

Berkeley Unified School District
Board of Education: Policy Sub-Committee Meeting
AGENDA

October 14, 2015

3:30 – 4:30 p.m.

Superintendent's Conference Room

2020 Bonar Street

Berkeley, CA 94702

(510) 644-8764

The Berkeley Unified School District intends to provide reasonable accommodations in accordance with the Americans with Disabilities Act of 1990. If a special accommodation is desired, please call the Superintendent's Office 48 hours prior to the meeting at [510-644-6206](tel:510-644-6206)

El Distrito Escolar Unificado de Berkeley tiene la intención de proporcionar adaptaciones especiales en conformidad con el *Americans with Disabilities Act of 1990* (Ley de Americanos con Discapacidades de 1990). Si usted desea una adaptación especial, por favor comuníquese con el personal de la Oficina del Superintendente 48 horas antes de la reunión al [510-644-6206](tel:510-644-6206).

1. Call to Order/Approve Agenda
2. Public Comment – 3 minutes per speaker (limited to 15 minutes)

AGENDA

ACTION ITEMS

1. Approve Board Policy Subcommittee minutes of September 30, 2015 (page 2)
2. Healthy Families – BP 4121 (page 3)
3. Document Retention –BP 3580 (page 7)
4. SGC/SSC Policy (not attached)
5. Discipline – AR and BP 5144.1 (page 9)
6. Board Bylaws – BB 9100-9132 (page 34)

Board Policy Subcommittee Meeting
Minutes
September 30, 2015

Judy Appel, President
Josh Daniels, Chair

President Appel called the meeting to order at 3:35 p.m.

Public Comment

One speaker discussed the need to approve a SGC Board Policy

Daniels/Appel to approve the agenda – 2-0

Discussion item

Planning session for 2015-16

The Committee discussed prioritization of policies, which policies required little discussion and could quickly be reviewed and submitted for Board approval.

The Policy Committee will add five Bylaws to each agenda for discussion and approval.

The policy that permits a student's return to the same school should be added to the Enrollment category

President Appel talked about the Restorative Justice Committee providing its expertise to the Committee's work in creating a comprehensive discipline policy and AR.

Upcoming agendas:

October 14

- Bylaws -9100-9132
- Healthy Families – BP 4121
- Document retention - BP 3580
- Discipline - BP and AR 5144.1

October 28

- Naming facilities AR 7310
- Enrollment – BP and AR – 5117, 5117.1

Policies fast tracked:

- Document retention (Consent – Josh and Jay)
- Healthy Families (Consent – Josh and Delia)
- SGC (Discussion - Josh and Natasha)

Meeting adjourned at 4:10 p.m.

Paid Sick Leave for Temporary, Non-Regular, and Substitute Employees

Coverage and Definitions: This Policy applies to temporary, non-regular and substitute employees of the District, who are not otherwise covered by a collective bargaining agreement, and excluding those employees who are retired annuitants under the Public Employees Retirement System (PERS). The term “covered employee” or “employee” as used in this Policy refers only to employees who meet all of the criteria described above, and who are not already otherwise entitled to at least twenty four (24) hours of paid sick leave per year pursuant to the Education Code or another Board Policy or Administrative Regulation. The term “paid sick leave” as used in this Policy refers to the sick leave benefits to which such covered employees are entitled pursuant to Labor Code section 246.

Accrual of Paid Sick Leave: Effective July 1, 2015, all covered employees shall accrue twenty four (24) hours of paid sick leave for possible use during the 2015/16 school year. Employees who are hired after July 1, 2015 shall accrue the twenty four (24) hours of sick leave on their initial date of hire. Unused sick leave shall not carry over from June 30 into the following year, but rather the employee shall receive a new twenty four (24) hour accrual each July 1 which may be used only during the following 12-month period. Unused sick leave will not be paid out upon termination.

Initial Waiting Period: Although employees covered by this Policy shall accrue twenty four (24) hours of paid sick leave on an annual basis, as set forth above, they will not be eligible to actually use such paid sick leave unless and until they have completed ninety (90) calendar days of employment with the District, whether before or after July 1, 2015. After an employee’s 90th calendar day of employment, he or she may use paid sick leave as it is accrued.

If an employee separates from the District but is rehired within one year from the date of that separation he or she shall accrue another twenty four (24) hours of paid sick leave immediately upon rehiring. In that event, if the employee had previously satisfied the ninety (90) day waiting period referenced above during his or her first period of employment, he or she will immediately be deemed eligible to use accrued sick leave upon rehire, without having to satisfy another ninety (90) day waiting period.

If the employee had not yet completed ninety (90) days during the first period of employment, the initial period of employment shall be credited to the employee upon rehire and he or she will only be required to wait the balance of the ninety (90) calendar days before being eligible to use his or her accrued paid sick leave.

Entitlement: Each employee who works in California for the same employer for 30 or more days within a year from the beginning of employment is entitled to paid sick leave.

Permissible Uses of Paid Sick Leave: An employee may use accrued sick leave under this policy for absences due to:

1. The diagnosis, care, or treatment of an existing health condition of, or preventative care for, the employee or his/her family member, as defined below; or
2. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee, or his/her child, when the employee has been a victim of domestic violence, sexual assault, or stalking.

“Family member” for purposes of this policy is defined to include:

1. A child, which means a biological, adopted, or foster child, stepchild, legal ward or a child to whom the employee stands in loco parentis, regardless of the child’s age or dependency status;
2. A biological, adoptive, or foster parent, stepparent or legal guardian of an employee or the employee’s spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;
3. A spouse;
4. A registered domestic partner;
5. A grandparent;
6. A grandchild; or
7. A sibling.

The employee may determine how much paid sick leave he or she needs to use on any particular occasion, provided that such paid sick leave shall be used in minimum increments of two (2) hours.

The only exception to this stated minimum is that a covered employee with a daily schedule of less than two (2) hours can use and receive paid sick leave for a full day absence totaling less than two (2) hours.

Where the employee uses paid sick leave as provided for in this Policy to cover absences due to pregnancy, miscarriage, childbirth and recovery, such leave will run concurrently with any other state and federal statutory leaves for which the employee may be eligible.

Procedures: If the need for paid sick leave is foreseeable, such as for preventable care or for pre-scheduled appointments and medical procedures, the employee shall provide reasonable advance notification at least one full day prior to the absence. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable. The initial notification of the employee's need for paid sick leave may be made by oral or written request. However, in order to ensure accurate processing and tracking of available leave balances, the employee will be expected to confirm his or her request by filling out a written sick leave request form.

The District shall not require an employee to search for or find a replacement worker to cover the days of anticipated absence, as a condition of using paid sick days under this policy.

