# Update Guidesheets

**December 2018 Update Guidesheet**

***Note: Descriptions below identify revisions made to CSBA's sample board policies, administrative regulations, board bylaws, and/or exhibits. Editorial changes have also been made. Districts and county offices of education should review the sample materials and modify their own policies accordingly.***

Agenda/Meeting Materials

(BB revised) Bylaw updated to reflect requirement effective January 1, 2019 that districts post a direct link on the homepage of their web site to the current board meeting agenda or to the district's agenda management platform. Bylaw also clarifies that the agenda need not provide an opportunity for public comment on any agenda item that has previously been considered at an open meeting of a committee comprised exclusively of board members.
See BB 9322

# CSBA Sample
## Board Bylaw
**Agenda/Meeting Materials**

BB 9322
**Board Bylaws**

Agenda Content

Governing Board meeting agendas shall reflect the district's vision and goals and the Board's focus on student learning.

(cf. 0000 - Vision)
(cf. 0200 - Goals for the School District)

***Note: Government Code 54954.2 requires Governing Board meeting agendas to briefly describe each item to be discussed, including closed session items, and states that a brief general description of an item generally need not exceed 20 words. For information regarding the different types of meetings and meeting location requirements, see BB 9320 - Meetings and Notices. For agenda requirements regarding closed session agenda items, see BB 9321 - Closed Session Purposes and Agendas.***

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

(cf. 9320 - Meetings and Notices)
(cf. 9321- Closed Session Purposes and Agendas)

The agenda shall provide members of the public the opportunity to address the Board on any agenda item before or during the Board's consideration of the item. However, the agenda need not provide an opportunity for public comment when the agenda item has previously been considered at an open meeting of a committee comprised exclusively of Board members, provided that members of the public were afforded an opportunity to comment on the item at that meeting and that the item has not been substantially changed since the committee considered it. (Government Code 54954.3)

The agenda for a regular Board meeting shall also provide members of the public an opportunity to provide comment on matters which are not on the agenda but which are within the subject matter jurisdiction of the Board. (Education Code 35145.5; Government Code 54954.3)

(cf. 9323 - Meeting Conduct)

***Note: Pursuant to Government Code 54957.5, the agenda for a regular meeting must include

the address of the location where the public can inspect any materials that are related to an open session item and are distributed to the Board less than 72 hours before that meeting. See section below entitled "Agenda Dissemination to Members of the Public."***

Each agenda for a regular meeting shall list the address designated by the Superintendent or designee for public inspection of documents related to an open session item that have been distributed to the Board less than 72 hours before the meeting. (Government Code 54957.5)

***Note: Government Code 54954.2 requires that the agenda include information regarding how, when, and to whom a request for a disability-related accommodation or modification may be made. See BB 9320 - Meetings and Notices. The following paragraph should be modified to reflect district practice as to when and to whom such a request should be made.***

The agenda shall include information regarding how, when, and to whom a request should be made if an individual requires disability-related accommodations or modifications, including auxiliary aids and services, in order to participate in the Board meeting. (Government Code 54954.2)

Agenda Preparation

The Board president and the Superintendent, as secretary to the Board, shall work together to develop the agenda for each regular and special meeting.

(cf. 9121 - President)
(cf. 9122 - Secretary)

***Note: Education Code 35145.5 mandates that the Board adopt reasonable regulations to ensure that members of the public can place matters directly related to district business on Board meeting agendas. The following paragraph, including the timeline, should be revised to reflect district practice. Districts are free to establish their own timeline for placing an item on the agenda, taking into account staff time and resources, as long as the established timeline is a reasonable one. In Caldwell v. Roseville Joint Union High School District, a federal district court upheld a district bylaw requiring members of the public to submit a written request in order to place items on a meeting agenda. The plaintiff had alleged that his First Amendment rights were violated when the district did not place his item on the agenda in response to his oral request because the district disagreed with his religious beliefs. However, the court held that the district's bylaw requiring that requests first be made in writing was content-neutral and thus a reasonable restriction.***

Any Board member or member of the public may request that a matter within the jurisdiction of the Board be placed on the agenda of a regular meeting. The request shall be submitted in writing to the Superintendent or designee with supporting documents and information, if any, at least one week before the scheduled meeting date. Items submitted less than a week before the scheduled meeting date may be postponed to a later meeting in order to allow sufficient time for consideration and research of the issue.

