligation bonds and use of bond proceeds to repair and upgrade existing District schools and to construct additional new District school facilities; and

WHEREAS, the Board previously reviewed and approved the list of projects that were to be funded using Proposition _____ bond proceeds and included such list in the ballot materials for Proposition _____ presented to the voters, which included projects at:

; and

WHEREAS, during the course of new construction and modernization projects, situations may arise resulting in requirement for changes to the project or the contracts therefor, and changes to the Proposition _____ or other Capital Improvement Projects or the contracts therefor have been and, as anticipated, will be necessary during the course of construction; and

WHEREAS, the Board desires to delegate to District staff certain authority in regard to competitive bidding of and contracting and thereby create an efficient process for achieving and implementing the Proposition _____ and other Capital Improvement projects.

NOW, THEREFORE, the Board does hereby determine, resolve, and order as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The Board hereby delegates the authority and discretion to the Superintendent, the Deputy Superintendent of Business Services, the Executive Director of Facilities Management of the District, or to their designee, to: (i) award public works contracts up to \$175,000 pursuant to the California Uniform Public Construction Cost Accounting Act; (ii) review and, as appropriate, approve plans and specifications for any of the Proposition _____ or other Capital Improvement

_____ School District

Date:

To: _____, Superintendent of Schools

From: _____, Chief Business Official

Vendor Name

Subject: Item 15A: Award Contract – Produce – District-Wide

Term listed

STAFF RECOMMENDATION: Board approval is requested to award contract between Jones Produce and _____ School District for the purchase and weekly delivery of produce, effective July 1, 2017 through June 30, 2018.

BACKGROUND INFORMATION: In accordance with federal regulations for the procurement of goods for child nutrition programs the bid was conducted in a manner providing full and open competition.

_____ School District competitively advertised Bid No. 17/186-12345 for the distribution of produce in a newspaper of general circulation on March 12 and 29, 2017. Three bids were received. All bids were responsive and award is recommended to the lowest responsible bidder. The contract will be valid through June 30, 2018 and may be extended for an additional two (2) one year periods.

Renewal Terms

RECOMMENDED ACTION: Approve contract with Jones Produce, 17/186-12345 for the 2017-18 school year.

REVIEW BY OTHERS: Cabinet, Director I, Child Nutrition Services

ATTACHMENTS: Bid Summary

Amount of Contract

FISCAL IMPACT: \$1.2 Million (Cafeteria Fund)

SEPARATE ACTION

_____SCHOOL DISTRICT

RESOLUTION XX-XX-XX

REDUCTION OR ELIMINATION OF CERTAIN CERTIFICATED SERVICES

(Education Code Sections 44949 and 44955)

WHEREAS, Sections 44949 and 44955 of the Education Code require action by the Governing Board in order to reduce or eliminate services and permit the layoff of certificated employees; and

WHEREAS, the Superintendent of the _____ School District has recommended to the Governing Board that particular kinds of services be reduced or eliminated no later than the end of the 2017-2018 school year; and

WHEREAS, the Governing Board has determined that a reduction or elimination of particular kinds of services is needed no later than the end of the 2017-2018 school year; and

WHEREAS, this Board has determined that due to a significant population of English language learners with specialized educational needs, a specific and compelling need exists to retain certificated employees who have Bilingual Cross-cultural Language, and Academic Development (“BCLAD”) authorization to teach English language learners and the special training and experience that comes therewith; and

WHEREAS, this Board has determined that due to a significant population of English language learners with specialized educational needs, a specific and compelling need exists to retain certificated employees who teach in the District’s bilingual dual immersion program and therefore possess the special training and experience that comes therewith; and

WHEREAS, this Board has determined that there is a significant and compelling need to retain teachers who have attained National Board Certification, and therefore possess the training and experience that comes therewith; and

WHEREAS, Education Code section 44955(d) authorizes this Board to deviate from terminating a certificated employee in order of seniority for the above reasons, if necessary.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the _____
_____ District:

1. That all of the foregoing recitals are true and correct.
2. That because of the financial constraints resulting from revenue being insufficient to maintain the current levels of programs, and necessary program changes resulting therefrom, the Governing Board hereby determines to reduce or eliminate those positions set forth in **Exhibit A**, attached hereto and incorporated by reference herein, listing by particular kind of service and full-time equivalent, those positions which shall be reduced or eliminated no later than the end of the 2017-2018 school year.

