

CalAPS BOARD BYLAWS

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Roles in Business and Non-Instructional Operations

Role of the Board of Education

The Board of Education:

1. Approves and adopts the annual budget.
2. Provides for the establishment of necessary procedures to assure proper accounting of receipts, disbursements, and balances.
3. Provides for an annual external audit of funds of the program as required by law.
4. Authorizes expenditures of funds and approves payment of authorized purchases.
5. Conducts all necessary financial operations in connection with all governmental agencies in regard to 'school' buildings and school attendance.
6. Seeks to accrue to the program all available revenue from all appropriate sources.
7. Seeks to promote by state and federal legislation adequate financial support of the program.
8. Requires and considers reports of business transactions of the program and of the financial, condition of the program.

Role of Chief Executive Officer

With the staff, the Chief Executive Officer:

1. Prepares the annual budget and interprets it for the Board.
2. Administers the budget after it is adopted and keeps expenditures within its limits.
3. Provides all possible economies that do not endanger the educational program and its results.
4. Supervises the general business procedures of the program to secure the proper accounting of funds, supplies and equipment.
5. Seeks to secure materials and supplies best suited to the educational needs of the district.
6. Approves all contracts to be entered into by the program or any person on behalf of the program and acts as authorized agent of CalAPS and the Board in contracts between CalAPS and other governmental agencies.
7. Is responsible for recommending an adequate program of insurance in all phases of operation with regard to those prescribed by law.
8. Makes proper reports to the Board, keeping them fully advised as to the financial status of the program and all the implications of the financial aspects of administration.

Working Relationships of Board and Superintendent

The Board in no way wishes to impair its discretionary powers in the management of the financial affairs of the program. The Board recognizes that it may not delegate to employees the final power of budgeting, purchasing and contracting. It therefore desires complete information from the Chief Executive Officer (CEO) and staff on all matters relating to the financial operations of the program. The Board desires the CEO to shape, with the staff, the financial program in accordance with a previously declared intention of the Board to offer the best attainable program of education in CalAPS. The Board desires to be informed whenever the curricular program is at odds with the financial ability of the program. The Board also wishes to give close scrutiny and due consideration to each and every financial operation of CalAPS so that it may fully discharge its legal responsibilities in regard to school finance.

Legal Reference: (see next page)

ROLES IN BUSINESS AND NON-INSTRUCTIONAL OPERATIONS (continued)

BB 3000 (b)

Legal References:

EDUCATION CODE

- 1240 Duties of county superintendent of schools
- 33127-33131 Standards and criteria for local budgets and expenditures
- 35035 Powers and duties of superintendent
- 35161 Powers and duties, generally, of governing boards
- 42103 Public hearing on proposed budget; requirements for content of proposed budget
- 42122-42129 Budget requirements
- 42130-42134 Financial certifications
- 42140-42141 Disclosure of fiscal obligations
- 42602 Use of unbudgeted funds
- 42605 Tier 3 categorical flexibility
- 42610 Appropriation of excess funds and limitation thereon
- 44518-44519.2 Chief business officer training program

GOVERNMENT CODE

- 7900-7914 Appropriations limit

CODE OF REGULATIONS, TITLE 5

- 15060 Standardized account code structure
- 15440-15451 Criteria and standards for school district budgets

Budget

The CalAPS Board recognizes its critical responsibility for adopting a sound budget for each fiscal year which is aligned with the program's vision, goals, and priorities. The CalAPS budget shall guide administrative decisions and actions throughout the year and shall serve as a tool for monitoring the fiscal health of the program.

The program budget shall show a complete plan and statement of all proposed expenditures and all estimated revenues for the following fiscal year, together with a comparison of revenues and expenditures for the current fiscal year.

Budget Development and Adoption Process

The Chief Executive Officer (CEO) or designee shall establish an annual budget development process and calendar in accordance with the single budget adoption process described in Education Code 42127(i). He/she shall annually notify the County Superintendent of Schools of the program's decision to use the single budget adoption process in the subsequent year. In order to provide guidance in the development of the budget, the Board shall annually establish budget priorities based on identified program needs and goals and on realistic projections of available funds.

The CEO or designee shall oversee the preparation of a proposed CalAPS budget for approval by the Board and shall involve appropriate staff in the development of budget projections. The Board encourages public input in the budget development process and shall hold public hearings and meetings in accordance with Education Code 42103 and 42127. The Superintendent or designee may supplement the budget format with additional information as necessary to effectively communicate the budget to the Board, staff, and public.

Budget Criteria and Standards

In developing the CalAPS budget, the CEO or designee shall analyze criteria and standards adopted by the State Board of Education which address estimation projected enrollment, projected revenue, salaries and benefits, other revenues and expenditures, fund balance, and reserves. The budget review shall also identify supplemental information regarding contingent liabilities, use of one-time revenues for ongoing expenditures, contingent revenues, contributions, and any long-term commitments. (Education Code 33127, 33128, 33129; 5 CCR 15440-15451)

The Board may establish other budget assumptions or parameters which may take into consideration the stability of funding sources, legal requirements and constraints on the use of funds, anticipated increases and/or decreases in the cost of services and supplies, categorical program requirements, and any other factors necessary to ensure that the budget is a realistic plan for district revenues and expenditures.

BUSINESS AND NONINSTRUCTIONAL OPERATIONS (continued)

BB 3100 (b)

Legal References:

EDUCATION CODE

1240 Duties of county superintendent of schools
33127-33131 Standards and criteria for local budgets and expenditures
35035 Powers and duties of superintendent
35161 Powers and duties, generally, of governing boards
42103 Public hearing on proposed budget; requirements for content of proposed budget
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42602 Use of unbudgeted funds
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Legal References continued

Legal References continued:

42610 Appropriation of excess funds and limitation thereon
44518-44519.2 Chief business officer training program

GOVERNMENT CODE

7900-7914 Appropriations limit

CODE OF REGULATIONS, TITLE 5

15060 Standardized account code structure
15440-15451 Criteria and standards for school district budgets

BUSINESS AND NONINSTRUCTIONAL OPERATIONS

BB 3260 (a)

Fees and Charges

The CalAPS Board recognizes its responsibility to ensure that books, materials, equipment, supplies, and other resources necessary for students' participation in the educational program are made available to them. No student shall be required to pay any fees, deposits, or other charges for his/her participation in an educational activity which constitutes an integral fundamental part of the CalAPS's educational program, including curricular and extracurricular activities.

- (cf. 1321 - Solicitation of Funds from and by Students)
- (cf. 3100 - Budget)
- (cf. 3290 - Gifts, Grants and Bequests)
- (cf. 6145 - Extracurricular and Curricular Activities)

As necessary, the Board may approve fees, deposits, and other charges which are specifically authorized by law. For such authorized fees, deposits, and charges, the district shall consider students' and parents'/guardians' ability to pay when establishing fee schedules and granting waivers or exceptions.

- (cf. 3250 - Transportation Fees)
- (cf. 3515.4 - Recovery for Property Loss or Damage)
- (cf. 3553 - Free and Reduced Price Meals)
- (cf. 5143 - Insurance)
- (cf. 9323.2 - Actions by the Board)

Whenever a student or parent/guardian believes that an impermissible fee, deposit, or other charge is being required of the student for his/her participation in an educational activity, the student or his/her parent/guardian may file a complaint with the Chief Executive Officer or designee using the participating district's procedures for Uniform Complaint Procedures. (Education Code 49013)

- (cf. 1312.3 - Uniform Complaint Procedures)

The CEO or designee shall include information in the annual notification required by 5 CCR 4622 to be provided to all program students, parents/guardians, employees, and other interested parties about the requirements relating to the prohibition against districts/programs requiring students to pay fees, deposits or other charges in order to participate in an educational activity, unless authorized by law, and the filing of complaints for alleged violations using the uniform complaint procedures. (Education Code 49013)

- (cf. 4112.9/4212.9/4312.9 - Employee Notifications)
- (cf. 5145.6 - Parental Notifications)

The CEO or designee shall provide professional development opportunities to administrators, teachers, and other personnel to learn about permissible fees for students.

Legal Reference:

EDUCATION CODE

8239 Preschool and wraparound child care services
8263 Child care eligibility
8760-8773 Outdoor science and conservation programs
17551 Property fabricated by students
19910-19911 Offenses against libraries
32033 Eye protective devices
32221 Insurance for athletic team member
32390 Fingerprinting program
35330-35332 Excursions and field trips
35335 School camp programs
38080-38085 Cafeteria establishment and use
38120 Use of school band equipment on excursions to foreign countries
39807.5 Payment of transportation costs
39837 Transportation of students to places of summer employment
48050 Residents of adjoining states
48052 Tuition for foreign residents
48904 Liability of parent or guardian
49010-49013 Student fees
49065 Charge for copies
49066 Grades, effect of physical education class apparel
49091.14 Prospectus of school curriculum
51810-51815 Community service classes
52612 Tuition for adult classes
52613 Nonimmigrant aliens
60410 Students in classes for adults

GOVERNMENT CODE

6253 Request for copy; fee

CALIFORNIA CONSTITUTION

Article 9, Section 5 Common school system

CODE OF REGULATIONS, TITLE 5

350 Fees not permitted
4622 Notice

UNITED STATES CODE, TITLE 8

1184 Foreign students

COURT DECISIONS

Driving School Assn of CA v. San Mateo Union HSD (1993) 11 Cal. App. 4th 1513
Arcadia Unified School District V. State Department of Education (1992) 2 Cal 4th 251
Steffes v. California Interscholastic Federation (1986) 176 Cal. App. 3d 739
Hartzell v. Connell (1984) 35 Cal. 3d 899
CTA v. Glendale School District Board of Education (1980) 109 Cal. App. 3d 738

Purchasing Procedures

The duties of purchasing for approval by the CalAPS Board will be in accordance with the following requirements:

1. To serve the best interest of the CalAPS program in all transactions.
2. To obtain the maximum value for each dollar expended.
3. To purchase the proper product for the purpose required, when needed and at the proper quantity.
4. To comply with all applicable provisions of county, state, and federal laws governing purchasing.
5. To establish specifications that are descriptive of materials desired and, whenever possible, sufficiently broad to promote competitive bidding.
6. To attract and develop a group of responsible bidders able to offer the best prices consistent with quality and services.
7. To conduct purchasing in a businesslike manner using the most efficient procedures, records and reports.
8. To purchase without favor or prejudice.
9. To strive constantly for improvement of purchasing methods and of the materials bought.

