

ROLE OF THE BOARD

The Lake County Board of Education provides leadership and citizen input for county educational programs and services operated by the Lake County Office of Education, including services provided to school districts and the community.

Major roles of the County Board include:

1. Working with the Lake County Superintendent of Schools to establish the direction and priorities for LCOE through its budgetary responsibilities
2. Providing community leadership on behalf of LCOE 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 LCOE 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 LCOE
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 LCOE schools and programs
8. Adopt policies to ensure that a safe and appropriate educational environment is provided to all LCOE 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
12. Provide community leadership on educational issues and advocate on behalf of students and public education at the local, state and federal levels

ROLE OF THE BOARD (continued)

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)

Vacancy in Office of Lake County Superintendent of Schools

Should the office of Lake County Superintendent of Schools become vacant during the incumbent's term of office, the County Board shall fill the vacancy by appointment.

The appointee shall possess the qualifications required by law.

The appointee shall hold office for the unexpired term or until the first Monday after January 1st succeeding the next general election, whichever is sooner.

Mandatory Duties of the Lake County Board (Education Code 1040)

The County Board shall:

1. Adopt rules and regulations not inconsistent with the laws of this state, for their own government.
2. Keep a record of their proceedings.
3. Approve the annual county school service fund budget of the County Superintendent before its submission to the Superintendent of Public Instruction.
4. Review, as a scheduled agenda item at a regularly scheduled public meeting held pursuant to Article 1 (commencing with section 1000) of this chapter, the report of the annual audit provided for by the County Superintendent under section 41020.

Permissive Duties of the Lake County Board

The County Board may initiate and carry on any program or activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by any law and which is not in conflict with the purposes for which it is established.

The County Board may:

1. Approve rules and regulations governing the administration of the office of the Lake County Superintendent of Schools. (Education Code 1042 (a)).

ROLE OF THE BOARD (continued)

2. Review the County Superintendent's annual itemized estimate of anticipated revenue and expenditures before the annual itemized estimate is filed with the auditor as required by Government Code 29040, and make any revisions, reductions, or additions therein it deems advisable and proper. (Education Code 1042 (b)).
3. Contract with and employ any persons for the furnishing to the County Board of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters, if these persons are specially trained and experienced and competent to perform the special services required. The County Board may pay from any available funds such compensation to these persons as it deems proper for the services rendered. (Education Code 1042 (d))
4. If for any reason vacancies should occur in a majority of the offices on any school district or community college district governing board, the President of the County Board may appoint members of the County Board to the district governing board until new members of the governing board are elected or appointed. (Education Code 5094)

Annual Trustees Meeting

The County Board may approve the County Superintendent's request to hold one trustees' meeting in each year as provided by Education Code 1271.

Disposal of Personal Property - Over \$25,000

The County Superintendent shall not in any manner dispose of any item of personal property worth over twenty-five thousand dollars (\$25,000) that belongs to the Lake County Office of Education without meeting the following conditions:

- Bringing the matter to the attention of the County Board for its discussion at a regularly scheduled public meeting.
- Obtaining an independent valuation of the property.
- Advertising the property for sale in a newspaper of general circulation within the district, or, if there is no newspaper of general circulation within the district, in any newspaper of general circulation that is regularly circulated in the district. The advertisement shall be published for a period of time in accordance with the Board policy.
- Obtaining final approval of the Lake County Board.

ROLE OF THE BOARD (continued)

Disposal of Personal Property - Up To \$25,000

The County Board shall review the County Superintendent's certification of value of disposed personal property worth up to twenty-five thousand dollars (\$25,000) that belonged to LCOE. A quarterly report shall be submitted to the County Board for their review.

Revision of Annual Budget in Excess of \$25,000

If a revision in excess of twenty-five thousand dollars (\$25,000) is proposed by the County Superintendent to the annual budget of the County Superintendent after the County Board has adopted the budget, the revision shall be incorporated in the next interim financial report or other Board report submitted to the County Board for discussion and approval at a regularly scheduled public meeting of the County Board.

Consultant Contracts In Excess Of \$25,000.

If the County Superintendent enters into a consultant contract for twenty-five thousand dollars (\$25,000) or more and the contract constitutes a budget revision, it shall be incorporated in the next interim financial report or other Board report and submitted to the County Board for discussion and approval at a regularly scheduled public meeting of the County Board.

County Superintendent Salary Increase

The County Superintendent shall not increase his/her salary, financial remuneration, benefits, or pension in any manner or for any reason without bringing the matter to the attention of County Board for its discussion and approval at a regularly scheduled public meeting of the County Board.

Salary Increase of \$10,000 or More for LCOE Employees

The County Superintendent shall not increase by ten thousand dollars (\$10,000) or more the salary or bonus of any LCOE employee unless the matter is brought to the attention of the County Board for its discussion at a regularly scheduled public meeting of the County Board.

Retirement Benefit Increase

The County Superintendent shall not increase the retirement benefits of any LCOE employee of the County Office, without bringing the matter to the attention of County Board for its discussion and approval at a regularly scheduled public meeting of the County Board.

ROLE OF THE BOARD (continued)

Lake County Committee on District Organization

The County Board shall meet annually as the Lake County Committee on School District Organization.

Adjustment of Boundaries Based On Census

Following each decennial federal census, and using population figures validated by the Population Research Unit of the Department of Finance as a basis, the county committee shall adjust the boundaries of any or all of the trustee areas of the County Board as necessary to meet the population criteria set forth in below.

