

**PIEDMONT UNIFIED SCHOOL DISTRICT**  
**BOARD POLICIES & ADMINISTRATIVE REGULATIONS**

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**PIEDMONT UNIFIED SCHOOL DISTRICT**  
**BOARD POLICIES & ADMINISTRATIVE REGULATIONS**

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**SECTION 9000**  
**Board Bylaws**

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# Piedmont Unified SD

## Board Bylaw

BB 9000  
**Board Bylaws**

### Role Of The Board (Powers And Responsibilities)

The Board of Education is elected by the community to provide leadership and citizen oversight of the district's schools. The Board shall work with the Superintendent to fulfill its major roles, which include:

1. Establishing a long-term vision for the district
2. Establishing and maintaining a basic organizational structure for the district, including employment of the Superintendent and adoption of policies, curriculum, the budget and the collective bargaining agreement
3. Ensuring accountability to the local community, including personnel, programmatic and fiscal accountability and service as a judicial and appeals body as needed
4. Providing community leadership and advocacy at the local, state and national levels on behalf of children, district programs and public education

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

The Board may delegate any of its duties to the Superintendent or designee but shall be ultimately responsible for the performance of any duties it delegates. (Education Code 35161)

(cf. 2120 - Superintendent of Schools)

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

### Vision

As part of its strategic planning for the district, the Board shall set the direction for the district by adopting a mission statement which defines the district's goals and priorities. The Board shall carry out its vision-setting role by identifying the strengths and needs of the district, developing and adopting a process for framing the vision, soliciting staff and community input as appropriate, ensuring that the adopted mission statement is implemented and conducting a periodic

review of the vision.

(cf. 0100 - Philosophy)  
(cf. 0200 - Goals for the School District)  
(cf. 6010 - Goals and Objectives)

#### Superintendent Employment and Evaluation

The Board shall be solely responsible for employing the Superintendent and ensuring that he/she is the best match for the district based on needed abilities, traits and level of knowledge. When selecting a new superintendent, the Board shall ensure a smooth transition period; evaluate the district's current and long-term needs; plan and conduct a process for recruitment, screening and selection; and approve the Superintendent's employment contract. The Board shall regularly evaluate the Superintendent based on an evaluation system and performance objectives established by the Board and Superintendent.

(cf. 2121 - Superintendent's Contract)  
(cf. 2122 - Superintendent of Schools: Responsibilities and Duties)  
(cf. 2123 - Evaluation of the Superintendent)

#### General Hiring and Personnel Accountability

The Board shall adopt wage and salary schedules, and elect or reject employees at the recommendation of the Superintendent or designee. In order to have the best qualified people working at their maximum effectiveness, the Board shall hold the Superintendent responsible for overseeing the district's personnel system, developing effective hiring practices, creating a climate supportive of personnel and providing an effective framework for staff accountability.

(cf. 4000 - Concepts and Roles)  
(cf. 4111 - Recruitment and Selection)  
(cf. 4115 - Evaluation/Supervision)  
(cf. 4151/4251/4351 - Employee Compensation)  
(cf. 4211- Recruitment and Selection)  
(cf. 4215 - Evaluation/Supervision)  
(cf. 4311- Recruitment and Selection)  
(cf. 4315 - Evaluation/Supervision)

#### Policy Adoption and Monitoring

The Board shall govern the schools by adopting policies that reflect the district's vision and the mandates of law. The Board shall establish a clear policy development process through which it may deliberate on issues, identify priorities, assign responsibilities, identify goals and courses of action, and review policy decisions.

The Board shall also adopt bylaws that promote cooperation, trust and teamwork among its members, give parameters to the Board's operation as a governing body, and ensure that its meetings proceed efficiently and in compliance with law.

(cf. 9200 - Members)  
(cf. 9300 - Governance)  
(cf. 9311 - Board Policies)  
(cf. 9312 - Board Bylaws)  
(cf. 9323 - Meeting Conduct)  
(cf. 9400 - Board Self-Evaluation)

#### Curriculum Adoption and Program Accountability

While the design and implementation of curriculum is primarily a staff responsibility, the Board's role is to adopt overall educational goals and standards, define the curriculum development process, specify graduation requirements, adopt the developed curriculum and ensure compliance with state and federal laws.

To ensure accountability to the community, the Board shall adopt standards to assess the effectiveness of the district's educational programs in producing desired student achievement results. Based on these assessments, the Board shall direct the Superintendent or designee to take corrective actions as needed.

(cf. 0420.5 - School-Based Decision Making)  
(cf. 6010 - Goals and Objectives)  
(cf. 6011 - Academic Standards)  
(cf. 6141 - Curriculum Development and Evaluation)  
(cf. 6146.1 - High School Graduation Requirements/Standards of Proficiency)  
(cf. 6146.5 - Elementary School Promotion/Standards of Proficiency)  
(cf. 6162.5 - Student Assessment)  
(cf. 6190 - Evaluation of the Instructional Program)

#### Budget, Facilities and Fiscal Accountability

The Board shall adopt a sound, responsible budget that supports district goals and priorities. To guide the Superintendent or designee in development of the budget, the Board shall establish a budget calendar, budget process and spending priorities.

Recognizing that school facilities are a long-term obligation that impacts district budgets, the Board shall also ensure that a plan is in place to address the district's facility needs, including the funding, construction and maintenance of school facilities. The Board shall approve facility sites, funding sources and

architectural and construction contracts.

The Board recognizes that it is accountable to the community for its budget and facilities decisions and for the district's fiscal integrity. The Board shall use accountability systems and processes in order to monitor the district's fiscal health.

- (cf. 3000 - Concepts and Roles)
- (cf. 3100 - Budget)
- (cf. 3312 - Contracts)
- (cf. 3460 - Financial Reports and Accountability)
- (cf. 7110 - Facilities Master Plan)
- (cf. 7140 - Architectural and Engineering Services)
- (cf. 7150 - Site Selection and Development)
- (cf. 7210 - Facilities Financing)

### Collective Bargaining

The Board is the legal representative of the district in negotiations with employee representatives. In carrying out the collective bargaining process, the Board shall set goals and guidelines for collective bargaining, select its bargaining team, maintain communications throughout the process and approve the negotiated contract.

- (cf. 4141/4241 - Collective Bargaining Agreement)
- (cf. 4143/4243 - Negotiations/Consultation)

### Judicial and Appeals Body

In addition to establishing complaint procedures that ensure due process and facilitate the satisfactory resolution of issues, the Board may convene to serve as a judicial and appeals body in accordance with law, Board policies and negotiated agreements. The Board may delegate fact-finding or hearing responsibilities in appropriate cases but remains the final decision-maker in these proceedings.

- (cf. 1312 - Complaints Concerning the Schools)
- (cf. 4031 - Complaints Concerning Discrimination in Employment)
- (cf. 4117.3 - Personnel Reduction)
- (cf. 4117.4 - Dismissal)
- (cf. 4144/4244/4344 - Complaints)
- (cf. 4218 - Dismissal/Suspension/Disciplinary Action)
- (cf. 4317.3 - Personnel Reduction)
- (cf. 5116.1 - Intradistrict Open Enrollment)
- (cf. 5117 - Interdistrict Attendance)
- (cf. 5119 - Students Expelled from Other Districts)

(cf. 5125.3 - Challenging Student Records)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)  
(cf. 6164.6 - Identification and Education under Section 504)

### Community Leadership

The Board shall build and maintain community awareness and support by actively involving parents/guardians, business and other community members in the schools and informing them about district programs, policies and issues.

Recognizing that the level of local, state and national support for education impacts the Board's ability to fulfill its responsibilities, the Board shall engage in advocacy on behalf of district schools. The Board shall ensure that the district has the capability to respond to emerging issues and a proactive communications plan for issues that are district priorities.

