



SOUTHWESTERN COMMUNITY COLLEGE DISTRICT  
GOVERNING BOARD

TIM NADER, GOVERNING BOARD PRESIDENT  
NORMA L. HERNANDEZ, GOVERNING BOARD VICE PRESIDENT  
NICK AGUILAR, GOVERNING BOARD MEMBER  
JEAN ROESCH, ED.D., GOVERNING BOARD MEMBER  
TERRI VALLADOLID, GOVERNING BOARD MEMBER  
MANUEL R. LOPEZ, JR., STUDENT GOVERNING BOARD MEMBER  
DENISE WHITTAKER, INTERIM SUPERINTENDENT/PRESIDENT

**SUGGESTED ORDER OF BUSINESS**  
**SPECIAL MEETING OF THE GOVERNING BOARD**  
**POLICY COMMITTEE**

NICK AGUILAR, GOVERNING BOARD MEMBER & COMMITTEE CHAIR  
JEAN ROESCH, ED.D., GOVERNING BOARD MEMBER

Written notice is hereby given in accordance with Government Code Section 54956 that a special meeting of the Governing Board of the Southwestern Community College District will be held as noted below:

DATE: Thursday, February 17, 2011  
TIME: 9:00 a.m.  
LOCATION: Southwestern College  
Building 100, Conference Room A  
900 Otay Lakes Road  
Chula Vista, CA 91910

Compliance with Americans With Disabilities Act

Southwestern Community College District, in compliance with the American Disabilities Act (ADA), requests individuals who may need special accommodation to access, attend, and/or participate in Board meetings to contact Mary Ganio at (619) 482-6301 in advance of the meeting for information on such accommodation.

	ITEM
<b>Call to Order</b>	<b>1. CALL TO ORDER</b> (Aguilar) Building 100, Conference Room A  Attendance at this special meeting (Board members arriving after meeting commences will be noted as "present" at point in this suggested order of business at which they arrive).  Present:
<b>Oral Communication</b>	<b>2. ORAL COMMUNICATION</b>  Persons wishing to address the Governing Board under this item should fill out a yellow request card (available at the reception table) and indicate on the card if they wish to be called under Oral Communication, or when a specific agenda item is considered.  An oral presentation to the Board does <i>not</i> constitute an open discussion on the presentation topic, unless that topic is on the posted agenda. Pursuant to the Brown Act (Government Code Section 54954.2(a)): "No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may <i>briefly</i> respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3."
<b>Action</b>	<b>3. APPROVAL OF MINUTES (ENCLOSURE)</b> (Aguilar) Policy Committee Meeting, January 21, 2011

	ITEM
	<p><b>4. AMENDMENT OF EXISTING POLICIES</b> (Aguilar)</p> <p>The Policy Committee will review and discuss proposed amendments to the following policies:</p> <p>4A. Policy No. 2340 – Agendas (ENCLOSURE)</p> <ul style="list-style-type: none"> <li>• Education Code and Accreditation Standard</li> <li>• Sample “Agenda” policies from other California community colleges</li> <li>• Revision amending responsibility for developing Board agendas to Board President in consultation with Superintendent/President</li> </ul> <p>4B. Policy No. 2210 – Officers (ENCLOSURE)</p> <ul style="list-style-type: none"> <li>• Revision to reflect amended responsibilities for developing Board agenda</li> </ul> <p>4C. Policy No. 2430 - Delegation of Authority to the Superintendent/President (ENCLOSURE)</p> <ul style="list-style-type: none"> <li>• Current Policy</li> <li>• Public Contract Code</li> <li>• Legal opinion from Best Best &amp; Krieger</li> <li>• Draft Policy &amp; Procedure 6330 Purchasing</li> <li>• Draft Policy &amp; Procedure 6340 Contracts</li> </ul> <p>4D. Policy No. 2330 - Quorum and Voting (ENCLOSURE)</p> <ul style="list-style-type: none"> <li>• Revision giving all board members opportunity to speak to an item before vote is taken</li> <li>• Revision giving Board Members the right to separate compound items for separate vote</li> </ul> <p>4E. Policy No. 1100 - The Southwestern Community College District (ENCLOSURE)</p> <ul style="list-style-type: none"> <li>• Reference materials</li> </ul> <p>4F. Policy No. 2320 - Special &amp; Emergency Meetings of the Governing Board (ENCLOSURE)</p> <ul style="list-style-type: none"> <li>• Reference materials</li> </ul> <p><b>5. ESTABLISHMENT OF POLICIES</b> (Aguilar)</p> <p>The Policy Committee will review and discuss establishment of the following policies:</p> <p>5A. Policy Regarding the Establishment of General Legal Counsel Hired by and Reporting Directly to the Governing Board (ENCLOSURE)</p> <ul style="list-style-type: none"> <li>• Results of research regarding California community colleges which employ an attorney as general counsel</li> <li>• Draft policy proposed by Trustee Aguilar</li> </ul> <p>5B. Policy Regarding the Development of an Official College Seal</p>
<b>Adjournment</b>	<p><b>6. ADJOURNMENT</b> (Aguilar)</p>
	<hr/> <p>Nick Aguilar Policy Committee Chair</p>



SOUTHWESTERN COMMUNITY COLLEGE DISTRICT  
GOVERNING BOARD

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MANUEL R. LOPEZ, JR., STUDENT GOVERNING BOARD MEMBER  
ANGELICA L. SUAREZ, Ph.D., ACTING SUPERINTENDENT/PRESIDENT

**SPECIAL MEETING OF THE GOVERNING BOARD  
POLICY COMMITTEE**

NICK AGUILAR, GOVERNING BOARD MEMBER & COMMITTEE CHAIR  
JEAN ROESCH, Ed.D., GOVERNING BOARD MEMBER

**MINUTES**

Written notice is hereby given in accordance with Government Code Section 54956 that a special meeting of the Governing Board of the Southwestern Community College District will be held as noted below:

DATE: Friday, January 21, 2011  
TIME: 10:00 a.m.  
LOCATION: Southwestern College  
Building 100, Conference Room A  
900 Otay Lakes Road  
Chula Vista, CA 91910

**Compliance with Americans With Disabilities Act**

Southwestern Community College District, in compliance with the American Disabilities Act (ADA), requests individuals who may need special accommodation to access, attend, and/or participate in Board meetings to contact Mary Ganio at (619) 482-6301 in advance of the meeting for information on such accommodation.

	ITEM
Call to Order	<p><b>1. CALL TO ORDER</b> (Aguilar) 10:05 a.m., Building 100, Conference Room A</p> <p>Attendance at this special meeting (Board members arriving after meeting commences will be noted as "present" at point in this suggested order of business at which they arrive).</p> <p>Members Present: Aguilar, Roesch</p> <p><i>Also in attendance were staff members Michael Kerns and Patti Blevins.</i></p>
Oral Communication	<p><b>2. ORAL COMMUNICATION</b></p> <p>Persons wishing to address the Governing Board under this item should fill out a yellow request card (available at the reception table) and indicate on the card if they wish to be called under Oral Communication, or when a specific agenda item is considered.</p> <p>An oral presentation to the Board does <i>not</i> constitute an open discussion on the presentation topic, unless that topic is on the posted agenda. Pursuant to the Brown Act (Government Code Section 54954.2(a)): "No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may <i>briefly</i> respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3."</p> <p><i>No speakers appeared.</i></p>
Action	<p><b>3. APPROVAL OF MINUTES (ENCLOSURE)</b> (Aguilar) Policy Committee Meeting, January 6, 2011</p> <p><i>The minutes were accepted and approved as amended.</i></p>

ITEM

4. POLICY REVIEW

(Aguilar)

The Policy Committee will meet to review and discuss proposed amendments to the following policies:

A. Policy No. 2320 Special and Emergency Meetings of the Governing Board (ENCLOSURE)

*Aguilar discussed amending policy to allow for two members of the Board to call a special meeting of the Governing Board. Currently, the existing policy states that special meetings may be called by the President of the Governing Board or by a majority of the members (3) of the Governing Board. Blevins and Kerns will research whether there is a legal prohibition or law which requires a majority to call a special board meeting and make the change appropriately.*

B. Policy No. 2210 Officers (ENCLOSURE)

*Aguilar proposed amending existing policy to make clear that the President of the Board develops the agenda. Currently, existing policy states 1) that the duties of the President of the Governing Board include consulting with the Superintendent/President on Governing Board meeting agendas and 2) duties of the Secretary of the Governing Board include preparing and posting the Governing Board meeting agendas. Aguilar proposed amending the policy to reflect that the duties of the Board include that the Board President develops the Board agenda in consultation with the Superintendent/President. He further proposed reconciling all related policies for consistency.*

C. Establishment of Policy Regarding the Establishment of General Legal Counsel Hired by and Reporting Directly to the Governing Board (ENCLOSURE)

*Aguilar proposed establishing a policy similar to the Regents of the University of California's policy for legal services. The Policy Committee reviewed and discussed a draft policy for the College to provide for legal counsel to report directly to the Governing Board as opposed to the Superintendent/President. Aguilar discussed the possibility of establishing a campus legal counsel who would have independence and report directly to the Board and provide unedited legal opinions. The proposed campus counsel would determine when expertise is needed and which law firm would have that expertise. Aguilar presented revisions to the UC policy to be used for a draft College policy.*

*There was discussion regarding a campus legal counsel as an employee of the College reporting to the Board. Blevins will conduct research on policies and procedures of other colleges with campus counsels such as UC Riverside. Roesch stated that cost would be a concern and suggested a cost comparison. Kerns will conduct an analysis on costs. Aguilar requested following up on information on legal costs by department.*

*It was determined that policy meetings would be scheduled for the third Wednesday of the month at 10 a.m. The next meeting is scheduled for Wednesday, February 16.*

5. ADJOURNMENT 11:05 a.m.

(Aguilar)

Adjournment

Governing Board Secretary

Nick Aguilar  
Policy Committee Chair

#### **4A. Reference Materials**

CA Codes (edc:72121-72129)

72121. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 72122 of, and subdivision (c) of Section 48914 of, this code, all meetings of the governing board of any community college district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

(a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.

(b) An agenda shall be posted by the governing board, or its designee, in accordance with the requirements of Section 54954.2 of the Government Code. Any interested person may commence an action by mandamus or injunction pursuant to Section 54960.1 of the Government Code for the purpose of obtaining a judicial determination that any action taken by the governing board in violation of this subdivision or subdivision (b) of Section 72129 is null and void.

## **Standard IV: Leadership and Governance**

**T**he institution recognizes and utilizes the contributions of leadership throughout the organization for continuous improvement of the institution. Governance roles are designed to facilitate decisions that support student learning programs and services and improve institutional effectiveness, while acknowledging the designated responsibilities of the governing board and the chief administrator.

### **A. Decision-Making Roles and Processes**

The institution recognizes that ethical and effective leadership throughout the organization enables the institution to identify institutional values, set and achieve goals, learn, and improve.