The trustee areas shall be as nearly equal in population as may be, except that in establishing or changing the boundaries of the trustee areas the county committee may give consideration to the following factors:

- Topography
- Geography
- Cohesiveness, contiguity, integrity, and compactness of territory
- Community of interests of the trustee areas

In any event, the county committee shall ensure that trustee areas are as nearly equal in population as practicable.

Changes in trustee area boundaries or a proposed reduction in the number of County Board members shall be made in writing and filed with the County Board of supervisors not later than the first day of March of any school year.

Legal Reference: (see next page)

ROLE OF THE BOARD (continued)

Legal Reference:

EDUCATION CODE

5304 Duties of governing board (re school district elections)
12400-12405 Authority to participate in federal programs
17565-17592 Board duties re property maintenance and control
33319.5 Implementation of authority of local agencies
35000 District name
35010 Control of district; prescription and enforcement of rules
35020-35046 Officers and agents
35100-35351 Governing boards, especially:
35160-35185 Powers and duties
35291 Rules

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Governance

Professional Governance Standards, November 2000

School Board Leadership: The Role and Function of California's School Boards, 1996

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

The Key Work of School Boards, 2000

WEB SITES

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

CSBA Governance Institute: <http://www.csba.org/gi>

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

CERTIFICATES

The Lake County Board of Education may provide for the registration of any valid certification or other document authorizing the holder thereof to serve in a position requiring certification qualifications as an employee of the Lake County Superintendent of Schools, or of a school district under the jurisdiction of the County Superintendent.

Such registration shall authorize the service of the holder as an employee of the County Superintendent or of any school district under his/her jurisdiction in the capacity in which and for the period of time for which the certification or other document is valid.

The County Board may issue temporary certificates for the purpose of authorizing salary payments to certified employees whose credential applications are being processed or to personnel employed in children's centers or other preschool educational programs whose permit applications are being processed. However, the individual must have demonstrated proficiency in basic reading, writing, and mathematic skills pursuant to the requirements of Education Code 44252.5. The applicant for the temporary certificate shall make a statement under oath that he or she has duly filed an application for a credential or permit together with the required fee and that, to the best of his/her knowledge, no reason exists why a certificate or permit should not be issued. The certificate or permit shall be valid for not more than one calendar year from the date of issuance.

The County Board shall cancel the temporary certificate or permit immediately upon receipt of certification in writing from the commission that the applicant apparently does not possess adequate academic qualifications or apparently has a criminal record that would disqualify the applicant.

A temporary certificate issued to a permit applicant is not valid beyond the time that the commission either issues or denies the originally requested permit. A temporary certificate issued to a credential applicant is not valid beyond the time that the commission provides written notification to the county or city and county board of education that the applicant apparently does not possess adequate qualifications, that the commission has received facts that may cause denial of the application, or issues or denies the originally requested credential.

The County Board may not issue a temporary certificate to an applicant whose teaching credential is revoked or suspended.

Before issuing a temporary certificate, the County Board shall obtain a criminal record summary about the applicant from the Department of Justice and shall not issue a temporary certificate if the applicant has been convicted of a violent or serious felony.

A person shall not be denied a temporary certificate or a temporary certificate of clearance solely on the basis that he or she has been convicted of a violent or serious felony if the person has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

CERTIFICATES (continued)

A person shall not be denied a temporary certificate or a temporary certificate of clearance solely on the basis that the person has been convicted of a serious felony that is not also a violent felony, if that person can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he/she has been rehabilitated for the purposes of school employment for at least one year. If the offense in question occurred outside this state, then the person may seek a finding of rehabilitation from the court in the school district in which he or she is a resident.

The County Board may issue a temporary certificate to an employee currently and continuously employed by a school district within the county who is serving under a valid credential and has applied for a renewal of that credential or for an additional credential without obtaining a criminal record summary for that employee.

The County Board may issue a temporary certificate of clearance to an employee currently and continuously employed by a school district within the county who is serving under a valid credential and has applied for a renewal of that credential or for an additional credential without obtaining a criminal record summary for that employee.

Legal Reference: (see next page)

CERTIFICATES (continued)

Legal Reference:

EDUCATION CODE

- 1000 - members.
- 1002 - trustee boundary area.
- 1006 - eligibility.
- 1007. - election.
- 1009 - annual organizational meeting.
- 1010 - ex officio secretary.
- 1011 - regular meetings.
- 1013 - quorum.
- 1014 - majority vote.
- 1015 - minutes.
- 1016 - special meetings.
- 1040 - mandatory duties.
- 1042 - permissive duties.
- 1090 - compensation, expenses, and benefits.
- 1209 - county superintendent salary increase.
- 1271 - annual trustees meeting.
- 1279 - disposal of property.
- 1280 - budget revisions.
- 1281 - consultant contracts
- 1301 - replacement of employee property.
- 1302 - salary increase.
- 1302 - retirement benefit increase.
- 4020 - transfer of reorganization duties.
- 5326 - appointment when candidates do not exceed positions
- 5328 - appointment when candidates do not exceed positions
- 5090 - vacancy on county board of education.
- 35160- 35160.2 - permissive duties.
- 44330 - 44332.6 - certificates.
- <http://www.leginfo.ca.gov/calaw.html>

GOVERNANCE STANDARDS

The Lake 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 Lake 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 LCOE. 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 Lake County Superintendent of Schools to ensure that a high-quality education is provided to students in LCOE schools and/or programs, and that high-quality services are provided to school districts within the jurisdiction of LCOE 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 LCOE in providing services to school districts and the community
2. Work collaboratively with the County Superintendent

GOVERNANCE STANDARDS (continued)

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

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

35160 Board authority to act in any manner not conflicting with law

35164 Actions by majority vote

GOVERNMENT CODE

1090 Financial interest in contract

1098 Disclosure of confidential information

1125-1129 Incompatible activities

54950-54963 The Ralph M. Brown Act

87300-87313 Conflict of interest code

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardmanship, 1996

WEB SITES

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

PUBLIC STATEMENTS

The Lake 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 Lake County Office of Education.