For nonexempt employees (i.e., those subject to overtime provisions), sick leave will be calculated based on the regular rate of pay for the workweek in which the employee uses sick leave, regardless of whether or not the employee actually works overtime in that workweek. When an employee who is compensated exclusively by periodic stipend uses his or her accrued paid sick leave, the employee's total stipend will not be reduced as a result of the absences.

The District shall provide payment for sick leave taken by an employee under this policy no later than the payday for the next regular payroll period after the sick leave was taken.

Non-Retaliation: No eligible employee shall be denied the right to use accrued sick days pursuant to this Policy and the District shall not in any manner discriminate or retaliate against any employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging District violation of Labor Code sections 245-249. The Superintendent or designee shall display a poster containing required information and provide individualized notice to each eligible employee of the amount of accrued paid sick leave which is available to him or her, on either the employee's itemized wage statement or in a separate writing provided on the designated pay date with the employee's payment of wages.

The District shall also keep records of employees' use of sick leave for three years, and comply with other requirements specified in Labor Code sections 245 through 249.

Approved:

Berkeley Unified School District

BP 3580

Business and Non-Instructional Operations

District Records

The Governing Board recognizes the importance of securing and retaining district documents. The Superintendent or designee shall ensure that district records are developed, maintained, and disposed of in accordance with law, Board policy, and administrative regulation.

The Superintendent or designee shall consult with district legal counsel, site administrators, district information technology staff, personnel department staff, and others as necessary to develop a secure document management system that provides for the storage, retrieval, archiving, and destruction of district documents, including electronically stored information such as email. This document management system shall be designed to comply with state and federal laws regarding security of records, record retention and destruction, response to "litigation hold" discovery requests, and the recovery of records in the event of a disaster or emergency. Email shall be archived for one year. Communications for which no practical way exists to archive, such as texts and voicemails, shall not be archived.

The Superintendent or designee shall ensure the confidentiality of records as required by law and shall establish regulations to safeguard data against damage, loss, or theft.

In the event of any known or reasonably suspected breach of the security of district records containing confidential personal information including, but not limited to, a social security number, driver's license or identification card number, medical information, health insurance information, or an account number in combination with an access code or password that would permit access to a financial account, the Superintendent or designee shall immediately notify local law enforcement agencies and any affected persons. Notification of affected individuals may be delayed if a law enforcement agency determines that the notification would impede a criminal investigation.

The Superintendent or designee shall ensure that employees receive information about the district's document management system, including retention and confidentiality requirements and an employee's obligations in the event of a litigation hold established on the advice of legal counsel.

Safe at Home Program

District public records shall not include the actual addresses of students, parents/guardians, or employees when a substitute address is designated by the Secretary of State pursuant to the Safe at Home program. (Government Code 6206, 6207)

When a substitute address card is provided pursuant to this program, the confidential, actual address may be used only to establish district residency requirements for enrollment and for school emergency purposes.

Approved:

Berkeley Unified School District

AR 5144.1

Suspension and Expulsion/Due Process

Students

Definitions

Suspension from school means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following:

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of school personnel.

Day means a calendar day unless otherwise specifically provided.

School day means a day upon which the schools of the district are in session or weekdays during the summer recess.

Student includes a student's parent/guardian or legal counsel.

Principal's designee means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office.

School property, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases.

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, suspension and expulsion.

Grounds for Suspension and Expulsion

A student may be subject to suspension or expulsion when it is determined that he/she:

1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense.

A student who aids or abets the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31, may be suspended, but not expelled. However, a student may be suspended or expelled pursuant to Education Code 48900(a) once he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, a crime of physical violence in which the victim suffered great or serious bodily injury.

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence.

3. Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind.

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid, substance or material and represented same as controlled substance, alcohol beverage or intoxicant.

5. Committed or attempted to commit robbery or extortion.

6. Caused or attempted to cause damage to school property or private property.

7. Stole or attempted to steal school property or private property.
8. Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel. This restriction shall not prohibit a student from using or possessing his/her own prescription products.
9. Committed an obscene act or engaged in habitual profanity or vulgarity.
10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5.
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.
12. Knowingly received stolen school property or private property.
13. Possessed an imitation firearm, i.e., a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code 243.4.
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness.
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
17. Made terrorist threats against school officials and/or school property.

A student in grades 4 through 12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

18. Committed sexual harassment as defined in Education Code 212.5
19. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233

20. Intentionally engaged in harassment, threats or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment

21. Engaged in an act of bullying, including, but not limited to, bullying by means of an electronic act, directed toward a student or school personnel.

Bullying means one or more acts by a student or group of students that constitutes sexual harassment pursuant to Education Code 48900.2, as defined in item #18 above; hate violence pursuant to Education Code 48900.3, as defined in item #19 above; or harassment, threats, or intimidation pursuant to Education Code 48900.4, as defined in item #20 above.

Electronic act means the transmission of a communication, including, but not limited to, a message, text, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager.

A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any district school under the jurisdiction of the Superintendent or principal or within any other school district, including but not limited to the following circumstances:

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus
4. During, going to, or coming from a school-sponsored activity

The Superintendent or principal may use his/her discretion to provide alternatives to suspension or expulsion for a student subject to discipline under this administrative regulation, including, but not limited to, counseling and an anger management program.

Alternatives to suspension or expulsion will be used with students who are truant, tardy, or otherwise absent from assigned school activities.

Removal from Class by a Teacher/Parental Attendance

A teacher may suspend any student from his/her class for the remainder of the day and the following day for any act listed in "Grounds for Suspension and Expulsion" above.

A teacher also may refer a student to the principal or designee for consideration of suspension from school.

When removing a student from his/her class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been removed.

As soon as possible, the teacher may ask the student's parent/guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist should attend the conference if it is practicable, and a school administrator may attend if either the parent/guardian or teacher so requests.

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal.

A student removed from class shall not be placed in another regular class during the period of removal. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was removed.

The teacher of any class from which a student is removed may require the student to complete any assignments and tests missed during the removal.

Pursuant to Governing Board policy, a teacher may provide that the parent/guardian of a student whom the teacher has removed attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law.

This notice shall also:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. Describe the legal protections afforded to the parent/guardian as an employee under Labor Code 230.7
3. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student
4. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1

Suspension by Superintendent, Principal or Principal's Designee

The Superintendent, principal or principal's designee may suspend a student from a school for not more than five consecutive school days unless the suspension is extended pending expulsion

The Superintendent or designee shall immediately suspend any student found at school or at a school activity to be:

1. Possessing, as verified by a district employee, or selling or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife, as defined in Education Code 48915(g), at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possession of an explosive as defined in 18 USC 921

Suspension also may be imposed upon a first offense if the Superintendent, principal or designee determines the student violated items #1-5 listed in "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion.

The Superintendent or designee may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which a student may be suspended in any school year.

