

AGENDA FOR THE REGULAR MEETING OF THE
SIERRA COUNTY BOARD OF EDUCATION

July 12, 2016

6:00 pm

Sierra County Office of Education, 109 Beckwith Rd., Room 4, Loyalton, CA 96118

This meeting will NOT be available for videoconferencing at Downieville School, 130 School Street, Downieville CA 95936.

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 Superintendent or designee in writing.

Public inspection of agenda documents that are distributed to the Board less than 72 hours before the meeting, will be made available at the Sierra County Board of Education, 109 Beckwith Road, Room 3, Loyalton, CA, 96118, and posted with the online agenda at <http://www.sierracountyofficeofeducation.org> (Government Code 54957.5)

- A. CALL TO ORDER (Please be advised that this meeting will be recorded.)
- B. ROLL CALL
- C. FLAG SALUTE
- D. APPROVAL OF THE AGENDA
- E. INFORMATION/DISCUSSION ITEMS
 - 1. Superintendent's Report
 - a. Renewal of Contracts: Adaptive PE, Counselor (DVL)
 - b. SARB Report (2015-16)*
 - c. SmartWatt Update
 - 2. Business Report
 - a. Board Report-Expenditures by Object 07/01/16 to 6/30/16**
 - 3. Staff Reports (5 minutes)
 - 4. Board Members' Report (5 minutes)
 - 5. Public Comment – This is an opportunity for members of the public to directly address the governing board on any item of interest that is within the subject matter jurisdiction of the governing board whether or not it is listed on the agenda. Five minutes may be allotted to each speaker and a maximum of twenty minutes to each subject matter. (Education Code 35145.5; Bylaw 9322; Government Code 54954.3)
 - a. Current location
 - b. Videoconference location

F. CONSENT CALENDAR

- 1. Approval of minutes of the Regular Board meeting held June 14, 2016**
- 2. Approval of bill warrants for month of June 2016**
- 3. Approval of Quarterly Report on Williams Uniform Complaints for quarter ending June 30, 2016. It is required per Education Code 35186 section (d) that a school district shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent of schools and the governing board of the school district. No complaints regarding textbooks and instructional materials, teacher vacancy or misassignment or conditions of facilities were filed with Sierra County Office of Education during the quarter ending June 30, 2016. No complaints regarding textbooks and instructional materials, teacher vacancy or misassignment or conditions of facilities were filed with Sierra-Plumas Joint Unified School District during the 2015-2016 school year.

G. ACTION ITEMS

- 1. Unfinished Business and General Orders

1617-01 Discussion: Authorized Possession of Firearms on Campus (Grant)

2. New Business

- 1617-02 Public Hearing to announce the adoption of the Declaration of Need for Fully Qualified Educators for the 2016-2017 school year**
- 1617-03 Approval of Declaration of Need for Fully Qualified Educators for the 2016-2017 school year. *A diligent search to recruit fully prepared teacher(s) was made and an insufficient number of certificated persons met the Sierra County Office of Education's employment criteria for the position(s)***
- 1617-04 Approval of the CBEST Waiver for Substitute Teachers *(The Sierra County Office of Education has been unable to recruit enough day-to-day substitute teachers who have not had an opportunity to take and pass all sections of the California Basic Educational Skills Test (CBEST). The County anticipates employing no greater than five (5) day-to-day substitutes on variable term CBEST waivers for the 2016-2017 school year.*

BOARD POLICIES AND ADMINISTRATIVE REGULATIONS (President)

- 1617-05 Approval of Board Policy 2121, Superintendent's Contract, revision**
- 1617-06 Approval of Board Policy 3541.2, Transportation for Students with Disabilities, revision**
- 1617-07 Approval to DELETE Admin Reg 3541.2, Transportation for Students with Disabilities
- 1617-08 Approval of Board Bylaw 9222, Resignation, revision**
- 1617-09 Approval of Board Bylaw and Exhibit 9270, Conflict of Interest, revisions**
- 1617-10 Approval of Board Bylaw 9321, Closed Session Purposes and Agendas, revision**

H. ADVANCED PLANNING

- 1. Next Regular Board Meeting will be held on August 9, 2016, at Downieville School, 130 School Street, Downieville CA 95936, beginning with Closed Session, as needed, at 5 pm and the Regular Board Meeting at 6:00 pm
- 2. Suggested Agenda Items
 - a. _____

I. ADJOURN



Dr. Merrill M. Grant, Superintendent
Secretary to the County Board of Education

*** prior month handout
** enclosed
* handout

Balances through June						Fiscal Year 2015/16
Object	Description	Adopted Budget	Revised Budget	Encumbered	Expenditure	Account Balance
Fund 01 - Gen Fund						
1100	Teachers Salaries	190,198.00	239,469.00		233,222.48	6,246.52
1120	Certificated Substitutes	2,100.00	2,100.00		4,690.00	2,590.00-
1200	Certificated Pupil Support Ser	65,054.00	67,139.00		60,514.10	6,624.90
1300	Certificated Supervisor Admini	77,905.00	84,290.00		76,968.95	7,321.05
1310	Teacher in Charge				2,000.00	2,000.00-
	Total for Object 1000	335,257.00	392,998.00	.00	377,395.53	15,602.47
2100	Instructional Aides' Salaries	79,742.00	85,492.00		89,644.93	4,152.93-
2105	Per Diem - Same Day Travel		29.00		29.00	.00
2120	Classified Substitutes	700.00	700.00		178.05	521.95
2200	Classified Support Salaries	10,530.00	22,977.00		11,227.77	11,749.23
2220	Classified Substitute Salaries	500.00			117.47	117.47-
2300	Classified Supervisors' Admini	101,353.00	101,200.00		100,994.40	205.60
2400	Clerical Technical Office Staf	130,378.00	136,009.00		134,369.01	1,639.99
2900	Other Classified Salaries	9,915.00	13,638.00		6,484.50	7,153.50
	Total for Object 2000	333,118.00	360,045.00	.00	343,045.13	16,999.87
3101	STRS Certificated Positions		41,393.00		40,237.93	1,155.07
3102	STRS Classified Positions	36,635.00	34,119.00		642.65	33,476.35
3201	PERS Certificated Positions				94.77	94.77-
3202	PERS Classified Positions	54,763.00	53,619.00		52,968.52	650.48
3301	OASDI Certificated Positions	68.00	68.00		56.42	11.58
3302	OASDI Classified Positions	19,466.00	20,723.00		20,214.99	508.01
3311	Medicare Certificated Position	4,681.00	5,527.00		5,315.75	211.25
3312	Medicare Classified Positions	4,667.00	4,948.00		4,819.90	128.10
3401	Health & Welfare Benefits Cert	88,592.00	80,780.00		80,338.96	441.04
3402	Health & Welfare Benefits Clas	73,935.00	72,266.00		76,121.81	3,855.81-
3403	ACA FEES-CERT		1,000.00			1,000.00
3404	ACA FEES-CLASS		1,000.00			1,000.00
3501	SUI Certificated	234.00	199.00		188.83	10.17
3502	SUI Classified	234.00	179.00		169.47	9.53
3601	Workers' Compensation Certific	10,976.00	14,455.00		13,919.06	535.94
3602	Workers' Compensation Classifi	10,939.00	12,922.00		12,620.27	301.73
	Total for Object 3000	305,190.00	343,198.00	.00	307,709.33	35,488.67
4100	Approved Textbooks Core Curric		410.00			410.00
4200	Library and Reference Material		444.00			444.00
4300	Materials and Supplies	13,306.00	25,315.00	1,703.74	16,955.33	6,655.93

Balances through June						Fiscal Year 2015/16
Object	Description	Adopted Budget	Revised Budget	Encumbered	Expenditure	Account Balance
Fund 01 - Gen Fund (continued)						
4320	Custodial Grounds Supplies	1,300.00	2,972.00		1,877.05	1,094.95
4330	Office Supplies	1,000.00	1,000.00		1,552.35	552.35-
4350	Vehicle Upkeep	5,500.00	5,500.00	48.96	1,296.31	4,154.73
4400	Noncapitalized Equipment	8,459.00	11,823.00	923.30	4,200.62	6,699.08
	Total for Object 4000	29,565.00	47,464.00	2,676.00	25,881.66	18,906.34
5100	Subagreements for Services	39,626.00	42,000.00	670.95	42,765.95	1,436.90-
5200	Travel and Conference	24,854.00	38,889.00	246.85	20,332.68	18,309.47
5300	Dues and Membership	17,870.00	18,370.00	400.00	12,397.32	5,572.68
5400	Insurance	9,300.00	9,300.00		7,961.00	1,339.00
5500	Operation Housekeeping Service	9,200.00	9,200.00	164.42	7,321.99	1,713.59
5600	Rentals, Leases, Repairs, Nonc	2,600.00	2,600.00	48.37	658.46	1,893.17
5800	Professional Consulting	8,400.00	8,400.00			8,400.00
5801	Legal Services	35,500.00	25,500.00		1,842.50	23,657.50
5803	Legal Publications	500.00	500.00			500.00
5805	Personnel Expense	593.00	613.00	20.00	187.00	406.00
5806	Negotiations	1,000.00	1,000.00			1,000.00
5808	Other Services & Fees	1,500.00	1,500.00	30.00	1,328.12	141.88
5810	Contracted Services	365,709.00	459,991.00	66,347.29	235,756.11	157,887.60
5899	SPJUSD to Reimburse			254.58	2,248.68	2,503.26-
5900	Communications	1,600.00	1,600.00		795.22	804.78
	Total for Object 5000	518,252.00	619,463.00	68,182.46	333,595.03	217,685.51
6200	Building and Improvement of Bu	30,032.00	30,032.00			30,032.00
6400	Equipment	13,100.00	13,100.00		6,263.90	6,836.10
	Total for Object 6000	43,132.00	43,132.00	.00	6,263.90	36,868.10
7141	Tuition, excess cost etc betwe	42,224.00	33,607.00		27,650.16	5,956.84
7310	Direct Support/Indirect Costs					.00
	Total for Object 7000	42,224.00	33,607.00	.00	27,650.16	5,956.84
	Total for Fund 01 and Expense accounts	1,606,738.00	1,839,907.00	70,858.46	1,421,540.74	347,507.80
Fund 16 - FOREST RES						
7211	Transfers of Pass-through Rev	270,349.00	270,349.00		307,493.25	37,144.25-
7619	Other Authorized Interfund Tra	47,709.00	47,709.00		54,263.52	6,554.52-
	Total for Fund 16, Expense accounts and Object 7000	318,058.00	318,058.00	.00	361,756.77	43,698.77-
	Total for Org 001 - Sierra County Office of Education	1,924,796.00	2,157,965.00	70,858.46	1,783,297.51	303,809.03

MINUTES OF THE REGULAR MEEETING OF THE
SIERRA COUNTY BOARD OF EDUCATION

June 14, 2016

Downieville School, 130 School Street, Downieville CA 95936

Videoconferenced to Sierra County Office of Education, 109 Beckwith Rd., Room 4, Loyalton, CA 96118

5 pm for Closed Session

A. CALL TO ORDER

President PATTY HALL called the meeting to order at 6:00 pm.

