

**Tri-Valley Regional Occupational Center/Program  
Board Policies and Administrative Regulations**

**SERIES 9000 - BYLAWS OF THE GOVERNING BOARD**

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Bylaws of the Governing Board

**ORGANIZATION**

**Annual Organizational Meeting**

The Governing Board shall hold an annual organizational meeting in January each year within the time limits prescribed by law. (Education Code 35143)

At this meeting, the Board shall:

1. Elect a Chairperson and a Vice Chairperson from its members.
2. Appoint a Secretary to the Board.
3. Develop a schedule of regular meetings for the year.
4. Authorize signatures.

(cf. 9320 - Meetings and Notices)

Legal References:

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)

Bylaw

adopted: July 7, 1994

revised: March 9, 2011

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**

Livermore, California

## **BB 9110**

Bylaws of the Governing Board

### **NUMBER OF MEMBERS AND TERM OF OFFICE**

The Tri-Valley ROCP is governed by a Joint Powers Board consisting of one board member from each of the participating school districts (Member Districts).

Each Representative shall be a member of a Member District's governing board.

A member must be appointed by the member's participating school district board. Each Representative shall serve at the pleasure of the Member District by which such Representative has been appointed.

Each Member District shall provide written notice to the TVROCP of the name of that Member District's representative. This notice shall be updated when a change occurs.

In the event of a vacancy, the participating district with the vacancy shall make an appointment to fill the vacancy.

Bylaw  
adopted: April 6, 1995  
revised: March 9, 2011

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**  
Livermore, California

Bylaws of the Governing Board

**OFFICERS OF THE GOVERNING BOARD**

The Board will consist of two officers, a Chairperson and Vice Chairperson. The Superintendent—shall be an ex officio, non-voting member of the Board and will serve as Secretary to the Board.

The Board shall, in January of each year, elect a Chairperson and a Vice Chairperson from among the Primary Representatives.

In the event that the elected Chairperson or Vice Chairperson ceases to be an appointed representative to the Board, the resulting vacancy shall be filled at the next meeting of the Board held after such vacancy occurs.

In the absence or inability of the Chairperson to act, the Vice Chairperson shall act as Chairperson. In this capacity, the Vice Chairperson will also be authorized to sign for the Board official documents such as notices of employment, contracts of employment, and other official papers as designated by the Education Code.

Bylaws of the Governing Board

**LIMITS OF BOARD MEMBER AUTHORITY**

Members of the Board will have authority only when acting as a Board legally in session. The Board will not be bound in any way by any statement or action on the part of any individual Board member, except when such statement or action is made in pursuance to specific instructions of the Board. 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)

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

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

Legal Reference:

EDUCATION CODE

35100-35351 Governing boards, especially:

35160-35184 Powers and duties

35291 Rules

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: Boardsmanship, 1996

WEB SITES

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

Bylaw

adopted:

revised: March 9, 2011

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**

Livermore, California

Bylaws of the Governing Board

**GOVERNING BOARD FUNCTIONS**

The Governing Board, acting in accordance with the Joint Powers Agreement, exercises complete jurisdiction over all aspects of the program. The Board will set policies which will be in accord with the Joint Powers Agreement, all applicable codes, and the desires of the participating districts, to ensure the orderly transaction of business and the fulfillment of program goals. The Board will provide direction in relationship to planning and evaluation. The Board will have final approval on the appointment of all staff.

The Governing Board will provide for an annual budget, prepared under the direction of the Superintendent, and will examine and approve each stage of the budget, provide for a public hearing, adopt the budget and keep it on file for public inspection.

The Board will provide for budget control, auditing, and otherwise account for ROCP receipts and expenditures through means of accounting and cost accounting systems. It will prescribe policies and procedures in connection with the administration thereof, and it will prescribe such procedures and forms not in conflict with the state authority which it deems necessary.

The Board will consider and adopt an annual calendar for the ROCP.

Legal Reference:

Education Code: 4200 et. seq.

Bylaws of the Governing Board

**DELEGATION OF AUTHORITY**

The Superintendent will be the chief executive officer of the Board. The Board hereby delegates to the Superintendent all administrative authority within its power with the exception of the Superintendent's appointment or dismissal. This delegation will carry with it full responsibility and the proper use of such authority.

The Superintendent will develop rules and regulations for the administration of the ROCP not inconsistent with adopted Board policy.

Although the Board delegates authority to the Superintendent, the Board, itself, is ultimately responsible to the electorate for the efficient and effective conduct of the affairs of the ROCP.

