

Berkeley PUBLIC SCHOOLS

Berkeley Unified School District
Board of Education: Board Policy Meeting

AGENDA

January 29, 2016

3:00 – 4:30 p.m.

2020 Bonar Street, Room 126

Berkeley, CA 94702

(510) 644-6206

This agenda will be posted at the forgoing locations at least 72 hours before the January 7 Board Policy Subcommittee meeting is scheduled to commence. Public participation will be permitted at the teleconferencing location. Government Code Section 54953 requires that all votes taken during the teleconferencing meeting shall be by roll call.

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).

Josh Daniels, Chair

Ty Alper, Director

- I. Call to Order/Approve agenda
- II. Public Comment
- III. Board Bylaw 9200: Limits of Board Member Authority (p.2) – Action (20 min.)
- IV. Board Bylaw 9310: Policy Manual (p.4) – Action (20 min.)
- V. Outline for Student Intervention Policy(s) (See p.7 and Attachment on p.9) – Discussion (30 min.)
- VI. Update Board Policy Calendar (p.10) - Action (15 min.)

Berkeley USD

Board Bylaw

Limits Of Board Member Authority

BB 9200

Board Bylaws

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

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

(cf. [9005](#) - Governance Standards)

(cf. [9270](#) - Conflict of Interest)

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

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

A board member whose child is attending a district school should be aware of his/her role as a Board member when interacting with district employees ~~and because his/her position as a Board member may inhibit the performance of school personnel. The~~ [regarding his/her child. A](#) Board member should inform the Superintendent or designee before volunteering in his/her child's classroom.

(cf. 1240 - Volunteer Assistance)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 9270 - Conflict of Interest)

(cf. 9322 - Agenda/Meeting Materials)

(cf. 9323 - Meeting Conduct)

Board members and persons elected to the Board who have not yet assumed office are responsible for complying with the requirements of the state's open meeting laws. (Government Code 54952.1)

The Superintendent or designee shall provide a copy of the Brown Act to each Board member and to anyone who is elected to the Board and who has not yet assumed office.

Legal Reference:

EDUCATION CODE

[200-262.4 Prohibition of discrimination](#)

[7054](#) Use of district property

35010 Control of district; prescription and enforcement of rules

35100-35351 Governing boards, especially:.

35160-35184 Powers and duties

35291 Rules

35292 Visits to schools (Board members)

51101 Rights of parents/guardians

GOVERNMENT CODE

54950-54962 The Ralph M. Brown Act, especially:

54952.1 Member of a legislative body of a local agency

54952.7 Copies of chapter to members of legislative body

Management Resources:

CSBA PUBLICATIONS

CSBA Professional Governance Standards, 2000

Maximizing School Board Leadership: Boardsmanship, 1996

WEB SITES

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

Bylaw BERKELEY UNIFIED SCHOOL DISTRICT

Adopted: April 20, 2005 Berkeley, California

Berkeley USD

**Board Bylaw
Policy Manual**

BB 9310

Board Bylaws

The Governing Board recognizes the importance of adopting policies that reflect the district's vision and maintaining a policy manual that is up-to-date and reflects the mandates of law. A subcommittee of the Board will be appointed by the Board president at the Board's annual organizational meeting to monitor, develop, review and/or revise policies prior to their coming to the full Board for consideration.

(cf. 9000 - Role of the Board)

The Superintendent, working with the Board subcommittee, shall maintain a district policy manual for the purpose of communicating to all interested stakeholders the policies, regulations and bylaws within which district schools will operate.

The Superintendent or designee shall ensure that the community and all district employees have access to the policy manual and keep such a manual current. A public copy of the manual shall be maintained in the district central office and at each school site. These copies shall be maintained either electronically or by paper copy.

~~The Superintendent or designee shall establish procedures for distributing to all authorized policy manual holders copies of new or revised policies, bylaws and regulations as they are adopted. Annually, before the Board's organizational meeting, the Superintendent or designee shall review the paper and/or electronic copies of the district's policy manual to ensure that they are up to date and complete.~~

The Board encourages members of the public to acquaint themselves with the district's policy manual.