1. Institutional leaders create an environment for empowerment, innovation, and institutional excellence. They encourage staff, faculty, administrators, and students, no matter what their official titles, to take initiative in improving the practices, programs, and services in which they are involved. When ideas for improvement have policy or significant institution-wide implications, systematic participative processes are used to assure effective discussion, planning, and implementation.
2. The institution establishes and implements a written policy providing for faculty, staff, administrator, and student participation in decision-making processes. The policy specifies the manner in which individuals bring forward ideas from their constituencies and work together on appropriate policy, planning, and special-purpose bodies.
  - a. Faculty and administrators have a substantive and clearly defined role in institutional governance and exercise a substantial voice in institutional policies, planning, and budget that relate to their areas of responsibility and expertise. Students and staff also have established mechanisms or organizations for providing input into institutional decisions.
  - b. The institution relies on faculty, its academic senate or other appropriate faculty structures, the curriculum committee, and academic administrators for recommendations about student learning programs and services.

### **Standard IVA—Decision-Making Roles and Processes**

## Standard IV: Leadership and Governance

3. Through established governance structures, processes, and practices, the governing board, administrators, faculty, staff, and students work together for the good of the institution. These processes facilitate discussion of ideas and effective communication among the institution's constituencies.
4. The institution advocates and demonstrates honesty and integrity in its relationships with external agencies. It agrees to comply with Accrediting Commission standards, policies, and guidelines, and Commission requirements for public disclosure, self study and other reports, team visits, and prior approval of substantive changes. The institution moves expeditiously to respond to recommendations made by the Commission.
5. The role of leadership and the institution's governance and decision-making structures and processes are regularly evaluated to assure their integrity and effectiveness. The institution widely communicates the results of these evaluations and uses them as the basis for improvement.

## Standard IV: Leadership and Governance

### **B. Board and Administrative Organization**

- In addition to the leadership of individuals and constituencies, institutions recognize the designated responsibilities of the governing board for setting policies and of the chief administrator for the effective operation of the institution. Multi-college districts/systems clearly define the organizational roles of the district/system and the colleges.<sup>5</sup>
1. The institution has a governing board that is responsible for establishing policies to assure the quality, integrity, and effectiveness of the student learning programs and services and the financial stability of the institution. The governing board adheres to a clearly defined policy for selecting and evaluating the chief administrator for the college or the district/system.
    - a. The governing board is an independent policy-making body that reflects the public interest in board activities and decisions. Once the board reaches a decision, it acts as a whole. It advocates for and defends the institution and protects it from undue influence or pressure.
    - b. The governing board establishes policies consistent with the mission statement to ensure the quality, integrity, and improvement of student learning programs and services and the resources necessary to support them.
    - c. The governing board has ultimate responsibility for educational quality, legal matters, and financial integrity.
    - d. The institution or the governing board publishes the board bylaws and policies specifying the board's size, duties, responsibilities, structure, and operating procedures.



## Standard IV: Leadership and Governance

- e. The governing board acts in a manner consistent with its policies and bylaws. The board regularly evaluates its policies and practices and revises them as necessary.
  - f. The governing board has a program for board development and new member orientation. It has a mechanism for providing for continuity of board membership and staggered terms of office.
  - g. The governing board's self-evaluation processes for assessing board performance are clearly defined, implemented, and published in its policies or bylaws.
  - h. The governing board has a code of ethics that includes a clearly defined policy for dealing with behavior that violates its code.
  - i. The governing board is informed about and involved in the accreditation process.
  - j. The governing board has the responsibility for selecting and evaluating the district/system chief administrator (most often known as the chancellor) in a multi-college district/system or the college chief administrator (most often known as the president) in the case of a single college. The governing board delegates full responsibility and authority to him/her to implement and administer board policies without board interference and holds him/her accountable for the operation of the district/system or college, respectively.
- In multi-college districts/systems, the governing board establishes a clearly defined policy for selecting and evaluating the presidents of the colleges.

Standard IVB—Board and Administrative Organization

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## Standard IV: Leadership and Governance

2. The president has primary responsibility for the quality of the institution he/she leads. He/she provides effective leadership in planning, organizing, budgeting, selecting and developing personnel, and assessing institutional effectiveness.
  - a. The president plans, oversees, and evaluates an administrative structure organized and staffed to reflect the institution's purposes, size, and complexity. He/she delegates authority to administrators and others consistent with their responsibilities, as appropriate.
  - b. The president guides institutional improvement of the teaching and learning environment by the following:
    - establishing a collegial process that sets values, goals, and priorities;
    - ensuring that evaluation and planning rely on high quality research and analysis on external and internal conditions;
    - ensuring that educational planning is integrated with resource planning and distribution to achieve student learning outcomes; and
    - establishing procedures to evaluate overall institutional planning and implementation efforts.
  - c. The president assures the implementation of statutes, regulations, and governing board policies and assures that institutional practices are consistent with institutional mission and policies.
  - d. The president effectively controls budget and expenditures.
  - e. The president works and communicates effectively with the communities served by the institution.

Standard IVB—Board and Administrative Organization

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#### **4A. Sample Agenda Policies from California Community Colleges**

## **BP 2340**

## **Agendas**

Reference: ***Government Code Sections 54954, et seq., 6250 et seq.;***  
***Education Code Sections 72121, 72121.5***

Adoption Date: August 21, 2001      Last Updated: October 21, 2008

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Agendas shall be developed by the Chancellor in consultation with the Governing Board President.

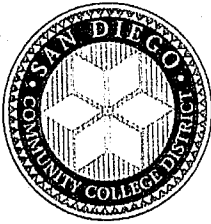
An agenda shall be posted adjacent to the place of meeting at least 72 hours prior to the meeting time for regular meetings. The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting. If requested, the agenda shall be provided in appropriate alternative formats so as to be accessible to persons with a disability.

No business may be acted on or discussed that is not on the agenda, except when one or more of the following apply:

- A majority of the Governing Board decides there is an "emergency situation" as defined for emergency meetings;
- Two-thirds of the members (or all members if less than two-thirds are present) determine there is a need for immediate action and that the need to take action came to the attention of the Board subsequent to the agenda being posted;
- An item appeared on the agenda and was continued from a meeting held not more than five days earlier;
- The order of business may be changed by consent of the Board.

The Chancellor shall establish administrative procedures that provide for public access to agenda information and reasonable annual fees for the service.

Members of the public may place matters directly related to the business of the District on an agenda for a Board meeting by submitting a written summary of the item to the Chancellor at least two weeks prior to the Board meeting. The written summary must be signed by the initiator, contain his or her residence or business address, and organizational affiliation, if any. The Board reserves the right to consider and take action in closed session on items submitted by members of the public as permitted or required by law.



# SAN DIEGO COMMUNITY COLLEGE DISTRICT

## Board of Trustees Policy

### Chapter 2 - Board of Trustees

#### BP 2340 AGENDAS

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An agenda shall be posted adjacent to the place of meeting at least 72 hours prior to the meeting time for regular meetings. The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting. If requested, the agenda shall be provided in appropriate alternative formats so as to be accessible to persons with a disability.

No business may be acted on or discussed which is not on the agenda, except when one or more of the following apply:

- a majority decides there is an "emergency situation" as defined for emergency meetings;
- two-thirds of the members (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action came to the attention of the Board subsequent to the agenda being posted;
- an item appeared on the agenda of and was continued from a meeting held not more than five days earlier.
- The order of business may be changed by consent of the Board.

The Chancellor shall establish administrative procedures that provide for public access to agenda information and reasonable annual fees for the service.

Any Board member may put items on the docket pertinent to the educational jurisdiction of this District. Members of the Board of Trustees who desire to introduce an item for immediate action at the public Board meeting at which that item is first considered should file such item for inclusion in the docket with the Office of the Chancellor five working days preceding the next Board Meeting for agenda items that do not require any preparation and seven working days preceding for agenda items that require review and preparation.

Members of the public may place matters directly related to the business of the District on an agenda for a board meeting by submitting a written summary of the item to the

Chancellor. The written summary must be signed by the initiator. The Board reserves the right to consider and take action in closed session on items submitted by members of the public as permitted or required by law.

Agendas shall be developed by the Chancellor in consultation with the Board President.

Agenda items submitted by members of the public must be received by the office of the Chancellor ten working days prior to the regularly scheduled board meeting.

Agenda items initiated by members of the public shall be placed on the Board's agenda following the items of business initiated by the Board and by staff. Any agenda item submitted by a member of the public and heard at a public meeting cannot be resubmitted before the expiration of a 90 day period following the initial submission.

Government Code Sections 54954 et seq., 6250 et seq.;

Education Code Sections 72121, 72121.5

Adopted: 12/14/2006

SDCCD – former policies 1001.11, 1001.17, 1001.30, 1001.31

voting". This will occur whether the vote taken is by voice or roll call.

- Once the board reaches a decision, it acts as a whole.
- If any Board member participates via teleconference, all votes taken must be by roll call.

*\*The Student Trustee vote is advisory only.*

## BP 2340 Agendas

QALONE COLLEGE

- Reference: **Government Code Sections 54954 et seq., 6250 et seq.; Education Code Sections 72121, 72121.5**
- Board Approved: 04/13/05
- Amended: 03/11/09

An agenda shall be posted adjacent to the place of meeting at least 72 hours prior to the meeting time for regular meetings. The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting. If requested, the agenda shall be provided in appropriate alternative formats so as to be accessible to persons with a disability.

No business may be acted on or discussed which is not on the agenda, except when one or more of the following apply:

- a majority decides there is an "emergency situation" as defined for emergency meetings;
- two-thirds of the members (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action came to the attention of the Board subsequent to the agenda being posted;
- an item appeared on the agenda of and was continued from a meeting held not more than five days earlier.

The order of business may be changed by consent of the Board.

The President/Superintendent shall establish administrative procedures that provide for public access to agenda information and reasonable annual fees for the service.

Members of the public may place matters directly related to the business of the District on an agenda for a board meeting by submitting a written summary of the item to the President/Superintendent. The written summary must be signed by the initiator. The Board reserves the right to consider and take action in closed session on items submitted by members of the public as permitted or required by law.

Agendas shall be developed by the President/Superintendent, in consultation with the Board President.

Agenda items submitted by members of the public must be received by the office of the President/Superintendent at least 10 days prior to the regularly scheduled board meeting.

Agenda items initiated by members of the public shall be placed on the Board's agenda following the items of business initiated by the Board and by staff. Any agenda item submitted by a member of the public and heard at a public meeting cannot be resubmitted before the expiration of a 90 day period following the initial submission.

See Administrative Procedure #2340

## **CITRUS COMMUNITY COLLEGE DISTRICT BOARD**

### **AP 2340 AGENDAS**

**References:** Education Code Sections 72121 and 72121.5;  
Government Code Sections 6250 et seq. and 54954 et seq.

#### **Agenda Development**

The Superintendent/President, in consultation with the Board of Trustees President, shall direct the compilation of the agenda for Board meetings. Agendas will include the meeting date, time, location, and a brief description of each item of business to be transacted or discussed.

The agenda for Board of Trustees meetings will be posted adjacent to the place of meeting at least 72 hours prior to the time for regular meetings, and 24 hours prior to the time for special and emergency meetings. The agendas will also be distributed to the Board of Trustees, District and college administrators, and posted on the District website. If requested, the agenda will be provided in appropriate alternative formats to be accessible to persons with disabilities.

Written notice shall be provided to each local newspaper of general circulation, and to each radio or television station that has previously requested in writing to be provided notice of special meetings.