Legal Reference:

Education Code:

- |             |   |
|-------------|---|
| 35010       | Control of district by board of trustees or board of education        |
| 35014       | Adoption of rules by governing board                                  |
| 35020-35046 | Officers and agents (power of governing board to appoint)             |
| 35100-35351 | Governing boards - esp.   |
| 35160-35181 | Powers and duties   |
| 35230-35240 | Corrupt practices   |
| 35291       | Rules   |
| 39013       | Manner of acquisition; school site on property contiguous to district |
| 39600-39621 | Property maintenance and control                                      |
| 52300-52333 | Regional Occupational Centers Joint Powers Agreement                  |

Bylaws of the Governing Board

**SECRETARY**

The Superintendent shall be an ex officio, non-voting member of the Governing Board and shall serve as Secretary to the Board with duties as follows:

1. To keep accurate records of the transactions of the Board during meetings.
2. To transcribe the records of the Board meetings into minutes of the meeting.
3. To supply copies of the minutes of the Board meetings to members sufficiently soon after each meeting to allow study prior to acceptance of the minutes.
4. To cause to be stored in a safe place minutes of the Board meetings for each fiscal year.
5. To maintain a calendar of the Boards unfinished business and scheduled meetings and events.
6. To maintain official record of policies and bylaws of the Board.



Bylaws of the Governing Board

**DUTIES OF THE AUDITOR**

The duties of the independent auditor will be as follows:

1. To examine the balance sheet of the ROCP at the close of its fiscal year and the related statements of transactions in the various funds for the fiscal year then ended.
2. To conduct such examination in accordance with generally accepted auditing standards and to include such tests of the accounting records and such other auditing procedures as are necessary in the circumstances.
3. To render an opinion on the financial statements prepared at the close of the fiscal year.
4. To prepare such financial statements for publication as may be required by law.
5. To make such recommendations to the Governing Board concerning its accounting records, procedures, and related activities as may appear necessary or desirable.
6. To perform such other related services as may be requested by the Governing Board.

**CONFLICT OF INTEREST****Definitions:**

The definitions contained in article 2 of chapter 7 of the Political Reform Act of 1974 (Government Code sections 81000 et seq.), regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. sections 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code. The Joint Powers Governing Board of the Tri-Valley Regional Occupational Program of Alameda County is hereinafter referred to as the Board. The Tri-Valley Regional Occupational Program is hereinafter referred to as TVROP or District.

**Incompatible Activities:**

Board members and TVROP employees shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the TVROP. (Government Code 1126) Each officer and designated employee shall file an annual statement disclosing that employee's interests in investments, business positions, interests in real property, and income designated as reportable by the Political Reform Act of 1974. Those interests shall be reportable only if the business entity in which the investment and or business position is held, the interests in real property or the income or source of income may foreseeably be affected materially by any decision made or participated in by the officer or designated employee by virtue of his or her position.

**Purpose:**

The Political Reform Act of 1974 (Government Code sections 81000 et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regulations Section 18730) which is incorporated herein by reference. After public notice and hearing it may be amended by the Fair Political practices Act. Therefore, the terms of 2 Cal. Code of Regulations sections 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. Pursuant to the provisions of Government Code Sections 87300 et seq. and Education Code Sections 60071-60076, the Board hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974. The provisions of this Conflict of Interest Code are additional to Government Code Section 87100 and other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions of said Act and regulations adopted pursuant thereto are incorporated herein and this Conflict of Interest Code shall be interpreted in a manner consistent therewith.

**Terms of the Conflict of Interest Code**

The TVROP's conflict of interest code shall be comprised of the terms of 2 Cal. Code of Regulations (CCR), 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a district attachment, Appendix A, specifying designated positions and the specific types of disclosure statements required for each position.

## CONFLICT OF INTEREST

BB 9270 (b)

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code in even-numbered years. If no change in the code is required, the TVROP shall submit by October 1 a written statement to that effect to the code reviewing body. When a change in the district's conflict of interest code is necessitated by changed circumstances, such as the creation of new designated positions, amendments or revisions, the amended code shall be submitted to the code reviewing body within 90 days. (Government Code 87306.5)

When reviewing and preparing conflict of interest codes, the district shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required. (2 CCR 18700)

Statements of economic interests submitted to the district by Board members and designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction. (Government Code 81008)

### Financial Interest:

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

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

1. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty.
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board.
3. That of a landlord or tenant of the contracting party if such 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 unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091.

## CONFLICT OF INTEREST

BB 9270 (c)

4. That of a spouse of an officer or employee of the district if his/her spouse's employment or office holding has existed for at least one year prior to his/her election or appointment.
5. That of a non-salaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records.
6. That of a non-compensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the nonprofit board or to which the school Board has a legal obligation to give particular consideration, and provided further that such interest is noted in its 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 officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that such interest is noted in its official records.
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 these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm.
9. The ownership of less than 3 percent of the shares of a corporation for profit, provided that the total annual income to him or her from dividends, including the value of stock dividends from the corporation does not exceed 5 percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed 5 percent of his or her total annual income.
10. 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 has a relationship of borrower, depositor, debtor, or creditor.