(cf. 0510 - School Accountability Report Card)  
(cf. 1020 - Youth Services)  
(cf. 1100 - Communication with the Public)  
(cf. 1112 - Media Relations)  
(cf. 1160 - Political Processes)  
(cf. 1400 - Relations between Other Governmental Agencies and the Schools)  
(cf. 1700 - Relations between Private Industry and the Schools)  
(cf. 9010 - Public Statements)

### Legal Reference:

#### EDUCATION CODE

5304 Duties of Board of Education (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 Board of Trustees, especially:  
35160-35185 Powers and duties  
35291 Rules

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9005  
**Board Bylaws**

Governance Standards

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

(cf. 9000 - Role of the Board)  
(cf. 9270 - Conflict of Interest)

The Board expects its members to work with each other and the Superintendent to ensure that a high-quality education is provided to each student. Each individual Board member shall:

1. Keep learning and achievement for all students as the primary focus
2. Value, support and advocate for public education

(cf. 9010 - Public Statements)

3. Recognize and respect differences of perspective and style on the Board and among staff, students, parents and the community
4. Act with dignity, and understand the implications of demeanor and behavior
5. Keep confidential matters confidential

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

6. Participate in professional development and commit the time and energy necessary to be an informed and effective leader

(cf. 9240 - Board Development)

7. Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent and staff

(cf. 2122 - Superintendent of Schools: Responsibilities and Duties)

8. Understand that authority rests with the Board as a whole and not with individuals

(cf. 9200 - Members)

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

1. Keep the district focused on learning and achievement for all students
2. Communicate a common vision

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 0200 - Goals for the School District)

3. Operate openly, with trust and integrity
4. Govern in a dignified and professional manner, treating everyone with civility and respect
5. Govern within Board-adopted policies and procedures

(cf. 9311 - Board Policies)

(cf. 9312 - Board Bylaws)

6. Take collective responsibility for the Board's performance
7. Periodically evaluate its own effectiveness

(cf. 9400 - Board Self-Evaluation)

8. Ensure opportunities for the diverse range of views in the community to inform Board deliberations

(cf. 1220 - Citizen Advisory Committees)

(cf. 9323 - Meeting Conduct)

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: Boardsmanship, 1996

WEB SITES

CSBA: [www.csba.org](http://www.csba.org)

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT

adopted: May 9, 2001      Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9010  
**Board Bylaws**

### Public Statements

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

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

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

(cf. 9011 - Disclosure of Confidential/Privileged Information)  
(cf. 9200 - Members)

### 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

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9011  
**Board Bylaws**

### Disclosure Of Confidential Privileged Information

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

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

### Disclosure of Closed Session Information

Note: As added by AB 1945 (Ch. 1119, Statutes of 2002), Government Code 54963 specifies that a person may not disclose confidential information acquired during his/her presence in a closed session. In addition, the Attorney General has opined in 80 Ops.Cal.Atty.Gen. 231 (1997) that a Board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed. Therefore, it is recommended that the Board consult with its legal counsel before disclosing any confidential or privileged information discussed in a closed session. For more information regarding the reporting of information discussed in closed session, see BB 9321.1 - Closed Session Actions and Reports.

A 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 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 Board to meet lawfully in closed session. (Government Code 54963)

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

The 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 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 Board action that has been the subject of deliberation during a closed session
2. Expressing an opinion concerning the propriety or legality of 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 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 Board member. (Government Code 1098)

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

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

#### Legal Reference:

##### EDUCATION CODE

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

35146 Closed session

##### EVIDENCE CODE

1040 Privilege for official information

##### GOVERNMENT CODE

1098 Public officials and employees re confidential information

3549.1 Meeting and negotiating in public educational employment

6250-6270 Inspection of public records

54950-54963 Brown Act, especially:

54956.8 Open meeting laws

54956.9 Closed meeting for pending litigation

54957 Closed session; "employee" defined; exclusion of witnesses  
54957.1 Subsequent public report and rollcall vote; employee matters in closed session  
54957.5 Public records  
54957.6 Closed session; representatives with employee organization  
54957.7 Reasons for closed session  
54963 Confidential information in closed session  
ATTORNEY GENERAL OPINIONS  
80 Ops.Cal.Atty.Gen. 231 (1997)

Management Resources:

CSBA PUBLICATIONS

Professional Governance Standards, November 2000

Maximizing School Board Leadership, 1996

WEB SITES

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

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT

adopted: February 12, 2003 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9100  
**Board Bylaws**

Organization

Annual Organizational Meeting

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

At this meeting the Board shall:

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

(cf. 9140 - Board Representatives)  
(cf. 9320 - Meetings and Notices)

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)

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9110  
**Board Bylaws**

### Terms Of Office

The Piedmont City Charter contains the following provisions relative to the Board of Education:

1. The Board shall consist of five members elected from the city at large for a term of four years. Board members shall be elected at the times and in the same manner provided for members of the city council. Only qualified voters of the city shall be eligible to hold the office of Board member. No person who has served two full consecutive terms as a members of the Board shall be eligible to hold office until one full intervening term of four years has elapsed. Any person who serves as a member of the Board for more than eighteen months of an unexpired term shall be considered to have served a full term.
2. The members of the Board shall not receive any compensation for their service to the school district. Board members may receive actual and necessary expenses incurred in the performance of their duties of office as determined by the Board.
3. The office of a Board member shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law, or forfeiture of office. A Board member shall forfeit office if the member:
  - a. Lacks at any time during the term of office any qualifications for the office prescribed by the city charter or by state law;
  - b. Violates any prohibition of the city charter; or
  - c. Is convicted of a crime involving moral turpitude.
4. A vacancy on the Board shall be filled by appointment of a majority of vote of said Board, with the appointee holding office for the remainder of the unexpired term or until the next general municipal election. If a vacancy on the Board continues for thirty days, the vacancy shall be filled by the president of the Board.

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

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT

adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

### BB 9121 **Board Bylaws**

#### President

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

1. Call the meeting to order at the appointed time
2. Announce the business to come before the Board in its proper order
3. Enforce the Board's policies relating to the order of business and the conduct of meetings
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 Board
7. Rule on parliamentary procedure
8. Put motions to a vote, and state clearly the results of the vote

The president shall have all the rights of any member of the Board, including the right to move, second, discuss, and vote on all questions before the Board.

The Board President shall also perform other duties as directed by law, California Department of Education regulations and the Board, including the duty to:

1. Sign all instruments, acts, and orders necessary to carry out state requirements and the will of the Board
2. Consult with the Superintendent or designee on the preparation of the Board's agendas
3. Appoint and disband all committees, subject to Board approval
4. Call such meetings of the Board as he/she may deem necessary, giving notice as prescribed by law

5. Confer with the Superintendent or designee on crucial matters which may occur between Board meetings
6. Be responsible for the orderly conduct of all Board meetings
7. Share informational mail with other Board members

(cf. 9320 - Meetings and Notices)

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 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

35144 Special meetings

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD Board Bylaw**

BB 9122  
**Board Bylaws**

Secretary

The Superintendent or designee, acting as secretary to the Board of Education, shall have the following duties:

1. Prepare and maintain the Board agenda
2. Prepare and maintain the Board minutes
3. Maintain Board records and documents
4. Submit to Board officers the correspondence addressed to them
5. Other duties as assigned by the Board

Legal Reference:  
EDUCATION CODE  
35025 Secretary and bookkeeper

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9124  
**Board Bylaws**

Attorney

The Board of Education recognizes the complex legal environment in which school districts operate and desires reliable, dependable legal advice. The Board also supports collaborative legal efforts with other agencies and districts in order to promote the district's interests.

(cf. 1160 - Political Processes)

The Board may use the county counsel, district attorney, or private attorneys to meet the needs of the district.

The district's legal counsel may:

1. Render legal advice to the Board and the Superintendent or designee
2. Serve the Board and the Superintendent or designee in the preparation and conduct of district litigation and administrative proceedings
3. Render advice on school bond and tax increase measures and prepare the necessary forms for the voting of these measures
4. Perform other administrative duties as assigned by the Board and Superintendent or designee

The Superintendent or designee may confer with the district's legal counsel at his/her discretion and shall provide the Board with desired legal information when so directed by a majority of the Board. The Board also may authorize a specific member to confer with legal counsel on behalf of the Board.

(cf. 9000 - Role of the Board)  
(cf. 9200 - Members)  
(cf. 9321 - Closed Session Purposes and Agendas)

Legal Reference:  
EDUCATION CODE  
35041 Administrative adviser

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

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

26522 Services re school bond issue

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT

adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9130  
**Board Bylaws**

### Board Committees

The Board of Education may establish Board committees as necessary. The Board shall determine the duties of the committee at the time of its appointment. Unless specifically authorized by the Board to act on its behalf, Board committees shall act in an advisory capacity. When its duties have been completed, the committee shall be dissolved.