#### **Public Access and Fees**

Agendas are available to the public on the District website at [http://www.citruscollege.edu/board\\_of\\_trustees/agenda](http://www.citruscollege.edu/board_of_trustees/agenda). A hard copy of an agenda may be obtained from the Superintendent/President's Office upon payment of the standard copying charge of 25 cents per page, cash or check made payable to "Citrus College".

Members of the public may request to receive agendas on a monthly basis by submitting a written request to the Superintendent/President Office. Such requests must be renewed annually. Annual fees will be charged for public requests based on the current charge of 25 cents per page and the number of pages for an average agenda, plus the cost to mail.

Board Approved 03/17/09



## **BP 2340**

## **Agendas**

Reference: ***Government Code Sections 54954, et seq., 6250 et seq.;  
Education Code Sections 72121, 72121.5***

Adoption Date: August 21, 2001      Last Updated: October 21, 2008

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Agendas shall be developed by the Chancellor in consultation with the Governing Board President.

An agenda shall be posted adjacent to the place of meeting at least 72 hours prior to the meeting time for regular meetings. The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting. If requested, the agenda shall be provided in appropriate alternative formats so as to be accessible to persons with a disability.

No business may be acted on or discussed that is not on the agenda, except when one or more of the following apply:

- A majority of the Governing Board decides there is an "emergency situation" as defined for emergency meetings;
- Two-thirds of the members (or all members if less than two-thirds are present) determine there is a need for immediate action and that the need to take action came to the attention of the Board subsequent to the agenda being posted;
- An item appeared on the agenda and was continued from a meeting held not more than five days earlier;
- The order of business may be changed by consent of the Board.

The Chancellor shall establish administrative procedures that provide for public access to agenda information and reasonable annual fees for the service.

Members of the public may place matters directly related to the business of the District on an agenda for a Board meeting by submitting a written summary of the item to the Chancellor at least two weeks prior to the Board meeting. The written summary must be signed by the initiator, contain his or her residence or business address, and organizational affiliation, if any. The Board reserves the right to consider and take action in closed session on items submitted by members of the public as permitted or required by law.

North Orange County Community College District  
**BOARD POLICY**  
Chapter 2  
Board of Trustees

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## **BP 2340 Agendas**

Reference:

**Government Code Sections 54950, et seq.; 6250 et seq.;**  
**Education Code Sections 72121, 72121.5**

- 1.0 An agenda shall be posted adjacent to the place of meeting at least 72 hours prior to the meeting time for regular meetings. The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting. Agendas shall be developed by the Chancellor. If requested, the agenda shall be provided in appropriate alternative formats so as to be accessible to persons with a disability.
- 2.0 Business that is not on the agenda may not be acted on or discussed, except when one or more of the following apply:
  - 2.1 A majority decides there is an "emergency situation" as defined for emergency meetings;
  - 2.2 Two-thirds of the members (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action came to the attention of the Board subsequent to the agenda being posted;
  - 2.3 An item appeared on the agenda and was continued from a meeting held not more than five days earlier.
- 3.0 The order of business may be changed by consent of the Board.
- 4.0 The Chancellor shall establish administrative procedures that provide for public access to agenda information and reasonable annual fees for the service.
- 5.0 Members of the public may place matters directly related to the business of the District on an agenda for a board meeting by submitting a written summary of the item to the Chancellor. The written summary must be signed by the initiator, contain his or her residence or business address, and organizational affiliation, if any. The Board reserves the right to consider and take action in closed session on items submitted by members of the public as permitted or required by law.
  - 5.1 Agenda items submitted by members of the public must be received by the Office of the Chancellor one week prior to the regularly scheduled board meeting.
  - 5.2 Agenda items initiated by members of the public shall be placed on the Board's agenda following the items of business initiated by the Board and by staff. Any agenda item submitted by a member of the public and heard at a public meeting

North Orange County Community College District  
**BOARD POLICY**  
Chapter 2  
Board of Trustees

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**BP 2340 Agendas**

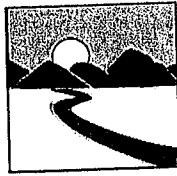
cannot be resubmitted before the expiration of a 90-day period following the initial submission.

- 6.0 Faculty, staff and students may place matters directly related to the business of the District on an agenda for a Board meeting by submitting a written summary of the item through established procedures in the colleges and School of Continuing Education.
- 7.0. In accordance with BP2510 and AP2510, the Academic Senates may independently initiate agenda items by submitting a written summary of the item to the Chancellor. The summary must be signed by the President of the initiating Senate. The Board reserves the right to consider and take action in closed session on items submitted by the Senates as permitted or required by law.
  - 7.1 Agenda items submitted by the Academic Senates must be received by the Office of the Chancellor one week prior to the regularly scheduled board meeting.
  - 7.2 Agenda items submitted by the Academic Senate shall be placed in the appropriate section of the agenda for the topic.
- 8.0 Members of the Board of Trustees may place items on the agenda by contacting the Chancellor's Office.

See Administrative Procedure 2340.

**Date of Adoption:** June 24, 2003

**Date of Last Revision:** November 23, 2004



WEST  
HILLS  
COMMUNITY  
COLLEGE  
DISTRICT

## Board Policy 2340 Agendas

Reference: *Government Code Sections 549504, et seq., 6250 et seq.;*  
*Education Code Sections 72121, 72121.5*

An agenda shall be posted adjacent to the place of meeting at least 72 hours prior to the meeting time for regular meetings. The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting. If requested, the agenda shall be provided in appropriate alternative formats so as to be accessible to persons with a disability.

No business may be acted on or discussed which is not on the agenda, except when one or more of the following apply:

- a majority decides there is an "emergency situation" as defined for emergency meetings;
- two-thirds of the members (or all members if less than two thirds are present) determine there is a need for immediate action and the need to take action came to the attention of the Board subsequent to the agenda being posted;
- an item appeared on the agenda of and was continued from a meeting held not more than five days earlier.

The order of business may be changed by consent of the Board.

The Chancellor shall establish administrative procedures that provide for public access to agenda information and reasonable annual fees for the service.

Agendas shall be developed by the Chancellor in consultation with the Board President.

Members of the public may place matters directly related to the business of the District on an agenda for a board meeting by submitting a written summary of the item to the Chancellor. The written summary must be signed by the initiator. The Board reserves the right to consider and take action in closed session on items submitted by members of the public as permitted or required by law.

Agenda items submitted by members of the public must be received by the office of the Chancellor at least two weeks prior to the regularly scheduled board meeting. Any agenda item submitted by a member of the public and heard at a public meeting cannot be resubmitted before the expiration of a 90-day period following the initial submission.

See Administrative Procedure 2340

Board approval date: 12/11/01  
Revised: 7/22/03

**4A. Policy No. 2340 – AGENDAS  
Proposed Policy (Revised)**

## AGENDAS

**References:** Education Code Sections 72121 and 72121.5;  
Government Code Sections 6250 et seq. and 54954 et seq.

It shall be the responsibility of the Governing Board President, in consultation with the Superintendent/President, to develop the agenda for each regular and special meeting. It shall be the responsibility of the Superintendent/ President, ~~in consultation with the Governing Board President~~, to prepare an agenda containing the items of business to come before the Governing Board at each regular and special meeting.

The agenda shall be posted adjacent to the place of meeting at least 72 hours prior to the meeting time for regular meetings. The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting, and specify the date, time and location of the meeting. If requested, the agenda shall be provided in appropriate alternative formats so as to be accessible to persons with a disability. The Superintendent/ President shall establish administrative procedures that provide for public access to agenda information and reasonable annual fees for the service.

No business may be acted on or discussed which is not on the agenda, except when one or more of the following apply:

- a majority decides there is an "emergency situation" as defined for emergency meetings;
- two-thirds of the members (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action came to the attention of the Board subsequent to the agenda being posted;
- an item appeared on the agenda of and was continued from a meeting held not more than five days earlier.

Agenda items initiated by members of the public, pursuant to District Procedure No. 2340, shall be placed on the Governing Board's agenda following the items of business initiated by the Governing Board and by staff. An agenda item submitted by a member of the public and heard at a public meeting may not be resubmitted within 90 days of the initial submission.

The order of business may be changed by consent of the Governing Board.

**4B. Policy No. 2210 – OFFICERS  
Proposed Policy (Revised)**

## OFFICERS

**Reference:** Education Code Section 72000(c)(1)

At the annual organizational meeting, the Governing Board shall elect from among its members a President and Vice President.

Election to office shall be by a majority vote of the entire Governing Board. Officers shall serve for one year. An officer may be removed from office by a majority vote of the entire Governing Board for refusing to perform the duties of the office imposed by law or by this policy.

The Superintendent/President shall serve as Secretary to the Governing Board.

The duties of the President of the Governing Board are:

- Preside over all meetings of the Governing Board;
- Call emergency and special meetings of the Governing Board as required by law;
- Develop Governing Board meeting agendas in consultation with the Superintendent/President; Consult with the Superintendent/President on Governing Board meeting agendas;
- Communicate with individual Governing Board members about their responsibilities;
- Participate in the orientation process for new Governing Board members;
- Assure Board compliance with policies on Governing Board education, self-evaluation, and Superintendent/President evaluation;
- Represent the Governing Board at official events or ensure Governing Board representation.

The duties of the Vice President of the Governing Board are:

- In the absence, disability or disqualification of the President, the Vice President shall preside over meetings and perform the duties of the President.

The duties of the Secretary of the Governing Board are:

- Notify members of the Governing Board of regular, special, emergency and adjourned meetings;
- Consult with Board President to develop Governing Board meeting agendas;



- Prepare and post Governing Board meeting agendas;
- Have prepared for adoption minutes of Governing Board meetings;
- Attend all Governing Board meetings and closed sessions, unless excused, and in such cases to assign a designee;
- Conduct the official correspondence of the Governing Board;
- Certify as legally required all Governing Board actions;
- Sign, when authorized by law or by Governing Board action, any documents that would otherwise require the signature of the Secretary or the Clerk of the Governing Board.

**4C. Policy No. 2430 – Delegation of Authority to the Superintendent/President  
Current Policy**

## **DELEGATION OF AUTHORITY TO THE SUPERINTENDENT/PRESIDENT**

References: Education Code Sections 70902(d) and 72400;  
Accreditation Standards IV.B.1.j and IV.B.2

The Governing Board hereby delegates to the Superintendent/President the responsibility for executing all decisions of the Governing Board requiring administrative action. The Superintendent/President shall have full authority and responsibility for the proper conduct of the business and education programs of the District. This delegation of authority to the Superintendent/President shall remain in effect until revoked by the Governing Board.

The Superintendent/President may delegate any powers and duties authorized by the Governing Board, including the administration of education centers, but shall be responsible to the Board for the execution of such delegated powers and duties.

The Superintendent/President is empowered to reasonably interpret and administer Governing Board policy. When there is no applicable written policy, the Superintendent/President shall have the power to act, but such decisions shall be subject to review by the Governing Board. It is the duty of the Superintendent/President to inform the Governing Board of such action and to recommend a written Board policy if necessary.

The Superintendent/President is expected to perform the duties contained in the Superintendent/President's job description and contract and to fulfill other responsibilities as may be determined in annual goal-setting or evaluation sessions. The job description and goals and objectives for performance shall be developed by the Governing Board in consultation with the Superintendent/President.