Only policies formally adopted by a majority vote of the Board shall constitute official Board policy. Policies shall become effective upon Board adoption or at a future date designated by the Board at the time of adoption.

Board Policies

The District shall create and revise its policies as follows:

1. The Board, the Policy Subcommittee, or the Superintendent or designee shall regularly identify the need to adopt a new policy or revise an existing policy.
2. Unless the Board directs otherwise, the Policy Subcommittee shall discuss the need to adopt a new policy or revise an existing policy at one or more Policy Subcommittee meetings. The discussion may include, but not be limited to, how the proposed policy or policy change may affect student learning, community expectations, staff recommendations, and/or fiscal impact as well as the policy's impact on governance and operational efficiency.
3. The Policy Subcommittee or Superintendent may request that legal counsel review the draft policy as appropriate.
4. After the Policy Subcommittee approves a new policy or revision to an existing policy, the Superintendent or designee shall present the draft policy for a first reading at a public Board meeting. At this meeting, the Board shall determine whether it wants additional modifications to the draft. If no modifications are requested, then Superintendent or designee shall place the draft policy on the agenda of the next Board for the second reading and approval. The Board, by a 2/3 vote, may waive the need for a second reading and approve the draft policy at the meeting in which the first reading occurs so long as the draft policy is listed in the agenda as an action item. If the Board determines that it wants significant modifications to the draft, the policy shall be returned to the Policy Subcommittee (see #2). If the Board determines that it wants minor modifications to the draft, the Superintendent or designee shall make the necessary changes and shall, unless otherwise directed by the Board, place the revised draft policy on the agenda of the next Board for the second reading and approval.

Administrative Regulations

The Superintendent or designee shall have authority to adopt administrative regulations consistent with Board Policies. The Superintendent designee or designee shall first present any new administrative regulation or change to existing administrative regulation at a Policy Subcommittee meeting. The Superintendent or designee may, but is not required to, modify the administrative regulation in response to comments made at the Policy Subcommittee meeting. The Superintendent or designee then shall present the new administrative regulation or change to existing administrative regulation at a Board meeting. The Superintendent or designee may, but is not required to, modify the administrative regulation in response to comments made at the Board meeting.

The Board may choose to approve any administrative regulation, in which case the Board Policy process shall be used.

Board Bylaws

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

Bylaws governing Board operations may be developed, adopted, and amended pursuant to the Board Policy process.

Conflict

In case of conflict between administrative regulation and Board policy, policy shall prevail.

Access to Policies

The Superintendent or designee shall ensure that all district employees and the public have access to an up-to-date district policy manual. A public copy of the policy manual shall be maintained at the district central office, at each school site, and on the District's website. These copies shall be maintained either electronically or by paper copy.

As necessary, the Superintendent or designee shall notify staff, parents/guardians, students, and other stakeholders whenever a policy that affects them is adopted or revised. The Superintendent or designee shall determine the appropriate communications strategy depending on the issue.

Effect of Board Policies and Administrative Regulations

All Board Policies and Administrative Regulations shall apply to and shall be followed by all Board members, employees, contractors, students, and families without exception unless otherwise prohibited by state law, federal law, or the district's collective bargaining agreements. No Board policy, bylaw, or administrative regulation, or any portion thereof, shall be operative if it is found to be in conflict with applicable federal or state law or regulations or court decisions. If any portion of a policy is found to be invalid, that invalidity shall not affect other provisions of the policy.

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

Bylaw BERKELEY UNIFIED SCHOOL DISTRICT

Adopted: April 20, 2005 Berkeley, California

Outline for Student Intervention Policy(s)