All purchases shall be made by purchase order or formal contract.

Approval Requirements

When the bidding process is required, approval of the Board shall be obtained. For all other purchasing actions not requiring the bidding process, ratification action shall be sought from the Board.

All purchase order numbers and the total purchase price shall be submitted to the Board, and any action shall be recorded in the official minutes of the Board.

Establishing Operational Procedures

All authorization for managing purchasing shall be vested in the Chief Executive Officer who shall provide for internal procedures for processing purchases.

Quality of Goods and Services

The Board recognizes that many factors must be considered before administrative decisions can be made about the quality of goods and services ordered by CalAPS. It is false economy to save money by purchasing an item which cannot do the job required of it, and it is wasteful to spend more money than necessary to purchase a "quality" item when a less costly item would do the job as well. The Chief Executive Officer and staff are directed to develop an ordering procedure which will, as far as possible, guarantee that goods and services purchased by the program will meet the needs of the person or program ordering them, yet will permit purchasing at the lowest possible cost to the district.

PURCHASING PROCEDURES (continued)

BB 3100 (b)

Legal Reference:

EDUCATION CODE

17604 Delegation of powers to agents; approval or ratification of contracts by governing board

17605 Delegation of authority to purchase supplies and equipment

32370-32376 Recycling paper

32435 Prohibited use of public funds, alcoholic beverages

35010 Control of district; prescription and enforcement of rules

35035 Powers and duties of superintendent

35160 Authority of governing boards

35250 Duty to keep certain records and reports

38083 Purchase of perishable foodstuffs and seasonal commodities

41010 Accounting system

41014 Requirement of budgetary accounting

GOVERNMENT CODE

4330-4334 California made materials

PUBLIC CONTRACT CODE

3410 U.S. produce and processed foods

20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

PURCHASING PROCEDURES

BB 3314 (a)

Payment for Goods and Services

CalAPS must not enter into a contract or pay a bill until it has been approved at a regularly called meeting of the Board of Education. The Board may pay in advance for the following when it will result in a decrease in the cost or when the service cannot be secured without advance payment such as: postage stamps, admission tickets, permits, subscriptions, and equipment maintenance agreements.

Payment for goods and services may be authorized by the Board under the following conditions:

1. Contracted for within budgetary limits.
2. Purchased according to purchasing policies and regulations.
3. Certified by the Chief Executive Officer as having been received in acceptable condition.

Signatures/Facsimiles

All payments made from the funds of this program shall be made by written order of the Board on forms prescribed by the financial institution. Each order must be signed by at least a majority of the members of the Board or by the person or persons authorized by the Board to sign orders in its name. The Board may, upon request of the Chief Executive Officer (CEO), authorize one or more officers or employees of the program to sign orders in the name of the Board.

The Board directs the CEO to file with the financial institution the verified signature of each administrator who is authorized. No order on the funds of the program shall be approved unless the signatures are on file with the financial institution.

Any person authorized by the Board to sign orders in the name of the Board may, after filing with the Secretary of State his/her manual signature certified under oath, use a facsimile signature in lieu of his/her manual signature on any such order.

Purchasing and Returning Goods and Services (Requisitions)

Requisitions for budgeted items shall originate from the key personnel directly responsible for their use. The Chief Executive Officer shall arrange appropriate administrative reviewing channels whereby all requisitions will be examined and approved or disapproved for purchasing. Requisitions will be processed in a manner most beneficial to the overall purposes of the program. The CEO shall establish administrative procedures for returning books, materials, and equipment to vendors.

Legal Reference: (see next page)

PURCHASING PROCEDURES (continued)

BB 3314 (b)

Legal Reference:

EDUCATION CODE

17605 Delegation of authority for purchases
42630-42651 Orders, requisitions and warrants
42800-42806 Revolving cash fund
42810 Alternative revolving
fund 42820 Prepayment funds

CODE OF CIVIL PROCEDURE

685.010 Rate of interest_

GOVERNMENT CODE

16.5 Digital signatures
5500-5506 Uniform Facsimile Signatures of Public Officials Act
8111.2 Definition of public entity

PUBLIC CONTRACT CODE

7107 Retention proceeds; withholding; disbursement
9203 Payment for projects costing over \$5000
20104.50 Timely progress payments

CODE OF REGULATIONS, TITLE 2

22000-22005 Digital signatures

PURCHASING PROCEDURES

BB 3460 (a)

Financial Reports and Accountability

The CalAPS Board is committed to meeting its financial responsibility to the public. The Chief Executive Officer shall be responsible for maintaining the financial records in an auditable form and reporting the financial condition of the program to the Board. The Chief Executive Officer shall prepare, or cause to be prepared, all fiscal reports, maintain records to control adequately the financial transactions of the district, and prepare financial statements.

Interim Financial Reporting

Two fiscal reports shall be prepared under the direction of the Chief Executive Officer(CEO) and submitted to the Board within 45 days after October 31 and January 31. Reports submitted by the CEO or designee shall be judged together with other relevant information on the basis of standards and criteria established by law.

Certification Requirements

The Board shall certify in writing, whether or not the program can meet its financial obligations through the remainder of the fiscal year, within 45 days of the close of the reporting period.

Prior Year Actual Unaudited Financial Records

By September 15, the Chief Executive Officer or designee shall prepare and keep on file, for public inspection a statement of all receipts and expenditures of the program for the preceding fiscal year and the estimated total income and expenditures for the program for the current fiscal year.

Operational Procedures

The Chief Executive Officer shall file all fiscal reports with the county, state or federal agencies, as required.

Legal Reference: (see next page)

PURCHASING PROCEEDURES (continued)

BB 3460 (b)

Legal Reference:

EDUCATION CODE

1240 Duties of County superintendent of schools
14500-14508 Financial and compliance audits
17150-17150.1 Public disclosure of non-voter-approved debt
17170-17199.5 California School Finance Authority
33127 Standards and criteria for local budgets and expenditures
33128 Standards and criteria; inclusions
33129 Standards and criteria; use by local agencies
35035 Powers and duties of superintendent
41010-41023 Accounting system
41326 Emergency apportionment
41344 Repayment of apportionment significant audit exceptions
41344.1 Appeals of audit findings
41455 Examination of financial problems of local districts
42100-42105 Requirement to prepare and file annual statement
42120-42129 Budget requirements
42130-42134 Financial reports and certifications
42140-42142 Public disclosure of fiscal obligations
42637 County Superintendent review of district's financial and budgetary conditions
42652 Revocation or suspension of warrant authority
48300-48316 Student attendance alternatives

GOVERNMENT CODE

3540.2 School district; qualified or negative certification; proposed agreement review and comment
7900-7914 Appropriations limit
16429.1 Local agency investment fund
53646 Reports of investment policy and compliance

CODE OF REGULATIONS, TITLE 5

15060 Standardized account code structure
15070 Submission of reports using standardized account code structure
15440-15451 Criteria and standards for school district budgets
15453-15464 Criteria and standards for school district interim reports
19810-19816.1 Audits

Consultants

The CalAPS Board authorizes the use of consultants to provide expert professional advice or specialized technical or training services which are not needed on a continuing basis and which cannot be provided by program staff because of limitations of time, experience or knowledge. Individuals, firms or organizations employed as consultants may assist management with decisions and/or project development related to financial, economic, accounting, engineering, legal, administrative, instructional or other matters. As part of the contract process, the Chief Executive Officer (CEO) or designee shall determine, in accordance with Internal Revenue Service guidelines, that the consultant is properly classified as an independent contractor.

Program employees who perform extra-duty consultant services shall not be retained as independent contractors. They shall be considered employees for all purposes, even if the additional services are not related to their regular duties. All consultant contracts shall be brought to the Board for approval.

CalAPS shall not contract for consulting services that can be performed without charge by a public agency or official unless these services are unavailable from the public source for reasons beyond the program's control.

All qualified firms or resource persons shall be accorded equal opportunity for consultant contracts regardless of race, creed, color, gender, national or ethnic origin, age or disability. Independent contractors applying for a consultant contract shall submit a written conflict of interest statement disclosing financial interests as determined necessary by the CEO or designee, depending on the range of duties to be performed by the consultant. The CEO or designee shall consider this statement when deciding whether to recommend the consultant's employment. *-

When employees of a public university, county office of education or other public agency serve as consultant or resource persons for the program, they shall certify as part of the consultant agreement that they will not receive salary or remuneration other than vacation pay from any other public agency for the specific days when they work for CalAPS.

Legal Reference:

EDUCATION CODE

10400-10407 Cooperative improvement programs

17596 Limit on continuing contracts

35010 Control of districts; prescription and enforcement of rules

35172 Promotional activities

35204 Contract with attorney

44925 Part-time readers employed as independent contractors

45103 Classified service in districts not incorporating the merit system

45103.5 Contracts for food service consulting services

45134-45135 Employment of retired classified employee

45256 Merit system districts; classified service; positions established for professional experts on a temporary basis

GOVERNMENT CODE

53060 Contract for special services and advice

BOARD BYLAWS

BB 4111(a)

PERSONNEL

Recruitment and Selection

The CalAPS Board is committed to employing suitable, qualified individuals to carry out the program's mission to provide high-quality education to its students and to ensure the efficient running of a CTE program.

The Chief Executive Officer (CEO) shall develop fair, open, and transparent recruitment and selection processes and procedures which ensure that employees are selected based on demonstrated knowledge, skills, and competence and not on any bias, personal preference, or unlawful discrimination.