The Superintendent/President will communicate regularly with each member of the Governing Board to review District business. The Superintendent/President shall inform the Governing Board of new developments and significant events in the field of higher education. Individual members of the Governing Board have the right to review or inspect any District documents or records which would otherwise be disclosable pursuant to the California Public Records Act, at any reasonable time upon request for the purpose of fulfilling their duties and responsibilities as Governing Board members.

The Superintendent/President shall generate any reports requested by the Governing Board as a whole or by any Board Committee. The Superintendent/President will also generate reports requested by individual members of the Governing Board where such requests are made at a Board meeting or made in writing and submitted to the Superintendent/President, with a copy to the full Governing Board, unless the

## **DELEGATION OF AUTHORITY TO THE SUPERINTENDENT/PRESIDENT**

Governing Board, in its sole discretion, determines that the request is unduly burdensome or disruptive to District operations. Information provided to any Governing Board member shall be provided to all members; except that the Student Trustee may not receive confidential materials.

The Superintendent/President shall ensure compliance with all relevant laws and regulations, and that required reports are submitted in timely fashion.

**4C. Public Contract Code 20650-20662**

## PUBLIC CONTRACT CODE

### SECTION 20650-20662

20650. The provisions of this article shall apply to contracts by community college districts as provided for in Part 49 (commencing with Section 81000) of the Education Code.

20651. (a) The governing board of any community college district shall let any contracts involving an expenditure of more than fifty thousand dollars (\$50,000) for any of the following:

- (1) The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district.
- (2) Services, except construction services.
- (3) Repairs, including maintenance as defined in Section 20656, that are not a public project as defined in subdivision (c) of Section 22002.

The contract shall be let to the lowest responsible bidder who shall give security as the board requires, or else reject all bids.

(b) The governing board shall let any contract for a public project, as defined in subdivision (c) of Section 22002, involving an expenditure of fifteen thousand dollars (\$15,000) or more to the lowest responsible bidder who shall give security as the board requires, or else reject all bids. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:

- (1) Cash.
- (2) A cashier's check made payable to the community college district.
- (3) A certified check made payable to the community college district.
- (4) A bidder's bond executed by an admitted surety insurer, made payable to the community college district.

Upon an award to the lowest bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall that security be held by the district beyond 60 days from the time the award is made.

(c) This section applies to all equipment, materials, or supplies, whether patented or otherwise. This section shall not apply to professional services or advice, insurance services, or any other purchase or service otherwise exempt from this section, or to any works done by day labor or by force account pursuant to Section 20655.

(d) Commencing January 1, 1997, the Board of Governors of the California Community Colleges shall annually adjust the dollar amounts specified in subdivision (a) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustments shall be rounded to the nearest one hundred dollars (\$100).

20651.5. (a) The governing board of any community college district

may require each prospective bidder for a contract, as described under Section 20651, to complete and submit to the district a standardized questionnaire and financial statement in a form specified by the district, including a complete statement of the prospective bidder's financial ability and experience in performing public works. The questionnaire and financial statement shall be verified under oath by the bidder in the manner in which civil pleadings in civil actions are verified. The questionnaire responses of prospective bidders and their financial statements shall not be deemed public records and shall not be open to public inspection.

(b) Any community college district requiring prospective bidders to complete and submit questionnaires and financial statements, as described in subdivision (a), shall adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, in order to determine the size of the contracts upon which each bidder shall be deemed financially qualified to bid. The prequalification of a prospective bidder shall neither limit nor preclude a district's subsequent consideration of a prequalified bidder's responsibility on factors other than the prospective bidder's financial qualifications.

(c) Each prospective bidder on any contract described under Section 20651 that is subject to this section shall be furnished, by the community college district letting the contract, with a standardized proposal form that, when completed and executed, shall be submitted as his or her bid. Bids not presented on the forms so furnished shall be deemed nonresponsive and shall be rejected. A proposal form shall not be accepted from any person who, or other entity which, is required to submit a completed questionnaire and financial statement for prequalification pursuant to subdivision (a), but who or which has not done so at least five days prior to the date fixed for the public opening of sealed bids and has not been prequalified, pursuant to subdivision (b), at least one day prior to that date.

20652. Notwithstanding any other provisions of Sections 81640 to 81654, inclusive, of the Education Code, or of Sections 20651 to 20659, inclusive, of this code, the governing board of any community college district without advertising for bids, and when that board has determined it to be in the best interests of the district, may authorize by contract, lease, requisition, or purchase order, any public corporation or agency, including any county, city, town, or district, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the leases or purchases. Upon receipt of any such personal property, provided the property complies with the specifications set forth in the contract, lease, requisition, or purchase order, the community college district may draw a warrant in favor of the public corporation or agency for the amount of the approved invoice, including the reasonable costs to the public corporation or agency for furnishing the services incidental to the lease or purchase of the personal property.

20653. Nothing in this code shall preclude the governing board of any community college district from purchasing materials, equipment or supplies through the Department of General Services pursuant to

Section 14814 of the Government Code.

20654. (a) In an emergency when any repairs, alterations, work, or improvement is necessary to any facility of the college, or to permit the continuance of existing college classes, or to avoid danger to life or property, the board may by unanimous vote, with the approval of the county superintendent of schools, do either of the following:

(1) Make a contract in writing or otherwise on behalf of the district for the performance of labor and furnishing of materials or supplies for the purpose without advertising for or inviting bids.

(2) Notwithstanding Section 20655, authorize the use of day labor or force account for the purpose.

(b) Nothing in this section shall eliminate the need for any bonds or security otherwise required by law.

20655. (a) In each community college district, the governing board may make repairs, alterations, additions, or painting, repainting, or decorating upon school buildings, repair or build apparatus or equipment, make improvements on the school grounds, erect new buildings, and perform maintenance as defined in Section 20656 by day labor, or by force account, whenever the total number of hours on the job does not exceed 350 hours. Moreover, in any district whose number of full-time equivalent students is 15,000 or greater, the governing board may, in addition, make repairs to school buildings, grounds, apparatus, or equipment, including painting or repainting, and perform maintenance, as defined in Section 20656, by day labor or by force account whenever the total number of hours on the job does not exceed 750 hours, or when the cost of materials does not exceed twenty-one thousand dollars (\$21,000).

(b) For purposes of this section, day labor shall include the use of maintenance personnel employed on a permanent or temporary basis.

20656. For purposes of Section 20655, "maintenance" means routine, recurring, and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually usable condition for which it was designed, improved, constructed, altered or repaired. "Facility" means any plant, building, structure, ground facility, utility system, or real property.

This definition of "maintenance" expressly includes, but is not limited to: carpentry, electrical, plumbing, glazing, and other craft work designed consistent with the definition set forth above to preserve the facility in a safe, efficient, and continually usable condition for which it was intended, including repairs, cleaning, and other operations on machinery and other equipment permanently attached to the building or realty as fixtures.

This definition does not include, among other types of work, janitorial or custodial services and protection of the sort provided by guards or other security forces.

It is the intent of the Legislature that this definition does not include painting, repainting, or decorating other than touchup, but instead it is the intent of the Legislature that such activities be controlled directly by the provisions of Section 20655.



20657. It shall be unlawful to split or separate into smaller work orders or projects any work, project, service, or purchase for the purpose of evading the provisions of this article requiring contracting after competitive bidding.

The district shall maintain job orders or similar records indicating the total cost expended on each project in accordance with the procedures established in the most recent edition of the California Community College Budget and Accounting Manual for a period of not less than three years after completion of the project.

Informal bidding may be used on work, projects, services, or purchases that cost up to the limits set forth in this article. For the purpose of securing informal bids, the board shall publish annually in a newspaper of general circulation published in the district, or if there is no such newspaper, then in some newspaper in general circulation in the county, a notice inviting contractors to register to be notified of future informal bidding projects. All contractors included on the informal bidding list shall be given notice of all informal bid projects, in any manner as the district deems appropriate.

20658. The governing board of any community college district may by majority vote authorize its district superintendent, or such person as he or she may designate, to expend up to two hundred fifty dollars (\$250) per transaction for work done, compensation for employees or consultants, and purchases of equipment, supplies, or materials. Ratification by the governing board shall not be required with respect to transactions entered into pursuant to this section. In the event of malfeasance in office, the district official invested by the governing board with authority to act under this section shall be personally liable for any and all moneys of the district paid out as a result of such malfeasance.

20659. If any change or alteration of a contract governed by the provisions of this article is ordered by the governing board of the community college district, such change or alteration shall be specified in writing and the cost agreed upon between the governing board and the contractor. The board may authorize the contractor to proceed with performance of the change or alteration without the formality of securing bids, if the cost so agreed upon does not exceed the greater of:

- (a) The amount specified in Section 20651 or 20655, whichever is applicable to the original contract; or
- (b) Ten percent of the original contract price.

20660. Perishable food stuffs and seasonal commodities needed in the operation of cafeterias and food services may be purchased by a community college district in accordance with rules and regulations for the purchase adopted by the governing board of that district, notwithstanding any provisions of this code in conflict with the rules and regulations.

20661. (a) The Chancellor of the California Community Colleges is authorized to enter into a contract on behalf of one or more community college districts, subject to the following restrictions:

(1) No district may be required to participate in any contract entered into pursuant to this section.

(2) The cost to each district that is a party to or a beneficiary of a contract entered into pursuant to this section must be lower than the cost the district could obtain through its standard contracting procedures. No contract for the procurement of goods or services may be made when a bid has been received by a participating district for the procurement of the same goods or services unless the contract would result in a lower price for the goods or services upon the same terms, conditions, and specifications.

(3) The state shall not incur any financial responsibility in connection with a contract entered into pursuant to this section.

(b) The Chancellor of the California Community Colleges is authorized to charge a fee, commission, or other charge to either or both of the following:

(1) Each provider of goods or services under a contract entered into pursuant to this section.

(2) Each community college district that the chancellor enters into a contract on behalf of pursuant to this section.

(c) On or before January 1, 2001, the Chancellor of the California Community Colleges shall report to the Legislature and the Governor on contracts entered into pursuant to this section and any resultant cost savings.

(d) The Board of Governors of the California Community Colleges shall adopt regulations to implement this section.

20662. The Chancellor of the California Community Colleges is authorized to enter into a contract or other agreement with the governing board of any community college district whereby the district performs services or acts as a fiscal agent on behalf of the California Community colleges. This section shall apply only when the funds for the contract or agreement are in satisfaction of the state obligation to provide funding pursuant to Section 8 of Article XVI of the California Constitution.

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**4C. Legal Opinion from Best, Best & Krieger**

## **BEST BEST & KRIEGER**

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January 4, 2011

Nicholas Alioto, Vice President  
for Business & Financial Affairs  
Southwestern Community College District  
900 Otay Lakes Road  
Chula Vista, CA 91910-4299

Re: **Authority to Enter Into Contracts Pursuant to the Education Code**

Dear Mr. Alioto:

### **BACKGROUND AND ISSUE**

Pursuant to the Southwestern Community College District's (the "District") request, we provide this opinion regarding the requirements of the Education Code as they relate to the District's procedures for entering into and executing contracts. Specifically, we understand that the District would like to ensure that its procedures for providing authority to District staff to execute contracts, and obtain governing board ("Board") approval of such contracts, are consistent with the requirements of the Education Code.

