

BOARD BYLAW

Placentia-Yorba Linda Unified School District

Bylaws of the Board

9325.3 - BB

ACTIONS BY THE BOARD

Every official action taken by the Board of Education of the Placentia-Yorba Linda Unified School District at a duly constituted meeting shall be affirmed by a formal vote of the members of the Board. The official position of the Board on any given question shall be established by a motion duly made and seconded by members of the Board and approved by a majority vote of all the membership. When the law prescribes the need for a specific majority vote (2/3, 4/5, or unanimous) for the passage of a motion, the Board shall consider the motion accordingly.

All voting shall be by voice with a roll call being required when requested by any member of the Board. Individual votes will be recorded in the minutes unless action is unanimous. Any member has the right to change his or her vote up to the time the vote is announced by the presiding officer.

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members.
2. A collective commitment or promise by a majority of the Board members to make a positive or negative decision.
3. A vote by a majority of the Board members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance.

The Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes.

Action on Non-Agenda Items

After publicly identifying the item, the Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: (Government Code 54954.2)

1. The Board, by majority vote of its members, determines that an emergency situation exists as defined for emergency meetings pursuant to Government Code 54956.5.

2. The Board determines, either by a 2/3 majority of its members or, if unavailable, by the unanimous vote of all members present, that the need to take immediate action came to the district's attention after the posting of the agenda.
3. The matter was properly posted for a previous meeting occurring not more than five days earlier and was continued to the meeting at which action is being taken.

Actions Requiring a 2/3 Vote of the Board Include:

1. Resolution declaring intention to sell or lease real property. (Education Code 17466)
2. Resolution declaring intent of Board to convey or dedicate property to the state or any political subdivision for the purpose specified in Education Code 17556. (Education Code 17557)
3. Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision. (Education Code 17559)
4. Lease for up to three (3) months of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable. (Education Code Section 17481)
5. Temporary borrowing before receipt of fiscal income, if implemented pursuant to Government Code 53820-53833. Approval of county auditor and treasurer is required for this action. (Government Code 53821)
6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, ordering city or county zoning ordinances inapplicable to a proposed use of the property by the district. (Education Code 53094)
7. Resolution to transfer excess local funds from a deferred maintenance fund when state funds are insufficient to match local funds being held in the deferred maintenance fund. (Education Code 17582, 17583)
8. Resolution of intent to issue general obligation bonds with the approval of 55 percent of the voters of the district. (Education Code 15266)
9. Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district. (Education Code 15266)
10. Resolution to place a parcel tax on the ballot. (Government Code 53724)

Actions Requiring a 2/3 Vote of the Board Members Present at the Meeting:

1. Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)

2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

Actions Requiring a 4/5 Vote of the Board Include:

1. The expenditure and transfer of necessary funds and use of district property and personnel to meet a national or local emergency created by war, military, naval or air attack, or sabotage, or to provide for adequate national or local defense. (Government Code 53790-53792)
2. Adoption of a resolution, between July 15 and August 30, to borrow funds of up to 25% of the estimated income and revenue to be received by the district during the fiscal year from apportionments based on ADA for the preceding year. (Government Code 53822 - 53824)
3. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification. (Public Contract Code 3400)

Actions Requiring a Unanimous Vote of the Board Include:

1. Resolution authorizing and prescribing the terms of a community lease for extraction of gas. (Education Code 17510-17511)
2. Waiver of the competitive bid process pursuant to Public Contract Code 20111 when the Board determines that an emergency exists and upon approval of the County Superintendent of Schools. (Public Contract Code 20113)

Action Requiring a Unanimous Vote of the Board Members Present at the Meeting:

Private sale of surplus property without advertisement requires the unanimous vote of the Board members present establishing that such property is not worth more than \$2,500. Disposal of surplus property in the local dump or donation to a charitable organization requires the unanimous vote of the Board members present establishing that the value of such property would not defray the cost of its sale. (Education Code 17546)

Challenging Board Actions

The district attorney's office or any interested person may file an action in court to stop or prevent the Board's violation or threats of violations of the Brown Act, to determine the applicability of the Brown Act to ongoing or future threatened Board actions, to determine the validity, under California or federal law, of any Board rule or action to penalize any of its members or otherwise discourage the member's expression, or to compel the Board to audio record its closed sessions because of its violation of any applicable Government Code provision. (Government Code 54960)

The district attorney or any interested person may present a demand that the Board cure and correct a Board action which he/she alleges is in violation of law regarding any of the following. (Government Code 54960.1)

1. Open meeting and teleconferencing (Government Code 54953)
2. Agenda posting (Government Code 54954.2)
3. Closed session item descriptions (Government Code 54954.5)
4. New or increased tax assessments (Government Code 54954.6)
5. Special meetings (Government Code 54956)
6. Emergency meetings (Government Code 54956.5)

Any demands to “cure and correct” an alleged violation shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.2)

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code 54960.1)

1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.
2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.
3. Take no action. If the Board takes no action within the 30-day review period, its inaction shall be considered a decision not to cure or correct the action.

In addition, the district attorney’s office or any interested party may file an action in court to determine the applicability of the Brown Act to any past Board action not specified in Government Code 54960.1, if the following conditions are met: (Government Code 54960.2)

1. Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.
2. The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

LEGAL REFERENCE:

<u>Education Code:</u>	15266	School construction bonds
	17466	Declaration of intent to sell or lease real property
	17481	Lease of property with residence for nondistrict purposes
	17510-17511	Resolution requiring unanimous vote of all members constituting board

17546 Private sale of personal property
17556-17561 Dedication of real property
17582-17583 District deferred maintenance fund
35140-35149 Meetings
35160-35178.4 Powers and duties

Government Code: 53090-53097.5 Regulations of local agencies by counties and cities
53724 Parcel tax resolution requirements
53790-53792 Exceeding the budget
53820-53833 Temporary borrowing
54950-54963 The Ralph M. Brown Act, especially:
54952.6 Action taken, definition
54953 Meetings to be open and public; attendance; secret ballots
54960-54960.5 Actions to prevent violations
65352.2 Coordination with planning agency

Public Contract Code: 3400 Bid specifications
20111 Contracts over \$50,000; contracts for construction;
award to lowest responsible bidder
20113 Emergencies, award of contracts without bids

Bylaw adopted: 8/4/75
Bylaw revised: 7/24/89
Bylaw revised: 11/12/13 (Previously entitled *Voting*)