## CONFLICT OF INTEREST

BB 9270 (d)

11. That of (A) a bona fide nonprofit, tax-exempt corporation having among its primary purposes the conservation, preservation, or restoration of park and natural lands or historical resources for public benefit, which corporation enters into an agreement with a public agency to provide services related to park and natural lands or historical resources and which services are found by the public agency, prior to entering into the agreement or as part of the agreement, to be necessary to the public interest to plan for, acquire, protect, conserve, improve, or restore park and natural lands or historical resources for public purposes and (B) any officer, director, or employee acting pursuant to the agreement on behalf of the nonprofit corporation. For purposes of this paragraph, "agreement" includes contracts and grants, and "park," "natural lands," and "historical resources" shall have the meanings set forth in subdivisions (d), (g), and (i) of Section 5902 of the Public Resources Code. Services to be provided to the public agency may include those studies and related services, acquisitions of property and property interests, and any activities related to those studies and acquisitions necessary for the conservation, preservation, improvement, or restoration of park and natural lands or historical resources.
12. That of an officer, employee, or member of the Board of Directors of the California Housing Finance Agency with respect to a loan product or program if the officer, employee, or member participated in the planning, discussions, development, or approval of the loan product or program and both of the following two conditions exist: (a) the loan product or program is or may be originated by any lender approved by the agency; and (b) the loan product or program is generally available to qualifying borrowers on terms and conditions that are substantially the same for all qualifying borrowers at the time the loan is made.

In addition, a Board member or employee 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 Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and if the remote interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member to enter into the contract. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

A Board member may enter into a contract if the rule of necessity or legally required participation applies as defined in Government Code 87101.

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. (Education Code 35107)

A relationship within the third degree includes the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

Statements of Economic Interests:

**Place of Filing**

All officers and designated employees required to submit a statement of financial interests shall file the original with the Superintendent's Administrative Assistant of the TVROP. The statements shall be retained in the TVROP District Office and will be made available for public inspection and reproduction. Upon receiving the statements of Board members and the Superintendent, TVROP shall make and retain a copy and shall forward the original to the code reviewing body. Statements for all other designated employees will be retained by TVROP.

**Time of Filing**

1. Initial statements: All designated employees required to submit a statement of financial interest shall file statements within 30 days after the effective date of this Code. Thereafter, each person already in a position when it is designated by an amendment to this Code shall file an initial statement within (30) days after the effective date of the amendment.
2. Assuming Office/Position Statements: All persons assuming designated positions after the effective date of this Code shall file initial statements within 30 days after assuming the designated positions.
3. Annual Statements: All designated employees shall file statements no later than April 1st of each year. Such statements shall cover the period of the preceding calendar year and shall include income from the preceding calendar year as well as investments, business positions and interests in real property.
4. Leaving Office Statements: All persons who leave designated positions shall file statements within 30 days after leaving office.

5. **Persons who Resign Prior to Assuming Positions:** Any person who resigns within 12 months of initial appointment, or within 30 days of initial appointment or date of notice to file, are not deemed to have assumed office or left office, provided that he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of their appointment. Such persons shall not file either an assuming or leaving office statement.
  - A. Any person who resigns a position within 30 days of initial appointment or notice shall do both of the following:
    - i. file a written resignation with the appointing power; and
    - ii. file a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation, he or she did not make, participate in making or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

**Contents of and Period Covered by Statements of Economic Interest**

Disclosure statements shall be made on forms supplied by the Clerk of the Alameda County Board of Supervisors, and shall include any reportable investments, interests in real property, business positions, and income received during the following time periods:

**1. Contents of Initial Statements:**

Initial Statements shall disclose any reportable investments, interests in real property, business positions, and income received 12 months prior to the effective date.

**2. Contents of Assuming Office Statements:**

Assuming Office Statements shall disclose any reportable investments, interests in real property, business positions held on the date of assuming office and income received during the 12 months prior to the date of assuming office.

**3. Contents of Annual Statements:**

Annual Statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the Code or the date of assuming office whichever is later.

**4. Contents of Leaving Office Statements:**

Leaving Office Statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

**Manner of Reporting**

Statements of Economic Interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the Clerk of the Alameda County Board of Supervisors, and shall include investments, interests in real property, business positions, and income received during the following time periods:

**1. Investment and Real Property Disclosure:**

When an investment or an interest in real property<sup>1</sup> is required to be reported<sup>2</sup>, the statement shall contain:

- A. A statement of the nature of the investment or interest;
- 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 the limits set forth by the Fair Political Practices Commission. This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer.

**2. Personal Income Disclosure:**

When personal income is required to be reported<sup>3</sup>, the statement shall contain:

- A. The name and address of each source of income aggregating the amounts set forth by the Fair Political Practices Commission 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, or in the case of a loan, the highest amount owed to each source was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000); and whether it was greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);

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<sup>1</sup> For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>2</sup> Investments and interests in real property which have a fair market value of less than \$1,000 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 or 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 10 percent or greater.

<sup>3</sup> 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 a state, local or federal government agency.



- 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;
- E. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

**3. Business Entity Income Disclosure:**

When income of a business entity, including income of a sole proprietorship, is required to be reported<sup>4</sup>, the statement shall contain:

- A. The name, address, and a general description of the business activity of the business entity;
- B. The name of every person from whom the business entity was received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

**4. Business Positions Disclosure:**

When business positions are required to be reported, a designated employee shall list the name 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.