(cf. 1220 - Citizen Advisory Committees)

Board committees shall provide public notice of their meetings and conduct these meetings in accordance with state open meeting laws.

The Superintendent or designee may serve as an advisor to any committee at the discretion of the Board.

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

### Legal Reference:

#### EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35024 Executive committee

35160 Authority of Board of Trustees

35160.1 Broad authority of school districts

#### GOVERNMENT CODE

54952 Legislative body, definition

54952.2 Definition of meeting

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

54954.3 Opportunity for public to address legislative body

#### ATTORNEY GENERAL OPINIONS

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

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

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

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9140  
**Board Bylaws**

Board Representatives

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

(cf. 9270 - Conflict of Interest)  
(cf. 9320 - Meetings and Notices)

Legal Reference:

**EDUCATION CODE**

4000-4014 County committees on school district organization

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

35160 Authority of Board of Trustees

**GOVERNMENT CODE**

54952.2 Meetings

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9150  
**Board Bylaws**

Student Board Members

The Board of Education believes it is important to seek out and consider students' ideas, viewpoints and reactions to the educational program. In order to provide student input and involvement, the Board shall include one student Board member selected by the Associated Student Body of Piedmont High School for a one year term. This student member will have advisory voting rights.

The student board member may cast preferential votes in all matters except those subject to Closed Session discussion. Preferential votes shall be cast prior to the official Board vote and shall not affect the final numerical outcome of a vote. Preferential votes shall be recorded in the Board meeting minutes.

Legal Reference:

EDUCATION CODE

33000.5 Appointment of student members to State Board of Education

35012 Board members; number, election and terms; pupil members

GOVERNMENT CODE

3540-3549.3 Meeting and Negotiating in Public Educational Employment

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9200  
**Board Bylaws**

Members

Limits of Board Member's Authority

The Board of Education is the unit of authority over the district. It 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.

(cf. 9000 - Role of the Board)

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

(cf. 9270 - Conflict of Interest)

Individual members of the Board, by virtue of holding office, shall not exercise any administrative responsibility with respect to the schools or command the services of any school employee. Individual Board members shall submit requests for information to the Superintendent. At his/her discretion, the Superintendent may refer the request to the entire Board for consideration. If approved, the Superintendent or designee shall perform any necessary research associated with the request and report to the Board at a future meeting.

(cf. 1340 - Access to District Records)

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

Obligations of Board Members

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

Board members should understand their role and the programs offered by the district. They should study all agenda materials before the meeting, participate in

the discussion of items which come before the Board, vote on motions and resolutions, and abstain only for compelling reasons.

(cf. 9240 - Board Development)  
(cf. 9271 - Code of Ethics)  
(cf. 9320 - Meetings and Notices)

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

(cf. 9322 - Agenda/Meeting Materials)

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

Legal Reference:

**EDUCATION CODE**

7054 Use of district property  
35010 Control of district; prescription and enforcement of rules  
35100-35351 Board of Trustees - esp.  
35160-35184 Powers and duties  
35230-35240 Corrupt practices  
35291 Rules  
35292 Visits to schools (Board members)

**GOVERNMENT CODE**

54952.1 Member of a legislative body of a local agency  
54952.7 Copies of chapter to members of legislative body  
54959 Penalty for unlawful meetings

**Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT**  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9220  
**Board Bylaws**

Board Of Education Elections

Board of Education election procedures shall be conducted in accordance with the Piedmont City Charter, California Education Code and Elections Code.

(cf. 9110 - Terms of Office)

Statement of Qualifications

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

The Board secretary shall notify the county clerk of this policy on or before the 125th day before each Board member election. (Elections Code 10509)

Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the Board, the Board shall immediately notify the candidates who received the tie votes of the time and place where lots shall be cast to determine the winner. (Education Code 5016)

Legal Reference:

EDUCATION CODE

5000 Biennial election

5016 Selection in tie vote

5017 Term

5019 Trustee areas and size of Board of Trustees

5019.5 Trustee areas; adjustment of boundaries

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 (re returns, recounts, etc.)

35107 Eligibility; school district employees

35177 Campaign expenditures or contributions

## ELECTIONS CODE

1302 Local elections, school district election

2201 Grounds for cancellation

2220-2226 Residency confirmation procedures

10400-10418 Consolidation of elections especially:

10403.5 Municipal election consolidated with statewide election or school district election

10509 Notice of election by secretary

10600-10604 School district elections

13307 Candidate's statement

13309 Candidate's statement, indigency

## GOVERNMENT CODE

1021 Conviction of crime

1097 Illegal participation in public contract

3035 Impeachment

85706 Local regulation

85301-85313 Contribution limitations

## 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 2, Section 4 Prohibition certain persons as electors

Article 7, Section 7 Conflicting offices

Article 7, Section 8 Disqualification from office

Article 7, Section 10 Libelous or slanderous statements against opposing candidates

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT

adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9222  
**Board Bylaws**

Resignation

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

A copy shall be given to the Board secretary.

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

A 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 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)

(cf. 9270 - Conflict of Interest)

Legal Reference:  
EDUCATION CODE  
5090 Definition (vacancy)  
5091 Special Election  
35178 Resignation with deferred effective date

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9223  
**Board Bylaws**

### Filling Vacancies

A vacancy on the Board of Education may occur for any of the events specified in Piedmont City Charter, Government Code 1770 or by a failure to elect. (Education Code 5090) Removal by recall election shall also create a vacancy on the Board. (Elections Code 11384)

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

If a vacancy occurs four or more months before the end of a Board member's term, the Board shall, within 60 days of the date of the vacancy or the filing of the member's deferred resignation, either order an election or make a provisional appointment, unless a special election is mandated as described below. (Education Code 5091)

### Provisional Appointments

When the special election described above is not required, the Board may make a provisional appointment. (Education Code 5091, 5093)

In order to draw from the largest possible number of candidates, the Board shall notify the local media to solicit candidate applications or nominations. The Board shall interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by a majority vote.

(cf. 9220 - Board of Education Elections)  
(cf. 9323.2 - Actions by the Board)

### Notice and Duration of Provisional Appointment

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

The notice shall contain: (Education Code 5092)

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

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

Legal Reference:

EDUCATION CODE

5019-5019.5 Trustee areas

5090 Definition (vacancy)

5091 Special election or provisional appointment

5092 Public notice of vacancy and provisional appointment

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

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

5095 Powers of remaining board members and new electees or appointees

5200 Districts governed by boards of education

5304 Duties of the Board of Education (re school district elections)

5325 Publication of information regarding district elections

5420-5426 Cost of elections, especially:

5424 Expenses of conducting legal recall election

35107 Eligibility

35178 Resignation with deferred effective date

ELECTIONS CODE

10603-10604 School district elections

11384 Vacancy in office if majority vote for recall

GOVERNMENT CODE

1064 Absence from state

1770 Vacancies: definition

3060-3074 Removal other than by impeachment

6061 One time

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

54953 Meetings open and public; secret ballots

ATTORNEY GENERAL OPINIONS

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

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9224  
**Board Bylaws**

Oath Or Affirmation

When entering upon the duties of their office, all Board of Education members shall take the oath or affirmation required by law. (California Constitution, Article 20, Section 3)

A Board member, the Superintendent or an authorized designee may administer this oath. (Education Code 60)

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

Legal Reference:

EDUCATION CODE

60 Persons authorized to administer and certify oaths

GOVERNMENT CODE

1360-1363 Oath of office

3100-3109 Oath or affirmation of allegiance

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath of office

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9230  
**Board Bylaws**

Orientation

Board Candidate Orientation

The Board of Education desires to provide Board candidates with orientation that will enable them to understand the responsibilities of Board membership. The Superintendent or designee shall provide all candidates with general information about school programs, district operations, and Board responsibilities.

