

ROLE OF THE BOARD

The Tuolumne County Board of Education provides leadership and citizen input for county educational programs and services operated by the county office of education, including services provided to school districts and the community. Major roles of the County Board include:

1. Working with the Tuolumne County Superintendent of Schools to establish the direction and priorities for the county office through its budgetary responsibilities
2. Providing community leadership on behalf of the county office and public education

To fulfill these basic responsibilities, the County Board shall:

1. Maintain a cooperative and supportive working relationship with local school districts, their school boards and the community
2. Collaborate with the County Superintendent so that the shared vision, goals and policies of the county office can be implemented
3. Adopt, evaluate and update policies consistent with the law and the county Board's vision and goals
4. Maintain accountability for student learning in schools and programs operated by the county office
5. Adopt the annual budget and review interim reports of the County Superintendent
6. Approve the salary of the County Superintendent
7. Review the real property audit and acquire or dispose of real property as necessary for county office schools and programs
8. Adopt policies to ensure that a safe and appropriate educational environment is provided to all county office students
9. Conduct appeals on student expulsions and interdistrict transfers
10. Conduct public hearings when appropriate
11. Fulfill statutory responsibilities in connection with charter schools

ROLE OF THE BOARD (continued)

12. Provide community leadership on educational issues and advocate on behalf of students and public education at the local, state and federal levels

The County Board is authorized to establish and finance any program or activity that is not in conflict with, inconsistent with, or preempted by law and which is not in conflict with the purposes for which the County Board is established. (Education Code 35160)

Legal Reference:

EDUCATION CODE

1040 Duties and responsibilities; county boards of education

1042 County boards; authority

33319.5 Implementation of authority of local agencies

35160 Authority of county boards

47600-47616.5 Charter Schools Act of 1992, as amended

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards for County Boards, September 2001

Maximizing School Board Leadership, 1996

WEB SITES

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

GOVERNANCE STANDARDS

The Tuolumne County Board of Education believes that its primary responsibility is to act in the best interests of every student in every school or program operated by the county office of education. The County Board also has major commitments to parents/guardians, all members of the community, employees, the state of California, laws pertaining to public education, and established policies of the County Office. To maximize County Board effectiveness and public confidence in its governance, County Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.

The County Board expects its members to work with each other and with the Tuolumne County Superintendent of Schools to ensure that a high-quality education is provided to students in county office schools and/or programs, and that high-quality services are provided to school districts within the jurisdiction of the county office and to the community. Each individual County Board member shall:

1. Keep learning and achievement for all students as the primary focus
2. Value, support and advocate for public education
3. Recognize and respect differences of perspective and style on the County Board and among staff, students, parents/guardians and the community
4. Act with dignity, and understand the implications of demeanor and behavior
5. Keep confidential matters confidential
6. Participate in professional development and commit the time and energy necessary to be an informed and effective leader
7. Understand the distinctions between County Board, County Superintendent and staff roles, and refrain from performing management functions that are the responsibility of the County Superintendent and staff
8. Understand that authority rests with the County Board as a whole and not with individual County Board members

County Board members also shall assume collective responsibility for building unity and creating a positive organizational culture. To operate effectively, the County Board shall have a unity of purpose and:

1. Keep focused on student learning and achievement, as well as the role of the county office in providing services to school districts and the community

GOVERNANCE STANDARDS (continued)

2. Work collaboratively with the County Superintendent
3. Communicate a common vision
4. Operate openly, with trust and integrity
5. Govern in a dignified and professional manner, treating everyone with civility and respect
6. Govern within County Board-adopted policies and procedures
7. Take collective responsibility for the County Board's performance
8. Periodically evaluate its own effectiveness
9. Ensure opportunities for the diverse range of views in the community to inform County Board deliberations

Legal Reference:

EDUCATION CODE

1040 Duties and responsibilities; county boards of education

1042 County boards; authority

33319.5 Implementation of authority of local agencies

35160 Authority of county boards

35164 Actions by majority vote

GOVERNMENT CODE

1090 Financial interest in contract

1098 Disclosure of confidential information

1125-1129 Incompatible activities

54950-54962 The Ralph M. Brown Act

87300-87313 Conflict of interest code

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards for County Boards, September 2001

Maximizing School Board Leadership, 1996

WEB SITES

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

PUBLIC STATEMENTS

The Tuolumne County Board of Education recognizes the rights of County Board members to freely express their views and encourages open discussion of issues during the County Board meeting. The County Board believes that effective County Board members have a responsibility to express themselves, whether in agreement or disagreement with the County Board majority, in ways that promote the County Board's ability to govern the County Office.

When speaking to community groups, the media, or other members of the public, individual County Board members should recognize that their statements may be perceived as reflecting the views and positions of the County Board. County Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the County Board.

All public statements authorized to be made on behalf of the County Board shall be made by the County Board president or, if appropriate, by the Superintendent or other designated representative.

(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9200 - Limits of Board Member Authority)

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

GOVERNMENT CODE

54960 Actions to stop or prevent violation of meeting provisions

DISCLOSURE OF CONFIDENTIAL/PRIVILEGED INFORMATION

The Tuolumne County Board of Education recognizes the importance of maintaining the confidentiality of information acquired as part of a County Board member's official duties. Confidential/privileged information shall be released only to the extent authorized by law.

(cf. 9000 - Role of the Board)
(cf. 9005 - Governance Standards)
(cf. 9010 - Public Statements)

Disclosure of Closed Session Information

A County Board member shall not disclose confidential information acquired during a closed session to a person not entitled to receive such information, unless a majority of the County Board has authorized its disclosure. (Government Code 54963)

Confidential information means a communication made in a closed session that is specifically related to the basis for the County Board to meet lawfully in closed session. (Government Code 54963)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

The County Board shall not take any action against any person for disclosing confidential information, nor shall the disclosure be considered a violation of the law or County Board policy, when the person is: (Government Code 54963)

1. Making a confidential inquiry or complaint to a County Office attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a County Board action that has been the subject of deliberation during a closed session
2. Expressing an opinion concerning the propriety or legality of County Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action
3. Disclosing information that is not confidential

Other Disclosures

A County Board member shall not disclose, for pecuniary gain, confidential information acquired in the course of his/her official duties. Confidential information includes information that is not a public record subject to disclosure under the Public Records Act, information that by law may not be disclosed, or information that may have a material financial effect on the County Board member. (Government Code 1098)

DISCLOSURE OF CONFIDENTIAL/PRIVILEGED INFORMATION (continued)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 5125 - Student Records)

Disclosures excepted from this prohibition are those made to law enforcement officials or to the joint legislative audit committee when reporting on improper governmental activities. (Government Code 1098)

Legal Reference:

EDUCATION CODE

35010 Power of governing board to adopt rules for its own governance

35146 Closed session

EVIDENCE CODE

1040 Privilege for official information

GOVERNMENT CODE

1098 Public officials and employees re confidential information

3549.1 Meeting and negotiating in public educational employment

6250-6270 Inspection of public records

54950-54963 Brown Act, especially:

54956.8 Open meeting laws

54956.9 Closed meeting for pending litigation

54957 Closed session; "employee" defined; exclusion of witnesses

54957.1 Subsequent public report and rollcall vote; employee matters in closed session

54957.5 Public records

54957.6 Closed session; representatives with employee organization

54957.7 Reasons for closed session

54963 Confidential information in closed session

ATTORNEY GENERAL OPINIONS

80 Ops.Cal.Atty.Gen. 231 (1997)

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards, November 2000

Maximizing School Board Leadership, 1996

WEB SITES

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

BOARD MEMBER ELECTRONIC COMMUNICATIONS

The Governing Board recognizes that electronic communication among Board members and between Board members, district administration, and members of the public is an efficient and convenient way to communicate and expedite the exchange of information and to help keep the community informed about the goals, programs, and achievements of the district and its schools. Board members shall exercise caution so as to ensure that electronic communications are not used as a means for the Board to deliberate outside of an agendaized Board meeting.

(cf. 1100 - Communication with the Public)

(cf. 6020 - Parent Involvement)

(cf. 9000 - Role of the Board)

(cf. 9322 - Agenda/Meeting Materials)

A majority of the Board shall not, outside of an authorized meeting, use a series of electronic communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

(cf. 9320 - Meetings and Notices)

Examples of permissible electronic communications concerning district business include, but are not limited to, dissemination of Board meeting agendas and agenda packets, reports of activities from the Superintendent, and reminders regarding meeting times, dates, and places.

Board members shall make every effort to ensure that their electronic communications conform to the same standards and protocols established for other forms of communication. A Board member may respond, as appropriate, to an electronic communication received from a member of the community and should make clear that his/her response does not necessarily reflect the views of the Board as a whole. Any complaint or request for information should be forwarded to the Superintendent in accordance with Board bylaws and protocols so that the issue may receive proper consideration and be handled through the appropriate district process. As appropriate, communication received from the press shall be forwarded to the designated district spokesperson.

(cf. 1112 - Media Relations)

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

(cf. 3320 - Claims and Actions Against the District)

(cf. 9005 - Governance Standards)

(cf. 9121 - Board President)

(cf. 9200 - Limits of Board Member Authority)

(cf. 9270 - Conflict of Interest)

In order to minimize the risk of improper disclosure, Board members shall avoid reference to confidential information and information acquired during closed session.

BOARD MEMBER ELECTRONIC COMMUNICATIONS

(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 5125 - Student Records)
(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)

Board members may use electronic communications to discuss matters other than district business with each other, regardless of the number of members participating in the discussion.

Like other writings concerning district business, a Board member's electronic communication may be subject to disclosure under the California Public Records Act.

(cf. 1340 - Access to District Records)

Legal Reference:

EDUCATION CODE
35140 *Time and place of meetings*
35145 *Public meetings*
35145.5 *Agenda; public participation; regulations*
35147 *Open meeting law exceptions and applications*
GOVERNMENT CODE
11135 *State programs and activities, discrimination*
54950-54963 *The Ralph M. Brown Act, especially:*
54952.2 *Meeting, defined*
54953 *Meetings to be open and public; attendance*
54954.2 *Agenda posting requirements, board actions*

Management Resources:

CSBA PUBLICATIONS
The Brown Act: School Boards and Open Meeting Laws, rev. 2006
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, rev. 2007
WEB SITES
CSBA: <http://www.csba.org>
CSBA, *Agenda*
<http://www.csba.org/Services/Services/GovernanceTechnology/AgendaOnline.aspx>
Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>

Online:

ORGANIZATION

Annual Organizational Meeting

The Tuolumne County Board of Education shall hold an annual organizational meeting within the time limits prescribed by law. (Education Code 35143)

At this meeting the County Board shall:

1. Elect a president and a clerk and/or vice president from its members
2. Appoint a secretary to the County Board
3. Authorize signatures
4. Develop a schedule of regular meetings for the year
5. Develop a County Board calendar for the year

Election of Officers

The County Board shall each year elect its entire slate of officers.

Legal Reference:

EDUCATION CODE

5017 *Term of Office*

35143 *Annual organizational meeting date, and notice*

35145 *Public meetings*

GOVERNMENT CODE

54953 *Meetings to be open and public; attendance*

ATTORNEY GENERAL OPINIONS

68 *Ops.Cal.Atty.Gen. 65 (1985)*

59 *Ops.Cal.Atty.Gen. 619, 621-622 (1976)*

TERMS OF OFFICE

The Tuolumne County Board of Education shall consist of seven members whose terms shall be staggered so that as nearly as practicable, one half of the members shall be elected in each odd-numbered year.

The term of office for members elected in regular elections shall be four years, commencing on the first Friday in December next succeeding their election. (Education Code 5017)

County Board member terms expire four years after their initial election on the first Friday in December following the election of new members. (Education Code 5000)

A member whose term has expired shall continue to discharge the duties of the office until his/her successor has qualified by taking the oath of office. (Government Code 1302, 1360; Education Code 5017)

(cf. 9220 - Governing Board Elections)

(cf. 9223 - Filling Vacancies)

(cf. 9224 - Oath or Affirmation)

(cf. 9250 - Remuneration, Reimbursement, and Other Benefits)

Legal Reference:

EDUCATION CODE

1000-1017 Election, jurisdiction, organization, procedure

5000-5033 Election of school district board members

35010 Control of district

35012 Board members; number, election and terms

35107 Eligibility

GOVERNMENT CODE

1302 Continuance in office until qualification of successor

1303 Exercising functions of office without having qualified

1360 Necessity of taking constitutional oath

TRUSTEE AREAS

The trustees of the Tuolumne County Board of Education shall consist of seven trustee areas which are constituted as follows:

COUNTY BOARD OF EDUCATION TRUSTEE AREAS

- | | |
|----------------|--------------------------|
| District No. 1 | Sonora |
| District No. 2 | Columbia/Belleview |
| District No 3 | Summerville/Soulsbyville |
| District No 4 | Big Oak Flat/Groveland |
| District No 5 | Jamestown/Chinese Camp |
| District No 6 | Twain Harte/Long Barn |
| District No 7 | Curtis Creek |

Each member of the Board shall be an elector of the trustee area he/she represents and shall be elected by the electors of the trustee area.