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 Lake County Superintendent of Schools or other designated representative.

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 Lake 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.

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)

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 district 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)

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)

DISCLOSURE OF CONFIDENTIAL/PRIVILEGED INFORMATION (continued)

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 Lake County Board of Education recognizes that electronic communication among County Board members and between County Board members, and Lake County Office of Education 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 LCOE. County Board members shall exercise caution so as to ensure that electronic communications are not used as a means for the County Board to deliberate outside of an agendaized County Board meeting.

A majority of the County 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 County Board. (Government Code 54952.2)

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

County 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 County 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 County Board as a whole. Any complaint or request for information should be forwarded to the County Superintendent in accordance with County Board bylaws and protocols so that the issue may receive proper consideration and be handled through the appropriate process. As appropriate, communication received from the press shall be forwarded to the County Superintendent.

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

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

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

BOARD MEMBER ELECTRONIC COMMUNICATIONS (continued)

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 Online:

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

Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>

ORGANIZATION

Annual Organizational Meeting

The Lake 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 vice president from its members
2. Develop a schedule of regular meetings for the year
3. The secretary shall be the County Superintendent of Schools

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 Lake County Board of Education shall consist of five 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.

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

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)

Legal Reference:

EDUCATION CODE

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*

PRESIDENT

The Lake 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.

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. Rule on issues of parliamentary procedure
8. Put motions to a vote, and state clearly the results of the vote
9. Be responsible for the orderly conduct of all County Board meetings

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

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 Lake County Board of Education shall appoint the Lake 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
2. Record, distribute and maintain the County Board minutes
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

Legal Reference:

EDUCATION CODE

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>

ATTORNEY

The Lake 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 County Board and the Lake County Superintendent of Schools shall together appoint 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: (see next page)

ATTORNEY (continued)

Legal Reference:

EDUCATION CODE

35041 *Administrative adviser*

35041.5 *Legal counsel*

35161 *Powers and duties of governing board*

35200-35214 *Liabilities, especially:*

35204 *Contract with attorney in private practice*

35205 *Contract for legal services*

GOVERNMENT CODE

814-895.8 *Liability of public entities and public employees*

995-996.6 *Defense of public employees*

26520 *Legal services to school districts*

53060 *Special services and advice*

Management Resources:

CSBA PUBLICATIONS

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

Maximizing School Board Leadership: Boardmanship, 1996

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Selecting and Working with a School Attorney: A Guide for School Boards, 1997

WEB SITES

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

California Council of School Attorneys:

<http://www.csba.org/LegislationAndLegal/Legal/CaliforniaCouncilOfSchoolAttorneys.aspx>

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

State Bar of California: <http://www.calbar.ca.gov>

BOARD REPRESENTATIVES

The Lake County Board of Education may appoint any of its members to serve as its representatives on Lake County Office of Education committees or advisory committees of other public agencies or organizations. Due to open meeting law requirements, a majority of the County Board shall not be appointed to serve on the same committee.

When making such appointments, the County Board shall clearly specify, on a case-by-case basis, what authority and responsibilities are involved. County Board representatives shall not grant County Board support or endorsement for any activity without prior County Board approval.

If a committee discusses a topic on which the County Board has taken a position, the County Board member may express that position as a representative of the County Board. When contributing individual ideas or opinions on other topics, he/she shall make it clear that he/she is speaking as an individual, not on behalf of the County Board.

Legal Reference:

EDUCATION CODE

4000-4014 County committees on school district organization

35020-35046 School district officers and agents (power of governing board to employ or appoint)

35160 Authority of governing boards

GOVERNMENT CODE

54952.2 Meetings

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California Department of Education District Organization Handbook, 2010

LIMITS OF BOARD MEMBER AUTHORITY

The Lake County Board of Education has broad but clearly limited powers. The exercise of its authority is restricted to the functions required or permitted by law, and then only when it acts in a legally constituted meeting.

A County Board member has no individual authority. Individually, a County Board member may not commit the Lake County Office of Education to any policy, act, or expenditure. A County Board member cannot do business with LCOE nor should a County Board member have an interest in any contract with LCOE. A County Board member represents and acts for the community as a whole and does not represent any factional segment of the community.

Individual members of the County Board, by virtue of holding office, shall not exercise any administrative responsibility with respect to LCOE or command the services of any LCOE employee.

Obligations of County Board Members

County Board members should hold the education of children and youth above any partisan principle, group interest, or personal interest.

County Board members should understand their role and the programs offered by LCOE. They should study all agenda materials before the meeting, participate in the discussion of items which come before the County Board, vote on motions and resolutions, and abstain only for compelling reasons.

County Board members shall refer County Board-related correspondence to the Lake County Superintendent of Schools or designee for forwarding to the County Board or for placement on the County Board's agenda.

County Board members and persons elected to the County Board are responsible for complying with the requirements of the state's open meeting laws.