B. ROLL CALL

PRESENT: Ms. Patty Hall, President
Mr. Mike Moore, Vice President
Mr. Allen Wright, Clerk
Mr. Tim Driscoll, Member
Ms. Sharon Dryden, Member

ABSENT: None

VACANT: None

C. APPROVAL OF THE AGENDA, with the following revision: removal of Item 1516-93.
WRIGHT/DRYDEN
5/0

D. FLAG SALUTE

E. INFORMATION/DISCUSSION ITEMS

1. Superintendent's Report

- a. Renewal of Contracts: Occupational Therapist, Nurse, Counselor-Loyalton Schools
- b. Extended Year School with Special Education students provided for the summer
- c. California State Budget: No major impact for our county from the May revise. The early education block grant which included all early monies for transitional kindergarten and preschool did not pass. This is OK for our county because transitional kindergarten is a funded model which we don't have to support if the ends don't meet.

2. Business Report

- a. Board Report-Expenditures by Object 07/01/15 to 5/31/16
- b. CDE Second Interim Positive Certification Letter

3. Staff Reports (5 minutes) - none

4. SPTA Report (5 minutes) - none

5. Board Members' Report (5 minutes)

MOORE reported that he awarded diplomas to Loyalton High School graduating students.

6. Public Comment – There were no comments

F. CONSENT CALENDAR

Sierra County Board of Education
Regular Meeting Minutes
June 14, 2016

1. Approval of minutes of the Regular Board meeting held May 10, 2016
2. Approval of bill warrants for month of May 2016
DRISCOLL/MOORE
5/0

G. ACTION ITEMS

1. Unfinished Business and General Orders

1516-88 Discussion: Authorized Possession of Firearms on Campus

2. New Business

1516-89 Adoption of Resolution No. 15-007, Declaration of Indefinite Salaries for Management, Confidential, and Unrepresented Employees 2016-2017

MOORE/DRISCOLL
DRISCOLL: AYE
DRYDEN: AYE
HALL: AYE
MOORE: AYE
WRIGHT: AYE
5/0

1516-90 Adoption of Resolution No. 16-001, Set Superintendent's Salary

MOORE motioned to increase the County Superintendent's salary to \$25,000/DRISCOLL seconded
DRYDEN: AYE
HALL: AYE
MOORE: AYE
WRIGHT: AYE
5/0

1516-91 Public Hearing for California Department of Education Certification of the Sierra County SELPA Annual Service and Budget Plan. The hearing opened at 6:40 pm and closed with one comment assuring that there are no significant changes affecting budget or process.

1516-92 Approval of SELPA Annual Service and Budget Plan

MOORE/DRISCOLL
5/0

1516-93 Purchase Order Policies – This item was pulled from the agenda. It will be presented to the board at another unspecified meeting.

1516-94 Adoption of the 2016-2017 Local Control and Accountability Plan

MOORE/WRIGHT
5/0

1516-95 Adoption of 2016-2017 Budget and the Criteria & Standards Report

DRISCOLL/MOORE
Ms. Asquith reviewed the above budget, highlighting specifics such as no salary increase for employees and implementation and funding of the Foster Youth program.
5/0

- 1516-96 Authorization for Superintendent to Enter into a Master Services Agreement with SmartWatt Energy, Inc.
DRISCOLL/WRIGHT
5/0

BOARD POLICIES AND ADMINISTRATIVE REGULATIONS

MOORE moved to approve 1516-97 through and including 1516-105/DRISCOLL seconded
5/0

- 1516-97 Approval of Minor Revisions to AR 3314, AR 3515.5, BP 4030, AR 4112, BP 4112.21, AR 4112.23, E 4112.0, 4212.9, 4312.9, BP 4117.13, 4317.13, AR 5141.4, AR 6158, AR 6171, E9323.2 (*most changes due to repeal of No Child Left Behind*)
- 1516-98 Approval of Board Policy and Admin Regulation 1230, School-Connected Organizations, revisions
- 1516-99 Approval of Board Policy and Administrative Regulation 3311, Bids, revisions
- 1516-100 Approval of Exhibit 3312, Contracts, new
- 1516-101 Approval of Board Policy and Administrative Regulation 3320, Claims and Actions Against the District, revision
- 1516-102 Approval to DELETE Exhibit E, 3320, Claim and Action Form
- 1516-103 Approval of Board Policy 3580, District Records, revision
- 1516-104 Approval of DELETION of Board Policy, Administrative Regulation and Exhibit E 4112.24, Teacher Qualifications Under the No Child Left Behind Act
- 1516-105 Approval of Exhibit E, 5145.6, Parental Notifications, revision

H. ADVANCED PLANNING

1. Next Regular Board Meeting will be held on July 12, 2016, at Sierra County Office of Education, 109 Beckwith Rd., Room 4, Loyalton, CA 96118, beginning with Closed Session, as needed, at 5 pm and the Regular Board Meeting at 6:00 pm
2. Suggested Agenda Items
 - a. SmartWatt Update

I. ADJOURNMENT

Adjourned at 6:50 pm.
DRISCOLL/WRIGHT
5/0

Allen Wright, Clerk

Dr. Merrill M. Grant, Superintendent
Secretary of the Board of Education

Checks Dated 06/01/2016 through 06/30/2016

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount	
00014399	06/10/2016	ROSE ASQUITH	01-5200	PER DIEM	292.09		
			01-5899	PER DIEM	114.31	406.40	
00014400	06/10/2016	CUSTOMINK	ATTN: ACCOUNTS RECEIVABLE	01-4300	T-SHIRTS - TOBACCO FREE	45.57	
					Unpaid Sales Tax	2.13-	43.44
00014401	06/10/2016	STATE OF CALIFORNIA	DEPARTMENT OF JUSTICE	01-5805	EMPLOYMENT FINGERPRINTING		32.00
00014402	06/10/2016	JANIS HARDEMAN		01-5810	NURSE SERVICES		1,260.00
00014403	06/10/2016	JANE V. LEE, M.A., LMFT		01-5810	COUNSELING SERVICES		640.00
00014404	06/10/2016	LIBERTY UTILITIES CPEC		01-5500	ELECTRICAL SERVICE		183.61
00014405	06/10/2016	MARY LOWE, MFT		01-5810	COUNSELING SERVICES		3,080.00
00014406	06/10/2016	BARBARA MCKURTIS		01-5100	CONTRACTED CONSULTANT AGREEMENT	6,204.05	
				01-5810	CONTRACTED CONSULTANT AGREEMENT	2,294.65	8,498.70
00014407	06/10/2016	MARLENE MONGOLO		01-5200	PER DIEM/HOTEL ACCOMODATIONS		245.36
00014408	06/10/2016	PRO-ED		01-4300	SUPPLIES	98.58	
					Unpaid Sales Tax	6.29-	92.29
00014409	06/10/2016	SIERRA COUNTY OFFICE	OF EDUCATION	01-5808	BANK SERVICE FEES		96.17
00014410	06/10/2016	SISKIYOU COUNTY OFFICE	OF EDUCATION	01-5300	COALITION DUES		1,960.32
00014411	06/10/2016	TRI COUNTY SCHOOLS	INSURANCE GROUP	01-9535	JUNE 16 HEALTH INSURANCE	2,506.00	
				76-9576	JUNE 16 HEALTH INSURANCE	13,182.10	15,688.10
00014412	06/10/2016	U.S. BANK		01-4300	BOARD MEETING DINNER	36.06	
					TONER	79.93	
					CLASSROOM SUPPLIES	60.87	
					SUPPLIES	55.82	
				01-4320	CLASSROOM SUPPLIES	743.72	
				01-5200	SUPT. TRAVEL EXPENSES	837.09	
				01-5899	SUPT. TRAVEL EXPENSES	1,038.47	
					LCAP MEETING MEALS	370.57	
					BOARD MEETING DINNER	51.13	3,273.66
00014413	06/10/2016	VOYAGER		01-4350	FUEL EXPENSE	52.08	
				01-5200	FUEL EXPENSE	52.35	
				01-5899	FUEL EXPENSE	101.81	206.24
00014414	06/10/2016	ALLEN WRIGHT		01-5200	PER DIEM		20.25
00014415	06/24/2016	LASSEN COUNTY OFFICE	OF EDUCATION	01-5810	ADAPTIVE PE SERVICES		2,905.85
00014416	06/24/2016	JANE V. LEE, M.A., LMFT		01-5810	COUNSELING SERVICES		640.00
00014417	06/24/2016	LESLIE MARSDEN, MOT, OTR/L		01-5810	OCCUPATIONAL THERAPY SERVICES		2,490.00
00014418	06/24/2016	BARBARA MCKURTIS		01-5100	CONTRACTED CONSULTANT AGREEMENT	17,569.94	

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

ESCAPE ONLINE

Checks Dated 06/01/2016 through 06/30/2016

Check Number	Check Date	Pay to the Order of	Fund-Object	Comment	Expensed Amount	Check Amount
00014418	06/24/2016	BARBARA MCKURTIS	01-5810	CONTRACTED CONSULTANT AGREEMENT	16,451.69-	1,118.25
00014419	06/24/2016	MIKE MOORE	01-5200	PER DIEM		27.00
00014420	06/24/2016	OFFICE DEPOT	01-4300	OFFICE SUPPLIES		75.24
00014421	06/24/2016	SIERRA COUNTY OFFICE OF EDUCATION	01-5808	BANK SERVICE FEES		110.71
00014422	06/24/2016	SINGLETON AUMAN PC	01-5810	AUDIT FEES		4,000.00
00014423	06/24/2016	U.S. BANK	01-4300	TUTORING SUPPLIES	229.79	
			01-4330	OFFICE SUPPLIES	519.06	748.85
00014424	06/24/2016	ALLEN WRIGHT	01-5200	PER DIEM		6.48
Total Number of Checks					26	47,848.92

Fund Summary

Fund	Description	Check Count	Expensed Amount
01	County School Service Fund	26	34,675.24
76	Payroll Clearing	1	13,182.10
Total Number of Checks		26	47,857.34
Less Unpaid Sales Tax Liability			8.42
Net (Check Amount)			47,848.92

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

ESCAPE ONLINE

**SIERRA COUNTY OFFICE OF EDUCATION
SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT**

Merrill M. Grant, Ed. D.
Superintendent

530 993-1660

109 Beckwith Road
Loyalton CA 96118

Notice of Public Hearing

Notice is hereby given that the Sierra County Board of Education will hold a public hearing on Tuesday, June 12, 2016, at 6:00 pm at District/County Office, 109 Beckwith Road, Room #4, Loyalton, CA, for the purpose of:

Receiving public comment on recruitment of certificated personnel. A diligent search to recruit fully prepared teacher(s) was made and an insufficient number of certificated persons met the Sierra County Office of Education's employment criteria for the position(s) for the 2016-2017 school year.



