



San Bernardino Community College District
 Board Strategy Session
 October 22, 2020
 10:00 am-12:00 pm Pacific Time

Governor Newsom issued Executive Order N-25-20 on March 12, 2020, and Executive Order N-29-20 on March 17, 2020. Portions of these orders relax parts of the Brown Act. In part, the orders allow elected officials to “attend” a meeting via teleconference WITHOUT having to admit members of the public into the location from which they are participating (N-25-20) and orders that “such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment” (N-29-20).

Anyone wishing to participate may do so via the location posted on the agenda. The meetings are also recorded. Public comments must be submitted electronically by emailing snikac@sbccd.edu. Submissions must be received 24 hours in advance of the meeting. From the comments received, staff will call each speaker to make their public comment. Submissions will be considered a public record under the Public Records Act, and are therefore subject to public disclosure.

In accordance with Board Policy 2350, persons may address the Board of Trustees either on an agenda item or on other matters of interest to the public that are within the subject matter jurisdiction of the Board. Public comments will take place at the time designated at the meeting for public comment. Comments must be limited to five (5) minutes per speaker and twenty (20) minutes per topic if there is more than one speaker. At the conclusion of public comment, the Board may ask staff to review a matter or may ask that a matter be put on a future agenda. As a matter of law, members of the Board may not discuss or take action on matters raised during public comment unless the matters are properly noticed for discussion or action in Open Session. Anyone who requires a disability-related modification or accommodation in order to participate in the public meeting should contact the Chancellor’s Office at (909) 388-6902 as far in advance of the Board meeting as possible.

AGENDA
Strategy Session - Ethics Training
October 22, 2020
10:00 a.m.

LOCATION: Zoom Conference:
<https://cccconfer.zoom.us/j/549366869>
Dial: (669) 900-6833 or (346) 248-7799 - Meeting ID: 549 366 869

- I. CALL TO ORDER – PLEDGE OF ALLEGIANCE**
- II. PUBLIC COMMENTS ON AGENDA AND NON-AGENDA ITEMS**
Public comments must be submitted electronically by emailing snikac@sbccd.edu. Submissions must be received 24 hours in advance of the meeting.
- III. ANNOUNCEMENT OF CLOSED SESSION ITEMS**
 - A. Public Employee Discipline/Dismissal/Release/Non Re-Employment
Government Code 54957
(1 case)
- IV. CONVENE CLOSED SESSION**
- V. RECONVENE PUBLIC MEETING**
- VI. REPORT OF ACTION IN CLOSED SESSION**
- VII. BOT AD HOC COMMITTEE FOR ETHICS/STANDARDS (p3)**
- VIII. ETHICS TRAINING**
 - A. Presentation (p5)
- IX. ADJOURN**

The next meetings of the Board: Zoom Conference
<https://cccconfer.zoom.us/j/549366869>
Strategy Session: Guided Pathways Part 2, November 5, 2020 at 12pm

SAN BERNARDINO COMMUNITY COLLEGE DISTRICT

TO: Board of Trustees

FROM: Jose F. Torres, Interim Chancellor

REVIEWED BY: Jose F. Torres, Interim Chancellor

PREPARED BY: Jose F. Torres, Interim Chancellor

DATE: October 22, 2020

SUBJECT: Nominate and Elect Three (3) Members to serve on the SBCCD BOT Ad Hoc Committee for Ethics/Standards

RECOMMENDATION

It is recommended that the Board of Trustees nominate and elect three (3) members to serve on the SBCCD BOT Ad Hoc Committee for Ethics/Standards.

OVERVIEW

Per Board Policy 2220, the Board may, by action, establish committees that it determines are necessary to assist the Board in its responsibilities. Board committees that are composed solely of less than a quorum of members of the Board that are advisory are not required to comply with the Brown Act, or with these policies regarding open meetings, unless they are standing committees.

Board committees that are only advisory have no authority or power to act on behalf of the Board. Findings or recommendations shall be reported to the Board for consideration.

ANALYSIS

The Board maintains high standards of ethical conduct and expects its members to adhere to the Board's Code of Ethics. Members of the Board are responsible to establish and uphold, implement and enforce all laws and codes applying to the District. The Board will be prepared to investigate the factual basis behind any charge or complaint of trustee misconduct. A Board member may be subject to a resolution of censure by the Board should it be determined that trustee misconduct has occurred. Censure is an official expression of disapproval passed by the Board.