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>

GOVERNING BOARD ELECTIONS

Any person is eligible to be a Lake 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 Lake County, a registered voter, and not legally disqualified from holding civil office. (Education Code 35107)

A Lake County Office of Education 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)

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.

Statement of Qualifications

LCOE shall assume no part of the cost of printing, handling, translating, or mailing of candidate statements filed pursuant to Elections Code 13307.

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

Tie Votes in 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)

Appointment When Only One or No Candidate for a County Board Position

If, by 5:00 p.m. on the 83rd day prior to the day fixed for the County Board member election, only one person has been nominated from any trustee area to be filled at that election, or no one has been nominated for the office, and a petition signed by 10 percent of the voters in the trustee area, requesting that an election be held for the office has not been presented to the officer conducting the election, appointment will be made as follows:

The qualified person nominated shall be seated at the organizational meeting of the County Board, or if no person has been nominated, the County Board shall appoint a qualified person, at a meeting prior to the day fixed for the election, and such appointee shall be seated at the organizational meeting of the County Board as if elected at an election.

GOVERNING BOARD ELECTIONS (continued)

Legal Reference:

EDUCATION CODE

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*

Legal Reference continued: (see next page)

GOVERNING BOARD ELECTIONS (continued)

Legal Reference: (continued)

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:

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.ca-ilg.org/>

RESIGNATION

A Lake County Board of Education member who wishes to resign may do so by filing a written resignation with the Lake County Superintendent of Schools. (Education Code 5090)

The written resignation is 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 upon being filed. (Education Code 5090)

Upon resignation, the County Board member may continue to exercise all his/her powers, save that of voting for a successor, until the effective date of resignation. (Education Code 35178)

Legal Reference:

EDUCATION CODE

5090 *Definition (vacancy)*

5091 *Special Election*

35178 *Resignation with deferred effective date*

FILLING VACANCIES

A vacancy on the Lake 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))

Manner of Filling Vacancy

Whenever a vacancy occurs, or whenever a resignation has been filed with the Lake County Superintendent of Schools containing a deferred effective date, the County Board shall, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy.

In the event that the County Board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the County Superintendent shall call an election to fill the vacancy.

If a provisional appointment is made within the 60-day period, the registered voters may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy.

Powers of Appointee

A provisional appointment made as provided above confers all powers and duties of a County Board member upon the appointee immediately following his/her appointment.

A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for County Board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term.

A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

Limitations Upon Election or Appointment

There shall be no special election or appointment to fill a vacancy on the County Board if the vacancy occurs within four months of the end of the term of that position.

FILLING VACANCIES (continued)

The above appointment procedures shall not apply to a vacancy on the County Board if the vacancy occurs, or a resignation specifying a deferred effective date is filed with the County Superintendent, during the period between six months and 130 days prior to a regularly scheduled County Board election and the position is not scheduled to be filled at such election. In such a case, the position shall be filled at a special election for that position to be consolidated with the regular election. A person elected to fill a position under this provision shall take office at the next regularly scheduled meeting of the County Board following the certification of the election and shall serve only until the end of the term that he or she was elected to fill.

If a special election could be consolidated with the next regular County Board election, and the vacant position is scheduled to be filled at such regular election, there shall be no special election.

Notice of Filling Vacancy

Whenever a provisional appointment is made, the County Board shall, within 10 days of the provisional appointment of a person to fill a vacancy which occurs or will occur, post notices of both the actual vacancy or the filing of a deferred resignation and also the provisional appointment in three public places in the county and shall publish a notice pursuant to Government Code 6061.

The notice shall state the fact of the vacancy or resignation and the date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation. The notice shall also contain the full name of the provisional appointee to the County Board and the date of his appointment, and a statement that unless a petition calling for a special election, containing a sufficient number of signatures, is filed in the office of the County Superintendent within 30 days of the date of the provisional appointment, it shall become an effective appointment.

Powers of Remaining County Board Members

Whenever any of the offices on the County Board is vacant, the remaining County Board members, and any County Board member elected or appointed to fill the vacancies, who has qualified, shall have all the powers and perform all the duties of the County Board.

Legal Reference: (see next page)

FILLING VACANCIES (continued)

Legal Reference:

EDUCATION CODE

5000-5033 Elections

5090-5095 Vacancies

5200-5208 Districts governed by boards of education

5300-5304 Elections

5320-5329 Order and call of election

5340-5345 Consolidation of elections

5360-5363 Election notice

5420-5426 Cost of elections

5440-5442 Miscellaneous provisions, elections

35107 Eligibility of board members

35178 Resignation with deferred effective date

ELECTIONS CODE

10600-10604 School district elections

11381-11386 Candidates for recall

GOVERNMENT CODE

1064 Absence from state

1770 Vacancies: definition

3000-3003 Forfeiture of office

3060-3075 Removal other than by impeachment

6061 One time notice

54950-54963 The Ralph M. Brown Act

PENAL CODE

88 Bribery, forfeiture from office

UNITED STATES CODE, TITLE 18

704 Military medals or decorations

ATTORNEY GENERAL OPINIONS

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

Management Resources:

CSBA PUBLICATIONS

Filling a Board Vacancy, rev. December 2010

WEB SITES

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

California State Attorney General's Office, Quo Warranto Applications:

http://ag.ca.gov/opinions/quo_warranto.php

OATH OR AFFIRMATION

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

The oath may be administered by a County Board member, Lake County Superintendent of Schools, Associate Superintendent, 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

ORIENTATION

Board Candidate Orientation

The Lake County Board of Education desires to provide County Board candidates with orientation that will enable them to understand the responsibilities and expectations of County Board membership. The Lake County Superintendent of Schools shall provide all candidates with general information about school programs, Lake County Office of Education operations, and County Board responsibilities. He/she may also provide candidates with information about the election process, including, but not limited to, information about campaign conduct and ballot statement information.