- 5. Acquisition or Disposal during Reporting Period: In the case of an annual or 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.

**Prohibition of Receipt of Gifts:**

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

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<sup>4</sup> 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.

## CONFLICT OF INTEREST

BB 9270 (i)

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 TVROP for Board members and designated employees. (Government Code 89506)

### Honoraria:

Board members and designated employees 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)

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 District (TVROP) for donation into the general fund without being claimed as a deduction from income for tax purpose.

### Disqualification for Board Members Who Manage Public Investments:

A Board member who manages public investments pursuant to Government Code 87200 and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

1. Publicly identify the financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required. (Government Code 87105)
2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. This Board member shall not be counted toward achieving a quorum while the item is discussed. (Government Code 87105; 2 CCR 18702.5)
3. Leave the room until after the discussion, vote and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters. (Government Code 87105)

## CONFLICT OF INTEREST

BB 9270 (j)

If the item is on the consent calendar, the Board member must recuse himself/herself from discussing or voting on that matter, but the Board member is not required to leave the room during the consent calendar. (2 CCR 18702.5)

*(cf 3430 - Investing)*

The Board member may speak on the issue during the time that the general public speaks on the issue. The Board member shall recuse himself / herself from voting on the matter and leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion of the matter with members of the public. (Government Code 87105; 2 CCR 18702.5)

If the Board's decision is made during closed session, the public identification may be made orally during the open session before the Board goes into closed session and shall be limited to a declaration that his or her recusal is because of a conflict of interest pursuant to Government Code 87100. The Board member shall not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the Board's decision. (2 CCR 18702.5)

### **Designated Positions:**

The positions listed in Appendix A are designated positions. Officers and employees holding those positions are designated employees and are deemed to make, or participate in the making of decisions which may foreseeably have a material effect on a financial interest of the designated employee.

### Disclosure Categories

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in the same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

1. The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

2. The disclosure assigned in the code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, Government Code Section 87200; and
3. The filing office is the same for both agencies<sup>5</sup>.

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. 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 affect materially through the conduct of his or her office.

#### APPENDIX A

##### DESIGNATED POSITIONS DISCLOSURE CATEGORIES

It has been determined that persons occupying the following positions manage public investments and shall file a full statement of economic interests pursuant to Government Code 87200:

Joint Powers Governing Board Members  
Superintendent

1. Persons occupying the following positions are designated employees in **Category 1**:

Director of College and Career Readiness

Designated persons in this category must report:

- a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries or of any land owned or used by the district. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
- b. Investments or business positions in or income from sources which:
  - (1) Are engaged in the acquisition or disposal of real property within the district

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<sup>5</sup> Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as it were an original. See Gov. Code Section 81004

## CONFLICT OF INTEREST

BB 9270 (I)

- (2) Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district or,
- (3) Manufacture or sell supplies, books, machinery or equipment of the type used by the district

2. Persons occupying the following positions are designated employees in **Category 2:**

Coordinator, Adult Education  
Coordinator, Middle College  
Coordinator, Program Services

Designated persons in this category must report investments or business positions in or income from sources which:

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
  - b. Manufacture or sell supplies, books, machinery or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.
3. Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18701)

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the district to enter into, modify or renew a contract that requires district approval

## CONFLICT OF INTEREST

BB 9270 (m)

- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- f. Grant district approval to a plan, design, report, study or similar item
- g. Adopt or grant district approval of district policies, standards or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 **CCR** 18702.2 or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's Conflict of Interest Code. (2 **CCR** 1870 I)

*Legal Reference: (next page)*

*Legal References:*

EDUCATION CODE

1006 *Qualifications for holding office*  
35107 *School district employees* 35230-  
35240 *Corrupt practices*  
35233 *Prohibitions applicable to members of governing boards* 35239  
*Compensation for board members in districts under 70 ADA*

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.* 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.jpcc.ca.gov>

Bylaw

Adopted: September 11, 2008

revised: September 9, 2010, June 18, 2014, December 6, 2017

TRI-VALLEY REGIONAL OCCUPATIONAL PROGRAM

Livermore, California

## **ADOPTION OF POLICIES**

The Governing Board shall adopt written policies to convey its expectations for actions that will be taken in the district, clarify roles and responsibilities of the Board and Superintendent, and communicate Board philosophy and positions to the students, staff, parents/guardians, Member Districts, and the community. Board policies are binding on the district to the extent that they do not conflict with federal or state law and are consistent with the TVROCP Joint Powers Agreement.

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 9000 - Role of the Board)

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

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agendas/Meeting Materials)

The Board shall review certain policies annually, as required by Education Code 35160.5. If no revisions are deemed necessary, the Board minutes shall nevertheless indicate that the review was conducted. Other policies shall be monitored and reviewed as specified in the policy itself or as needed to reflect changes in law or district circumstances.