### **SHORT ANSWER**

Pursuant to California Education Code, all contracts entered into by and between the District and any third party must be approved by the District's Board. However, Education Code sections 81655 and 81656 allow the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed.

### **ANALYSIS**

As described in Education Code section 81655, the Board has the statutory authority to enter into contracts on the District's behalf. However, this section also recognizes that in order to carryout the District's day to day business, it may be necessary for authority to be given to staff to execute certain contracts on behalf of the District, in light of the fact the

**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

Nicholas Alioto, Vice President  
for Business & Financial Affairs  
Southwestern Community College District  
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Board generally meets only once or twice a month. Section 81655 provides the statutory authority for such delegations of authority as follows:

Whenever in this code the power to contract is invested in the governing board of the community college district or any member thereof, such power may by majority vote of the board be delegated to its district superintendent, or to such persons as he may designate, or if there be no district superintendent then to such other officer or employee of the district as the board may designate. Such delegation of power may be limited as to time, money or subject matter or may be a blanket authorization in advance of its exercise, all as the governing board may direct; provided, however, that no contract made pursuant to such delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, said approval or ratification to be evidenced by a motion of said board duly passed and adopted. In the event of malfeasance in office, the district official invested by the governing board with such power of contract shall be personally liable to the district employing him for any and all moneys of the district paid out as a result of such malfeasance.

As it states, this section clearly provides the Board with the authority to delegate the authority to enter into contracts on behalf of the District to the chancellor, or any member of the District staff, so long as such a delegation is clear (as to the statutorily referenced items, time, money, subject matter, etc.) and so long as these contracts ultimately come back to the Board for ratification. The way this process is typically used by a community college district (and other public entities) is that the delegation, and its scope is specifically approved as an action item at one Board meeting. Then, at a future meeting after the delegation of authority is exercised and the contract(s) is executed, the contract(s) is reviewed/ratified pursuant to a second Board action (typically placed on the consent agenda).

Education Code section 81656 goes beyond the above described section and explicitly allows for a rule providing authority to staff to enter into certain contracts. This section states the following:

The governing board by majority vote may adopt a rule, delegating to any officer or employee of the district as the board may designate, the authority to purchase supplies, materials, apparatus, equipment, and services. No such rule shall authorize any officer or employee to make any purchase involving an expenditure by the district in excess of the amount specified by Section 20651 of the Public Contract Code. The rule shall prescribe the limits of the

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ATTORNEYS AT LAW

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for Business & Financial Affairs  
Southwestern Community College District  
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delegation as to time, money, and subject matter. All transactions entered into by the officer or employee shall be reviewed by the governing board every 60 days. In the event of malfeasance in office, the community college district officer or employee invested by the governing board with the power to contact shall be personally liable for any and all moneys of the district paid out as a result of the malfeasance.

Under this provision, the District's Board could also establish a general policy that permits certain staff members to execute these types of purchase and/or service contracts, so long as they are below the statutory threshold. However, the statute still ultimately requires that these transactions be brought back for Board review/ratification, within 60 days of the contracts being executed. Accordingly, if the Board sets up such a general delegation of authority, it should also set up a policy that requires all such contracts to be appropriately brought back to the Board for review.

**CONCLUSION**

Based on the above described Education Code provisions, we recommend the District generally require that all contracts be explicitly approved by the Board prior to District staff executing such contracts. The Board, in its discretion, can then create exceptions to this rule when the Board finds that it is necessary for a District staff member to enter into certain contracts pursuant to a delegation of authority as described in Education Code sections 81655 and 81656 above. However, even in the instances where a proper delegation of authority has been made, the Education Code clearly requires that the contract, even after execution by the District staff member pursuant to the delegation of authority, still come back to the Board for review/ratification. We believe this type of procedure will ensure full compliance with the Education Code.

If the District has any questions regarding the above, or requires any assistance in drafting language associated with such delegations of authority and/or final reviews/ratifications, please do not hesitate to let us know.

Sincerely,



Tyree K. Dorward  
for BEST BEST & KRIEGER LLP

TKD:djg

**4C. Draft Policy & Procedure No. 6330 Purchasing**

## PURCHASING

### DRAFT

*Reference: Education Code Section 81656;  
Public Contracts Code Section 20650*

The Superintendent/President is delegated the authority to purchase supplies, materials, apparatus, equipment, and services as necessary to the efficient operation of the District. No such purchase shall exceed the amounts specified by Section 20651 (\$\_\_\_\_\_) of the California Public Contract Code as amended from time to time.

All such transactions shall be reviewed by the Governing Board at least every 30 days.



**PURCHASING  
DRAFT**

Reference: Education Code Section 81641, et seq; Education Code Section 81550, et seq; Public Contract Code Section 20650, et seq; Government Code Section 12940; Public Contract Code Section 3400; Labor Code Section 1775, et seq; SWCCD Policy BP6330

*The Governing Board has delegated the legal authority to commit the District to any expenditure or receipt of funds. The Board has delegated that authority to specific individuals are authorized to sign contracts, purchase orders, or other documents that commit the District to expend or receive funds.*

*The District has established a centralized Purchasing Department, whereby all requests for purchase orders, contracts and procurement cards shall be routed.*

*The Purchasing Department shall comply with all applicable laws and regulations in conducting Purchase and Contracting activities on behalf of the District.*

*The Vice President of Business and Financial Affairs or designee is hereby designated as the District officer(s) to sign purchase orders on behalf of the District.*

*It shall be the policy of the Board, if all other considerations are equal, to purchase or award contracts within the District from established local merchants, contractors, salespersons or distributors, or those residing in the District.*

*As allowed under Public Contracts Code Section 3400, when issuing bids for equipment and systems that will be installed in District buildings, if the District makes a finding that a particular materials, product, thing, or service is designated by specific brand or trade name for the purpose of matching other products or systems in use on a particular public improvement either completed or in the course of completion or if the necessary material, product, thing, or service is only available from one source, the District is not required to use the words "or equal" in the bid specifications when calling out for said brand or trade name.*

*If certain products, brands, and services have been determined by the District to have standards for which no equal would be allowed due to standardization and compatibility with existing District systems, then the District will adopt resolutions specifying such products, brands, and services that can be called out in bid specifications by specific brand or trade name with using the words "or equal". Such resolutions will be effective until a revision is made and then will be evaluated by a District committee and a recommendation will be made to the Governing Board to either re-adopt or discontinue the use of the*

**Adopted:**

## PURCHASING

*designated products/bands.*

*As allowed under Public Contracts Code Section 20118.2, due to the highly specialized and unique nature of technology, telecommunications, related equipment, software and services, and factors such as standardization and compatibility of existing systems, the District may procure computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus through competitive negotiation rather than the formal bid process.*

*Competitive negotiation requires that a request for proposals shall be prepared and submitted to an adequate number of qualified sources. As determined by the District, to permit reasonable competition consistent with the nature and requirement of the procurement. The notice of request for proposals shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.*

*The Board authorized the Vice President of Business and Financial Affairs or designee to award purchases or contracts placed in accordance with this policy and all policies of the Board otherwise applicable, to local business people based upon the following considerations when:*

- 1. Their quotation is competitive.*
- 2. Freight charges are a factor.*
- 3. Maintenance/repair service may be required.*
- 4. Promptness of delivery is a consideration provided that all statutes pertaining to public purchasing are duly observed.*

*The Purchasing Department shall set forth operating procedures for adherence by employees for purchase orders, contracts, and procurement cards.*

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**Adopted:**

**4C. Draft Policy & Procedure No. 6340 Contract**

## **CONTRACTS**

### **DRAFT**

#### **References:**

Education Code Sections 81641 et seq.;  
Public Contracts Code Sections 20650 et seq.

The Governing Board delegates to the Superintendent/President the authority to enter into contracts on behalf of the District and to establish administrative procedures for contract awards and management, subject to the following:

- Contracts are not enforceable obligations until they are ratified by the Governing Board.
- Contracts for work to be done, services to be performed or for goods, equipment or supplies to be furnished or sold to the District that exceed the amounts specified in Public Contracts Code Section 20651 shall require prior approval by the Governing Board.
- When bids are required according to Public Contracts Code Section 20651, the Governing Board shall award each such contract to the lowest responsible bidder who meets the specifications published by the District and who shall give such security as the Governing Board requires or rejects all bids.

If the Superintendent/President concludes that the best interests of the District will be served by pre-qualification of bidders in accordance with Public Contracts Code Section 20651.5, pre-qualification may be conducted in accordance with procedures that provide for a uniform system of rating on the basis of a questionnaire and financial statements.

If the best interests of the District will be served by a contract, lease, requisition, or purchase order through any other public corporation or agency in accordance with Public Contracts Code Section 20652, the Superintendent/President is authorized to proceed with a contract.

Office of Primary Responsibility: \_\_\_\_\_

## **CONTRACTS DRAFT**

*Reference: Education Code Sections 81641, et seq; Education Code Section 81550, et seq; Public Contracts Code Sections 20650, et seq; Government Code Section 12940; Public Contract Code Section 3400; Labor Code Section 1775, et seq; SWCCD Board Policy 6340; Public Contract Code Section 22000, et seq; Labor Code 1770 et seq.*

### **Bid Limits**

Bid or quotations (formal or informal) shall be secured as may be necessary to obtain the lowest possible prices as follows:

- If a contemplated expenditure is between \$5,000 and \$15,000 for supplies, materials, equipment, or services; or between \$3,000 and \$5,000 for work to be done, a reasonable effort must be made to obtain three quotes either by phone or in writing.
- If a contemplated expenditure is between \$15,001 and the formal bid limits set by the Board of Governors for supplies, materials, equipment, or services; or between \$5,001 AND \$15,000 for work to be done, at least three written quotes must be obtained, unless special circumstances exist, determined by the Vice President of Business and Financial Affairs.
- If contemplated expenditure exceeds the formal bid limits set by the Board of Governors for supplies, materials, equipment, or services; or exceeds \$15,000 for work to be done, the sealed, formal bid process must be utilized.

Purchases or contracts involving expenditures that require the competitive bidding process require Governing Board approval prior to award.

Note: The bid thresholds are annually readjusted by the Board of Governors of the Community Colleges as required by Public Contract Code Section 20651(d). The District Purchasing & Contracts office will reflect the updated amount in the annual competitive bid process (for example, as of January 1, 2009, the competitive bid amount is \$76,700). The current bid minimum can be found at <http://www.cde.ca.gov/fg/ac/co/>.

## **CONTRACTS DRAFT**

### **Bid Specifications**

Bid specifications shall include a definite, complete statement of what is required and, insofar as practical, shall include pertinent details of size, composition, construction, and/or texture of what is specified, and minimum standards of efficiency, durability, and/or utility required of what is specified.

No specifications shall be called out by specific brand or trade name unless the specification is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service.

As allowed under Public Contracts Code Section 3400, when issuing bids for equipment and systems that will be installed into District buildings, if the District makes a finding that a particular material, product, thing, or service is designated by specific brand or trade name for the purpose of matching other products or systems in use on a particular public improvement either completed or in the course of completion or if the necessary material, product, thing, or service is only available from one source, the District is not required to use the words "or equal" in the bid specifications when calling out for said brand or trade name.