Dr. Merrill M. Grant, Superintendent

Posted: 6/30/2016
District Office, 109 Beckwith Road, Loyalton
Loyalton Elementary School, Loyalton
Loyalton High School, Loyalton
Downieville School, Downieville

**SIERRA COUNTY OFFICE OF EDUCATION
SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT**

Merrill M. Grant, Ed. D.
Superintendent

530 993-1660

109 Beckwith Road
Loyalton CA 96118

Notice of Public Hearing

Notice is hereby given that the Governing Board of the Sierra-Plumas Joint Unified School District will hold a public hearing on Tuesday, June 12, 2016, after the 6:00 pm Sierra County Office of Education Board Meeting, at District/County Office, 109 Beckwith Road, Room #4, Loyalton, CA, for the purpose of:

Receiving public comment on recruitment of certificated personnel. A diligent search to recruit fully prepared teacher(s) was made and an insufficient number of certificated persons met the Sierra-Plumas Joint Unified School District's employment criteria for the position(s) for the 2016-2017 school year.



Dr. Merrill M. Grant, Superintendent



DECLARATION OF NEED FOR FULLY QUALIFIED EDUCATORS

- Original Declaration of Need for year: 2016-2017
 Revised Declaration of Need for year: _____

FOR SERVICE IN A SCHOOL DISTRICT

Name of District: _____ District CDS Code: 46 70177

Name of County: _____ County CDS Code: 46 10462

By submitting this annual declaration, the district is certifying the following:

- A diligent search, as defined below, to recruit a fully prepared teacher for the assignment(s) was made
- If a suitable fully prepared teacher is not available to the school district, the district will make a reasonable effort to recruit based on the priority stated below

The governing board of the school district specified above adopted a declaration at a regularly scheduled public meeting held on ___/___/1___ certifying that there is an insufficient number of certificated persons who meet the district's specified employment criteria for the position(s) listed on the attached form. The attached form was part of the agenda, and the declaration did NOT appear as part of a consent calendar.

► **Enclose a copy of the board agenda item**

With my signature below, I verify that the item was acted upon favorably by the board. The declaration shall remain in force until June 30, 2017.

Submitted by (Superintendent, Board Secretary, or Designee):

<i>Name</i>	<i>Signature</i>	<i>Title</i>
<i>Fax Number</i>	<i>Telephone Number</i>	<i>Date</i>
<i>Mailing Address</i>		
<i>E-Mail Address</i>		

FOR SERVICE IN A COUNTY OFFICE OF EDUCATION, STATE AGENCY OR NONPUBLIC SCHOOL OR AGENCY

Name of County SIERRA County CDS Code 46 10462

Name of State Agency _____

Name of NPS/NPA _____ County of Location _____

The Superintendent of the County Office of Education or the Director of the State Agency or the Director of the NPS/NPA specified above adopted a declaration on 07 12 / 16, at least 72 hours following his or her public announcement that such a declaration would be made, certifying that there is an insufficient number of certificated persons who meet the county's, agency's or school's specified employment criteria for the position(s) listed on the attached form.

The declaration shall remain in force until June 30, 2017.

► **Enclose a copy of the public announcement**

Submitted by Superintendent, Director, or Designee:

MERRILL M. GRANT

Merrill M. Grant

SUPERINTENDENT

Name

Signature

Title

530 993-0828

530 993-1660

7/12/2016

Fax Number

Telephone Number

Date

P O BOX 955, LOYALTON, CA 96118

Mailing Address

mgrant@spjUSD.org

E-mail Address

► This declaration must be on file with the Commission on Teacher Credentialing before any emergency permits will be issued for service with the employing agency

AREAS OF ANTICIPATED NEED FOR FULLY QUALIFIED EDUCATORS

Based on the previous year's actual needs and projections of enrollment, please indicate the number of emergency permits the employing agency estimates it will need in each of the identified areas during the valid period of this Declaration of Need for Fully Qualified Educators. This declaration shall be valid only for the type(s) and subjects(s) identified below.

This declaration must be revised by the employing agency when the total number of emergency permits applied for exceeds the estimate by ten percent. Board approval is required for a revision.

Type of Emergency Permit	Estimated Number Needed
<input checked="" type="checkbox"/> CLAD/English Learner Authorization (applicant already holds teaching credential)	1
<input type="checkbox"/> Bilingual Authorization (applicant already holds teaching credential)	
List target language(s) for bilingual authorization:	
<input checked="" type="checkbox"/> Resource Specialist	1
<input type="checkbox"/> Teacher Librarian Services	
<input type="checkbox"/> Visiting Faculty Permit	

LIMITED ASSIGNMENT PERMITS

Limited Assignment Permits may only be issued to applicants holding a valid California teaching credential based on a baccalaureate degree and a professional preparation program including student teaching.

Based on the previous year's actual needs and projections of enrollment, please indicate the number of Limited Assignment Permits the employing agency estimates it will need in the following areas:

TYPE OF LIMITED ASSIGNMENT PERMIT	ESTIMATED NUMBER NEEDED
Multiple Subject	
Single Subject	
Special Education	1
TOTAL	1

EFFORTS TO RECRUIT CERTIFIED PERSONNEL

The employing agency declares that it has implemented in policy and practices a process for conducting a diligent search that includes, but is not limited to, distributing job announcements, contacting college and university placement centers, advertising in local newspapers, exploring incentives included in the Teaching as a Priority Block Grant (refer to www.cde.ca.gov for details), participating in state and regional recruitment centers and participating in job fairs in California.

If a suitable fully prepared teacher is not available to the school district, the district made reasonable efforts to recruit an individual for the assignment, in the following order:

- A candidate who qualifies and agrees to participate in an approved intern program in the region of the school district
- An individual who is scheduled to complete initial preparation requirements within six months

EFFORTS TO CERTIFY, ASSIGN, AND DEVELOP FULLY QUALIFIED PERSONNEL

Has your agency established a District Intern program? Yes No

If no, explain. small, rural school district; limited staff and resources to establish program

Does your agency participate in a Commission-approved college or university intern program? Yes No

If yes, how many interns do you expect to have this year? 3

If yes, list each college or university with which you participate in an intern program.

National University, USC Chico

If no, explain why you do not participate in an intern program.

POLICY GUIDE SHEET

BP 2121 - Superintendent's Contract

(BP revised)

Policy updated to clarify the conditions under which the Governing Board may meet in closed session under the "labor exception" (Government Code 54957.6) of the Ralph M. Brown Act to discuss superintendent contact, salary, or compensation paid in the form of fringe benefits.

BP/AR 3541.2 - Transportation for Students with Disabilities

(BP revised; AR deleted)

Policy updated to clarify the policy's applicability to students receiving services pursuant to Section 504 of the federal Rehabilitation Act of 1973, add sample criteria for individualized education program (IEP) teams to use when determining a student's transportation needs, and add material re: the provision of information to IEP teams. Regulation deleted and material moved to BP re: provision of alternative transportation when a student is excluded from school bus transportation for a disciplinary or other reason, assurance that a contract with a nonpublic, nonsectarian school or agency addresses transportation as necessary, and transportation of service animals.

BB 9222 - Resignation

(BB revised)

Bylaw updated to clarify the effective date of a resignation of a member of the board, the need for the board to fill the vacancy by ordering an election or making a provisional appointment as appropriate, and the need for the resigning member to file a revised Statement of Economic Interest/Form 700.

BB 9321 - Closed Session Purposes and Agendas

(BB revised)

Bylaw updated to clarify that the Board may not meet in closed session under the "personnel exception" (Government Code 54957) of the Ralph M. Brown Act to discuss or act upon any proposed change in compensation other than a reduction of compensation that results from the imposition of discipline. "Negotiations/Collective Bargaining" section revised to reflect that the Board may meet with the district's designated representatives in closed session under the "labor exception" (Government Code 54957.6) of the Ralph M. Brown Act to discuss salaries, salary schedules, or compensation paid in the form of fringe benefits to its represented and unrepresented employees, including the Superintendent.

BB/E 9270 - Conflict of Interest

(BB/E revised)

Bylaw reorganized and updated to reflect requirement to submit the conflict of interest code to the code reviewing body (i.e., county board of supervisors or Fair Political Practices Commission, as appropriate) by the deadline established by the code reviewing body, merge material on the "rule of necessity" into the section "Conflict of Interest under the Political Reform Act," expand material on "noninterests" in the section "Conflict of Interest under Government Code 1090 - Financial Interest in a Contract" to include additional examples of noninterests, and include the exceptions to the gift limitation. Exhibit revised to update legal citations.

Sierra County/Sierra-Plumas Joint USD

Board Policy

Administration

BP 2121(a)

SUPERINTENDENT'S CONTRACT

The Governing Board believes that the Superintendent's employment contract should outline the framework through which the Board and Superintendent are to work together to achieve district goals and objectives. When approving the Superintendent's employment contract, the Board shall consider the need for stability in district administration and shall ensure the best use of district resources.

(cf. 0200 - Goals for the School District)

(cf. 2120 - Superintendent Recruitment and Selection)

(cf. 4312.1 - Contracts)

(cf. 9000 - Role of the Board)

Note: The following list of contract components is consistent with a template for Superintendent contracts developed by CSBA. The annotated template contract with additional context and suggestions is available by contacting legal@csba.org.

The contract shall be reviewed by the district's legal counsel and may include the following:

1. Term of the contract, which shall be for no more than four years pursuant to Education Code 35031
2. Length of the work year

Note: The contract should include the salary, health and welfare benefits, and other compensation for the position, as provided in item #3 below. Federal law (26 USC 105; 42 USC 300gg-16; 26 CFR 1.105-11) prohibits favoring "highly compensated" individuals (i.e., the highest paid 25 percent of all employees, with specified exceptions) in terms of the level of benefits provided. Although implementation of this provision with respect to group health plans has been delayed until the issuance of federal regulations or guidance, it is recommended that districts prepare to comply with the expected rules. See AR 4154/4254/4354 - Health and Welfare Benefits.

