

Santa Barbara Unified School District

Board Bylaw

Board Bylaws

BB 9323.2

ACTIONS BY THE BOARD

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

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

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

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

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

(cf. 9324 - Minutes and Recordings)

Action on Non-Agenda Items

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: (Government Code 54954.2)

1. When a majority of the 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 district'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

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

Challenging Board Actions

Any interested person or the district attorney's office may present a demand that the Board cure and correct a Board action which he/she alleges is in violation of Government Code 54954.2 (agenda posting), Government Code 54953 (open meeting and teleconferencing), Government Code 54954.5 (closed session item descriptions), Government Code 54954.6 (new or increased tax assessments), Government Code 54956 (special meetings), or Government Code 54956.5 (emergency meetings). (Government Code 54960.1)

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

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code 54960.1)

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.
3. Take no action. If the Board takes no action within the 30-day review period, its inaction shall be considered a decision not to cure or correct the action.

Legal Reference:

EDUCATION CODE

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|---------------|--|
| 15266 | <i>School construction bonds</i> |
| 17466 | <i>Declaration of intent to sell or lease real property</i> |
| 17481 | <i>Lease of property with residence for nondistrict purposes</i> |
| 17510-17511 | <i>Resolution requiring unanimous vote of all members constituting board</i> |
| 17546 | <i>Private sale of personal property</i> |
| 17556-17561 | <i>Dedication of real property</i> |
| 17582-17583 | <i>District deferred maintenance fund</i> |
| 35140-35149 | <i>Meetings</i> |
| 35160-35178.4 | <i>Powers and duties</i> |
| 48660-48661 | <i>Community day schools establishment and restrictions</i> |

CODE OF CIVIL PROCEDURE

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|----------|---|
| 425.16 | <i>Special motion to strike in connection with a public issue</i> |
| 1245.240 | <i>Eminent domain vote requirements</i> |
| 1245.245 | <i>Eminent domain, resolution adopting different use</i> |

GOVERNMENT CODE

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|---------------|---|
| 53090-53097.5 | <i>Regulation of local agencies by counties and cities</i> |
| 53724 | <i>Parcel tax resolution requirements</i> |
| 53790-53792 | <i>Exceeding the budget</i> |
| 53820-53833 | <i>Temporary borrowing</i> |
| 53850-53858 | <i>Temporary borrowing</i> |
| 54950-54963 | <i>The Ralph M. Brown Act, especially:</i> |
| 54952.6 | <i>Action taken, definition</i> |
| 54953 | <i>Meetings to be open and public; attendance; secret ballots</i> |
| 54960 | <i>Action to prevent violations</i> |
| 65352.2 | <i>Coordination with planning agency</i> |

PUBLIC CONTRACT CODE

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| 3400 | <i>Bid specifications</i> |
| 20111 | <i>Contracts over \$50,000; contracts for construction; award to lowest responsible bidder</i> |
| 20113 | <i>Emergencies, award of contracts without bids</i> |

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:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 2009

ATTORNEY GENERAL PUBLICATIONS

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

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

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

WEB SITES

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

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

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

SANTA BARBARA UNIFIED SCHOOL DISTRICT
Santa Barbara, California May 23, 2006; May 13, 2011