



Santa Barbara SCHOOL DISTRICTS

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Date: May 1, 2009
To: Board of Education
From: Kate Parker, President
Subject: Discussion of Board Policies 4119.23/4219.23/4319.23 Unauthorized Release of Confidential/Privileged Information and 4143/4243 Negotiations/Consultations and Board Bylaws 9006 Code of Ethics for School Board Members and 9011 Disclosure of Confidential/Privileged Information

Conference Agenda

Board members,

Please review the attached board policies and bylaws for discussion and recommendations.

Attachment(s)?	<input checked="" type="checkbox"/>	Yes (if so, please attach)	<input type="checkbox"/>	No	<input type="checkbox"/>	Powerpoint	<input type="checkbox"/>	Overhead	<input type="checkbox"/>	Consultant
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Santa Barbara School Districts

Board Policy

BP 4119.23
BP 4219.23
BP 4319.23

Personnel

UNAUTHORIZED RELEASE OF CONFIDENTIAL/PRIVILEGED INFORMATION

The Governing Board, administration and staff shall maintain the confidentiality of all confidential records until such time as laws, state regulations and/or bylaws of this District permit disclosure. Information and records pertaining to closed sessions, negotiations and student records are not subject to public disclosure under Government Code 6252-6260.

Any employee who willfully releases confidential/privileged information about students, staff or any topic properly confined to a closed session shall be subject to disciplinary action up to and including dismissal from district service. Confidential information includes any information relating to the Board's employer-employee strategies on matters in negotiation or matters to be placed in negotiation.

Any employee who willingly and for monetary gain uses or discloses confidential/privileged information as defined in Government Code 1098 is guilty of a misdemeanor. (Government Code 1098)

Any action by an employee which inadvertently or carelessly results in release of confidential/privileged information shall be recorded, and the record shall be placed in the employee's personnel file. Depending on the circumstances, the Superintendent or designee may deny the employee further access to any privileged information and shall take any steps necessary to prevent any further unauthorized release of such information.

Legal Reference:

EDUCATION CODE

35010	Control of district; prescription and enforcement of rules
35146	Closed sessions (re student suspension)
44031	Personnel file contents and inspection
44932	Grounds for dismissal of permanent employees
44933	Other grounds for dismissal
45113	Rules and regulations for classified service

49060-49078 Pupil records
GOVERNMENT CODE
1098 Public officials and employees: confidential information
3540 et seq. Meeting and negotiating in public employment
6252 et seq. Inspection of public records
54957 Closed session; purposes for holding; definition of "employee"
exclusion of witnesses
54957.2 Taking of minutes at closed sessions; clerk; minute book
54957.6 Closed session, representatives to employee organization(s); state
conciliator
LABOR CODE
1102.5 Employees: disclosure of information
UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act

Policy: SANTA BARBARA ELEMENTARY/HIGH SCHOOL DISTRICTS
Adopted: March 8, 2000 Santa Barbara, California

Santa Barbara School Districts

Board Policy

BP 4143
BP 4243

Personnel

NEGOTIATIONS/CONSULTATION

The Governing Board is legally responsible for negotiating in good faith with exclusive employee representatives on wages, hours of employment, and other terms and conditions of employment identified in law as being within the scope of representation. (Government Code 3543.2)

The Board recognizes its responsibility to represent the public's interests in the collective bargaining process. The Board and/or Superintendent shall keep the public informed about the progress of negotiations and the ways in which negotiations affect district goals.

In reaching agreements on employee contracts, the Board shall balance the needs of staff and the priorities of the district in order to provide students with a high-quality instructional program based on a sound, realistic budget.

The Board endorses and uses an interest-based, non-adversarial approach to collective bargaining. The goal of negotiations shall be to reach an agreement that meets the interests of all concerned.

The Board believes that effective negotiations require the input of all levels of the administration. The Board shall establish a bargaining team to assist in analyzing contract provisions and conducting contract negotiations.

The Board with its bargaining team shall establish standards of conduct pertaining to the negotiations process for individual Board members and members of the bargaining team. Meetings related to negotiations are not subject to state open meeting laws and shall be held in closed session. Matters discussed in these meetings shall be kept in strict confidence.

The Board shall provide its negotiator(s) with expected outcomes and clear parameters for acceptable contract provisions and may initiate proposals that promote the realization of district goals. The Board shall closely monitor the progress of negotiations and carefully consider how proposed contract provisions would affect the district's short- and long-term goals.

Consultation

The exclusive representative of certificated staff may consult with the Board on the definition of educational objectives, the determination of the content of courses and curriculum and the selection of textbooks.