(cf. 9200 - Limits of Board Member Authority)

(cf. 9220 - Governing Board Elections)

(cf. 9270 - Conflict of Interest)

The County Board encourages all candidates to attend public County Board meetings during the period of their candidacy. Candidates shall have the same access as members of the public to LCOE staff and information.

(cf. 1340 - Access to District Records)

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

New Board Member Orientation

The County Board shall convene a meeting to provide an orientation and information to incoming County Board members to assist them in understanding the County Board's functions, policies, procedures, protocols, and agreed-upon standards of conduct. Incoming County Board members shall receive LCOE's policy manual and other materials related to LCOE and County Board member responsibilities.

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

Upon their election, incoming County Board members shall be provided a copy of the Brown Act and informed that, pursuant to Government Code 54952.1, they must conform to the Act's requirements as if they had already assumed office.

The County Superintendent may provide incoming County Board members with additional background and information regarding LCOE's vision and goals, operations, and current challenges in areas that include, but are not limited to, student achievement, curriculum, finance, facilities, policy, human resources, and collective bargaining.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

ORIENTATION (continued)

Incoming members are encouraged to attend County Board meetings and review agenda materials available to the public in order to become familiar with current issues facing LCOE. Incoming members also may, at LCOE expense and with approval of the County Board, attend workshops and conferences relevant to their individual needs or to the needs of the County Board as a whole or LCOE.

(cf. 9240 - Board Development)

Legal Reference:

EDUCATION CODE

33360 Department of Education and statewide association of school district boards; annual workshops

33362-33363 Reimbursement of expenses; board member or member-elect

ELECTIONS CODE

13307 Candidate's statement

20440 Code of Fair Campaign Practices

GOVERNMENT CODE

54950-54963 The Ralph M. Brown Act, especially:

54952.1 Member of a legislative body

54952.7 Copies of Brown Act to board members

Management Resources:

CSBA PUBLICATIONS

School Board Leadership, 2007

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

Guide to Effective Meetings, 2007

Professional Governance Standards, 2000

Maximizing School Board Leadership, 1996

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Becoming a Better Board Member: A Guide to Effective School Board Service, 2006

WEB SITES

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

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

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

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS

Remuneration

Each member of the Lake County Board of Education may receive a monthly compensation as provided for by law as follows:

- Each member of the County Board who attends one County Board meeting during the month shall receive \$100.
- Each member of the County Board who attends two or more County Board meetings during the month shall receive a total sum of \$160.
- County Board members are not required to accept payment for meetings attended.

In order to receive compensation for attending any County Board meeting, County Board members shall be present.

A member may be paid for any meeting for which he/she is absent if the County Board, by resolution duly adopted and included within its minutes finds that, at the time of the meeting, he/she was performing services outside the meeting on behalf of the County Board, he/she was ill or on jury duty, or the absence was due to a hardship deemed acceptable by the County Board.

On an annual basis, the Lake County Board of Education may increase the compensation of individual board members beyond the limits delineated in this section, in an amount not to exceed 5 percent based on the present monthly rate of compensation. Any increase made pursuant to this section shall be effective upon approval by the Lake County Board of Education.

Reimbursement of Expenses

County Board members shall be reimbursed for traveling expenses incurred when authorized in advanced by the County Board.

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

Health and Welfare Benefits

County Board members may participate in the health benefits program provided for LCOE employees LCOE. LCOE shall contribute an amount equal to, but not greater than, the highest amount contributed to any category of employees for health benefits premiums.

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS (continued)

Legal Reference:

EDUCATION CODE

1090 Compensation for members and mileage allowance

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>

LEGAL PROTECTION

Liability Insurance

The Lake County Board of Education shall provide insurance necessary to protect County Board members, Lake County Superintendent of Schools, and Lake County Office of Education employees while acting within the scope of their office or employment in accordance with Education Code 35208.

Protection Against Liability

No County Board member shall be liable for harm caused by his/her act or omission when acting within the scope of LCOE responsibilities. The act or omission must be in conformity with federal, state and local laws and made in furtherance of an effort to control, discipline, expel or suspend a student, or maintain order or control in the classroom or school. (20 USC 6736)

The protection against liability shall not apply when: (20 USC 6736)

1. The County Board member acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the harmed person's right to safety.
2. The County Board member caused harm by operating a motor vehicle.
3. The County Board member was not properly licensed, if required, by the State for such activities.
4. The County Board member was found by a court to have violated a federal or state civil rights law.
5. The County Board member was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the County Board member has been convicted in a court.
7. The misconduct involved a sexual offense for which the County Board member has been convicted in a court.