3. That because of the elimination and reduction of particular kinds of services listed in **Exhibit A**, it is necessary to terminate at the end of the 2017-2018 school year certificated employees corresponding in number to the positions affected in the reduction or elimination of the above-described particular kinds of services.
4. That in selecting those probationary and permanent certificated employees who shall receive notice of termination pursuant to this Resolution, Education Code section 44955 requires the Governing Board to state specific criteria to be used in determining the order of termination of certificated employees who first rendered paid service to the Governing Board in a probationary position on the same date.
5. That the criteria to be used in determining the order of termination of certificated employees who first rendered paid service to the Governing Board in a probationary position on the same date, listed and described in **Exhibit B**, are based solely on the needs of the _____ School District and the students thereof.
6. That the seniority and qualifications of some of the employees in the services being reduced or eliminated are such that they have displacement rights, and that no employee will be terminated while a less senior employee is retained to render a service which the more senior employee is both certificated and competent to render.
7. That in observing the statutory rights of a more senior certificated employee performing services in a subject matter or field identified by the District for reduction or elimination to displace a less senior certificated employee, the more senior certificated employee may displace less senior certificated employee if it is established to the satisfaction of the District that the more senior certificated employee is both competent and credentialed to render the services performed by a less senior certificated employee.
8. That “competency” as described in Education Code section 44955(b) and referenced in paragraph 8 above, for the purposes of displacement, shall necessarily include possession of: (1) a valid credential in the relevant subject matter area; (2) “highly qualified” status under the No Child Left Behind Act in the position to be assumed; (3) if displacing an employee who possesses a BCLAD certification, possession of a BCLAD certification; (4) special training and experience necessary to meet the job requirements of specialized positions (such as AVID teachers, EDP lead teachers, Dual Immersion teachers); (5) if displacing an employee who possesses a National Board Certification, possession of a National Board Certification; (6) for elementary (TK-5) teaching positions, or a self-contained 6th grade classroom teaching position, at least (1) year of experience in the past five (5) years teaching at the elementary level or in a sixth grade self contained classroom; and (7) for positions involving instruction to 6th, 7th and/or 8th grade students, other than a self contained 6th grade classroom, at least one (1) year of experience in the position or assignment within the last five (5) years.

9. That the Superintendent or his designated representative will send appropriate notices to all employees possibly affected by virtue of the reduction and elimination of particular kinds of service.
10. That the action of this Governing Board will not, in any way, be considered to prejudice the rights of certificated employees to whom notice will be given as to the Superintendent's consideration of any proposed decision by an administrative law judge in the event a hearing is requested by any employee.

SAMPLE

RESOLUTION NO. _____

**RESOLUTION OF INTENTION TO SELL SURPLUS REAL
PROPERTY AND CALLING FOR BIDS FOR THE
_____ PROPERTY,**

ASSESSOR'S PARCEL NUMBER _____

WHEREAS, procedures for the sale of surplus property by a public school district are set forth in Education Code sections 17455 -17484; and

WHEREAS, the _____ School District (the "District") owns real property consisting of approximately 0.32 acres of land, located at _____, CA, Assessor's Parcel Number _____, in the City of _____, ("City"), in the County of San Diego, California, as more particularly depicted on the map included as Exhibit "A" and described in the legal description included as Exhibit "B," attached hereto and incorporated by this reference (the "Property"); and

WHEREAS, the Board has determined that the Property is surplus and no longer necessary for the District's use/purposes, and the Board desires to offer the Property for sale in accordance with the procedures set forth in Education Code sections 17455 -17484, Government Code sections 54220-54232 and other applicable law; and

