

MEETING CONDUCT

The Monterey County Board of Education (County Board) endeavors to conduct its business efficiently and in a manner that promotes a full and fair consideration of the issues and allows for meaningful participation of members of the public.

Meeting Procedures

All County Board meetings shall begin on time and shall be based upon an agenda prepared according to the County Board bylaws and posted and distributed in compliance with the Brown Act (open meeting requirements) and other applicable laws. *(cf. 9322 - Agenda/Meeting Materials)*

The County Board Chair shall conduct meetings in accordance with County Board bylaws and approved meeting procedures that enable the County Board to efficiently consider issues and carry out the will of the majority. *(cf. 9121 – Officers of the County Board)*

Note: The Brown Act permits a County Board member to vote on agenda items while participating from a teleconference location. However, there must be a quorum present within the County during the meeting. If a County Board member is participating in the meeting via teleconferencing, the agenda must be posted at all teleconference locations and conducted in a manner that protects the statutory and constitutional rights of the public appearing before the County Board. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public.

All votes taken during a teleconferenced meeting shall be by roll call. The public must have the opportunity to address each item on the agenda at each location of the meeting, including the teleconference location. [Government Code (GC) 54953]

The law does not specify that a particular set of procedures must govern County Board meetings. When not in conflict with any applicable law, Robert's Rules of Order may serve as a useful guide. However, the County Board may adopt any procedure that allows for the efficient and consistent conduct of meetings.

Quorum and Abstentions

A majority of the County Board membership shall constitute a quorum for the transaction of business. [Education Code (EC) 1013]

Unless otherwise provided by law (see BB 9323.2), affirmative votes by a majority of all the membership of the County Board are required to approve any action under

consideration, regardless of the number of members present.

Normally, all matters shall be considered by voice vote, with the names of the member making the motion and the member seconding the motion being recorded in the minutes of the County Board meeting. By formal motion and approval, any issue may be submitted to roll call vote, and the vote of each member shall be so recorded in the minutes. Members may request that their vote be recorded by name in the minutes of the meeting. [EC 1015]

(cf. 9323.2 - Actions by the Board)

The County Board agrees with the California Attorney General that when no conflict of interest requires an abstention, its members have a duty to vote on issues before them so that the public is represented and receives the services which the public body was created to provide. [61 Ops.Cal.Atty.Gen. 263 (1978)] When a member abstains, the abstention shall not be counted as an affirmative vote for determining whether a majority of the membership of the County Board has taken action.

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) [GC 87100-87500.1] and (2) GC 1090-1098. In addition, under the common law doctrine against conflict of interest, County Board members shall abstain from any official action in which their private or personal interest may conflict with their official duties.

County Board members who have a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the County Board shall abstain from voting on the matter. County Board members may remain on the dais, but their presence shall not be counted towards achieving a quorum for that matter. A County Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the County 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]

(cf. 9270 - Conflict of Interest)

A County Board member who is absent from a particular meeting at which action on the item is continued may vote on the item at a subsequent meeting if the County Board member has reviewed the tape recording from that meeting or read the minutes and any related documents. Similarly, County Board members who were absent at a previous meeting should familiarize themselves of the events in the missed meeting before voting to approve the minutes of that meeting.

With a seven-member County Board, if not more than two vacancies occur on the County Board, the vacant position(s) shall not be counted for purposes of determining how many members of the County Board constitute a majority. In addition, if a vacancy

exists on the County Board, whenever any provisions of the Education Code require unanimous action of all or a specific number of the members, the vacant position(s) shall be not be counted for purposes of determining the total membership constituting the County Board. [EC 35165]

Public Participation

The County Board encourages the public to attend County Board meetings and welcomes their views on any item on the agenda or subjects within the jurisdiction of the County Board.

Pursuant to GC 54953.3 (Brown Act), members of the public shall not be required to register their name, complete a questionnaire, or provide other information as a condition of attending a County Board meeting. If an attendance list or similar document is posted near the entrance or circulated during the meeting, it shall clearly state that signing or completing the document is voluntary.

In order to conduct County Board business in an orderly and efficient manner, the County Board requires that public presentations to the County Board comply with the following procedures:

1. Upon recognition by the County Board Chair, members of the public shall have an opportunity to address the County Board on items listed on the agenda as the item is brought up for discussion. [GC 54954.3]

Persons who wish to address the County Board may be asked to state their names for the record. Individual speakers shall be allowed up to three (3) minutes to address the County Board on each agenda item. The County Board Chair may increase or decrease the time allowed for public presentation, depending on the number of persons wishing to be heard. The County Board Chair may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add to what has been stated previously.

2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the County Board matters that are not listed on the agenda provided that the item is within the jurisdiction of the County Board. Individual speakers shall be allowed up to three (3) minutes to address the County Board on each non-agenda item. The County Board Chair may increase or decrease the time allowed for public presentation, depending on the number of persons wishing to be heard. [GC 54954.3]

Speakers who introduce topics that go beyond the role and authority of the County Board may lose their opportunity to continue to speak on that topic.