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 6145 - Extracurricular and Cocurricular Activities)

### **Policy Development and Adoption Process**

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

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



## **ADOPTION OF POLICIES**

3. The Board may hold discussions during a public Board meeting to gain an understanding of the issue and provide initial direction to the 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 Board or Superintendent may request that legal counsel review the draft policy as appropriate.
5. The Superintendent or designee shall develop and present a draft policy for a first reading at a public Board meeting. At its second reading, the Board may take action on the proposed policy. The 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 Board shall constitute official Board policy.

(cf. 9322 - Agenda/Meeting Materials)

(cf. 9323.2 - Actions by the Board)

The district'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 Board adoption or at a future date designated by the Board at the time of adoption.

## **Board Bylaws**

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

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

## **Administrative Regulations**

The Superintendent or designee shall be responsible for developing and enforcing administrative regulations for the operation of the district. Administrative regulations shall be consistent with law and Board policy and shall be designed to promote the achievement of district goals and objectives. Administrative regulations may describe specific actions to be taken, roles and responsibilities of staff, timelines, and/or other necessary provisions.

The Superintendent or designee also may develop procedures manuals, handbooks, or other guides to carry out the intent of Board policy.

When Board policies are amended, the 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 Board policy, policy shall prevail.

### **ADOPTION OF POLICIES**

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

### **Monitoring and Evaluation**

At the time a policy is adopted, the Board and 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 Superintendent or designee shall ensure that all district employees, Member Districts, and the public have access to an up-to-date district policy manual. A public copy of the policy manual shall be maintained at the TVROCP district office in hard copy and shall be accessible on the district web site.

(cf. 1113 - District and School Web Sites)

(cf. 1340 - Access to District Records)

As necessary, the 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)

**ADOPTION OF POLICIES**

**Suspension of Policies**

No 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 Discretion Regarding Board Policy)

Legal References:

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>

Bylaw  
adopted:  
revised: March 9, 2011

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**  
Livermore, California

Bylaws of the Governing Board

**MEETINGS AND NOTICES**

Meetings of the Tri-Valley Regional Occupational District (TVROCP) Governing Board are conducted for the purpose of accomplishing district business. In accordance with state open meeting laws (Brown Act), the TVROCP Governing 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, meetings shall provide opportunities for questions and comments by members of the public. All meetings shall be conducted in accordance with law and the Board's bylaws, policies, administrative regulations, and Joint Powers Agreement.

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

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 district official does not communicate the comments or position of any Board members to other Board members. (Government Code 54952.2)

In order to help ensure participation in the meeting by disabled individuals, the 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 Board meeting should contact the TVROCP Superintendent or designee. (Government Code 54954.2)

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

(cf. 9322 - Agenda/Meeting Materials)

## **MEETINGS AND NOTICES**

### **Regular Meetings**

The Board shall schedule regular meetings at least quarterly each year and may schedule special meetings as deemed appropriate. All meetings of the Board shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (Government Code Sections 54950 *et seq.*).

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 and posted at the District Office and at each member district's district office. (Government Code 54954.2)

The hour, time and place for regular meetings shall be fixed annually by a motion and majority vote of the Board. Any changes to regular meetings shall be made by the TVROCP Governing Board.

### **Special Meetings**

Special meetings of the TVROCP Governing Board may be called at any time by the Board Chairperson, Superintendent, or a majority of the Board members. (Government Code 54956)

Each member district's superintendent or district designee shall be notified when additional meetings are called.

Written notice of special meetings shall be delivered personally or by any other means to all 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 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 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 Board concerning any item that has been described in the meeting notice, before or during the item's consideration. (Government Code 54954.3)

Except as otherwise provided or permitted by law, all meetings of the Board shall be open and public. The TVROCP Governing Board shall keep minutes of its meetings, as required by law, and shall promptly transmit to the member district's governing boards true and correct copies of the minutes of the meeting when formally adopted by the TVROCP Governing Board.

## **MEETINGS AND NOTICES**

### Closed Sessions

All information received by the Board in closed session shall be confidential. However, the representative of a Member District may disclose information obtained in a closed session that has direct financial or liability implications for the Member District, to the following individuals:

1. Legal counsel of the Member District for purposes of obtaining advice on whether the matter has direct financial or liability implications for that Member District.
2. Other members of the Member District's governing board present in a closed session of a meeting of that Member District's governing board.

### **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 TVROCP Governing 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 TVROCP Governing 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)

1. An emergency 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 Board.
2. A dire emergency 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 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 TVROCP Governing Board.

Except in the case of a dire emergency, the Board Chairperson 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 Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the Board. In the case of a dire emergency, the Board Chairperson or designee shall give such notice at or near the time he/she notifies the other members of the Board about the meeting. (Government Code 54956.5)

## **MEETINGS AND NOTICES**

The minutes of the meeting, a list of persons the Board Chairperson 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 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 TVROCP Governing Board may adjourn such a meeting. If no Board members are present, the secretary 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)

### **Study Sessions, Retreats, Public Forums, and Discussion Meetings**

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

(cf. 2000 - Concepts and Roles)

(cf. 9000 - Role of the Board)

Public notice shall be given in accordance with law when a quorum of the 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 district boundaries. No action item shall be included on the agenda for these meetings.