(cf. 9200 - Members)  
(cf. 9270 - Conflict of Interest)

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

(cf. 1340 - Access to District Records)  
(cf. 9011 - Disclosure of Confidential/Privileged Information)

New Board Member Orientation

The Board and the Superintendent or designee shall help each new member-elect to understand district operations and the Board's functions, policies and procedures as soon after election as possible. Incoming members shall also have access to the district's policy manual and other materials related to the school system and Board member responsibilities.

Incoming members are encouraged to attend Board meetings and meet with the Superintendent or designee and Board president regarding their role and responsibilities. They also may, at district expense, attend workshops for newly elected members.

(cf. 9240 - Board Development)

Legal Reference:  
EDUCATION CODE  
33360 Department of Education and statewide association of school district

boards; annual workshops

33362 Reimbursement of expenses; member of school district board

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

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9240  
**Board Bylaws**

Board Development

Citizens elected to the Board of Education are entrusted with the responsibility of governing district schools. The Board recognizes that its members need training that helps them understand their responsibilities, stay abreast of new developments in education, and develop boardsmanship skills.

All Board members may attend conferences for the purpose of Board development. Board business shall not be discussed at conferences. Funds for Board development shall be budgeted annually. Reimbursement of Board members for their travel and conference/workshop expenses shall be consistent with policy and regulations governing reimbursement of district personnel.

(cf. 9230 - Orientation)  
(cf. 9320 - Meetings and Notices)

Legal Reference:

EDUCATION CODE

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

33361 Records (issuance of certification of completion of workshop by member)

33362 Reimbursement of expenses; member of school district board

35044 Payment of traveling expenses of representatives of board

35172 Promotional activities

35173 Expenses

44038 Cash deposits for transportation purchased on credit

GOVERNMENT CODE

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

54952.2 Meeting

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9260  
**Board Bylaws**

Legal Protection

Liability Insurance

The Board of Education shall provide insurance necessary to protect Board members and employees from any judgment resulting from suits brought against them alleging their liability while acting within the scope of their employment and/or under the direction of the Board. The insurance shall cover claims in such matters as civil rights actions, negligence or other acts resulting in accidental injury to any person or damage to property.

(cf. 3530 - Risk Management/Insurance)

Legal Reference:

**EDUCATION CODE**

17029.5 Contract funding; board liability

17280-17316 Field Act, approvals

17365-17374 Field Act, fitness for occupancy

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

820.9 Immunity from liability

825 Defense by public entity

825.6 Indemnification of public entity

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

54950-54957.9 The Ralph M. Brown Act

87100-89503 Conflicts of interest

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# PIEDMONT UNIFIED SCHOOL DISTRICT

Board Bylaw

BB 9270

## CONFLICT OF INTEREST (Form 700 – Statement of Economic Interest)

### Incompatible Activities

Governing Board members shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the District. (Government Code 1126)

### Conflict of Interest Code

The District's conflict of interest code shall be comprised of the terms of California Code of Regulations, Title 2, Section 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a District attachment specifying designated positions and the specific types of disclosure statements required for each position.

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

When a change in the District's conflict of interest code is necessitated by changed circumstances such as the creation of new designated positions, amendments or revisions shall be submitted to the code reviewing body within 90 days. (Government Code 87306)

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

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

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

### Financial Interest

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

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

1. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091
4. That of a spouse of an officer or employee of the District if his/her spouse's employment or officeholding has existed for at least one year prior to his/her election or appointment
5. That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records
6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the nonprofit board or to which the school Board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records
7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that such interest is noted in its official records
8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm

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

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

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

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

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

## **Gifts**

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

## **Honoraria**

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

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

1. Earned income for personal services customarily provided in connection with a bona fide business, trade or profession unless the sole or predominant activity of the business, trade or profession is making speeches

2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the District for donation into the general fund without being claimed as a deduction from income for tax purposes

Adopted:	December 12, 2001
Reviewed:	2002
Biennial Review :	September 8, 2004
Biennial Review:	August 23, 2006
Biennial Review:	September 24, 2008 (w/revision)
Biennial Review:	October 13, 2010 (revision only to Exhibit)

# PIEDMONT UNIFIED SCHOOL DISTRICT

Board Bylaws

E 9270

## CONFLICT OF INTEREST

Regulations of the Fair Political Practices Commission Title 2, Division 6 of the California Code of Regulations

18730. Provisions of Conflict of Interest Codes

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code 87300. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Code of Regulations, Title 2, Section 18100 et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

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

(3) Section 4. Statements of Economic Interests: Place of Filing.

The Superintendent shall instruct all designated employees to file their original statements of economic interests (Form 700) with the Administrative Assistant to the Superintendent in the Superintendent's office, as provided in the conflict of interest code. Board members shall file their original statements of economic interests (Form 700) with the Administrative Assistant to the Superintendent in the Superintendent's office, where a copy will be made and the original forwarded to the code reviewing body (County Board of Supervisors), which shall be the filing officer. However, the code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency. (Government Code Section 87500 (j))

- (4) Section 5. Statements of Economic Interests: Time of Filing.
- (A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.
  - (B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.
  - (C) Annual Statements. All designated employees shall file statements no later than April 1.
  - (D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.
- (5) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he/she did not make, participate in making or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.
- (6) Section 6. Contents of and Period Covered by Statements of Economic Interests.
- (A) Contents of Initial Statements. Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.
  - (B) Contents of Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office.
  - (C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year. The period covered by an employee's first annual statement shall begin on the effective date of assuming office.
  - (D) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency. Reporting requirements are included on the prescribed form.

(8) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his/her official position to influence the making of any governmental decision which he/she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his/her immediate family or on:

- (A) Any business entity in which the designated employee has a direct or indirect investment worth \$1,000 or more;
- (B) Any real property in which the designated employee has a direct or indirect interest worth \$1,000 or more;
- (C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$250 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;
- (D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position or management; or
- (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$300 or more in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9) Section 9.3. Legally Required Participation.

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

(10) Section 10. Manner of Disqualification.

When a designated employee determines that he/she should not make a governmental decision because he/she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of a designated employee who is the head of an agency,

this determination and disclosure shall be made in writing to his/her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

(11) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code 81000-91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code 87100 or 87450 has occurred may be set aside as void pursuant to Government Code 91003.

Authority: Government Code 83112

Reference: Government Code 87103(e), 87300-87302, 89501, 89502, 89503

Notes:

1/See Government Code 81010 and the 2 CCR 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

Biennial Review: October 13, 2010 (edits only to Exhibit)

## APPENDIX: DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

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

Governing Board Members  
Superintendent of Schools

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

Assistant Superintendent  
Purchasing Agent

Designated persons in this category must report:

- a. Interests in real property located entirely or partly within District boundaries, or within two miles of District boundaries or of any land owned or used by the District. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
- b. Investments or business positions in or income from sources which:
  - (1) Are engaged in the acquisition or disposal of real property within the District
  - (2) Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the District or
  - (3) Manufacture or sell supplies, books, machinery or equipment of the type used by the District

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

Director  
Principal  
Assistant Principal  
Maintenance and Operations Director  
Program Coordinator  
Project Specialist

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

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
- b. Manufacture or sell supplies, books, machinery or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

3. Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

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

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the District to enter into, modify or renew a contract that requires District approval
- e. Grant District approval to a contract or contract specifications which requires District approval and in which the District is a party
- f. Grant District approval to a plan, design, report, study or similar item
- g. Adopt or grant District approval of District policies, standards or guidelines

A consultant is also an individual who, pursuant to a contract with the District, serves in a staff capacity with the District and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the District that would otherwise be performed by an individual holding a position specified in the District's Conflict of Interest Code. (2 CCR 18701)

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office

35107 School district employees

35230-35240 Corrupt practices

35233 Prohibitions applicable to members of governing boards

GOVERNMENT CODE

1090-1098 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

81000-91015 Political Reform Act of 1974, especially:

82011 Code reviewing body

82019 Definition of designated employee

82028 Definition of gifts

82030 Definition of income

87100-87103.6 General prohibitions

87200-87210 Disclosure

87300-87313 Conflict of interest code

87500 Statements of economic interests

89501-89503 Honoraria and gifts

91000-91014 Enforcement

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission

COURT DECISIONS

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

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

ATTORNEY GENERAL OPINIONS

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

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

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

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

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

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

Management Resources:

WEB SITES

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

Adopted: December 12, 2001

Reviewed: 2002

Biennial Review : September 8, 2004

Biennial Review: August 23, 2006

Biennial Review: September 24, 2008 (w/revision)

Biennial Review: October 13, 2010 (revision only to Exhibit)

# Piedmont Unified SD

## Board Bylaw

BB 9271  
**Board Bylaws**

Code Of Ethics

This code of ethics expresses the personal ideals which the Board of Education believes should guide each school Board member's activities.