When a vacancy occurs the CEO or designee shall review the assignment and disseminate job announcements to ensure a wide range of candidates may be reviewed for the position. The program's selection procedures shall include screening processes, interviews, and recommendations from previous employers as necessary to identify the best possible candidate for a position. The CEO or designee may establish an interview committee, as appropriate, to rank candidates and recommend finalists. All discussions and recommendations shall be confidential in accordance with law.

During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. No inquiry shall be made with regard to any category of discrimination prohibited by state or federal law. For each position, the CEO or designee shall present to the Board one candidate who meets all qualifications established by law and the Board for the position. No person shall be employed by the Board without the recommendation or endorsement of the CEO or designee.

Selection and Employment

The CalAPS Board shall employ personnel on the recommendation of the Chief Executive Officer. In order to meet the immediate needs of the district, the CEO may employ personnel subject to subsequent approval by the Board. The CEO shall develop the necessary procedures and forms to facilitate the selection and employment of all personnel according to Board policy and state and federal regulations.

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination
44066 Limitations on certification requirement
44259 Teaching credential; exception; designated subjects; minimum requirements
44735 Incentive grants for recruiting teachers for low-performing schools
44740-44741 Personnel management assistance teams
44750 Teacher recruitment resource center
44830-44831 Employment of certificated persons
44858 Age or marital status in certificated positions
44859 Prohibition against certain rules and regulations re residency
45103-45139 Employment (classified employees)
49406 Examination for tuberculosis
52051 Academic Performance Index

GOVERNMENT CODE

815.2 Liability of public entities and public employees
12900-12996 Fair Employment and Housing Act, including:
12940-12956 Discrimination prohibited; unlawful practices

UNITED STATES CODE, TITLE 8

1324a Unlawful employment of aliens
1324b Unfair immigration related practices

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964
2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended
2000h-2-2000h-6 Title IX, 1972 Education Act Amendments
12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

COURT DECISIONS

C.A. v William S. Hart Union High School District et al., (2012) 138 Cal.Rptr.3d 1

Personnel

HEALTH REQUIREMENTS

Physical Examination

The submission of a physical examination report shall be required for initial employment of all certificated candidates at the time of employment. The cost of the examination is to be borne by the candidate. The CalAPS Board may require staff members to have a physical examination at any time. If such an exam is required by the program, the cost of said exam shall be borne by the program.

CalAPS employees may be required to provide the program with a physician's release after three or more absences. The district reserves the right to require employees to submit to a physical examination by a physician of the district's choice, at district expense when conditions warrant such an examination.

Chest X-Ray or Mantoux Test

An examination to check for active tuberculosis shall be provided by employees at the time of initial employment and each four years thereafter. The expense of the check shall be borne by the employee. Under normal conditions, the program will request that employees have a Mantoux test. If the test is positive, a chest X-ray shall be scheduled. The report of the tuberculosis exam must be on file in the employee's personnel file

Personnel**PRE-EMPLOYMENT - CONTROLLED SUBSTANCES**

In order to promote and maintain a safe, healthy, cooperative, and quality workplace and environment for CalAPS students, employees, and visitors, the CalAPS Board finds, as a valid reason not to employ any person, under the use of any mind altering drug which could diminish the person's ability to perform at 100 percent of his/her capabilities or contain the presence of any such drug in the person's body.

CalAPS shall take all necessary steps to preclude from employment applicants who fail to satisfactorily pass a screening test for illegal or controlled substance. (The word screening used herein shall mean screening for illegal controlled substances.) Illegal substances are those substances of which the sale or possession is unlawful. Controlled substances are defined as all substances requiring the prescription of a licensed physician in order to be obtained.

Pre-employment screening shall apply to any candidate finalist. Persons who submit applications for employment will not be required to undergo screening against their will; however, those applicants who refuse to accept screening as a part of the pre-employment process will NOT be considered for employment.

Job applicants using prescription drugs, who are under the care of a licensed physician, shall so state on the screening release form. Those applicants shall be required to submit the name of their physician to the personnel officer, should screening results be positive. Such applicants will be cleared for employment upon certification by the attending physician that use of prescription drug(s) will not affect the applicant's ability to perform identified job duties.

All candidate finalists testing positive for an illegal or controlled substance may, upon written requests, be provided a follow-up screening test. This test will be conducted within five working days from the date of the positive result of the first test. Results of the second screening test will determine if the pre-employment requirements have or have not been met. All physical examinations and screening tests required by this policy shall be at the expense of CalAPS.

Legal Reference:

Drug-Free Workplace Act of 1988 Public Law
100-690, Title V, Subtitle D

Personnel

Compensation and Benefits

Salary Schedules

Salary schedules adopted by the CalAPS Board shall determine the compensation for all district personnel. The Board, in accordance with the provisions of the Education Code, shall consider salary recommendations before adopting any salary schedule.

Paydays

Certificated employees shall be paid on the ~~fifth~~ first working day of each calendar month. Regular classified salaried employees shall be paid on the ~~fifth 10th and 25th~~ of each month except if they fall on a weekend or holiday. In such cases, payment shall be made on the workday prior to the ~~fifth 10th or 25th~~. Compensation for overtime shall be added to each paycheck. ~~of the 10th~~. Classified hourly shall be paid on the ~~fifth 10th~~ of each month or the workday prior to the ~~fifth 10th~~ if the ~~fifth 10th~~ falls on a weekend or holiday.

Full time certificated employees in the CalAPS program shall receive 10 equal paychecks beginning with October 1 of each school year. Certificated salaried employees with 11 or 12 month assignments shall be paid on the first working day of the month beginning on August 1st of each fiscal year.

STUDENTS**Absences and Excuses**

The Board believes that regular attendance plays an important role in student achievement. The Board shall work with parents/guardians and students to ensure their compliance with all state attendance laws, and may use appropriate legal means to correct problems of chronic absence or truancy.

Excused Absences

Absence from school shall be excused only for health reasons, family emergencies, and justifiable personal reasons, as permitted by law, Board policy, and administrative regulations. (Education Code 48205) Inasmuch as class participation is an integral part of students' learning experiences, parents/guardians and students shall be encouraged to schedule medical appointments during non-school hours.

Students shall not be absent from school without their parents' /guardians' knowledge or consent except in cases of medical emergency or confidential medical appointment. Student absence for religious instruction or participation in religious exercises away from school property may be considered excused subject to law and administrative regulations. (Education Code 46014)

Effect of Absence on Grades/Credits

If a student's absence is excused under Education Code 48205, he/she shall be allowed to complete any missed assignment or test that can be reasonably given, as determined by the teacher of that class. The student shall be given full credit for the assignment or test if he/she satisfactorily completes the assignment or test within a reasonable period of time. (Education Code 48205) A student's grades may be affected by excessive unexcused absences in accordance with Board policy.

Legal Reference:

EDUCATION CODE

- 1740 Employment of personnel to supervise attendance (county superintendent)
- 2550-2558.6 Computation of revenue limits
- 37201 School month
- 37223 Weekend classes
- 41601 Reports of average daily attendance
- 42238-42250.1 Apportionments
- 46000 Records (attendance)
- 46010-46014 Absences
- 46100-46119 Attendance in kindergarten and elementary schools
- 46140-46147 Attendance in junior high and high schools
- 48200-48208 Children ages 6-18 (compulsory full-time attendance)
- 48210-48216 Exclusions from attendance
- 48240-48246 Supervisors of attendance
- 48260-48273 Truants
- 48292 Filing complaint against parent
- 48320-48324 School attendance review boards
- 48340-48341 Improvement of student attendance
- 49067 Unexcused absences as cause of failing grade
- 49701 Provisions of the interstate compact on educational opportunities for military children

STUDENTS**Students' Grades/Evaluation of Student Achievement**

The CalAPS Board believes that grades serve a valuable instructional purpose by helping students and parents /guardians identify the student's areas of strength and those areas needing improvement. Parents/guardians and students have the right to receive course grades that represent an accurate evaluation of the student's achievement.

Teachers shall evaluate a student's work in relation to standards which apply to all students at his/her grade level, not in relation to the work of other students in one particular class. The Chief Executive Officer or designee shall establish and regularly evaluate a uniform grading system, and shall ensure that student grades conform to this system. Teachers shall inform students and parents/guardians how student achievement will be evaluated in the classroom.

Grades should be based on impartial, consistent observation of the quality of the student's work and his/her mastery of course standards. Students shall have the opportunity to demonstrate this mastery through a variety of channels such as classroom participation, standardized and teacher made tests, projects, presentations, portfolios, and homework.

When reporting student grades to parents/guardians, teachers may add narrative descriptions and observational notes in order to better describe student progress in specific skills and subcategories of achievement.

Legal Reference:EDUCATION CODE

41505-41508 Pupil Retention Block Grant

48070 Promotion and retention

48205 Excused absences

48800-48802 Enrollment of gifted students in community

college 48904-48904.3 Withholding grades, diplomas, or

transcripts 49066 Grades; finalization; physical education class

49067 Mandated regulations regarding student's achievement

49069.5 Students in foster care, grades and credits

51242 Exemption from physical education based on participation in interscholastic athletics

76000-76002 Enrollment in community college

CODE OF REGULATIONS, TITLE 5

10060 Criteria for reporting physical education achievement, high schools

30008 Definition of high school grade point average for student aid eligibility

UNITED STATES CODE, TITLE 20

1232g Family Education Rights and Privacy Act (FERPA)

6101-6251 School-to-Work Opportunities Act of 1994

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy Act

COURT DECISIONS

Owasso Independent School District v. Falvo, (2002) 534 U.S. 426

Las Virgenes Educators Association v. Las Virgenes Unified School District, (2001) 86 Cal.App.4th 1

Swany v. San Ramon Valley Unified School District, (1989) 720 F.Supp. 764

Johnson v. Santa Monica-Malibu Unified School District Board of Education, (1986) 179 Cal.App.3d 593

STUDENTS**Conduct**

The CalAPS Board believes that all students have the right to be educated in a positive learning environment free from disruptions. Students shall be expected to exhibit appropriate conduct that does not infringe upon the rights of others or interfere with the school program while on school grounds, going to or coming from school, at school activities, or using district transportation.