3. Salary, health and welfare benefits, and other compensation for the position

(cf. 4154/4254/4354 - Health and Welfare Benefits)

4. Reimbursement of work-related expenses, including mileage reimbursement, consistent with Board policies, regulations, and guidelines applicable to other professional administrative staff

(cf. 3350 - Travel Expenses)

The contract may also address payment for professional dues and activities, the district's provision of cell phones or other technological devices, and the Superintendent's use of his/her personal vehicle.

(cf. 4040 - Employee Use of Technology)

5. Vacation, illness and injury leave, and personal leaves

(cf. 4161/4261/4361 - Leaves)

(cf. 4161.1/4361.1 - Personal Illness/Injury Leave)

(cf. 4161.2/4261.2/4361.2 - Personal Leaves)

(cf. 4161.5/4261.5/4361.5 - Military Leave)

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

6. General duties and responsibilities of the position

(cf. 2110 - Superintendent Responsibilities and Duties)

7. Criteria, process, and procedure for annual evaluation of the Superintendent

(cf. 2140 - Evaluation of the Superintendent)

8. A statement that any subsequent increase in the Superintendent's salary shall be at the sole discretion of the Board

9. A statement that there shall be no automatic renewal or extension of the contract, although the Board can enter into a new contract with the Superintendent prior to the expiration of the existing contract

Note: Pursuant to Education Code 35031, the Governing Board must notify the Superintendent at least 45 days in advance if it decides to not reemploy him/her. If the Board fails to provide the required prior written notice, the Superintendent shall be deemed reemployed for a term of the same length as the one completed, under the same terms and conditions, and with the same compensation.

10. Timeline for providing written notice to the Superintendent if the Board does not wish to enter into a new contract, which shall be at least 45 days in advance of the expiration of the term of the contract pursuant to Education Code 35031, and the responsibility of the Superintendent to remind the Board in a timely manner of the requirement to give notice

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

11. Conditions and process for termination of the contract, including the maximum cash settlement that the Superintendent may receive if the contract is terminated prior to its expiration date

12. Matters related to liability and indemnification against demands, claims, suits, actions, and legal proceedings brought against the Superintendent in his/her official capacity in the performance of duties related to his/her employment

~~The Board shall deliberate in closed session about the terms of the contract, except that salary or other compensation shall be discussed in public at a regular meeting. (Government Code 54956, 54957)~~

Note: Pursuant to Government Code 54957, personnel matters related to the appointment or employment of an employee may be discussed in closed session under the "personnel exception." However, the Board may not discuss or act upon any proposed change in compensation other than a reduction of compensation that results from the imposition of discipline in closed session under this exception. In San Diego Union v. City Council, a California Court of Appeal held that the "personnel exception" provided in Government Code 54957 does not extend to discussions of salary and compensation.

Notwithstanding Government Code 54957, the Board is authorized pursuant to Government Code 54957.6, the "labor exception," to hold closed sessions with the district's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits to its represented and unrepresented employees, including the Superintendent. The Attorney General has opined in 57 Ops. Cal. Atty. Gen. 209 (1974) that a board may only meet in closed session for such purposes with a designated representative who is involved with the "bona fide" negotiations with represented and/or unrepresented employees. The Attorney General's publication The Brown Act: Open Meetings for Local Legislative Bodies, also states that the "labor exception" applies to meeting in closed session to instruct its representatives concerning negotiations with prospective employees. Boards wishing to discuss the Superintendent's salary in closed session under the "labor exception" are encouraged to consult legal counsel before doing so.

In addition, pursuant to Government Code 54956, the Board is prohibited from deliberating on the salary or other compensation of the Superintendent at a special meeting. See BB 9320 - Meetings and Notices and BB 9321 - Closed Session Purposes and Agendas.

The Board may deliberate about terms of the contract in closed session at a regular meeting. Discussions regarding the salary, salary schedule, or other compensation may occur in closed session only as permitted under Government Code 54957.6 between the Board and its designated representative(s) (the "labor exception"), for the purpose of reviewing the Board's position or instructing the designated representative(s) prior to or during bona fide negotiations with the current or prospective Superintendent. (Government Code 54956, 54957, 54957.6)

The Board may consult with district legal counsel prior to holding a closed session with the designated representative(s) to discuss compensation to be paid to the current or prospective Superintendent.

(cf. 9320 - Meetings and Notices)

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

Terms of the contract shall remain confidential until the ratification process commences.

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

The Board shall ~~ratify~~ take final action on the Superintendent's contract in an open meeting, which shall be reflected in the Board's minutes. Copies of the contract shall be available to the public upon request. (Government Code 53262, 54957.6)

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

Termination of Contract

Note: Pursuant to Government Code 53260, every employee contract must include a provision limiting the maximum cash settlement the employee may receive upon termination of the contract to an amount equal to his/her monthly salary multiplied by the number of months left on the contract. For a Superintendent contract executed prior to January 1, 2016, if the unexpired term is greater than 18 months, this maximum is equal to the monthly salary multiplied by 18. For a Superintendent contract executed on or after January 1, 2016, Government Code 53260, as amended by AB 215 (Ch. 240, Statutes of 2015), provides that the maximum cash settlement is the monthly salary multiplied by 12. Cash settlements may be less than these maximums. The district must make termination agreements available to the public upon request. See AR 4117.5/4217.5/4317.5 - Termination Agreements.

Prior to the expiration of the contract, the Board may terminate the Superintendent's employment contract in accordance with law and applicable contract provisions.

(cf. 4117.5/4217.5/4317.5 - Termination Agreements)

In such an event, any cash settlement that the Superintendent may receive upon termination of the contract shall not exceed his/her monthly salary multiplied by the number of months left on the contract or, if the unexpired term of the contract is more than 18 months and the contract was executed prior to January 1, 2016, no greater than the Superintendent's monthly salary multiplied by 18. For any contract executed on or after January 1, 2016, any cash settlement shall not exceed the Superintendent's monthly salary multiplied by 12. (Government Code 53260)

The cash settlement shall not include any noncash items other than health benefits, which may be continued for the same duration of time as covered in the settlement or until the Superintendent finds other employment, whichever occurs first. (Government Code 53260, 53261)

Note: AB 215 (Ch. 240, Statutes of 2015) amended Government Code 53260 to eliminate the option to provide a settlement equivalent to up to six months' salary when the Superintendent's contract is terminated for specified causes.

However, when the termination of the Superintendent's contract is based upon the Board's belief and subsequent confirmation through an independent audit that the Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, no cash or noncash settlement of any amount shall be provided. (Government Code 53260)

In addition, if the Superintendent is convicted of a crime involving an abuse of his/her office or position, he/she shall reimburse the district for payments he/she receives as paid leave salary pending investigation or as cash settlement upon his/her termination, and for any funds expended by the district in his/her defense against a crime involving his/her office or position. (Government Code 53243-53243.4, 53260)

Legal Reference:

EDUCATION CODE

35031 Term of employment

41325-41329.3 Conditions of emergency apportionment

GOVERNMENT CODE

3511.1-3511.2 Local agency executives

53243-53243.4 Abuse of office

53260-53264 Employment contracts

54954 Time and place of regular meetings

54956 Special meetings

54957 Closed session personnel matters

54957.1 Closed session, public report of action taken

54957.6 Closed sessions regarding employee matters

UNITED STATES CODE, TITLE 26

105 Self-insured medical reimbursement plan; definition of highly compensated individual

UNITED STATES CODE, TITLE 42

300gg-16 Group health plan; nondiscrimination in favor of highly compensated individuals

CODE OF FEDERAL REGULATIONS

1.105-11 Self-insured medical reimbursement plan

COURT DECISIONS

San Diego Union v. City Council, (1983) 146 Cal.App.3d 947

ATTORNEY GENERAL OPINIONS

57 Ops. Cal. Atty. Gen. 209 (1974)

Management Resources:

CSBA PUBLICATIONS

Superintendent Contract Template, 2015

ATTORNEY GENERAL PUBLICATIONS

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

WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

Office of the Attorney General, Department of Justice: <http://caag.state.ca.us/>

SIERRA COUNTY OFFICE OF EDUCATION
SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT
Sierraville, California

Policy

adopted: April 10, 2007

revised: February 14, 2012

revised: January 12, 2016

revised: July 12, 2016

Loyalton, California

Sierra County/Sierra-Plumas Joint USD

Board Policy

TRANSPORTATION FOR STUDENTS WITH DISABILITIES

BP 3541.2

Business and Noninstructional Operations

~~The Governing Board desires to meet the transportation needs of students with disabilities to enable them to benefit from special education and related services. The district shall provide appropriate transportation services for a student with disabilities when the district is the student's district of residence and the transportation services are required by his/her individualized education program (IEP) or Section 504 accommodation plan. The district shall make home to school transportation available for students at no cost to parents/guardians as specified in the student's IEP.~~

(cf. 0430 - Comprehensive Local Plan for Special Education)

~~The Superintendent or designee shall establish criteria and procedures for determining the most appropriate mode of transportation for an individual student based on identified needs as determined in the IEP or accommodation plan.~~

(cf. 3540 - Transportation)

(cf. 6159 - Individualized Education Program)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6164.6 - Identification and Education Under Section 504)

Note: Education Code 56195.8 mandates that the district's policy set forth criteria for meeting the transportation needs of special education students. The CDE's Special Education Transportation Guidelines recommends that the IEP team give primary consideration to the specific needs of the student when making decisions about transportation services to be provided, and presents possible considerations which include, but are not limited to, those specified in the following paragraph. The following paragraph may be revised to reflect district practice.

~~The specific needs of the student shall be the primary consideration when an IEP team is determining the student's transportation needs. Considerations may include, but are not limited to, the student's health needs, travel distances, physical accessibility and safety of streets and sidewalks, accessibility of public transportation systems, midday or other transportation needs, extended-year services, and, as necessary, implementation of a behavioral intervention plan.~~

Note: Because the authority to make decisions regarding services for students with disabilities rests with the IEP team, the CDE's Special Education Transportation Guidelines recommends that IEP team leaders and members be provided with information regarding available district transportation resources. The guidelines also recommend that the IEP team identify with specificity the mode of transportation (e.g., walking/wheeling, riding the regular school bus, utilizing available public transportation, riding a special bus, being transported by parent/guardian) and when, from where, and to where transportation will be provided.

The Superintendent or designee shall provide IEP teams with information about district transportation services in order to assist them in making decisions as to the mode, schedule, and location of transportation services that may be available to each student with disabilities. The IEP team may communicate with district transportation staff and/or invite transportation staff to attend IEP team meetings where the student's transportation needs will be discussed.