In all actions as a school Board member, the member's first commitment is to the well-being of our youth. His/her primary responsibility is to every student in the district.

Board members also have other major commitments to:

- **The Community.** Each Board member is responsible to all residents of the district and not solely to those who elected him/her; nor solely to any organization to which he/she may belong, or which may have supported his/her election.
- **Individuals.** Each Board member has a direct concern for every individual in the community. As an integral part of his/her duties, he/she represents the authority and responsibility of government. This authority must be exercised with as much care and concern for the least influential as for the most influential member of the community.
- **Employees.** The Board member's actions may affect the capability of district employees to practice their trade or profession and should encourage their increasing competence and professional growth.
- **Laws, Policies.** Each Board member must be aware of, and comply with, the constitutions of State and Nation, the Education Code of the State of California, other laws pertaining to public education and the established policies of the district.
- **Decision Making.** Each Board member is obliged by law to participate in decisions pertaining to education in the district. As an elected representative of the people, the Board member can neither relinquish nor delegate this responsibility to any other individual or group.
- **Individual Feelings and Philosophy.** Each individual Board member has something to contribute to society.

Understanding and acting upon the foregoing premises, each Board member shall:

- Consider his/her position on the Board as a public trust and not use it for private advantage or personal gain.
- Be constantly aware that he/she has no legal authority except when acting as a member of the Board. Board members shall present their concerns and concepts through the process of Board debate. If in the minority of any decision, they shall abide by and support the majority decision. When in the majority, they shall respect divergent opinions.
- Encourage ideas and opinions from the residents of the district and endeavor to incorporate community views into the deliberations and decisions of the Board.
- Devote sufficient time, thought and study to proposed actions so as to be able to base decisions upon all available facts and vote in accordance with honest convictions, unswayed by partisan bias of any kind.
- Remember that the basic functions of the Board are to establish the policies by which district schools are administered and to select the Superintendent or designee and staff who will implement those policies.
- Promote and participate actively in a concerted program of timely exchange of information with all district residents, parents/ guardians, employees and students.
- Recognize that the deliberations of the Board in closed session may be released or discussed in public only with Board approval.
- Make use of opportunities to enlarge his/her potential as a Board member through participation in educational conferences, workshops and training sessions made available by local, state and national agencies.

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9310  
**Board Bylaws**

Policy Manual

The Superintendent or designee shall maintain a district policy manual for the purpose of communicating to all interested parties the policies and regulations within which our schools will operate. The Board of Education encourages members of the public to acquaint themselves with the district's policy manual.

(cf. 9311 - Board Policies)  
(cf. 9312 - Board Bylaws)  
(cf. 9313 - Administrative Regulations)

The Superintendent or designee shall ensure that the community and all district employees have access to the policy manual. A public copy of the manual shall be maintained in the district central office and at each school site.

(cf. 1340 - Access to District Records)

The Superintendent or designee shall establish procedures for distributing to all authorized manual holders copies of new or revised policies, bylaws and regulations as they are adopted. Annually, before the Board's organizational meeting, the Superintendent or designee shall have all district policy manuals reviewed to ensure that they are up-to-date and complete.

Legal Reference:  
EDUCATION CODE  
35010 Control of district; prescription and enforcement of rules

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9311  
**Board Bylaws**

Board Policies

Board of Education policies are written statements adopted by the Board which communicate the guidelines within which the Superintendent or designee and staff may take discretionary action.

(cf. 2210 - Administrative Leeway in Absence of Board Policy)  
(cf. 9310 - Policy Manual)

The Superintendent or designee shall present drafts or suggestions for new policy and policy revisions when changes in law occur and when specific needs arise.

The Board encourages members of the community to contribute information and opinions for the Board's consideration and to propose revisions to policy. When drafting or revising policies which affect other governmental agencies, the Board welcomes input from these agencies and will cooperate with them in addressing matters of mutual concern.

The Board shall review certain policies annually, as required by law. (Education Code 35160.5)

(cf. 5116.1 - Intradistrict Open Enrollment)  
(cf. 6145 - Extracurricular and Cocurricular Activities)

The adoption of policy shall conform with Board bylaws governing agendas, meetings, and voting. Only those written statements adopted and recorded in the minutes shall constitute official Board policy.

Before adoption, policies shall normally be given two readings by the Board.

At its second reading, the policy may be adopted by a majority vote of all members of the Board. The Board may waive the second reading or may require additional readings.

When policies are amended, the Superintendent or designee shall review corresponding administrative regulations to ensure that they conform to the intent of the revised policy.

(cf. 9313 - Administrative Regulations)

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35160 Authority of Board of Trustees

35160.5 Annual review of school district policies

35163 Official actions, minutes and journal

35164 Vote requirements

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT

adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9312  
**Board Bylaws**

Board Bylaws

The Board of Education shall adopt Board bylaws to govern the internal operations of the Board. When the need for a new bylaw or modification of an existing bylaw is recognized, the Superintendent or designee shall draft a new or modified bylaw for consideration by the Board.

Bylaws may be adopted and amended by a majority vote of all members of the Board, following the same procedures as those used for the adoption or amendment of policy.

(cf. 9311 - Board Policies)

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

35163 Official actions, minutes and journals

35164 Vote requirements

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9313  
**Board Bylaws**

### Administrative Regulations

To carry out the intentions expressed in Board of Education policy, the Superintendent or designee shall develop administrative regulations and/or procedures specifying detailed actions to be taken and arrangements to be enforced within the district and its schools. Administrative regulations shall be consistent with state and federal law and regulations, Board policy and negotiated employee contracts.

The Board shall review and approve administrative regulations as mandated by law. In addition, the Board may review and approve other regulations related to topics of particular interest to the Board or for which the Superintendent requests Board endorsement. The Board shall review proposed administrative regulations for the sole purpose of ensuring conformity with the intent of Board policy.

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

Regulations and procedures shall be maintained at appropriate school and/or district locations and may be placed in the district's policy manual.

(cf. 9310 - Policy Manual)

Legal Reference:  
EDUCATION CODE  
35010 Control of district; prescription and enforcement of rules

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9314  
**Board Bylaws**

Suspension Of Policies, Bylaws, Administrative Regulations

Policies, bylaws and administrative regulations may be suspended for a specific purpose and limited time by majority vote.

(cf. 9322 - Agenda/Meeting Materials)  
(cf. 9323.2 - Actions by the Board.

Suspension of any policy, bylaw or administrative regulation shall undergo the following consideration:

1. Policies, bylaws or administrative regulations shall be reviewed on their own merits rather than the circumstances of the moment.
2. The Board of Education shall decide whether the policy, bylaw or administrative regulation reflects the intent of the Board and the law. If so, the suspension will be denied and the policy, bylaw or administrative regulation reaffirmed in the minutes.

Superintendent's Authority

The Superintendent or designee may suspend all or part of any policy, bylaw or administrative regulation when it conflicts with state or federal law or regulations. The Superintendent or designee shall report the suspension to the Board. Suspension shall be valid until the policy, bylaw or administrative regulation is rescinded, amended or reaffirmed.

Legal Reference:  
EDUCATION CODE  
35010 Control of district; prescription and enforcement of rules  
35163 Official actions, minutes and journals  
35164 Vote requirements

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# **Piedmont Unified School District Board Bylaw**

**Board Bylaw**

**BB 9320**

## **MEETINGS AND NOTICES**

Meetings of the Board of Education are conducted for the purpose of accomplishing District business.

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

In accordance with state open meeting laws, the Board shall hold its meetings in public and shall conduct closed sessions during these meetings only to discuss confidential matters specified by law. To encourage community involvement in the schools, meetings shall provide opportunities for questions and comments by members of the public and shall be conducted in accordance with law and Board-adopted bylaws.