The Chief Executive Officer (CEO) or designee shall ensure that standards of conduct and discipline consistent with Board policies and administrative regulations. Students and parents/guardians shall be notified of district and school rules related to conduct. Prohibited student conduct includes, but is not limited to:

1. Conduct that endangers students, staff, or others, including, but not limited to, physical violence, possession of a firearm or other weapon, and terrorist threats.
2. Discrimination, harassment, intimidation, or bullying of students or staff, including sexual harassment, hate-motivated behavior, cyberbullying, hazing or initiation activity, extortion, or any other verbal, written, or physical conduct that causes or threatens to cause violence, bodily harm, or substantial disruption.
3. Conduct that disrupts the orderly classroom or school environment.
4. Willful defiance of staff's authority.
5. Damage to or theft of property belonging to students, staff, or the program.
6. CalAPS shall not be responsible for students' personal belongings which are brought on campus or to a school activity and are lost, stolen, or damaged.
7. Obscene acts or use of profane, vulgar, or abusive language.
8. Possession, use, or being under the influence of tobacco, alcohol, or other prohibited drugs.
9. Possession or use of a laser pointer, unless for a valid instructional or other school-related purpose. (Penal Code 417.27)
10. Prior to bringing a laser pointer on school premises for a valid instructional or school-related purpose, a student shall obtain permission from the site principal or designee.
11. Use of a cellular/digital telephone, pager, or other mobile communications device during instructional time unless authorized by staff. Any device with camera, video, or voice recording function shall not be used in any manner which infringes on the privacy rights of any other person.
12. No student shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician or surgeon to be essential for the student's health and the use of which is limited to purposes related to the student's health.
13. Plagiarism or dishonesty on school work or tests.
14. Inappropriate attire.
15. Tardiness or unexcused absence from school.
16. Failure to remain on school premises in accordance with school rules.

Employees are expected to provide appropriate supervision to enforce standards of conduct and, if they observe or receive a report of a violation of these standards, to immediately intervene or call for assistance. If an employee believes a matter has not been resolved, he/she shall refer the matter to his/her supervisor or an administrator for further investigation.

When a student uses any prohibited device, or uses a permitted device in any unethical or illegal activity, a district employee may confiscate the device. The employee shall store the item in a secure manner until an appropriate time.

Students who violate CalAPS rules and regulations may be subject to discipline including, but not limited to, suspension or expulsion from the program, or denial of participation in activities. The CEO or designee shall notify local law enforcement as appropriate.

BOARD BYLAWS (continued)
STUDENTS CONDUCT

BB 5131 (b)

Students also may be subject to discipline, in accordance with law, Board policy, or administrative regulation, for any off-campus conduct during non-school hours which poses a threat or danger to the safety of students, staff, or program property, or substantially disrupts program activities.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination
32280-32289 Comprehensive safety plan
35181 Governing board authority to set policy on responsibilities of students
35291-35291.5 Rules
44807 Duty concerning conduct of students
48900-48925 Suspension and expulsion
51512 Prohibition against electronic listening or recording device in classroom without permission

CIVIL CODE

1714.1 Liability of parents and guardians for willful misconduct of minor

PENAL CODE

288.2 Harmful matter with intent to seduce
313 Harmful matter
417.25-417.27 Laser scope or laser pointer
647 Use of camera or other instrument to invade person's privacy; misdemeanor
653.2 Electronic communication devices, threats to safety.

VEHICLE CODE

23123-23124 Prohibitions against use of electronic devices while driving

CODE OF REGULATIONS, TITLE 5

300-307 Duties of students

UNITED STATES CODE, TITLE 42

2000h-2000h6 Title IX, 1972 Education Act

Amendments COURT DECISIONS

J.C. v. Beverly Hills Unified School District, (2010) 711 F.Supp.2d 1094
LaVine v. Blaine School District, (2000, 9th Cir.) 257 F.3d 981
Emmett v. Kent School District No. 415, (2000) 92 F.Supp. 1088
Bethel School District No. 403 v. Fraser, (1986) 478 U.S. 675
New Jersey v. T.L.O., (1985) 469 U.S. 325
Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503

Students**STUDENT ACCIDENTS**

Although every reasonable effort is made by the CalAPS program to prevent accidents to students, it is inevitable that accidents will occur.

Administrative Procedures

The Chief Executive Officer or designee shall develop regulations and procedures which will make sure that prompt will be taken to minimize the effects of the injury, to provide first aid and/or medical attention as quickly as possible, to notify parents/guardians of the accident as quickly as possible, and to take whatever other steps are deemed necessary in the interest of the student.

Accident Report

A complete accident report shall be made by the certificated staff member under whose supervision the accident occurs, or by the health assistant.

Student Accident Insurance - Operational Procedures

CalAPS is not permitted by law to provide health and/or accident insurance for students but shall annually select a carrier with whom parents may directly insure students. The choice of the carrier shall be coordinated by the Chief Executive Officer or designee who shall staff with appropriate notices for parents.

Legal Reference:

EDUCATION CODE

32040-32044 First aid equipment

49300-49307 School safety patrols

49408 Emergency information

49409 Athletic events; physicians and surgeons; emergency medical care; immunity

49470 Medical and hospital services for athletic program

49471 Medical and hospital services not provided or available

49472 Medical and hospital services for pupils

49474 Ambulance services

51202 Instruction in personal and public health and safety

CODE OF REGULATIONS, TITLE 8

5193 California Bloodborne Pathogens Standard

Students**CHILD ABUSE REPORTING**

The CalAPS Board recognizes that child abuse has severe consequences and that the program has a responsibility to protect students by facilitating the prompt reporting of known and suspected incidents of child abuse. The Chief Executive Officer (CEO) or designee shall establish procedures for the identification and reporting of such incidents in accordance with law. Employees who are mandated reporters, as defined by law and administrative regulation, are obligated to report all known or suspected incidents of child abuse and neglect. Mandated reporters shall not investigate any suspected incidents but rather shall cooperate with agencies responsible for investigating and prosecuting cases of child abuse and neglect. The CEO or designee shall provide training regarding the reporting duties of mandated reporters.

In the event that training is not provided to mandated reporters, CEO or designee shall report to the California Department of Education the reasons that such training is not provided. (Penal Code 11165.7)

Legal Reference:

EDUCATION CODE

32280-32288 Comprehensive school safety plans
33308.1 Guidelines on procedure for filing child abuse complaints
44690-44691 Staff development in the detection of child abuse and neglect
44807 Duty concerning conduct of students
48906 Notification when student released to peace officer
48987 Dissemination of reporting guidelines to parents
49001 Prohibition of corporal punishment
51220.5 Parenting skills education

PENAL CODE

152.3 Duty to report murder, rape, or lewd or lascivious act
273a Willful cruelty or unjustifiable punishment of child; endangering life or health
288 Definition of lewd or lascivious act requiring reporting
11164-11174.4 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

15630-15637 Dependent adult abuse reporting

CODE OF REGULATIONS, TITLE 5

4650 Filing complaints with CDE, special education students

NONDISCRIMINATION/HARASSMENT
Students

BP 5145.3(a)

The Board of Education desires to provide a safe school environment that allows all students equal access and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board Prohibits, at any district school or school activity, unlawful discrimination, harassment, intimidation, and bullying targeted at any student by anyone, based on the student's actual or perceived race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, pregnancy status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, genetic information, immigration status or medical information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

This policy shall apply to all acts related to school activity or to school attendance occurring within a district school, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school. Prohibited discrimination, harassment, intimidation, or bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above.

Unlawful discrimination also includes the creation of a hostile environment through prohibited conduct that is so severe and pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities. Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

The Board also prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of or investigates or participates in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as discrimination complaints.

The Superintendent or designee shall provide age-appropriate information to students, community, and employees regarding discrimination, harassment, intimidation, and bullying, including, but not limited to, the district's nondiscrimination policy, what constitutes prohibited behavior how to report incidents, and to whom such reports should be made. The Superintendent or designee shall regularly review the implementation of the district's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the district's educational program. He/she shall report his/her findings and recommendations to the Board after each review.

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students. Students who engage in discrimination, harassment, intimidation, bullying, or retaliation in violation of law, Board policy, or administrative regulation shall be subject to appropriate discipline, up to and including counseling, suspension, and/or expulsion when the behavior is severe or pervasive as defined in Education Code 48900.4.

Any employee who permits or engages in prohibited discrimination, harassment, intimidation, bullying, or retaliation shall be subject to disciplinary action, up to and including dismissal.

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to enable the district to monitor, address, and prevent repetitive prohibited behavior in district schools.

Legal Reference:

EDUCATION CODE

- 200-262.4 Prohibition of discrimination
- 48900.3 Suspension or expulsion for act of hate violence
- 48900.4 Suspension or expulsion for threats or harassment
- 48904 Liability of parent/guardian for willful student misconduct
- 48907 Student exercise of free speech
- 48950 Freedom of speech
- 48985 Translation of notices
- 49020-49023 Athletic programs
- 51500 Prohibited instruction or activity
- 51501 Prohibited means of instruction
- 60044 Prohibited instructional materials

CIVIL CODE

- 1714.1 Liability of parents/guardians for willful misconduct of minor

PENAL CODE

- 422.55 Definition of hate crime
- 422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

- 432 Student record
- 4600-4687 Uniform complaint procedures
- 4900-4965 Nondiscrimination in elementary and secondary education programs Legal Reference continued:
(see next page)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 201681-1688

Title IX of the Education Amendments of 197212101-12213

Title II equal opportunity for individuals with disabilities

UNITED STATES CODE, TITLE 29794

Section 504 of Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 422000d-2000e-17

Title VI and Title VII Civil Rights Act of 1964, as amended 2000h-2-2000h-6

Title IX of the Civil Rights Act of 19646101-6107

Age Discrimination Act of 1975

CODE OF FEDERAL REGULATIONS, TITLE 2835.107

Nondiscrimination on basis of disability; complaints

CODE OF FEDERAL REGULATIONS, TITLE 3499.31

Disclosure of personally identifiable information100.3

Prohibition of discrimination on basis of race, color or national origin104.7

Designation of responsible employee for Section 504106.8

Designation of responsible employee for Title IX106.9

Notification of nondiscrimination on basis of sex

The Governing Board believes that the diversity that exists among the program's community of students, staff, parents/guardians, and community members is integral to the program's vision, mission, and goals. Addressing the needs of the most marginalized learners requires recognition of the inherent value of diversity and acknowledgement that educational excellence requires a commitment to equity in the opportunities provided to students and the resulting outcomes.