Legal Reference: (see next page)

LEGAL PROTECTION (continued)

Legal Reference:

EDUCATION CODE

17029.5 *Contract funding; board liability*

35208 *Liability insurance*

35214 *Liability insurance (self-insurance or a combination of self-insurance and insurance through an insurance company)*

GOVERNMENT CODE

815.3 *Intentional torts*

820-823 *Tort Claims Act*

825.6 *Indemnification of public entity*

1090-1098 *Conflicts of interest, prohibitions applicable to specified officers*

54950-54963 *The Ralph M. Brown Act*

87100-89503 *Conflicts of interest*

UNITED STATES CODE, TITLE 18

16 *Crime of violence defined*

UNITED STATES CODE, TITLE 20

6731-6738 *Teacher Protection Act*

COURT DECISIONS

Caldwell v. Montoya (Paramount Unified School District) 10 Cal 4th 972 (1995)

CONFLICT OF INTEREST

Incompatible Activities

A Lake 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)

CONFLICT OF INTEREST (continued)

1. The ownership of less than 3 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 5 percent of his/her total annual income, and any other payments made to him/her by the corporation do not exceed 5 percent of his/her total annual income.
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

CONFLICT OF INTEREST (continued)

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.

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)

CONFLICT OF INTEREST (continued)

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)

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

**APPENDIX
DISCLOSURE CATEGORIES**

Every County Board member shall report his/her:

1. Interests in real property located entirely or partly within county boundaries, or within two miles of county boundaries or of any land owned or used by the County Office. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
2. Investments or business positions in or income from sources which:
 - (a) Are engaged in the acquisition or disposal of real property within the County
 - (b) 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 County Board and/or County Office
 - (c) Manufacture or sell supplies, books, machinery or equipment of the type used by the County Board and/or County Office

Every County Board member shall file a full statement of economic interests pursuant to Government Code 87200.

CONFLICT OF INTEREST (continued)

Legal Reference:

EDUCATION CODE

1006 *Qualifications for holding office*

35107 *School district employees*

35230-35240 *Corrupt practices, especially:*

35233 *Prohibitions applicable to members of governing boards*

41000-41003 *Moneys received by school districts*

FAMILY CODE

297.5 *Rights, protections, and benefits of registered domestic partners*

GOVERNMENT CODE

1090-1099 *Prohibitions applicable to specified officers*

1125-1129 *Incompatible activities*

81000-91014 *Political Reform Act of 1974, especially:*

82011 *Code reviewing body*

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*

PENAL CODE

85-88 *Bribes*

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

Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469

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

92 *Ops.Cal.Atty.Gen.* 26 (2009)

92 *Ops.Cal.Atty.Gen.* 19 (2009)

89 *Ops.Cal.Atty.Gen.* 217 (2006)

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)

63 *Ops.Cal.Atty.Gen.* 868 (1980)

Management Resources: (see next page)

CONFLICT OF INTEREST (continued)

Management Resources:

CSBA PUBLICATIONS

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009

Understanding the Basics of Public Service Ethics: Transparency Laws, 2009

WEB SITES

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

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

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

BOARD POLICIES

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

(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 regularly 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)

Policies shall be monitored and reviewed either as specified in the policy itself or as needed to reflect changes in law or LCOE circumstances.

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 6145 - Extracurricular and Cocurricular Activities)

Policy Development and Adoption Process

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

1. The County Board and/or County Superintendent 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 LCOE 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 LCOE 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 LCOE 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 County 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 shall constitute official Board policy.

(cf. 9322 - Agenda/Meeting Materials)

(cf. 9323.2 - Actions by the Board)

LCOE'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 Board at the time of adoption.

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 Board policy.

Administrative Regulations

The County Superintendent or designee shall be responsible for developing and enforcing administrative regulations for the operation of LCOE. Administrative regulations shall be consistent with law and Board policy and shall be designed to promote the achievement of

BOARD POLICIES (continued)

LCOE 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 Board policy.

When 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.

The County 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 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 LCOE employees and the public have access to an up-to-date LCOE policy manual. A public copy of the policy manual shall be maintained at LCOE central office and at each school 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)

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 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 Reference: (see next page)

BOARD POLICIES (continued)

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 Lake County Board of Education are conducted for the purpose of accomplishing business. 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. All meetings shall be conducted in accordance with law and the County Board adopted bylaws.

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. (Government Code 54952.2)

A majority of the County 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 County Board. However, an employee or Lake County Office of Education official may engage in separate conversations with County Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the County Board, as long as that employee or LCOE official does not communicate the comments or position of any County Board members to other County Board members. (Government Code 54952.2)

In order to help ensure participation in the meeting by disabled individuals, the Lake County Superintendent of Schools 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(es) designated by the County Superintendent or designee for public inspection of agenda documents that are distributed to the County Board less than 72 hours before the meeting. (Government Code 54957.5)

Regular Meetings

The County Board shall hold one regular meeting each month. Regular meetings shall be held at 3:30 p.m. on the second Wednesday of each month at LCOE central office or designated location.

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)

MEETINGS AND NOTICES (continued)

Special Meetings

Special meetings of the County Board 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)

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
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

MEETINGS AND NOTICES (continued)

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 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)

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 Department 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 LCOE to address a topic of local community concern
3. An open and noticed meeting of another body of LCOE

MEETINGS AND NOTICES (continued)

4. An open and noticed meeting of a legislative body of another local agency
5. A purely social or ceremonial occasion

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)

Meetings shall be held within County 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 LCOE is a party
2. Inspect real or personal property which cannot conveniently be brought to the LCOE location, 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 LCOE has no meeting facility within its boundaries or if its principal office is located outside LCOE
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 LCOE over which the state or federal officials have jurisdiction
6. Meet in or near a facility owned by LCOE but located outside the geographic boundaries of LCOE, provided the meeting agenda is limited to items directly related to that facility
7. Visit the office of LCOE's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs

MEETINGS AND NOTICES (continued)

Meetings exempted from the boundary requirements, as specified in items #1-7 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 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.