***Note: In Mooney v. Garcia, a California appeals court reaffirmed the board's discretion in determining whether an agenda item is related to school district matters.***

The Board president and Superintendent shall decide whether a request from a member of the public is within the subject matter jurisdiction of the Board. Items not within the subject matter jurisdiction of the Board may not be placed on the agenda. In addition, before placing the item on the agenda, the Board president and Superintendent shall determine if the item is merely a request for information or whether the issue is covered by an existing policy or administrative regulation.

***Note: The following paragraph is optional and may be revised to reflect district practice.***

If the Board president and Superintendent deny a request from a Board member to place an item on the agenda, the Board member may request the Board to take action to determine whether the item shall be placed on the agenda.

The Board president and Superintendent shall also decide whether an agenda item is appropriate for discussion in open or closed session, and whether the item should be an action item subject to Board vote or an information item that does not require immediate action.

***Note: The following optional paragraph is for boards that use the consent agenda or calendar to take action on matters of a routine nature for which discussion may not be necessary. It is important for such boards to limit the use of the consent agenda to noncontroversial matters and to establish rules that help ensure that any use of the consent agenda does not reduce transparency in the board's conduct of district business or result in violation of the open meeting laws. In addition, boards should be aware that, by law, certain items may not be placed on the consent agenda. For example, pursuant to Government Code 54960.2, a board's decision to approve or rescind its unconditional commitment to refrain from taking certain actions in violation of the Brown Act must be made as a separate item and not on the consent agenda. See BB 9323.2 - Actions by the Board.***

In order to promote efficient meetings, the Board may bundle a number of items and act upon them together by a single vote through the use of a consent agenda. Consent items shall be items of a routine nature and items for which Board discussion is not anticipated and for which the Superintendent recommends approval. When any Board member requests the removal of an item from the consent agenda, the item shall be removed and given individual consideration for action as a regular agenda item.

The agenda shall provide an opportunity for members of the public to comment on any consent agenda item that has not been previously considered. (Government Code 54954.3)

Any Board action that involves borrowing $100,000 or more shall be discussed, considered, and deliberated upon as a separate item of business on the meeting agenda. (Government Code 53635.7)

(cf. 9323.2 - Actions by the Board)

All public communications with the Board are subject to requirements of relevant Board policies and administrative regulations.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 3320 - Claims and Actions Against the District)
(cf. 5144.1 - Suspension and Expulsion/Due Process)

Agenda Dissemination to Board Members

***Note: The following section is optional and should be modified to reflect district practice. Pursuant to Government Code 6252.7, when the Board, in the conduct of its duties, is authorized by law to access any writing of the district, including agenda and supporting documents, the district is prohibited from discriminating between or among Board members as to when and which records will be made available.***

***Note: CSBA's Agenda Online, an electronic board meeting agenda service for use by districts, county offices of education, and the public allows development of and access to Board meeting agendas, supporting documents, and minutes from any computer that has Internet access. Further information can be found on CSBA's web site.***

At least 72 hours before each regular meeting, each Board member shall be provided a copy of the agenda and agenda packet, including the Superintendent or designee's report; minutes to be approved; copies of communications; reports from committees, staff, and others; and other available documents pertinent to the meeting.

When special meetings are called, Board members shall receive, at least 24 hours prior to the meeting, notice of the business to be transacted. (Government Code 54956)

Board members shall review agenda materials before each meeting. Individual members may confer directly with the Superintendent or designee to ask questions and/or request additional information on agenda items. However, a majority of Board members shall not, outside of a noticed meeting, directly or through intermediaries or electronic means discuss, deliberate, or take action on any matter within the subject matter jurisdiction of the Board.

(cf. 9012 - Board Member Electronic Communications)

Agenda Dissemination to Members of the Public

Any agenda and related materials distributed to the Board shall be made available to the public upon request without delay. Only those documents which are disclosable public records under the Public Records Act and which relate to an agenda item scheduled for the open session portion of a regular meeting shall be made available to the public. (Government Code 54957.5)

***Note: Pursuant to Government Code 54954.2, the agenda for a regular meeting of the Board must be posted at least 72 hours prior to the meeting on the district's web site, if it has one, and at a

location that is freely accessible to the public. The Attorney General has determined in 78 Ops.Cal.Atty.Gen. 327 (1995) that weekend hours may be counted as part of the 72-hour period for posting of the agenda prior to a regular meeting. In the same opinion, the Attorney General found that the term "freely accessible" requires that the agenda be posted in a location where it can be read by the public at any time, including evening hours, during the 72 hours immediately preceding the meeting. Also see BB 9320 - Meetings and Notices.***