The election of Board members shall be consolidated with the election of school district trustees.

EXECUTIVE OFFICER: COUNTY SUPERINTENDENT OF SCHOOLS

The Tuolumne County Superintendent of Schools is ex-officio secretary and executive officer of the Tuolumne County Board of Education.

(cf. 9122 – Secretary)

The County Superintendent shall attend all meetings of the County Board and be granted privilege of taking part in its deliberations.

The powers of the County Superintendent shall be both initiatory and executory. He shall act both as a professional advisor of the County Board in the formulation of policies in the county school program, and as executor of the policies adopted by the Board.

All problems, proposals, and operations should be channeled through his office by the County Board, the personnel and the public. All decisions, directives, or business of any kind shall be channeled through his office. The County Board of Education, and its individual members should give him consistent support in his efforts to carry out Board policies.

The County Superintendent shall be expected to:

1. Guide the County Board on compliance with the various requirements of state law and regulations.
2. Keep the County Board and the public informed on the status of the educational program under his jurisdiction, and make such recommendations for change and improvement as he believes desirable for the welfare of the county educational program.
3. Inform the County Board on educational developments that have bearing on the policies of the Board.
4. Manage the county school program efficiently.
5. Employ capable certificated and classified personnel to perform the various duties for which he is responsible.

The County Superintendent shall present the following matters to the County Board of Education for its approval:

1. Annual budget of the County Superintendent.
2. Annual County School Service Fund budget.
3. Contacts or arrangements for services to school districts under the County School Service Fund.

EXECUTIVE OFFICER: COUNTY SUPERINTENDENT OF SCHOOLS (continued)

4. Conditional apportionments or temporary transfers to school districts from the County School Service Fund.
5. County membership in professional societies, associations and organizations.
6. Distribution of materials in schools of county.
7. Appeals on interdistrict attendance agreements.
8. Appeals on district expulsions.
9. Special courses of study.
10. Library apparatus and supply, textbook lists and regulations for certain districts.
11. Film lists.
12. Claims pertaining to expenses of the County Board.

PRESIDENT

The Tuolumne County Board of Education shall elect a president from among its members to provide leadership on behalf of the County Board and the educational community it serves.

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

(cf. 9100 - Organization)

The president shall preside at all County Board meetings. He/she shall:

1. Call the meeting to order at the appointed time
2. Announce the business to come before the County Board in its proper order
3. Enforce the County Board's policies relating to the conduct of meetings and help ensure compliance with applicable requirements of the Brown Act
4. Recognize persons who desire to speak, and protect the speaker who has the floor from disturbance or interference
5. Explain what the effect of a motion would be if it is not clear to every member
6. Restrict discussion to the question when a motion is before the County Board
7. Put motions to a vote, and state clearly the results of the vote
8. Be responsible for the orderly conduct of all County Board meetings

(cf. 9323 - Meeting Conduct)

The president shall perform other duties in accordance with law and County Board policy including, but not limited to:

1. Signing all instruments, acts and orders necessary to carry out state requirements and the will of the County Board
2. Consulting with the Tuolumne County Superintendent or Schools or designee on the preparation of the County Board's agendas

(cf. 9322 - Agenda/Meeting Materials)

3. Working with the Superintendent to ensure that County Board members have necessary materials and information
4. Subject to County Board approval, appointing and dissolving all committees

PRESIDENT (continued)

(cf. 9130 - Board Committees)

5. Calling such meetings of the County Board as he/she may deem necessary, giving notice as prescribed by law

(cf. 9320 - Meetings and Notices)

(cf. 9321 - Closed Session Purposes and Agendas)

6. Representing the County Office as governance spokesperson, in conjunction with the Superintendent

(cf. 1112 - Media Relations)

The president shall have the same rights as other members of the County Board, including the right to move, second, discuss and vote on all questions before the County Board.

When the president resigns or is absent or disabled, the clerk shall perform the president's duties. When both the president and clerk are absent or disabled, the County Board shall choose a president pro tempore to perform the president's duties.

(cf. 9123 - Clerk)

Legal Reference:

EDUCATION CODE

35022 *President of the board*

35143 *Annual organizational meetings; dates and notice*

GOVERNMENT CODE

54950-54963 *Ralph M. Brown Act*

Management Resources:

CSBA PUBLICATIONS

Board Presidents' Handbook, revised 2002

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardmanship, 1996

WEB SITES

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

SECRETARY

The Tuolumne County Board of Education shall appoint the Tuolumne County Superintendent of Schools to serve as secretary to the County Board. The secretary to the County Board shall be responsible for maintaining an accurate and complete record of all County Board proceedings and shall:

1. Prepare, distribute and maintain the County Board agenda
(cf. 9322 - Agenda/Meeting Materials)
2. Record, distribute and maintain the County Board minutes
(cf. 9324 - Minutes and Recordings)
3. Maintain County Board records and documents
4. Conduct official correspondence for the County Board
5. As directed by the County Board, sign and execute official papers
6. Perform other duties as assigned by the County Board

(cf. 2111 - Superintendent Governance Standards)

Legal Reference:

EDUCATION CODE

1010 *Ex officio secretary*

35025 *Secretary and bookkeeper*

35143 *Annual organizational meetings; dates and notice*

35250 *Duty to keep certain records and reports*

GOVERNMENT CODE

54950-54963 *Ralph M. Brown Act*

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardmanship, 1996

WEB SITES

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

CLERK

At the annual organizational meeting, the Tuolumne County Board of Education shall elect a clerk from its own membership. (Education Code 35143)

(cf. 9100 - Organization)

The duties of the clerk shall be to:

1. Certify or attest to actions taken by the County Board when required
2. Maintain such other records or reports as required by law
3. Sign the minutes of County Board meetings following their approval

(cf. 9324 - Minutes and Recordings)

4. Sign documents on behalf of the County Office as directed by the County Board
5. Serve as presiding officer in the absence of the president
(cf. 9121 - President)
6. Perform any other duties assigned by the County Board

Legal Reference:

EDUCATION CODE

17593 Repair and supervision of property (duty of district clerk)
35038 Appointment of clerk by county superintendent of schools
35039 Dismissal of clerk
35121 Appointment of clerk in certain city and high school districts
35143 Annual organizational meetings
35250 Duty to keep certain records and reports
38113 Duty of clerk (re provision of school supplies)

GOVERNMENT CODE

54950-54963 Ralph M. Brown Act

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000
Maximizing School Board Leadership: Boardmanship, 1996

WEB SITES

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

ATTORNEY

The Tuolumne County Board of Education recognizes that the complex legal environment in which it discharges its functions creates the need for sound and dependable legal services and advice. The County Board shall arrange to obtain legal services and advice in accordance with law.

The Tuolumne County Superintendent of Schools shall appoint a legal counsel and fix the compensation to be paid to the legal counsel. The legal counsel shall be admitted to practice law in California and shall not be required to have any certification qualification.

The duties of the legal counsel shall include: (Education Code 35041.5)

1. Rendering legal advice to the County Board, the County Superintendent, and other officers and employees as appropriate;
2. Serving the County Board and the County Superintendent in the preparation and conduct of litigation and administrative proceedings;
3. Performing other administrative duties as assigned by the County Board or County Superintendent.

The County Board may employ or contract with any qualified person for the provision to the County Board of special services and advice in legal matters. The County Board shall fix the compensation to be paid for the special service or advice, and may pay such compensation from any available funds. (Education Code 1042)

The County Board may consult with the legal counsel whenever a majority of its members deem such consultation necessary. The County Board may consult with the legal counsel as a group or by authorizing a specific County Board member to consult with the legal counsel on behalf of the County Board.

Legal Reference:

EDUCATION CODE

1042 County boards: authority

1302 Increases of salary or bonus of employees by county superintendent of schools

35041.5 Legal counsel: Relieving duties of county counsel and district attorney

GOVERNMENT CODE

814-895.8 Liability of public entities and public employees

995-996.6 Defense of public employees

53060 Miscellaneous

BOARD COMMITTEES

The Tuolumne County Board of Education may establish Board committees on matters within its jurisdiction. The County Board shall define the duties, responsibilities, authority and term of a Board committee at the time of the committee's establishment. Unless specifically authorized by the County Board to act on its behalf, Board committees shall act in an advisory capacity only.

The Board president shall appoint all committees with County Board approval.

All Board committees shall report their activities and/or recommendations to the County Board at an open meeting of the County Board, except in matters on which a closed session is required by law.

Board committees shall provide public notice of their meetings and conduct these meetings in accordance with state open meeting laws. An agenda of any such committee meeting shall be posted not less than 24 hours prior to the meeting. Meetings of advisory committees or standing committees for which an agenda is posted at least 72 hours in advance of the meeting, shall be considered as regular meetings of the County Board, for purposes of the Brown Act. (Government Code 54954)

Board advisory committees composed solely of less than a quorum of the members of the County Board are not subject to open meeting laws unless they are standing committees that have a continuing subject matter jurisdiction or a meeting schedule established by the County Board. (Government Code 54952)

Standing committees with continuing subject matter jurisdiction include but are not limited to those responsible for providing advice on finance, Board policy, governmental relations, curriculum development and program evaluation, at the County Board's request.

When a majority of the members of the County Board attend an open and noticed meeting of a standing committee, the County Board members who are not members of the standing committee shall attend only as observers. (Government Code 54952.2)

At the request of the County Board, the Tuolumne County Superintendent of Schools or designee may serve and/or nominate any county office staff member to serve as an advisor to, or as a non-voting member of a Board committee.

Whenever so charged, committees may actively seek input and participation by parents/guardians, staff, community and students and may consult with local public boards and agencies.

When a Board committee composed exclusively of County Board members has provided for public comment on an item at a public meeting before or during the committee's consideration of the item, the County Board may or may not provide for public comment on the item at a subsequent Board meeting. Public comment shall be afforded, however, if the County Board determines that the item has been substantially changed since it was heard by the committee. (Government Code 54954.3)

BOARD COMMITTEES (continued)

Legal Reference:

EDUCATION CODE

1040 *Duties and responsibilities; county boards of education*

1042 *County boards; authority*

GOVERNMENT CODE

54952 *Legislative body, definition*

54952.2 *Definition of meeting*

54954 *Time and place of regular meetings; special meetings; emergencies*

54954.3 *Opportunity for public to address legislative body*

ATTORNEY GENERAL OPINIONS

81 *Ops.Cal.Atty.Gen. 156 (1998)*

80 *Ops.Cal.Atty.Gen. 308 (1997)*

79 *Ops.Cal.Atty.Gen. 69 (1996)*

LIMITS OF BOARD MEMBER AUTHORITY

The Tuolumne County Board of Education recognizes that the County Board is the unit of authority over the County Office and that a County Board member has no individual authority. County Board members shall hold the education of students above any partisan principle, group interest, or personal interest.

(cf. 1160 - Political Processes)
(cf. 9000 - Role of the Board)
(cf. 9005 - Governance Standards)
(cf. 9270 - Conflict of Interest)
(cf. 9323 - Meeting Conduct)

Unless agreed to by the County Board as a whole, individual members of the County Board shall not exercise any administrative responsibility with respect to the County Office or command the services of any employee. Individual County Board members shall submit requests for information to the Tuolumne County Superintendent of Schools. County Board members shall refer County Board-related correspondence to the Superintendent for forwarding to the County Board or for placement on the County Board's agenda, as appropriate.

(cf. 1340 - Access to District Records)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9322 - Agenda/Meeting Materials)

Individual County Board members do not have the authority to resolve complaints. Any County Board member approached directly by a person with a complaint should refer the complainant to the County Superintendent or designee so that the problem may receive proper consideration and be handled through the appropriate County Office process.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 3320 - Claims and Actions Against the District)
(cf. 4031 - Complaints Concerning Discrimination in Employment)
(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

The County Superintendent or designee shall provide a copy of the state's open meeting laws (Brown Act) to each County Board member and to anyone who is elected to the County Board but has not yet assumed office.