Legal Reference:

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

Policy: SANTA BARBARA ELEMENTARY/HIGH SCHOOL DISTRICTS

Adopted: July 20, 1972 Santa Barbara, California

Revised: March 22, 2000

Santa Barbara School Districts

Board Bylaw

BB 9006

Bylaws of the Board

CODE OF ETHICS FOR SCHOOL BOARD MEMBERS

The Board of Education incorporates the following code of ethics from the National School Boards Association (1999).

As a member of my Board of Education, I will strive to improve public education, and to that end I will:

- Attend all regularly scheduled board meetings insofar as possible, and become informed concerning the issues to be considered at those meetings;
- Recognize that I should endeavor to make policy decisions only after full discussion at publicly held board meetings;
- Render all decisions based on the available facts and my independent judgment, and refuse to surrender that judgment to individuals or special interests groups;
- Encourage the free expression of opinion by all board members, and seek systematic communications between the board and students, staff, and all elements of the community;
- Work with other board members to establish effective board policies and to delegate authority for the administration of the schools to the superintendent;
- Communicate to other board members and the superintendent expression of public reaction to board policies and school programs;
- Inform myself about current educational issues by individual study and through participation in programs providing needed information, such as those sponsored by my state and national school boards association;
- Support the employment of those persons best qualified to serve as school staff, and insist on a regular and impartial evaluation of staff;
- Avoid being placed in a position of conflict of interest;
- Take no private action that will compromise the board or administration, and respect the confidentiality of information that is privileged under applicable law; and
- Remember always that my first and greatest concern must be the educational welfare of the students attending the public schools.

Bylaw: SANTA BARBARA SCHOOL DISTRICTS
Adopted: Feb. 29, 1968 (*Bylaw 8260*) Santa Barbara, California
Revised: May 23, 2006

Santa Barbara School Districts

Board Bylaw

BB 9011

Bylaws of the Board

DISCLOSURE OF CONFIDENTIAL/PRIVILEGED INFORMATION

The Board of Education recognizes the importance of maintaining the confidentiality of information acquired as part of a Board member's official duties. Confidential/privileged information shall be released only to the extent authorized by law.

(cf. 9000 - Role of the Board)
(cf. 9005 - Governance Expectations)
(cf. 9010 - Public Statements)

Disclosure of Closed Session Information

A Board member shall not disclose confidential information acquired during a closed session to a person not entitled to receive such information, unless a majority of the Board has authorized its disclosure. (Government Code 54963)

Confidential information means a communication made in a closed session that is specifically related to the basis for the Board to meet lawfully in closed session. (Government Code 54963)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)

The Board shall not take any action against any person for disclosing confidential information, nor shall the disclosure be considered a violation of the law or Board policy, when the person is: (Government Code 54963)

1. Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a Board action that has been the subject of deliberation during a closed session
2. Expressing an opinion concerning the propriety or legality of Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action
3. Disclosing information that is not confidential

Other Disclosures

A Board member shall not disclose, for pecuniary gain, confidential information acquired in the course of his/her official duties. Confidential information includes information that is not a public record subject to disclosure under the Public Records Act, information that by law may not be disclosed, or information that may have a material financial effect on the Board member. (Government Code 1098)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)
(cf. 5125 - Student Records)

Disclosures excepted from this prohibition are those made to law enforcement officials or to the joint legislative audit committee when reporting on improper governmental activities. (Government Code 1098)

Legal Reference:

EDUCATION CODE

35010 Power of governing board to adopt rules for its own governance

35146 Closed session

EVIDENCE CODE

1040 Privilege for official information

GOVERNMENT CODE

1098 Public officials and employees re confidential information

3549.1 Meeting and negotiating in public educational employment

6250-6270 Inspection of public records

54950-54963 Brown Act, especially:

54956.8 Open meeting laws

54956.9 Closed meeting for pending litigation

54957 Closed session; "employee" defined; exclusion of witnesses

54957.1 Subsequent public report and rollcall vote; employee matters in closed session

54957.5 Public records

54957.6 Closed session; representatives with employee organization

54957.7 Reasons for closed session

54963 Confidential information in closed session

ATTORNEY GENERAL OPINIONS

80 Ops. Cal. Atty. Gen. 231 (1997)

Management Resources:

CSBA PUBLICATIONS

Professional Governance Expectations, November 2000

Maximizing School Board Leadership, 1996

WEB SITES

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

Bylaw: SANTA BARBARA SCHOOL DISTRICTS
Adopted: May 23, 2006 Santa Barbara, California