WHEREAS, the District has offered to sell or lease the surplus Property in writing to specified entities as required by Education Code section 17464 and Government Code section 54222; and

WHEREAS, no public entity(ies) entered into good faith negotiations and/or made a good faith offer to purchase the Property within the statutory period(s); and

WHEREAS, the District also published notice of its intent to dispose of the surplus Property as required by Education Code section 17464 on or about _____, 2018, _____, 2018 and _____, 2018 to which no additional public agency or other permissible entity either responded or notified the District of its intent to offer to purchase the Property; and

WHEREAS, the Board now desires to call for sealed written bids and conduct a public auction for the purchase of the Property pursuant to Education Code Section 17472 and 17473 in accordance with the terms and procedures hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED, by the Board of the _____ School District, that this Board hereby resolves that the recitals listed above are true, and finds and declares the Property to be surplus and further declares that it is the intention of this Board to offer the Property for sale in accordance with state law, and according to the following terms and procedures:

Section 1. Opening of Bids. At a regular meeting of the Board to be held on [INSERT DATE], at the hour of [INSERT TIME] p.m., in the regular meeting room of the

Governing Board located at [INSERT ADDRESS], the Governing Board will publicly open and examine sealed bids to purchase the Property.

Section 2. Requirements and Qualifications for Sealed Written Bids. The requirements and qualifications for sealed written bids are set forth in detail in the “Instructions to Bidders” and Bid Documents attached hereto as Exhibit “C.”

A. Mandatory Bid Form. Each sealed written bid must be submitted on the District’s mandatory bid form (“Bid Form”), available at the District Office located at _____.

B. Mandatory Bid Deposit. Each Bid Form must be submitted with a bid deposit in the amount of **ten percent (10%)** of amount of the Bid (“Bid Deposit”). The Bid Deposit must be paid by certified check or cashier’s check payable to the _____ School District and delivered to the District Office located at _____, CA _____, at the same time as the Bid Form as described in the Bid Documents. The Bid Deposit of the successful bidder shall be applied to the purchase price of the Property as described below. Any sealed written bid submitted by a person or entity without the mandatory Bid Deposit shall not be considered.

C. Deadline for Receipt of Sealed Written Bids. The sealed envelope containing the Bid Form and Bid Deposit must be received by the District Office no later than [INSERT TIME] p.m. on [INSERT DATE], 2018. Sealed written bids may be delivered to the District Office located at _____, CA _____, between [INSERT BUSINESS HOURS OF DISTRICT] a.m. and [INSERT BUSINESS HOURS OF DISTRICT] p.m. on Monday through Friday, excluding holidays, until [INSERT DATE], 2018. No sealed written bids will be accepted after the time.

Section 3. Call for Oral Bids During Public Auction. Following examination of the written bids, oral bids for purchase of the Property will be called for and considered during the public auction to be conducted by the District pursuant to Education Code Section 17473, as further described in the Bid Documents.

Section 4. Acceptance of Final Bid. The final acceptance of the highest responsible bid, whether written or oral, shall be made by the Board at the regular meeting to be held on [INSERT DATE] at [INSERT TIME] p.m. The Board reserves the right to reject any and all bids, written or oral, and to withdraw the Property from sale. The Board reserves the right to determine who is a responsible bidder and also reserves the right to waive any and all defects in bids and to waive irregularities. In the event that the highest responsible bidder fails to perform, the Board may, at its discretion, offer the property to the second highest bidder, reject all bids, call for new bids, or remove the Property from sale.

Section 5. Posting of Notices. The Secretary of the Board is hereby directed to post copies of this Resolution of Intention signed by the Board in three (3) public places in the District not less than fifteen (15) days before the opening of bids on [INSERT DATE]. The Secretary of the Board is further directed and to publish a copy of this Resolution in a local

newspaper of regular circulation in the District once a week for three (3) successive weeks before the opening of bids on [INSERT DATE].

PASSED AND ADOPTED on _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)

This is to certify that the foregoing document is a true copy of the Resolution of the Board of Education of the _____ School District of San Diego County.

_____, Clerk of the
Board of Education