To ensure that equity is the intentional result of program decisions, the Board shall consider whether its decisions address the needs of students from racial, ethnic, disability and indigent communities and remedy the inequities that such communities experienced in the context of a history of exclusion, discrimination, and segregation. Board decisions shall not rely on biased or stereotypical assumptions about any particular group of students.

The program shall proactively identify practices, policies, and institutional barriers that negatively influence student learning, perpetuate achievement gaps, and impede equal access to opportunities for all students.

The Board and the CEO or designee shall develop and implement policies and strategies to promote equity in programs and activities, through measures such as the following:

1. Routinely assessing student needs based on data disaggregated by race, ethnicity, and socio-economic and cultural backgrounds in order to enable equity-focused policy, planning, and resource development decisions
2. Enabling and encouraging students to enroll and participate in CalAPS courses and activates especially for the nontraditional students in carious pathway courses
3. Building a positive school climate that promotes student engagement, safety, and academic and other supports for students
4. Providing and/or collaborating with local agencies and community groups to ensure the availability of necessary support services for students in need
5. Providing program staff with ongoing, researched-based, professional learning and professional development on culturally responsive instructional practices

The Board and CEO shall regularly monitor the intent and impact of program policies and decisions in order to safeguard against disproportionate or unintentional impact on access to programs and achievement goals for specific student populations in need of services.

Legal Reference:

EDUCATION CODE:

200-262.4 Educational equity

52077 Local Control and accountability plan

60040 Selection of instructional materials

GOVERNMENT CODE

11000 Definition

11135 Nondiscrimination in programs or activities funded by state

PENAL CODE

422.55 Definition of hate crime

422.6 Interference with constitutional right or privilege

CODE OF REGULATION, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities in Education Act

1681-1688 Discrimination based on sex or blindness, Title IX

2301-2414 Strengthening Career and Technical Education for the 21st Century Act

6311 State plans

6312 Local education agency plans

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964

2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended

2000h-2000h-6 Title IX

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

36.303 Auxiliary aids and services

CODE OF FEDERAL REGULATIONS, TITLE 34

100.1-100.13 Nondiscrimination in federal programs, effectuating Title VI

104.1-104.39 Section 504 of the Rehabilitation Act of 1973

106.1-106.61 Discrimination on the basis of sex, effectuating Title IX

Instruction**CAREER TECHNICAL EDUCATION**

The CalAPS Board desires to provide a comprehensive career technical education (CTE) program for students which integrate core academic instruction with technical and occupational instruction in order to increase student achievement, graduation rates, and readiness for postsecondary education and employment. CalAPS' CTE program shall be designed to help students develop the academic, career, and technical skills needed to succeed in a knowledge- and skills-based economy. The program shall include a rigorous academic component and provide students with a strong experience and understanding of all aspects of an industry.

CalAPS shall focus on preparing students to enter current or emerging high-skill, high-wage, and/or high-demand occupations. CTE opportunities may be offered through linked learning programs, partnership academies, apprenticeship programs or orientation to apprenticeships, regional occupational centers or programs, tech prep programs, small learning communities, or other programs that expose students to career options while preparing them for future careers in a given industry or interest area.

The Board shall review and approve all program plans and applications for the use of state and/or federal funds supporting CTE. The Board shall adopt district standards for CTE which meet or exceed the state's model content standards and describe the essential knowledge and skills that students enrolled in these courses are expected to master. The course curriculum shall be aligned with state adopted standards and the state's curriculum framework.

At least every three years, the Chief Executive Officer (CEO) or designee shall compare the program's curriculum, course content, and course sequence of CTE with the model state curriculum standards. (Education Code 52376) The CEO or designee shall systematically review the program's CTE classes to determine the degree to which each class may offer an alternative means for completing and receiving credit for specific portions of the course of study prescribed by the participating districts for high school graduation. The Board shall ensure that these classes are equivalent in content and rigor to the courses prescribed for graduation. (Education Code 52376)

The CEP or designee may develop partnerships with local businesses and industries to ensure that course sequences, career technical and integrated curriculum, classroom instruction and projects, and assessments have real-world relevance and reflect labor market needs and priorities. He/she also may work to develop connections with businesses, postsecondary institutions, community organizations, and/or other employers to provide students with actual or simulated work-based learning opportunities.

The CEO or designee may collaborate with postsecondary institutions to ensure that the district's program is articulated with postsecondary programs in order to provide a sequential course of study. Articulation opportunities may include dual or concurrent enrollment in community college courses. The CEO or designee may create a process to inform all secondary students and their parents/guardians about the CTE experiences available, CTE courses that satisfy college admission criteria, and, if applicable, CTE courses that satisfy high school graduation requirements. In addition, secondary students may receive individualized career guidance and academic counseling which provides information about academic and CTE opportunities related to the student's career goals.

The CEO or designee shall ensure that teachers of CTE courses possess the qualifications and credentials necessary to teach their assigned courses. He/she also shall provide teachers and administrators with professional development designed to enhance their knowledge of standards-aligned CTE and shall provide opportunities for CTE teachers to collaborate with teachers of academic courses in the development and implementation of integrated curriculum models.

Nondiscrimination

The CalAPS Board desires to provide a safe school environment that allows all students equal access and opportunities in the program's academic and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, harassment, intimidation, and bullying of any student based on the student's actual race, color, ancestry, national origin, ethnic group identification, age,

Instruction

religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

Prior to the beginning of each school year, the CEO or designee may advise students, parents/guardians, employees, and the general public that all CTE opportunities are offered without regard to any actual or perceived characteristic protected from discrimination by law. (34 CFR 100.B, 104.8, 106.9)

School and Community Involvement

CalAPS may also involve parents/guardians; students; academic and CTE teachers; administrators; career guidance and academic counselors; representatives of tech prep consortia if applicable, business and industry, labor organizations, and special populations; and other interested individuals in the development, implementation, and evaluation of CTE programs. (20 USC 2354)

Program Evaluation

The Board may consider to monitor the achievement of students participating in the CalAPS CTE program in order to determine the need for program improvements. The CEO or designee may annually report to the Board and the California Department of Education on program enrollment and completion rates, including enrollment and completion of programs in nontraditional fields as defined in 20 USC 2302; student academic assessment results; attainment of career and technical skill proficiencies; attainment of a high school diploma or equivalent; graduation rates; and subsequent placement in postsecondary education or advanced training, military service, or employment. Data shall be disaggregated, in accordance with 20 USC 2323, by race, ethnicity, gender, disability status, migrant status, English proficiency, and economic disadvantage status and for each special population as defined in 20 USC 2302 and listed in the section "Nondiscrimination" above.

Legal Reference:EDUCATION CODE

1205 Classification of counties

8006-8155 Career technical education

17078.70-17078.72 Career technical education facilities

33430-33432 Health science and medical technology grants

35168 Inventory of equipment

41505-41508 Pupil Retention Block Grant

41540-41544 Targeted instructional improvement block grant

44257.3 CTC recognition of study in linked learning teaching methods

44260-44260.1 Designated subjects career technical education credential

44260.9 Designated subjects career technical education credential

48430 Legislative intent; continuation education schools and classes

48980 Parental notifications

51220-51229 Courses of study, grades 7-12

51760-51769.5 Work experience education

52300-52499.66 Career technical education

52519-52520 Adult education, occupational training

53080-53084 School-to-career initiatives

53086 California Career Resource Network

54690-54699.1 California Partnership Academies

54750-54760 California Partnership Academies, green technology and goods movement occupations

Instruction

56363 Related services for students with disabilities; specially designed career technical education
66205.5-66205.9 Approval of career technical education courses for admission to California colleges
88500-88551 Community college economic and workforce development program

Role of The Board

Board members have been appointed from the governing boards of participating districts. Board members provide leadership and citizen oversight to the district. The Board shall ensure that the district is responsive to the values, beliefs, and priorities of the communities it serves.

The Board shall work with the Chief Executive Officer to fulfill its major responsibilities, which include:

Setting the direction for the program through a process that involves the community, parents/guardians, students, and staff and is focused on student learning and achievement

1. Establishing an effective and efficient organizational structure for the program by:
 - a. Employing the Chief Executive Officer and setting policy for hiring of other personnel
 - b. Overseeing the development and adoption of policies
 - c. Establishing academic expectations and adopting the curriculum and instructional materials
 - d. Establishing budget priorities and adopting the budget
 - e. Providing safe, adequate facilities that support the program
2. Providing support to the Chief Executive Officer and staff as they carry out the Board's direction by:
 - a. Establishing and adhering to standards of responsible governance
 - b. Making decisions and providing resources that support program priorities and goals
 - c. Upholding Board policies
 - d. Being knowledgeable about programs and efforts in order to serve as effective spokespersons
3. Ensuring accountability to the public for the performance of the programs by:
 - a. Evaluating the Chief Executive Officer and setting policy for the evaluation of other personnel
 - b. Monitoring and evaluating the effectiveness of policies
 - c. Serving as a judicial (hearing) and appeals body in accordance with law, Board policies, and negotiated agreements
 - d. Monitoring student achievement and program effectiveness and requiring program changes as necessary
 - e. Monitoring and adjusting district finances
 - f. Monitoring the collective bargaining process if such exist within CalAPS structure
4. Providing community leadership and advocacy on behalf of students, the program, and public education in order to build support within the local community and at the state and national levels

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)

Legal Reference:**EDUCATION CODE**

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

Public Statements

The Board 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 CalAPS.