County Board members and persons elected to the County Board who have not yet assumed office are responsible for complying with the requirements of the Brown Act. (Government Code 54952.1)

Legal Reference: (see next page)

LIMITS OF BOARD MEMBER AUTHORITY (continued)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

7054 Use of district property

35010 Control of district; prescription and enforcement of rules

35100-35351 Governing boards, especially:

35160-35184 Powers and duties

35291 Rules

35292 Visits to schools (Board members)

51101 Rights of parents/guardians

GOVERNMENT CODE

54950-54962 The Ralph M. Brown Act, especially:

54952.1 Member of a legislative body of a local agency

54952.7 Copies of chapter to members of legislative body

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardmanship, 1996

WEB SITES

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

COUNTY BOARD ELECTIONS

Any person is eligible to be a Tuolumne County Board of Education member, without further qualifications, if he/she is 18 years of age or older, a citizen of the state, a resident of the school/program site County Office, a registered voter, and not legally disqualified from holding civil office. (Education Code 35107)

A County Office employee elected to the County Board shall resign his/her position before being sworn in or shall have his/her employment automatically terminated upon being sworn into office. (Education Code 35107)

(cf. 9224 - Oath of Affirmation)
(cf. 9270 - Conflict of Interest)

Whenever possible, the County Board shall consolidate County Board elections with the local municipal or statewide primary or general election. County Board election procedures shall be conducted in accordance with state and federal law.

(cf. 9110 - Terms of Office)

Campaign Conduct

In order to help protect the public's trust in the electoral process as well as the public's confidence in the County Board and County Office, the County Board encourages all candidates to sign and adhere to the principles in the Code of Fair Campaign Practices pursuant to Elections Code 20440.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 9005 - Governance Standards)

Statement of Qualifications

The County Office shall assume no part of the cost of printing, handling, translating, or mailing of candidate statements filed pursuant to Elections Code 13307. As a condition of having candidate statements included in the voter's pamphlet, the County Office may require candidates to pay their estimated pro rata share of these costs to the County Office in advance pursuant to Elections Code 13307.

On the 125th day prior to the day fixed for the general County Office election, the County Board secretary or his/her designee shall deliver a notice, bearing the secretary's signature and County Office seal, to the county elections official describing both of the following: (Elections Code 10509)

1. The elective offices of the County Office to be filled at the general election and which offices, if any, are for the balance of an unexpired term

GOVERNING BOARD ELECTIONS (continued)

2. Whether the County Office or the candidate is to pay for the publication of a statement of qualifications pursuant to Elections Code 13307

(cf. 9223 - Filling Vacancies)

Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)

Tie Votes in County Board Member Elections

Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the County Board, the County Board shall immediately notify the candidates who received the tie votes of the time and place where the candidates or their representatives should appear before the County Board. The County Board at that time shall determine the winner by lot. (Education Code 5016)

Legal Reference: (see next page)

GOVERNING BOARD ELECTIONS (continued)

Legal Reference:

EDUCATION CODE

1000-1017 *Election, jurisdiction organization and procedure*

1006 *Qualifications for holding office, county board of education*

5000-5033 *Elections*

5220-5231 *Elections*

5300-5304 *General provisions (conduct of elections)*

5320-5329 *Order and call of elections*

5340-5345 *Consolidation of elections*

5360-5363 *Election notice*

5380 *Compensation (of election officer)*

5390 *Qualifications of voters*

5420-5426 *Cost of elections*

5440-5442 *Miscellaneous provisions*

7054 *Use of district property*

35107 *Eligibility; school district employees*

35177 *Campaign expenditures or contributions*

35239 *Compensation of governing board member of districts with less than 70 ADA*

ELECTIONS CODE

1302 *Local elections, school district election*

2201 *Grounds for cancellation*

4000-4004 *Elections conducted wholly by mail*

10400-10418 *Consolidation of elections*

10509 *Notice of election by secretary*

10600-10604 *School district elections*

13307 *Candidate's statement*

13309 *Candidate's statement, indigency*

20440 *Code of Fair Campaign Practices*

GOVERNMENT CODE

1021 *Conviction of crime*

1097 *Illegal participation in public contract*

12940 *Nondiscrimination, Fair Employment and Housing Act*

81000-91014 *Political Reform Act*

PENAL CODE

68 *Bribes*

74 *Acceptance of gratuity*

424 *Embezzlement and falsification of accounts by public officers*

661 *Removal for neglect or violation of official duty*

CALIFORNIA CONSTITUTION

Article 2, Section 2 *Voters, qualifications*

Article 7, Section 7 *Conflicting offices*

Article 7, Section 8 *Disqualification from office*

COURT DECISIONS

Randall v. Sorrell, (2006) 126 S.Ct. 2479

ATTORNEY GENERAL OPINIONS

85 *Ops.Cal.Atty.Gen.* 49 (2002)

83 *Ops.Cal.Atty.Gen.* 181 (2000)

81 *Ops.Cal.Atty.Gen.* 98 (1998)

69 *Ops.Cal.Atty.Gen.* 290 (1986)

Management Resources: (see next page)

GOVERNING BOARD ELECTIONS (continued)

Management Resources:

WEB SITES

California Secretary of State's Office: <http://www.ss.ca.gov>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute for Local Self Government: <http://www.islg.org>

RESIGNATION

A Tuolumne County Board of Education member who wishes to resign shall file a written resignation with the Tuolumne County Superintendent of Schools. (Education Code 5090)

The resigning County Board member shall also give a copy of the written resignation to the Board secretary.

The resignation shall become effective when filed, except when a deferred effective date is specified in the resignation. (Education Code 5090)

A County Board member may not defer the effective date of his/her resignation for more than 60 days after filing. (Education Code 5091)

A written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable once filed. (Education Code 5090)

A County Board member who tenders his/her resignation with a deferred effective date shall, until the effective date of the resignation, continue to exercise all the powers of his office, except those involving the provisional appointment of his/her successor.

Legal Reference:

EDUCATION CODE

1008 Vacancies; procedure for filing

5090 Definition (vacancy)

5091 Special Election

35178 Resignation with deferred effective date

GOVERNMENT CODE

1770 Vacancies: definition

FILLING VACANCIES

A vacancy on the Tuolumne County Board of Education may arise for any of the following reasons:

1. The occurrence of any event specified in Government Code 1770.
2. Failure to elect. (Education Code 5090)
3. Removal by recall election. (Elections Code 11384)
4. When an incumbent County Board member ceases to inhabit the trustee area he/she represents on the County Board. (58 Ops.Cal.Atty.Gen. 888 (1975))

When a vacancy occurs at least four months before the end of a Board member's term, the County Board may fill the vacancy within 60 days by making a provisional appointment or ordering an election, except when a special election is mandated or prohibited. (Education Code 5091, 5093)

A special election is mandated when the vacancy occurs during the period between six months and 130 days prior to a regularly scheduled County Board election, and the position vacated is not scheduled to be filled at that election. Such special election shall be consolidated with the regular election. The person so elected shall take office at the first regularly scheduled Board meeting following the certification of the election and shall serve only until the end of the term of the position which he/she was elected to fill. (Education Code 5093)

A special election ordered by the County Board pursuant to Education Code 5091 is prohibited, if it could be consolidated with the next regular County Board election at which the vacant position is scheduled to be filled.

If a vacancy occurs less than four months before the end of a Board member's term, the County Board shall take no action. (Education Code 5093)

Provisional Appointment Process

In order to draw from the largest possible number of candidates, the County Board shall advertise in the local media to solicit candidate applications or nominations. The County Board may designate the Tuolumne County Superintendent, the legal counsel or a committee of less than a quorum of the County Board to screen and ensure the eligibility of candidates for the vacant County Board position. The County Board shall interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by a majority vote.

FILLING VACANCIES (continued)

Notice and Duration of Provisional Appointment

Within 10 days after the appointment is made, the County Board shall post notices of the vacancy or deferred resignation and the provisional appointment. The notice shall be published in the local newspaper and posted in at least three public places within the district. (Education Code 5092)

The notice shall contain: (Education Code 5092)

1. The date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation;
2. The full name of the provisional appointee and the date of the appointment; and
3. A statement notifying the voters that unless a petition calling for a special election pursuant to Education Code 5091 is filed in the office of the County Superintendent within 30 days of the provisional appointment, it shall become an effective appointment.

The person appointed shall hold office until the next regularly scheduled election for Board members and shall be afforded all the powers and duties of a Board member upon appointment. (Education Code 5091)

Legal Reference: (see next page)

FILLING VACANCIES (continued)

Legal Reference:

EDUCATION CODE

1008 *Vacancies; procedure for filling*

1017 *Term of Office*

5090 *Definition (vacancy)*

5091 *Special election or provisional appointment*

5092 *Public notice of vacancy and provisional appointment*

5093 *Re vacancies occurring near end of term and incumbent not reelected*

5094 *Power of president of county board of education when majority of offices vacant*

5095 *Powers of remaining board members and new electees or appointees*

ELECTIONS CODE

10603-10604 *School district elections*

11384 *Vacancy in office if majority vote for recall*

GOVERNMENT CODE

1064 *Absence from state*

1770 *Vacancies: definition*

3060-3074 *Removal other than by impeachment*

6061 *Publications and official advertising: manner of publication*

54950-54962 *The Ralph M. Brown Act, especially:*

54953 *Meetings open and public; secret ballots*

ATTORNEY GENERAL OPINIONS

58 *Ops. Cal. Atty. Gen.* 888 (1975)

OATH OR AFFIRMATION

Prior to entering upon the duties of their office, all Tuolumne County Board of Education members shall take the oath or affirmation required by law. (California Constitution, Article 20, Section 3; Government Code 1360)

(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)

The oath may be administered and certified by a County Board member, secretary or assistant secretary to the County Board, Superintendent, deputy or assistant superintendent, principal/program administrator, or County Superintendent of Schools or any other person authorized in Education Code 60.

The executed oath shall be filed with the County Clerk. (Government Code 1363)

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

GOVERNMENT CODE

1303 Misdemeanor for failure to take oath

1360-1369 Oath of office

3100-3109 Oath or affirmation of allegiance

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

COURT DECISIONS

Chilton v. Contra Costa Community College District (1976) 55 Cal. App. 3d 544

Vogel v. County of Los Angeles (1967) 68 Cal. 2d 18, 22

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS

Remuneration

The Tuolumne County Board of Education views County Board service as a voluntary contribution to the community and elects not to receive the compensation to which it is entitled by law.

Reimbursement of Expenses

County Board members shall be reimbursed for traveling expenses incurred when authorized in advance by the County Board. (Education Code 35044)

(cf. 9240 - Board Development)

Effective July 1, 1994 there is no reimbursement for expenses for members attending meetings of the Tuolumne County Board of Education.

The rate of reimbursement shall be the same rate specified for County Office personnel.

(cf. 3350 - Travel Expenses)

Health and Welfare Benefits

Effective July 1, 1999 current members of the County Board of Education will be eligible to enroll in medical, dental and vision programs offered by the Tuolumne County Superintendent of Schools at their expense. Newly elected or appointed trustee may enroll in medical plans within 31 days of active service at their expense. Trustees requesting coverage following eligibility period must apply for coverage through Evidence of Insurability.

Benefits for a trustee not reelected or who resigns will cease the last day of the month served as a trustee. COBRA benefits are available per regulations.

Legal Reference: (see next page)

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS (continued)

Legal Reference:

EDUCATION CODE

1090-1097 Salaries and expenses

33050-33053 General waiver authority

33362-33363 Reimbursement of expenses (Department of Education and CSBA workshops)

35012 Board members; number, election and term

35044 Payment of traveling expenses of representatives of board

35120 Compensation (services as member of governing board)

35172 Promotional activities

44038 Cash deposits for transportation purchased on credit

GOVERNMENT CODE

20322 Elective officers; election to become member

53200-53209 Group insurance

UNITED STATES CODE, TITLE 26

403(b) Tax-sheltered annuities

COURT DECISIONS

Thorning v. Hollister School District, (1992) 11 Cal.App.4th 1598

Board of Education of the Palo Alto Unified School District v. Superior Court of Santa Clara County,

(1979) 93 Cal.App.3d 578

ATTORNEY GENERAL OPINIONS

83 Ops.Cal.Atty.Gen. 124 (2000)

Management Resources:

WEB SITES

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

Public Employees' Retirement System: <http://www.calpers.ca.gov>

CONFLICT OF INTEREST

Incompatible Activities

A Tuolumne County Board of Education member shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to his/her duties as a member of the County Board. (Government Code 1126)

Conflict of Interest Code

The County Board's conflict of interest code shall be comprised of the terms of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission.