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

***Note: Government Code 54954.2 requires that the agenda for any meeting occurring on or after January 1, 2019, be posted on the homepage of the district web site, if it has one, in accordance with law. Districts that use an integrated agenda management platform, such as CSBA's Agenda Online, may provide a link to access agendas posted on the platform. Pursuant to Government Code 54954.2, the link must not be solely accessible through a contextual menu, and the agenda must be posted in a format which is retrievable, downloadable, indexable, electronically searchable by commonly used Internet search applications, and without any restriction that would impede the reuse or redistribution of the agenda.***

***Note: The Attorney General has opined (99 Ops. Cal. Atty. Gen. 11 (2016)) that the Brown Act regular meeting online agenda posting provision contained within Government Code 54954.2 is not necessarily violated when a local agency's web site experiences technical difficulties that cause the agenda to become inaccessible to the public for a portion of the 72 hours that precede the scheduled meeting. If the local agency has otherwise substantially complied with the Brown Act agenda posting requirements, the legislative body may lawfully hold its regular meeting as scheduled.***

In addition, the Superintendent or designee shall post the agenda on the homepage of the district web site. The posted agenda shall be accessible through a prominent direct link to the current agenda or to the district's agenda management platform in accordance with Government Code 54954.2. When the district utilizes an integrated agenda management platform, the link to that platform shall take the user directly to the web site with the district's agendas, and the current agenda shall be the first available. (Government Code 54954.2)

(cf. 1113 - District and School Web Sites)
(cf. 1340 - Access to District Records)

If a document which relates to an open session agenda item of a regular Board meeting is distributed to the Board less than 72 hours prior to a meeting, the Superintendent or designee shall make the document available for public inspection at a designated location at the same time the document is distributed to all or a majority of the Board. (Government Code 54957.5)

The Superintendent or designee shall mail a copy of the agenda or a copy of all the documents constituting the agenda packet to any person who requests the items. The materials shall be mailed at the time the agenda is posted or upon distribution of the agenda to a majority of the Board, whichever occurs first. (Government Code 54954.1)

Any request for mailed copies of agendas or agenda packets shall be in writing and shall be valid for the calendar year in which it is filed. Written requests must be renewed following January 1 of each year. (Government Code 54954.1)

***Note: The following optional paragraph is for use by districts that charge a fee for mailing the agenda or agenda packet. Government Code 54954.1 authorizes districts to charge a fee for mailing the agenda or agenda packet as long as the fee does not exceed the cost of providing the service. Pursuant to Government Code 54957.5, a surcharge may not be imposed for providing the agenda and other public record documents in alternative formats to persons with disabilities.***

Persons requesting mailing of the agenda or agenda packet shall pay an annual fee, as determined by the Superintendent or designee, not to exceed the cost of providing the service.

Any document prepared by the district or Board and distributed during a public meeting shall be made available for public inspection at the meeting. Any document prepared by another person shall be made available for public inspection after the meeting. These requirements shall not apply to a document that is exempt from public disclosure under the Public Records Act. (Government Code 54957.5)

***Note: Pursuant to Government Code 54954.1, upon request, the agenda and supporting documentation must be made available in appropriate alternative formats to persons with a disability, as required under the Americans with Disabilities Act (42 USC 12132). Examples of alternative formats, also referred to as "auxiliary aids and services," are listed in 28 CFR 36.303 and include accessible electronic and information technology, audio recordings, or Braille materials.***

Upon request, the Superintendent or designee shall make the agenda, agenda packet, and/or any writings distributed at the meeting available in appropriate alternative formats to persons with a disability, as required by the Americans with Disabilities Act. (Government Code 54954.1)

Legal Reference:
EDUCATION CODE
35144 Special meetings
35145 Public meetings
35145.5 Right of public to place matters on agenda
GOVERNMENT CODE
6250-6270 Public Records Act
53635.7 Separate item of business
54954.1 Mailed agenda of meeting
54954.2 Agenda posting requirements; board actions
54954.3 Opportunity for public to address legislative body
54954.5 Closed session item descriptions
54956.5 Emergency meetings

54957.5 Availability of public records
54960.2 Challenging board actions; cease and desist
UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 28
35.160 Effective communications
36.303 Auxiliary aids and services
COURT DECISIONS
Mooney v. Garcia, (2012) 207 Cal.App.4th 229
Caldwell v. Roseville Joint Union High School District, 2007 U.S. Dist. LEXIS 66318
ATTORNEY GENERAL OPINIONS
99 Ops. Cal. Atty. Gen. 11 (2016)
78 Ops.Cal.Atty.Gen. 327 (1995)