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 Chief Executive Officer or other designated representative.

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

GOVERNMENT CODE

54960 Actions to stop or prevent violation of meeting provisions

Disclosure of Confidential/Privileged Information

The Board 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.

Disclosure of Closed Session Information

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)

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
4. Other Disclosure - A Board member shall not disclose, for economic 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)

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:

Open meeting laws

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

Public records

Closed session; representatives with employee organization

Reasons for closed session

Legal References: (Continued)

54963 Confidential information in closed session
ATTORNEY GENERAL OPINIONS
80 Ops.Cal.Atty.Gen. 231 (1997)

BOARD BYLAWS

BB 9100

Organization

Annual Organizational Meeting

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

At this meeting the Board shall:

1. Elect officers
2. Authorize signatures
3. Develop a schedule of regular meetings for the year
4. Develop a Board calendar for the year
5. Designate Board representatives

Election of Officers

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

Legal Reference:

EDUCATION CODE

5017 Term of Office

35143 Annual organizational meeting date, and notice

35145 Public meetings

GOVERNMENT CODE

54953 Meetings to be open and public; attendance

ATTORNEY GENERAL OPINIONS

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

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

Terms of Office

The CalAPS Board shall consist of four appointed members.

The CalAPS Board shall consist of four members: two members from each of the two participating districts. The Board of each participating district shall appoint two members from their respective Boards to serve as a member of the CalAPS Board.

The term of appointment shall be for two years and may be renewed for an additional two-year term by the appointing Board.

A member whose term has expired shall continue to discharge the duties of the office until his/her successor has taken office.

Legal Reference:

EDUCATION CODE

5000-5033 Election of school district board members

35010 Control of district

35012 Board members; number, election and terms

35107 Eligibility

GOVERNMENT CODE

1302 Continuance in office until qualification of successor

1303 Exercising functions of office without having qualified

1360 Necessity of taking constitutional oath

President

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

The president shall preside at all Board 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 conduct of meetings and help ensure compliance with applicable requirements of the Brown Act
4. Recognize persons who desire to speak, and protect the speaker who has the floor from disturbance or interference
5. Explain what the effect of a motion would be if it is not clear to every member
6. Restrict discussion to the question when a motion is before the Board
7. Rule on issues of parliamentary procedure
8. Put motions to a vote, and state clearly the results of the vote
9. Be responsible for the orderly conduct of all Board meetings

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

1. Signing all instruments, acts and orders necessary to carry out state requirements and the will of the Board
2. Consulting with the Chief Executive Officer or designee on the preparation of the Board's agendas
3. Working with the Chief Executive Officer to ensure that Board members have necessary materials and information
4. Subject to Board approval, appointing and dissolving all committees
5. Calling such meetings of the Board as he/she may deem necessary, giving notice as prescribed by law
6. Representing the program as governance spokesperson, in conjunction with the Chief Executive Officer

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

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 clerk shall perform the president's duties.

Legal Reference: (see next page)

President (continued)

BB 9121

Legal Reference:

EDUCATION CODE

35022 President of the board

35143 Annual organizational meetings; dates and notice

GOVERNMENT CODE

54950-54963 Ralph M. Brown Act

BOARD BYLAWS

BB 9121.1

Vice President

The Vice President assumes the duties of the President in his/her absence.

Legal Reference:

EDUCATION CODE

35022 President of the board

35143 Annual organizational meetings; dates and notice

35144 Special meetings

Secretary

The Governing Board shall appoint the Chief Executive Officer to serve as secretary to the Board. The secretary to the Board shall be responsible for maintaining an accurate and complete record of all Board proceedings and shall:

1. Prepare, distribute and maintain the Board agenda
2. Record, distribute and maintain the Board minutes
3. Maintain Board records and documents
4. Conduct official correspondence for the Board
5. As directed by the Board, sign and execute official papers
6. Perform other duties as assigned by the Board

Legal Reference:

EDUCATION CODE

35025 Secretary and bookkeeper

35143 Annual organizational meetings; dates and notice

35250 Duty to keep certain records and reports

GOVERNMENT CODE

54950-54963 Ralph M. Brown Act

BOARD BYLAWS

BB 9123

Clerk

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

1. The duties of the clerk shall be to:
2. Certify or attest to actions taken by the Board when required
3. Maintain such other records or reports as required by law
4. Sign the minutes of Board meetings following their approval
5. Sign documents on behalf of the district as directed by the Board
6. Serve as presiding officer in the absence of the president and vice president
7. Perform any other duties assigned by the Board

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

- 54950-54963 Ralph M. Brown Act

ATTORNEY

The CalAPS Board recognizes the complex legal environment in which programs operate and desires reliable, high-quality legal advice at reasonable rates. In order to meet the program's legal needs, the Board may contract with county counsel, attorneys in private practice, or appoint legal counsel as a district employee or independent contractor. The Board also supports pursuing collaborative legal efforts with other agencies and districts as appropriate.

Duties of Legal Counsel

The district's legal counsel may: (Education Code 35041.5)

1. Render legal advice to the Board and the Chief Executive Officer (CEO) or designee
2. Serve the Board and the CEO 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 CEO or designee

Retaining Legal Counsel

The Board may contract for the services of an attorney in private practice to provide services not available through the County Counsel or as determined by the Board.

Contacting Legal Counsel

At his/her discretion, the Chief Executive Officer may confer with CalAPS legal counsel subject to any limits or parameters established by the Board. In addition, the CEO may contact CalAPS legal counsel to provide the Board with legal information or advice when so directed by a majority of the Board.

Individual Board members may not seek advice from CalAPS legal counsel on matters of district business unless so authorized by a majority of the Board.

Legal Reference:**EDUCATION CODE**

35041 Administrative adviser

35041.5 Legal counsel

35161 Powers and duties of governing board

35200-35214 Liabilities, especially:

35204 Contract with attorney in private practice

35205 Contract for legal services

GOVERNMENT CODE

814-895.8 Liability of public entities and public employees

995-996.6 Defense of public employees

26520 Legal services to school districts

53060 Special services and advice

Board Committees

The Board 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.

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

Meetings of advisory committees or standing committees for which an agenda is posted at least 72 hours in advance of the meeting pursuant to Government Code 54954.2, shall be considered, for purposes of the Brown Act, as regular meetings of the Board. (Government Code 54954)

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

Standing committees with a continuing subject matter jurisdiction include but are not limited to those responsible for providing advice on budgets, audits, contracts and personnel matters at the Board's request.

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

The Chief Executive Officer 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.

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

Legal Reference:**EDUCATION CODE**

35010 Control of district; prescription and enforcement of rules

35024 Executive committee

35160 Authority of governing boards

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)

Board Representatives

The Board may appoint any of its members to serve as its representatives on 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.

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

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

Legal Reference:

EDUCATION CODE

4000-4014 County committees on school district organization

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

35160 Authority of governing boards

GOVERNMENT CODE

54952.2 Meetings

Limits of Board Member Authority

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

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

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

A Board member whose child is attending the program should be aware of his/her role as a Board member when interacting with district employees about his/her child. Because his/her position as a Board member may inhibit the performance of program personnel, the Board member should inform the Chief Executive Officer or designee before volunteering in his/her child's classroom.

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

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

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination
7054 Use of district property
35010 Control of district; prescription and enforcement of rules
35100-35351 Governing boards, especially:
35160-35184 Powers and duties
35291 Rules
35292 Visits to schools (Board members)
51101 Rights of parents/guardians

GOVERNMENT CODE

54950-54962 The Ralph M. Brown Act, especially:
54952.1 Member of a legislative body of a local agency
54952.7 Copies of chapter to members of legislative body

Board Development

District Board members appointed to the Governing Board are entrusted with the responsibility of governing CalAPS. 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.

Board members shall report to the Board, orally or in writing, as soon as possible on the in-service activities they attend.

Funds for Board development shall be budgeted annually for each Board member.

Legal Reference:

EDUCATION CODE

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

GOVERNMENT CODE

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

54952.2 Meeting

Legal Protection

Liability Insurance

The Board 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.

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

COURT DECISIONS

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

Conflict of Interest

The Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the CalAPS and the public. In accordance with law, Board members and designated employees shall disclose any conflict of interest and, as necessary, shall abstain from participating in the decision.

The Board shall adopt a resolution that specifies the terms of the CalAPS's conflict of interest code, CalAPS's designated positions, and the disclosure categories required for each position.

Upon direction by the code reviewing body, the Board shall review the CalAPS's conflict of interest code and submit any changes to the code reviewing body.

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

When reviewing and preparing the CalAPS's conflict of interest code, the Chief Executive Officer or designee shall provide officers, employees, consultants, and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the CalAPS ' conflict of interest code. A Board member who leaves office or a designated employee who leaves CalAPS employment shall, within 30 days, file a revised statement covering the period of time between the closing date of the last statement and the date of leaving office or CalAPS employment. (Government Code 87302, 87500)

Conflict of Interest under the Political Reform Act

A Board member or designated employee shall not make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a disqualifying conflict of interest. A conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the Board member's or designated employee's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the Board member's or designated employee's participation is legally required. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

A Board member or designated employee makes a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or commits the CALAPS to any course of action, or enters into any contractual agreement on behalf of the CalAPS. (2 CCR 18702.1)

A Board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the Board shall abstain from voting on the matter. He/she may remain on the dais, but his/her presence shall not be counted towards achieving a quorum for that matter. A Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue. (2 CCR 18702.1)

Additional Requirements for Boards that Manage Public Investments

A Board member who manages public investments pursuant to Government Code 87200 and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, do all of the following: (Government Code 87105; 2 CCR 18702.5)

1. Publicly identify each financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

Conflict of Interest (continued)

BB 9270

2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. The Board member shall not be counted toward achieving a quorum while the item is discussed.