A complaint of trustee misconduct will be referred to an ad hoc committee composed of three trustees not subject to the complaint. In a manner deemed appropriate by the committee, a fact-finding process shall be initiated and completed within a reasonable period of time to determine the validity of the complaint. The committee shall be guided in its inquiry by the standards set forth in the Board's Code of Ethics as defined in policy (BP 2715). The trustee subject to the charge of misconduct shall not be precluded from presenting information to the committee. The committee shall, within a reasonable period of time, make a report of its findings to the Board for action.

INSTITUTIONAL VALUES

- I. Institutional Effectiveness
- II. Learning Centered Institution for Student Access, Retention, and Success
- III. Resource Management for Efficiency, Effectiveness, and Excellence
- IV. Enhanced and Informed Governance and Leadership

FINANCIAL IMPLICATIONS

No impact to the budget.

Board of Trustees Candidates

District guidelines, policies, and responsibilities concerning
political activities

October 22, 2020

PRESENTED BY:
William A. Diedrich, Partner



Agenda

- The role of the Board of Trustees
- Rules governing Campaigning
- District Policies and Procedures

The Role of the Board

- In a community college district, the Board and Chancellor work together as a governance team. Members need to:
 - Act as a unit
 - Represent the common good
 - Set policy direction
 - Create a positive climate
 - Support and advocate the interests of the institution
 - Lead as a thoughtful, educated team.

Board Policy 2200

Promises: As you campaign, remember the limits to the authority of a Trustee

- May only act as part of the collective legislative body.
- There is no individual authority, and in all other respects, individual Trustees are members of the public.
- Individual Trustees may not speak on behalf of the District. They must ensure any public statements are clearly identified as the viewpoint of *only* the individual Trustee.
 - Exceptions can apply if a Board Majority is present.
 - Exceptions apply in the area of Bond Oversight.
 - Exceptions apply for District functions.

The “Rule” – Education Code § 7054



- The District is prohibited from expending any resources, directly or indirectly, to urge the support or defeat of any ballot measure or candidate for elected office, including candidates for the Board of Trustees.
- The District must remain neutral, applying and enforcing its rules equally upon any and all candidates.

Campaign Rules



- The District may establish reasonable rules and regulations regarding political activities on District property.

Ed. Code, § 7055(b)

- These rules may regulate the time, place, and manner of use of school property by the officers, employees, and the public, including political activities such as leafleting. The District's facilities may be used for a political activity, such as a debate, "if the forum is made available to *all sides on an equitable basis.*"

Ed. Code, § 7058

Board Policy 2716



Members of the Board of Trustees shall not use District funds, services, supplies, or equipment to urge the passage or defeat of any ballot measure or candidate, including, but not limited to, any candidate for election to the Board.

Initiative or referendum measures may be drafted on an area of legitimate interest to the District. The Board may by resolution express the Board's position on ballot measures. Public resources may be used only for informational efforts regarding the possible effects of District bond issues or other ballot measures.

Board Policy 7370



Employees shall not use District funds, services, supplies, or equipment to urge the passage or defeat of any ballot measure or candidate, including, but not limited to, any candidate for election to the Board of Trustees.

This policy prohibits political activity during an employee's working hours, but shall not be construed to prohibit an employee from urging the support or defeat of a ballot measure or candidate during nonworking time.

Administrative Procedure 7370 Political Activity

No restriction shall be placed on the political activities of any employee of the District except as provided in Board policy and these procedures.

No District funds, services, supplies, or equipment may be used to urge the support or defeat of any ballot measure or candidate, including but not limited to any candidate for election to the Board of Trustees.

District resources may be used to provide information to the public about the possible effects of a bond issue or other ballot measure if both the following conditions are met:

- The informational activities are otherwise authorized by the Constitution or laws of the State of California; and
- The information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

The Brown Act



- All **meetings** of the **legislative body** of a local agency shall be **open and public**, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

Gov. Code, § 54953

**The Brown Act applies to a Trustee upon election.
Forewarned is forearmed.**

The Brown Act: Legislative Bodies



- The governing body of a local agency or any other local body created by...state or federal statute.

Gov. Code, § 54952(a)

- Commissions, committees, boards, or other **subsidiary bodies** of a local agency, whether permanent or temporary, decision-making or advisory, ***created by resolution of some other formal action*** of a legislative body.

Gov. Code, § 54952(b)

The Brown Act: What is a Meeting?



- “Meeting” means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

Gov. Code, § 54952.2(a)

The Brown Act: What is a “Serial Meeting”?



- A ***series of communication***, each of which involves ***less than a quorum*** of the legislative body, but which taken as a whole ***involves a majority*** of the body’s members.

Gov. Code, § 54952.2(b)

AB 992 Communications on Social Media

Amends Government Code section 54952.2 to clarify some communications on an internet-based social media do not constitute meetings under the Brown Act.