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

Meetings shall be held within District boundaries, except when otherwise allowed by law. (Government Code 54954)

Meetings shall be held in a facility that is accessible to all persons, including disabled persons, without charge. (Government Code 54961)

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

Meeting notices and agendas shall specify that an individual who requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the Board meeting should contact the Superintendent or designee in writing at least two days before the meeting date.

### **Board Agenda Material**

The entire board agenda packet may be accessed on the Piedmont Unified School District web site normally on Friday evenings prior to a Board meeting. In compliance with Senate Bill 343, supporting agenda documentation of a non-confidential nature that has been distributed to the Board less than 72 hours before a meeting can be viewed in the Superintendent's Office at the District Administration Building, 760 Magnolia Avenue, Piedmont, CA, between the hours of 8:00 a.m. and 4:30 p.m. and at the District web site: [www.piedmont.k12.ca.us](http://www.piedmont.k12.ca.us)

## **Regular Meetings**

Unless otherwise specified, the Board will hold two regular meetings each month on the second and fourth Wednesday. Regular meetings shall be held at 7:00 p.m. at the City Hall Council Chambers, 120 Vista Avenue, Piedmont.

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)

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, by the most rapid available means of communication, all news media who have requested notice of special meetings. (Government Code 54954)

## **Special Meetings**

Special meetings of the Board may be called by the presiding officer or a majority of the Board members. (Government Code 54956)

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

Every notice of a special meeting shall provide an opportunity for members of the public to directly address the Board concerning any item that has been described in the meeting notice, before or after 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 Board may hold an emergency meeting without complying with the 24-hour notice or 24-hour posting requirement for special meetings pursuant to Government Code 54956. The 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. A work stoppage, crippling activity or other activity that severely impairs public health and/or safety as determined by a majority of the members of the Board
2. A dire emergency, 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 Board to provide one-hour notice before holding an emergency meeting under this section may endanger the public health and/or safety as determined by a majority of the members of the Board.

Except in the case of a dire emergency, the 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. If telephone services are not functioning, the notice requirement of one hour is waived and, as soon after the meeting as possible, the Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the Board. (Government Code 54956.5)

In the case of a dire emergency, the Board president shall give such notice at or near the time he/she notifies the other members of the Board about the meeting. (Government Code 54956.5)

The minutes of the meeting, a list of persons the 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 Meetings**

A majority vote by the Board may adjourn any meeting to a later time and place that shall be specified in the order of adjournment. (Government Code 54955)

If no Board members are present at any regular or adjourned regular meeting, the secretary or the clerk may declare the meeting adjourned to a later time and shall give notice in the same manner required for special meetings. (Government Code 54955)

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

### **Time Limit on Meetings**

No meeting shall extend past 11:00 p.m., except by a majority vote of the Board members then present. The extended time limit shall be in 15-minute increments, with a vote called for each increment. In the event the meeting is not extended, any agenda item not covered by 11:00 p.m. shall automatically be continued until the next regular Board of Education meeting, unless the Board determines it should be heard at a special meeting.

### **Teleconferencing**

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

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

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

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

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

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

### **Hearings**

The Board may occasionally convene public hearings at which no Board action is to be taken. Such hearings are held solely to allow the Board and members of the public to receive information. A hearing may take place immediately prior to a Board meeting.

If a quorum of Board members is present at a hearing, notice of the hearing shall be provided according to procedures specified above for regular meetings.

### **Other Gatherings**

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

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

Individual contacts or conversations between a Board member and any other person are not subject to open meeting laws. (Government Code 54952.2)

### **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  
54950-54957.9 Meetings, especially:  
54953 Meetings to be open and public; attendance  
54953.2 Compliance with Americans with Disabilities Act  
54954 Time and place of regular meetings  
54954.1 Mailed notices  
54954.2 Agenda posting requirements, board actions  
54954.3 Opportunity for public to speak  
54956 Special meetings; call; notice  
54956.5 Emergency meetings  
54957.5 Agenda distribution  
54961 Prohibition on use of certain facilities  
UNITED STATES CODE, TITLE 42  
12101-12213 Americans with Disabilities Act  
CODE OF FEDERAL REGULATIONS, TITLE 28  
35.160 Effective communications  
36.303 Auxiliary aids and services  
ATTORNEY GENERAL OPINIONS  
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, 1999

ATTORNEY GENERAL PUBLICATIONS

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

WEB SITES

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

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

Adopted: October 13, 1999  
Revised: February 12, 2003  
Revised: June 14, 2006  
Revised: March 25, 2009

ATTORNEY GENERAL OPINIONS

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)

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Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT

adopted: October 13, 1999 Piedmont, California

revised: February 12, 2003

# Piedmont Unified SD

## Board Bylaw

BB 9321  
**Board Bylaws**

### Closed Session Purposes And Agendas

Note: Pursuant to Government Code 54962, the Board may hold a closed session only for purposes expressly authorized by the Brown Act (Government Code 54950-54963) or by a provision of the Education Code. Government Code 54954.2 and 54954.5 describe the specific information required in agenda items for most closed session purposes specified in the Brown Act.

SB 1643 (Ch. 175, Statutes of 2002) amended Government Code 54956.5 to authorize closed sessions during an emergency meeting. See section entitled "Security Matters" below.

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

(cf. 9320 - Meetings and Notices)  
(cf. 9322 - Agenda/Meeting Materials)

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

Note: Government Code 54957.7 states that before holding any closed session, the Board must disclose in an open meeting the item(s) to be discussed in the closed session. The Board may either state the information on the agenda or refer the public to the item(s) as listed by number or letter on the agenda. 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 the announcements.

The Board shall disclose in open meeting the items to be discussed in closed session. In the closed session, the 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)

Note: Pursuant to Government Code 54963, as added by AB 1945 (Ch. 1119, Statutes of 2002), a Board member who discloses confidential information received in a closed session may be referred to the local grand jury or may be subject to action in a court of law. For a definition of confidential information and the actions that may be taken against a Board member if such information is disclosed, see BB 9011 - Disclosure of Confidential/Privileged Information.

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

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

### Personnel Matters

Note: Government Code 54957 authorizes the use of closed sessions for personnel matters described below. For the purpose of these closed sessions, "employee" includes an officer or independent contractor who functions as an officer or employee but excludes any elected official, Board member or other independent contractor. The Attorney General has concluded that it is appropriate to use a closed session to discuss and evaluate Superintendent performance. (59 Ops.Cal.Atty.Gen. 532 (1976))

Note: In *Fischer v. Los Angeles Unified School District*, the court interpreted Government Code 54957 and found that the right to request an open session applies only when the Board hears specific complaints or charges brought against the employee. Thus, the right to request an open session does not apply when the Board is meeting in closed session to consider the appointment, employment, evaluation of performance, discipline or dismissal of an employee.

The Board may hold closed sessions to consider the appointment, employment, evaluation of performance, discipline or dismissal of an employee. The Board may also hold closed sessions to hear complaints or charges brought against an employee by another person, unless the employee requests an open session. These sessions shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline. (Government Code 54957)

(cf. 2140 - Evaluation of the Superintendent)

(cf. 4115 - Evaluation/Supervision)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4215 - Evaluation/Supervision)

(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

(cf. 4315 - Evaluation/Supervision)

Note: In *Furtado v. Sierra Community College District*, the court held that the term “specific complaints or charges” as used in Government Code 54957 does not include negative comments in an employee's performance evaluation. In another opinion, *Bell v. Vista Unified School District*, the court determined that a presentation to the Board by a district staff member regarding an employee's violation of a California Interscholastic Federation rule constituted a “complaint or charge” and thus the employee was entitled to 24-hour notice.

An Attorney General opinion (78 Ops.Cal.Atty.Gen. 218 (1995)) clarifies that a probationary certificated employee does not have the right to a public session when the Board is discussing whether or not to reemploy him/her for a third consecutive school year. Education Code 44929.21 allows the Board to dismiss a probationary certificated employee at the end of the first or second school year with a written notice; see AR 4117.6 - Decision Not to Rehire.

Pursuant to Government Code 54957, if the notice described below is not given, any action the Board takes in closed session against the employee based on the specific complaints or charges shall be null and void.

