The Board of Trustees has been elected by the community to provide leadership and citizen oversight of the district. The Board shall ensure that the district is responsive to the values, beliefs, and priorities of the community.

The Board shall work with the Superintendent to fulfill its major responsibilities, which include:

1. Setting the direction for the district through a process that involves the community, parents/guardians, students, and staff and is focused on student learning and achievement

2. Establishing an effective and efficient organizational structure for the district by:
   a. Employing the Superintendent and setting policy for hiring of other personnel
   b. Overseeing the development and adoption of policies
   c. Establishing academic expectations and adopting the curriculum and instructional materials
   d. Establishing budget priorities and adopting the budget
   e. Providing safe, adequate facilities that support the district's instructional program
   f. Setting parameters for negotiations with employee organizations and ratifying collective bargaining agreements

3. Providing support to the Superintendent and staff as they carry out the Board's direction by:
   a. Establishing and adhering to standards of responsible governance
   b. Making decisions and providing resources that support district priorities and goals
   c. Upholding Board policies
   d. Being knowledgeable about district programs and efforts
ROLE OF THE BOARD (continued)

4. Ensuring accountability to the public for the performance of the district's schools by:
   a. Evaluating the Superintendent and setting policy for the evaluation of other personnel
   b. Monitoring and evaluating the effectiveness of policies
   c. Serving as a judicial (hearing) and appeals body in accordance with law, Board policies, and negotiated agreements
   d. Monitoring student achievement and program effectiveness and requiring program changes as necessary
   e. Monitoring and adjusting district finances
   f. Monitoring the collective bargaining process

5. Providing community leadership and advocacy on behalf of students, the district's educational program, and public education in order to build support within the local community and at the state and national levels

The Board is authorized to establish and finance any program or activity that is not in conflict with, inconsistent with, or preempted by law. (Education Code 35160)

Legal Reference:
EDUCATION CODE
5304 Duties of governing board (re school district elections)
12400-12405 Authority to participate in federal programs
17565-17592 Board duties re property maintenance and control
33319.5 Implementation of authority of local agencies
35000 District name
35010 Control of district; prescription and enforcement of rules
35020-35046 Officers and agents
35100-35351 Governing boards, especially:
35160-35185 Powers and duties
35291 Rules

Bylaw
adopted: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California
GOVERNANCE STANDARDS

The Board of Trustees believes that its primary responsibility is to act in the best interests of every student in the district. The Board also has major commitments to parents/guardians, all members of the community, employees, the state of California, laws pertaining to public education, and established policies of the district. To maximize Board effectiveness and public confidence in district governance, Board members are expected to govern responsibly and hold themselves to the highest standards of ethical conduct.

The Board expects its members to work with each other and the Superintendent to ensure that a high-quality education is provided to each student. Each individual Board member shall:

1. Keep learning and achievement for all students as the primary focus
2. Value, support and advocate for public education
3. Recognize and respect differences of perspective and style on the Board and among staff, students, parents and the community
4. Act with dignity, and understand the implications of demeanor and behavior
5. Keep confidential matters confidential
6. Participate in professional development and commit the time and energy necessary to be an informed and effective leader
7. Understand the distinctions between Board and staff roles, and refrain from performing management functions that are the responsibility of the Superintendent and staff
8. Understand that authority rests with the Board as a whole and not with individuals

Board members also shall assume collective responsibility for building unity and creating a positive organizational culture. To operate effectively, the Board shall have a unity of purpose and:

1. Keep the district focused on learning and achievement for all students
2. Communicate a common vision
3. Operate openly, with trust and integrity
4. Govern in a dignified and professional manner, treating everyone with civility and respect
5. Govern within Board-adopted policies and procedures
GOVERNANCE STANDARDS  (continued)

6.  Take collective responsibility for the Board's performance

7.  Periodically evaluate its own effectiveness

8.  Ensure opportunities for the diverse range of views in the community to inform Board deliberations

Legal Reference:

EDUCATION CODE
35010  Power of governing board to adopt rules for its own governance
35160  Board authority to act in any manner not conflicting with law
35164  Actions by majority vote

GOVERNMENT CODE
1090  Financial interest in contract
1098  Disclosure of confidential information
1125-1129  Incompatible activities
54950-54963  The Ralph M. Brown Act
87300-87313  Conflict of interest code
The Board of Trustees recognizes the responsibility of Board members in their role as community leaders to participate in public discourse on matters of civic or community interest, including those involving the district, and their right to freely express their personal views. However, to ensure communication of a consistent, unified message regarding district issues, Board members are expected to respect the authority of the Board to choose its representatives to communicate its positions and to abide by established protocols.

All public statements authorized to be made on behalf of the Board shall be made by the Board president or, if appropriate, by the Superintendent or other designated representative.

When speaking for the district, the Board encourages its spokespersons to exercise restraint and tact and to communicate the message in a manner that promotes public confidence in the Board's leadership.

Board spokespersons shall not disclose confidential information or information received in closed session except when authorized by a majority of the Board. (Government Code 54963)

When speaking to community groups, members of the public, or the media, individual Board members should recognize that their statements may be perceived as reflecting the views and positions of the Board. Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Board.

In addition, the Board encourages members who participate on social networking sites, blogs, or other discussion or informational sites to conduct themselves in a respectful, courteous, and professional manner and to model good behavior for district students and the community. Such electronic communications are subject to the same standards and protocols established for other forms of communication, and the disclosure requirements of the California Public Records Act may likewise apply to them.

Legal Reference:

EDUCATION CODE
35010 Control of district; prescription and enforcement of rules
GOVERNMENT CODE
6250-6270 California Public Records Act
54960 Actions to stop or prevent violation of meeting provisions
54963 Confidential information in closed session

Revised: November 13, 2014

Bylaw
adopted: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California
BOARD MEMBER ELECTRONIC COMMUNICATIONS

Electronic Communications

The Board of Trustees recognizes that electronic communication among Board members and between Board members, district administration, and members of the public is an efficient and convenient way to communicate and expedite the exchange of information and to help keep the community informed about the goals, programs, and achievements of the district and its schools. Board members shall exercise caution so as to ensure that electronic communications are not used as a means for the Board to deliberate outside of an agendized Board meeting.

A majority of the Board shall not, outside of an authorized meeting, use a series of electronic communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

Examples of permissible electronic communications concerning district business include, but are not limited to, dissemination of Board meeting agendas and agenda packets, reports of activities from the Superintendent, and reminders regarding meeting times, dates, and places.

Board members shall make every effort to ensure that their electronic communications conform to the same standards and protocols established for other forms of communication. A Board member may respond, as appropriate, to an electronic communication received from a member of the community and should make clear that his/her response does not necessarily reflect the views of the Board as a whole. Any complaint or request for information should be forwarded to the Superintendent in accordance with Board bylaws and protocols so that the issue may receive proper consideration and be handled through the appropriate district process. As appropriate, communication received from the press shall be forwarded to the designated district spokesperson.

In order to minimize the risk of improper disclosure, Board members shall avoid reference to confidential information and information acquired during closed session.

Board members may use electronic communications to discuss matters other than district business with each other, regardless of the number of members participating in the discussion.

Like other writings concerning district business, a Board member's electronic communication may be subject to disclosure under the California Public Records Act.

Legal Reference: (see next page)
BOARD MEMBER ELECTRONIC COMMUNICATIONS (continued)

Legal Reference:

EDUCATION CODE
35140 Time and place of meetings
35145 Public meetings
35145.5 Agenda; public participation; regulations
35147 Open meeting law exceptions and applications

GOVERNMENT CODE
11135 State programs and activities, discrimination
54950-54963 The Ralph M. Brown Act, especially:
54952.2 Meeting, defined
54953 Meetings to be open and public; attendance
54954.2 Agenda posting requirements, board actions
Annual Organizational Meeting

The Board of Trustees shall hold an annual organizational meeting within the time limits prescribed by law. (Education Code 35143)

At this meeting the Board shall:

1. Elect a president, president pro-tempore, and clerk from its members
2. Appoint the Superintendent as secretary to the Board
3. Authorize signatures
4. Develop a schedule of regular meetings for the year
5. Designate Board representatives

Legal Reference:

EDUCATION CODE
5017 Term of Office
35143 Annual organizational meeting date, and notice
35145 Public meetings

GOVERNMENT CODE
54953 Meetings to be open and public; attendance

ATTORNEY GENERAL OPINIONS
TERMS OF OFFICE

The Board of Trustees shall consist of five members whose terms shall be staggered so that as nearly as practicable, one half of the members shall be elected in each even-numbered year.

