

## Bylaw 9011: Disclosure Of Confidential/Privileged Information

Status: DRAFT

Original Adopted Date: 02/15/2001 | Last Revised Date: 05/20/2004 | Last Reviewed Date: 05/20/2004

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

### Disclosure of Closed Session Information

A Board member shall not disclose confidential information acquired during a closed session to any person not entitled to receive such information, except as authorized by law, this Bylaw or other Board bylaws or policies, or unless a majority of the Board has authorized its disclosure. (Government Code 54963)

*Confidential information* means any information that is prohibited from disclosure by law, this Bylaw or other Board bylaws or policies, or by the Board at the time disclosed and is not a public record subject to disclosure under the California Public Records Act (CPRA). Confidential information includes, but is not limited to, any of the following: communication made in a closed session that is specifically related to the basis for the Board to meet lawfully in closed session. (Government Code 54963)

1. Information acquired by being present in a closed session that is specifically related to the basis for the Board to meet lawfully in closed session (Government Code 54963)
2. Information acquired in anticipation of a closed session, or as follow-up to a closed session, that is specifically related to the basis for the Board to meet lawfully in closed session
3. Information contained in communications provided to Board members from the district's attorney
4. Information deemed confidential by the Board

Confidential information does not include information that is already publicly disclosed, provided that the initial disclosure did not violate law, this Bylaw, or other Board bylaws or policies.

It is a misdemeanor for any Board member to willfully and knowingly use or disclose for pecuniary gain any information acquired in the course of the Board member's official duties where all of the following conditions are met: (Government Code 1098)

1. The information is not a public record subject to disclosure under the CPRA
2. The information is prohibited from disclosure by law, this Bylaw, or other Board bylaws or policies
3. The information will have, or could reasonably be expected to have, a material financial effect on the Board member if used or disclosed

If a Board member threatens to disclose or does disclose confidential information, the Board may pursue or enact one or more of the following actions as it deems appropriate: (Government Code 54963)

1. Injunctive relief to prevent disclosure
2. Referral to the grand jury
3. Censure or other disciplinary action, provided the Board member has received training or been informed of the requirements of this Bylaw

However, the Board shall not take any action against a Board member for disclosing confidential information, nor shall the disclosure be considered a violation of this Bylaw, when the Board member does any of the following: (Government Code 1098, 24963)

1. Makes a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts necessary to establish the illegality or potential illegality of a Board action that has been the subject of deliberation during a closed session

2. Expresses an opinion concerning the propriety or legality of Board action in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action
3. Discloses information to law enforcement officials or to the joint legislative audit committee when reporting on improper governmental activities in accordance with law

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**Policy Reference Disclaimer:** These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the Governing Board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

#### State

| <b>State</b>                | <b>Description</b>   |
|-----------------------------|--|
| Ed. Code 35010              | <a href="#">Control of district; prescription and enforcement of rules</a>                     |
| Ed. Code 35146              | <a href="#">Closed sessions regarding suspensions</a>  |
| Evid. Code 1040             | <a href="#">Privilege for official information</a>   |
| Gov. Code 1098              | <a href="#">Disclosure of confidential information</a>   |
| Gov. Code 3549.1            | <a href="#">Meeting and negotiating in public educational employment</a>                       |
| Gov. Code 54950-54963       | <a href="#">The Ralph M. Brown Act</a>   |
| Gov. Code 54956.8           | <a href="#">Open meeting laws</a>  |
| Gov. Code 54956.9           | <a href="#">Closed meeting for pending litigation</a>  |
| Gov. Code 54957             | <a href="#">Complaints against employees; right to open session</a>                            |
| Gov. Code 54957.1           | <a href="#">Subsequent public report and rollcall vote; employee matters in closed session</a> |
| Gov. Code 54957.5           | <a href="#">Public records</a>   |
| Gov. Code 54957.6           | <a href="#">Closed session; representatives with employee organization</a>                     |
| Gov. Code 54957.7           | <a href="#">Reasons for closed session</a>   |
| Gov. Code 54963             | <a href="#">Unauthorized disclosure of confidential information</a>                            |
| Gov. Code 7920.000-7930.170 | <a href="#">California Public Records Act</a>  |

#### Management Resources

| <b>Management Resources</b> | <b>Description</b>  |
|-----------------------------|---|
| Attorney General Opinion    | <a href="#">80 Ops.Cal.Atty.Gen. 231 (1997)</a>                             |
| CSBA Publication            | <a href="#">Professional Governance Standards</a>                           |
| Website                     | <a href="#">CSBA District and County Office of Education Legal Services</a> |
| Website                     | <a href="#">CSBA</a>  |

#### Cross References

| <b>Cross References</b> | <b>Description</b>                            |
|-------------------------|---|
| 0450                    | <a href="#">Comprehensive Safety Plan</a>     |
| 0450                    | <a href="#">Comprehensive Safety Plan</a>     |
| 1100                    | <a href="#">Communication With The Public</a> |
| 1100-E PDF(1)           | <a href="#">Communication With The Public</a> |

**Cross References**

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**Description**

[Uniform Complaint Procedures](#)  
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[Access To District Records](#)  
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[Superintendent's Contract](#)  
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[District Records](#)  
[Criminal Record Check](#)  
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[Student Records](#)  
[Student Records](#)  
[Role Of The Board](#)  
[Governance Standards](#)  
[Governance Standards](#)

**Cross References**

9010

9200

9230

9321

**Description**[Public Statements](#)[Limits Of Board Member Authority](#)[Orientation](#)[Closed Session](#)