3. In response to questions or statements posed by the public about items not appearing on the agenda, the County Board or Monterey County Superintendent of Schools (County Superintendent) may only ask clarifying questions, refer the matter to staff or other resources for factual information, or the County Board Chair may request the County Superintendent to report back to the County Board at a subsequent meeting concerning the matter. No member of the County Board shall engage in a dialogue on the non-agendized topic or provide an opinion on the non-agendized topic. [EC 35145.5; GC 54954.2]

Since the public may not know that there are legal restrictions regarding answering questions or responding to the public's comments, the County Board Chair may consider it necessary to explain our legal obligations regarding interaction with the public. This clarification would prevent the public from thinking that the County Board is intentionally ignoring its participation.

4. The County Board Chair need not allow the public to speak on any item that has already been considered by a committee composed exclusively of County Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the County Board Chair determines that the item has been substantially changed since the committee heard the item, the Chair shall provide the public an opportunity to speak. [GC 54954.3]
5. The County Board shall take no action or discuss any item not appearing on the posted agenda, except as authorized by law. [GC 54954.2] The County Board Chair may rule on the appropriateness of a topic. If the topic would be more suitably addressed at a later time, the County Board Chair may indicate the time and place when it should be presented.
6. The County Board Chair shall not prohibit public criticism of the policies, procedures, programs or services, acts, or omissions of the County Board and/or the Monterey County Office of Education. [GC 54954.3]

Any charges or complaints against individual employees initiated at a County Board meeting shall be referred to the County Superintendent using the appropriate complaint procedure since employment matters are the jurisdiction of the County Superintendent.

(cf. 1312.1 - Complaints Concerning MCOE Employees)

7. The County Board Chair shall not permit any disturbance or willful interruption of County Board meetings. Undue interruptions or other interference with the orderly conduct of County Board meetings will not be allowed, and shall be considered out of order. Persistent disruption by an individual or group shall be

grounds for the County Board Chair to terminate the privilege of addressing the County Board.

The County Board Chair may remove disruptive individuals and order the room cleared if necessary. Examples of disruptive conduct might include, but not limited to, conduct that is extremely loud, disturbing, or creates a health or safety risk. Members of the media not participating in the disturbance shall be allowed to remain, and individuals not participating in such disturbances may be allowed to remain at the discretion of the County Board. When the room is ordered cleared due to a disturbance, further County Board proceedings shall concern only matters appearing on the agenda. [GC 54957.9]

When such disruptive conduct occurs, the County Superintendent or designee may contact local law enforcement.

Recording by the Public

Members of the public may record an open County Board meeting using an audio or video recorder, still or motion picture camera, cell phone or other device, provided that the noise, illumination, or obstruction of view does not persistently disrupt the meeting. The County Superintendent or designee should designate locations in the County Board meeting room from which members of the public may make such recordings without causing a distraction.

If the County Board finds that noise, illumination, or obstruction of view related to these activities would persistently disrupt the proceedings, these activities shall be discontinued or restricted as determined by the County Board Chair. [GC 54953.5, 54953.6]

Legal Reference:

EDUCATION CODE

<i>1013</i>	<i>Establishing a quorum</i>
<i>1015</i>	<i>Voting</i>
<i>1040</i>	<i>Duties and responsibilities; county boards of education</i>
<i>1042</i>	<i>County boards authority</i>
<i>32210</i>	<i>Willful disturbance of public school or meeting a misdemeanor</i>
<i>35010</i>	<i>Prescription and enforcement of rules</i>
<i>35145.5</i>	<i>Agenda; public participation; regulations</i>
<i>35163</i>	<i>Official actions, minutes and journal</i>
<i>35165</i>	<i>Effect of vacancies upon majority and unanimous votes by seven member board</i>

CODE OF CIVIL PROCEDURE

<i>52708</i>	<i>Workplace Violence Safety Act</i>
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GOVERNMENT CODE

54952.2 *Meetings defined*
 54952.6 *Requirements for taking action*
 54953 *Brown Act; teleconferencing*
 54953.3 *Prohibition against conditions for attending a board meeting*
 54953.5 *Audio or video tape recording of proceedings*
 54953.6 *Broadcasting of proceedings*
 54954.2 *Agenda; posting; action on other matters*
 54954.3 *Opportunity for public to address legislative body; regulations*
 54956 *Special meetings*
 54956.5 *Emergency meetings*
 54957 *Closed sessions*
 54957.9 *Disorderly conduct of general public during meeting; clearing of room*
 87100-87500.1 *Political Reform Act Conflict of Interest Provisions*

PENAL CODE

403 *Disruption of assembly or meeting*

COURT DECISIONS

City of San Jose v. Garbett, (2010) Cal.App.4th 526
Norse v. City of Santa Cruz (9th Cir. 2010) 629 F3d 966
McMahon v. Albany Unified School District, (2002) 104 Cal.App.4th 1275 Rubin v. City of Burbank, (2002) 101
Rubin v. City of Burbank (2002) 101 Cal.App.4th 1194
Baca v. Moreno Valley Unified School District, (1996) 936 F.Supp. 719

ATTORNEY GENERAL OPINIONS

76 *Ops.Cal.Atty.Gen. 281 (1993)*
 66 *Ops.Cal.Atty.Gen. 336 (1983)*
 63 *Ops.Cal.Atty.Gen. 215 (1980)*
 62 *Ops.Cal.Atty.Gen 708 (1979)*
 61 *Ops.Cal.Atty.Gen. 243, 253, 263 (1978)*
 59 *Ops.Cal.Atty.Gen. 532 (1976)*
 55 *Ops.Cal.Atty.Gen. 26 (1972)*

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04/06/16; 05/08/19