### **Other Gatherings**

Attendance by a majority of Board members at any of the following events is not subject to the Brown Act provided that a majority of the Board members do not discuss specific district 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

**MEETINGS AND NOTICES**

2. An open, publicized meeting organized by a person or organization other than the district to address a topic of local community concern
3. An open and noticed meeting of another body of the district
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 Board, provided that the Board members who are not members of the standing committee attend only as observers

Individual contacts or conversations between a TVROCP Governing 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)

Meetings shall be held within district 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 district is a party
2. Inspect real or personal property which cannot conveniently be brought into the district, 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 district has no meeting facility within its boundaries or if its principal office is located outside the district
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 district over which the state or federal officials have jurisdiction



**MEETINGS AND NOTICES**

6. Meet in or near a facility owned by the district but located outside the district, provided the meeting agenda is limited to items directly related to that facility
7. Visit the office of the district'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
9. Interview residents of another district regarding the Board's potential employment of an applicant for Superintendent of the district
10. Interview a potential employee from another district

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 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 Board Chairperson 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 Board in which Board members are in different locations, connected by electronic means through audio and/or video. (Government Code 54953)

The Board may use teleconferences for all purposes in connection with any meeting within the 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 Board shall participate from locations within district 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 teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board, including the right of the public to address the Board directly at each teleconference location. (Government Code 54953)

## MEETINGS AND NOTICES

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

### *Legal References:*

#### EDUCATION CODE

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

#### GOVERNMENT CODE

54950-54963	<i>The Ralph M. Brown Act, especially:</i>
54953	<i>Meetings to be open and public; attendance</i>
54953.2	<i>Compliance with Americans with Disabilities Act</i>
54954	<i>Time and place of regular meetings</i>
54954.1	<i>Mailed notices</i>
54954.2	<i>Agenda posting requirements, board actions</i>
54956	<i>Special meetings; call; notice</i>
54956.5	<i>Emergency meetings</i>
54957.5	<i>Agenda distribution</i>
54961	<i>Prohibition on use of certain facilities</i>

#### UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

#### CODE OF FEDERAL REGULATIONS, TITLE 28

35.160	<i>Effective communications</i>
36.303	<i>Auxiliary aids and services</i>

#### COURT DECISIONS

*216 Sutter Bay Associates v. County of Sutter (1997) 58 Cal.App. 4th 860*

#### ATTORNEY GENERAL OPINIONS

<i>88 Ops.Cal.Atty.Gen. 218 (2005)</i>
<i>84 Ops.Cal.Atty.Gen. 181 (2001)</i>
<i>84 Ops.Cal.Atty.Gen. 30 (2001)</i>
<i>79 Ops.Cal.Atty.Gen. 69 (1996)</i>
<i>78 Ops.Cal.Atty.Gen. 327 (1995)</i>

#### Management Resources:

##### CSBA PUBLICATIONS

*The Brown Act: School Boards and Open Meeting Laws, rev. 2005*

##### ATTORNEY GENERAL PUBLICATIONS

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

#### WEB SITES

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

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

Bylaw

adopted: March 12, 2009

revised: March 9, 2011

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**

Livermore, California

AGENDA/MEETING MATERIALS

**Agenda Content**

Governing Board 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 Board on any agenda item before or during the 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 Board. (Education Code 35145.5; Government Code 54954.3)

*(cf. 9323 - Meeting Conduct)*

Each meeting agenda shall list the address designated by the Superintendent or designee for public inspection of agenda documents that have been distributed to the 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 Board meeting should contact the Superintendent or designee. (Government Code 54954.2)

**Agenda Preparation**

The Board Chairperson and the Superintendent, as secretary to the Board, shall work together to develop the agenda for each regular and special meeting. Each agenda shall reflect the district's vision and goals and the Board's focus on student learning.

*(cf. 0000 - Vision)*

*(cf. 0200 - Goals for the School District)*

*(cf. 9121 - President)*

*(cf. 9122 - Secretary)*

A Board member or a member of the public or member district may request that a matter within the jurisdiction of the Board be placed on the agenda of a regular meeting. The request shall be in writing and be submitted to the Superintendent or designee with supporting documents and information, if any, at least two weeks before the scheduled meeting date. Items submitted less than two weeks 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**

The Board Chairperson and Superintendent shall decide whether a request is within the subject matter jurisdiction of the Board. Items not within the subject matter jurisdiction of the Board may not be placed on the agenda. In addition, the Board Chairperson and 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 Board Chairperson and 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 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 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 Board)

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

(cf. 1312 - Complaints Concerning District Employees)

(cf. 1700 - Uniform Complaint Procedures)

### **Consent Items**

In order to promote efficient meetings, the 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 Board discussion is anticipated and for which the 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 Board, any item on the consent agenda shall be removed and given individual consideration for action as a regular agenda item.