The term of office for members elected in regular elections shall be four years, commencing on the first Friday in December next succeeding their election. (Education Code 5017)

Board member terms expire four years after their initial election on the first Friday in December following the election of new members. (Education Code 5000)

A member whose term has expired shall continue to discharge the duties of the office until his/her successor has qualified by taking the oath of office. (Government Code 1302, 1360; Education Code 5017)

Legal Reference:

EDUCATION CODE
5000-5033  Election of school district board members
35010  Control of district
35012  Board members; number, election and terms
35107  Eligibility

GOVERNMENT CODE
1302  Continuance in office until qualification of successor
1303  Exercising functions of office without having qualified
1360  Necessity of taking constitutional oath
PRESIDENT

The Board of Trustees shall elect a president from among its members to provide leadership on behalf of the Board and the educational community it serves.

The president shall preside at all Board meetings. He/she shall:

1. Call the meeting to order at the appointed time
2. Announce the business to come before the Board
3. Enforce the Board's policies relating to the conduct of meetings and help ensure compliance with applicable requirements of the Brown Act
4. Recognize persons who desire to speak, and protect the speaker who has the floor from disturbance or interference
5. Explain what the effect of a motion would be if it is not clear to every member
6. Restrict discussion to the question when a motion is before the Board
7. Rule on issues of parliamentary procedure
8. Put motions to a vote, and state clearly the results of the vote
9. Be responsible for the orderly conduct of all Board meetings

The president shall perform other duties in accordance with law and Board policy including, but not limited to:

1. Signing all instruments, acts and orders necessary to carry out state requirements and the will of the Board
2. Meet with the Superintendent or designee to discuss the Board's agendas
3. Working with the Superintendent to ensure that Board members have necessary materials and information
4. Subject to Board approval, appointing and dissolving all committees

The president shall have the same rights as other members of the Board, including the right to move, second, discuss and vote on all questions before the Board.
PRESIDENT (continued)

When the president resigns or is absent or disabled, the president pro-tempore shall perform the president's duties. When both the president and president pro-tempore are absent or disabled, the clerk shall perform the president's duties.

Legal Reference:

EDUCATION CODE
35022 President of the board
35143 Annual organizational meetings; dates and notice
GOVERNMENT CODE
54950-54963 Ralph M. Brown Act
SECRETARY

The Board of Trustees shall appoint the Superintendent to serve as secretary to the Board. The secretary to the Board shall be responsible for maintaining an accurate and complete record of all Board proceedings and shall:

1. Prepare, distribute and maintain the Board agenda
2. Meet with the Board President to discuss the Board agenda
3. Record, distribute and maintain the Board minutes
4. Maintain Board records and documents
5. Conduct official correspondence for the Board
6. As directed by the Board, sign and execute official papers
7. Perform other duties as assigned by the Board

Legal Reference:

EDUCATION CODE
35025 Secretary and bookkeeper
35143 Annual organizational meetings: dates and notice
35250 Duty to keep certain records and reports

GOVERNMENT CODE
54950-54963 Ralph M. Brown Act
The Board of Trustees shall elect a clerk from its own membership at the annual organizational meeting. (Education Code 35143)

The duties of the clerk shall be to:

1. Certify or attest to actions taken by the Board when required
2. Maintain such other records or reports as required by law
3. Sign documents on behalf of the district as directed by the Board
4. Serve as presiding officer in the absence of the president and pro-tempore
5. Notify Board members and members-elect of the date and time for the annual organizational meeting
6. Perform any other duties assigned by the Board

Legal Reference:

EDUCATION CODE
17593 Repair and supervision of property (duty of district clerk)
35038 Appointment of clerk by county superintendent of schools
35039 Dismissal of clerk
35121 Appointment of clerk in certain city and high school districts
35143 Annual organizational meetings
35250 Duty to keep certain records and reports
38113 Duty of clerk (re provision of school supplies)
GOVERNMENT CODE
54950-54963 Ralph M. Brown Act
The Board of Trustees recognizes the complex legal environment in which districts operate and desires reliable, high-quality legal advice at reasonable rates. In order to meet the district's legal needs, the Board may contract with county counsel, attorneys in private practice, or appoint legal counsel as a district employee or independent contractor. The Board also supports pursuing collaborative legal efforts with other agencies and districts as appropriate.

**Duties of Legal Counsel**

The district's legal counsel may: (Education Code 35041.5)

1. Render legal advice to the Board and the Superintendent or designee
2. Serve the Board and the Superintendent or designee in the preparation and conduct of district litigation and administrative proceedings
3. Render advice on school bond and tax increase measures and prepare the necessary forms for the voting of these measures
4. Perform other administrative duties as assigned by the Board and Superintendent or designee

**Legal Reference:**

**EDUCATION CODE**
- 35041 Administrative adviser
- 35041.5 Legal counsel
- 35161 Powers and duties of governing board
- 35200-35214 Liabilities, especially:
- 35204 Contract with attorney in private practice
- 35205 Contract for legal services

**GOVERNMENT CODE**
- 814-895.8 Liability of public entities and public employees
- 995-996.6 Defense of public employees
- 26520 Legal services to school districts
- 53060 Special services and advice

Bylaw adopted: March 21, 2013
BOARD COMMITTEES

The Governing Board may establish Board committees as necessary. The Board shall determine the duties of the committee at the time of its appointment. Unless specifically authorized by the Board to act on its behalf, Board committees shall act in an advisory capacity. When its duties have been completed, the committee shall be dissolved.

Board committees shall provide public notice of their meetings and conduct these meetings in accordance with state open meeting laws.

Meetings of advisory committees or standing committees for which an agenda is posted at least 72 hours in advance of the meeting pursuant to Government Code 54954.2, shall be considered, for purposes of the Brown Act, as regular meetings of the Board. (Government Code 54954)

Board advisory committees composed solely of less than a quorum of the members of the Board are not subject to open meeting laws unless they are standing committees that have a continuing subject matter jurisdiction or a meeting schedule established by the Board. (Government Code 54952)

Standing committees with a continuing subject matter jurisdiction include but are not limited to those responsible for providing advice on budgets, audits, contracts and personnel matters at the Board’s request.

When a majority of the members of the Board attend an open and noticed meeting of a standing committee, the Board members who are not members of the standing committee shall attend only as observers. (Government Code 54952.2)

The Superintendent or designee may serve as an advisor to any committee at the discretion of the Board.

Whenever so charged, committees may actively seek input and participation by parents/guardians, staff, community and students and may consult with local public boards and agencies.

When a Board committee composed exclusively of Board members has provided for public comment on an item at a public meeting before or during the committee’s consideration of the item, the Board is not obliged to provide for public comment on the item at a subsequent Board meeting. Public comment shall be afforded, however, if the Board determines that the item has been substantially changed since it was heard by the committee. (Government Code 54954.3)

Legal Reference: (see next page)
BOARD OF TRUSTEES ELECTIONS (continued)

Legal Reference:

EDUCATION CODE
35010 Control of district; prescription and enforcement of rules
35024 Executive committee
35160 Authority of governing boards
35160.1 Broad authority of school districts

GOVERNMENT CODE
54952 Legislative body, definition
54952.2 Definition of meeting
54954 Time and place of regular meetings; special meetings; emergencies
54954.3 Opportunity for public to address legislative body

ATTORNEY GENERAL OPINIONS
BOARD REPRESENTATIVES

County Committee on School District Organization

The Board of Trustees shall, at its annual organizational meeting, appoint one of its members as its representative to the county committee on school district organization. The secretary shall furnish the county Superintendent of schools with a certificate naming the representative selected by the board.

Other Advisory Committees

The Board may appoint any of its members to serve on advisory committees, or as representatives to other public agencies or organizations when the board deems such appointments desirable, contingent on acceptance of the appointment by the member.

Legal Reference:

EDUCATION CODE
4000-4014 County committees on school district organization
35020-35046 School district officers and agents (power of governing board to employ or appoint)
35160 Authority of governing boards

GOVERNMENT CODE
54952.2 Meetings
LIMITS OF BOARD MEMBER AUTHORITY

The Board of Trustees recognizes that the Board is the unit of authority over the district and that a Board member has no individual authority. Board members shall hold the education of students above any partisan principle, group interest, or personal interest.