Note: Pursuant to Education Code 56040, a student who is eligible to receive special education instruction and related services must be provided such instruction and services at no cost. Special education transportation is defined in 34 CFR 300.34 as a related service. Thus, transportation fees may not be charged to students whose IEP requires the provision of transportation services, even if the district charges transportation fees to other students. See BP 3250 - Transportation Fees.

Transportation services specified in a student's IEP or Section 504 plan shall be provided at no cost to the student or his/her parent/guardian.

(cf. 3250 - Transportation Fees)

Note: Education Code 48915.5 provides that the district must provide alternative transportation at no cost whenever a disabled student is excluded from school bus transportation for any reason, such as suspension, expulsion, or other reason. If a student receiving special education services is excluded from transportation as a disciplinary measure and is not provided another mode of transportation, it may constitute a significant change of placement which would require a meeting of the IEP team to review the student's IEP.

If a student whose IEP or accommodation plan specifies transportation needs is excluded from school bus transportation for any reason, such as suspension, expulsion, or other reason, the district shall provide alternative transportation at no cost to the student or parent/guardian. (Education Code 48915.5)

(cf. 5131.1 - Bus Conduct)

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

Note: The following paragraph is for use by single-district SELPAs or districts that contract individually with nonpublic, nonsectarian schools or agencies.

When contracting with a nonpublic, nonsectarian school or agency to provide special education services, the Superintendent or designee shall ensure that the contract includes general administrative and financial agreements related to the provision of transportation services if specified in the student's IEP. (Education Code 56366)

(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)

Note: 34 CFR 104.4 provides that no qualified disabled person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance. The following **optional** paragraph is intended to prevent such discrimination in the area of transportation.

The Superintendent or designee shall arrange transportation schedules so that students with disabilities do not spend an excessive amount of time on buses compared to other students. Arrivals and departures shall not reduce the length of the school day for these students except as may be prescribed on an individual basis.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
 (cf. 3541 - Transportation Routes and Services)

Note: Education Code 56195.8 mandates the Board's policy to include procedures to ensure ensuring compatibility between mobile seating devices, when used, and bus the securement systems required by 49 CFR 571.222. The following paragraph may be revised to reflect district practice.

Education Code 56195.8 also requires the Board's policy to ensure that bus drivers are trained in the proper installation of mobile seating devices; see AR 3542 - School Bus Drivers for language fulfilling this mandate.

The Superintendent or designee shall ensure that any mobile seating devices used on district buses are compatible with bus securement systems required by 49 CFR 571.222. (Education Code 56195.8)

(cf. 3542 - School Bus Drivers)

As necessary, a student with disabilities may be accompanied on school transportation by a service animal, as defined in 28 CFR 35.104, including a specially trained guide dog, signal dog, or service dog. (Education Code 39839; Civil Code 54.1-54.2; 28 CFR 35.136)

(cf. 6163.2 - Animals at School)

When transportation is not specifically required by the IEP or Section 504 plan of a student with disabilities, the student shall be subject to the rules and policies regarding regular transportation offerings within the district.

Legal Reference:

EDUCATION CODE

39807.5 *Payment of transportation cost*
 39839 *Guide dogs, signal dogs, and service dogs on bus*
 41850-41854 *Allowances for transportation*
 48300-48315 *Alternative interdistrict attendance program*
 48915.5 *Expulsion of students with exceptional needs*
 56040 *No cost for special education and related services*
 56195.8 *Adoption of policies*
 56327 *Assessment for special education and related services*
 56345 *Individualized education program*
 56365-56366.1 *Nonpublic nonsectarian schools or agencies*

CIVIL CODE

54.1-54.2 *Service animals*

CODE OF REGULATIONS, TITLE 5

15243 *Physically handicapped minors*
 15271 *Exclusion from report*

UNITED STATES CODE, TITLE 20

1400-1482 *Individuals with Disabilities Education Act*

UNITED STATES CODE, TITLE 29

794 *Section 504 of the Rehabilitation Act of 1973*

CODE OF FEDERAL REGULATIONS, TITLE 28

35.104 *Definitions*

35.136 *Service animals*

CODE OF FEDERAL REGULATIONS, TITLE 34

104.4 *Equal opportunity under the Rehabilitation Act of 1973, Section 504*

300.1-300.818 *Individuals with Disabilities Education Act, especially:*
 300.34 *Transportation defined as related service*

CODE OF FEDERAL REGULATIONS, TITLE 49

571.222 *Federal requirements for bus securement systems*

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Special Education Transportation Guidelines

Pupil Fees, Deposits and Other Charges, Fiscal Management Advisory 12-02, April 24, 2013

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Protecting Students with Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities, 2009

Questions and Answers on Serving Children with Disabilities Eligible for Transportation, 2009

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education: <http://www.ed.gov>

Policy

adopted: April 10, 2007

revised: July 12, 2016

SIERRA COUNTY OFFICE OF EDUCATION
 SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT
 Sierraville, California
 Loyalton, California

Sierra County/Sierra-Plumas Joint USD

Board Bylaw

Board Bylaws

BB 9222(a)

RESIGNATION

~~A member of the Governing Board who wishes to resign from the Board shall file a written resignation with the County Superintendent of Schools. (Education Code 5090)~~

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

~~The resigning Board member shall also notify the Board and give a copy shall be given of his/her written resignation to the Board secretary.~~

The ~~written~~ resignation ~~is~~ shall become effective when filed with the County Superintendent, except when a deferred effective date is specified in the resignation. ~~(Education Code 5090)~~

A Board member may not defer the effective date of his/her resignation for more than 60 days after ~~filing he/she files the resignation with the County Superintendent.~~ (Education Code 5090, 5091)

~~A~~ Once filed, a written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable ~~upon being filed.~~ (Education Code 5090)

~~Upon resignation, the~~ A Board member ~~may~~ who tenders his/her resignation with a deferred effective date shall, until the effective date of the resignation, continue to exercise all ~~his/her~~ the powers, ~~save of the office, except that of voting he/she shall not have the right to vote for a his/her successor, until the effective date of resignation. in an action taken by the Board to make a provisional appointment.~~ (Education Code 5091, 35178)

(cf. 9223 - Filling Vacancies)

~~A Board member who resigns shall file, within 30 days of leaving office, a revised Statement of Economic Interest/Form 700 covering the period of time between the closing date of the last statement required to be filed and the date he/she leaves office. (Government Code 87302, 87500)~~

(cf. 9270 - Conflict of Interest)

Legal Reference:

EDUCATION CODE

5090-5095 Vacancies on the board

35178 Resignation with deferred effective date

Bylaw
adopted: April 10, 2007
revised: July 12, 2016

SIERRA COUNTY OFFICE OF EDUCATION
SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT
Sierraville, California
Loyalton, California

Sierra County/Sierra-Plumas Joint USD

Board Bylaw

Board Bylaws

BB 9270

CONFLICT OF INTEREST

Note: The determination as to whether a conflict of interest exists must be analyzed under two separate sets of statutes: (1) the conflict of interest provisions of the Political Reform Act (PRA) (Government Code 87100-87505), detailed in the section below entitled "Conflict of Interest under the Political Reform Act," and (2) Government Code 1090-1098, detailed in the section below entitled "Conflict of Interest under Government Code 1090 - Financial Interest in a Contract." Even when a conflict does not exist pursuant to those statutes, a violation might still occur under the common law doctrine against conflict of interest; see the section below entitled "Common Law Doctrine Against Conflict of Interest."

Because the law and definitions are quite complex, it is strongly recommended that districts consult with legal counsel and staff from the Fair Political Practices Commission (FPPC) as soon as a potential conflict is presented.

~~The Board of Education~~The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. ~~In accordance with law,~~Accordingly, no Board ~~members and~~member, district employee, or other person in a designated ~~employees~~position shall ~~disclose any conflict of interest and, as necessary, shall abstain from participating~~participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

(cf. 9005 - Governance Standards)

~~The~~Even if a prohibited conflict of interest does not exist, 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)

Note: The following paragraph reflects the common law definition of "relative within the third degree."

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.

Note: The Governing Board is required to adopt a conflict of interest code in compliance with Government Code 87300-87313. Board members and employees designated in the district's conflict of interest code are required by Government Code 87500 to annually file a Statement of Economic Interest/Form 700 to disclose any assets and income which may be materially affected by official actions. Under the PRA, there are two separate categories of Form 700 disclosure requirements. For the first category pursuant to Government Code 87302, which is applicable to most school districts, the disclosure requirements are determined by the district and set forth in the district's conflict of interest code. The second category, pursuant to Government Code 87200, is only applicable to Board members and designated employees who "manage public investments"; see section below entitled "Additional Requirements for Boards that Manage Public Investments." Those Board members and designated employees, referred to by the FPPC as Government Code 87200/Article 2 filers, must file broader disclosure statements pursuant to the disclosure requirements specified in law and FPPC regulation.

Pursuant to Government Code 87303, the district's conflict of interest code must be approved by the appropriate code reviewing body. For districts located entirely in one county, the code reviewing body is the board of supervisors of the county in which the district is located. The FPPC is the code reviewing body for those school districts located in more than one county.

Pursuant to 2 CCR 18730, the requirements of the Government Code are satisfied if a district adopts a conflict of interest code that incorporates 2 CCR 18730 by reference, along with a list of designated positions and disclosure categories. The accompanying exhibit (E 9270) contains a sample resolution that ~~specifies the~~includes an appendix with designated positions and disclosure

categories which, once adopted by the Board, will comprise the terms of the district's conflict of interest code; that should be submitted to the code reviewing body.

The Board shall adopt for the district a conflict of interest code that incorporates the provisions of 2 CCR 18730 by reference, specifies the district's designated positions, and provides the disclosure categories required for each position. The conflict of interest code shall be submitted to the district's code reviewing body for approval, in accordance with Government Code 87303 and within the deadline for submission established by the code reviewing body. (Government Code 87303)

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code and submit any changes to the code reviewing body; or, if no change is required, the Board shall submit a written statement to that effect. (Government Code 87306.5)

When a change in the district'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; after the changed circumstances necessitating the amendments have become apparent. (Government Code 87306)

When reviewing and preparing the district's conflict of interest code, the Superintendent 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)

(cf. 9320 - Meetings and Notices)

Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the district's conflict of interest code. A Board member who leaves office or a designated employee who leaves district employment shall, within 30 days, file a revised statement covering the period of time between the closing date of the last required statement and the date of leaving office or district employment. (Government Code 87302, ~~87500~~87302.6)

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

Conflict of Interest under the Political Reform Act

Note: The FPPC has adopted an eight-step analysis, detailed in Government Code 87100-87500, 2 CCR 18700-18755, and interpretive opinions, to determine whether a conflict of interest exists under the PRA. When such a conflict exists, the affected Board member must disclose the interest and disqualify himself/herself from participating in the decision, as specified below. Because Family Code 297.5 grants a registered domestic partner the same rights, protections, and benefits as a spouse under state law, analysis of a conflict of interest with regards to a Board member's spouse is also applicable to a registered domestic partner.