Upon direction by the county board of supervisors, the County Board shall review its conflict of interest code in even-numbered years. If no change in the code is required, the County Board shall submit to the county board of supervisors, by October 1, a written statement to that effect. If a change in the code is necessitated by changed circumstances, the County Board shall submit an amended code to the county board of supervisors. (Government Code 87306.5)

When a change in the County Board's conflict of interest code is necessitated by changed circumstances, amendments or revisions, the changed code shall be submitted to the county board of supervisors within 90 days after the changed circumstances necessitating the amendment to the code. (Government Code 87306)

When reviewing and preparing its conflict of interest code, the County Board shall provide members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

Statements of economic interests submitted by County Board members pursuant to the conflict of interest code shall be available for public inspection and reproduction. (Government Code 81008)

Financial Interest

County Board members shall not be financially interested in any contract made by the County Board or in any contract they make in their capacity as County Board members. (Government Code 1090)

A County Board member shall not be considered to be financially interested in a contract if his/her interest is any of the following: (Government Code 1091.5)

1. The ownership of less than three percent of the shares of a corporation for profit contracting with the County Board, if the total income to him/her from the corporation's dividends, including the value of stock dividends, does not exceed five percent of his/her total annual income, and any other payments made to him/her by the corporation do not exceed five percent of his/her total annual income.

CONFLICT OF INTEREST (continued)

2. That of an officer being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty
3. That of a recipient of public services generally provided by the County Board, on the same terms and conditions as if he/she were not a member of the County Board
4. That of a landlord or tenant of a party contracting with the County Board if the contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public district of this state or an adjoining state.

However, the County Board member shall be deemed to have a remote interest within the meaning of, and subject to, the provisions of Government Code 1091 if the subject matter of the contract between the County Board and the contracting party is the particular property in which the County Board member has an interest as landlord or tenant.

5. That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the County Board at the time of the first consideration of the contract, and provided further that such interest is noted in the County Board's official records
6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the County Board or to which the County Board has a legal obligation to give particular consideration, and provided further that such interest is noted in the County Board's official records
7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the government entity that employs the County Board member.
8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if the County Board member has not received and will not receive remuneration, consideration, or a commission as a result of the contract and if he/she has an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm
9. That of an officer or employee of or a person having less than a 10 percent ownership interest in a bank, bank holding company, or savings and loan association with which a party to the contract with the County Board has a relationship of borrower or depositor, debtor, or creditor.

CONFLICT OF INTEREST (continued)

In addition, a County Board member shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. (Government Code 1091.5)

A County Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract, the fact of the remote interest is disclosed to the County Board and noted in the County Board's official records, and the contract was authorized, approved or ratified in good faith by a vote of the County Board's membership sufficient for the purpose without counting the vote of the County Board member with the remote interest. Remote interests are specified in Government Code 1091(b) and they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

A County Board member may participate in a County Board decision to enter into a contract if the rule of necessity or legally required participation applies pursuant to Government Code 87101.

Gifts

County Board members may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

Gifts of travel and related lodging and subsistence shall be subject to the prevailing gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the County Board for its members. (Government Code 89506)

Honoraria

County Board members shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, in accordance with law. (Government Code 89501, 89502)

CONFLICT OF INTEREST (continued)

The term *honorarium* does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade or profession unless the sole or predominant activity of the business, trade or profession is making speeches
2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the County Board for donation into the general fund without being claimed as a deduction from income for tax purposes

Conflict of Interest Code for Tuolumne County Superintendent of Schools

Definitions

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 CCR 18110-18997, et seq.) and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

Designated employees

The persons holding positions listed in Appendix "A" are designated employees. It has been determined that these officers and employees make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

Disclosure Categories

Those designated employees, if any, specified in Government Code 87200 shall file statements of economic interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code 87200 et seq. All designated employees must disclose financial interests as defined in Appendices A and B. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can effect materially through the conduct of his or her office.

Statements of Economic Interests - Place of Filing

The Clerk of the Board of Supervisors shall be the official filing officer. However, all designated employees shall file statements of economic interests with the County Clerk's Office.

CONFLICT OF INTEREST (continued)

Statements of Economic Interests - Time of Filing

1. Initial Statements. All designated employees employed by the agency on the effective date of this Code shall file statements within 30 days after the effective date of this Code, unless the employee has previously filed a statement pursuant to subdivision (b) or (c).
2. Assuming Office Statements.
 - a. All persons assuming designated positions after the effective date of this, Code which are civil service or merit system positions, shall file statements within 30 days after assuming the designated positions.
 - b. All other persons appointed, promoted or transferred to designated positions after the effective date of the Code, shall file statements within ten days after assuming office, or if subject to confirmation, ten days after being nominated or appointed.
3. Annual Statements. All designated employees shall file statements no later than April 1st.
4. Candidate Statement. All candidates for election to designated offices other than those specified in Government Code 87200 shall file statements within five days after the final date for filing nomination petitions. This subsection shall not apply to candidates who have filed a statement of economic interests with the agency within the previous twelve months.

Contents of Statements of Economic Interests

All statements shall disclose those reportable interests required by the applicable disclosure categories as set forth in "Disclosure Categories."

Manner of Reporting

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information.

1. Investment and Real Property Disclosure. When an investment or interest in real property² is required to be reported³ the statement shall contain the following:
 - a. A statement of the nature of the investment or interest;

CONFLICT OF INTEREST (continued)

- b. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
 - c. The address or other precise location of the real property;
 - d. A statement whether the fair market value of the investment or interest in real property exceeds \$1,000, exceeds \$10,000, or exceeds \$100,000.
2. Personal Income Disclosure. When personal income is required to be reported⁴, the statement shall contain:
- a. The name and address of each source of income aggregating \$250 or more in value, or \$50 or more in value if the income was a gift and a general description of the business activity, if any, of each source.
 - b. A statement whether the aggregate value of income from each source was \$1,000 or less, greater than \$1,000, or greater than \$10,000;
 - c. A description of the consideration, if any, for which the income was received;
 - d. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received.

Business Entity Income Disclosure

When income of a business entity, including income of a sole proprietorship, is required to be reported⁵, the statement shall contain:

1. The name, address and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.
 - a. Management Position Disclosure. When management positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

CONFLICT OF INTEREST (continued)

- b. Acquisition or Disposal During Reporting Period. In the case of an annual leaving office statement, if an investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

Disqualification

Designated employees must disqualify themselves from making, participating in the making or using their official positions to influence the making of any governmental decision which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on:

1. Any business entity in which the designated employee has a direct or indirect investment worth more than \$1,000;
2. Any real property in which the designated employee has a direct or indirect interest worth more than \$1,000;
3. Any source of income, other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$250 or more in value received by or promised to the designated employee within twelve months prior to the time when the decision is made; or
4. Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.

The effects on a designated employee's financial interests of a decision by a landowner voting district to set ad valorem property tax assessments is not distinguishable from the effects such a decision will have on the public generally within such a district. The effects on a designated employee's financial interests of a decision by a utility district to set rates is not distinguishable from the effects such a decision will have on the public generally unless the designated employee's financial interests constitute more than two percent of the users to whom the rate will be applicable.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participating legally required for purposes of this section.

CONFLICT OF INTEREST (continued)**Manner of Disqualification**

When a designated employee determines that he or she should not make a government decision because he or she has a financial interest in it, the determination not to act must be accompanied by disclosure of the financial interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

Opinions of the Commission and Counsel

1. Any designated employee who is unsure of his or her duties under this Code may request a formal opinion or written advice from the Fair Political Practices Commission pursuant to Government Code 83114, or an opinion from the attorney for the agency, provided however that nothing in this section requires the attorney for the agency to issue such an opinion.
2. If the designated employee truthfully discloses all material facts, an opinion or written advice provided by the Commission protects the designated employee from administrative, civil and criminal penalties to the extent provided for in Government Code 83114. If the designated employee has truthfully disclosed all material facts to the attorney for his or her agency, and an opinion is rendered by the attorney stating in full the facts and law upon which the opinion's based, compliance by the designated employee with such opinion may be evidence of good faith in any civil or criminal proceeding brought pursuant to the Political Reform Act, Government Code 81000, et seq. In addition, the designated employee's good faith compliance with the opinion of the attorney for the agency shall act as a complete defense in any disciplinary action the agency may bring under Government Code 91003.5.
3. Copies of any opinion rendered by the attorney for an agency pursuant to this section shall be delivered to the designated employee requesting the opinion and shall be maintained in the files of the agency. Such opinions may subsequently be modified by the attorney for the agency or by the Commission, but such modifications or revisions shall be prospective in effect and shall take effect only after notification has been given the designated employee who requested the opinion.

Violations

This Code has the force and effect of law. Designated employees violating any provision of this Code are subject to the administrative, penal and civil sanctions provided in the Political Reform Act, Government Code 81000 - 91014.

CONFLICT OF INTEREST (continued)

² For the purposes of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

³ Investments and interests in real property which have a fair market value of less than \$1,000.00 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment of interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of ten percent (10%) or greater.

⁴ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from state, local or federal government agency.

⁵ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Legal Reference: (see next page)

CONFLICT OF INTEREST (continued)

Legal Reference:

EDUCATION CODE

1006 *Qualifications for holding office*

GOVERNMENT CODE

1090-1098 *Prohibitions applicable to specified officers*

1125-1129 *Incompatible activities*

81000-91015 *Political Reform Act of 1974, especially:*

82011 *Code reviewing body*

82019 *Definition of designated employee*

82028 *Definition of gifts*

82030 *Definition of income*

87100-87103.6 *General prohibitions*

87200-87210 *Disclosure*

87300-87313 *Conflict of interest code*

87500 *Statements of economic interests*

89501-89503 *Honoraria and gifts*

91000-91014 *Enforcement*

CODE OF REGULATIONS, TITLE 2

18110-18997 *Regulations of the Fair Political Practices Commission, especially:*

18702.5 *Public identification of a conflict of interest for Section 87200 filers*

COURT DECISIONS

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th. 655

Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

ATTORNEY GENERAL OPINIONS

86 *Ops.Cal.Atty.Gen.* 138(2003)

85 *Ops.Cal.Atty.Gen.* 60 (2002)

82 *Ops.Cal.Atty.Gen.* 83 (1999)

81 *Ops.Cal.Atty.Gen.* 327 (1998)

80 *Ops.Cal.Atty.Gen.* 320 (1997)

69 *Ops.Cal.Atty.Gen.* 290 (1986)

69 *Ops.Cal.Atty.Gen.* 255 (1986)

68 *Ops.Cal.Atty.Gen.* 171 (1985)

65 *Ops.Cal.Atty.Gen.* 606 (1982)

Management Resources:

WEB SITES

Fair Political Practices Commission: <http://www.fppc.ca.gov>

CONFLICT OF INTEREST

APPENDIX "A"

Designated Positions

Persons occupying the following positions are designated employees and must disclose financial interests defined in Category 1, Appendix B

- County Superintendent of Schools
- Assistant Superintendents
- Executive Director, Tuolumne County SELPA
- County Board of Education Members
- Director, Joint Powers Authority

Persons occupying the following positions are designated employees and must disclose financial interests defined in Category 2, Appendix B

- Director, Business Services
- Legal Counsel

Persons occupying the following positions are designated employees and must disclose financial interests defined in Category 3, Appendix B

- Director, Special Projects
- Director, Technology Services
- Director, Student/Media Services
- Program Specialists
- Program Coordinators
- Principals
- Consultants
- Project Directors
- Director, Human Resources

APPENDIX "B"

Disclosure Categories

Category 1

Designated persons in this category must disclose all interests in real property in Tuolumne County, or any land owned or used by the Tuolumne County Superintendent of Schools Office, as well as all investments, business positions and sources of income, including gifts, loans and travel payments.

CONFLICT OF INTEREST (continued)

Category 2

Designated persons in this category must disclose all investments, business positions and sources of income, including gifts, loans and travel payments.

Category 3

Designated persons in this category must report investments, business positions and income including gifts, loans and travel payments from sources that provide leased facilities, goods and/or equipment of the type used by the department which the designated person manages or directs.

NOTICE: Investments include any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership interest or other ownership interest.

Investments do not include 1) a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, or any bond or other debt instrument issued by any government or government agency; 2) assets with a fair market value of less than one thousand dollars.