Unless agreed to by the Board as a whole, individual members of the Board shall not exercise any administrative responsibility with respect to the schools or command the services of any school employee. Individual Board members shall submit requests for information to the Superintendent. Board members shall refer Board-related correspondence to the Superintendent for forwarding to the Board or for placement on the Board's agenda, as appropriate.

Individual Board members do not have the authority to resolve complaints. Any Board member approached directly by a person with a complaint should refer the complainant to the Superintendent or designee so that the problem may receive proper consideration and be handled through the appropriate district process.

A Board member whose child is attending a district school should be aware of his/her role as a Board member when interacting with district employees about his/her child. Because his/her position as a Board member may inhibit the performance of school personnel, the Board member should inform the Superintendent or designee before volunteering in his/her child's classroom.

The Superintendent or designee shall provide a copy of the state's open meeting laws (Brown Act) to each Board member and to anyone who is elected to the Board but has not yet assumed office.

Board members and persons elected to the Board who have not yet assumed office are responsible for complying with the requirements of the Brown Act. (Government Code 54952.1)

Legal Reference:

EDUCATION CODE
200-262.4 Prohibition of discrimination
7054 Use of district property
35010 Control of district; prescription and enforcement of rules
35100-35351 Governing boards, especially:
35160-35184 Powers and duties
35291 Rules
35292 Visits to schools (Board members)
51101 Rights of parents/guardians

GOVERNMENT CODE
54950-54962 The Ralph M. Brown Act, especially:
54952.1 Member of a legislative body of a local agency
54952.7 Copies of chapter to members of legislative body
BOARD OF TRUSTEES ELECTIONS

Any person is eligible to be a Board of Trustees member, without further qualifications, if he/she is 18 years of age or older, a citizen of the state, a resident of the school district, a registered voter, and not legally disqualified from holding civil office. (Education Code 35107)

A district employee elected to the Board shall resign his/her position before being sworn in or shall have his/her employment automatically terminated upon being sworn into office. (Education Code 35107)

Whenever possible, the Board shall consolidate Board elections with the local municipal or statewide primary or general election. Board election procedures shall be conducted in accordance with state and federal law.

Campaign Conduct

In order to help protect the public's trust in the electoral process as well as the public's confidence in the Board and district, the Board encourages all candidates to sign and adhere to the principles in the Code of Fair Campaign Practices pursuant to Elections Code 20440.

Statement of Qualifications

The district shall assume no part of the cost of printing, handling, translating, or mailing of candidate statements filed pursuant to Elections Code 13307. As a condition of having candidate statements included in the voter's pamphlet, the district may require candidates to pay their estimated pro rata share of these costs to the district in advance pursuant to Elections Code 13307.

On the 125th day prior to the day fixed for the general district election, the Board secretary or his/her designee shall deliver a notice, bearing the secretary's signature and district seal, to the county elections official describing both of the following: (Elections Code 10509)

1. The elective offices of the district to be filled at the general election and which offices, if any, are for the balance of an unexpired term

2. Whether the district or the candidate is to pay for the publication of a statement of qualifications pursuant to Elections Code 13307

Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)

Tie Votes in Board Member Elections

Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the Board, the Board shall immediately notify the candidates who received the tie votes of the time and place where the candidates or their representatives should appear before the Board. The Board at that time shall determine the winner by lot. (Education Code 5016)
BOARD OF TRUSTEES ELECTIONS (continued)

Legal Reference:

**EDUCATION CODE**
- 1006 Qualifications for holding office, county board of education
- 5000-5033 Elections
- 5220-5231 Elections
- 5300-5304 General provisions (conduct of elections)
- 5320-5329 Order and call of elections
- 5340-5345 Consolidation of elections
- 5360-5363 Election notice
- 5380 Compensation (of election officer)
- 5390 Qualifications of voters
- 5420-5426 Cost of elections
- 5440-5442 Miscellaneous provisions
- 7054 Use of district property
- 35107 Eligibility; school district employees
- 35177 Campaign expenditures or contributions
- 35239 Compensation of governing board member of districts with less than 70 ADA

**ELECTIONS CODE**
- 1302 Local elections, school district election
- 2201 Grounds for cancellation
- 4000-4004 Elections conducted wholly by mail
- 10400-10418 Consolidation of elections
- 10509 Notice of election by secretary
- 10600-10604 School district elections
- 13307 Candidate's statement
- 13309 Candidate's statement, indigency
- 20440 Code of Fair Campaign Practices

**GOVERNMENT CODE**
- 1021 Conviction of crime
- 1097 Illegal participation in public contract
- 12940 Nondiscrimination, Fair Employment and Housing Act
- 81000-91014 Political Reform Act

**PENAL CODE**
- 68 Bribe
- 74 Acceptance of gratuity
- 424 Embezzlement and falsification of accounts by public officers
- 661 Removal for neglect or violation of official duty

**CALIFORNIA CONSTITUTION**
- Article 2, Section 2 Voters, qualifications
- Article 7, Section 7 Conflicting offices
- Article 7, Section 8 Disqualification from office

**COURT DECISIONS**

**ATTORNEY GENERAL OPINIONS**
FILLING VACANCIES

A vacancy on the Board of Trustees may occur for any of the events specified in Government Code section 1770, or by failure to elect. The Board of Trustees shall, within 60 days of the date of the vacancy of the filing of the deferred resignation, either order an election for the next established election day (but not less than 130 days after the occurrence of the vacancy or filed written resignation) or make a provisional appointment to fill the vacancy. (Education Code 5091) There shall be no election and no appointment if the vacancy occurs within four months of the end of the term of that position and the incumbent is not re-elected to fill the position (Education Code 5093(a))

After the provisional appointment is made, the Board shall, within ten days after the appointment, post notices of the provisional appointment in at least three public places in the district, and publish a notice pursuant to Government Code Section 6061, unless there is no newspaper of general circulation in the district. The posted and published notices shall contain the full name of the appointee, the date of the appointment, and a statement that unless a petition calling for a public election, containing a sufficient number of signatures, is filed in the office of county Superintendent of Schools within 30 days of the date of the provisional appointment, it shall become an effective appointment. (Education Code 5092)

The process for filling a vacancy on the Board of Trustees will follow the requirements set forth in the California Government Code and the Education Code.

Announcement of the receipt of notification of vacancy will take place at a special or regular Board Meeting. Within 60 days of vacancy or notification of vacancy, the Board of Trustees will announce the filling of the vacancy by special election or by provisional appointment. The appointment of a Board member must be completed within that 60-day period.

Provisional Appointment Process

If the Board has chosen to fill the vacancy with a provisional appointment the Board of Trustees may adhere to the following process.

1. Notification of the filling of the vacancy will be sent to the Santa Clara County Superintendent of Schools and posted for the public within the district’s boundaries (i.e. in a local publication, at district sites, on the district website, etc.).

2. The President of the Board will appoint an ad hoc committee to produce the application and interview questions based on individual input from members of the Board of Trustees. The results will be provided to the President for review and approval.

3. An application period will be announced to the community and applications made available on the district website and at the district office. All applicants must meet the requirements of a registered voter within the district boundaries and cannot be a district employee. Applications will be verified through the Santa Clara County Registrar of Voters.
FILLING VACANCIES (continued)

4. Candidates will be notified of the date, time, and location that interviews will be held during an Open Session of a special or regular Board Meeting.

5. At the Board Meeting, candidates will be invited to be interviewed by the Board of Trustees and the selection process will include:

   a. Each candidate will undergo an initial 5-minute interview after which the Board of Trustees will identify three candidates to move on to a second 20-minute interview.

   b. Candidates who have not yet been interviewed will be asked to wait in another room. Once a candidate has been interviewed he/she may remain in the Board Room.

   c. The order of interviews will be determined randomly. All candidates’ names will be put in a “hat” and drawn by the Clerk to determine order.

   d. In the first round each candidate will have up to 5 minutes to answer the first round of questions.

   e. Board members will be taking notes and will have the ability to ask clarifying questions as needed but will keep in mind the candidate’s 5 minute time limit.

   f. Once all candidates have been interviewed in the initial round, each Board member, without discussion, will record in writing his/her top three candidates. The three candidates receiving the largest number of votes will move on to the second interview round.