Management Resources:
CSBA PUBLICATIONS
Call to Order: A Blueprint for Great Board Meetings, 2015
The Brown Act: School Boards and Open Meeting Laws, rev. 2014
ATTORNEY GENERAL PUBLICATIONS
The Brown Act: Open Meetings for Legislative Bodies, rev. 2003
WEB SITES
CSBA, Agenda Online: http://www.csba.org
California Attorney General's Office: http://www.oag.ca.gov

(3/08 11/12) 12/18

## AGENDA/MEETING MATERIALS

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

*(cf. 9320 - Meetings and Notices)*
*(cf. 9321- Closed Session Purposes and Agendas)*

The agenda shall provide members of the public the opportunity to address the Board on any agenda item before or during the Board's consideration of the item. The agenda shall also provide members of the public an opportunity to testify at regular meetings on matters which are not on the agenda but which are within the subject matter jurisdiction of the Board. (Education Code 35145.5, Government Code 54954.3)

*(cf. 9323 - Meeting Conduct)*

### Agenda Preparation

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

*(cf. 9121 - President)*
*(cf. 9122 - Secretary)*

Any member of the public or any Board member may request that a matter within the jurisdiction of the Board be placed on the agenda of a regular meeting. The request must be in writing and be submitted to the Superintendent or designee with supporting documents and information, if any, at least one week before the scheduled meeting date. Items submitted less than a week before the scheduled meeting date may be postponed to a later meeting in order to allow sufficient time for consideration and research of the issue.

The Board president and Superintendent shall decide whether a request is within the subject matter jurisdiction of the Board. Items not within the subject matter jurisdiction of the Board may not be placed on the agenda. In addition, the Board president and Superintendent shall determine if the item is merely a request for information or whether the issue is covered by an existing policy or administrative regulation before placing the item on the agenda.

The Board president and Superintendent shall decide whether an agenda item is appropriate for discussion in open or closed session, and whether the item should be an action item, informational item or consent item.

**AGENDA/MEETING MATERIALS** (continued)

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

Any Board action that involves borrowing $100,000 or more shall be discussed, considered and deliberated upon as a separate item of business on the meeting agenda. (Government Code 53635.7)

*(cf. 9323.2 - Actions by the Board)*

All public communications with the Board are subject to requirements of relevant Board policies and administrative regulations.

*(cf. 1312.1 - Complaints Concerning District Employees)*
*(cf. 1312.2 - Complaints Concerning Instructional Materials)*
*(cf. 1312.3 - Uniform Complaint Procedures)*
*(cf. 1340 - Access to District Records)*
*(cf. 3320 - Claims and Actions Against the District)*
*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

**Consent Items**

In order to promote efficient meetings, the Board may act upon more than one item by a single vote through the use of a consent agenda. Consent items shall be items of a routine nature or items for which no Board discussion is anticipated and for which the Superintendent recommends approval.

In accordance with law, the public has a right to comment on any consent item. At the request of any member of the Board, any item on the consent agenda shall be removed and given individual consideration for action as a regular agenda item.

**Agenda Dissemination**

A copy of the agenda shall be forwarded to each Board member at least three days before each regular meeting, together with the Superintendent or designee's report; minutes to be approved; copies of communications; reports from committees, staff, citizens and others; and other available documents pertinent to the meeting.

When special meetings are called, the Superintendent and president shall make every effort to distribute the agenda and support materials to Board members as soon as possible.

**AGENDA/MEETING MATERIALS** (continued)

Board members shall review agenda materials before each meeting. Individual members may confer directly with the Superintendent or designee to request additional information on agenda items.

The Superintendent or designee shall mail a copy of the agenda, or a copy of all the documents constituting the agenda packet, to any person who requests the items. The materials shall be mailed at the time the agenda is posted or upon distribution of the agenda to a majority of the Board, whichever occurs first. (Government Code 54954.1)

Any request for mailed copies of agendas or agenda packets shall be in writing and shall be valid for the calendar year in which it is filed. Written requests must be renewed following January 1 of each year. (Government Code 54954.1)

Persons requesting mailing of the agenda or agenda packet shall pay an annual fee as determined by the Superintendent or designee.

*Legal Reference:*

*EDUCATION CODE*
*35144 Special meetings*
*35145 Public meetings*
*35145.5 Right of public to place matters on agenda*
*GOVERNMENT CODE*
*53635.7 Separate item of business*
*54954.1 Mailed agenda of meeting*
*54954.2 Agenda posting requirements; board actions*
*54954.3 Opportunity for public to address legislative body*
*54954.5 Closed session item descriptions*
*54956.5 Emergency meetings*
*54957.5 Public records*