BOARD POLICIES

The Tuolumne County Board of Education and designated members of the County Office staff shall adopt written policies to convey its expectations for actions that will be taken in the County Office, clarify roles and responsibilities of the County Board and Tuolumne County Superintendent of Schools, and communicate County Board/County Office philosophy and positions to the students, staff, parents/guardians and the community. County Board policies are binding on the County Office to the extent that they do not conflict with federal or state law and are consistent with the County Office's collective bargaining agreements.

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 9000 - Role of the Board)

The County Board recognizes the importance of maintaining a policy manual that is up to date and reflects the mandates of law. Policies shall be reviewed at a time allocated for this purpose on the agenda of public County Board meetings.

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agendas/Meeting Materials)

The County Superintendent shall review certain policies annually, as required by Education Code 35160.5.

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 6145 - Extracurricular and Cocurricular Activities)

Policy Development and Adoption Process

The County Office's policy development process shall include the following basic steps:

1. The County Board and/or County Superintendent or designee shall identify the need for a new policy or revision of an existing policy. The need may arise from a change in law, a new County Office vision or goals, educational research or trends, or a change in the superintendency or County Board membership. The need may also occur as a result of an incident that has arisen in the County Office or a recommendation or request from staff or other interested persons.
2. As needed, the County Superintendent or designee shall gather fiscal and other data, staff and public input, related County Office policies, sample policies from other organizations or agencies, and other useful information to fully inform the County Board about the issue.

(cf. 1220 - Citizen Advisory Committees)

BOARD POLICIES (continued)

3. The County Board may hold discussions during a public County Board meeting to gain an understanding of the issue and provide initial direction to the County Superintendent or designee. The discussion may include, but not be limited to, how the proposed policy may affect student learning, community expectations, staff recommendations, fiscal impact, as well as the policy's impact on governance and operational efficiency.
4. The County Board or Superintendent may request that legal counsel review the draft policy as appropriate.
5. The County Superintendent or designee shall develop and present a draft policy for a first reading at a public County Board meeting. At its second reading, the County Board may take action on the proposed policy. The County Board may waive the second reading or may require an additional reading if necessary.

(cf. 9323 - Meeting Conduct)

Only policies formally adopted by a majority vote of the County Board or County Office Cabinet shall constitute official County Board policy.

(cf. 9322 - Agenda/Meeting Materials)

(cf. 9323.2 - Actions by the Board)

The County Office's policy development process may be revised or expanded as needed based on the issue being considered, the need for more information, or to provide greater opportunities for consultation and public input.

Policies shall become effective upon County Board adoption or at a future date designated by the County Board at the time of adoption.

County Board Bylaws

The County Board shall prescribe and enforce rules for its own government consistent with state law and regulations. (Education Code 35010)

Bylaws governing County Board operations may be developed, adopted, and amended following the same procedures as those used for the adoption or amendment of County Board policy.

BOARD POLICIES (continued)

Administrative Regulations

The County Superintendent or designee shall be responsible for developing and enforcing administrative regulations for the operation of the County Office. Administrative regulations shall be consistent with law and County Board policy and shall be designed to promote the achievement of County Office goals and objectives. Administrative regulations may describe specific actions to be taken, roles and responsibilities of staff, timelines, and/or other necessary provisions. The County Superintendent or designee also may develop procedures manuals, handbooks, or other guides to carry out the intent of County Board policy.

The Board of Education does not adopt administrative regulations unless specifically required to do so by law, or unless requested to do so by the Superintendent. Adoption and amendment of such Board-adopted regulations shall be by the same procedure as that specified for policies.

When County Board policies are amended, the County Superintendent or designee shall review corresponding regulations to ensure that they conform to the intent of the revised policy. In case of conflict between administrative regulation and County Board policy, policy shall prevail.

The County Board may review and/or approve regulations for the purpose of ensuring conformity with the intent of County Board policy.

Monitoring and Evaluation

At the time a policy is adopted, the County Board and County Superintendent or designee shall determine whether an evaluation of the policy should be scheduled and, if so, shall agree upon a timeline and measures for evaluating the effectiveness of the policy in achieving its purpose.

(cf. 0500 - Accountability)

Access to Policies

The County Superintendent or designee shall ensure that all County Office employees and the public have access to an up-to-date County Office policy manual. A public copy of the policy manual shall be maintained at the County Office central office and at each school/program site. These copies shall be maintained either electronically or by paper copy.

(cf. 1113 - District and School Web Sites)

(cf. 1340 - Access to District Records)

BOARD POLICIES (continued)

As necessary, the County Superintendent or designee shall notify staff, parents/guardians, students, and other stakeholders whenever a policy that affects them is adopted or revised. He/she may determine the appropriate communications strategy depending on the issue.

(cf. 1112 - Media Relations)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

(cf. 5145.6 - Parental Notifications)

(cf. 6020 - Parent Involvement)

Suspension of Policies

No County Board policy, bylaw, or administrative regulation, or any portion thereof, shall be operative if it is found to be in conflict with applicable federal or state law or regulations or court decisions. If any portion of a policy is found to be invalid, that invalidity shall not affect other provisions of the policy.

(cf. 2210 - Administrative Leeway in Absence of Governing Board Policy)

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35160 Authority of governing boards

35160.5 Annual review of school district policies

35163 Official actions, minutes and journal

35164 Vote requirements

Management Resources:

CSBA PUBLICATIONS

Targeting Student Learning: The School Board's Role as Policymaker, 2005

Maximizing School Board Leadership: Policy, 1996

WEB SITES

CSBA, Policy Services, including Policy Update Service, Governance and Management Using Technology (GAMUT Online™), Policy Audit Program, Individual District Policy Workshops, Agenda

Online, and Manual Maintenance: <http://www.csba.org/ps>

National School Boards Association: <http://www.nsba.org>

MEETINGS AND NOTICES

Meetings of the Tuolumne County Board of Education are conducted for the purpose of accomplishing district business.

A County Board meeting exists whenever a majority of County Board members gather at the same time and place to hear, discuss, or deliberate upon any item within the subject matter jurisdiction of the County Board or Tuolumne County Superintendent of Schools Office. (Government Code 54952.2)

In accordance with state open meeting laws (Brown Act), the County Board shall hold its meetings in public and shall conduct closed sessions during such meetings only as authorized by law. To encourage community involvement in the schools, County Board meetings shall provide opportunities for questions and comments by members of the public and shall be conducted in accordance with law and County Board procedures.

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

(cf. 9323 - Meeting Conduct)

A majority of the Board shall not, outside of an authorized meeting, use a series of communications of any kind directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. However, an employee or district official may engage in separate conversations with Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the Board as long as that employee or county official does not communicate the comments or position of any Board member to other Board members (GC 54952.2)

In order to help ensure participation in the meeting by disabled individuals, the County Superintendent or designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. (Government Code 54953.2, 54954.1)

Meeting notices and agendas shall specify that any individual who requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the County Board meeting should contact the County Superintendent or designee. (Government Code 54954.2)

Each agenda shall also list the address designated by the County Superintendent or designee for public inspection of agenda documents that have been distributed to the County Board less than 72 hours before the meeting. (Government Code 54957.5)

(cf. 9322 - Agenda/Meeting Materials)

MEETINGS AND NOTICES (continued)

Regular Meetings

The County Board shall hold one regular meeting each month. Regular meetings shall be held at 4:00 p.m. on the 2nd Monday of each month, unless that Monday falls on a holiday in Room 217 of the County Office, 175 So. Fairview Lane, Sonora, CA 95370

At least 72 hours prior to a regular meeting, the agenda shall be posted at one or more locations freely accessible to members of the public. (Government Code 54954.2)

Special Meetings

Special meetings of the Tuolumne County Board of Education may be called at any time by the presiding officer or a majority of the County Board members. (Government Code 54956)

Written notice of special meetings shall be delivered personally or by any other means to all County Board members and the local media who have requested such notice in writing. The notice shall be received at least 24 hours before the time of the meeting. The notice shall also be posted at least 24 hours before the meeting in a location freely accessible to the public. The notice shall specify the time and place of the meeting and the business to be transacted or discussed. No other business shall be considered at this meeting. (Education Code 35144; Government Code 54956)

Any County Board member may waive the 24-hour written notice requirement prior to the time of the meeting by filing a written waiver of notice with the clerk or secretary of the County Board or by being present at the meeting at the time it convenes. (Government Code 54956)

Every notice of a special meeting shall provide an opportunity for members of the public to directly address the County Board concerning any item that has been described in the meeting notice, before or during the item's consideration. (Government Code 54954.3)

Emergency Meetings

In the case of an *emergency situation* for which prompt action is necessary due to the disruption or threatened disruption of public facilities, the County Board may hold an emergency meeting without complying with the 24-hour notice and/or 24-hour posting requirement for special meetings pursuant to Government Code 54956. The County Board shall comply with all other requirements for special meetings during an emergency meeting. (Government Code 54956.5)

An *emergency situation* means either of the following: (Government Code 54956.5)

MEETINGS AND NOTICES (continued)

1. An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health and/or safety as determined by a majority of the members of the County Board

(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)

2. A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist activity, or threatened terrorist act that poses peril so immediate and significant that requiring the County Board to provide one-hour notice before holding an emergency meeting may endanger the public health and/or safety as determined by a majority of the members of the County Board

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

Except in the case of a dire emergency, the County Board president or designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media that have requested notice of special meetings. All telephone numbers provided by the media in the most recent request for notification must be exhausted. If telephone services are not functioning, the notice requirement of one hour is waived and, as soon after the meeting as possible, the County Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the County Board. In the case of a dire emergency, the County Board president or designee shall give such notice at or near the time he/she notifies the other members of the County Board about the meeting. (Government Code 54956.5)

The minutes of the meeting, a list of persons the County Board president 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 at least 10 days in a public place as soon after the meeting as possible. (Government Code 54956.5)

Adjourned/Continued Meetings

A majority vote by the County Board may adjourn/continue any regular or special meeting to a later time and place that shall be specified in the order of adjournment. Less than a quorum of the County Board may adjourn such a meeting. If no County Board members are present, the secretary or the clerk may declare the meeting adjourned to a later time and shall give notice in the same manner required for special meetings. (Government Code 54955)

Within 24 hours after the time of adjournment, a copy of the order or notice of adjournment/continuance shall be conspicuously posted on or near the door of the place where the meeting was held. (Government Code 54955)

MEETINGS AND NOTICES (continued)

Study Sessions, Retreats, Public Forums, and Discussion Meetings

The County Board may occasionally convene a study session or public forum to study an issue in more detail or to receive information from staff or feedback from members of the public.

The County Board may also convene a retreat or discussion meeting to discuss County Board roles and relationships.

(cf. 2000 - Concepts and Roles)

(cf. 2111 - Superintendent Governance Standards)

(cf. 9000 - Role of the County Board)

(cf. 9005 - Governance Standards)

(cf. 9400 - County Board Self-Evaluation)

Public notice shall be given in accordance with law when a quorum of the County Board is attending a study session, retreat, public forum, or discussion meeting. All such meetings shall comply with the Brown Act and shall be held in open session and within Tuolumne County Superintendent of Schools Office boundaries. Action items shall not be included on the agenda for these meetings.

Other Gatherings

Attendance by a majority of County Board members at any of the following events is not subject to the Brown Act provided that a majority of the County Board members do not discuss specific County Office business among themselves other than as part of the scheduled program: (Government Code 54952.2)

1. A conference or similar public gathering open to the public that involves a discussion of issues of general interest to the public or to school board members
2. An open, publicized meeting organized by a person or organization other than the County Office to address a topic of local community concern
3. An open and noticed meeting of another body of the County Office
4. An open and noticed meeting of a legislative body of another local agency
5. A purely social or ceremonial occasion
6. An open and noticed meeting of a standing committee of the County Board, provided that the County Board members who are not members of the standing committee attend only as observers

(cf. 9130 - County Board Committees)

MEETINGS AND NOTICES (continued)

Individual contacts or conversations between a County Board member and any other person are not subject to the Brown Act. (Government Code 54952.2)

Location of Meetings

Meetings shall not be held in a facility that prohibits the admittance of any person on the basis of ancestry or any characteristic listed in Government Code 11135, including, but not limited to, religion, sex, or sexual orientation. In addition, meetings shall not be held in a facility which is inaccessible to disabled persons or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

Meetings shall be held within County Superintendent boundaries, except to do any of the following: (Government Code 54954)

1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the County Superintendent is a party
2. Inspect real or personal property which cannot conveniently be brought into the County Superintendent, provided that the topic of the meeting is limited to items directly related to the property
3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law
4. Meet in the closest meeting facility if the County Superintendent has no meeting facility within its boundaries or if its principal office is located outside the County Superintendent
5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the County Superintendent over which the state or federal officials have jurisdiction
6. Meet in or near a facility owned by the County Superintendent but located outside the County Superintendent, provided the meeting agenda is limited to items directly related to that facility
7. Visit the office of the County Superintendent's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs
8. Attend conferences on nonadversarial collective bargaining techniques

MEETINGS AND NOTICES (continued)

9. Interview residents of another County Superintendent regarding the County Board's potential employment of an applicant for Superintendent of the Tuolumne County Superintendent of Schools Office
10. Interview a potential employee from another County Superintendent

Meetings exempted from the boundary requirements, as specified in items #1-10 above, shall still be subject to the notice and open meeting requirements for regular and special meetings when a quorum of the County Board attends the meeting.