      Should there be a tie between candidates, the Board will vote on the tied candidates for individual interview positions.

      Should a tie ensue, opportunity for a Board member to change his/her vote will be given and another vote will be taken.

      Should a tie persist, district Board Bylaw 9513 will be enacted and a name shall be drawn from a “hat.”

   g. Second round candidates will then return to another room and the Board will initiate its second round of interviews utilizing the same order as in the first round.

   h. During the second round, candidates will have 20 minutes. A timekeeper will announce time at 10 minutes at 5 minutes and at 2 minutes remaining.
FILLING VACANCIES (continued)

i. At the conclusion of the second round, the Board will take a short break to individually review their notes and reflect on the candidates. The President will reconvene the meeting and poll each Board member as to the qualities and characteristics he/she feels would be of most strength to the Board.

j. Each Board member, without discussion, will record in writing his/her top candidate.

k. *If there is consensus*, the President will ask for a nomination and a vote will be taken. The process would continue at Step n.

   *If there is not consensus*, the President will call for a final consensus-building question. Candidates will return to another room and be called and questioned in the same order as they have been interviewed.

l. The President will then poll Board members again, giving each board member the opportunity to revisit his/her notes; clarify the qualities or characteristics he/she feels important; and state the name of the candidate he/she feels best fits this criteria.

m. *If after the consensus-building question there is consensus*, the President will ask for a motion to appoint and a vote will be taken. The process would continue at Step n.

   *If after the consensus-building question there is no consensus but a Split (2-1-1)*

(1) If there is no consensus but a *split* (i.e. 2-1-1), a vote will be taken to allow one of the “1-1” candidates to move on to a vote between him/herself and the “2”.

(2) If a tie ensues as a result of a vote to address a split, opportunity for a Board member to change his/her vote will be given and another vote will be taken.

(3) Should a tie persist, district Board Bylaw 9513 will be enacted and a name shall be drawn from a “hat.”

The Board will now vote between this candidate and the candidate receiving the 2 votes. Should a tie occur at this point, opportunity for a Board member to change his/her vote will be given and another vote will be taken.
FILLING VACANCIES (continued)

Should a tie persist, candidates will be asked if they wish to concede. If not, district Board Bylaw 9513 will be enacted and a name shall be drawn from a “hat.”

If after the consensus-building question there is no consensus but a Tie (2-2)

(1) If there is no consensus but a tie (i.e. 2-2), opportunity for a Board member to change his/her vote will be given and another vote will be taken.

(2) Should a tie persist, candidates will be asked if they wish to concede. If not, district Board Bylaw 9513 will be enacted and a name shall be drawn from a “hat.”

n. The name of the appointee will then be announced and the Clerk will swear in the appointee as of the effective date.

6. Notification of the provisional appointment will be sent to the Santa Clara County Superintendent of Schools and posted for the public within the district’s boundaries (i.e. in a local publication, at district sites, on the district website, etc.).

7. If a petition calling for a special election containing the valid signatures of at least 1.5% of the number of registered voters of the district at the time of the last regular election for Board members held within the district is filed in the Office of the Santa Clara County Superintendent of Schools within 30 days from the date of the provisional appointment, the district will be required to hold a special election.

Legal Reference: (see next page)
FILLING VACANCIES (continued)

Legal Reference:

EDUCATION CODE
5000-5033 Elections
5090-5095 Vacancies
5200-5208 Districts governed by boards of education
5300-5304 Elections
5320-5329 Order and call of election
5340-5345 Consolidation of elections
5360-5363 Election notice
5420-5426 Cost of elections
5440-5442 Miscellaneous provisions, elections
35107 Eligibility of board members
35178 Resignation with deferred effective date
ELECTIONS CODE
10600-10604 School district elections
11381-11386 Candidates for recall
GOVERNMENT CODE
1064 Absence from state
1770 Vacancies: definition
3000-3003 Forfeiture of office
3060-3075 Removal other than by impeachment
6061 One time notice
54950-54963 The Ralph M. Brown Act
PENAL CODE
88 Bribery, forfeiture from office
UNITED STATES CODE, TITLE 18
704 Military medals or decorations
ATTORNEY GENERAL OPINIONS
ORIENTATION

The Board of Trustees and the administrative staff shall assist each new member-elect to understand the board’s functions, policies and procedures, and the general operation of the school system as quickly after election as possible. The following methods shall be used as a base for orientation, with such other materials and experiences as the president, secretary and the member-elect may agree on:

1. The incoming member shall be given selected materials on the function of the Board and the school system (e.g., “Boardsmanship”).

2. The incoming member shall be invited to attend Board meetings which occur between election and the date the member takes office.

3. The incoming member shall be invited to meet with the Superintendent and other administrative personnel to discuss services they perform for the Board.

4. The incoming member shall be provided with a copy of the district’s policies manual, including administrative regulations and bylaws, and copies of pertinent materials developed by the California School Boards Association.

5. The incoming member may attend, at district expense, workshops for newly elected members as provided in the Education Code.

Legal Reference:

EDUCATION CODE
33360 Department of Education and statewide association of school district boards; annual workshops
33362-33363 Reimbursement of expenses; board member or member-elect

ELECTIONS CODE
13307 Candidate’s statement
20440 Code of Fair Campaign Practices

GOVERNMENT CODE
54950-54963 The Ralph M. Brown Act, especially:
54952.1 Member of a legislative body
54952.7 Copies of Brown Act to board members
BOARD DEVELOPMENT

Citizens elected to the Board of Trustees are entrusted with the responsibility of governing district schools. The Board recognizes that its members need training that helps them understand their responsibilities, stay abreast of new developments in education, and develop boardmanship skills.

All Board members may attend conferences for the purpose of Board development. Board business shall not be discussed at conferences.

Board members shall report to the Board, orally or in writing, as soon as possible on the inservice activities they attend.

Funds for Board development shall be budgeted annually in alignment with district travel expense protocols.

Legal Reference:
EDUCATION CODE
33360 Department of Education and statewide association of school district boards; annual workshop
GOVERNMENT CODE
54950-54963 The Ralph M. Brown Act, especially:
54952.2 Meeting

Bylaw
adopted: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California
RENUMERATION, REIMBURSEMENT AND OTHER BENEFITS

Compensation

Each member of the Governing Board may receive a monthly compensation of $485.

On an annual basis, the Board may increase the compensation of Board members beyond the limit delineated in Education Code 35120 in an amount not to exceed five percent based on the present monthly rate of compensation.

Board members are not required to accept payment for meetings attended.

Any member who does not attend all Board meetings during the month is eligible to receive only a percentage of the monthly compensation equal to the percentage of meetings he/she attended, unless otherwise authorized by the Board in accordance with law.

A member may be compensated for meetings he/she missed when the Board, by resolution, finds that he/she was performing designated services for the district at the time of the meeting or that he/she was absent because of illness, jury duty, or a hardship deemed acceptable by the Board.

Whenever a quorum of Board members serves as another legislative body which will meet simultaneously or in serial order to a Board meeting, the Board clerk or a member of the Board shall verbally announce the amount of any additional compensation or stipend that each member will be entitled to receive as a result of convening the simultaneous or serial meeting.

Reimbursement of Expenses

Board members shall be reimbursed for actual and necessary expenses incurred when performing authorized services for the district or directed by the Board. Expenses for travel, telephone, business meals, or other authorized purposes shall be in accordance with policies established for district personnel and at the same rate of reimbursement.

Authorized purposes may include, but are not limited to, attendance at educational seminars or conferences designed to improve Board members' skills and knowledge; participation in regional, state, or national organizations whose activities affect the district's interests; attendance at district or community events; and meetings with state or federal officials on issues of community concern.

Personal expenses shall be the responsibility of individual Board members. Personal expenses include, but are not limited to, the personal portion of any trip, tips or gratuities, alcohol, entertainment, laundry, expenses of any family member who is accompanying the Board member on district-related business, personal use of an automobile, and personal losses and traffic violation fees incurred while on district business.
ROLE OF THE BOARD  (continued)

Any questions regarding the propriety of a particular type of expense should be resolved by the Superintendent or designee before the expense is incurred.