Before the Board holds a closed session on specific complaints or charges brought against an employee, the employee shall receive written notice of his/her right to have the complaints or charges heard in open session if desired. This notice shall be delivered personally or by mail at least 24 hours before the time of the session. (Government Code 54957)

(cf. 1312.1 - Complaints Concerning District Employees)

The Board may hold closed sessions to discuss a district employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan. (Government Code 54957.10)

Agenda items related to public employee appointments and employment shall describe the position to be filled. Agenda items related to performance evaluations shall specify the title of the employee being reviewed. Agenda items related to employee discipline, dismissal or release require no additional information. (Government Code 54954.5)

Negotiations/Collective Bargaining

Note: The Educational Employment Relations Act (EERA, the Rodda Act) (Government Code 3540-3549.3) makes four specific exemptions from the Brown Act related to negotiations. Government Code 54957.6 provides that for the purpose of closed sessions related to collective bargaining, "employee"

includes an officer or independent contractor who functions as an officer or employee but excludes any elected official, Board member or other independent contractor.

Unless otherwise agreed upon by the parties involved, the following shall not be subject to the Brown Act: (Government Code 3549.1)

1. Any meeting and negotiating discussion between the district and a recognized or certified employee organization
2. Any meeting of a mediator with either party or both parties to the meeting and negotiating process
3. Any hearing, meeting or investigation conducted by a factfinder or arbitrator
4. Any executive (closed) session of the district or between the district and its designated representative for the purpose of discussing its position regarding any matter within the scope of representation and instructing its designated representatives

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

The Board may meet in closed session with the Board's designated representative regarding employee salaries, salary schedules or compensation paid in the form of fringe benefits of its represented and unrepresented employees. These closed sessions may include discussions of the district's available funds and funding priorities, but only insofar as they relate to providing instructions to the district's designated representative. (Government Code 54957.6)

Closed sessions shall be for the purpose of reviewing the Board's position and instructing the Board's designated representative. Closed sessions may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees. (Government Code 54957.6)

For represented employees, the Board may also meet in closed session to hear any other matter within the statutorily provided scope of representation. (Government Code 54957.6)

For unrepresented employees, closed sessions held pursuant to Government Code 54957.6 shall not include final action on the proposed compensation of one or more unrepresented employees. (Government Code 54957.6)

The Board also may meet in closed session with a state conciliator or a mediator

who has intervened in these proceedings. (Government Code 54957.6)

Agenda items related to negotiations shall specify the name of the district's designated representative(s) attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the organization representing the employee(s) or the position title of the unrepresented employee who is the subject of the negotiations. (Government Code 54954.5)

#### Matters Related to Students

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

(cf. 5117 - Interdistrict Attendance)  
(cf. 5119 - Students Expelled from Other Districts)  
(cf. 5125.3 - Challenging Student Records)  
(cf. 5144 - Discipline)

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

(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Note: Although Government Code 54954.2 requires the agenda to have a brief general description of all closed session items to be discussed, Government Code 54954.5 provides no specific description of agenda items related to closed sessions authorized by the Education Code. Since the purpose of conducting the closed session is to protect student privacy rights, the following optional paragraph provides that student names shall not be included on the agenda.

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing," "grade change appeal," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in

order to facilitate record keeping. The agenda shall also state that the Education Code requires closed sessions in these cases in order to prevent the disclosure of confidential student record information.

(cf. 5125 - Student Records)

## Security Matters

Note: AB 2645 (Ch. 1120, Statutes of 2002) amended Government Code 54957 to permit closed session on security matters to include consultation with a security consultant and to change the definition of "security matters" to include a threat to essential public services.

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

(cf. 0450 - Comprehensive Safety Plan

(cf. 3515 - Campus Security)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

Note: SB 1643 (Ch. 175, Statutes of 2002) amended Government Code 54956.5 to authorize an emergency meeting in closed session to meet with the law enforcement officials specified above pursuant to Government Code 54957. Two-thirds of the members present at the meeting must agree to the need for the closed session. Those emergency situations that necessitate a need for an emergency meeting are listed in BB 9320 - Meetings and Notices and include a terrorist attack, crippling disaster, or other activity that impairs public health or safety. For a list of actions for which more than a majority vote of the Board is required, see BB 9323.2 - Actions by the Board.

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

Note: Government Code 54954.5, as amended by AB 2645 (Ch. 1102, Statutes of 2002), requires that the agenda item related to security matters also specify the name of the applicable agency representative and title.

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

#### Conference with Real Property Negotiator

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

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

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

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

#### Pending Litigation

Based on the advice of its legal counsel, the 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 Board's position in the case. For this purpose, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)

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

1. Litigation to which the Board is a party has been initiated formally. (Government Code 54956.9(a))

2. A point has been reached where, in the 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 district, or the 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 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 the district but which the district believes are not yet known to potential plaintiffs and which do not need to be disclosed.

2. Facts and circumstances including, but not limited to, an accident, disaster, incident or transactional occurrence which might result in litigation against the district, which are already known to potential plaintiffs, and which must be publicly disclosed before the closed session or specified on the agenda.

3. The receipt of a claim pursuant to the Tort Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.

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

4. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.

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

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

Before holding a closed session pursuant to this section, the 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 Board shall either state the title or specifically

identify the litigation to be discussed or state that doing so would jeopardize the district'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 Board states that to identify the case would jeopardize service of process or existing settlement negotiations. (Government Code 54954.5)

"Anticipated litigation" items shall state that there is significant exposure to litigation pursuant to Government Code 54956.9(b) and shall specify the potential number of cases. When the district 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))

#### JPA/Self-Insurance Liability Claims

Note: The following section applies to districts participating in a joint powers agency for insurance pooling or in a self-insurance authority.

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

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

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

#### Review of Assessment Instruments

The 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 Board shall agree by resolution to accept any terms or conditions established by the State Board of Education for this review.

(Education Code 60617)

(cf. 6162.5 - Student Assessment)

Note: The following optional paragraph provides for compliance with Government Code 54954.2, which requires the agenda to have a brief general description of all closed session items to be discussed. Government Code 54954.5 provides no specific description of agenda items related to closed sessions authorized by the Education Code.

Agenda items related to the review of student assessment instruments shall state that the 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:

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

Bell v. Vista Unified School District, (2001) 82 Cal.App. 4th 672

Fischer v. Los Angeles Unified School District, (1999) 70 Cal.App. 4th 87

Furtado v. Sierra Community College District, (1998) 68 Cal. App. 4th 876

Roberts v. City of Palmdale, (1993) 5 Cal.4th 363

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

ATTORNEY GENERAL OPINIONS

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, 1999

ATTORNEY GENERAL PUBLICATIONS

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

CALIFORNIA CITY ATTORNEY PUBLICATIONS

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

WEB SITES

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

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

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT

adopted: February 12, 2003      Piedmont, California

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9321.1  
**Board Bylaws**

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)

(cf. 9321 - Closed Session Purposes and Agendas)

The Board 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)

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 Board of Education

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

ATTORNEY GENERAL OPINIONS

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

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9322  
**Board Bylaws**

### Agenda Meeting Materials

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

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

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

The agenda shall specify that an individual who requires disability-related accommodations or modifications including auxiliary aids and services in order to participate in the Board meeting should contact the Superintendent or designee in writing two days prior to the meeting.

(cf. 9323 - Meeting Conduct)

### Agenda Preparation

The Superintendent, as Secretary to the Board, in consultation with the Board president, shall prepare the agenda for each regular and special meeting.

(cf. 9121 - President)

(cf. 9122 - Secretary)

Any Board member or the public may request that a matter within the jurisdiction of the Board be placed on the agenda of a regular meeting. The request must be in writing and be submitted to the 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 Board president and Superintendent shall decide whether a request is within the subject matter jurisdiction of the Board. Items not within the subject matter jurisdiction of the Board may not be placed on the agenda. In addition, the Board president and Superintendent shall determine if the item is merely a request for information or whether the issue is covered by an existing policy or administrative regulation before placing the item on the agenda.

The Board president and Superintendent shall decide whether an agenda item is appropriate for discussion in open or closed session, and whether the item should be an action item, informational item or consent item.

