

## CLOSED SESSIONS

Closed sessions may be called only during or following a regular, special, adjourned, or continued meeting. Section 54957.2 of the Government Code provides that minutes may be taken in closed session, but such minutes do not have to be made available for public inspection (cf. 44 Ops. Calif. Atty. Gen. 147 (1964)).

Prior to holding any closed session, the Board shall disclose the item(s) to be discussed in the closed session, and may cite the statutory authority, including the specific section and subdivision, or other legal authority under which the closed session is being held. In the closed session, the Board may consider only those matters covered in its statement. In the case of special, adjourned, or continued meeting, the statement shall be made as part of the notice provided for the special, adjourned, or continued meeting.

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

Violation of closed session confidentiality may be addressed by use of such remedies as are currently available by law, including but not limited to:

1. Injunctive relief to prevent the disclosure of confidential information;
2. Disciplinary action against an employee who has willfully disclosed confidential information;
3. Referral of a member of a legislative body who has willfully disclosed confidential information.

Disciplinary action against an employee shall require that the employee in question has either received training as to confidentiality of closed sessions, or otherwise been informed of the confidentiality.

## PERMITTED CLOSED SESSIONS

Closed sessions may be held by the County Board of Education for the following purposes only:

### A. **Appeal of Student Expulsion Order**

To hear an appeal of a student expulsion order of a pupil under Section 48919 of the Education Code, unless the parent or pupil has requested in writing that the hearing be conducted in a public meeting. Whether the hearing is conducted in a closed or public session, the Board may meet in closed session for the purpose

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of deliberations; final action of the Board shall be taken in open session. (Education Code Section 48920)

### **B. Real Property Transaction**

To give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property by or for the Board, prior to such purchase, sale, or exchange, or lease. Prior to the closed session, the Board shall hold an open and public session in which it identifies the property or properties which the negotiations may have concern and the person or persons with whom its negotiator may negotiate. (Government Code 54956.8)

### **C. Conference With Legal Counsel**

To consider legal matters which properly come within the attorney/client privilege pursuant to Evidence Code 950 et. seq. and Government Code 54956.9.

### **D. Pending Litigation**

The law permits a Board to hold closed sessions to confer with or receive advice from legal counsel regarding pending litigation when an adjudicatory proceeding before a court, administrative body, hearing officer or arbitration has been initiated formally, or when legal counsel has determined based on existing facts and circumstances that there is a significant exposure to litigation. The Board may hold a closed session for pending litigation only under the following facts and circumstances:

1. **Potential Litigation - Unknown to Plaintiff**

If the facts and circumstances might result in litigation but are facts and circumstances not yet known to a potential plaintiff.

2. **Facts and Circumstances Related to Accident, Disaster, Incident or Transaction.**

Facts and circumstances including, but not limited to, an accident, disaster, incident or transaction that might result in litigation against the Board and are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

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## 3. Receipt of Tort Claim or Written Threat of Litigation

To discuss a tort claim or written communication from a potential plaintiff threatening litigation. The claim or communication shall be available for inspection on the same basis that all documents are made available to the public.

## 4. Threat of Litigation in Open Session

To consider potential litigation regarding a statement made by a person in an open and public meeting threatening litigation on a specific matter within the authority of the Board.

## 5. Threats Outside of Open Meeting

To consider potential litigation regarding a statement threatening litigation made by a person outside an open and public meeting, so long as the public officer or employee receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting. The record to be available for public inspection.

**E. Decide if Closed Session is Permitted**

To consider whether a closed session is authorized under pending litigation exception. (Government Code 54956.9)

**F. Meeting with State Conciliator**

To meet with state conciliator regarding employment relations matters when such conciliator has intervened in the proceedings as authorized by law. (Government Code 54956.9)

**G. Threat to Public Services or Facilities**

To discuss with the Attorney General, District Attorney, Sheriff or the Chief of Police or their respective deputies, matters posing a threat to the security of public buildings or the threat to the public's right of access to public services or public facilities. (Government Code 54957)

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### **H. National Security**

To consider matters affecting the national security. (Government Code 54957).

### **I. Security of Public Building**

To discuss with the Attorney General, District Attorney, Sheriff, or Chief of Police or Chief of Probation, or their respective deputies, matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities (Government Code 54957).

## **AGENDA FOR CLOSED SESSIONS**

At least 72 hours before a regular meeting, the County Board of Education or a person designated shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the meeting and shall be posted in a location that is freely accessible to members of the public.

Following are minimum descriptions for agenda items permitted in closed session. These may be expanded.

- A. Hear an Appeal of Student Expulsion Order school district name.
- B. Conference Concerning Real Property Negotiations Property: (Specify street address, or if no street address, the parcel number or other unique reference of the property under negotiation.)
- C. Negotiating Parties: (Specify name of the parties and whether instructions given to negotiators will concern price, terms of payment, or both).

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## D. Pending Litigation Agenda Items

1. Conference with Legal Counsel one Existing Litigation  
Name of case: (Specify by reference to claimant's name, name of parties or case or claim number.)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiation.)

2. Conference With Legal Counsel on Anticipated Litigation Initiation of litigation pursuant to subdivision (c) of Government Code 4956.9). (State number or potential cases)
3. Tort Claims  
"Liability Claim"  
Claimant: (Specify name unless unspecified pursuant to Government Code 54961 (b).  
Agency Claimed Against (Specify name)

(Note: Claim or communication shall be available for public inspection.)

**REPORTING ON CLOSED SESSION**

The County Board of Education when it takes action in a closed session shall immediately (in most circumstances) report such action by reconvening an open session following the closed session meeting. Reporting at a time subsequent to the meeting in which the closed session action was taken is limited to circumstances described in Government Code 54957.1. The reports may be oral or written. The report shall include the Board's vote count.

Specific requirements for reports on closed session shall comply with Government Code 54957.1.

Following closed session in which no action is taken, the Board will so declare in open session.

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Legal References: Education Code Sections 48919, 48920  
Evidence Code 950, et seq.  
Government Codes 3549.1, 54952.2, 54952.3, 54954.5,  
54953, 54954, 54956.8, 54956.9, 54957, 54957.1, 54957.2,  
54957.6, 54957.7, 54961  
36 Ops.Calif.Atty.Gen. 175 (1960)  
44 Ops,Calif.Atty.Gen. 147 (1964)  
Sacramento Newspaper Guild vs. Sacramento  
County Board of Supervisors (1967)  
255 Cal. App.2(d), 51, 62, Cal. Rptr.819

Adopted: 3/16/94

Reviewed: 8/87; 1996; 1999; 10/2002; 2/2003

Revised: 1/9/85; 12/17/86; 3/2/94; 9/01/99; 11/06/02