If a fire, flood, earthquake, or other emergency renders the regular meeting place unsafe, meetings shall be held for the duration of the emergency at a place designated by the County Board president or designee, who shall so inform all news media who have requested notice of special meetings by the most rapid available means of communication. (Government Code 54954)

Teleconferencing

A teleconference is a meeting of the County Board in which County Board members are in different locations, connected by electronic means through audio and/or video. (Government Code 54953)

The County Board may use teleconferences for all purposes in connection with any meeting within the County Board's subject matter jurisdiction. All votes taken during a teleconference meeting shall be by roll call. (Government Code 54953)

During the teleconference, at least a quorum of the members of the County Board shall participate from locations within County Superintendent boundaries. (Government Code 54953)

Agendas shall be posted at all teleconference locations and shall list all teleconference locations whenever they are posted elsewhere. Additional teleconference locations may be provided to the public. (Government Code 54953)

All teleconference locations shall be accessible to the public. All teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the County Board, including the right of the public to address the County Board directly at each teleconference location. (Government Code 54953)

All County Board policies, administrative regulations, and bylaws shall apply equally to meetings that are teleconferenced. The County Superintendent or designee shall facilitate public participation in the meeting at each teleconference location.

MEETINGS AND NOTICES (continued)

Legal Reference:

EDUCATION CODE

- 35140 *Time and place of meetings*
- 35143 *Annual organizational meeting, date, and notice*
- 35144 *Special meeting*
- 35145 *Public meetings*
- 35145.5 *Agenda; public participation; regulations*
- 35146 *Closed sessions*
- 35147 *Open meeting law exceptions and applications*

GOVERNMENT CODE

- 11135 *State programs and activities, discrimination*
- 54950-54963 *The Ralph M. Brown Act, especially:*
- 54953 *Meetings to be open and public; attendance*
- 54954 *Time and place of regular meetings*
- 54954.1 *Mailed notices*
- 54954.2 *Agenda posting requirements, board actions*
- 54956 *Special meetings; call; notice*
- 54956.5 *Emergency meetings*
- 54961 *Prohibition on use of certain facilities*

UNITED STATES CODE, TITLE 42

- 12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

- 35.160 *Effective communications*
- 36.303 *Auxiliary aids and services*

COURT DECISIONS

- Wolfe v. City of Fremont*, (2006) 144 Cal.App. 544
- 216 Sutter Bay Associates v. County of Sutter*, (1997) 58 Cal.App. 4th 860

ATTORNEY GENERAL OPINIONS

- 88 *Ops. Cal. Atty. Gen.* 218 (2005)
- 84 *Ops. Cal. Atty. Gen.* 181 (2001)
- 84 *Ops. Cal. Atty. Gen.* 30 (2001)
- 79 *Ops. Cal. Atty. Gen.* 69 (1996)
- 78 *Ops. Cal. Atty. Gen.* 327 (1995)

Management Resources:

CSBA PUBLICATIONS

- The Brown Act: School Boards and Open Meeting Laws*, rev. 2006

ATTORNEY GENERAL PUBLICATIONS

- The Brown Act: Open Meetings for Legislative Bodies*, 2003

WEB SITES

CSBA, *Agenda Online*:

<http://www.csba.org/Services/Services/GovernanceTechnology/AgendaOnline.aspx>

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

CLOSED SESSION PURPOSES AND AGENDAS

The Tuolumne County Board of Education may hold closed sessions only for purposes identified in law. The County Board may hold a closed session at any time during a regular or special meeting and during emergency meetings in accordance with law. (Government Code 54956.5, 54957.7, 54962)

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

The agenda shall contain a brief general description of all closed session items to be discussed. (Government Code 54954.2)

The County Board shall disclose in open meeting the items to be discussed in closed session. In the closed session, the County Board may consider only those matters covered in its statement. (Government Code 54957.7)

No agenda, notice, announcement, or report required by the Brown Act need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed. (Government Code 54961)

In accordance with law, a County Board member shall not disclose confidential information received in a closed session unless the County Board authorizes the disclosure of that information. (Government Code 54963)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

Matters Related to Students

The County Board shall meet in closed session to consider a suspension, disciplinary action, or any other action, except expulsion, against a student when a public hearing on the matter would violate student privacy rights. If a written request for open session is received from the parent/guardian or adult student, it will be honored to the extent that it does not violate the privacy rights of any other student. (Education Code 35146, 48912, 49073-49079)

(cf. 5117 - Interdistrict Attendance)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5125.3 - Challenging Student Records)

(cf. 5144 - Discipline)

The County Board shall meet in closed session to consider the expulsion of a student, unless the student submits a written request at least five days before the date of the hearing that the hearing be held in open session. Regardless of whether the expulsion hearing is conducted in open or closed session, the County Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code 48918)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Agenda items related to student matters shall briefly describe the reason for the closed session, such as “student expulsion hearing,” “grade change appeal,” without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping. The agenda shall also state that the Education Code requires closed sessions in these cases in order to prevent the disclosure of confidential student record information.

(cf. 5125 - Student Records)

Security Matters

The County Board may meet in closed session with the Attorney General, County Office attorney, sheriff or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or to the public's right of access to public services or public facilities. (Government Code 54957)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The County Board may meet in closed session during an emergency meeting held pursuant to Government Code 54956.5 to meet with law enforcement officials for the emergency purposes specified in Government Code 54957 if agreed to by a two-thirds vote of the County Board members present. If less than two-thirds of the members are present, then the County Board must agree by a unanimous vote of the members present. (Government Code 54956.5)

Agenda items related to security matters shall specify the name of the law enforcement agency and the title of the officer, or name of applicable agency representative and title, with whom the County Board will consult. (Government Code 54954.5)

Conference with Real Property Negotiator

The County Board may meet in closed session with the County Board's real property negotiator prior to the purchase, sale, exchange or lease of real property by or for the County Office in order to grant its negotiator the authority regarding the price and terms of the property. (Government Code 54956.8)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

Before holding the closed session, the County Board shall hold an open and public session to identify its negotiator(s) and the property under negotiation and to specify the person(s) with whom the negotiator may negotiate. (Government Code 54956.8)

For purposes of real property transactions, negotiators may include members of the County Board. (Government Code 54956.8)

Agenda items related to real property negotiations shall specify the County Office negotiator 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 as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the negotiating parties and the street address of the real property under negotiation. If there is no street address, the agenda item shall specify the parcel number or another unique reference of the property. The agenda item shall also specify whether instruction to the negotiator will concern price, terms of payment, or both. (Government Code 54954.5)

Pending Litigation

Based on the advice of its legal counsel, the County Board may hold a closed session to confer with or receive advice from its legal counsel regarding pending litigation when a discussion of the matter in open session would prejudice the County Board's position in the case. For this purpose, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)

Litigation is considered "pending" when any of the following circumstances exist:

1. Litigation to which the County Board is a party has been initiated formally. (Government Code 54956.9(a))
2. A point has been reached where, in the County Board's opinion based on the advice of legal counsel and on the existing facts and circumstances, there is a significant exposure to litigation against the County Office, or the County Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized. (Government Code 54956.9(b))
3. Based on existing facts and circumstances, the County Board has decided to initiate or is deciding whether to initiate litigation. (Government Code 54956.9(c))

CLOSED SESSION PURPOSES AND AGENDAS (continued)

“Existing facts and circumstances” authorizing a closed session pursuant to Government Code 54956.9(b) as described in item #2 above are limited to the following: (Government Code 54956.9)

1. Facts and circumstances that might result in litigation against the County Office but which the County Office believes are not yet known to potential plaintiffs and which do not need to be disclosed.
2. Facts and circumstances including, but not limited to, an accident, disaster, incident or transactional occurrence which might result in litigation against the County Office, which are already known to potential plaintiffs, and which must be publicly disclosed before the closed session or specified on the agenda.
3. The receipt of a claim pursuant to the Tort Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.

(cf. 3320 - Claims and Actions Against the District)

4. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the County Board.
5. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the County Board, provided that the County Office official or employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection.

The above record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat on his/her behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.

Before holding a closed session pursuant to this section, the County Board shall state on the agenda or publicly announce the subdivision of Government Code 54956.9 under which the closed session is being held. If authority is based on Government Code 54956.9(a), the County Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the County Office's ability to effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage. (Government Code 54956.9)

Agenda items related to “pending litigation” shall be described as a conference with legal counsel regarding “existing litigation” or “anticipated litigation.” (Government Code 54954.5)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

“Existing litigation” items shall identify the name of the case specified by either the claimant's name, names of parties and case or claim number, unless the County Board states that to identify the case would jeopardize service of process or existing settlement negotiations. (Government Code 54954.5)

“Anticipated litigation” items shall state that there is significant exposure to litigation pursuant to Government Code 54956.9(b) and shall specify the potential number of cases. When the County Office expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code 54956.9(c) and shall specify the potential number of cases. The agenda or an oral statement before the closed session may be required to provide additional information pursuant to items #2-5 above. (Government Code 54954.5, Government Code 54956.9(b)(3)(B-E))

Joint Powers Agency Issues

The County Board may meet in closed session to discuss a claim against a joint powers authority formed for the purpose of insurance pooling or self-insurance authority of which it is a member, for the payment of tort liability losses, public liability losses or workers' compensation liability. (Government Code 54956.95)

Closed session agenda items related to liability claims shall specify the claimant's name and the name of the agency against which the claim is made. (Government Code 54954.5)

(cf. 3320 - Claims and Actions Against the District)
(cf. 3530 - Risk Management/Insurance)

When the board of the joint powers agency has so authorized and upon advice of County Office legal counsel, the County Board may meet in closed session in order to receive, discuss and take action concerning information obtained in a closed session of the joint powers agency. During the County Office's closed session, a County Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to fellow County Board members. (Government Code 54956.96)

The County Board member may also disclose the confidential JPA information to County Office legal counsel in order to obtain advice on whether the matter has direct financial or liability implications for the County Office. (Government Code 54956.96)

Closed session agenda items related to “Conference Involving a Joint Powers Agency” shall specify the closed session description used by the joint powers agency and the name of the County Office representative on the joint powers agency board. Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives shall also be included. (Government Code 54954.5)

CLOSED SESSION PURPOSES AND AGENDAS (continued)**Review of Audit Report from Bureau of State Audits**

Upon receipt of a confidential final draft audit report from the Bureau of State Audits, the County Board may meet in closed session to discuss its response to that report. After public release of the report from the Bureau of State Audits, any County Board meeting to discuss the report must be conducted in open session, unless exempted from that requirement by some other provision of law. (Government Code 54956.75)

Closed session agenda items related to an audit by the Bureau of State Audits shall state "Audit by Bureau of State Audits." (Government Code 54954.5)

*Legal Reference:*EDUCATION CODE35145 *Public meetings*35146 *Closed session (re student suspension)*44929.21 *Districts with ADA of 250 or more*48918 *Rules governing expulsion procedures; hearings and notice*49073 *Release of directory information*49076 *Access to records by persons without written parental consent*49079 *Notification to teacher re: students whose actions are grounds for suspension or expulsion*60617 *Meetings of governing board*GOVERNMENT CODE3540-3549.3 *Educational Employment Relations Act*6250-6268 *California Public Records Act*54950-54963 *The Ralph M. Brown Act*COURT DECISIONS*Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners* (2003) 107 Cal.App.4th 860*Bell v. Vista Unified School District* (2001) 82 Cal.App. 4th 672*Fischer v. Los Angeles Unified School District* (1999) 70 Cal.App. 4th 87*Furtado v. Sierra Community College District* (1998) 68 Cal. App. 4th 876*Roberts v. City of Palmdale* (1993) 5 Cal.4th 363*Sacramento Newspaper Guild v. Sacramento County Board of Supervisors* (1968) 263 Cal.App. 2d 41ATTORNEY GENERAL OPINIONS86 *Ops. Cal. Atty. Gen.* 210 (2003)78 *Ops. Cal. Atty. Gen.* 218 (1995)59 *Ops. Cal. Atty. Gen.* 532 (1976)*Management Resources:*CSBA PUBLICATIONS*The Brown Act: School Boards and Open Meeting Laws*, 2003ATTORNEY GENERAL PUBLICATIONS*The Brown Act: Open Meetings for Legislative Bodies*, California Attorney General's Office, 2002CALIFORNIA CITY ATTORNEY PUBLICATIONS*Open and Public III: A User's Guide to the Ralph M. Brown Act*, 2000WEB SITESCSBA: <http://www.csba.org>California Attorney General's Office: <http://www.caag.state.ca.us>

