

## **JUSTIFICATION FOR SERIES 9000**

(Pending Board Approval October 16, 2024)

### **Board Bylaw 9124 – Attorney**

**(BB revised)**

Bylaw updated to revise the first philosophical paragraph to recognize the need to provide legal representation to the district and the importance of cost-effective legal advice and services, clarify that the Governing Board may appoint and fix and order paid legal counsel's compensation, expand the types of entities that the Board may contract with to serve as legal counsel, and reflect that the Board supports pursuing collaborative legal efforts with other districts as well as other government agencies as appropriate. Bylaw also updated to clarify that districts may, but are not required, to initiate a Request for Proposals to advertise and solicit proposals for legal services, and that districts may consider the attorney's, firm's, and/or entity's relevant legal reputation when evaluating such attorneys, firms, and/or entities. Additionally, bylaw updated to reflect that any attorney representing the district is required to be admitted to practice law in California.

### **Board Bylaw 9320 - Meetings and Notices**

**(BB revised)**

Bylaw updated to clarify that a study session, retreat, public forum, or discussion meeting of the Governing Board must either be held as a regular or special Board meeting. Additionally, bylaw updated to reflect NEW LAW (AB 557, 2023) which extended and modified the ability of a Board member to join a meeting by teleconference due to just cause or emergency circumstances or during a proclaimed state of emergency. In addition, bylaw updated to remove outdated COVID-19 related requirements. Bylaw also updated for clarity, precision, organization, and consistency.

### **Board Bylaw 9321 - Closed Session**

**(BB revised)**

Bylaw updated to reflect appellate court ruling in Fowler v. City of Lafayette, which clarified that when an item is agendaized in closed session based on a threat of litigation made by a person outside of an open meeting and a district official or employee receiving knowledge of the threat made a record of the statement before the meeting, that statement is required to be made available to the public. Bylaw also updated to reference accompanying Exhibit (1) for specific agenda descriptions for closed session items and accompanying Exhibit (2) for descriptions to report out of specified closed session items. Additionally, Bylaw updated for clarity, precision, and consistency.

### **Exhibit(1) 9321 - Closed Session**

**(E(1) revised)**

Exhibit updated for clarity and precision, and for consistency with changes to the accompanying Board Bylaw.

**Exhibit(2) 9321 - Closed Session  
(E(2) revised)**

Exhibit updated for clarity and precision, and for consistency with changes to the accompanying Board Bylaw.

**Board Bylaw 9322 - Agenda/Meeting Materials  
(BB revised)**

Bylaw updated to move material regarding public comments to be with content related language, amend language to be more closely aligned with code language, add material regarding the means for in-person and remote public comments, and reflect NEW LAW (AB 2449, 2022), which requires boards to maintain and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation to board meetings for individuals with disabilities. Bylaw also updated to provide that each agenda for a regular meeting is required to list the address designated by the Superintendent or designee for public inspection of documents related to records of a statement threatening litigation against the district to be discussed in closed session, in addition to documents related to open session, when such documents have been distributed to the Governing Board less than 72 hours before a Board meeting, clarify that the Board president and Superintendent decide when an item is placed on the agenda, include that public records under the Public Records Act and which relate to an agenda item which contain a claim or written threat of litigation which will be discussed in closed session are required to be made available to the public, in addition to documents which relate to an agenda item scheduled for the open session of a regular meeting, and NEW LAW (AB 2647, 2022) which clarifies how districts can, without opening their offices after normal business hours, comply with the portion of the Brown Act that requires writings or documents distributed to a majority of a local legislative body less than 72 hours before a meeting to also be distributed to the public.

**Board Bylaw 9323.2 - Actions by the Board  
(BB revised)**

Bylaw updated to add that the Governing Board may take action on a request by a Board member to participate by teleconference due to emergency circumstances if it is not on the posted agenda so long as there was not sufficient time to place it on the agenda. Additionally, bylaw updated to remove language related to the authority of the district attorney's office or an interested person to file a civil action asking the court to order the Board to stop or prevent a Brown Act violation and replace it with language requiring the district attorney's office or interested person to first present a demand to "cure and correct" the alleged violation and, when such occurs, for the Board to consult with legal counsel on if and how to respond.

**Exhibit(1) 9323.2 - Actions by the Board**  
**(E(1) revised)**

Exhibit updated to clarify that the exhibit is a non-exhaustive list of actions that require more than a simple majority vote and that have restrictions on when the Governing Board may act. Additionally, exhibit updated to remove, in the section "Actions Requiring a Two-Thirds Vote of the Membership of the Board," an item related to school facilities improvement districts as well as an item related to parcel taxes, both of which do not require a two-thirds vote. In addition, exhibit updated to add sections on "Actions Required to Occur During a Regular Board Meeting" and "Prohibitions on Certain Board Actions". Exhibit also updated to reflect NEW LAW (SB 494, 2023) which prohibits the Board from taking action to terminate a superintendent or assistant superintendent without cause within 30 calendar days after the first convening of the Board after a general election at which one or more of the Board members are elected or recalled, and NEW LAW (SB 229, 2023) which requires a district that is disposing of surplus land and has received notification of a violation to hold an open and public meeting to review and consider the substance of the notice of violation and prohibits the Board from taking final action to ratify or approve the proposed disposal of surplus land until a public meeting is held. Exhibit also updated for clarity, precision, organization, and consistency.

**Exhibit(2) 9323.2 - Actions by the Board**  
**(E(2) deleted)**

Exhibit deleted as districts should consult with legal counsel if there is a need to respond to a "cure and correct" letter.