Health and Welfare Benefits for Current Board Members

Board members may participate in the health and welfare benefits program provided for district employees.

The district shall pay the premiums required for Board members electing to participate in the district health and welfare benefits program to the same extent that it pays for district employees.

Health and welfare benefits provided to Board members shall be extended at the same level to their spouse/registered domestic partner and to their eligible dependent children as specified in law and the health plan.

Legal Reference:

EDUCATION CODE
33050-33053  General waiver authority
33362-33363  Reimbursement of expenses for attendance at workshops
35012  Board members; number, election and term
35044  Payment of traveling expenses of representatives of board
35120  Compensation for services as member of governing board
35172  Promotional activities
44038  Cash deposits for transportation purchased on credit

FAMILY CODE
297-297.5  Rights, protections and benefits under law; registered domestic partners

GOVERNMENT CODE
8314  Use of public resources
20322  Elective officers; election to become member
20420-20445  Membership in Public Employees' Retirement System; definition of safety employees
53200-53209  Group insurance
54952.3  Simultaneous or serial meetings; announcement of compensation

HEALTH AND SAFETY CODE
1373  Health services plan, coverage for dependent children

INSURANCE CODE
10277-10278  Group and individual health insurance, coverage for dependent children

UNITED STATES CODE, TITLE 26
403  Tax-sheltered annuities

UNITED STATES CODE, TITLE 42
18011  Right to maintain existing health coverage

CODE OF FEDERAL REGULATIONS, TITLE 26
1.403(b)-2  Tax-sheltered annuities, definition of employee

EVERGREEN SCHOOL DISTRICT
Bylaw adopted: November 13, 2014  San Jose, California
LEGAL PROTECTION

Liability Insurance

The Board of Trustees shall provide insurance necessary to protect Board members and employees while acting within the scope of their office or employment in accordance with Education Code 35208.

Protection Against Liability

No Board member shall be liable for harm caused by his/her act or omission when acting within the scope of district responsibilities. The act or omission must be in conformity with federal, state and local laws and made in furtherance of an effort to control, discipline, expel or suspend a student, or maintain order or control in the classroom or school. (20 USC 6736)

The protection against liability shall not apply when: (20 USC 6736)

1. The Board member acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the harmed person's right to safety.

2. The Board member caused harm by operating a motor vehicle.

3. The Board member was not properly licensed, if required, by the State for such activities.

4. The Board member was found by a court to have violated a federal or state civil rights law.

5. The Board member was under the influence of alcohol or any drug at the time of the misconduct.

6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the Board member has been convicted in a court.

7. The misconduct involved a sexual offense for which the Board member has been convicted in a court.

Legal Reference: (see next page)
LEGAL PROTECTION (continued)

Legal Reference:

EDUCATION CODE
17029.5 Contract funding; board liability
35208 Liability insurance
35214 Liability insurance (self-insurance or a combination of self-insurance and insurance through an insurance company)

GOVERNMENT CODE
815.3 Intentional torts
820-823 Tort Claims Act
825.6 Indemnification of public entity
1090-1098 Conflicts of interest, prohibitions applicable to specified officers
54950-54963 The Ralph M. Brown Act
87100-89503 Conflicts of interest

UNITED STATES CODE, TITLE 18
16 Crime of violence defined

UNITED STATES CODE, TITLE 20
6731-6738 Teacher Protection Act

COURT DECISIONS
CONFLICT OF INTEREST

The Board of Trustees 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, Board members and designated employees shall disclose any conflict of interest and, as necessary, shall abstain from participating in the decision.

The Board shall adopt a resolution that specifies the terms of the district's conflict of interest code, the district's designated positions, and the disclosure categories required for each position.

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. (Government Code 87306)

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 statement and the date of leaving office or district employment. (Government Code 87302, 87500)

Incompatible Offices and Activities

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)

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

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
87100-87103.6 General prohibitions

Legal References continued: (see next page)
CONFLICT OF INTEREST  (continued)

Legal Reference: (continued)

GOVERNMENT CODE (continued)
87200-87210 Disclosure
87300-87313 Conflict of interest code
87500 Statements of economic interests
89501-89503 Honoraria and gifts
91000-91014 Enforcement
PENAL CODE
85-88 Bribes
CODE OF REGULATIONS, TITLE 2
18110-18997 Regulations of the Fair Political Practices Commission, especially:
18702.5 Public identification of a conflict of interest for Section 87200 filers
COURT DECISIONS
ATTORNEY GENERAL OPINIONS
BOARD POLICIES

The Board of Trustees shall adopt written policies to convey its expectations for actions that will be taken in the district, clarify roles and responsibilities of the Board and Superintendent, and communicate Board philosophy and positions to the students, staff, parents/guardians and the community. Board policies are binding on the district to the extent that they do not conflict with federal or state law and are consistent with the district's collective bargaining agreements.

The Board recognizes the importance of maintaining a policy manual that is up to date and reflects the mandates of law. Policies shall be regularly reviewed at a time allocated for this purpose on the agenda of public Board meetings.

The Board shall review certain policies annually, as required by Education Code 35160.5. If no revisions are deemed necessary, the Board minutes shall nevertheless indicate that the review was conducted. Other policies shall be monitored and reviewed as specified in the policy itself or as needed to reflect changes in law or district circumstances.

Policy Development and Adoption Process

The district's policy development process shall include the following basic steps:

1. The Board and/or Superintendent or designee shall identify the need for a new policy or revision of an existing policy. The need may arise from a change in law, a new district vision or goals, educational research or trends, or a change in the superintendency or Board membership. The need may also occur as a result of an incident that has arisen in the district or a recommendation or request from staff or other interested persons.

2. As needed, the Superintendent or designee shall gather fiscal and other data, staff and public input, related district policies, sample policies from other organizations or agencies, and other useful information to fully inform the Board about the issue.

3. The Board may hold discussions during a public Board meeting to gain an understanding of the issue and provide initial direction to the Superintendent or designee. The discussion may include, but not be limited to, how the proposed policy may affect student learning, community expectations, staff recommendations, fiscal impact, as well as the policy's impact on governance and operational efficiency.

4. The Board or Superintendent may request that legal counsel review the draft policy as appropriate.

5. The Superintendent or designee shall develop and present a draft policy for a first reading at a public Board meeting. At its second reading, the Board may take action on the proposed policy. The Board may waive the second reading or may require an additional reading if necessary.
BOARD POLICIES (continued)

Only policies formally adopted by a majority vote of the Board shall constitute official Board policy.

The district's policy development process may be revised or expanded as needed based on the issue being considered, the need for more information, or to provide greater opportunities for consultation and public input.

Policies shall become effective upon Board adoption or at a future date designated by the Board at the time of adoption.

Board Bylaws

The Board shall prescribe and enforce rules for its own government consistent with state law and regulations. (Education Code 35010)

Bylaws Board of Trustees operations may be developed, adopted, and amended following the same procedures as those used for the adoption or amendment of Board policy.

Administrative Regulations

The Superintendent or designee shall be responsible for developing and enforcing administrative regulations for the operation of the district. Administrative regulations shall be consistent with law and Board policy and shall be designed to promote the achievement of district goals and objectives. Administrative regulations may describe specific actions to be taken, roles and responsibilities of staff, timelines, and/or other necessary provisions. The Superintendent or designee also may develop procedures manuals, handbooks, or other guides to carry out the intent of Board policy.

When Board policies are amended, the Superintendent or designee shall review corresponding regulations to ensure that they conform to the intent of the revised policy. In case of conflict between administrative regulation and Board policy, policy shall prevail.

Monitoring and Evaluation

At the time a policy is adopted, the Board and Superintendent or designee shall determine whether an evaluation of the policy should be scheduled and, if so, shall agree upon a timeline and measures for evaluating the effectiveness of the policy in achieving its purpose.

Access to Policies

The Superintendent or designee shall ensure that all district employees and the public have access to an up-to-date district policy manual. A public copy of the policy manual shall be maintained at the district central office and at each school site. These copies shall be maintained either electronically or by paper copy.
As necessary, the Superintendent or designee may notify staff, parents/guardians, students, and other stakeholders whenever a policy that affects them is adopted or revised. He/she may determine the appropriate communications strategy depending on the issue.