Legal Reference: (see next page)

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

- 3511.1 *Local agency executives*
- 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*
- 54954.2 *Agenda posting requirements, board actions*
- 54956 *Special meetings; call; notice*
- 54956.5 *Emergency meetings*

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

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. 2009

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

- The ABCs of Open Government Laws*

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

- Open and Public IV: A Guide to the Ralph M. Brown Act*, 2nd Ed., 2010

WEB SITES

- CSBA: <http://www.csba.org>
- CSBA, Agenda Online:
<http://www.csba.org/Services/Services/GovernanceTechnology/AgendaOnline.aspx>
- California Attorney General's Office: <http://www.ag.ca.gov>
- Institute for Local Government: <http://www.ca-ilg.org>
- League of California Cities: <http://www.cacities.org>

CLOSED SESSION PURPOSES AND AGENDAS

The Lake 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)

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)

Matters Related to Students

The County Board shall meet in closed session to conduct expulsion appeals hearings (BP 5144.3) or interdistrict transfer appeals hearings (See Exhibit 9321 (a))for students in school districts in Lake County, 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)

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion appeals hearing," "interdistrict transfer appeals hearing," 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.

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)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

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 Lake County Office of Education, 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))

"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 LCOE but which LCOE 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 LCOE, 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.
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 LCOE 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.

CLOSED SESSION PURPOSES AND AGENDAS (continued)

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 LCOE'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)

"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 LCOE 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))

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)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

Review of Assessment Instruments

The County Board may meet in closed session to review the contents of any student assessment instrument approved or adopted for the statewide testing system. Before any such meeting, the County Board shall agree by resolution to accept any terms or conditions established by the State Board of Education for this review. (Education Code 60617)

Agenda items related to the review of student assessment instruments shall state that the County Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program and that Education Code 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

Legal Reference: (see next page)

CLOSED SESSION PURPOSES AND AGENDAS (continued)

Legal Reference:

EDUCATION CODE

35145 *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 CODE

3540-3549.3 *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.App. 4th 363

Sacramento Newspaper Guild v. Sacramento County Board of Supervisors (1968) 263 Cal.App. 2d 41

ATTORNEY GENERAL OPINIONS

86 *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, 2003

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>

CLOSED SESSION ACTIONS AND REPORTS

No matters other than those announced in open session shall be acted upon during the closed session. (Government Code 54957.7)

The Lake County Board of Education shall reconvene in open session before adjourning and report closed session actions, the votes or abstentions thereon, and other disclosures required by Government Code 54957.1. These disclosures may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing them. (Government Code 54957.7)

Student Matters

In school district expulsion appeals and interdistrict attendance appeals, the student's name shall not be disclosed. No information shall be released in violation of student privacy rights provided in law. (Education Code 35146, 48918; 20 USC 1232)

Real Estate Negotiations

Approval of an agreement concluding real estate negotiations shall be reported after the agreement is final. If the County Board renders the agreement final, it shall report that approval, the votes or abstentions thereon, and the substance of the agreement in open session at the public meeting during which the closed session is held. If final approval rests with the other party, the Lake County Superintendent of Schools or designee shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the Lake County Office of Education of its approval. (Government Code 54957.1)

Pending Litigation

The County Board shall report the following actions related to pending litigation, and the votes or abstentions thereon, at the public meeting during which the closed session is held: (Government Code 54957.1)

1. Approval to legal counsel to defend, appeal or not appeal, or otherwise appear in litigation. This report shall identify the adverse parties, if known, and the substance of the litigation.
2. Approval to legal counsel to initiate or intervene in a lawsuit. This report shall state that directions to initiate or intervene in the action have been given and that details will be disclosed to inquiring parties after the lawsuit is commenced unless doing so would jeopardize LCOE's ability to serve process on unserved parties or its ability to conclude existing settlement negotiations to its advantage.

CLOSED SESSION ACTIONS AND REPORTS (continued)

3. Acceptance of a signed offer from the other party or parties which finalizes the settlement of pending litigation. This report shall state the substance of the agreement.

If approval is given to legal counsel to settle pending litigation and if final approval rests with the other party or with the court, LCOE shall report the fact of approval, the substance of the agreement and the vote and abstentions thereon to persons who inquire once the settlement is final. (Government Code 54957.1)

JPA/Self-Insurance Claims

The County Board shall report the disposition of joint powers authority or self-insurance claims and the votes or abstentions thereon at the public meeting during which the closed session is held. This report shall include the name of the claimant(s), the name of the agency claimed against, the substance of the claim and the monetary settlement agreed upon by the claimant. (Government Code 54957.1)

Legal Reference:

EDUCATION CODE

35145 *Public meetings*

35146 *Closed session (re student matters)*

48918 *Rules governing expulsion procedures; hearings and notice*

49073-49079 *Privacy of student records*

60617 *Meetings of governing board*

GOVERNMENT CODE

54950-54963 *The Ralph M. Brown Act, especially:*

54957.1 *Closed sessions; public report of action taken*

54957.6 *Closed sessions; representatives to employee organization(s)*

54957.7 *Disclosure of items to be discussed*

UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.8 *Family Educational Rights and Privacy*

COURT DECISIONS

Kleitman v. Superior Court of Santa Clara County 87 Cal Rptr. 2d (1999)

ATTORNEY GENERAL OPINIONS

80 *Ops. Cal. Atty. Gen.* 85 (1997)

AGENDA/MEETING MATERIALS

Agenda Content

Lake 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)

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)

Each meeting agenda shall list the addresses designated by the Lake 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

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.