If certain products, brands, and services have been determined by the District to have standards for which no equal would be allowed due to standardization and compatibility With existing District systems, then the District will adopt resolutions specifying such products, brands, and services that can be called out in bid specifications by specific brand or trade name without using the words "or equal". Such resolutions will be effective until a revision is made and then will be evaluated by a District committee and a recommendation will be made to the Governing Board to either re-adopt or discontinue the use of the designated products/brands.

As allowed under Public Contracts Code Section 20118.2, due to the highly specialized and unique nature of technology, telecommunications, related equipment, software, and services, and factors such as standardization and compatibility of existing systems, the District may procure computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus through competitive negotiation rather than the formal bid process.

Competitive negotiation requires that a request for proposals shall be prepared and submitted to an adequate number of qualified sources, as determined by the District, to permit reasonable competition consistent with the nature and requirement of the procurement. The notice of request for proposals shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.

## **CONTRACTS DRAFT**

### **Notice for Calling for Formal Advertised Bids**

The District shall publish at least once a week for two weeks in a newspaper of general circulation circulated with the District, or if there is no such paper, then in some newspaper of general circulation, circulated in the county, post on the District's website or through an electronic portal, a notice calling for bids or proposals, stating the materials, supplies, equipment or services to be furnished and the time and place when the bids will be opened. Whether or not bids or proposals are opened exactly at the time fixed in the public notice for opening bids or proposals, a bid or proposal shall not be received after that time. The stamped time from the date-time clock located at the bid collection point will be the official time for the bid opening. Bids will be received up to and including 590 seconds after the hour. Bids received late will be time stamped and then returned to the bidder unopened.

Bid and contract forms shall be prepared and maintained by the Vice President of Business and Financial Affairs or designee. All applicable statutory provisions and board policies shall be observed in preparation of the forms.

The Vice President of Business and Financial Affairs or designee shall be responsible for insuring that the bid specifications are sufficiently broad to encourage and promote open, competitive bidding.

All bid notices for work to be done shall contain an affirmative statement requiring compliance with California Labor Code Sections 1775 and 1776 governing payment of prevailing wages and California Labor Code Section 1777.5 governing employment of apprentices. All Bid submissions shall contain all documents necessary to assure compliance with these California Labor Code Sections. Failure to provide such documentation shall cause any such bid to be deemed incomplete and nonresponsive.

When required or determined to be appropriate, bids shall be accompanied by a certified or cashier's check, or bid bond, in the amount specified in the bid form, as a guarantee that the bidder will enter into a contract and furnish the required contract documents. When no longer required for the protection of the District, any bidder's security received shall be returned to the respective bidder, but no later than 60 days after the bid opening.

All contracts for public works must require a bid bond in the amount of 10% of the total bid amount.

The Vice President of Business and Financial Affairs or designee shall make available to the prospective bidders bid forms with sets of specifications and drawings and shall provide a convenient place where bidders, subcontractors, and materiel personnel may examine the specifications and drawings.

## **CONTRACTS DRAFT**

A deposit for sets of plan and specification may be required and may be refunded when such documents are returned.

### **Awarding of Bids and Contracts**

The awarding of bids and contracts shall be subject to the following conditions:

- Any and all bids and contract proposals may be rejected by the District for good sufficient reason.
- All formal, sealed bids shall be opened publicly and bidder shall be given the opportunity to review the bids received.
- Bid and contract award recommendations to the Governing Board shall show a tabulation of the bids received in reasonable detail.
- Bid and contract awards shall be made to the lowest responsive, responsible bidder meeting all of the terms, conditions, and specifications. The District reserves the right to make its selection of materials, supplies, equipment, and services purchased based on its best judgment as to which bid complies with the quality required by the specifications.
- The District may contract with a party who has submitted one of the three lowest responsive, responsible proposals or bids, for the acquisitions, procurement, or maintenance of electronic data-processing systems and equipment, electronic telecommunication equipment, supporting software, and related materials, good and services, in accordance with procedures and criteria established by the Governing Board.

### **Purchases and Contracts Without Advertising for Bids**

The Vice President of Business and Financial Affairs or designee is authorized to make purchases or enter into lease agreements for materials, supplies, equipment, vehicles, or other personal property with firms awarded cooperative contracts including any state, county, city, town, district, consortium, or professional organization, without calling for bids where it appears advantageous to do so, and by presenting to the Governing Board a resolution authorizing such purchases.

The Vice President of Business and Financial Affairs or designee may make purchases for materials, supplies, equipment, vehicles, or other personal property through the State of California Cooperative Purchasing Program operated by the Department of General



## **CONTRACTS DRAFT**

Services without calling for bids where it appears advantageous to do so, and by presenting to the Governing Board a resolution authorizing such purchases.

The Vice President of Business and Financial Affairs or designee may purchase supplementary textbooks, library books, and educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the colleges without taking estimates or advertising for bids.

The Vice President of Business and Financial Affairs or designee may purchase from the federal government or any agency thereof any surplus property, as defined in the Surplus Property Act of 1944, in any amount needed for the operations of the colleges without taking estimates or advertising for bids.

### **Duration of Continuing Contracts for Materials, Supplies, Equipment, and Services**

Continuing contracts for work to be done, services to be performed, or for apparatus or equipment to be furnished, sold, built, installed, or repaired for the District are not to exceed five years.

Continuing contracts for materials and supplies are not to exceed three years.

### **Emergency Repair Contracts Without Advertising for Bids**

In an emergency when any repairs, alterations, work, or improvement is necessary to permit the continuance of existing college classes, or to avoid danger to life or property, the Governing Board, by unanimous vote, with the approval of the County Superintendent of Schools, may do either of the following without advertising for or inviting bids, subject to ratification by the Governing Board:

- 1) Make a contract in writing or otherwise on behalf of the District for the performance of labor and furnishing of materials, equipment, or supplies.
- 2) Notwithstanding Section 20655 of the Public Contract Code, authorize the use of day labor or force account for the purpose.
- 3) Nothing in this section shall eliminate the need for any bonds or security otherwise required by law.

### **Unlawful to Split Bids**

It shall be unlawful to split or separate into smaller work orders, purchase orders, contracts, or projects any work, project, service, or purchase of materials, supplies, and equipment for

## **CONTRACTS DRAFT**

the purpose of evading the provisions of the formal bid thresholds as required by the California Codes.

### **Alternate Bidding Procedures**

The District may elect to adopt the Uniform Public Construction Cost Accounting Act for the bidding of public works projects including construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased or operated facility. This alternate procedure is not applicable to maintenance work as defined in Public Contract Code Section 22002(d).

The Governing Board must adopt a resolution and elect to become subject to the Uniform Public Construction Cost Accounting Act by written communication to the State Controller's Office and must follow the procedures as outlined in the procedure manual issued by the Controller's Office.

**4D. Policy No. 2330 – QUORUM & VOTING**  
**Proposed Policy (Revised)**

## QUORUM AND VOTING

**References:** *Education Code Sections 72000(d)(3), 81310 et seq., 81365, 81432 and 81511;*  
*Government Code Section 53094;*  
*Code of Civil Procedure Section 1245.240*

A quorum of the Governing Board shall consist of three members.

No Board action shall be taken by secret ballot.

No vote shall be taken on any matter before the Governing Board until all Board members have had the opportunity to speak on the matter.

The Governing Board shall act by majority vote of all of the membership of the Governing Board, except as noted below.

The following actions require a majority vote of all members of the Governing Board:

- Separation of a compound agenda item into two or more items for separate votes;
- Resolution of intention to sell or lease real property (except where a unanimous vote is required);
- Resolution of intention to dedicate or convey an easement;
- Resolution authorizing and directing the execution and delivery of a deed;
- Action to declare the District exempt from the approval requirements of a planning commission or other local land use body;
- Appropriation of funds from an undistributed reserve;
- Resolution to condemn real property.

The following actions require a unanimous vote of all members of the Governing Board:

- Resolution authorizing a sale or lease of District real property to the state, any county, city, or to any other school or community college district;
- Resolutions necessary in all other cases as specifically addressed in the law.

**4E. Policy No. 1100 – THE SOUTHWESTERN COMMUNITY COLLEGE DISTRICT**  
**Current Policy**

## THE SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

### References:

Education Code Sections 2600 and 72000(b);  
Elections Code Section 18304

The District has been named the Southwestern Community College District.

The name is the property of the District. No person shall, without the permission of the Board, use this name or the name(s) of any college(s) or other facilities of the District, or any abbreviation of them, to imply, indicate or otherwise suggest that an organization, product or service is connected or affiliated with, or is endorsed, favored, supported, or opposed by, the District.

The District consists of the following college and/or education centers:

- Southwestern College
- Higher Education Center at National City
- Higher Education Center at Otay Mesa
- Higher Education Center at San Ysidro

**Geographic Area of District.** The District shall consist of all the geographic area within the boundaries of the District as recorded in the Office of the San Diego County Superintendent of Schools (Calif. Ed. Code, Section 2600).

**4E. Education Code Sections 2600 & 72000(b)**

## EDUCATION CODE

### SECTION 2600

2600. Every county superintendent shall inquire and ascertain whether the boundaries of the school districts and community college districts in his county are definitely and plainly described in the records of the board of supervisors and keep in his office a full and correct transcript of the boundaries.

If the boundaries of districts are conflicting or incorrectly described, or if, by reason of the resubdivision of land or other change of property lines, the location of the boundaries becomes indefinite or conflicts with lines of assessment, the board of supervisors may correct and relocate the boundaries to follow definite, established property lines, conforming as nearly as practicable to the general location of the former boundaries.

Where boundary lines are corrected or relocated, the relocation of the new lines shall be made in such a manner that the majority of the area of the parcel or property affected determines the district in which the parcel or property is located. Nothing herein contained authorizes the board of supervisors, in relocating the boundaries, to substantially alter the former boundaries of school districts, or community college districts.

## EDUCATION CODE

### SECTION 72000 (b)

72000.

(b) The district name shall be adopted and changed as follows:

(1) The first governing board of any new community college district shall, at the first meeting of the board or as soon as practicable thereafter, name the district. The district shall be designated as the "\_\_\_\_ Community College District."

(2) The governing board of a community college district may, by resolution, change the name of the district or of any of the community colleges maintained by the district. However, the name shall continue to contain the words "Community College District" or "Community College," as appropriate.

(3) Whenever a petition is presented to the governing board of a community college district, signed by at least 15 qualified electors of any community college district, asking that the name of the district, be changed, the governing board shall, at its next regular meeting, designate a day upon which it will conduct a hearing and act upon the petition, which hearing shall not be less than 10 days nor more than 40 days after that regular meeting. The clerk of the governing board shall give notice to all interested parties by sending a notice of the time for the hearing of the petition. Notices shall be mailed at least 10 days before the day set for the hearing. At the hearing the board shall by resolution either grant or deny the petition, and if the petition is granted, the clerk shall notify the Board of Governors of the California Community Colleges of the change of the name of the district or of any community college maintained by the district.



**4F. Policy No. 2320 – SPECIAL & EMERGENCY MEETINGS OF THE GOVERNING BOARD**  
**Current Policy**

## SPECIAL AND EMERGENCY MEETINGS OF THE GOVERNING BOARD

**References:** Education Code Section 72129;  
Government Code Sections 54956, 54956.5, and 54957

**Special meetings** may from time to time be called by the President of the Governing Board or by a majority of the members of the Governing Board. Notice of such meetings shall be posted at least 24 hours before the time of the meeting, and shall be noticed in accordance with Brown Act. No business other than that included in the notice may be transacted or discussed.