Suspension of Policies

No Board policy, bylaw, or administrative regulation, or any portion thereof, shall be operative if it is found to be in conflict with applicable federal or state law or regulations or court decisions. If any portion of a policy is found to be invalid, that invalidity shall not affect other provisions of the policy.

Legal Reference:

EDUCATION CODE
35010 Control of district; prescription and enforcement of rules
35160 Authority of governing boards
35160.5 Annual review of school district policies
35163 Official actions, minutes and journal
35164 Vote requirements
MEETINGS AND NOTICES

Meetings of the Board of Trustees are conducted for the purpose of accomplishing district business. In accordance with state open meeting laws (Brown Act), the Board shall hold its meetings in public and shall conduct closed sessions during such meetings only as authorized by law. To encourage community involvement in the schools, Board meetings shall provide opportunities for questions and comments by members of the public. All meetings shall be conducted in accordance with law and the Board's bylaws, policies, and administrative regulations.

A Board meeting exists whenever a majority of Board members gather at the same time and place to hear, discuss, or deliberate upon any item within the subject matter jurisdiction of the Board or district. (Government Code 54952.2)

A majority of the Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. However, an employee or district official may engage in separate conversations with Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the Board, as long as that employee or district official does not communicate the comments or position of any Board members to other Board members. (Government Code 54952.2)

In order to help ensure the participation of individuals with disabilities at Board meetings, the Superintendent or designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. (Government Code 54953.2, 54954.1)

Regular Meetings

The Board shall hold a regular meeting each month during the regular school year. Date, time and place of these meetings shall be established at the annual organizational meeting.

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 and on the district's Internet web site. (Government Code 54954.2)

Whenever agenda materials relating to an open session of a regular meeting are distributed to the Board less than 72 hours before the meeting, the Superintendent or designee shall make the materials available for public inspection at a public office or location designated for that purpose. (Government Code 54957.5)
Special Meetings

Special meetings of the Board may be called at any time by the presiding officer or a majority of the Board members. However, a special meeting shall not be called regarding the salary, salary schedule, or other compensation of the Superintendent, assistant Superintendent, or other management employee as described in Government Code 3511.1. (Government Code 54956)

Written notice of special meetings shall be delivered personally or by any other means to all Board members and the local media who have requested such notice in writing. The notice also shall be posted on the district's Internet web site. The notice shall be received at least 24 hours before the time of the meeting. The notice shall also be posted at least 24 hours before the meeting in a location freely accessible to the public. The notice shall specify the time and place of the meeting and the business to be transacted or discussed. No other business shall be considered at this meeting. (Education Code 35144; Government Code 54956)

Any Board member may waive the 24-hour written notice requirement prior to the time of the meeting by filing a written waiver of notice with the clerk or secretary of the Board or by being present at the meeting at the time it convenes. (Government Code 54956)

Every notice of a special meeting shall provide an opportunity for members of the public to directly address the Board concerning any item that has been described in the meeting notice, before or during the item's consideration. (Government Code 54954.3)

Emergency Meetings

In the case of an emergency situation for which prompt action is necessary due to the disruption or threatened disruption of public facilities, the Board may hold an emergency meeting without complying with the 24-hour notice and/or 24-hour posting requirement for special meetings pursuant to Government Code 54956. The Board shall comply with all other requirements for special meetings during an emergency meeting. (Government Code 54956.5)

An emergency situation means either of the following: (Government Code 54956.5)

1. An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health and/or safety as determined by a majority of the members of the Board

2. A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist activity, or threatened terrorist act that poses peril so immediate and significant that requiring the Board to provide one-hour notice before holding an emergency meeting may endanger the public health and/or safety as determined by a majority of the members of the Board
MEETINGS AND NOTICES (continued)

Except in the case of a dire emergency, the Board president or designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media that have requested notice of special meetings. All telephone numbers provided by the media in the most recent request for notification must be exhausted. If telephone services are not functioning, the notice requirement of one hour is waived and, as soon after the meeting as possible, the Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the Board. In the case of a dire emergency, the Board president or designee shall give such notice at or near the time he/she notifies the other members of the Board about the meeting. (Government Code 54956.5)

The minutes of the meeting, a list of persons the Board president or designee notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for at least 10 days in a public place as soon after the meeting as possible. (Government Code 54956.5)

Adjourned/Continued Meetings

A majority vote by the Board may adjourn/continue any regular or special meeting to a later time and place that shall be specified in the order of adjournment. Less than a quorum of the Board may adjourn such a meeting. If no Board members are present, the secretary or the clerk may declare the meeting adjourned to a later time and shall give notice in the same manner required for special meetings. (Government Code 54955)

Within 24 hours after the time of adjournment, a copy of the order or notice of adjournment/continuance shall be conspicuously posted on or near the door of the place where the meeting was held. (Government Code 54955)

Study Sessions, Retreats, Public Forums, and Discussion Meetings

The Board may occasionally convene a study session or public forum to study an issue in more detail or to receive information from staff or feedback from members of the public.

The Board may also convene a retreat or discussion meeting to discuss Board roles and relationships.

Public notice shall be given in accordance with law when a quorum of the Board is attending a study session, retreat, public forum, or discussion meeting. All such meetings shall comply with the Brown Act and shall be held in open session and within district boundaries. Action items shall not be included on the agenda for these meetings.

Other Gatherings

Attendance by a majority of Board members at any of the following events is not subject to the Brown Act provided that a majority of the Board members do not discuss specific district business among themselves other than as part of the scheduled program: (Government Code 54952.2)
MEETINGS AND NOTICES (continued)

1. A conference or similar public gathering open to the public that involves a discussion of issues of general interest to the public or to school board members

2. An open, publicized meeting organized by a person or organization other than the district to address a topic of local community concern

3. An open and noticed meeting of another body of the district

4. An open and noticed meeting of a legislative body of another local agency

5. A purely social or ceremonial occasion

6. An open and noticed meeting of a standing committee of the Board, provided that the Board members who are not members of the standing committee attend only as observers

Individual contacts or conversations between a Board member and any other person are not subject to the Brown Act. (Government Code 54952.2)

Location of Meetings

Meetings shall not be held in a facility that prohibits the admittance of any person on the basis of ancestry or any characteristic listed in Government Code 11135, including, but not limited to, religion, sex, or sexual orientation. In addition, meetings shall not be held in a facility which is inaccessible to individuals with disabilities or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)

Meetings shall be held within district boundaries, except to do any of the following: (Government Code 54954)

1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the district is a party

2. Inspect real or personal property which cannot conveniently be brought into the district, provided that the topic of the meeting is limited to items directly related to the property

3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law

4. Meet in the closest meeting facility if the district has no meeting facility within its boundaries or if its principal office is located outside the district
MEETINGS AND NOTICES (continued)

5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the district over which the state or federal officials have jurisdiction.

6. Meet in or near a facility owned by the district but located outside the district, provided the meeting agenda is limited to items directly related to that facility.

7. Visit the office of the district's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs.

8. Attend conferences on nonadversarial collective bargaining techniques.

9. Interview residents of another district regarding the Board's potential employment of an applicant for Superintendent of the district.

10. Interview a potential employee from another district.

Meetings exempted from the boundary requirements, as specified in items #1-10 above, shall still be subject to the notice and open meeting requirements for regular and special meetings when a quorum of the Board attends the meeting.

If a fire, flood, earthquake, or other emergency renders the regular meeting place unsafe, meetings shall be held for the duration of the emergency at a place designated by the Board president or designee, who shall so inform all news media who have requested notice of special meetings by the most rapid available means of communication. (Government Code 54954)

Teleconferencing

A teleconference is a meeting of the Board in which Board members are in different locations, connected by electronic means through audio and/or video. (Government Code 54953)

The Board may use teleconferences for all purposes in connection with any meeting within the Board's subject matter jurisdiction. All votes taken during a teleconference meeting shall be by roll call. (Government Code 54953)

During the teleconference, at least a quorum of the members of the Board shall participate from locations within district boundaries. (Government Code 54953)

Agendas shall be posted at all teleconference locations and shall list all teleconference locations whenever they are posted elsewhere. Additional teleconference locations may be provided to the public. (Government Code 54953)
MEETINGS AND NOTICES (continued)

All teleconference locations shall be accessible to the public. All teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board, including the right of the public to address the Board directly at each teleconference location. (Government Code 54953)

All Board policies, administrative regulations, and bylaws shall apply equally to meetings that are teleconferenced. The Superintendent or designee shall facilitate public participation in the meeting at each teleconference location.