- Definitions
- Purpose
- Types of misconduct
 - List those in statute (48900)
 - Others?
- Process
 - Who determines the facts
 - Who determines the type(s) of misconduct
 - Who determines the intervention(s)
- Types of interventions [levels not based in statute but created to help categorize interventions]
 - Level 1 (no misconduct needed)
 - e.g., COST meeting, family-teacher conference, tutoring, etc.
 - e.g., ATOD counseling, mental health counseling, anger management, etc.
 - Level 2
 - e.g., removal from class, restitution, prohibited from attending school-related activities, etc.
 - Level 3
 - e.g., attend restorative circle, on-site suspension, off-site suspension, etc.
 - Level 4
 - e.g., reassignment to another site/program, suspended expulsion, enforced expulsion [I think that's it]
- Limitations on interventions
 - Jurisdiction
 - Age
 - Others?
- Rights of accused and impacted students [different for each type of intervention]
 - Involvement of family
 - Due Process
 - Privacy
 - Access to instruction during intervention
 - Expungement
 - Information for legal representation
- Law enforcement involvement
 - When is law enforcement contacted
 - Who contacts law enforcement
 - Who is said to law enforcement
- Settlement process
 - What is the process for settling
- Follow up on interventions
- Data/Tracking on intervention

I'm also thinking that a table may help organize, understand, and communicate the policy(s)

Type of misconduct	Who determines...			Possible interventions	Limitations on interventions	Rights of accused student	Rights of impacted students
	... facts	... type(s) of misconduct	... intervention(s)				
Level 1							
Level 2							
Level 3							
Level 4							



October 27, 2015

Judy Appel, President
Josh Daniels, Chair
Policy Sub-Committee
Berkeley Unified School District Board of Education
Via email: judyappel@berkeley.net; joshdaniels@berkeley.net

Dear President Appel and Director Daniels:

We appreciate your commitment to revising the District's discipline policies and welcome the opportunity to collaborate with you on this endeavor. As you know, we are attorneys at the Youth Defender Clinic, which is part of the East Bay Community Law Center ("EBCLC") and U.C. Berkeley Law School. Over the past three years, our Clinic has worked with over 250 youth in Alameda County on a range of legal problems related to school discipline, special education, and delinquency. A number of those clients have been Berkeley Unified students.

Attached is a working list of issues that we hope you consider as you revise the school discipline policy. The list identifies key issues, summarizes the relevant law, and includes our suggested approach to resolving the issue. For model language and policies, we suggest the U.S. Department of Justice and Department of Education's Joint 2014 Dear Colleague Letter on School Discipline, as well as resources available through Public Counsel.¹

We hope this list is a helpful starting point for the discussion of how to revise BUSD's discipline policies, and what should be prioritized in that discussion. Our office looks forward to continued collaboration with the District in the months ahead. Please call us with any questions: (510) 548-4040.

Best,

Kate Weisburd
Director and Clinical Instructor
Youth Defender Clinic

Cory Isaacson
Attorney and BLF/EBCLC Fellow
Youth Defender Clinic

¹ Available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html> and www.fixschooldiscipline.org.

Board Policy Committee – Review of BPs and ARs

Topic	Notes	Number(s)	Point Staff	Point Board	Date(s) for Policy SubComm	Date(s) for Board	Priority
Board Bylaws	Update based on 2014 retreat	9131-9323	Donald	Josh	1/29 (30 mins) 2/9 (30 mins)	2/24	Fast
SSC/SGC	Update	0420	Natasha	Josh	1/29 (10 mins)	2/10	Fast
Discipline	Comprehensive rewrite	5144, 5144.1	Susan	Ty	1/29 (30 mins)		Higher
Naming Facilities	Develop AR	7310	Tim	Josh	2/9 (30 mins) 2/26 (30 mins)	3/9	Higher
Hate crime/speech	Prohibition and district response	N/A	Susan	Ty	2/9 (10 mins)		Higher
Enrollment	Inter district permit; return to same school if unenrolled; homeless	5117, 5117.1	Francisco	Josh			Lower
Bullying	Update to reflect current law and best practices	5131.2	Susan	Ty			Lower
Discrimination	Update to reflect current law and best practices	5145.3	Susan	Ty			Lower
Nondiscrimination In Programs And Activities	Gender neutral restrooms	0410	Susan	Ty			Lower
Community process for facilities	When planning/building facility	N/A	Tim	Josh			Lower
Student interaction with law enforcement	Role in schools – when to refer students to police	N/A	Susan	Ty			Lower
Ed Specs	Need to wait until we have ed specs and turn into policies	N/A	Tim	Josh			Lower
Alcohol/Drug Policy	Check whether this policy needs to be updated	4020	Delia	Josh			Lower