A Board member ~~or~~, designated employee, or other person in a designated position 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. ~~AA disqualifying~~ 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," which is indistinguishable~~ distinguishable from the effect on the public generally ~~or, on the Board member's or member,~~ on the Board member, designated employee, or other person in a designated position, his/her immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

A Board member ~~or~~, designated employee, or other person in a designated position makes a governmental decision when he/she, acting within the authority of his/her office or position, ~~he/she votes authorizes or directs any action~~ on a matter, ~~appoints a person, obligates or commits the votes or provides information or opinion on it, contacts or appears before a district to any course official for the purpose of action affecting the decision, or enters into~~ takes any ~~contractual agreement on behalf of the district. (other action specified in 2 CCR 18702.1)~~ 18704.

~~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)~~

~~A Note: 2 CCR 18705 permits a Board member who is financially interested in a contract to participate in making a decision on the contract if (1) he/she discloses the existence of the conflict and describes with particularity the nature of his/her economic interest in the contract; (2) gives a summary description of the circumstances under which he/she believes the conflict may arise; and (3) either he/she, another Board member, or a district employee discloses the legal basis for concluding that no alternative source of decision exists for the district. In general, this rule will permit a district to acquire an essential supply or service. CSBA strongly recommends that legal counsel be consulted when situations arise involving the rule of necessity, as strict compliance is required.~~

~~However, a Board member shall participate in the making of a contract in which he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.~~

Additional Requirements for Boards that Manage Public Investments

~~According to the FPPC, officials who manage public investments are boards or designated employees who manage the investment of district surplus or special reserve funds in permitted securities and investments pursuant to Education Code 41015. Those boards that direct the investment of these funds, formulate or approve policies for the investment of these funds, even if they delegate day-to-day investment decisions to staff, or approve investment transactions involving these funds are considered officials who manage public investments.~~

~~The Board does not manage public investments when the district does not have any surplus or special reserve funds to invest and merely deposits all funds it receives (1) in the county treasury pursuant to Education Code 41001-41002.5 or (2) in a fund where a Tax and Revenue Anticipation Note (TRANS) is issued. Board members and superintendents in these types of situations are not considered to have discretion regarding the investment of the district's money and are therefore not officials who manage public investments.~~

Any 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~~ 18707)

- 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.
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 and deliberations 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.

(cf. 3430 - Investing)

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

Conflict of Interest under Government Code 1090 - Financial Interest in a Contract

Note: Pursuant to Government Code 1090, if a Board member has a financial interest in a contract, it is an absolute bar for that district to enter into the contract. The Attorney General has opined in 69 Ops.Cal.Atty.Gen. 255 (1986) that, unlike the PRA, the prohibitions in Government Code 1090 cannot be resolved by having the financially interested Board member abstain from participating in the matter. However, there are two categories of exceptions. If a financial interest meets the definition of a "noninterest" as specified in Government Code 1091.5, then the restrictions in Government Code 1090 do not apply and the district can enter into the contract. Secondly, if a Board member's interest is deemed a "remote interest" pursuant Government Code 1091, then the district can enter into the contract as long as certain conditions are satisfied, as specified below.

While the prohibitions in the PRA only apply to designated employees, the prohibitions in Government Code 1090 apply to all district employees and consultants. California appellate courts have ruled in McGee v. Balfour Beatty Construction LLC and Davis v. Fresno Unified School District that Government Code 1090 applies to consultants, including corporate consultants, who fill the roles and positions of officers, employees, and agents of the district. However, the Attorney General has opined in 63 Ops.Cal.Atty.Gen. 868 (1980) that an employee's financial interest would not prohibit the district from entering into a contract as long as the employee has not participated in the making of the contract, such as in discussions and planning, as detailed below.

Government Code 1090 does not define financial interest, but courts have held that, for the purposes of this statute, the definition of "financial interest" is not the same as the definition in the PRA which requires a "material financial effect" in order for a conflict to exist. Because the determination of whether a financial interest exists involves a review of statutes, court decisions, and Attorney General opinions as they apply to the particular facts at issue, the analysis can be complex and legal counsel should be consulted as appropriate.

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, 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, in a contract made by the district is barred from entering into Board, the contract is void. (Government Code 1090; Klistoff v. Superior Court, (2007) 157 Cal.App. 4th 469)

Note: The district may enter into a contract when a Board member's interest is a "remote interest" as defined in Government Code 1091. Generally, this issue arises when the district wishes to enter into a contract with the Board member's employer. When the conditions specified in Government Code 1091 are satisfied (e.g., Board member is an employee of a nonprofit organization, the employer has at least 10 employees, and the Board member has been employed more than three years), then the district may enter into the contract as long as the affected Board member discloses the remote interest and abstains from the matter.

Board members who willfully fail to disclose a remote interest in a contract may be subject to a fine or imprisonment pursuant to Government Code 1097.

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 district 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 in which 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 or district official 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.~~

Note: Pursuant to Government Code 1091.5, certain financial interests are defined as "noninterests," meaning a conflict of interest does not exist and the district can enter into the contract. One of the noninterests listed in Government Code 1091.5 is when a Board member's spouse has been employed by the district for at least one year prior to the Board member's election or appointment. If the spouse has not been employed by the district for at least one year prior to the Board member's election or appointment, the exception does not apply and Government Code 1090 prohibits the district from entering into a new contract to hire the spouse. (80 Ops.Cal.Atty.Gen. 320 (1997))
Attorney General opinions and case law have further clarified the application of this noninterest exception when a previously employed spouse changes to a different position during the Board member's term. Generally, these opinions have held that a lateral transfer or change of classification that does not require Board approval (e.g., second year probationary teacher automatically achieving permanent status, step increase) is the same employment not requiring a new contract and thus constitutes a noninterest. (92 Ops.Cal.Atty.Gen. 26 (2009), 87 Ops.Cal.Atty.Gen. 23 (2004)) However, when a new contract is involved (e.g., promotion from classroom teacher to principal, substitute employee becoming a probationary employee), the exception in Government Code 1091.5 does not apply and the action would be prohibited under Government Code 1090 because Board approval of the contract is required. (Thorpe v. Long Beach Community College District, 69 Ops.Cal.Atty.Gen. 255 (1986))
Because this area of law is complex, it is strongly recommended that district legal counsel be consulted if a Board member's spouse is an employee of the district or when analyzing whether an interest is a noninterest or remote interest.

In addition, a Board member shall not be considered to be financially interested in a contract in which his/her interest is a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest in being reimbursed for his/her actual and necessary expenses incurred in the performance of his/her official duties, in the employment of his/her spouse/registered domestic partner who has been a district employee for at least one year prior to the Board member's election or appointment, or in any other applicable circumstance specified in Government Code 1091.5.

Common Law Doctrine ~~against~~ Against Conflict of Interest

Note: Even when there is not a conflict pursuant to the PRA (Government Code 87100-87505) or Government Code 1090, the Attorney General has found that special situations may still exist under the common law doctrine against conflict of interest which, unlike the statutes, extends to noneconomic interests. In 92 Ops.Cal.Atty.Gen. 19 (2009), the Attorney General opined that a redevelopment board member should abstain from voting on a loan agreement where the recipient of the loan was a corporation owned by the board member's adult son. Although the board member was not financially interested in the contract under the PRA or Government Code 1090, the Attorney General determined that abstention was necessary in order to avoid a conflict between the member's official and personal interests and to avoid the appearance of impropriety.
Districts are encouraged to consult legal counsel if situations arise that raise the question as to whether such a conflict exists.

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

Note: Government Code 1099 and 1126 prohibit Board members and employees from engaging in any employment or activity which is inconsistent, incompatible, in conflict with, or inimical to their duties with the district. Government Code 1126 mandates the district to adopt procedures regarding this prohibition. See BP 4136/4236/4336 - Nonschool Employment for language implementing this mandate relative to employees.

Attorney General opinions have indicated that it would be incompatible for Board members to serve on other elected or appointed boards, councils, or commissions that have interests which may conflict with the interests of the district (85 Ops.Cal.Atty.Gen. 60 (2002); 68 Ops.Cal.Atty.Gen. 171 (1985); 65 Ops.Cal.Atty.Gen. 606 (1982)). If a Board member is sworn into an incompatible office, then his/her position in the prior office is automatically terminated.

Pursuant to Education Code 35107, an employee of a school district may not be sworn into office as an elected or appointed member of that district's Board unless he/she resigns as an employee. If the employee does not resign, the employment automatically terminates when he/she is sworn into office. See BB 9220 - Governing Board Elections.

The determination as to whether an activity or office is incompatible is complex and requires a case-by-case analysis of the particular activities or duties of the office; therefore, it is recommended that district legal counsel be consulted as appropriate.

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 the district. (Government Code 1099, 1126)

(cf. 4136/4236/4336 - Nonschool Employment)

Gifts

Note: Pursuant to 2 CCR 18730, the gift limitation is currently \$460. This amount is adjusted in odd-numbered years by the FPPC. Pursuant to Government Code 89503, Board members and candidates are subject to gift limitation for gifts from all sources except when exempted by law or regulation. For those Board members who file a Form 700 based on the disclosure categories specified in the district's conflict of interest code pursuant to Government Code 87302 (see the accompanying exhibit), the gift limit is only applicable as to those individuals and entities that are disclosed on the Form 700.

Several exceptions exist within the Government Code's definitions of gifts, income, interest in real property, and investment; see Government Code 82028, 82030, 82033, and 82034. If questions arise as to such exceptions, the district may seek clarification from the FPPC through email to advice@fppc.ca.gov or consult legal counsel.

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)

In addition, the limitation on gifts does not apply to informational materials such as books, reports, pamphlets, calendars, and periodicals. (Government Code 82028)

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation, ~~except as described in when:~~ (Government Code 89506-)

1. The travel is in connection with a speech given by a Board member or designated employee, provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.
2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Gifts of travel exempted from the gift limitation, as described in items #1 and 2 above, shall nevertheless be reportable on the recipient's Statement of Economic Interest/Form 700 as required by law.

