



Board Policy
Chapter 2 – Board of Trustees

BP 2315 CLOSED SESSIONS

Closed sessions of the Board of Trustees shall only be held as permitted by applicable legal provisions including, but not limited to, the Ralph M. Brown Act, California Government Code, and California Education Code.

Closed sessions, with one exception, are called only during or following a regular or special Board of Trustees meeting. Before or after going into closed session, the Board shall include in the agenda or announce publicly the reasons for the closed session (e.g., to “discuss personnel issues and litigation”) and identify the statutory authority for the closed session (e.g., “Government Code Sections 54957 (personnel) and 54956.9(a)(b) and (c) (litigation).”) If the litigation relates to pending litigation the name or number of the case must be given.

The exception noted in the above paragraph is that contained in Government Code Section 3549.1(d). A closed session may be scheduled by the public college employer for the purpose of discussion with the public college employer's representative on collective bargaining items that are within the scope of representation under Government Code Section 3543.2, and for the purposes of instructing the designated representative on the Board's position concerning such items.

Closed sessions, with the exception of those for the purpose set forth above regarding items under the scope of representation, must be held in connection with an item appearing on the agenda, either at regular or special meetings, and must be held at the location of regularly scheduled meetings.

Matters discussed shall be kept confidential, unless a majority of Board members present in the closed session agree not to hold such matters confidential.

Closed sessions, according to law, may be held for the following reasons:

Real Estate Negotiations (Government Code Section 54956.8)

To discuss the purchase, sale, exchange, or lease of real property by or for the local agency. The purpose is to grant authority to the negotiator on price and terms of payment.

Pending Litigation (Government Code Section 54956.9)

To seek the advice of counsel on pending litigation, as defined by law. Pending litigation when discussion in open session concerning those matters would prejudice the position of the District in the litigation. Litigation is pending when any of the following circumstances exist:

- (a) Proceedings before a court, administrative body, hearing officer, or arbitrator to which the District is a party, have been formally initiated.
- (b) Legal counsel determines based on existing facts that there is a significant exposure to litigation.
- (c) When deciding whether to litigate, closed session is proper.

The Board must indicate the authority for the closed session and, when known, the title of the case.

Personnel (Government Code Section 54957)

Consideration of the appointment, employment, evaluation of performance, discipline, or dismissal of an employee (Government Code Section 54957). The Board shall publicly report at a next public meeting the action taken and the roll call vote thereon in a prior closed session relative to the matter in this section.

To hear complaints or charges against an employee by another person or employee, unless the accused public employee requests that the complaints or charges be heard in an open session. The employee shall be given at least 24 hours written notice of the closed session.

Public Security (Government Code Section 54957)

For consideration of matters affecting the national security.

For discussion with attorney general, district attorney, sheriff, or chief of police, or their respective deputies on matters posing a threat to the security of public buildings, public services, or facilities. (Government Code Section 54957)

Labor Negotiations (Government Code Section 54957.6)

To review the District's position regarding labor negotiations and give instructions to the District's designated negotiator.

For discussion with a representative of the public college employer for the purposes of considering collective bargaining items considered within the scope of representation under Government Code Section 3543.2, and for the purpose of instructing the designated representative concerning the governing board's position on those items.

For discussion of a state conciliator (mediator) who has intervened as authorized by law in matters affecting employer/employee relations.

Student Discipline (Education Code Section 72122)

For the consideration of the suspension of, or other disciplinary action or any other action in connection with any student, if a public hearing would lead to the giving out of information concerning students which would be violation of state or federal law regarding the privacy of student records, a student may request to have the hearing conducted in public in accordance with the procedures set forth in Education Code Section 72122. The final action of the Board shall be taken at a public meeting.

Honorary Degrees (Education Code Section 72122)

To consider the conferring of an honorary degree.

Anonymous Donor (Education Code Section 72122)

To consider gifts from a donor who wants to remain anonymous.

Tort Liability Claims (Government Code Section 54956.95)

To consider tort liability claims as part of the District's membership in any joint powers agency formed for purposes of insurance pooling.

Audit Report from the Bureau of State Audits (Government Code Section 54956.75)

To consider the Board's response to a confidential final draft audit report from the Bureau of State Audits.

The agenda for each regular or special meeting shall contain information regarding whether a closed session will be held and shall identify the topics to be discussed in any closed session in the manner required by law.

After any closed session, the Board shall reconvene in open session before adjourning and shall announce any actions taken in closed session and the vote or abstention of every member present in accordance with the provisions of Government Code Section 54957.1.

All matters discussed or disclosed during a lawfully held closed session and all notes, minutes, records, or recordings made of such a closed session are confidential and shall remain confidential unless and until required to be disclosed by action of the Board or by law.

References:

Education Code Section 72122;

Government Code Sections 54954.5, 54956.8, 54956.9, 54957, 54957.1, 54957.6, and 11125.4

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(Replaces former SMC BP 1540)