Bylaw

adopted: December 10, 2007

TUOLUMNE COUNTY SUPERINTENDENT OF SCHOOLS

Sonora, California

AGENDA/MEETING MATERIALS

Agenda Content

Tuolumne County Board of Education meeting agendas shall state the meeting time and place and shall briefly describe each business item to be transacted or discussed, including items to be discussed in closed session. (Government Code 54954.2)

(cf. 9320 - Meetings and Notices)
(cf. 9321- Closed Session Purposes and Agendas)

The agenda shall provide members of the public the opportunity to address the County Board on any agenda item before or during the County Board's consideration of the item. The agenda shall also provide members of the public an opportunity to testify at regular meetings on matters which are not on the agenda but which are within the subject matter jurisdiction of the County Board. (Education Code 35145.5; Government Code 54954.3)

(cf. 9323 - Meeting Conduct)

Each meeting agenda shall list the address designated by the Tuolumne County Superintendent of Schools or designee for public inspection of agenda documents that have been distributed to the County Board less than 72 hours before the meeting. (Government Code 54957.5)

The agenda shall specify that an individual who requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the County Board meeting should contact the County Superintendent or designee. (Government Code 54954.2)

Agenda Preparation

The County Board president and the County Superintendent, as secretary to the County Board, shall work together to develop the agenda for each regular and special meeting. Each agenda shall reflect the Tuolumne County Superintendent of Schools Office's vision and goals and the County Board's focus on student learning.

(cf. 0000 - Vision)
(cf. 0200 - Goals for the School District)
(cf. 9121 - President)
(cf. 9122 - Secretary)

A County Board member or member of the public may request that a matter within the jurisdiction of the County Board be placed on the agenda of a regular meeting. The request shall be in writing and be submitted to the County Superintendent or designee with supporting documents and information, if any, at least one week before the scheduled meeting date. Items submitted less than a week before the scheduled meeting date may be postponed to a later meeting in order to allow sufficient time for consideration and research of the issue.

AGENDA/MEETING MATERIALS (continued)

The County Board president and Superintendent shall decide whether a request is within the subject matter jurisdiction of the County Board. Items not within the subject matter jurisdiction of the County Board may not be placed on the agenda. In addition, the County Board president and County Superintendent shall determine if the item is merely a request for information or whether the issue is covered by an existing policy or administrative regulation before placing the item on the agenda.

The County Board president and County Superintendent shall decide whether an agenda item is appropriate for discussion in open or closed session, and whether the item should be an action item subject to County Board vote, an information item that does not require immediate action, or a consent item that is routine in nature and for which no discussion is anticipated.

Any County Board action that involves borrowing \$100,000 or more shall be discussed, considered, and deliberated upon as a separate item of business on the meeting agenda. (Government Code 53635.7)

(cf. 9323.2 - Actions by the County Board)

All public communications with the County Board are subject to requirements of relevant County Board policies and administrative regulations.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3320 - Claims and Actions Against the District)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Consent Items

In order to promote efficient meetings, the County Board may act upon more than one item by a single vote through the use of a consent agenda. Consent items shall be items of a routine nature or items for which no County Board discussion is anticipated and for which the County Superintendent recommends approval.

In accordance with law, the public has a right to comment on any consent item. At the request of any member of the County Board, any item on the consent agenda shall be removed and given individual consideration for action as a regular agenda item.

Agenda Dissemination to County Board Members

At least three days before each regular meeting, a copy of the agenda and agenda packet shall be forwarded to each County Board member, including the Superintendent or designee's report; minutes to be approved; copies of communications; reports from committees, staff, citizens, and others; and other available documents pertinent to the meeting.

AGENDA/MEETING MATERIALS (continued)

When special meetings are called, the County Superintendent or designee shall make every effort to distribute the agenda and supporting materials to County Board members as soon as possible before the meeting.

County Board members shall review agenda materials before each meeting. Individual members may confer directly with the County Superintendent or designee to request additional information on agenda items.

Agenda Dissemination to Members of the Public

The County Superintendent or designee shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to any person who requests the items. The materials shall be mailed at the time the agenda is posted or upon distribution of the agenda to a majority of the County Board, whichever occurs first. (Government Code 54954.1)

If a document is distributed to the County Board less than 72 hours prior to a meeting, the County Superintendent or designee shall make the document available for public inspection at the time the document is distributed to a majority of the County Board provided that the document is a public record under the Public Records Act and relates to an agenda item for an open session of a regular County Board meeting. The County Superintendent or designee may also post the document on the County Superintendent's web site in a position and manner that makes it clear that the document relates to an agenda item for an upcoming meeting. (Government Code 54957.5)

(cf. 1113 - District and School Web Sites)

(cf. 1340 - Access to District Records)

Any documents prepared by the County Superintendent or the County Board and distributed during a public meeting shall be made available for public inspection at the meeting. Any documents prepared by another person shall be made available for public inspection after the meeting. These requirements shall not apply to a document that is exempt from public disclosure under the Public Records Act. (Government Code 54957.5)

Upon request, the County Superintendent or designee shall make the agenda, agenda packet, and/or any writings distributed at the meeting available in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act. (Government Code 54954.1)

Any request for mailed copies of agendas or agenda packets shall be in writing and shall be valid for the calendar year in which it is filed. Written requests must be renewed following January 1 of each year. (Government Code 54954.1)

Persons requesting mailing of the agenda or agenda packet shall pay an annual fee, as determined by the County Superintendent or designee, not to exceed the cost of providing the service.

Legal Reference: (see next page)

AGENDA/MEETING MATERIALS (continued)

Legal Reference:

EDUCATION CODE

35144 *Special meetings*

35145 *Public meetings*

35145.5 *Right of public to place matters on agenda*

GOVERNMENT CODE

6250-6270 *Public Records Act*

53635.7 *Separate item of business*

54954.1 *Mailed agenda of meeting*

54954.2 *Agenda posting requirements; board actions*

54954.3 *Opportunity for public to address legislative body*

54954.5 *Closed session item descriptions*

54956.5 *Emergency meetings*

54957.5 *Public records*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.160 *Effective communications*

36.303 *Auxiliary aids and services*

COURT DECISIONS

Caldwell v. Roseville Joint Union HSD, 2007 U.S. Dist. LEXIS 66318

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2007

Guide to Effective Meetings, rev. 2007

Maximizing School Board Leadership: Boardmanship, 1996

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, California Attorney General's Office, rev. 2003

CALIFORNIA CITY ATTORNEY PUBLICATIONS

Open and Public III: A User's Guide to the Ralph M. Brown Act, 2000

WEB SITES

CSBA, *Agenda Online:*

<http://www.csba.org/Services/Services/GovernanceTechnology/AgendaOnline.aspx>

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

MEETING CONDUCT

The Tuolumne County Board of Education endeavors to conduct its business efficiently and in a manner that promotes a full and fair consideration of the issues before it, and allows for meaningful participation of members of the public.

Notices and Agenda

The Tuolumne County Superintendent shall forward by mail, e-mail, fax or other means, the agenda and supporting materials, to be received by each Board member at least three days before each regular meeting.

When a special meeting is called, the County Superintendent and Board president shall make every effort to distribute the agenda and support materials to Board members as soon as possible.

At least 72 hours prior to a regular meeting, the County Superintendent shall post the agenda at one or more locations freely accessible to the public. (Government Code 54954.2)

At least 24 hours prior to a special meeting, the County Superintendent shall post the call and notice for the special meeting at one or more locations freely accessible to the public. (Government Code 54956)

The County Board may hold an emergency meeting without complying with the 24-hour notice requirement in the following cases: (Government Code 54956.5)

1. A work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the County Board
2. A crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the County Board

The Board president or designee shall give notice of the emergency meeting to the local media which have requested notice of special meetings, by telephone, at least one hour before the meeting. If telephone services are not functioning, the one-hour notice requirement is waived, and as soon after the meeting as possible, the County Board shall notify those media representatives, of the emergency meeting and shall describe the purpose of the meeting and any action taken by the County Board. (Government Code 54956.5)

In the event of an emergency, or where a majority of Board members will not be able to attend a regular meeting due to a reason approved by resolution of the County Board, the Board president may change the date and/or time for the regular meeting. Such situations shall include but not be limited to, fire, flood, earthquake, absence of Board members due to attendance at a Board-sanctioned conference, or illness/injury. Where the schedule for a regular meeting is to be changed, the County Superintendent shall inform all Board members and the public by the most rapid means of communication available.

MEETING CONDUCT (continued)

If a fire, flood, earthquake or other emergency renders the regular meeting place unsafe, meetings may temporarily be held at a place designated by the president or designee, who shall so inform all news media that have requested notice of special meetings, by the most rapid means of communication available. (Government Code 54954)

Meeting Procedures

All County Board meetings shall begin on time and shall be guided by an agenda delivered in advance to all Board members, and to other persons upon request.

The Board president shall conduct Board meetings in accordance with Board bylaws and procedures adopted for the orderly conduct of the County Board's business.

The County Board believes that late night meetings and meetings that last longer than three hours can discourage public participation, can constitute an unnecessary burden on staff members and can reflect negatively on the County Board's decision-making process. Regular Board meetings shall be adjourned at 10:30 p.m., unless extended to a specific time by a majority vote of the County Board. The meeting shall be extended no more than once and may be adjourned to a later date.

Quorum

A majority of the members of the County Board shall constitute a quorum for the transaction of business. (Education Code 1013)

Unless otherwise provided by law, affirmative votes by a majority of all the membership of the County Board are required to approve any action under consideration, regardless of the number of members present.

Voting and Abstentions

On a call by any Board member, a voice vote shall be taken upon any proposition and the vote shall be recorded in the minutes. (Education Code 1015)

Votes taken during a teleconference shall only be by roll call. (Government Code 54953)

Teleconference is a meeting of the County Board in which Board members are at different locations and are connected by electronic means through video and/or audio.

Direct communication, personal intermediaries, and technological devices shall not be used by a majority of Board members to develop a collective concurrence as to an action that members will take on any item of County Board business. (Government Code 54952.2)

MEETING CONDUCT (continued)

The County Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a member abstains for any reason other than conflict of interest, his/her abstention shall be considered to concur with the action taken by the majority of those who vote, whether affirmatively or otherwise.

Public Participation

Members of the public are encouraged to attend Board meetings and to address the County Board concerning any item on the agenda or within the County Board's jurisdiction. So as not to inhibit public participation, persons attending Board meetings shall not be required to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting. However, the Board president may ask any speaker to identify himself/herself for proper recording of the minutes.

To conduct the County Board's business in an orderly and efficient manner, the County Board requires that public presentations to the County Board comply with the following procedures:

1. The County Board shall give members of the public an opportunity to address the County Board either before or during the County Board's consideration of each item of business to be discussed at regular or special meetings. (Government Code 54954.3)
2. At a time so designated on the agenda, members of the public may bring before the County Board, at a regular meeting, matters that are not listed on the agenda, but are within the County Board's jurisdiction. The County Board may refer such a matter to the County Superintendent or take it under advisement, but shall not take action at that time except as allowed by law. The matter may be placed on the agenda of a subsequent meeting for action or discussion by the County Board. (Government Code 54954.2)
3. Without taking action, Board members, the County Superintendent and/or staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. Additionally, on their own initiative or in response to questions posed by the public, a Board member, the County Superintendent or a staff member may ask a question for clarification, make a brief announcement, or make a brief report on his/her own activities. (Government Code 54954.2)

Furthermore, the County Board or a Board member may provide a reference to the County Superintendent or other resources for factual information, ask the County Superintendent to report back to the County Board at a subsequent meeting concerning any matter, or take action directing the County Superintendent to place a matter of business on a future agenda. (Government Code 54954.2)

MEETING CONDUCT (continued)

4. The County Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the County Board determines that the item has been substantially changed since the committee heard it, the County Board shall provide an opportunity for the public to speak. (Government Code 54954.3)
5. A person wishing to be heard by the County Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits.

