

LODI UNIFIED SCHOOL DISTRICT

REVISION

Bylaw 9323.2

Bylaws of the Board

Actions by the Board

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

An "action" by the Board of Education means:

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.

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:

~~The Board may take action in a regular meeting on a subject not listed on the published agenda only when it publicly identifies the item to be acted upon in conjunction with one of the following conditions:~~

1. When a majority of the Board determines that an emergency situation exists as defined for emergency meetings pursuant to Government Code 54956.5 (a work stoppage, crippling disaster, or other activity which severely impairs public health or safety).
2. ~~The Board determines either by a~~ **When** two-thirds majority of ~~it's~~ **the** members present ~~at the meeting~~ or, if less than two-thirds of the members are present by the unanimous vote of all members present, **determine** that the need to take immediate action came to the District's attention after the posting of the agenda.
3. The matter was properly posted for a previous meeting occurring not more than five days earlier and was continued to the meeting at which action is being taken.

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

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

Challenging Board Actions

Any interested person or the district attorney's office may present a demand ~~file an action in court for the purpose of: 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).~~ file an action in court for the purpose of:

1. Stopping or preventing the Board's violation or threatened violation of the Brown Act
2. Determining the applicability of the Brown Act to ongoing or future threatened Board actions
3. Determining the applicability of the Brown Act to a past action of the Board that is not specified in Government Code 54960.1, provided that:
 - a. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.
 - b. The time for the Board to respond has expired and the 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.
 - c. The action is brought within the time required by Government Code 54960.2.
4. Determining the validity, under state or federal law, of any Board rule or action which penalizes any of its members or otherwise discourages their expression
5. Compelling the Board to audio record its closed sessions because of a court's finding of the Board's violation of any applicable Government Code provision

The district attorney or any interested person may file an action in court to nullify a Board action which is alleged to be in violation of law regarding any of the following: (Government Code 54960.1)

1. Open meeting and teleconferencing (Government Code 54953)
2. Agenda posting (Government Code 54954.2)
3. Closed session item descriptions (Government Code 54954.5)
4. New or increased tax assessments (Government Code 54954.6)
5. Special meetings (Government Code 54956)
6. Emergency meetings (Government Code 54956.5)

Prior to bringing any action to nullify a Board action, the district attorney or other interested person shall present a ~~Any~~ demand to "cure and correct" ~~an~~ the alleged violation. The demand 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.

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

Legal References:

EDUCATION CODE

15266 School construction bonds

17466 Declaration of intent to sell or lease real property

17481 Lease of property with residence for nondistrict purposes
17510-17514 ~~2~~ **Leasing for production of gas; resolution requiring unanimous vote**

17546 Private sale of personal property

17556-17561 Dedication of real property

~~17582-17583 District deferred maintenance fund~~

35140-35149 Meetings

35160-35178.4 Powers and duties

48660-48661 Community day schools establishment and restrictions

CODE OF CIVIL PROCEDURE

425.16 Special motion to strike in connection with a public issue

1245.240 Eminent domain vote requirement

1245.245 Eminent domain, resolution adopting different use

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities

53724 Parcel tax resolution requirements

53790-53792 Exceeding the budget

53820-53833 Temporary borrowing

53850-53858 Temporary borrowing

54950-54963 The Ralph M. Brown Act

54952.6 Action taken, definition

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

54960-~~54960.5~~ **54960.5** Action to prevent violations

65352.2 ~~Coordination with planning agency~~ **Communicating and at school sites**

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 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>

Bylaw

approved: 02/18/97

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revised: 09/02/08

revised: 05/17/11 (technical revisions)

revised: 02/07/12 (technical revisions)