The County Board president and County 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.

AGENDA/MEETING MATERIALS (continued)

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)

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

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 County Board member, including the County 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.

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 or e-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 Department'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)

AGENDA/MEETING MATERIALS (continued)

Any documents prepared by the Lake County Office of Education 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)

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

When a special meeting is called, the County Superintendent and County Board president shall make every effort to distribute the agenda and support materials to County 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 County 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 County Board members will not be able to attend a regular meeting of the County Board, the County 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 County Board members due to attendance at a County Board-sanctioned conference, or illness/injury. Where the schedule for a regular meeting is to be changed, the County Superintendent shall inform all County 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 County Board members, and to other persons upon request.

The County Board president shall conduct County Board meetings in accordance with County Board bylaws and procedures adopted for the orderly conduct of the County Board's business. At all County Board meetings, where existing bylaws do not prescribe the procedure, the County Board shall be guided by the parliamentary procedures set forth in Robert's Rules of Order.

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 County 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 County 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 County 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 County 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 County 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 County 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, County 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 County 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 County 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 County 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 County 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)
8. The County Board president shall not permit any disturbance or willful interruption of County Board meetings. Persistent disruption by an individual or group shall be grounds for the County Board president to terminate the privilege of addressing the County Board. The County 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 County Board president. When the room is ordered cleared due to a disturbance, further County 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.

MEETING CONDUCT (continued)

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:

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: Boardmanship*

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>

ACTIONS BY THE BOARD

The Lake 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.
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 Lake County Office of Education's attention after the posting of the agenda.
3. The matter was properly posted for a previous meeting occurring not more than five days earlier and was continued to the meeting at which action is being taken.

The 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)

Challenging Board Actions

Any demand by LCOE 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

ACTIONS BY THE BOARD (continued)

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:

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

17582-17583 District deferred maintenance fund

35140-35149 Meetings

35160-35178.4 Powers and duties

48660-48661 Community day schools establishment and restrictions

CODE OF CIVIL PROCEDURE

425.16 Special motion to strike in connection with a public issue

1245.240 Eminent domain vote requirements

1245.245 Eminent domain, resolution adopting different use

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities

53724 Parcel tax resolution requirements

Legal Reference continued: (see next page)

ACTIONS BY THE BOARD (continued)

Legal Reference: (continued)

GOVERNMENT CODE (continued)

53790-53792 *Exceeding the budget*

53820-53833 *Temporary borrowing*

53850-53858 *Temporary borrowing*

54950-54963 *The Ralph M. Brown Act, especially:*

54952.6 *Action taken, definition*

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

54960 *Action to prevent violations*

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

Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors, (2003) 112 Cal.App.4th 1313

McKee v. Orange Unified School District, (2003) 110 Cal.App.4th 1310

Bell v. Vista Unified School District, (2002) 82 Cal.App.4th 672

Boyle v. City of Redondo Beach, (1999) 70 Cal.App.4th 1109

Management Resources:

CSBA PUBLICATIONS

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

ATTORNEY GENERAL PUBLICATIONS

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

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

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

WEB SITES

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

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

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

ACTIONS BY THE BOARD

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Lake County Office of Education has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

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)
2. Resolution declaring intent of Lake County Board of Education 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 property which has a residence on it and which cannot be developed for Lake County Office of Education 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 LCOE (Government Code 53094)
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)

Actions Requiring a Two-Thirds Vote of the 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 LCOE'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)

ACTIONS BY THE BOARD (continued)

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)

Actions Requiring a Four-Fifths Vote of the Board:

1. The expenditure and transfer of necessary funds and use of LCOE 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)
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 LCOE 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 LCOE to include a particular brand name or product in a bid specification (Public Contract Code 3400)

Actions Requiring a Unanimous Vote of the 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 County Board determines that an emergency exists and upon approval of the Lake County Superintendent of Schools (Public Contract Code 20113)

Action Requiring a Unanimous Vote of the 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)

MINUTES AND RECORDINGS

The Lake County Board of Education recognizes that maintaining accurate minutes of County Board meetings provides a record of County Board actions for use by LCOE staff and the public and helps foster public trust in County Board governance.

(cf. 9000 - Role of the Board)
(cf. 9005 - Governance Standards)
(cf. 9323 - Meeting Conduct)

The secretary of the County Board shall keep minutes and record all official Board actions. The County 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 COE Records)
(cf. 9122 - Secretary)
(cf. 9323.2 - Actions by the Board)

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

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

In order to ensure that the minutes are focused on County Board action, the minutes shall include only a brief summary of the County Board's discussion, but shall not include a verbatim record of the County 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 and the names of the County Board members who made and seconded the motion.

The minutes shall also report any action taken and the vote or abstention on that action of each member present. (Government Code 54953)

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

Upon approval by the County Board, the minutes shall be signed by the County Superintendent.

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

(cf. 3580 - LCOE Records)

MINUTES AND RECORDINGS (continued)

Any minutes or recordings kept for County 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)

(cf. 9321.1 - Closed Session Actions and Reports)

Recording or Broadcasting of Meetings

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

Any LCOE recording may be erased or destroyed 30 days after the meeting. Recordings made at the direction of the County Board during a meeting are public records and, upon request, shall be made available for inspection by members of the public on LCOE equipment 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 *Meetings*

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. 2009

Guide to Effective Meetings, rev. 2007

WEB SITES

CSBA, Agenda Online: <http://www.csba.org>