However, the Board member may speak on the issue during the time that the general public speaks on it and may leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion of the matter with members of the public.

3. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

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

4. If the Board's decision is made during closed session, disclose his/her interest orally during the open session preceding the closed session. This disclosure shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 87100. He/she shall not be present when the item is considered in closed session and shall not knowingly obtain or review a recording or any other nonpublic information regarding the Board's decision.

Conflict of Interest under Government Code 1090

Board members, employees, or CalAPS consultants shall not be financially interested in any contract made by the Board on behalf of the CalAPS, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest, the CalAPS is barred from entering into the contract. (Government Code 1090; *Klistoff v. Superior Court*, (2007) 157 Cal.App. 4th 469)

A Board member shall not be considered to be financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5. One such noninterest is when a Board member's spouse/registered domestic partner has been a CalAPS employee for at least one year prior to the Board member's election or appointment. (Government Code 1091.5)

A Board member shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091 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. (Government Code 1091)

Even if there is not a prohibited conflict of interest, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs. Relative means an adult who is related to the Board member 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 an individual's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced.

Common Law Doctrine Against Conflict of Interest

A Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

Rule of Necessity or Legally Required Participation

On a case-by-case basis and upon advice of legal counsel, a Board member with a financial interest in a contract may participate in the making of the contract if the rule of necessity or legally required participation applies pursuant to Government Code 87101 and 2 CCR 18708.

Incompatible Offices and Activities

Board members shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of CalAPS. (Government Code 1099, 1126)

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 limitation on gifts does 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 current gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by CalAPS 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 CalAPS for donation into the general fund without being claimed as a deduction from income for tax purposes.

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office
35107 School district employees
35230-35240 Corrupt practices, especially:
35233 Prohibitions applicable to members of governing boards
41000-41003 Moneys received by school districts

FAMILY CODE

297.5 Rights, protections, and benefits of registered domestic partners_

GOVERNMENT CODE

1090-1099 Prohibitions applicable to specified officers
1125-1129 Incompatible activities
81000-91014 Political Reform Act of 1974, especially:
82011 Code reviewing body
87100-87103.6 General prohibitions
87200-87210 Disclosure
87300-87313 Conflict of interest code
87500 Statements of economic interests
89501-89503 Honoraria and gifts
91000-91014 Enforcement

PENAL CODE

85-88 Bribes

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission, especially:
18702.5 Public identification of a conflict of interest for Section 87200 filers

COURT DECISIONS

Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469
Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655
Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

ATTORNEY GENERAL OPINIONS

92 Ops.Cal.Atty.Gen. 26 (2009)
92 Ops.Cal.Atty.Gen. 19 (2009)
89 Ops.Cal.Atty.Gen. 217 (2006)
86 Ops.Cal.Atty.Gen. 138(2003)
85 Ops.Cal.Atty.Gen. 60 (2002)
82 Ops.Cal.Atty.Gen. 83 (1999)
81 Ops.Cal.Atty.Gen. 327 (1998)
80 Ops.Cal.Atty.Gen. 320 (1997)
69 Ops.Cal.Atty.Gen. 255 (1986)
68 Ops.Cal.Atty.Gen. 171 (1985)
65 Ops.Cal.Atty.Gen. 606 (1982)
63 Ops.Cal.Atty.Gen. 868 (1980)

Conflict of Interest

RESOLUTION ADOPTING A CONFLICT OF INTEREST CODE

WHEREAS, the Political Reform Act, Government Code 87300-87313, requires each public agency in California to adopt a conflict of interest code; and

WHEREAS, the Board of CalAPS has previously adopted a local conflict of interest code; and

WHEREAS, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to CalAPS's conflict of interest code; and

WHEREAS, a regulation adopted by the Fair Political Practices Commission, 2 CCR 18730, provides that incorporation by reference of the terms of that regulation, along with an agency-specific appendix designating positions and disclosure categories shall constitute the adoption and amendment of a conflict of interest code in conformance with Government Code 87300 and 87306; and

WHEREAS, CalAPS has recently reviewed its positions, and the duties of each position, and has determined that (changes/no changes) to the current conflict of interest code are necessary; and

WHEREAS, any earlier resolutions, policies, and/or appendices containing CalAPS's conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

NOW THEREFORE BE IT RESOLVED that the California Advancing Pathways for Students Board adopts the following Conflict of Interest Code including its Appendix of Designated Employees and Disclosure Categories.

PASSED AND ADOPTED THIS ____ day of ____ at a meeting, by the following vote:

YES: ___ NO: ___ ABSENT: _____

Attest:

Secretary/President

Conflict of Interest Code of CalAPS

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the CalAPS's conflict of interest code.

Board members and designated employees shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the CalAPS's filing officer and/or, if so required, with the CalAPS's code reviewing body. The CalAPS' filing officer shall make the statements available for public review and inspection.

APPENDIX

Disclosure Categories

1. Category 1: A person designated Category 1 shall disclose:
 - a. Interests in real property located entirely or partly within CalAPS boundaries, or within two miles of CalAPS boundaries, or of any land owned or used by the CalAPS.
 - b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the CalAPS, 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 CalAPS, or manufacture or sell supplies, books, machinery, or equipment of the type used by the CalAPS.
2. Category 2: A person designated Category 2 shall disclose:
 - a. Investments or business positions in or income from sources which are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs.
 - b. Investments or business positions in or income from sources which 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, an administrator's department is CalAPS.
3. Full Disclosure: Because it has been determined that the CalAPS' Board members and/or Chief Executive Officer "manage public investments," they and other persons designated for "full disclosure" shall disclose, in accordance with Government Code 87200:
 - a. Interests in real property located entirely or partly within CalAPS boundaries, or within two miles of the participating districts' boundaries, or of any land owned or used by the CalAPS.
 - b. Investments, business positions, and sources of income, including gifts, loans, and travel payments.

Designated Positions

Disclosure Category

Governing Board Members 1

Chief Executive Officer of CalAPS1

Disclosures for Consultants

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Chief Executive Officer or designee. The Chief Executive Officer 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 CalAPS, makes a governmental decision whether to: (2 CCR 18701)

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke a permit, license, application, certificate, approval, order, or similar authorization or entitlement

4. Authorize the CalAPS to enter into, modify, or renew a contract that requires CalAPS approval
5. Grant CalAPS approval to a contract that requires CalAPS approval and in which the CalAPS is a party, or to the specifications for such a contract
6. Grant CalAPS approval to a plan, design, report, study, or similar item
7. Adopt or grant CalAPS approval of CalAPS policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the CalAPS, serves in a staff capacity with the CalAPS 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 CalAPS that would otherwise be performed by an individual holding a position specified in the CalAPS' conflict of interest code. (2 CCR 18701)

Code of Ethics

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

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

Board members also have other major commitments to:

- The Community. Each Board member is responsible to all residents served by CalAPS 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 CalAPS 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 CalAPS.
- Decision Making. Each Board member is obliged by law to participate in decisions pertaining to education in the CalAPS. 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 CalAPS 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 CalAPS is administered and to select the Chief Executive Officer or designee and staff who will implement those policies.
- Promote and participate actively in a concerted program of timely exchange of information with all CalAPS 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.

Governance

The Board has the power of establishing its own procedures within the parameters of law. (Education Code 35010)

The formulation and adoption of written Board policies shall constitute the basic method by which the Board shall exercise its leadership in the governance of CalAPS. This right shall be retained solely by the Board. The study and evaluation of reports concerning the execution of its policies shall constitute the basic method by which the Board shall exercise its accountability for the governance of CalAPS.

The implementation of policies is an administrative task to be performed by the Chief Executive Officer or designee who shall be held responsible for the effective administration and supervision of the entire program.

All actions of the Board shall be taken only in official Board meetings called, scheduled and conducted according to these policies and the statutes of the state.

Legal Reference:

EDUCATION CODE

- 35010 Control of district; prescription and enforcement of rules
- 35140 Time and place of meetings
- 35143 Annual organizational meetings - dates and notices
- 35144 Special meetings
- 35145 Public meetings
- 35146 Closed sessions
- 35160 Authority of governing boards
- 35163 Official actions, minutes and journal
- 35164 Vote requirements

Board Policies

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

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

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

Policy Development and Adoption Process

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

1. The Board and/or Chief Executive Officer or designee shall identify the need for a new policy or revision of an existing policy. The need may arise from a change in law, a new district vision or goals, educational research or trends, or a change in the Chief Executive Officer or Board membership. The need may also occur as a result of an incident that has arisen in the district or a recommendation or request from staff or other interested persons.
2. As needed, the Chief Executive Officer or designee shall gather fiscal and other data, staff and public input, related district policies, sample policies from other organizations or agencies, and other useful information to fully inform the Board about the issue. (cf. 1220 - Citizen Advisory Committees)
3. The Board may hold discussions during a public Board meeting to gain an understanding of the issue and provide initial direction to the Chief Executive Officer or designee. The discussion may include, but not be limited to, how the proposed policy may affect student learning, community expectations, staff recommendations, fiscal impact, as well as the policy's impact on governance and operational efficiency.
4. The Board or Chief Executive Officer may request that legal counsel review the draft policy as appropriate.
5. The Chief Executive Officer or designee shall develop and present a draft policy for a first reading at a public Board meeting. The Board may take action on the proposed policy after a first reading. The Board may require an additional reading if necessary.