Suspensions shall be initiated according to the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the principal, designee or the Superintendent with the student and, whenever practicable, the teacher, supervisor or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action and the evidence against him/her; the student shall be given the opportunity to present his/her version and evidence in support of his/her defense.

This conference may be omitted if the principal, designee or the Superintendent determines that an emergency situation exists. An emergency situation involves a clear and present danger to the lives, safety or health of students or school personnel.

If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such case, the conference shall be held as soon as the student is physically able to return to school.

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee of the school in which the student is enrolled at the time of the misbehavior. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee.

3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension.

This notice shall state the specific offense committed by the student.

In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved and any other pertinent matter.

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied readmission solely because the parent/guardian failed to attend.

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision.

Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process.

Suspension by the Board

The Board may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above and within the limits specified in "Suspension by Superintendent, Principal or Principal's Designee" above.

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed in "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code 48915

When the Board is considering a suspension, disciplinary action or any other action (except expulsion) against any student, it shall hold closed sessions if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code 49073-49079.

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by certified mail. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session.

On-Campus Suspension Program

Students for whom an expulsion action has not been initiated and who pose no imminent danger or threat to the school may be assigned to a separate, supervised suspension classroom for the entire period of suspension. The following conditions shall apply:

1. The supervised suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The supervised suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. Each student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to a supervised suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing.

Authority to Expel

A student may be expelled only by the Board. The Board shall expel, as required by law, any student found to have committed certain offenses listed below under "Mandatory Recommendation and Mandatory Expulsion."

The Board may also order a student expelled for any of the acts listed above under "Grounds for Suspension and Expulsion" upon recommendation by the principal, Superintendent, hearing officer or administrative panel, based on finding either or both of the following:

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

Mandatory Recommendation for Expulsion

Unless the principal, Superintendent or designee finds that expulsion is inappropriate due to particular circumstances, the principal, Superintendent or designee shall recommend a student's expulsion for any of the following acts:

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code 48915(g), explosive or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance, as listed in Health and Safety Code 11053-11058, except for the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

Mandatory Recommendation and Mandatory Expulsion

The principal, Superintendent or designee shall recommend that the Board expel any student found at school or at a school activity to be:

1. Possessing, as verified by a district employee, or selling or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife as defined in Education Code 48915(g) at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possessing an explosive as defined in 18 USC 921

Upon finding that the student committed any of the above acts, the Board shall expel the student.

Student's Right to Expulsion Hearing

The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred.

The student is entitled to one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion.

If the Board finds it impractical during the school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held.

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925.

Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year.

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental or emotional needs of a student who is the complaining witness.

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to:

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present in the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending.

Written Notice of the Expulsion Hearing

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing.

The notice shall include:

1. The date and place of the hearing.
2. A statement of the specific facts, charges and offense upon which the proposed expulsion is based

3. A copy of district disciplinary rules which relate to the alleged violation.
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment.

This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney advisor.

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California. Nonattorney advisor means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case, and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing.
7. The opportunity to confront and question all witnesses who testify at the hearing.
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting.

If such request is made, the meeting shall be public unless another student's privacy rights would be violated.

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student shall also be allowed to attend the closed session.

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including but not limited to videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television.

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made.

3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with the Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20 (formerly 11525).

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding.

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below.

4. Presentation of Evidence: While technical rules of evidence do not apply to expulsion hearings, evidence may be admitted and used as proof

only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel must be supported by substantial evidence that the student committed any of the acts listed in "Grounds for Suspension and Expulsion" above.

Findings of fact shall be based solely on the evidence at the hearing. While no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. Testimony by Complaining Witnesses:

The following procedures shall be observed when hearings involve allegations of sexual assault or sexual battery by a student:

- a. Any complaining witness shall be given five days' notice before being called to testify.
- b. Any complaining witness shall be entitled to have up to two adult support persons, including but not limited to a parent/guardian or legal counsel, present during his/her testimony.
- c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
- d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.
- e. If one or both support persons are also witnesses, the hearing shall be conducted according to Penal Code 868.5.
- f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

(1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

(2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.

(3) The person conducting the hearing may:

(a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness

(b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours

(c) Permit one of the support persons to accompany the complaining witness to the witness stand

6. Decision Within 10 School Days: The Board's decision on whether to expel a student shall be made within 10 school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed.

7. Decision Within 40 School Days: If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed.

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled.

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures as apply to a hearing conducted by the

Board as specified above in "Conduct of Expulsion Hearing."

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the student shall be immediately reinstated.

The Superintendent or designee shall place the student in a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with district staff, including the student's teachers and with the student's parent/guardian.

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order.

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion for a period of one year.

The Board shall make its decision about the student's expulsion within 40 school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed.

Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel shall be taken by the Board at a public meeting.

If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for an act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred.

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include:

1. Periodic review as well as assessment of the student at the time of review for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service and other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school.

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed in Education Code 48900(a)-(p), Education Code 48900.2-48900.4 and Education Code 48915(c)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian
3. Notice of the right to appeal the expulsion to the County Board of Education
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1

Decision Not to Enforce Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion, the Board shall take into account the following criteria:

1. The student's pattern of behavior

2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program.
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status.
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the district's rules and regulations governing student conduct.
4. When the suspension of the enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order.
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings.
6. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board of Education.
7. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board of Education.

Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision to the County Board of Education. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion action is suspended and the student is placed on probation.

The student shall submit a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board of Education. The district shall provide the student with these documents within 10 school days following the student's written request.

Post-Expulsion Placements

The Board shall refer expelled students to a program of study that is:

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior or senior high school or at any elementary school, unless the program is offered at a community day school established at such a site
3. Not housed at the school site attended by the student at the time of suspension

When the placement described above is not available, and when the County Superintendent of Schools so certifies, students expelled for acts described in items #6 through #13 and #18 through #20 under "Grounds for Suspension and Expulsion" above may be instead referred to a program of study that is provided at another comprehensive middle, junior, or senior high school, or at an elementary school.

The program for a student expelled from any of grades kindergarten through 6 shall not be combined or merged with programs offered to students in any of grades 7 through 12.

Readmission After Expulsion

Readmission procedures shall be as follows:

1. On the date set by the Board when it ordered the expulsion, the district shall consider readmission of the student.

2. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met.

School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.

3. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073-49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.

4. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.

5. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees.

6. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.

7. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district.

Maintenance of Records

The Board shall maintain a record of each expulsion, including the specific cause of the expulsion. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon receipt of a written request by the admitting school.

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district.

Notifications to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245.

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance or possession of weapons or firearms in violation of Penal Code 626.9 and 626.10.

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol or intoxicants of any kind.

Outcome Data

The Superintendent or designee shall maintain the following data and report such data annually to the California Department of Education, using forms supplied by the California Department of Education:

1. The number of students recommended for expulsion
2. The specific grounds for each recommended expulsion
3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period.