A gift of travel does not include travel provided by the district for Board members and designated employees. (Government Code 89506)

Honoraria

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

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

1. Earned income for personal services customarily provided in connection with a bona fide business, trade, or profession, unless the sole or predominant activity of the business, trade, or profession is making speeches
2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes

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*

41015 Investments

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*

82019 Definition, designated employee

82028 Definition, gift

82030 Definition, income

82033 Definition, interest in real property

82034 Definition, investment

87100-87103.6 *General prohibitions*

87200-87210 *Disclosure*

87300-87313 *Conflict of interest code*

87500 *Statements of economic interests*

89501-89503 *Honoraria and gifts*

89506 *Ethics; travel*

91000-91014 *Enforcement*

PENAL CODE

85-88 *Bribes*

REVENUE AND TAXATION CODE

203 *Taxable and exempt property - colleges*

CODE OF REGULATIONS, TITLE 2

18110-18997 *Regulations of the Fair Political Practices Commission, especially:*

18702.5 *Public identification* 18700-18707 *General prohibitions*

18722-18740 *Disclosure of a conflict interests*

18750.1-18756 *Conflict of interest for Section 87200 filers* codes

COURT DECISIONS

McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)

Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261

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

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

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

ATTORNEY GENERAL OPINIONS

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

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

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

86 *Ops. Cal. Atty. Gen.* 138(2003)

85 *Ops. Cal. Atty. Gen.* 60 (2002)

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

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

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

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

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

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

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

Management Resources:

CSBA PUBLICATIONS

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

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

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

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

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

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

WEB SITES

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

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

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

SIERRA COUNTY OFFICE OF EDUCATION
SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT

Bylaw

adopted: September 14, 2010

revised: July 12, 2016

Sierraville, California

Loyalton, California

Sierra County/Sierra-Plumas Joint USD

Exhibit

Conflict Of Interest

Board Bylaws _____ FORM E 9270

RESOLUTION ADOPTING A CONFLICT OF INTEREST CODE
OF THE SIERRA COUNTY OFFICE OF EDUCATION
SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT

Note: The Governing Board is required to adopt a conflict of interest code in compliance with Government Code 87300-87313 of the Political Reform Act (PRA). Pursuant to 2 CCR 18730, the requirements of the Government Code are satisfied if a district adopts a conflict of interest code that incorporates 2 CCR 18730 by reference along with a list of designated positions and disclosure categories. Board members and designated employees must annually file a Statement of Economic Interest/Form 700 pursuant to the disclosure requirements of the district's conflict of interest code.

Government Code 87303 requires a district's conflict of interest code to be approved by a code reviewing body. For school districts located entirely in one county, the code reviewing body is the board of supervisors of the county in which the district is located. The Fair Political Practices Commission (FPPC) is the code reviewing body for school districts with jurisdiction in more than one county.

The code reviewing body needs to review only the portion of the district's conflict of interest code that specifies the district's designated positions and the disclosure categories as detailed in the following sample Resolution, including its Appendix, and not the other legal requirements related to conflict of interest reflected in the accompanying sample bylaw. The Resolution, including the Appendix, should be adopted by the Board and, as necessary, forwarded to the code reviewing body. Pursuant to Government Code 87306.5, the code reviewing body is required to notify the district in even-numbered years of the need to review the district's conflict of interest code. Upon such notification, the district should review the Appendix and make any necessary changes. In some counties, the code reviewing body requires that a resolution be adopted during each review and that the Board's resolution and amended appendix be submitted to that body. In other counties, only the appendix needs to be submitted. In both cases, districts need not submit BB 9270 - Conflict of Interest to the code reviewing body. In addition to the biannual review, districts should modify the Appendix and submit it, and the resolution if required, to the code reviewing body when any changed circumstances within the district require amendments to the Appendix, such as the creation of new designated positions or a change of duties assigned to existing positions.

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 Governing Board of the Sierra County Office of Education/Sierra-Plumas Joint Unified School District 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 the county/district'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, the Sierra County Office of Education/Sierra-Plumas Joint Unified School District 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, bylaws, and/or appendices containing the district's conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

NOW THEREFORE BE IT RESOLVED that the Sierra County Office of Education/Sierra-Plumas Joint Unified School District Governing 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:

AYES: _____

NOES: _____

ABSENT: _____

Attest:

President

Clerk of the Board

Conflict of Interest Code of the

SIERRA COUNTY OFFICE OF EDUCATION SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT

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 county/district's conflict of interest code.

Governing Board of Education 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 county/district's filing officer and/or, if so required, with the county/district's code reviewing body. -The county/district's 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 district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.
 - b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the county/district, or manufacture or sell supplies, books, machinery, or equipment of the type used by the county/district.
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, a principal's department is his/her entire school.

Government Code 87500 requires public officials and designated employees to annually file a Statement of Economic Interest/Form 700 to disclose any assets and income which may be materially affected by official actions. Under the PRA, there are two separate categories of Form 700 disclosure requirements. For the first category pursuant to Government Code 87302, which is applicable to most school districts, the disclosure requirements are determined by the district and set forth in the district's conflict of interest code. The second category, pursuant to Government Code 87200, is only applicable to Board members and Superintendents who "manage public investments." Those Board members and designated employees, referred to by the FPPC as Government Code 87200/Article 2 filers, must file broader disclosure statements pursuant to the disclosure requirements specified in law and FPPC regulation. See section in accompanying bylaw entitled "Additional Requirements for Boards that Manage Public Investments" for a further discussion of this issue.

3. **Full Disclosure:** Because it has been determined that the county/district's Board members and/or Superintendent "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 district boundaries, or within two miles of district boundaries, or of any land owned or used by the county/district.

b. Investments, business positions, and sources of income, including gifts, loans, and travel payments.

Designated Positions

<u>Designated Position</u>	<u>Disclosure Category</u>
<u>Governing</u> Board of Education Members (County/District)	1
Superintendent of Schools (County/District).....	1
Business Manager (County/District)	2
School Site Administrators (District)	2
SELPA Director (County)	2
Technology Director (District)	2

Disclosures for Consultants

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

A consultant is an individual who, pursuant to a contract with the county/district, makes a governmental decision whether to: (2 CCR ~~18701~~18700.3)

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke **a** any permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the county/district to enter into, modify, or renew a contract that requires district approval
5. Grant county/district approval to a contract that requires county/district approval and in which the district is a party, or to the specifications for such a contract
6. Grant county/district approval to a plan, design, report, study, or similar item
7. Adopt or grant county/district approval of county/district policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the county/district, serves in a staff capacity with the county/district and in that capacity participates in making a governmental decision as defined in 2 CCR ~~18702.2~~18704, subsections (a) and (b), or performs the same or substantially all the same duties for the county/district that would otherwise be performed by an individual holding a position specified in the county/district's conflict of interest code. (2 CCR ~~18701~~18700.3)

Exhibit
version:- September 14, 2010
revised: July 12, 2016

SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT
SIERRA COUNTY OFFICE OF EDUCATION
Sierraville, California
Loyalton, California

Sierra County/Sierra-Plumas Joint USD

Board Bylaw

CLOSED SESSION PURPOSES AND AGENDAS

Board Bylaws _____ BB 9321(a)

~~The Board Note: Pursuant to Government Code 54962, the Governing Board may hold a closed session only for purposes expressly authorized by the Brown Act (Government Code 54950-54963) or by a provision of the Education Code.~~

~~The Governing Board is committed to complying with state open meeting laws and modeling transparency in its conduct of district business. The Board shall hold closed sessions only for purposes identified in authorized by law. The Board may hold a closed session at any time may be held during a regular or, special meeting and during, or emergency meetings meeting in accordance with law. (Government Code 54956.5, 54957.7, 54962~~

~~Note: Government Code 54954.5 provides specific agenda descriptions for most closed session items authorized by the Brown Act.~~

~~Each agenda shall contain a general description of each closed session item to be discussed at the meeting, as required by law. (Government Code 54954.2)~~

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

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

~~Note: Government Code 54957.7 states that before holding any closed session, the Board must disclose in an open meeting the item(s) to be discussed in the closed session. The Board may either state the information on the agenda or refer the public to the item(s) as listed by number or letter on the agenda. These disclosures may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements. In addition, the Board is required to reconvene in open session upon conclusion of a closed session to report any action taken in the closed session.~~

~~The Board shall disclose in open meeting session 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) After the closed session, the Board shall reconvene in open session before adjourning the meeting, and when applicable, shall disclose any action taken in the closed session, in the manner prescribed by Government Code 54957.1. (Government Code 54957.7)~~

~~(cf. No agenda, notice, announcement, or report required by the Brown Act need identify any 9321.1 - Closed Session Actions and Reports)~~

~~The Board shall not disclose any information that is protected by state or federal law. In addition, no victim or alleged victim of tortious sexual conduct or child abuse shall be identified in any Board agenda, notice, announcement, or report required by the Brown Act, unless the identity of the person has previously been publicly disclosed. (Government Code 54957.7, 54961)~~

~~In accordance with law, a (cf. 1340 - Access to District Records)~~

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

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

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

Personnel Matters

~~The Board may hold closed sessions~~Note: Government Code 54957 authorizes the use of closed sessions for personnel matters described below. For the purpose of these closed sessions, "employee" includes an officer or independent contractor who functions as an officer or employee but excludes Board members. The Attorney General has concluded that it is appropriate to use a closed session to discuss and evaluate Superintendent performance. (59 Ops.Cal.Atty.Gen. 532 (1976)) However, under the "personnel exception," the Board may not discuss or act upon any proposed change in compensation other than a reduction of compensation that results from the imposition of discipline in closed session under this exception.

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

~~The~~These sessionsBoard may hold a closed session under the "personnel exception" to consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee. Such a closed session shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline. (Government Code 54957)

(cf. 2140 - Evaluation of the Superintendent)

(cf. 4115 - Evaluation/Supervision)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4215 - Evaluation/Supervision)

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

(cf. 4315 - Evaluation/Supervision)

Note: Pursuant to Government Code 54957, failure of the Board to give an employee against whom a "specific complaint or charge" has been made the notice described below will render any action taken by the Board in the closed session null and void. Determining whether a "specific complaint or charge" is involved is usually fact-specific and the Board should consult legal counsel as necessary. In Furtado v. Sierra Community College District, the court held that the term "specific complaints or charges" as used in Government Code 54957 does not include negative comments in an employee's performance evaluation. In another decision, Bell v. Vista Unified School District, the court determined that a presentation to the Board by a district staff member regarding an employee's violation of a California Interscholastic Federation rule constituted a "complaint or charge" and thus the employee was entitled to 24-hour notice. Yet another ruling, Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners, held that when a board rejects its hearing officer's findings of fact and conducts its own hearing, the employee must be given 24-hour notice.