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

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

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

Board Policies

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

Board Policies (continued)

BB 9310

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

Administrative Regulations

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

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

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

Monitoring and Evaluation

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

Access to Policies

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

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

Suspension of Policies

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

Legal Reference:

EDUCATION CODE

- 35010 Control of district; prescription and enforcement of rules
- 35160 Authority of the governing boards
- 35160.5 Annual review of school district policies
- 35163 Official actions, minutes and journal
- 35164 Vote requirements

BOARD BYLAWS

BB 9320

Meetings and Notices

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

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

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

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 to be taken by the Board on any item of district business. (Government Code 54952.2)

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

Meeting notices and agendas shall specify that any individual who requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the Board meeting should contact the Chief Executive Officer or designee in writing.

Regular Meetings

The Board shall hold one regular meeting each month.

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

Special Meetings

Special meetings of the Board may be called at any time 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 this meeting. (Education Code 35144; Government Code 54956)

Any Board member may waive a failure to receive the 24-hour written notice requirement prior to the time of the meeting by filing a written waiver of notice with the clerk or secretary of the Board or by being present at the meeting. (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 and/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. An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health and/or safety as determined by a majority of the members of the 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 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. In the case of a dire emergency, the Board president or designee shall give such notice at or near the time he/she notifies the other members of the Board about the meeting. (Government Code 54956.5)

The minutes of the meeting, a list of persons the Board president or designee notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for at least 10 days in a public place as soon after the meeting as possible. (Government Code 54956.5)

Adjourned Meetings

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

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)

Study Sessions, Retreats, Public Forums, and Discussion Meetings

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

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

Public notice shall be given in accordance with law when a quorum of the Board is attending a study session, retreat, public forum, or discussion meeting. All such meetings shall comply with the Brown Act and shall be held in open session and within district boundaries. No action item shall be included on the agenda for these meetings.

Other Gatherings

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

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

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

Location of Meetings

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

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

1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the district is a party
2. Inspect real or personal property which cannot conveniently be brought into the district, provided that the topic of the meeting is limited to items directly related to the property
3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law
4. Meet in the closest meeting facility if the district has no meeting facility within its boundaries or if its principal office is located outside the district
5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the district over which the state or federal officials have jurisdiction

6. Meet in or near a facility owned by the district but located outside the district, provided the meeting is limited to items directly related to that facility
7. Visit the office of the district's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs
8. Attend conferences on non-adversarial collective bargaining techniques
9. Interview residents of another district regarding the Board's potential employment of an applicant for Chief Executive Officer of the district
10. Interview a potential employee from another district

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

If a fire, flood, earthquake, or other emergency renders the regular meeting place unsafe, meetings shall be held for the duration of the emergency at a place designated by the Board 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)

Teleconferencing

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

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

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

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

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

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

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

- 54950-54963 The Ralph M. Brown Act, especially:
- 54953 Meetings to be open and public; attendance
- 54953.2 Compliance with Americans with Disabilities Act
- 54954 Time and place of regular meetings Mailed notices
Agenda posting requirements, board actions
- 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_

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

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

Closed Session Purposes and Agendas

The Board may hold closed sessions only for purposes identified in law and placed on the meeting agenda in the manner required by law. The Board may hold a closed session at any time during a regular or special meeting. No closed session may be held during an emergency meeting of the Board. (Government Code 54956.5, 54957.7, 54962)

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)

Personnel Matters

The Board may hold closed sessions to consider the appointment, employment, evaluation of performance, discipline or dismissal of an employee, or to hear complaints or charges against an employee 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)

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)

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 if Applicable

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 CalAPS 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 CalAPS or between CalAPS and its designated representative for the purpose of discussing its position regarding any matter within the scope of representation and instructing its designated representatives

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

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 CalAPS's available funds and funding priorities, but only insofar as they relate to providing instructions to the CalAPS's designated representative. (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)

Security Matters

The Board may meet in closed session with the Attorney General, CalAPS attorney, sheriff or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or to the public's right of access to public services or public facilities. (Government Code 54957)

Agenda items related to security matters shall specify the name of the law enforcement agency and the title of the officer 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 CalAPS 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), the property under negotiation and 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 CalAPS 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 shall be 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 CalAPS, 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))

Closed Session Purposes and Agendas (continued)

BB 9321

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

1. Facts and circumstances that might result in litigation against CalAPS but which CalAPS 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 CalAPS, which are already known to potential plaintiffs, and which must be publicly disclosed before the closed session or specified on the agenda.
3. The receipt of a claim pursuant to the Tort Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.
4. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the 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 CalAPS 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 their 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 CalAPS'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 CalAPS 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))

CalAPS/Self-Insurance Liability Claims

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)

Legal Reference: (see next page)

Legal Reference:

EDUCATION CODE

35145 Public meetings

35146 Closed session (re student suspension)

44929.21 CALAPSs 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

54950-54962 The Ralph M. Brown Act

COURT DECISIONS

Bell v. Vista Unified School CALAPS, (2000) 82 Cal.App. 4th 672

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

Furtado v. Sierra Community College CALAPS, (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, 69 Cal. Rptr. 480

ATTORNEY GENERAL OPINIONS

78 Ops.Cal.Atty.Gen. 218 (1995)

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

Closed Session Actions and Reports

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

The 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)

Personnel Matters

The Board shall report any personnel action taken and the votes or abstentions thereon at the public meeting during which the closed session is held. This report shall identify the title of the position. However, the report of a dismissal or nonrenewal of an employment contract shall be deferred until the first public meeting after administrative remedies, if any, have been exhausted. (Government Code 54957.1)

Student Matters

Actions related to student matters shall be taken in open session and shall be a matter of public record. No information shall be released in violation of student privacy rights provided in law. (Education Code 35146, 48918; 20 USC 1232))

Real Estate Negotiations

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

Pending Litigation

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

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

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

Closed Session Actions and Reports (continued)

BB 9321.1

CalAPS/Self-Insurance Claims

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

Review of Assessment Instruments

At the public meeting during which the Board holds a closed session to review student assessment instruments, the Board shall confirm that this review was made. Any actions related to the review shall be taken in open session without revealing any proprietary or confidential information and shall be a matter of public record.

Legal Reference:

EDUCATION CODE

35145 Public meetings

35146 Closed session (re student matters)

48918 Rules governing expulsion procedures; hearings and notice

49073-49079 Privacy of student records

60617 Meetings of governing board

GOVERNMENT CODE

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

54957.1 Closed sessions; public report of action taken

Closed sessions; representatives to employee organization(s)

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)

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

Agenda/Meeting Materials

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

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)

Agenda Preparation

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

Any member of the public or any Board member 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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.

When an item properly posted for a regular meeting is continued to a subsequent meeting, it may not be on the agenda of the subsequent meeting if the subsequent meeting occurs within five days. The Board shall publicly identify the item before discussing it. (Government Code 54954.2)

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.

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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer or designee to request additional information on agenda items.

The Chief Executive Officer 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 Chief Executive Officer 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

Mailed agenda of meeting

Agenda posting requirements; board actions

Opportunity for public to address legislative body

54954.5 Closed session item descriptions

54956.5 Emergency meetings

54957.5 Public records

Meeting Conduct

Meeting Procedures

All Board 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.

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

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

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)

Abstentions

When no conflict of interest requires abstention, Board members have a duty to vote on issues before them. When a member abstains, his/her abstention shall be considered to concur with the action taken by the majority of those who vote, whether affirmatively or negatively.

Public Participation

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

In order to conduct CalAPS 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 Chief Executive Officer 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 CalAPS staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. Additionally, on their own initiative or in response to questions posed by the public, a Board or staff member may ask a question for clarification, make a brief announcement, or make a brief report on his/her own activities. (Government Code 54954.2)

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

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

Individual speakers shall be allowed three minutes to address the Board on each agenda or non-agenda item. The Board shall limit the total time for public input on each item to 20 minutes. 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.

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

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

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.

7. 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)

Recording by the Public

The Chief Executive Officer or designee shall 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 References (see next page)

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

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

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

- 76 Ops.Cal.Atty.Gen. 281 (1993)
- 66 Ops.Cal.Atty.Gen. 336, 337 (1983)
- 63 Ops.Cal.Atty.Gen. 215 (1980)
- 61 Ops.Cal.Atty.Gen. 243, 253 (1978)
- 59 Ops.Cal.Atty.Gen. 532 (1976)

BOARD BYLAWS

BB 9323.2

Actions By The Board

The Board 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 or promise by a majority of the members to make a positive or negative decision
3. A vote by a majority of the members when sitting as the 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.
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.

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)

Challenging Board Actions

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)

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

CODE OF CIVIL PROCEDURE

- 1245.240 Eminent domain vote requirements
- 1245.245 Eminent domain, resolution adopting different use

GOVERNMENT CODE

- 53094 Authority to render zoning ordinance inapplicable
- 53097 Compliance with ordinances
- 53097.3 Charter school ordinances
- 53724 Parcel tax resolution requirements
- 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
- Closed session item descriptions
- New or increased taxes or assessments; hearings; notice
- 54956 Special meetings; call; notice
- 54956.5 Emergency meetings in emergency situations
- 54960 Action to prevent violations
- 54960.1 Challenge of governing board actions
- 54960.5 Costs and attorney fees
- 65352.2 Coordination with planning agency

PUBLIC CONTRACT CODE

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

COURT DECISIONS

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

Minutes and Recordings

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

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.

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

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 motions and Board resolutions shall be numbered consecutively.

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 CalAPS 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

BOARD BYLAWS

BB 9330

Participation In Organizations By The Board

It shall be the intent of this Board to support those local, county, state, and national organizations which exist for the purpose of supporting and advancing public education and are in the best interest of the program. It shall also be the intent of this Board to encourage the attendance of Board members to local, county, state, and national meetings and conventions related to educational concerns for the value they have to CalAPS and the individual Board members.

Board members attending authorized national, state, and local conferences, meetings, and workshops shall be reimbursed from program funds for expenses incurred within limits developed by the Board.

The Board also encourages individual members to join and attend meetings of civic and service organizations in the community. The program will not reimburse expenses incurred for these meetings.

Legal Reference:

EDUCATION CODE

35044 Travel expense

35172 Governing board powers

44032 Expenses