### **Agenda Dissemination to Board Members**

At least three days before each regular meeting, a copy of the agenda and agenda packet shall be forwarded to each 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**

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

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

### **Agenda Dissemination to Members of the Public**

The 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 Board, whichever occurs first. (Government Code 54954.1)

If a document is distributed to the Board less than 72 hours prior to a meeting, the Superintendent or designee shall make the document available for public inspection at the time the document is distributed to a majority of the 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 Board meeting. The Superintendent or designee may also post the document on the district'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 district or the 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 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)

## AGENDA/MEETING MATERIALS

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

### Legal References:

#### 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>

Bylaw

adopted: March 9, 2011

**TRI-VALLEY REGIONAL OCCUPATIONAL CENTER/PROGRAM**

Livermore, California

## **MEETING CONDUCT**

### **Meeting Procedures**

All Governing Board meetings shall begin on time and shall be guided by an agenda prepared in accordance with Board bylaws and posted and distributed in accordance the Ralph M. Brown Act (open meeting requirements) and other applicable laws.

*(cf. 9322 - Agenda/Meeting Materials)*

The Board Chairperson shall conduct Board meetings in accordance with Board bylaws and procedures that enable the Board to efficiently consider issues and carry out the will of the majority.

*(cf. 9121 - President)*

The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board meetings shall be adjourned at 10:30 p.m. unless extended to a specific time determined by a majority of the Board. The meeting shall be extended no more than once and subsequently may be adjourned to a later date.

*(cf. 9320 - Meetings and Notices)*

### **Quorum and Abstentions**

The Board shall act by majority vote of all of the membership constituting the Board. (Education Code 35164)

*(cf. 9323.2 - Actions by the Board)*

The 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, his/her abstention shall not be counted for purposes of determining whether a majority of the membership of the Board has taken action.

*(cf. 9270 - Conflict of Interest)*

If a Board consists of seven members and not more than two vacancies occur on the Board, the vacant position(s) shall not be counted for purposes of determining how many members of the Board constitute a majority. In addition, if a vacancy exists on the Board, whenever any provisions of the Education Code require unanimous action of all or a specific number of the members, the vacant position(s) shall be not be counted for purposes of determining the total membership constituting the Board. (Education Code 35165)

## **MEETING CONDUCT**

### **Public Participation**

Members of the public are encouraged to attend Board meetings and to address the Board concerning any item on the agenda or within the Board's jurisdiction. So as not to inhibit public participation, persons attending Board meetings shall not be requested to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting.

In order to conduct district business in an orderly and efficient manner, the Board requires that public presentations to the Board comply with the following procedures:

1. The Board shall give members of the public an opportunity to address the Board on any item of interest to the public that is within the subject matter jurisdiction of the Board, either before or during the Board's consideration of the item. (Education Code 35145.5, Government Code 54954.3)
2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the Board matters that are not listed on the agenda. The Board shall take no action or discussion on any item not appearing on the posted agenda, except as authorized by law. (Education Code 35145.5, Government Code 54954.2)
3. Without taking action, Board members or district 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 or 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 Board or a Board member may provide a reference to staff or other resources for factual information, ask staff to report back to the Board at a subsequent meeting concerning any matter, or take action directing staff to place a matter of business on a future agenda. (Government Code 54954.2)

4. The 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 Board determines that the item has been substantially changed since the committee heard the item, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)
5. A person wishing to be heard by the Board shall first be recognized by the Chairperson and shall then proceed to comment as briefly as the subject permits. Individual speakers shall be allowed three minutes to address the Board on each agenda or nonagenda item.



**MEETING CONDUCT**

The Board shall limit the total time for public input on each item to 20 minutes. With Board consent, the Chairperson may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The Chairperson 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 Chairperson may rule on the appropriateness of a topic. If the topic would be more suitably addressed at a later time, the Chairperson may indicate the time and place when it should be presented.

The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts, or omissions. (Government Code 54954.3) In addition, the Board may not prohibit public criticism of district employees.

Whenever a member of the public initiates specific complaints or charges against an employee, the Board Chairperson shall inform the complainant that in order to protect the employee's right to adequate notice before a hearing of such complaints and charges, and also to preserve the ability of the Board to legally consider the complaints or charges in any subsequent evaluation of the employee, it is the policy of the Board to hear such complaints or charges in closed session unless otherwise requested by the employee pursuant to Government Code 54957. The Board Chairperson shall also encourage the complainant to file a complaint using the appropriate district complaint procedure.

(cf. 1312 - Complaints Concerning District Employees)

7. The Board Chairperson shall not permit any disturbance or willful interruption of Board meetings. Persistent disruption by an individual or group shall be grounds for the Chairperson to terminate the privilege of addressing the Board.