Approved: May 21, 2003
Revised: October 28, 2009

Revised:

Berkeley Unified School District

BP 5144.1

Students

Suspension and Expulsion/Due Process

The Governing Board has established policies, standards and general expectations for behavior in order to promote learning and protect the safety and well-being of all students. When these policies, standards and expectations are violated, it may be necessary to suspend or expel a student from regular classroom instruction.

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be those specified in law and administrative regulation.

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, and in accordance with the district's nondiscrimination policies.

Suspended or expelled students shall be excluded from all school-related extracurricular activities during the period of suspension or expulsion.

Except where suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct.

Expulsion is an action taken by the Board for severe or prolonged breaches of discipline by a student. Except for single acts of a grave nature, expulsion is used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to him/herself or others.

Student Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices and appeals as specified in administrative regulation and law.

On-Campus Suspension Program

The Superintendent or designee may establish a supervised in-house suspension program which meets the requirements of law for suspended students who pose no imminent danger or threat at school and for whom an expulsion action has not been initiated.

The Superintendent or designee shall examine alternatives to off-campus suspension and may establish a suspension program which involves progressive discipline during the school day on campus; use of conferences between staff, parents/guardians and students; detention; student study teams or other assessment-related teams; and/or referral to school support services staff. The use of such alternatives does not preclude off-campus suspensions.

Required Parental Attendance

The Board believes that parental involvement plays an important role in the resolution of classroom behavior problems. The Board expects that teachers will communicate with parents/guardians when behavior problems arise.

Whenever a student is removed from a class because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities or otherwise willfully defied valid staff authority, the teacher of the class from which the student was removed may provide that the student's parent/guardian attend a portion of a school day in that class. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee.

The Board encourages teachers, before requiring parental attendance, to make reasonable efforts to have the parent/guardian visit the class voluntarily. The teacher also may inform the parent/guardian about available resources and parent education opportunities. Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and the parent/guardian and to improve classroom behavior.

The teacher shall apply this policy uniformly to all students within the classroom. This policy shall apply only to a parent/guardian who lives with the student. (Education Code 48900.1)

Parental attendance may be requested on the day the student returns to class or within one week thereafter. The principal or designee shall contact any parents/guardians who do not respond to the request to attend school.

The Board recognizes that parental compliance with this policy may be delayed, modified or prevented for reasons such as serious illness/injury/disability, absence from town, or inability to get release time from work.

Decision Not to Enforce Expulsion Order

On a case-by-case basis, the enforcement of an expulsion order may be suspended by the Board pursuant to the requirements of law.

Adopted: December 7, 2005

Revised: February 13, 2013

Revised:

Berkeley Unified School District
BB 9100
Organization

Annual Organizational Meeting

The Governing Board shall hold an annual organizational meeting within the time limits prescribed by law. (Education Code [35143](#))

***** Note: The following items should be modified to reflect your district needs. Education Code [35022](#) requires all Boards with five or more members to elect a president. Education Code [35143](#) mandates the election of a clerk and a president for high school, union high school and joint union high school districts. City Boards of Education are required to elect only a president or president and vice president, and all other types of districts are required to elect a clerk. The following language should be revised as appropriate for your district.*****

At this meeting the Board shall:

1. Elect a president and **a clerk and/or** vice president from its members.
2. Appoint a secretary to the Board.
3. Authorize signatures.
4. Develop a schedule of regular meetings for the year.
5. Develop a Board calendar for the year.

***** Note: The calendar could schedule matters such as evaluation of the Superintendent, budget meetings, goal setting and policy and program reviews.*****

6. Designate Board liaisons, ~~as needed, to Board advisory and oversight committees, Board sub-committees, district committees, commissions, community committees and individual school sites~~ **representatives.**

Election of Officers

***** Note: The California Attorney General has disapproved secret ballot voting in open meetings, as well as the casting of mail ballots. (68 Ops. Cal. Atty. Gen. 65, 1985) As long as they do not use secret ballots, Boards are free to elect their officers in any way they desire. Although a majority of California school Boards rotate offices so that each Board member has the opportunity to become president (Option #1 below), it**

is also appropriate for the Board each year to elect those who are perceived as most able to provide the kind of leadership needed (Option #2). The following options should be revised to reflect the sequence of offices used in your district.***

Option 1: The Board shall each year elect one of its members to be (clerk)/(vice president). This member shall be one who previously has not served in office, unless all the Board's members have previously served in office. After serving one year as (clerk)/(vice president), the elected member shall serve one year as president of the Board.

*****Note:** The following optional sentence may be used with Option #1 if desired***

When the only members who have not served as officers are new to the Board, the Board may elect as (clerk)/(vice president) a Board member who has served in office.

Option 2: The Board shall each year elect its entire slate of officers.

***** Note:** The following optional sentence may be used with Option 2 if so desired.***

No Board member shall serve more than ____ consecutive year(s) in the same office.

(cf. [9224](#) - Oath or Affirmation)

Adopted: ~~April 20, 2005 Berkeley, California~~

Updated:

Attorney

***** Note: Education Code [35041.5](#), [35204](#), and [35205](#) authorize the Governing Board to enter into a contract to hire an attorney as a district employee or independent contractor or to contract with a private firm to provide legal services for purposes deemed appropriate by the Board. According to the Rules of Professional Conduct of the State Bar of California, when an attorney is hired by an organization such as a school district, the attorney's client is the district as a whole, and not an individual Board member or employee. However, at certain times an attorney may owe a duty of defense to a Board member or employee pursuant to the Tort Claims Act (Government Code [814-895.8](#)). See BP/AR 3320 - Claims and Actions Against the District and BB 9260 - Legal Protection.*****

***** Note: The California Council of School Attorneys, which provides professional opportunities for school attorneys, is a component of CSBA. CSBA has also established the Education Legal Alliance to initiate and support litigation in cases of statewide significance to school districts.*****

The Governing Board recognizes the complex legal environment in which school districts operate and desires reliable, ~~dependable legal advice~~ **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 collaborative legal efforts with other agencies and districts ~~in order to promote the district's interests~~ **as appropriate.**

(cf. [1160](#) — Political Processes)

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

(cf. [3400](#) - Management of District Assets/Accounts)

(cf. [4312.1](#) - Contracts)

(cf. [9000](#) - Role of the Board)

(cf. [9260](#) - Legal Protection)

~~The Board may use the county counsel, district attorney, or private attorneys to meet the needs of the district.~~

~~It is important for the Board to feel that their attorney understands and values the board's unique duties and governance role. Chief legal counsel should be interviewed and selected by the Board and report directly to the Board~~

~~(cf. [9000](#) Role of the Board: Legal Status and Responsibilities)~~

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.