**Emergency meetings** may be called by the President of the Governing Board when prompt action is needed because of actual or threatened disruption of public facilities under such circumstances as are permitted by the Brown Act, including work stoppage, crippling disasters, and other activity that severely impairs public health or safety.

No closed session shall be conducted during an emergency meeting, except as provided for in the Brown Act to discuss a dire emergency.

The Superintendent/President shall be responsible to ensure that notice of such meetings is provided to the local news media as required by law.

**4F. Education Code 72129**  
**Government Code 54956, 54956.5, 54957**

## **EDUCATION CODE**

### **SECTION 72129**

72129. (a) Special meetings may be held at the call of the president of the board or upon a call issued in writing and signed by a majority of the members of the board.

(b) A notice of the meeting shall be posted at least 24 hours prior to the special meeting and shall specify the time and location of the meeting and the business to be transacted and shall be posted in a location that is freely accessible to members of the public and district employees.

## GOVERNMENT CODE

### SECTIONS 54956, 54956.5, 54957

54956. A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

54956.5. (a) For purposes of this section, "emergency situation" means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most

recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

54957. (a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(b) (1) Subject to paragraph (2), nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee"

shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this subdivision shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.





## General Counsel – California Community Colleges

District	In-House General Counsel	Notes
Coast CCD	Yes	Board Policy available
Kern	Yes	Job Description(s) available
LACCD	Yes	N/A
Los Rios	Yes	N/A
MiraCosta	No	Considered establishing a position 4-5 years ago but decided against it (not enough legal work for full-time position, need for clerical support of position, too many areas of law that require different expertise)
Peralta	Yes	Job Description Available
Riverside	Yes	Job Description Available District also uses outside general counsel (law firms) for various issues.
San Diego	No	Has an attorney who serves as Director of Legal Services & EEO but does not serve as general counsel. District works with 2-3 law firms.
State Center	Yes	N/A

Districts with attorneys on staff who do not serve as general counsel (from Mary Dowell):

District	Name – Position
Citrus	Robert Sammis – Director Human Resources
San Diego	Mary Rogers – Director, Legal Services & EEO
Santa Barbara City College	Sue Ehrlich – Vice President, Human Resources & Legal Affairs
Sequoias	John Bratsch – Dean, Human Resources & Legal Affairs
Sierra	Victoria Simmons – Interim Vice President Human Resources

**Coast Community College District**  
**BOARD POLICY**  
Chapter 2  
Board of Trustees

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**BP 2746 General Counsel**

The General Counsel serves as the District's chief legal officer and is responsible for oversight of all legal activities involving the District.

The General Counsel provides legal services to the District, at the request of members of the Board of Trustees and of the administration, including legal advice, research, training, and opinions to the Board of Trustees and the administration. The General Counsel works closely with the Board President, the Chancellor, and other administrators designated by the Chancellor, and reports directly to the Board of Trustees.

The General Counsel generally consults regularly and cooperatively with the Chancellor.

The General Counsel is responsible for the oversight of all litigation involving the District, including hearings and arbitrations, and, working directly with the District's Risk Services Manager, recommends the engagement of, and supervises the work of, outside law firms, taking into consideration both the nature of the services they can provide and the fees that they charge. The General Counsel works to insure that legal services are provided in a manner that serves the District's best interests.

The General Counsel regularly reports to the Board of Trustees regarding legal activities at the District.

The General Counsel:

- Provides legal advice to the Board and the administration regarding the preparation of board agendas and minutes.
- Provides legal advice on compliance with the Brown Act.
- Provides legal advice on responding to requests under the Public Records Act.
- Provides legal review of all legal documents and contracts throughout the District prior to consideration by the Board.
- At the request of the Board President, provides legal advice and direction to the Board of Trustees during open sessions and closed sessions of Board meetings.
- Provides legal support regarding labor and employment matters, including interpretation of applicable laws and regulations, interpretation and negotiation of collective bargaining agreements, discrimination complaints, and grievances.
- Provides legal assistance in the interpretation of and compliance with the *Education Code*, Title 5 of the *California Code of Regulations*, and other laws applicable to the District.

- Provides legal advice regarding the review, development, preparation, and implementation of Board policies, resolutions, procedures, and other District directives or guidelines.
- Provides legal support regarding issues pertaining to participatory decision-making, student affairs, accreditation, bonds, and student discipline.

Adopted March 4, 2009

Replaces CCCD Policy 010-2-19, Fall 2010

**General Counsel**  
**District Office**  
**Kern Community College District**  
**JOB DESCRIPTION**

**Definition**

Under the direction of the Chancellor, the General Counsel provides legal advice to the Board of Trustees, the Chancellor, and other officers and employees of the District. The General Counsel represents the District in litigation, arbitration, and administrative proceedings by preparing pleadings, negotiating between parties, and participating in the trial of cases of major importance to the District's educational programs, and administrative and financial functions. The General Counsel serves as the District's staff attorney.

**Examples of Duties**

1. Provides legal advice and legal opinion required in all areas of law affecting the District.
2. Identifies, advises, directs and evaluates the work of outside contracted counsel, and prepares reports on all District legal services billings.
3. Drafts and reviews agreements, leases, rentals, purchases, contracts, and instruments effecting transfers of property, and all other legal documents or instruments, as needed or requested.
4. Attends and provides legal advice at all meetings of the Board of Trustees and other such meetings as the Board and the Chancellor may direct; and serves as the Board's parliamentarian.
5. Provides liaison with other governmental entities in the area of legal affairs. Serves as a member of the Chancellor's executive staff.
6. Serves as legal consultant in human resources matters and provides assistance to the District's negotiating teams in developing contracts with recognized employee organizations.
7. Advises and assists in the development, review, revision, and distribution of District policies and procedures, legal forms and other documents.
8. Consults with and advises the administrative staff on legal matters including employee and student grievances, complaints, and disciplinary matters.
9. Supervises assigned staff.
10. Performs other duties as assigned by the Chancellor.

## **Qualifications**

- Possession of a Doctor of Jurisprudence (J.D.) Degree from an accredited college or university.
- Active member of the State Bar of California Association.
- Have five years of demonstrated successful experience as an attorney in the practice of law.
- Desirable Qualifications include:
  - Knowledge and experience in collective bargaining, education and/or governmental, labor, general business or contract legal issues at the postsecondary education level.

## **Knowledge and Abilities**

### Knowledge of:

- California Education Code and California Code of Regulations; California Public Contract Code; Federal and State Employment and Labor Law.
- The structure of federal and state legislative and judicial bodies; the methods and processes of legal decisions and lawmaking; legal terminology; legal writing skills in researching, analyzing, and preparing legal documents.
- The principles and practices of educational and human resources administration, with an emphasis in public sector employment and labor law.
- Proficiency in the operation and use of personal computers utilizing various software applications (i.e., word processing, spreadsheet and database management software) including the Internet.
- Understanding of, sensitivity to, and respect for the diverse academic, socioeconomic, cultural, disability and ethnic backgrounds of community college students and staff.

### Ability to:

- Research and analyze data and information and develop, evaluate and present alternative recommendations.
- Prepare and initiate a program of litigation/legal exposure prevention.
- Monitor and coordinate all legal services utilized by the District.
- Communicate effectively both orally and in writing.
- Work efficiently with poise and tact.

## **Working Conditions**

Environment: Office

Physical Demands: Incorporated within one (1) or more of the previously mentioned essential functions of this job description are essential physical requirements. The ratings in the chart below indicate the percentage of time spent on each of the essential physical requirements.

**Executive Assistant, General Counsel's Office**  
**District Office**  
**Kern Community College District**  
**JOB DESCRIPTION**

**Definition**

Under the supervision of the General Counsel and provides a broad range of routine paraprofessional, technical, and administrative support services to the General Counsel's Office. Prepares various routine and specialized administrative documents and correspondence. Performs paralegal work of standard professional difficulty, and assists in routine aspects of potential litigation, legal and/or factual research and analysis, and drafting of documentation.

**Examples of Duties**

1. Reports to and is directly responsible for legal secretarial and administrative support services for the General Counsel.
2. Prepares a wide variety of documents under supervision; operates personal computer to compose, edit, revise, tabulate, and print letters and legal documents.
3. Establishes and maintains a file tracking system, databases, records, and/or other documents.
4. Operates standard office equipment, including job-related computer hardware and software applications, facsimile equipment, and multi-line telephones; may use other department-specific equipment. May plan, direct, and review the work of student employees.
5. Assists directly in a wide-range of administrative and operational functions.
6. Takes dictation and/or transcribes tape recordings; processes a variety of correspondence, memoranda, reports and documents using prior documents for format; utilizes standard word processing, spreadsheet and database applications; prepares agendas and may attend and take minutes of meetings, advisory, and administrative groups.

Example of Duties (continued)

7. Maintains hard copies and web site postings of Board Policies and Administrative Procedures.
8. Calendars and monitors time-sensitive deadlines for claims, litigation, and other legal proceedings.
9. As specifically directed by the General Counsel, conveys routine information to management regarding legal matters.
10. Researches and analyzes federal, state, and local statutes, ordinances, court decisions, legal documents, and articles for use in preparing legal documents, opinions, contracts, ordinances, and resolutions under the direct supervision of the General Counsel.
11. Compiles, reviews, and organizes evidence and other information for administrative agencies such as the State Chancellor, Office of Civil Rights, the Equal Employment Opportunity Commission, Department of Fair Employment and Housing, as appropriate.
12. Performs all investigation, organization, research, and background work needed for grievances, claims, and lawsuits from inception through discovery and trial.
13. May interview employees, students, witnesses or the persons in a fact-finding process.
14. Provides support in litigation such as document production and serves as liaison to outside attorneys.
15. Provides support in responding to Public Records Act requests.
16. Assists General Counsel in directing and reviewing the work of student aides and student interns.
17. Corresponds with insurance company on legal matters.
18. Maintains confidential files; contacts college administrators, members of the Board of Trustees, public agencies, and members of the public to obtain or transmit information for the General Counsel.
19. Perform other duties as assigned. Provides liaison with Office of Human Resources and administrative agencies in the resolution of day-to-day issues as appropriate.

20. Serves as liaison between the General Counsel, Chancellor, management staff, academic and classified staff, students, representatives of community agencies, and the general public by relaying messages, answering questions, clarifying information, responding to requests, resolving problems, explaining District policies and procedures or referring callers to appropriate persons.
21. Performs research and other work related to a variety of employee-employer relation matters, negotiations, and collective bargaining agreements.
22. Conducts legal and factual research and data analysis as directed; compiles data from sources such as electronic and hard copy digests, practice manuals, and/or published laws and regulations.
23. Prepares, proofreads, and reviews materials such as legal documents, contracts, amendments, and resolutions to ensure accuracy of duties, clarity of working and language, conformance to standard legal style, consistency between clauses and/or provisions, verification of accuracy and pertinence of citations and code references through use of computer research, and other legal references; verifies completeness of appropriate supporting documentation; notes necessary changes, additions, deletions, and corrections for review and approval by the General Counsel.
24. Performs other duties as assigned.