Furthermore, an Attorney General opinion (78 Ops.Cal.Atty.Gen. 218 (1995)) has clarified that a probationary certificated employee does not have the right to an open session when the Board is discussing whether or not to reemploy him/her for a third consecutive school year. Education Code 44929.21 allows the Board to non-reelect a probationary certificated employee at the end of the first or second school year as long as written notice is given in accordance with law; see AR 4117.6 - Decision Not to Rehire.

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

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

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

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

Negotiations/Collective Bargaining

Note: The Educational Employment Relations Act (Government Code 3540-3549.3) makes four specific exemptions from the Brown Act related to negotiations. Government Code 54957.6 provides that for the purpose of closed sessions related to collective bargaining, "employee" includes an officer or independent contractor who functions as an officer or employee but excludes any elected official, Board member, or other independent contractor.

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

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

(cf. 4140/4240/4340 - Bargaining Units)
(cf. 4143/4243 - Negotiations/Consultation)
(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

Note: The Board is authorized pursuant to Government Code 54957.6, the "labor exception," to hold closed sessions with the district's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits to its represented and unrepresented employees, including the Superintendent. The Attorney General has opined in 57 Ops. Cal. Atty. Gen. 209 (1974) that a board may not meet in closed session for such purposes without the use of a designated representative who is involved with the "bona fide" negotiations with represented and/or unrepresented employees. The Attorney General's publication The Brown Act: Open Meetings for Local Legislative Bodies, also states that the "labor exception" applies to meeting in closed session to instruct its negotiator concerning negotiations with prospective employees.

The Board may meet in closed session to review the Board's position and/or instruct its designated representative regarding salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees. Prior to the closed session, the Board shall identify its designated representative in open session. Any closed session held for this purpose may include discussions of the district's available funds and funding priorities, but only insofar as they relate to providing instructions to the ~~district's~~ Board's designated representative. (Government Code 54957.6)

~~Closed sessions shall be for the purpose of reviewing the Board's position and instructing the Board's designated representative. (cf. 2121 - Superintendent's Contract)~~

Closed sessions may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees. (Government Code 54957.6)

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

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

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

The Board also may meet in closed session with a state conciliator or a mediator who has intervened in ~~these~~ proceedings. ~~(regarding any of the purposes enumerated in Government Code 54957.6).~~

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

Matters Related to Students

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

~~(cf. 5117 - Interdistrict Attendance)~~

~~(cf. 5119 - Students Expelled from Other Districts)~~

~~(cf. 5125.3 - Challenging Student Records)~~

~~(cf. 5144 - Discipline)~~

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

(cf. 5144.1 - Suspension and Expulsion/Due Process)

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

The Board shall meet in closed session to address any student matter that may involve disclosure of confidential student information, or to consider a suspension, disciplinary action, or any other action against a student except expulsion. If a written request for open session is received from the parent/guardian or adult student, it will be honored to the extent that it does not violate the privacy rights of any other student. (Education Code 35146, 48912, 49070)

(cf. 5117 - Interdistrict Attendance)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5125.3 - Challenging Student Records)

(cf. 5144 - Discipline)

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

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing," " or "grade change appeal," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping. The agenda shall also state that the Education Code requires closed sessions in these cases in order to prevent the disclosure of confidential student record information.

(cf. 5125 - Student Records)

Security Matters

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

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

Note: Government Code 54956.5 authorizes an emergency meeting in closed session to meet with the law enforcement officials specified above pursuant to Government Code 54957. Two-thirds of the Board members present at the meeting must agree to the need for the closed session. Those emergency situations that necessitate a need for an emergency meeting are listed in BB 9320 - Meetings and Notices and include a

terrorist attack, crippling disaster, or other activity that impairs public health or safety. For a list of actions for which more than a majority vote of the Board is required, see BB 9323.2 - Actions by the Board.

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

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

Conference with Real Property Negotiator

Note: An Attorney General opinion (94 Ops.Cal.Atty.Gen. 82 (2011)) has concluded that only three subjects related to real property negotiations may be considered in closed session: (1) the amount of consideration the local agency is willing to pay or accept in exchange for the real property rights to be acquired or transferred; (2) the form, manner, and timing of how that consideration will be paid; and (3) items that are essential to arriving at the authorized price and payment terms. Although Attorney General opinions are not binding, they are accorded deference by the courts.

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

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

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

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

Pending Litigation

Based on the advice of its legal counsel, the Board may hold a closed session to confer with or receive advice from its legal counsel regarding a pending litigation when a discussion of the matter in open session would prejudice the Board's district's position in the ease litigation. For this purpose, "litigation" includes means any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)

Note: Pursuant to Government Code 54956.9, the district is considered to be a "party," or to have "significant exposure," to a litigation if any of its officers or employees is a party or has significant exposure to the litigation under circumstances specified in items #1 and #2 below.

Litigation is considered "pending" ~~when in~~ any of the following circumstances ~~exist:~~ (Government Code 54956.9)

- 1.— Litigation to which the ~~Board~~ district 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 its legal counsel ~~and on regarding~~ the "existing facts and circumstances," there is a "significant exposure to litigation" against the district, or the Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized. (Government Code 54956.9(b))

~~Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation. (Government Code 54956.9(c))~~

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

- ~~1.— a.~~ Facts and circumstances that might result in litigation against the district but which the district believes are not yet known to potential plaintiffs and which do not need to be disclosed.
- ~~2.— b.~~ Facts and circumstances including, but not limited to, an accident, disaster, incident, or transactional occurrence which might result in litigation against the district, which are already known to potential plaintiffs, and which must be publicly disclosed before the closed session or specified on the agenda.
- ~~3.— c.~~ The receipt of a claim pursuant to the Tort Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.

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

- ~~4.— d.~~ A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.
- ~~5.— e.~~ A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the Board, provided that the district official or employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection. ~~The above~~ Such record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat on his/her behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.

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))

Before holding a closed session pursuant to ~~this section~~ the pending litigation exception, the Board shall state on the agenda or publicly announce the subdivision of Government Code 54956.9 under which the closed session is being held. If authority is based on Government Code 54956.9(a), the Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the district's ability to

effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage. (Government Code 54956.9)

Agenda items related to "pending litigation" shall be described as a conference with legal counsel regarding either "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, or~~ case or claim number, unless the Board states that to identify the case would jeopardize service of process or existing settlement negotiations. (Government Code 54954.5)

"Anticipated litigation" items shall state that there is significant exposure to litigation pursuant to Government Code 54956.9(b) and shall specify the potential number of cases. When the district expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code 54956.9(c) and shall specify the potential number of cases. The agenda or an oral statement before the closed session may be required to provide additional information pursuant to items regarding existing facts and circumstances described in item #2-5 b-e above. (Government Code 54954.5; ~~Government Code 54956.9(b)(3)(B-E))~~)

Joint Powers Agency Issues

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

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

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

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

Note: Pursuant to Government Code 54956.96, a JPA may adopt a provision, either through a policy or through the joint powers agreement, authorizing a school district Board member serving on the JPA board to disclose confidential information received during the JPA board's closed session under the circumstances specified below. Government Code 54954.5 provides an agenda description for the purpose of this closed session. The following optional paragraphs are for use by districts that participate in a JPA that has adopted such a provision.

When the board of the ~~joint powers agency~~JPA has so authorized and upon advice of district legal counsel, the Board may meet in closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the ~~joint powers agency~~JPA. During the ~~district's Board's~~ closed session, a Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to fellow Board members. (Government Code 54956.96)

The Board member may also disclose the confidential JPA information to district legal counsel in order to obtain advice on whether the matter has direct financial or liability implications for the district. (Government Code 54956.96)

Closed session agenda items related to "~~Conference Involving~~conferences involving a ~~Joint Powers Agency~~"JPA shall specify the closed session description used by the ~~joint powers agency~~JPA and the name of the ~~Board member representing the~~ district ~~representative~~ on the ~~joint powers agency~~JPA board. Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives shall also be included. (Government Code 54954.5)

Review of Audit Report from California State Auditor's Office

Note: Government Code 54956.75 authorizes the Board to meet in closed session to discuss a final draft audit report from the California State Auditor's Office. This authority relates to situations in which a member of the legislature has requested the California State Auditor's Office to audit a school district. This audit is separate from the annual audit that districts must conduct pursuant to Education Code 41020. The law does not authorize the Board to meet in closed session to discuss the district's annual audit.

Upon receipt of a confidential final draft audit report from the California State Auditor's Office, the Board may meet in closed session to discuss its response to that report. -After public release of the report from the California State Auditor's Office, any Board meeting to discuss the report must be conducted in open session, unless exempted from that requirement by some other provision of law. -(Government Code 54956.75)

Closed session agenda items related to an audit by the California State Auditor's Office shall state "Audit by California State Auditor's Office."- (Government Code 54954.5)

Review of Assessment Instruments

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

(cf. 6162.5 - Student Assessment)

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

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

Legal Reference:

EDUCATION CODE

35145 Public meetings

35146 Closed session (re student suspension)

44929.21 Districts with ADA of 250 or more

48912 Governing board suspension

48918 Rules governing expulsion procedures; hearings and notice

~~49073 Release~~49070 Challenging content 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 records

60617 Meetings of governing board

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

6250-62686252-6270 California Public Records Act

54950-54963 *The Ralph M. Brown Act*

COURT DECISIONS

Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners. (2003) 107 Cal.App.4th 860

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

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

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

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

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

San Diego Union v. City Council. (1983) 146 Cal.App.3d 947

ATTORNEY GENERAL OPINIONS

94 Ops.Cal.Atty.Gen. 82 (2011)

86 Ops.Cal.Atty.Gen. 210 (2003)

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

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

57 Ops. Cal. Atty. Gen. 209 (1974)

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws. ~~2003~~2009

ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies. California Attorney General's Office, ~~2002~~2003

LEAGUE OF CALIFORNIA CITY ATTORNEY-CITIES PUBLICATIONS

Open and Public HIV: A User's Guide to the Ralph M. Brown Act. ~~2000~~rev. July 2010

WEB SITES

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

California Attorney General's Office: <http://www.caag.stateoag.ca.usgov>

League of Cities: <http://www.cacities.org>

SIERRA COUNTY OFFICE OF EDUCATION
SIERRA-PLUMAS JOINT UNIFIED SCHOOL DISTRICT

Bylaw adopted: April 10, 2007

revised: July 12, 2016

Sierraville, California

Loyalton, California