Retaining Legal Counsel

***** Note: Government Code [53060](#) exempts contracts for legal services from the bidding requirements of the Public Contract Code; see AR [3311](#) - Bids. However, when entering into a new contract for legal services, it is recommended that the Board use a Request for Proposal (RFP) procedure in order to solicit a range of proposals for services. The following optional section is for use by districts that contract with outside firms to provide legal services and should be modified to reflect district practice.*****

When the district is seeking legal advice or representation, the Superintendent or designee shall initiate a Request for Proposals (RFP) to advertise and solicit proposals for legal services. In evaluating the proposals, the Board and Superintendent shall consider the firm's or attorney's background, experience, and reputation in education law; experience advising or representing school districts in California; fees; and experience of attorneys at the firm who will provide legal services.

The Board and Superintendent shall annually evaluate the performance of the firm and/or attorneys providing legal services in such areas as efficiency and adequacy of advice; results obtained for the district; reasonableness of fees; and responsiveness to and interactions with the Board, administration, and community. Upon a successful evaluation, the Board may renew the agreement with legal counsel without initiating an RFP.

The Board may also contract for temporary, specialized legal services without initiating an RFP when a majority of the Board determines that the unique demands of a particular issue or emergency situation so requires.

(cf. [2121](#) - Superintendent's Contract)

Contacting Legal Counsel

***** Note: The following section should be modified to reflect district practice.*****

~~The~~ **At his/her discretion, the Board president or Superintendent** may confer with the district's legal counsel at his/her discretion and shall provide the Board with desired legal information when so directed by a majority of the Board **subject to any limits or parameters established by the Board.** ~~The Board also may authorize a specific member to confer with legal counsel on behalf of the Board.~~ **In addition, the Superintendent or Board president may contact district legal counsel to provide the Board with legal information or advice when so directed by a majority of the Board.**

Individual Board members other than the Board president may not seek advice from district legal counsel on matters of district business unless so authorized by a majority of the Board.

(cf. [9000](#) — Role of the Board (Powers and Responsibilities))

(cf. [9200](#) - Limits of Board Member Authority)

(cf. [9321](#) - Closed Session Purposes and Agendas)

Legal Reference:

EDUCATION CODE

[35041](#) Administrative adviser

[35041.5](#) Legal counsel: ~~Relieving duties of county counsel and district attorney~~

[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

Management Resources:

CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, rev. 2007

Maximizing School Board Leadership: Boardsmanship, 1996

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Selecting and Working with a School Attorney: A Guide for School Boards, 1997

WEB SITES

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

California Council of School Attorneys:

<http://www.csba.org/LegislationAndLegal/Legal/CaliforniaCouncilofSchoolAttorneys.aspx>

Updated:

Berkeley Unified School District

BB 9130

Board Bylaws

Advisory Committees

1. Intent

The Governing Board may create Advisory Committees for special purposes. It is the intent of the Board to encourage the participation and involvement of the Berkeley community in our public schools. Membership on Board Advisory Committees is an important means of ensuring such participation. Thus, the Board will make efforts to ensure that the composition of all Committees is as representative of the diversity of the Berkeley school community as is practicable.

2. Limitation of Advisory Committees

The Board possesses certain legal powers and prerogatives, which cannot be delegated or surrendered to others. Recommendations of an advisory committee are not, therefore, binding on the Board and must be submitted to the Board for consideration and action. The Board shall ensure that Committees act in accordance with applicable Board policies and local/state/federal laws.

Tax Oversight Committees. Intent.

1. Intent

The Board has Committees created by or associated with local legislation authorizing collection of taxes for special purposes. Such Committees shall be defined as Tax Oversight Committees. These Committees include (but may not be limited to):

- a. Berkeley Schools Excellence Project Planning and Oversight Committee (BSEP P&O)
- b. Facilities Safety Maintenance Oversight Committee (FSMOC)
- c. Construction Bond Oversight Committee (CBOC)
- d. Other Committees as may be specified by local, state or federal code applicable to school districts. One example of this is covered in Board Policy 3280 which governs the creation and bylaws of the Surplus Site Committee.

2. Charge

Tax Oversight Committees are charged with monitoring the expenditure of the tax monies and ensuring compliance with the terms of the local legislation governing those tax revenues. As part of its charge, the Board shall provide the committees with a timeline for the completion of their charge and designate when and how reports are to be made. Additional charges of each Committee may be specified by statute, committee specific Board policy or by Board-approved Bylaws.

3. Composition and Qualifications

Except where otherwise specified by statute (e.g., BSEP Planning & Oversight Committee or specifically listed in the bylaws as is true for the CBOC) the Board shall determine the composition and the qualifications of membership. Membership in Tax Oversight Committees shall be defined in the individual by-laws, but unless stated otherwise shall not include people who are not residents or property taxpayers of the City of Berkeley, parents of BUSD students, BUSD students, or employees who are not in a conflict of interest position, i.e., individuals, agents of employees or vendors who may stand to gain financially from a recommendation of the Committee. The Committee may form subcommittees to assist the Committee in developing recommendations in specific aspects of its charge. The composition and charge of such subcommittees shall be in accordance with Board approved Bylaws.

4. Term of Appointment

The Board shall appoint members per the by-laws.. If no by-laws exist, members shall be appointed for one year only and terms will expire December 1st each year unless otherwise provided for by the Board. Committee members may be re-appointed to more than one term. Any Committee member who misses three meetings during the year without a valid excuse may be replaced by the appointing individual or appointing group.

5. Members

The Board and/or the Superintendent shall appoint members except where otherwise acted upon by the Board, specified in applicable legislation or Board-approved bylaws. If nothing is specified in the by-laws, each Board Member, including the Student Directors and the Superintendent shall have at least one appointed representative. When the number of members to be appointed by the Board is greater than the number of Board Members, each Board member shall appoint one member; remaining appointments shall be

approved by a majority vote of the Board. The Board may, at its discretion, appoint one or two Board Members as Liaison to the Committee. No Board Member may be a voting member to any such committee. The votes of students appointed to committees shall be counted, with the exception of the votes of those students appointed to committees established by the California Education Code.

Board Task Forces

1. Intent

The Board may create, from time to time, a Task Force to address issues of current concern to the Board. The charge of such a Task Force shall be to assist the Board in the development of policy recommendations for Board consideration. Composition of

A Board Task Force may vary in accordance with the purpose and charge of the Task Force. The Board shall provide the committees with a timeline for the completion of their charge and designate when and how reports are to be made. Such a Task Force shall be dissolved upon completion of its assignment, or it may be dissolved by a vote of the Board at any time. The Board shall reconsider and reaffirm both the charge and membership of each of its Task Forces at the Board's annual organizational meeting.

2. Composition and Qualifications

The Board shall determine the composition and the qualifications of membership. The Board shall take care to ensure that members are free of any conflict of interest position and that citizen members outnumber staff.