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

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

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.2 - Complaints Concerning Instructional Materials)  
(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 1340 - Access to District Records)  
(cf. 3320 - Claims and Actions Against the District)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)

#### Consent Items

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

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

#### Agenda Dissemination

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

When special meetings are called, the Superintendent and president shall make every effort to distribute the agenda and support materials to Board members as soon as possible.

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

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

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

Persons requesting mailing of the agenda or agenda packet shall pay an annual fee as determined by the Superintendent or designee.

Legal Reference:

EDUCATION CODE

35144 Special meetings

35145 Public meetings

35145.5 Right of public to place matters on agenda

GOVERNMENT CODE

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

Management Resources:

CSBA PUBLICATIONS

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

ATTORNEY GENERAL PUBLICATIONS

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

CALIFORNIA CITY ATTORNEY PUBLICATIONS

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WEB SITES

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Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT

adopted: October 13, 1999 Piedmont, California

revised: February 12, 2003

# Piedmont Unified SD

## Board Bylaw

BB 9323  
**Board Bylaws**

Meeting Conduct

Meeting Procedures

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

(cf. 9322 - Agenda/Meeting Materials)

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

(cf. 9121 - President)

Quorum

A majority of the number of filled positions on the Board constitutes a quorum. (Education Code 5095, 35165)

Unless otherwise provided by law, affirmative votes by a majority of all the membership of the Board are required to approve any action under consideration, regardless of the number of members present. (Education Code 35164)

(cf. 9323.2 - Actions by the Board)

Public Participation

Members of the public are encouraged to attend Board meetings and to address the Board concerning any item on the agenda or within the Board's jurisdiction.

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

1. The Board shall give members of the public an opportunity to address the

Board either before or during the Board's consideration of each item of business to be discussed at regular or special meetings. (Education Code 35145.5, Government Code 54954.3)

2. At a time so designated on the agenda, members of the public may bring before the Board, at a regular meeting, matters that are not listed on the agenda. The Board may refer such a matter to the Superintendent or designee 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 Board. (Education Code 35145.5, Government Code 54954.2)

3. Without taking action, Board members or district staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. Additionally, on their own initiative or in response to questions posed by the public, a Board or staff member may ask a question for clarification, make a brief announcement, or make a brief report on his/her own activities. (Government Code 54954.2)

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

4. A person wishing to be heard by the 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 five minutes, and groups shall be allowed ten minutes, to address the Board on each agenda or nonagenda item. With 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.

5. The Board president may rule on the appropriateness of a topic. If the topic would be more suitably addressed at a later time, the president may indicate the time and place when it should be presented.

The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts or omissions. (Government Code 54954.3)

Whenever a member of the public initiates specific complaints or charges against an employee, the Board president shall inform the complainant that in order to protect the employee's right to adequate notice before a hearing of such complaints and charges, and also to preserve the ability of the Board to legally consider the complaints or charges in any subsequent evaluation of the

employee, it is the policy of the Board to hear such complaints or charges in closed session unless otherwise requested by the employee pursuant to Government Code 54957.

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 9321 - Closed Session Purposes and Agendas)

6. The Board president shall not permit any disturbance or willful interruption of Board meetings. Persistent disruption by an individual or group shall be grounds for the chair to terminate the privilege of addressing the Board. The Board may remove disruptive individuals and order the room cleared if necessary; in this case, members of the media not participating in the disturbance shall be allowed to remain, and individual(s) not participating in such disturbances may be allowed to remain at the discretion of the Board. When the room is ordered cleared due to a disturbance, further Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

(cf. 9324 - Minutes and Recordings)

#### Recording by the Public

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

If the Board finds that noise, illumination or obstruction of view related to these activities would persistently disrupt the proceedings, these activities shall be discontinued or restricted as determined by the Board. (Government Code 54953.5, 54953.6)

#### Legal Reference:

##### 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

ATTORNEY GENERAL OPINIONS

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

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

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

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

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

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT

adopted: October 13, 1999 Piedmont, California

# Piedmont Unified SD

## Board Bylaw

BB 9323.2  
**Board Bylaws**

### Actions By The Board

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

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

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

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

(cf. 9320 - Meetings and Notices)

2. The 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 district's attention after the posting of the agenda.

3. The matter was properly posted for a previous meeting occurring not more than five days earlier and was continued to the meeting at which action is being taken.

(cf. 9322 - Agenda/Meeting Materials)

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

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

(cf. 9324 - Minutes and Recordings)

### Challenging Board Actions

Note: Pursuant to Government Code 54960.1, the district attorney's office or any interested person may file a lawsuit to invalidate (e.g., declare null and void) specified Board actions that violate the Brown Act. Such invalidation is limited to provisions of the Brown Act listed in Government Code 54960.1 and specified below. SB 1326 (Ch. 454, Statutes of 2002) amended Government Code 54960.1 to include Board actions taken at emergency meetings to the list of actions that may be invalidated. However, even when the action is normally subject to invalidation, Government Code 54960.1 provides that in certain circumstances (e.g., when there has been substantial compliance with the Brown Act or the Board created a contractual obligation), the action may not be invalidated.

Before seeking court action, the interested person must send a written demand to the Board to "cure or correct" the action as specified below. Because the laws regarding these provisions are complex, it is recommended that the district consult with legal counsel upon receipt of a "cure and correct" demand.

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

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

If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.1)

Any demand to "cure and correct" an alleged violation shall clearly describe the

challenged action and the nature of the alleged violation. (Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct. If the 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 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)

Note: Pursuant to Government Code 54960.1, a demanding party who desires to file a lawsuit must do so within 15 days of receiving the Board's written decision to not cure or correct the challenged action or within 15 days of the expiration of the 30-day Board review period, whichever is earlier.

Government Code 54960 contains authority for the district attorney or any interested person to file a civil action asking the court to order a Board to stop or prevent Brown Act violations, to determine the legal validity of any Board action to penalize or otherwise discourage the expression of one or more of its members, or to compel the Board, under certain circumstances, to tape record its closed sessions.

Pursuant to Government Code 54960.5, a court may award the plaintiff court costs and reasonable attorney's fees if he/she successfully invalidates a Board action in violation of the Brown Act or successfully enforces one of the Brown Act's civil remedies. In addition, a court may award court costs to the district when the district has prevailed and the court finds that the action was clearly frivolous and totally lacking in merit.

Legal Reference:

EDUCATION CODE

15266 School construction bonds

17466 Declaration of intent to sell or lease real property

17481 Lease of property with residence for nondistrict purposes

17510-17511 Resolution requiring unanimous vote of all members constituting board

17546 Private sale of personal property

17556-17561 Dedication of real property

17582 District deferred maintenance fund

17583 Deferred maintenance fund; transfer of excess local funds

35144 Special meeting

35145 Public meetings

35164 Majority vote of all members constituting board for board action  
35165 Vacancies, effect on majority and unanimous vote  
48660 Establishment of community day schools  
48661 School site restrictions for community day schools

#### GOVERNMENT CODE

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

#### PUBLIC CONTRACT CODE

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

#### COURT DECISIONS

Bell v. Vista Unified School District, (2002) 82 Cal.App.4th 672  
Boyle v. City of Redondo Beach, (1999) 70 Cal.App.4th 1109

#### Management Resources:

##### CSBA PUBLICATIONS

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

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##### CALIFORNIA CITY ATTORNEY PUBLICATIONS

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adopted: October 13, 1999 Piedmont, California  
revised: February 12, 2003

# **Piedmont Unified SD**

## **Board Bylaw**

BB 9324  
**Board Bylaws**

### Minutes And Recordings

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

(cf. 9323.2 - Actions by the Board)

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

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

### Recording of Votes

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

### Video or Audio Recording

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

Recordings made during regular or special Board meetings are public records. They shall be kept for at least 30 days and upon request shall be made available for inspection by members of the public on a district recorder without charge. (Government Code 54953.5)

### Legal Reference:

#### **EDUCATION CODE**

35145 Public meetings

35163 Official actions, minutes and journals

35164 Vote requirements

#### **PENAL CODE**

632 Unlawful to intentionally record a confidential communication without

consent of all parties to the communication  
GOVERNMENT CODE  
54957.2 Closed sessions; clerk; minute book  
54960 Violations and remedies

Bylaw PIEDMONT UNIFIED SCHOOL DISTRICT  
adopted: October 13, 1999 Piedmont, California