- Trustees may “answer questions,” “provide information to the public,” and/or solicit public input on matters within the body’s jurisdiction.
- A majority of the legislative body may not “discuss among themselves” “business of a specific nature” within the body’s jurisdiction. A majority of Trustees may not respond to the same, including the use of emojis, the “like” button on Facebook or Instagram, and/or retweeting on Twitter.

Gov. Code, § 54952.2(a)

District Policies and Procedures

- The Chancellor is your first point of contact if you have a question regarding your campaign and District procedures.
- Board Policies and Administrative Regulations are available to the public online. Candidates should review, at minimum, the following policies:
 - Board Policy 2200 (Board Duties & Responsibilities)
 - Board Policy 2710 (Conflict of Interest)
 - Board Policy 2715 (Code of Ethics/Standards of Practice)
 - Board Policy 2716 (Political Activity)
 - Board Policy/Administrative Procedure 7370 (Political Activity)
 - Administrative Procedure 7371 (Personal Use of Public Resources)

Activities: Campus Visits

- The District will not arrange or permit *any* campus visits by political candidates during the active campaign season.
- Incumbent Board members may continue to visit campuses consistent with their role as a Trustee. They may not campaign on these visits.
- Board candidates *may* attend open campus events. They may not campaign on these visits.



Activities: Meetings on District Property

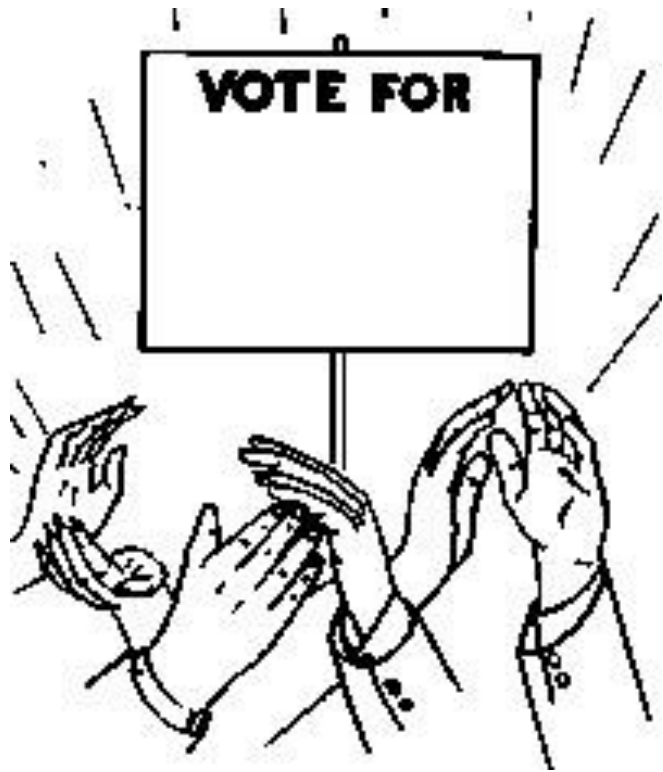
- Meetings on school property for political purposes *are authorized* under the Civic Center Act.

Ed Code, § 38131 et seq.



- Any political candidate or political organization that applies to use District property is charged the regular and customary fee for during so.
- Board Policy 6700, Civic Center and Other Facilities Use, describes such uses of District Property. Administrative Procedure 6700 describes the process for applying to use facilities under the Civic Center Act.

Activities: Campaign Signs on District Property



- The District will not permit campaign signs on District property.
- The District will permit campaign signs in vehicles on campus *unless* the sign is obscene or is situated in a manner which allows students to view the political positions or candidates supported.

Wilmar Teachers Assn. v. Wilmar Union Elementary Sch. Dist. (2000) PERB Decision No. 1371.

Activities: Endorsements



- Staff may not make endorsements of candidates in their official capacity.
- If utilizing an endorsement from an individual who is an employee, no reference may be made to his/her employment or position.

Activities: Board Member v. Candidate



- Board members may engage in actions that are consistent with their role and position, which may include being present in the community or at campus functions that are not otherwise open to the public. Incumbent candidates may continue to attend these events.
- A candidate *may not* attend a campus function that is not otherwise open to the public.

Violations

- Violations of campaign rules and District policies will be reported to the Police.
- Violations can result in fines and jail time.
- Campaign activities that result in a disruption to the educational process are prohibited.



Possible Gray Area

- Cal-Cards (Credit Cards)
 - Consistency among all Trustees
 - Clear guidelines
 - Card Holder Agreement tailored towards Employee

Question & Answer Session

Thank You

For questions or comments, please contact:

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