Individual speakers shall be allowed three minutes to address the County Board on each agenda or nonagenda item. The County Board shall limit the total time for public input on each item to 20 minutes. With County Board consent, the president may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The president may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add.

6. The Board president may rule on the appropriateness of a topic. If the topic would be more suitably addressed at a later time, the president may indicate the time and place when it should be presented.
7. The County Board shall not prohibit public criticism of its policies, procedures, programs, services, acts or omissions. (Government Code 54954.3)

The County Board shall not prohibit public criticism of its staff. Education Code 1042 authorizes the County Board to employ persons to work directly for the County Board in providing special services or advice in financial, economic, accounting, engineering, legal and administrative matters. Such employees are subject to the County Board's disciplinary authority. All other employees of the County Office of Education are subject to the County Superintendent's disciplinary authority.

- a. **Complaint Against County Board Employee:** The County Board shall hear and consider specific complaints or charges against its employees who are employed pursuant to Education Code 1042, to render special services or advice. Whenever a member of the public initiates specific complaints or charges against such a staff member, the Board president shall inform the complainant that, in order to protect the staff member's right to adequate notice before a hearing of such complaints or charges, and also to preserve the ability of the County Board to legally consider the complaints or charges in any subsequent evaluation of the employee, it is the policy of the County Board to hear such complaints or charges in closed session unless otherwise requested by the employee pursuant to Government Code 54957.

MEETING CONDUCT (continued)

- b. Complaint Against County Office Employee: Whenever the Board president determines a specific complaint or charge to be against a staff member employed by the County Superintendent, the president shall advise the complainant to address his/her complaint to the County Superintendent.
9. The Board president shall not permit any disturbance or willful interruption of Board meetings. Persistent disruption by an individual or group shall be grounds for the Board president to terminate the privilege of addressing the County Board. The Board president may have disruptive individuals removed and order the room cleared if necessary. In this case, members of the media not participating in the disturbance shall be allowed to remain, and individual(s) not participating in such disturbances may be allowed to remain at the discretion of the Board president. When the room is ordered cleared due to a disturbance, further Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

Recording By The Public

The County Superintendent shall designate locations from which members of the public may telecast, broadcast, photograph or tape-record open meetings without causing a distraction, pursuant to Government Code 54953.5.

If the County Board finds that noise, illumination or obstruction of view related to these activities would persistently disrupt the proceedings, these activities shall be discontinued or restricted as determined by the County Board. (Government Code 54953.6)

Legal Reference: (see next page)

MEETING CONDUCT (continued)

Legal Reference:

EDUCATION CODE

1013 *Quorum*

1015 *Voting*

1040 *Duties and responsibilities; county boards of education*

1042 *County boards; authority*

1090 *County board member compensation*

32210 *Willful disturbance of public school or meeting a misdemeanor*

35164 *Majority vote*

GOVERNMENT CODE

54952.2 *Meetings defined*

54953 *Teleconferencing*

54953.5 *Audio or video tape recording of proceedings*

54953.6 *Broadcasting of proceedings*

54954 *Time and place of regular meetings*

54954.2 *Agenda; posting; action on other matters*

54954.3 *Opportunity for public to address legislative body; regulations*

54956 *Special meetings*

54956.5 *Emergency meetings*

54957 *Closed sessions*

54957.9 *Disorderly conduct of general public during meeting; clearing of room*

COURT DECISIONS

Baca v. Moreno Valley Unified School District, (C.D. Cal. 1996) 936 F.Supp. 719

ATTORNEY GENERAL OPINIONS

76 *Ops. Cal. Atty. Gen.* 281 (1993)

66 *Ops. Cal. Atty. Gen.* 336, 337 (1983)

63 *Ops. Cal. Atty. Gen.* 215 (1980)

61 *Ops. Cal. Atty. Gen.* 243, 253 (1978)

59 *Ops. Cal. Atty. Gen.* 532 (1976)

MEETING CONDUCT

The Tuolumne County Superintendent of Schools, as secretary of the Tuolumne County Board of Education, shall prepare an agenda for each regular meeting. Any Board member or member of the public may call the Superintendent and request any item be placed on the agenda no later than 72 hours prior to the legally required public posting of the agenda.

The order of business at regular meetings, unless changed by the majority vote of the members present, shall be as follows:

1. Pledge
2. Roll Call
3. Introduction of guests
4. Public comment
5. Consent Agenda
 - a. Approve minutes
 - b. Approve Temporary County Certificates
 - c. Approve Quarterly Report on Williams Uniform Complaints
6. Staff Reports
7. District Reports
8. Action Items
9. Discussion Items
10. Information Items
11. Comments
 - a. County Superintendent
 - b. Board Members
12. Adjournment

ACTIONS BY THE BOARD

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

An “action” by the County Board means: (Government Code 54952.6)

1. A collective decision by a majority of the County 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 County Board upon a motion, proposal, resolution, order or ordinance

The County 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 circumstances: (Government Code 54954.2)

1. The County Board, by majority vote of its members, determines that the action responds to an emergency situation.

(cf. 9320 - Meetings and Notices)

2. The County Board determines, either by a two-thirds majority vote of the members present at the meeting or, if less than two-thirds of the members are present, by a unanimous vote of all members present, that the need to take immediate action came to the Tuolumne County Superintendent of Schools Office'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.

(cf. 9322 - Agenda/Meeting Materials)

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

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

(cf. 9324 - Minutes and Recordings)

ACTIONS BY THE BOARD (continued)

Challenging County Board Actions

Any demand by the County Office attorney's office or any interested person to correct a County Board action shall be presented to the County Board in writing within 90 days of the date when the action was taken. Such demand shall allege a violation of any of the following: (Government Code 54960.1)

1. Government Code 54953, regarding open meeting and teleconferencing
2. Government Code 54954.5, regarding closed session item descriptions
3. Government Code 54954.6, regarding new or increased tax assessments
4. Government Code 54956, regarding special meetings
5. Government Code 54956.5, regarding emergency meetings

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)

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

Within 30 days of receiving the demand, the County Board shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct. If the County Board decides to not cure or correct the challenged action, the demanding party shall be informed in writing of that decision. (Government Code 54960.1)

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. (Government Code 54960.1)

Legal Reference: (see next page)

ACTIONS BY THE BOARD (continued)

Legal Reference:

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*
- 17510-17511 Resolution requiring unanimous vote of all members constituting board*
- 17546 Private sale of personal property*
- 17556-17561 Dedication of real property*
- 17582 District deferred maintenance fund*
- 17583 Deferred maintenance fund; transfer of excess local funds*
- 35144 Special meeting*
- 35145 Public meetings*
- 35164 Majority vote of all members constituting board for board action*
- 35165 Vacancies, effect on majority and unanimous vote*
- 48660 Establishment of community day schools*
- 48661 School site restrictions for community day schools*

GOVERNMENT CODE

- 53094 Authority to render zoning ordinance inapplicable*
- 53097 Compliance with ordinances*
- 53097.3 Charter school ordinances*
- 53790-53792 Exceeding the budget*
- 53820-53833 Temporary borrowing*
- 53850-53858 Temporary borrowing*
- 54950 Meetings: declaration; intent; sovereignty*
- 54952.6 Action taken, definition*
- 54953 Meetings to be open and public; attendance; secret ballots*
- 54953.5 Right to record proceedings; conditions*
- 54954.2 Agenda posting requirements; board actions*
- 54954.5 Closed session item descriptions*
- 54954.6 New or increased taxes or assessments; hearings; notice*
- 54956 Special meetings; call; notice*
- 54956.5 Emergency meetings in emergency situations*
- 54960 Action to prevent violations*
- 54960.1 Challenge of governing board actions*
- 54960.5 Costs and attorney fees*
- 65352.2 Coordination with planning agency*

PUBLIC CONTRACT CODE

- 3400 Bid specifications*
- 20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder*
- 20113 Emergencies, award of contracts without bids*

COURT DECISIONS

- 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: (see next page)

ACTIONS BY THE BOARD (continued)

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 1999

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, California Attorney General's Office, 2002

CALIFORNIA CITY ATTORNEY PUBLICATIONS

Open and Public III: A User's Guide to the Ralph M. Brown Act, 2000

WEB SITES

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

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

ACTIONS BY THE BOARD

ACTIONS REQUIRING MORE THAN A MAJORITY VOTE

Actions Requiring a Two-Thirds Vote of the Board:

1. Resolution declaring intention to sell or lease real property (Education Code 17466)

(cf. 3280 - Sale, Lease and Rental of District-Owned Real Property)

2. Resolution declaring intent of Tuolumne County Superintendent of Schools Office to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the County Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease for up to three months of school/program site property which has a residence on it and which cannot be developed for County Office purposes because funds are unavailable (Education Code 17481)
5. Temporary borrowing before receipt of fiscal income, if implemented pursuant to Government Code 53820-53833 (Government Code 53821)
6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, ordering city or county zoning ordinances inapplicable to a proposed use of the property by the district (Government Code 53094)

(cf. 7131 - Relations with Local Agencies)

(cf. 7150 - Site Selection and Development)

(cf. 7160 - Charter School Facilities)

7. Resolution to transfer excess local funds from a deferred maintenance fund when state funds are insufficient to match local funds being held in the deferred maintenance fund (Education Code 17582, 17583)
8. For districts with an ADA of 2,500 or less seeking to add a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)
9. For K-8 districts (and no higher grades) seeking to add a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)

ACTIONS BY THE BOARD (continued)

10. For districts desiring to operate a community day school on an existing school site to serve grades K-6 (and no higher grades), certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)

(cf. 6185 - Community Day School)

11. Resolution of intent to issue general obligation bonds with the approval of 55 percent of the voters of the district (Education Code 15266)

(cf. 7214 - General Obligation Bonds)

12. Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code 15266)

(cf. 7213 - School Facilities Improvement Districts)

13. Resolution to place a parcel tax on the ballot (Government Code 53724)

14. Resolution of necessity to proceed with an eminent domain action and, if the Board 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)

Actions Requiring a Two-Thirds Vote of the County 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 district's attention after the posting of the agenda. If less than two-thirds of the County Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)
2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the County Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

(cf. 9320 - Meetings and Notices)

(cf. 9321 - Closed Session Purposes and Agendas)

Actions Requiring a Four-Fifths Vote of the County Board:

1. The expenditure and transfer of necessary funds and use of district 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)

(cf. 3110 - Transfer of Funds)

ACTIONS BY THE BOARD (continued)

2. Resolution, adopted between July 15 and August 30, to borrow funds of up to 25 percent of the estimated income and revenue to be received by the district during the current fiscal year from apportionments based on average daily attendance for the preceding school year (Government Code 53822-53824)
3. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)

(cf. 3311 - Bids)

Actions Requiring a Unanimous Vote of the County Board:

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

Action Requiring a Unanimous Vote of the County Board Members Present at the Meeting:

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property in the local dump or donation to a charitable organization requires the unanimous vote of the County Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)

MINUTES AND RECORDINGS

The secretary of the Tuolumne County Board of Education shall keep minutes and record all official County Board actions. (Education Code 35145, 35163)

(cf. 9323.2 - Actions by the Board)

Copies of the minutes of each regular or special meeting shall be distributed to all County Board members with the agenda for the next regular meeting.

Any minutes or recordings kept for County Board meetings held in closed session shall be kept separate from the minutes or recordings of regular and special meetings. Minutes or recordings of closed sessions are not public records. (Government Code 54957.2)

(cf. 1340 - Access to District Records)
(cf. 9321.1 - Closed Session Actions and Reports)

Official County Board minutes and recordings shall be stored in a fire-proof location.

Recording of Votes

Motions or resolutions shall be recorded as having passed or failed. Individual votes shall be recorded unless the action was unanimous. All motions and County Board resolutions shall be numbered consecutively from the beginning of each fiscal year.

Video or Audio Recording

A video or audio tape recording may be made at any County Board meeting. The presiding officer shall announce that a recording is being made at the beginning of the meeting, and the recorder shall be placed in plain view of all persons present, insofar as possible.

Recordings made during regular or special County Board meetings are public records. They shall be kept for six months and upon request shall be made available for inspection by members of the public on a County Office recorder without charge. (Government Code 54953.5)

Legal Reference:

EDUCATION CODE

35145 Public meetings

35163 Official actions, minutes and journals

35164 Vote requirements

PENAL CODE

632 Unlawful to intentionally record a confidential communication without consent of all parties to the communication

GOVERNMENT CODE

54957.2 Closed sessions; clerk; minute book

54960 Violations and remedies