### **Minimum Qualifications**

- Certificate of Completion from a paralegal program approved by the American Bar Association and two years of secretarial and/or technical support experience including training as a legal secretary, paralegal or other legal paraprofessional; or any equivalent combination of training and experience that provides knowledge and skills listed below.
- Demonstrated proficiency in business English usage, spelling, grammar and punctuation, basic arithmetic, filing and record-keeping procedures and telephone techniques.
- Demonstrated proficiency in taking dictation.
- Ability to operate a keyboard at a corrected speed of 60 words per minute. Skills assessment test will be required.
- Demonstrated sensitivity to and understanding of the diverse academic, socioeconomic, cultural, ethnic, and disability backgrounds of community college students and employees.



## **Knowledge and Abilities**

### Knowledge of:

- Online legal research tools (e.g., Westlaw, Lexis-Nexis, etc.)
- And demonstrated proficiency in using mainframe information systems (such as human resources, and budget and finance systems).
- Legal terminology, phraseology, principles, procedures and forms as related to administrative assistant work performed.
- And understanding of, sensitivity to, and respect for the diverse academic, socioeconomic, cultural, disability and ethnic backgrounds of community college students.

### Ability to:

- Research and analyze data and information and develop, evaluate and present alternative recommendations.
- Communicate effectively both orally and in writing.
- Operate a personal computer and peripheral equipment (MS Word, MS Excel, MS PowerPoint, MS Outlook, websites, Internet browser, and E-mail), using modern software, including word processing, spreadsheet, database management and data input; prepare letters, reports, charts and graphs from statistical information, and perform filing systems management, etc.
- Shift priorities, superior organizational skills. Must be able to meet deadlines and work under pressure.
- Perform and complete difficult and responsible administrative support work with speed and accuracy; work cooperatively with others and meet the public with courtesy and tact; and work effectively and maintain the work flow while experiencing frequent interruptions.
- Establish and maintain cooperative relationships with those contacted during the course of work.
- Maintain confidentiality of privileged information obtained in the course of work, handle personnel matters effectively, and handle employee and public personnel inquiries with sensitivity, tact and diplomacy.

## **Working Conditions**

Environment: Office

Working Conditions (continued)

Physical Demands: Incorporated within one (1) or more of the previously mentioned essential functions of this job description are essential physical requirements. The ratings in the chart below indicate the percentage of time spent on each of the essential physical requirements.

Seldom—Less than 25 percent = 1

Often—51-75 percent = 3

Occasional—25-50 percent = 2

Very Frequent—76 percent and above = 4

Ratings	Essential Physical Requirements
4	Ability to work at a desk, conference table or in meetings of various configurations.
2	Ability to stand for extended periods of time.
4	Ability to sit for extended periods of time.
4	Ability to see for purposes of reading printed matter.
4	Ability to hear and understand speech at normal levels.
4	Ability to communicate so others will be able to clearly understand a normal conversation.
4	Ability to lift 10 pounds.
4	Ability to carry 10 pounds.
4	Ability to operate office equipment.

**Status/Rationale**

This is a confidential employee position.

**Signatures/Approval**

\_\_\_\_\_  
(Employee's Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Supervisor's Signature)

\_\_\_\_\_  
(Date)

4/26/10

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## Welcome to the PERALTA COLLEGES

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### Welcome

The General Counsel serves as the staff attorney for the Peralta Community College District and reports directly to the Governing Board through the Chancellor. The General Counsel represents the Peralta Colleges in litigation, arbitration, and administrative proceedings.

The General Counsel provides legal advice to the Governing Board, the Chancellor, managers, faculty, and staff. However, at no time will an attorney-client relationship exist with any person or organization other than the Governing Board and those individuals acting vicariously on behalf of the Governing Board. The General Counsel does not represent any individual Board member, the Chancellor, or any individual manager. Thus, any written legal opinion requested by a Board member will be shared with the full Governing Board; any

### Contact Information



#### Thuy Thi Nguyen

General Counsel

**office:** (510)466-7218**fax:** (510)587-7844**email:** [ttnguyen@peralta.edu](mailto:ttnguyen@peralta.edu)

#### Lisa Harris

Executive Assistant

**office:** (510)466-7240**fax:** (510)587-7844**email:** [lharris@peralta.edu](mailto:lharris@peralta.edu)

### Links

[Law Student Externship Program](#)

request by the Chancellor may be shared with the full Governing Board; and any request by a manager may be shared with the Chancellor.

The following are responsibilities, inter alia, of the General Counsel:



- Provides legal services required in all areas of law affecting the Peralta Colleges.
- Coordinates and reviews specialized legal services provided by outside counsel.
- Prepares formal and informal opinions, drafts proposed legislation and regulations, and drafts and reviews contracts and instruments effecting transfers of property and all other legal documents.
- Attends and provides legal advice at all meetings of the full Governing Board and other such meetings as the Board may direct through the Chancellor.

- Serves as a liaison with other governmental entities in the area of legal affairs.
- Serves as the legal advisor to the Board Policy Review Committee.
- Serves as the custodian of all FPPC Form 700 disclosure documents required for Board members and applicable employees of the Peralta Colleges.
- Assumes the legal role of Contract Administrator for the Peralta Colleges by developing and implementing a system of accountability on contract administration, and thereby has line authority to ensure full compliance.
- Plans and conducts legal trainings.
- Supervises the staff of the Office of the General Counsel, including the Risk Manager and other professional, legal research

and clerical staff.

- Serves as a member of the Chancellor's executive staff and Strategic Management Team.
- Performs other duties as assigned by the Chancellor and the Governing Board through the Chancellor.

General Counsel is agent for service of process for the Peralta Community College District, its Board of Trustees, its Colleges, the Chancellor, and any administrator who is being sued in his/her official capacity at the Peralta Colleges.

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this page

Peralta Community College District - 333 East 8th Street, Oakland, CA 94606 USA (510) 466-7200

**RIVERSIDE COMMUNITY COLLEGE DISTRICT  
CLASSIFIED MANAGEMENT POSITION DESCRIPTION**

**JOB TITLE:** General Counsel

**BASIC FUNCTION:** Under the supervision of the Chief of Staff, provides legal support to the District, serving as the compliance officer and contracts administrator. Advises and counsels senior and executive administration on Board policies, legal and contract administration.

**SUPERVISORY RESPONSIBILITIES:**

**REPRESENTATIVE DUTIES:**

1. Assists the administration in coordinating the District's legal affairs, including the handling of civil litigation, administrative hearings, contract review and drafting, business negotiations. Provides legal support to all administrative units of the District.
2. Responsible for the development, review, and revision of District policies and regulations.
3. Provides oversight for compliance for the areas of diversity, grants, human resources and the District.
4. Assists as legal consultant in personnel matters.
5. Advises the Vice Chancellor, Diversity and Human Resources, of developing patterns and trends that may affect the District's compliance responsibilities relating to Equal Employment Opportunity, Sexual Harassment and Discrimination.
6. In support of Diversity, Equity and Compliance, review and provide appropriate input for the recruitment selection/screening process of all District hires and promotional activities to maintain compliance with the District's Diversity, Equity and Compliance Programs.
7. Conducts in-service training programs and workshops for personnel regarding legal issues, new legislation, court decisions and trends as needed.
8. Acts as liaison with District counsel in the drafting of legal documents, resolutions and other legal and quasi-legal instruments upon request.
9. Performs other duties as assigned by the Chancellor.
10. Participates in District-provided in-service training programs.
11. Promotes a culture of inclusion and respect for students, faculty, staff and the public.
12. Performs other related duties as assigned by the Chancellor.

**EDUCATION:** Must possess a law degree from a college or university accredited by a regional educational accrediting agency. Must be licensed to practice law in the State of California.

**EXPERIENCE:** Must have practiced law in the State of California for a minimum of two years. Experience and knowledge in a California community college district or other public school system is desirable. Familiarity with the California Education Code, applicable Government Code, as well as labor and personnel law, is desired. Must have sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students and staff.

**LICENSES/CERTIFICATIONS REQUIRED:**

09-01-09

Revised 07/01/10: Title Change Only

**KNOWLEDGE OF:** the principles and practices of educational and personnel administration; the California Education Code and pertinent sections of the Government Code.

**ABILITY TO:** maintain an awareness of proposed or adopted local and state regulations as well as emerging educational problems and concepts and an understanding of the implications arising therefrom; communicate effectively both orally and in writing; work effectively with district and community personnel.

**OTHER:** Must have evidence of sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability and ethnic backgrounds of community college students (E.C. 87360a).

**CONTACTS:**

**WORKING CONDITIONS:**

09-01-09

Revised 07/01/10: Title Change Only



**5A. Draft Policy on Legal Services  
(Proposed by Trustee Aguilar)**

## **DRAFT POLICY ON LEGAL SERVICES**

Pursuant to Southwestern College Policy No. xxxx, the Southwestern College Legal Counsel (SWCLC) is the chief legal officer of the Southwestern Community College District. The Legal Counsel has a dual reporting relationship: the SWLC reports directly to The Governing Board on matters governed by The Governing Board. The SWCLC has responsibility for all legal affairs of the College and all legal proceedings affecting it and, subject to the direction of the Governing Board, oversees the provision of all legal services to the University.

The SWCLC is assisted by and directs the work of attorneys in the immediate office of the SWCLC and outside counsel as may be retained by the SWCLC from time to time.

The immediate office of the SWCLC is directly responsible for all services required by The College, the President, and Vice Presidents; all litigation and other legal proceedings affecting the College, including The Governing Board, the Office of the Superintendent/President, campuses, and laboratories; non-litigation services in specialized areas of practice where such expertise is established within the office; in collaboration with resident counsel, all other non-litigation services required by campuses and laboratories; and supervision of outside counsel.

Each attorney for the College is charged to exercise independent and professional judgment on behalf of the client, the College. The College acts in some circumstances through the Governing Board. In most, the College acts through the Superintendent/President, the officers of the Academic Senate, or their authorized representatives. The SWCLG shall have full access to the Office of the Superintendent/President, Vice Presidents, campus representatives, and the officers and members of the Senate for all purposes associated with the SWCLG carrying out the legal responsibilities of the office.

The Governing Board shall have full access to the SWCLC for legal advice and services as required. The SWCLC may initiate contact with The Governing Board when, in the judgment of the SWCLC, such communication is required in the best interests of the College. The SWCLC shall attend meetings of the Board and its committees when so requested by the Chair of the Governing Board Committee. Reports and recommendations concerning litigation shall continue to be submitted to The Governing Board.

The budget for legal services required by the College shall be established by the Governing Board in consultation with the Superintendent/President and, with the advice of the SWCLC. The SWCLC shall prepare and periodically revise a comprehensive plan, subject to the approval of the Governing Board, for the personnel and budgetary resources necessary for meeting the

legal services requirements of the College in an efficient and cost-effective manner taking into account the roles of the immediate office of the SWCLC, <sup>7</sup> and outside counsel. To the extent related to legal services required by The Regents Board, such plan and resulting budgetary allocations shall be reviewed by The Governing Board in consultation with the Superintendent/President as appropriate.

Appointment and termination of the appointment of the SWCLC shall be by The Governing Board upon recommendation of or following consultation with the Superintendent/President.

Evaluation of the SWCLC and the provision of legal services to the College generally shall be the responsibility of The Governing Board in consultation with the Superintendent/President as they shall determine from time to time.