

DISCLOSURE OF CONFIDENTIAL/PRIVILEGED INFORMATION

This policy is not intended to cause the withholding of information about the purpose and subject(s) of the closed session as required for public information under Government Code 54957.7.

The Governing Board 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.

Disclosure of Closed Session Information

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).

Confidential/privileged information which is produced for or which comes out during closed sessions of the Board shall not be divulged or released unless a majority of the Board members agree to release the information, subject to applicable laws regarding closed sessions.

Information from closed sessions shall be released by the president or chairman of the meeting in which the closed session is held. The Board will consult with its legal counsel before disclosing any confidential or privileged information discussed in a closed session.

Violation of Confidentiality of Closed Session Information

Any Board member who willfully and/or for monetary gain uses or discloses confidential/privileged information as defined in Government Code 1098 is guilty of a misdemeanor. Any Board member who releases confidential/privileged information contrary to the provisions of this bylaw may be publicly censured by a majority vote of the members of the Board.

Remedies that may be pursued for a violation of confidentiality of closed session information include injunctive relief in a court of law, referral of a Board member to the grand jury, or disciplinary action against an employee. In addition, the Board may not take action against a person for releasing the information if the disclosure was part of an investigation by a grand jury or the district attorney's office, part of a whistleblower action, or merely an opinion as to the legality of an action by the Board, as specified below.

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

Pursuant to Government Code 1098, it is a misdemeanor for any public officer or employee to willfully and knowingly use or disclose for pecuniary (e.g., monetary or financial) gain any confidential information acquired in the course of his/her official duties.

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)

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 roll call vote; employee matters in closed session
 - 54957.5 Public records
 - 54957.6 Closed session; representatives with employee organization
 - 54957.7 Reasons for closed session
 - 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 Standards, November 2000
- Maximizing School Board Leadership, 1996

WEB SITES

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

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