Legal Reference:

EDUCATION CODE
35140 Time and place of meetings
35143 Annual organizational meeting, date, and notice
35144 Special meeting
35145 Public meetings
35145.5 Agenda; public participation; regulations
35146 Closed sessions
35147 Open meeting law exceptions and applications

GOVERNMENT CODE
3511.1 Local agency executives
11135 State programs and activities, discrimination
54950-54963 The Ralph M. Brown Act, especially:
54953 Meetings to be open and public; attendance
54954 Time and place of regular meetings
54954.2 Agenda posting requirements, board actions
54956 Special meetings; call; notice
54956.5 Emergency meetings

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

ATTORNEY GENERAL OPINIONS

Bylaw
EVERGREEN SCHOOL DISTRICT
adopted: March 21, 2013
San Jose, California
CLOSED SESSION PURPOSES AND AGENDAS

The Board of Trustees 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 authorized by law. A closed session may be held during a regular, special, or emergency meeting in accordance with law.

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)

The Board shall disclose in open session the items to be discussed in closed session. In the closed session, the Board may consider only those matters covered in its statement. 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)

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)

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)

Personnel Matters

The Board may hold a closed session 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)

The Board may also hold a closed 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)

The Board may hold a closed 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)
CLOSED SESSION PURPOSES AND AGENDAS (continued)

Agenda items related to 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

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

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. 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 Board's designated representative. (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)

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

The Board also may meet in closed session with a state conciliator or mediator who has intervened in proceedings regarding any of the purposes enumerated in Government Code 54957.6.
CLOSED SESSION PURPOSES AND AGENDAS (continued)

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 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)

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)

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.

Security Matters

The Board may meet in closed session with the Attorney General, district attorney, 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)
CLOSED SESSION PURPOSES AND AGENDAS (continued)

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

The Board may meet in closed session with 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 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 district's position in the litigation. For this purpose, "litigation" means any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)
Litigation is considered "pending" in any of the following circumstances: (Government Code 54956.9)

1. Litigation to which the 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 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))

   **Existing facts and circumstances** for these purposes are limited to the following: (Government Code 54956.9)

   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.

   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.

   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.

   d. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.

   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. 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)
CLOSED SESSION PURPOSES AND AGENDAS  (continued)

Before holding a closed session pursuant to 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, 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 regarding existing facts and circumstances described in item #2 b-e above. (Government Code 54954.5)

Joint Powers Agency Issues

The Board may meet in closed session to discuss a claim 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)

When the board of the 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 JPA. During the 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)
CLOSED SESSION PURPOSES AND AGENDAS (continued)

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 conferences involving a JPA shall specify the closed session description used by the JPA and the name of the Board member representing the district on the 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 Bureau of State Audits

Upon receipt of a confidential final draft audit report from the Bureau of State Audits, the Board may meet in closed session to discuss its response to that report. After public release of the report from the Bureau of State Audits, 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 Bureau of State Audits shall state "Audit by Bureau of State Audits." (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)

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: (see next page)
CLOSED SESSION PURPOSES AND AGENDAS  (continued)

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
49070  Challenging content of students records
60617  Meetings of governing board

GOVERNMENT CODE
3540-3549.3  Educational Employment Relations Act
6252-6270  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
Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, (1968) 263 Cal.App. 2d 41

ATTORNEY GENERAL OPINIONS
AGENDA/MEETING MATERIALS

Agenda Content

The Board of Trustees meeting agendas shall state the meeting time and place and shall briefly describe each agenda item to be transacted or discussed, including items to be discussed in closed session.

The agenda shall provide members of the public the opportunity to address the Board on any agenda item during the Board's consideration of the item. The agenda shall also provide members of the public an opportunity to comment at regular meetings on matters which are not on the agenda but which are within the subject matter jurisdiction of the Board.

Each meeting agenda shall list the address designated by the Superintendent or designee for public inspection of agenda documents that have been distributed to the Board less than 72 hours before the meeting.

The agenda shall specify that an 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.

Agenda Preparation

The Superintendent, as secretary of the Board, shall prepare an agenda for each regular meeting to be discussed with the president of the governing board. Any board member may request a future item or new idea during a board meeting. The board member will provide rationale for the item. When there is urgency to the request, board members will call the Superintendent or the board president to request the item on the board agenda.

Any 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 in writing and be submitted to the Superintendent or designee with supporting documents and information, if any, at least 10 school days prior to the legally required public posting of the agenda. Items submitted less than 10 school days before the legally required public posting of the agenda 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 the 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 subject to Board vote, an information item that does not require action, or a consent item that is routine in nature and for which no discussion is anticipated.
AGENDA/MEETING MATERIALS  (continued)

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)

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

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 to Board Members

The agenda for a regular meeting shall be prepared by the Superintendent and discussed with the president of the Board. A copy of this agenda shall be forwarded to each Board member not less than six calendar days prior to a regular meeting, together with the Superintendent's report; minutes to be approved; copies of communication; reports from committees; staff; citizens, and others; and such other documents and exhibits which are available and pertinent to the meeting.

Board members will review the Board meeting information and contact the Superintendent or designee with any questions no later than two school days prior to the meeting.

When special meetings are called, the Superintendent or designee shall make every effort to distribute the agenda and supporting materials to Board members as soon as possible before the meeting.

Agenda Dissemination to Members of the Public

The Superintendent or designee shall mail a copy of the agenda or email a copy of all the documents constituting the agenda a 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)
AGENDA/MEETING MATERIALS  (continued)

If a document 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 the time the document is distributed to a majority of the Board provided that the document is a public record under the Public Records Act and relates to an agenda item for an open session of a regular Board meeting.

Any documents prepared by the district or the Board and distributed during a public meeting shall be made available for public inspection at the meeting. Any documents 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)

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)

Any request for mailed copies of agendas and/or agenda documents or emailing of electronic versions of the agendas/documents, shall be in writing and shall be valid for the calendar year in which it is filed. Written requests must be renewed on or before January 1 of each year. (Government Code 54954.1)

Persons requesting mailing of the agenda or emailing of the electronic version of the agenda/documents, may be required to pay an annual fee, as determined by the Superintendent or designee, not to exceed the cost of providing the service.

Legal Reference:  (see next page)
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 Public records

**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**
*Caldwell v. Roseville Joint Union HSD*, 2007 U.S. Dist. LEXIS 66318
Board Bylaws

MEETING CONDUCT

Meeting Procedures

All Board of Trustees meetings shall begin on time and shall be guided by an agenda prepared in accordance with Board bylaws and posted and distributed in accordance with the Ralph M. Brown Act (open meeting requirements) and other applicable laws.

The Board president shall conduct Board meetings in accordance with Board bylaws and the latest edition of Robert's Rule of Order.

Quorum and Abstentions

The Board shall act by majority vote of all of the membership constituting the Board. (Education Code 35164)

The Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a member abstains, his/her abstention shall not be counted for purposes of determining whether a majority of the membership of the Board has taken action.

Public Participation

Members of the public are encouraged to attend Board meetings and to address the Board concerning any item on the agenda or within the Board's jurisdiction. So as not to inhibit public participation, persons attending Board meetings shall not be requested to sign in, complete a questionnaire, or otherwise provide their name or other information as a condition of attending the meeting.

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

1. The Board shall give members of the public an opportunity to address the Board on any item of interest to the public that is within the subject matter jurisdiction of the Board, either before or during the Board's consideration of the item. (Education Code 35145.5, Government Code 54954.3)

2. At a time so designated on the agenda at a regular meeting, members of the public may bring before the Board matters that are not listed on the agenda. The Board shall take no action or discussion on any item not appearing on the posted agenda, except as authorized by law. (Education Code 35145.5, Government Code 54954.2)

3. Without taking action, Board members or district staff members may briefly respond to statements made or questions posed by the public about items not appearing on the agenda. Additionally, on their own initiative or in response to questions posed by the public, a Board or staff member may ask a question for clarification, make a brief announcement, or make a brief report on his/her own activities. (Government Code 54954.2)
MEETING CONDUCT (continued)

Furthermore, the Board or a Board member may provide a reference to staff or other resources for factual information, ask staff to report back to the Board at a subsequent meeting concerning any matter, or take action directing staff to place a matter of business on a future agenda. (Government Code 54954.2)

4. The Board need not allow the public to speak on any item that has already been considered by a committee composed exclusively of Board members at a public meeting where the public had the opportunity to address the committee on that item. However, if the Board determines that the item has been substantially changed since the committee heard the item, the Board shall provide an opportunity for the public to speak. (Government Code 54954.3)

5. A person wishing to be heard by the Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits.

Individual speakers shall be allowed three minutes to address the Board on each agenda or nonagenda item. The Board shall limit the total time for public input on each item to 15 minutes. With Board consent, the president may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The president 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.