3. Term of Appointment

The Board shall appoint or reappoint Task Force members at the Board's annual organizational meeting. Task Force members may be re-appointed to more than one term. Any member who misses three meetings during the year without a valid excuse may be replaced by the appointing individual or appointing group.

4. Members

The Board and/or the Superintendent shall appoint Task Force members except where that authority is otherwise delegated by the Board. Each Board Member, including the Student Directors, and the Superintendent shall have at least one appointed representative. Community members shall outnumber staff members in all Task Forces. When the number of members to be appointed by the Board is greater than the number of Board Members,

each Board member shall appoint one member; remaining appointments shall be approved by a majority vote of the Board. Employees serving on a Task Force may be appointed by the Board or, where deemed by the Board to be appropriate to the charge of the Task Force, shall be appointed by their bargaining unit. The Board may, at its discretion, appoint one or two Board Members as Liaison to the Committee. No Board Member may be a voting member to any such committee. The votes of students appointed to committees shall be counted, with the exception of the votes of those students appointed to committees established by the California Education Code.

Administrative Responsibilities

The administration will provide reasonable levels of support to advisory committees to assist them in the completion of its charge. The Board shall delegate to the Superintendent (or his/her designee), the following responsibilities:

1. Publicize the creation of the Committee and conduct outreach to recruit a group of diverse candidates for membership.
2. Designate an appropriate staff person to support the work of the Committee.
3. Provide training and orientation to the Committees shortly following their initial organizational meeting.
4. Provide copies to each member of the committee's charge, roster, Board guidelines, materials pertinent to the Committee/Task Force's charge and, at the request of the appointing party, "conflict of interest" declaration forms
5. Provide assistance to the committee to produce required reports and records.
6. Provide assurance to the Board that committees are acting in accordance with applicable Board policies and local/state/federal laws.

Committee Guidelines

The provisions of the Ralph M. Brown Act (Government Code 54950) shall apply to any committee created by formal action of The Board. Committees shall follow the Brown Act. Committees shall not adopt their own rules or by-laws except as authorized by the Board. Committees will observe the following guidelines:

1. Meeting Notice, Time and Place

Advisory Committee meetings shall be in a public place, open to the public, and noticed at least 72 hours in advance (preferably longer). The day and time of meetings shall be agreed upon among the Committee members and the staff. All meetings are open to the public as provided by the Brown Act and shall be held at times of reasonable public access. A closed session may not be convened without the express authority of the Board or its designee.

2. Record keeping

The Committee shall establish a calendar and perform the standard record-keeping functions of such committees, including: having written agendas, recording attendance and minutes of each meeting, recording votes, and disseminating these documents to committee members and the Board.

3. Appointment of Chairperson

Unless otherwise acted upon by the Board or specified in Board approved Bylaws, the Committee shall designate a permanent chairperson. The chairperson shall be an appointed member of the Committee, a Berkeley resident and nonemployee of the district.

4. Conduct of Meetings

Committees will follow standard meeting procedures (Robert's Rules of Order) with meetings conducted in an open, civil manner.

5. Quorum

Quorum shall consist of no fewer than "one half plus one" of the total number of representatives.

6. Communications with Board

Advisory Committees shall make timely, written, progress reports to the Board pertinent to its charge and timeline as specified by the Board. These reports shall be placed on the Board meeting agenda by the Staff Liaison to the Committee through the Board's regular calendar and agenda process.

Advisory Committees may also be provided an opportunity to address the Board when an item on the Board agenda falls within the subject matter jurisdiction of the Committee and the Committee's statement represents the majority view of the Committee (which may be verified by meeting records). Committee representatives shall notify the Board president prior to the Board meeting of the Committee's intent to speak.

7. Committee Activities

Any public activities to be sponsored by a committee must receive approval by the Board before they can be publicized as a Board-sponsored event.

Chairperson Responsibilities

1. Establish the agenda in conjunction with the staff liaison.
2. Preside at the meeting.
3. Be the designated spokesperson for the committee.
4. Regularly review the Board agenda for items pertinent to the committee's charge.
5. Ensure that the Board liaison to the committee receive regular updates on the work of the Committee.

Updated:

Berkeley Unified School District
BB 9131
Advisory and Oversight Committees

Measure I Citizens' Construction Oversight Committee

Section 1. Name

The name of this Committee shall be the Berkeley Unified School District Measure I Citizens' Construction Oversight Committee (herein referred to as the "Committee").

Section 2. Meeting Location

The Committee shall meet at the 1720 Oregon Street conference room. The Committee may request a change in the meeting location at a future date. Any permanent change of location must be approved by the Board, and noted by the Secretary of the Committee.

Section 3. Objective and Purpose

The primary objective and purpose of the Committee shall be to monitor and report on the expenditures of Measure I bond proceeds, and to inform the public on those expenditures and bond proceeds. The Committee is also requested to review and report on remaining bond expenditures remaining from Measure A of 1992 and Measure AA of 2000.

Section 4. Members

The Committee shall have seven members appointed by the Board of Education. All members shall be voting members. The members shall elect a Chairperson and Secretary. The composition of the Committee shall meet the requirements of Education Code section 15282. All members must reside in the City of Berkeley.

Section 5. General Powers

The Committee shall have only those powers and authority specifically contained in Education Code Section 15278.

Section 6. Powers

The Committee shall have the power to:

1. Perform any and all duties imposed on them collectively or individually by law, or by these bylaws;
2. Meet at such time and place as required by these bylaws; and,
3. Review, audit and report on the expenditures of Measure I proceeds.
4. Report on new expenditures from Measures A of 1992 and AA of 2000.

Section 7. Actions and Reports

The Committee may engage in the following activities:

1. Receiving and reviewing copies of the annual, independent performance audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.
 - a. Receiving and reviewing copies of the annual, independent financial audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.
 - b. Inspecting District school facilities and grounds to ensure that bond revenues are expended in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.
 - c. Reviewing efforts by the District to maximize bond revenues by implementing cost-saving measures, including, but not limited to:
 - i. Mechanisms designed to reduce costs of professional fees.
 - ii. Mechanisms designed to reduce costs of site preparation.
 - iii. Recommendations regarding the joint use of core facilities.
 - iv. Mechanisms designed to reduce costs by incorporating efficiencies in school site design.
 - v. Recommendations regarding the use of cost-effective and efficient reusable facility plans.
2. The Committee shall cause an annual report to be furnished to all District Governing Board members, not later than 60 days after the completion of the annual audit of the year-end close of the District's financial records. The report shall contain the following summary information in appropriate detail:
 - a. Committee's ongoing review summary of activities on the expenditure of Measure I bond proceeds;
 - b. Advice given to the public (annually/quarterly) whether the estimated tax to be levied exceeds \$60 per \$100,000 assessed value (Cal. Const. Art. XIII A, Section 1(b)(3).)
 - c. Results of whether bond proceeds were expended on project costs and not used on teacher or administrative salaries or other operating expenses.
 - d. Provide a copy of any report issued to the public in the event the Committee determined Measure I funds were spent improperly or wastefully.

