



Huntington Beach Union High School District Board Policies and Administrative Regulations

BB 9321
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Bylaws of the Board

Closed Sessions

The Governing Board may hold closed sessions for any of the following purposes:

1. To consider "personnel matters," that is, the appointment, employment, evaluation of performance, or dismissal of an employee. The Board shall publicly report any action taken and the roll call vote, either at the public meeting during which the closed session was held or at a subsequent public meeting. The Board may also hold a closed session to hear complaints or charges against an employee, unless the employee requests a public hearing.
2. To meet with the Board's representative for the purpose of considering matters which have been placed in negotiations and instructing the representative as to the Board's position on them. Such closed sessions may be held prior to or during consultations and discussions with employee organization representatives and discussions with unrepresented employees. (Government Code 3549.1, 54957.6)
3. To consider "student personnel matters," that is, suspension or disciplinary action or any other action in connection with any student in the district schools, if a public meeting would lead to giving out information which might violate the student's right of privacy. (Education Codes 35146, 48918, 49073, 49076; Government Code 54957)
4. To meet with a state conciliator or a mediator who has intervened in negotiations proceedings. (Government Codes 3549.1, 54957.6)
5. To hear and consider "security matters" affecting the national security; to discuss with the Attorney General, District or County Counsel, Sheriff or Chief of Police or their deputies, matters threatening district buildings or the public's right of access to district services or facilities. (Government Code 54957)
6. To meet with the Board's attorney within a proper limit of attorney-client privilege.
7. To protect records which are exempt from public disclosure under Government Code 6254 (q.v.).

Closed Sessions (continued)

8. To meet with the Board's representative for negotiations regarding the purchase, sale, exchange or lease of real property in order to give direction to the representative such as the price and terms of the property.

Prior to holding the closed session, the Board shall at a public meeting identify the property(ies) under negotiation and specify the person(s) with whom the negotiator may negotiate.

9. To meet with the Board's legal counsel to confer with or receive advice regarding pending litigation, which, if discussed in open session, would prejudice the Board's position in the case.

Litigation shall be considered pending when any of the following circumstances exist:

- a. An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator, to which the Board is a party, has been initiated formally.
- b. (1) A point has been reached where, in the opinion of the Board on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the district; or
(2) Based on existing facts and circumstances, the Board is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) above.
- c. Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the Board shall state publicly whether the closed session is being held for reasons listed in subdivision (a), (b), or (c) above. If the session is closed pursuant to subdivision (a), the Board shall state the title of or otherwise specifically identify the litigation to be discussed, unless the Board states that to do so would jeopardize the district's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

The legal counsel of the Board shall prepare and submit to the Board a memorandum stating the specific reasons and legal authority for the closed session.

Closed Sessions (continued)

Time and Place of Closed Sessions

1. The Board may adjourn a regular or special public meeting at any time and go into closed session, returning to public session as soon as the closed session is over. (Government Code 54957) No closed session may be held during an emergency special meeting of the Board. (Government Code 54956.5)
2. The Board may hold closed sessions outside of regular or special meetings for negotiation purposes listed below. Notification requirements shall not apply to such sessions. (Government Code 3549.1)
 - a. Discussions between the Board and the recognized employee organization(s).
 - b. Any meeting of a mediator with either the Board or employee organization(s) or both.
 - c. Any hearing, meeting or investigation conducted by a factfinder or arbitrator.
 - d. Discussion of the Board's position on matters within the scope of representation and instruction of the Board's designated representative.

Statement of Purpose for Closed Session

If the Board plans to hold a closed session, the agenda of any regular or special meeting shall state the general reasons for the closed session. In the case of special, adjourned or continued meetings, the statement shall be part of the notice provided for such meetings.

No matters other than those given in the statement shall be discussed or acted upon during the closed session.

When it is determined that a closed session is needed during a regular public Board meeting where no closed session was announced in the agenda, the presiding officer shall publicly announce the reasons(s) before or after the closed session. If no members of the public are present, a statement shall be made after the closed session. (Government Code 54957.7)

Discussions and/or Actions by the Governing Board

1. The Board may discuss any matter contained in the statement of purpose for the closed session at that closed session.

Closed Sessions (continued)

Discussions and/or Actions by the Governing Board (continued)

2. The Board may take action on any matter in the statement of purpose for the closed session.
(cf. 9324.4 - Actions by Board)
3. Any action taken by the Board in respect to employing, appointing or dismissing an employee during a closed session and the roll call vote thereon shall be publicly announced at the public meeting during which the action is taken or at the next public meeting. (Government Code 54957.1)
4. Final action by the Board shall be taken at a public meeting with respect to suspension of, disciplinary action, or any other action in connection with any student of the district. (Education Code 35146)

Legal Reference:

EDUCATION CODE

35145	Public meetings
35146	Closed session (re student suspension)
48918	Rules governing expulsion procedures; hearings and notice
49073	Release of directory information
49076	Access to records by persons without written parental consent (re invasion of privacy)

GOVERNMENT CODE

3543.2	Scope of representation
3549.1	Proceedings exempt from public meetings provisions
6250 et seq.	California Public Records Act
54952.6	Action taken, definition
54956.8	Closed session with negotiator regarding real property
54956.9	Closed session with legal counsel regarding pending legislation
54957	Closed session; purposes for holding; definition of "employee;" exclusion of witnesses
54957.1	Public reports of any action to appoint, employ or dismiss an employee

Legal Reference: (continued)

- 54957.2 Taking of minutes at closed sessions; clerk; minute book
 - 54957.6 Closed session, representatives to employee organization(s); state conciliator
 - 54957.7 Statement of reason(s) for closed session
- Sacramento Newspaper Guild v. Sacramento County Board of Supervisors (1968, 263 Cal.App. 2d 41)

Bylaw adopted
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