6. The Board president may rule on the appropriateness of a topic. If the topic would be more suitably addressed at a later time, the president may indicate the time and place when it should be presented.

The Board shall not prohibit public criticism of its policies, procedures, programs, services, acts, or omissions. (Government Code 54954.3) In addition, the Board may not prohibit public criticism of district employees.

Whenever a member of the public initiates specific complaints or charges against an employee, the Board president shall inform the complainant that in order to protect the employee's right to adequate notice before a hearing of such complaints and charges, and also to preserve the ability of the Board to legally consider the complaints or charges in any subsequent evaluation of the employee, it is the policy of the Board to hear such complaints or charges in closed session unless otherwise requested by the employee pursuant to Government Code 54957. The Board president shall also encourage the complainant to file a complaint using the appropriate district complaint procedure.

7. The Board president shall not permit any disturbance or willful interruption of Board meetings. Persistent disruption by an individual or group shall be grounds for the president to terminate the privilege of addressing the Board.
MEETING CONDUCT (continued)

The Board may remove disruptive individuals and order the room cleared if necessary. In this case, 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 Board. When the room is ordered cleared due to a disturbance, further Board proceedings shall concern only matters appearing on the agenda. (Government Code 54957.9)

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

Recording by the Public

The Superintendent or designee shall designate locations from which members of the public may broadcast, photograph, or tape record open meetings without causing a distraction.

If the 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 Board. (Government Code 54953.5, 54953.6)

Legal Reference:

EDUCATION CODE
5095 Powers of remaining board members and new appointees
32210 Willful disturbance of public school or meeting a misdemeanor
35010 Prescription and enforcement of rules
35145.5 Agenda; public participation; regulations
35163 Official actions, minutes and journal
35164 Vote requirements
35165 Effect of vacancies upon majority and unanimous votes by seven member board

GOVERNMENT CODE
54953.3 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
54957 Closed sessions
54957.9 Disorderly conduct of general public during meeting; clearing of room

PENAL CODE
403 Disruption of assembly or meeting

COURT DECISIONS

ATTORNEY GENERAL OPINIONS

Bylaw adopted: March 21, 2013
**Board Bylaws**

**ACTIONS BY THE BOARD**

The Governing Board shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. (Education Code 35164)

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members

2. A collective commitment or promise by a majority of the members to make a positive or negative decision

3. A vote by a majority of the members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

The Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes. (Education Code 35145)

**Action on Non-Agenda Items**

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: (Government Code 54954.2)

1. When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code 54956.5

2. When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted

3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

**Challenging Board Actions**

The District Attorney’s office or any interested person may file an action in court to stop or prevent the Board’s violation or threats of violations of the Brown Act, to determine the applicability of the Brown Act to ongoing or future threatened Board actions, to determine the validity, under California or federal law, of any Board rule or action to penalize any of its members or otherwise discourage the member’s expression, or to compel the Board to audio record its closed sessions because of its violation of any applicable Government Code provision.
**ACTIONS BY THE BOARD** (continued)

The district attorney or any interested person may present a demand that the Board cure and correct a Board action which he/she alleges is in violation of law regarding any of the following:

1. Open meeting and teleconferencing
2. Agenda posting
3. Closed session item descriptions
4. New or increased tax assessments
5. Special meetings
6. Emergency meetings

Any demand to "cure and correct" an alleged violation shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code 54960.1)

1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.
2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.
3. Take no action. If the Board takes no action within the 30-day review period, its inaction shall be considered a decision not to cure or correct the action.

In addition, the district attorney’s office or any interested party may file an action in court to determine the applicability of the Brown Act to any past Board action not specified in Government Code 54960.1, if the following conditions are met:

1. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.
ACTIONS BY THE BOARD (continued)

2. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

Legal Reference:

**EDUCATION CODE**
- 15266 School construction bonds
- 17466 Declaration of intent to sell or lease real property
- 17481 Lease of property with residence for nondistrict purposes
- 17510-17511 Resolution requiring unanimous vote of all members constituting board
- 17546 Private sale of personal property
- 17556-17561 Dedication of real property
- 17582-17583 District deferred maintenance fund
- 35140-35149 Meetings
- 35160-35178.4 Powers and duties
- 48660-48661 Community day schools establishment and restrictions

**CODE OF CIVIL PROCEDURE**
- 425.16 Special motion to strike in connection with a public issue
- 1245.240 Eminent domain vote requirements
- 1245.245 Eminent domain, resolution adopting different use

**GOVERNMENT CODE**
- 53090-53097.5 Regulation of local agencies by counties and cities
- 53724 Parcel tax resolution requirements
- 53790-53792 Exceeding the budget
- 53820-53833 Temporary borrowing
- 53850-53858 Temporary borrowing
- 54950-54963 The Ralph M. Brown Act, especially:
- 54952.6 Action taken, definition
- 54953 Meetings to be open and public; attendance; secret ballots
- 54960 Action to prevent violations
- 65352.2 Coordination with planning agency

**PUBLIC CONTRACT CODE**
- 3400 Bid specifications
- 20111 Contracts over $50,000; contracts for construction; award to lowest responsible bidder
- 20113 Emergencies, award of contracts without bids

**COURT DECISIONS**
- Boyle v. City of Redondo Beach, (1999) 70 Cal.App.4th 1109

Bylaw revised: June 12, 2014

Bylaw adopted: March 21, 2013

EVERGREEN SCHOOL DISTRICT
San Jose, California
MINUTES AND RECORDINGS

The Board of Trustees recognizes that maintaining accurate minutes of Board meetings provides a record of Board actions for use by district staff and the public. Accurate minutes also help foster public trust that Board actions are occurring in public in accordance with law.

The secretary of the Board shall keep minutes and record all official Board actions. Video, audio, and written minutes will only be used to develop the official minutes. The Board's official minutes shall be public records and shall be made available to the public upon request. (Education Code 35145, 35163)

The Superintendent or designee shall distribute a copy of the "unapproved" minutes of the previous meeting(s) with the agenda for the next regular meeting. At the next meeting, the Board shall approve the minutes as circulated or with necessary amendments.

In order to ensure that the minutes are focused on Board action, the minutes shall include only a brief summary of the Board's discussion, but shall not include a verbatim record of the Board's discussion.

The minutes shall include the specific language of each motion, the names of members who made and seconded the motion, and the individual votes of each member, unless the action was unanimous. When a roll call vote is taken, the names and votes of each member shall be listed. Motions or resolutions shall be recorded as having passed or failed. All Board resolutions shall be numbered consecutively from the beginning of each fiscal year.

The minutes shall reflect the names of those individuals who comment during the meeting's public comment period as well as the topics they address.

The minutes shall record which members are present and whether a member is not present for part of the meeting due to late arrival and/or early departure.

Official Board minutes shall be stored in a secure location and shall be retained in accordance with law.

Any minutes or recordings kept for Board meetings held in closed session shall be kept separately from the minutes or recordings of regular and special meetings. Minutes or recordings of closed sessions are not public records. (Government Code 54957.2)

Legal Reference: (see next page)
MINUTES AND RECORDINGS (continued)

Legal Reference:

EDUCATION CODE
35145 Public meetings
35163 Official actions, minutes and journals
35164 Vote requirements

GOVERNMENT CODE
54952.2 Meeting defined
54953.5 Audio or video recording of proceedings
54953.6 Broadcasting of proceedings
54957.2 Closed sessions; clerk; minute book
54960 Violations and remedies

PENAL CODE
632 Unlawful to intentionally record a confidential communication without consent

CODE OF REGULATIONS, TITLE 5
16020-16027 Classification and retention of records

Bylaw
EVERGREEN SCHOOL DISTRICT
adopted: March 21, 2013
San Jose, California