3. The annual report shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the Committee that such statements were prepared without audit from the books and records of the Committee.
4. The Committee shall also cause, when appropriate, to be published a public report containing the information on any improper use of Measure I proceeds. The Secretary of the Committee shall cause all reports prepared by the Committee to be provided to the Superintendent and the members of the Board of Education upon release to the public. The Chairperson of the Committee shall present all reports to the Board of Education at a regularly scheduled meeting of the Board.
5. All documents of the Committee are considered public records consistent with the California Public Records Act and shall be made available by the Committee to the public in a manner consistent with District Board Policy.
6. The Committee may vote at any of its regular meetings to establish subcommittees for specific tasks. The Committee shall elect a chair for each subcommittee formed and provide a written assignment for each subcommittee. Subcommittees will comply with the Brown Act, pursuant to Govt. Code, Section 54952, subdivision (b) as required. The Committee may vote at any of its regular meetings to dissolve any subcommittee formed.

Section 8. Terms of Office

Each member shall hold office for two years without compensation. A regular term of office shall begin in March commencing with the regularly scheduled March quarterly meeting and end at the close of business on the day prior to the regularly scheduled March quarterly meeting two years later. A member may apply for a second and/or a third two year term. No person may serve more than three consecutive terms. The Board of Education of the District shall be notified of any vacancy and shall have the sole power to fill all vacancies. Any member's term of office may be terminated at any time by a unanimous vote of the Board of Education. The term of office for any member appointed to fill a vacancy, shall be the same as that of the member whose seat was vacated, except that the new member may serve a second and/or third term.

Section 9. Place of Meetings; Meetings by Telephone or Telecommunication Equipment

All meetings shall comply with Government Code Section 54950, et seq. (the "Brown Act"). Meetings shall be held at the principal office of the Committee unless otherwise provided by the members, or at such place within the District that has been designated from time to time by resolution of the members.

Any meeting, regular or special, may be held by conference telephone, video-screen communication, or communications equipment, so long as all members participating in such meeting can hear one another, public participation is afforded, and the meeting meets all applicable requirements of the Brown Act.

Section 10. Regular Meetings

The Committee shall meet at least once a quarter, with a goal to meet approximately once per month. Meetings shall be cancelled if a quorum cannot be established at the time of the meeting. The election of officers shall occur in the month of March of every even-numbered year, except that an election may occur at the first meeting of the committee and at the meeting immediately after any office becomes vacant before the scheduled election time.

Section 11. Special meetings

Special meetings of the Committee may be called by the Chairperson or by a majority of the members and called pursuant to Brown Act requirements.

Section 12. Quorum for Meetings.

A quorum shall consist of a majority of the members, or four members, whichever is less.

Section 13. Majority Action as Committee Action

Every act or decision done or made by a majority of the members present at a meeting duly held at which a quorum is present is the act of the Committee.

Section 14. Conduct of Meetings

Meetings of the Committee shall be presided over by the Chairperson of the Committee, or, if no such person has been so designated or, in his or her absence, the Secretary of the Committee or, in the absence of each of these persons, by a temporary Chairperson chosen by a majority of the Directors present at the meeting. The Secretary of the Committee shall act as secretary of all meetings of the Committee, provided that, in his or her absence, the presiding officer shall appoint another person to act as Secretary of the meeting.

Section 15. Vacancies

Vacancies on the Committee shall exist upon the death or resignation of any member. Any member may resign effective upon giving written notice to the Chairperson of the Committee, the Secretary, or the Committee as a whole, unless the notice specifies a later time for the effectiveness of such resignation. Vacancies on the Committee may only be filled by the Board of Education.

Section 16. Duties of the Chairperson of the Committee

The Chairperson of the Committee shall be elected by the members of the Committee. Such election shall occur every two years at the organizational meeting, or at any regular meeting, if the office becomes vacant before the end of the term. He or she shall assume all duties normally associated with that office. The Chairperson of the Committee shall conduct the meetings of the Committee. The Chairperson shall, when present, preside at all meetings, and shall see that all orders and resolutions of the Committee are carried into effect. The Chairperson shall: put to a vote and announce the results of actions taken on questions before the Committee; resolve all questions of order (subject to appeal); call special meetings when deemed necessary; make reports to the Board of Education as required by these Bylaws, statute, or as may be requested by the Board of Education, and shall exercise and perform such other duties as may be prescribed by the Committee from time to time.

Section 17. Duties of the Secretary

The Secretary shall be elected by the members of the Committee, and shall:

1. Keep at the principal office of the Committee the original, or a copy of the Bylaws, as amended or otherwise altered to date.
2. Keep at the principal office of the Committee or at such other place as the Committee may determine, a book of minutes of all meetings, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof.
3. See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.
4. Be custodian of the records.
5. In general, perform all duties incident to the office of Secretary and such other duties as may be required by law, or by these Bylaws, or which may be assigned to him or her from time to time by the Committee.

Section 18. Amendment of Bylaws

Only the Board can amend these Bylaws. Subject to any provision of applicable law, these Bylaws, or any of them, may be recommended by majority vote of the committee, for alteration, amendment, or repeal. Subject to any provision of applicable law, these Bylaws, or any of them, may be altered, amended, or repealed and new Bylaws adopted by approval of the Board of Education.

Section 19. Other Duties as Assigned

The Board may assign additional duties to the Committee as it determines by majority vote of the Board. Such additional duties will not interfere with the Committee completing its duties stipulated in the law or contained in these by-laws.

Adopted: March 5, 2003

Updated:

Berkeley Unified School District

BB 9132

Advisory and Oversight Committees

FACILITIES SAFETY AND MAINTENANCE OVERSIGHT COMMITTEE

The Berkeley Schools Facilities Safety and Maintenance Oversight Committee (the "Committee") is authorized by the *Berkeley Schools Facilities Safety and Maintenance Act of 2010* ("Measure H", the "Measure") to provide accountability to the community by ensuring that Measure BB monies are spent in accordance with the Measure. The Facilities Safety and Maintenance Oversight Committee shall be answerable to and make recommendations directly to the School Board.

CHARGE OF THE COMMITTEE:

In order to review the District's administration of and compliance with the terms of this Measure, the Committee shall provide input into the long term Strategic Plan for the maintenance and security of the District's facilities and the Annual Plan for expenditures on maintenance and safety.