The Board may remove disruptive individuals 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 individuals not participating in such disturbances may be allowed to remain at the discretion of the Board. 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)

When such disruptive conduct occurs, the Superintendent or designee shall contact local law enforcement.

## **MEETING CONDUCT**

### **Recording by the Public**

The Superintendent or designee shall designate locations from which members of the public may broadcast, photograph, or tape record open meetings without causing a distraction.

*(cf. 9324 - Board Minutes and Recordings)*

If the 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 Board. (Government Code 54953.5, 54953.6)

Legal Reference (next page)

## MEETING CONDUCT

### Legal References:

#### EDUCATION CODE

5095 Powers of remaining board members and new appointees  
32210 Willful disturbance of public school or meeting a misdemeanor  
35010 Prescription and enforcement of rules  
35145.5 Agenda; public participation; regulations  
35163 Official actions, minutes and journal  
35164 Vote requirements  
35165 Effect of vacancies upon majority and unanimous votes by seven member board

#### GOVERNMENT CODE

54953.5 Audio or video tape recording of proceedings  
54953.6 Broadcasting of proceedings  
54954.2 Agenda; posting; action on other matters  
54954.3 Opportunity for public to address legislative body; regulations  
54957 Closed sessions  
54957.9 Disorderly conduct of general public during meeting; clearing of room

#### PENAL CODE

403 Disruption of assembly or meeting

#### COURT DECISIONS

McMahon v. Albany Unified School District, (2002) 104 Cal.App.4th 1275  
Rubin v. City of Burbank, (2002) 101 Cal.App.4th 1194  
Baca v. Moreno Valley Unified School District, (1996) 936 F.Supp. 719

#### ATTORNEY GENERAL OPINIONS

76 Ops.Cal.Atty.Gen. 281 (1993)  
66 Ops.Cal.Atty.Gen. 336 (1983)  
63 Ops.Cal.Atty.Gen. 215 (1980)  
61 Ops.Cal.Atty.Gen. 243, 253 (1978)  
55 Ops.Cal.Atty.Gen. 26 (1972)  
59 Ops.Cal.Atty.Gen. 532 (1976)

### Management Resources:

#### CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2005

Board Presidents' Handbook, rev. 2002

Maximizing School Board Governance: Boardsmanship

#### ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, 2003

#### WEB SITES

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

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

## **MINUTES AND RECORDINGS**

The Governing Board recognizes that maintaining accurate minutes of Board meetings provides a record of Board actions for use by district staff and the public. Accurate minutes also help foster public trust that Board actions are occurring in public in accordance with law.

(cf. 9000 - Role of the Board)  
(cf. 9323 - Meeting Conduct)

The secretary of the Board shall keep minutes and record all official Board actions. The Board's minutes shall be public records and shall be made available to the public upon request. (Education Code 35145, 35163)

(cf. 1340 - Access to District Records)

The Superintendent or designee shall distribute a copy of the "unapproved" minutes of the previous meeting(s) with the agenda for the next regular meeting. At the next meeting, the Board shall approve the minutes as circulated or with necessary amendments.

In order to ensure that the minutes are focused on Board action, the minutes shall include only a brief summary of the Board's discussion, but shall not include a verbatim record of the Board's discussion on each agenda topic or the names of Board members who made specific points during the discussion.

The minutes shall include the specific language of each motion, the names of members who made and seconded the motion, and the individual votes of each member, unless the action was unanimous. When a roll call vote is taken, the names and votes of each member shall be listed. Motions or resolutions shall be recorded as having passed or failed. All motions and Board resolutions shall be numbered consecutively from the beginning of each fiscal year.

The minutes shall reflect the names of those individuals who comment during the meeting's public comment period as well as the topics they address.

The minutes shall record which members are present and whether a member is not present for part of the meeting due to late arrival and/or early departure.

Official Board minutes and recordings shall be stored in a secure location and shall be retained in accordance with law.

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

## MINUTES AND RECORDINGS

### Recording or Broadcasting of Meetings

The district may tape, film, or broadcast any open Board meeting. The Board president shall announce that a recording or broadcasting is being made at the beginning of the meeting and, as practicable, the recorder or camera shall be placed in plain view of meeting participants.

Any district recording may be erased or destroyed 30 days after the meeting. Recordings made during a meeting are public records and, upon request, shall be made available for inspection by members of the public on a district recorder without charge. (Government Code 54953.5)

#### Legal Reference:

##### EDUCATION CODE

35145 Public meetings

35163 Official actions, minutes and journals

35164 Vote requirements

##### GOVERNMENT CODE

54952.2 Meeting defined

54953.5 Audio or video recording of proceedings

54953.6 Broadcasting of proceedings

54957.2 Closed sessions; clerk; minute book

54960 Violations and remedies

##### PENAL CODE

632 Unlawful to intentionally record a confidential communication without consent

##### CODE OF REGULATIONS, TITLE 5

16020-16027 Classification and retention of records

#### 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: Boardsmanship, 1996

##### WEB SITES

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

Bylaw

adopted: March 9, 2011

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