- (1) Strategic Plan: The Committee shall provide input into a long term, multi-year strategic plan (the "Strategic Plan") for maintenance to be developed by District staff, for Board approval. The Strategic Plan shall be consistent with the intent of the Measure and will be reviewed annually.
- (2) Annual Plan: With the purpose of ensuring that the intent of Measure H is being met, Committee shall provide input into an expenditure plan (the "Annual Plan") to be developed annually by the District staff recommending specific expenditures of the tax proceeds for maintenance and safety that are consistent with the intent of the Measure. The Committee shall develop processes to insure that the particular needs of each site are understood and considered in the development of the Annual Plan. A draft Annual Plan shall be distributed to the Committee and made available for public review at least two weeks prior to Board action. The plan will include measurable goals and objectives.
- (3) Annual Report: A progress report shall be developed by District staff annually in the fall of each year. The Annual Report shall measure and report on the Maintenance Department's achievement of its goals and objectives. A copy of the Annual Report shall be made available to the Committee for its commentary no less than two weeks prior to presentation to the

Board. The progress report shall be presented to the Board in conjunction with the Board's annual Audit Report.

- (4) The Committee shall review the Audit Report as it pertains to Measure H.

COMPOSITION OF THE COMMITTEE:

The Committee, as mandated by Board Policy 9132, shall be comprised of seven members appointed by the Board of Education. All members shall be voting members. The members shall elect a Chairperson and Secretary. The composition of the Committee shall meet the requirements of Education Code section 15282.

CRITERIA FOR MEMBERSHIP:

- (1) Facilities safety and maintenance experience or knowledge--familiarity with standard practices in construction and maintenance of public facilities.
- (2) Budgetary knowledge--familiarity with standard accounting practices.
- (3) Administrative experience--familiarity with effective management and administrative practices.
- (4) Familiarity with the Berkeley school community and the interests of representative school groups.
- (5) Familiarity with BUSD maintenance needs and planning efforts to date.

Membership shall be limited to residents or property taxpayers of the City of Berkeley, parents of BUSD students, BUSD students, or employees who are not in a conflict of interest position, i.e., individuals, agents of employees or vendors who may stand to gain financially from a recommendation of the Committee.

The Board may, at its discretion, appoint one or two Board Members as Liaison to the Committee. No Board Member may be a voting member to the Committee. The votes of students appointed to the Committee shall be counted.

TERM OF APPOINTMENT

The Board shall appoint members annually. Members' terms expire December 1st each year unless otherwise provided for by the Board. The appointment of the student member shall expire September 1st of each year. Committee members may be re-appointed to more than one term. Any Committee member who misses three meetings during the year without a valid excuse may be replaced by the appointing individual or appointing group.

SUBCOMMITTEES

The Committee may form subcommittees to assist the Committee in developing recommendations in specific aspects of its charge. Such subcommittees may be created at will by a majority vote of the Committee. At the time that a subcommittee is formed, the Committee shall define the length of time that it will exist. The Chairpersons of subcommittees shall be appointed Committee members. Membership on subcommittees is not limited to appointed Committee members. Subcommittees will report to the full Committee, and to none other. Nor shall the Subcommittee or any member thereof present themselves as speaking for the Committee.

COMMITTEE GUIDELINES

The provisions of the Ralph M. Brown Act (section 549050 of the Government Code) and the guidelines set forth in the Board's policy on Advisory Committees (Policy #9130) shall apply to this Committee:

1. Meeting notice, time and place. Committee meetings shall be in a public place, open to the public, and noticed at least 72 hours in advance. The day and time of meetings shall be agreed upon among the Committee members and the staff. All meetings are open to the public as provided by the Brown Act and shall be held at times of reasonable public access. A closed session may not be convened without the express authority of the Board or its designee.
2. Record keeping. The Committee shall establish a calendar and perform the standard record-keeping functions of such committees, including: having written agendas, recording attendance and minutes of each meeting, recording votes, and disseminating these documents to committee members and the Board.
3. Frequency of meetings. The Committee shall meet not less than quarterly.
4. Election of Chairperson. As defined by School Board Policy 9130.5, unless otherwise acted upon by the Board, the Committee shall designate a chairperson. The chairperson shall be elected by majority vote for a term coinciding with the appointment year. The chairperson shall be an appointed member of the Committee, a Berkeley resident and non-employee of the District.
5. Conduct of Meetings. The Committee will follow standard meeting procedures (Robert's Rules of Order) with meetings conducted in an open, civil manner.

6. Quorum. Quorum shall consist of a majority of the total number of appointed Representatives, not the total number of possible representatives. An appointed representative must be “active” to be included in the total number of appointed representatives required for quorum. “Active” is defined as any member that has not missed two consecutive meetings without having notified the committee chairperson, a committee staff liaison, or their Board appointer of their impending absence. By definition then, a committee member is deemed “inactive” and is not included in the quorum requirement total after missing two consecutive meetings without having notified the committee chairperson, a committee staff liaison, or their Board appointer of their impending absence. The chairperson or staff liaison will notify the Board appointer as soon as possible (and within 72 hours) if their appointee becomes inactive; the member is considered active until their Board appointer has been notified. The member is considered returned to active status by attendance at a meeting. Notwithstanding the preceding, a quorum must have a minimum of three members.
7. Communications with Board. The Committee shall make timely, written, progress reports to the Board pertinent to its charge and timeline as specified by the Board. These reports shall be placed on the Board meeting agenda by the Staff Liaison to the Committee through the Board’s regular calendar and agenda process.

The Committee shall also be provided an opportunity to address the Board when an item on the Board agenda falls within the subject matter jurisdiction of the Committee and the Committee’s statement represents the majority view of the Committee (which may be verified by meeting records). Committee representatives shall notify the Board president prior to the Board meeting of the Committee’s intent to speak.

Committee members speaking during three-minute Public Testimony on maintenance or Committee-related matters shall not represent themselves as speaking for the Committee unless the Committee has by a majority vote authorized them to present a resolution or similar information to the Board.

CHAIRPERSON RESPONSIBILITIES

1. Establish the agenda in conjunction with the Staff Liaison.
2. Preside at the meeting.
3. Be the designated spokesperson for the Committee.

4. Regularly review the Board agenda for items pertinent to the Committee's charge.
5. Ensure that the Board liaison to the Committee receive regular updates on the work of the Committee.
6. Receive official notification of Committee appointments and changes to appointments.
7. Periodically inform the Board of Education of the status of Committee membership-- filled as well as unfilled positions-- during Board Committee Public Testimony.

AMENDMENT OF BYLAWS

Facilities Safety and Maintenance Oversight Committee Bylaws may be amended by a majority vote of either the Board of Education or Committee members. Notice of proposed amendments to the Bylaws shall be included for discussion on the agenda of the meeting just prior to the meeting in which these amendments will be voted. Amendments approved by the Committee will then be submitted for approval to the Board of Education. No amendment to the Bylaws will take effect until approved by the Board.

Updated: