AGENDA
AMADOR COUNTY UNIFIED SCHOOL DISTRICT
BOARD OF TRUSTEES
Special Board Meeting
Thursday, January 21, 2021
OPEN SESSION 3:00 PM – 6:00 PM

Meeting Location: 100% via Zoom

NOTE: Due to COVID-19 this meeting will be available to the public via Zoom and following the meeting recorded audio will be available on our website. Zoom offers closed captioning during live conferences for disabled persons.
To access the meeting online join the Zoom meeting via
https://us02web.zoom.us/j/82026665726?pwd=ME80cHUzWG9TbDZXVDrT2hkQTdTzQ0
Meeting ID: 820 2666 5726
Passcode: 012121
One tap mobile
+16699009128,,82026665726#,,,*012121#

Directions for accessing the meeting will also be included on our webpage with the meeting link.
https://amadorcoe.org/minutes-agendas/

NOTE: A copy of the Board agenda and backup materials is available for inspection and review on the Amador County Unified School District Website at www.amadorcoe.org. An audio recording of the Board Meeting is made. If you are in need of a hard copy of the agenda, please email the Communication Specialist at demi.wright@acusd.org.

Board of Trustees meetings are meetings of the Board in public, as per the Brown Act open meeting law. All five Board Members may not have discussion outside an open meeting. This meeting is their opportunity to have discussion in order to conduct their business. Board Meetings are not meetings for the public to interact informally with the Board. Members of the public may speak formally to the Board by completing a speaker card and giving it to the Board Clerk or Communication Specialist.

If a person or group of persons disrupt the orderly conduct of a meeting, the legislative body has a right to order those persons removed from the meeting. If order still cannot be restored after removal of the individuals disrupting the meeting, members of the legislative body can order the room cleared and continue with the meeting. (Government Code §54957.9; Penal Code §8403; Elections Code §18340; Acosta v. City of Costa Mesa (9th Cir. 2013) 718 F.3d 800; White v. City of Norwalk (9th Cir. 1990) 900F.2d 1421, 1425.)

OUR UNITY OF PURPOSE: We work as a cohesive Governance Team through discussions, actions and decisions that are thoughtful, respectful, and sensitive. We support one another in and away from the Board Room through active listening, vulnerability and honesty. We make policy decisions that ensure equitable support to increase student achievement and foster social, emotional, and physical well-being for all students.

OUR MISSION: Enriched by the diversity and deep traditions of our unique community, Amador County Public Schools will prepare, support, and inspire each student to achieve career and college success in a rapidly evolving world through highly engaging teaching, rigorous learning and innovative pathways supported by strong partnerships in a safe, caring and collaborative environment.

1.0 CALL TO ORDER

2.0 BOARD MEMBERS

The Board may not take action on any item which is not on this agenda, except when (1) an emergency situation exists, (2) there is need to take immediate action and the need for the action came after posting, or (3) the item was posted for a prior meeting within specified time limits. [Government Code §54954.2]
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[Government Code §54954.2]

[ ] Kandi Thompson, Board President
[ ] Deborah Pulskamp, Board Clerk
[ ] James Marzano
[ ] Julia Burns
[ ] James Whitaker
[ ] Ian McMahan, Amador High School, Student Board Member
[ ] Kate Johnson, Argonaut High School, Student Board Member

3.0 ROLL TAKEN BY THE SECRETARY TO THE GOVERNING BOARD

4.0 PLEDGE OF ALLEGIANCE

5.0 PUBLIC COMMENT

Public comments regarding Discussion/Action Items will be addressed during this time. Due to Zoom limitations, all public comments should be addressed at this time. A person wishing to be heard by the Board shall first be recognized by the president and shall then proceed to comment as briefly as the subject permits. Individual speakers shall be allowed three minutes to address the Board on non-agenda items. The Board shall limit the total time for public input on each item to 20 minutes. With Board consent, the Board president may increase or decrease the time allowed for public presentation, depending on the topic and the number of persons wishing to be heard. The president may take a poll of speakers for or against a particular issue and may ask that additional persons speak only if they have something new to add. NOTE: If you wish to address the Board please complete a speaker card and give it to the Board Clerk or Communications Specialist.

6.0 DISCUSSION/ACTION ITEMS

6.1 Board Workshop: Ethics, Social Media and the Brown Act
The Board of Trustees participates in workshops periodically to study an issue, learn new information about schools and school programs, and to problem solve together. Based on recommendations from the Amador County Grand Jury in 2016-17 and based on best practice for governance teams, periodically the Board of Trustees engages in professional learning related to ethics, conflict of interest and related topics.

7.0 NEXT MEETING
ACUSD Regular Meeting: Wednesday, January 27, 2021, scheduled to be held 100% remote via Zoom. Open Session will tentatively start immediately following the ACOE Meeting.

8.0 ADJOURNMENT

* The Amador County Unified School District complies with the Americans with Disabilities Act. Should you require special accommodations, or more information about accessibility, please contact the Superintendent’s Office by calling (209) 257-5353. All efforts will be made for reasonable accommodations.

* Any writings or documents that are provided to the governing board in open session will be made available for public inspection at the meeting or at the Amador County Public Schools District Office located at 217 Rex Avenue, Jackson, CA during normal business hours. Please note that business hours have changed due to COVID-19. If you are need of a hard copy of the agenda, please email the Communication Specialist at demi.wright@acusd.org
AGENDA ITEM #: 6.1

SUBJECT:  
Board Workshop: Ethics, Social Media and the Brown Act

BACKGROUND INFORMATION:  
The Board of Trustees participates in workshops periodically to study an issue, learn new information about schools and school programs, and to problem solve together. Based on recommendations from the Amador County Grand Jury in 2016-17 and based on best practice for governance teams, periodically the Board of Trustees engages in professional learning related to ethics, conflict of interest and related topics.

FISCAL IMPLICATIONS:  
Lozano Smith Attorneys at Law, legal counsel for ACUSD, will provide the professional learning as part of their existing contract with ACUSD.

RECOMMENDATION:  
The Superintendent recommends that the Board participate in professional learning and have discussion.

PRESENTED BY:  
Amy L. Slavensky, Ph.D., Superintendent of Schools
The Brown Act and Effective Governance

Presented by:
Megan Macy

Amador County Unified School District
January 21, 2021
WHO WE ARE & WHAT WE DO
Lozano Smith is a full-service education and public agency law firm serving hundreds of California's K-12 and community college districts, and numerous cities, counties, and special districts. Established in 1988, the firm prides itself on fostering longstanding relationships with our clients, while advising and counseling on complex and ever-changing laws. Ultimately, this allows clients to stay focused on what matters most – the success of their district, students and communities they serve. Lozano Smith has offices in eight California locations: Sacramento, Walnut Creek, Fresno, Monterey, Bakersfield, San Luis Obispo, Los Angeles, and San Diego.

AREAS OF EXPERTISE
- Administrative Hearings
- Charter School
- Community College
- Facilities & Business
- Governance
- Investigations
- Labor & Employment
- Litigation
- Municipal
- Public Finance
- Public Safety
- Special Education
- Student
- Technology & Innovation
- Title IX

COST CONTROL is important for public agencies and an area we have mastered. We recognize and understand your financial restraints and work tirelessly to provide the best legal representation with those limitations in mind. One of the best ways we keep legal costs to a minimum is through strategic, preventive legal services. These include Client News Briefs to keep you updated on changing laws affecting education. In addition, we offer extensive workshops and legal seminars providing the tools needed to minimize liability, reducing the need for legal assistance down the road.

CLIENT SERVICE is our top priority and we take it very seriously. With premier service as the benchmark, we have established protocols and specific standards of practice. Client calls are systematically returned within 24 hours and often sooner when required.

DIVERSITY IS KEY and we consciously practice it in all that we do. It is one of our core beliefs that there is a measurable level of strength and sensitivity fostered by bringing together individuals from a wide variety of different backgrounds, cultures and life experiences. Both the firm and the clients benefit from this practice, with a higher level of creative thinking, deeper understanding of issues, more compassion, and the powerful solutions that emerge as a result.
POWERPOINT
The Brown Act and Effective Governance

Amador County Unified School District
Presented by: Megan Macy
January 21, 2021

Topics
The Board’s Role
Board Member Ethics
Brown Act Basics
Brown Act in the Virtual World
Social Media
Public Records Act

The Governing Board’s Role
The Governing Board’s Role

1. Setting the direction for the District.
2. Establishing an effective and efficient organizational structure.
   Determine Policy.
3. Providing support to the Superintendent and staff as they carry out the Board’s direction.

Unique Considerations for “Single Single” School District and County Boards

1. Differences Between District Board Role and County Board Role.
2. Wearing two hats, supporting one vision.
3. Navigating conflicts of interest.

The Board’s Role

- Focus on the “What,” not the “How”
- Ensure clarity of roles/responsibilities
- Develop operational protocols
- Agree upon a Code of Ethics
The Board’s Responsibilities at Meetings

- Be on time
- Be prepared
- Actively participate
- Maintain positive attitude
- Look for common ground
- Everyone has the same goal – make the District better for students

The Board President Role

Agenda Development
Meeting Facilitation
Spokesperson
Governance Team Leader

Consider the form of government.

Role and Effective Use of Legal Counsel

Board Counsel
Communication Channels
Support of Administrative Team
Managing Complaints

The Board’s Role: Listen and direct the complaint to the appropriate spokesperson.

The Superintendent Role: Resolve the complaint and keep the Board informed.

The Board’s Role In Negotiations

- Provide direction
- Understand the process
- Establish realistic goals
- Work with staff
- Understand the budget
- Recognize needs of the union
- Stay flexible

Collective Bargaining Axioms

There are no “absolute” rules on negotiations.

District negotiations usually involve an adversarial process conducted within the framework of maintaining a long term relationship. (Student focus vs. Employee focus.)
Collective Bargaining Axioms

All bargaining must go through the negotiating team; Board members should not individually take a public stance on issues.

There can be no leaks from closed sessions.

There should be no private meetings between individual board members and the union.

Stay cool, all labor disputes are eventually settled.

Collective Bargaining Axioms

- Be prepared.
- Articulate a reason for your position.
- Don't seek to “win,” if one side is “the big loser,” both sides eventually lose.
- Negotiate with a long term relationship in mind.
- Stay flexible.

Board Member Top 10

10. Think about your community!
9. We work as a team – we speak with one voice
8. Confidentiality, Confidentiality, Confidentiality
7. Maintain the big picture view
6. Listen, learn, ask questions
5. Understand and stay within your role
4. Understand and respect the past – Work towards the future
3. Abide by the Brown Act
2. Change takes time and planning
1. THINK ABOUT YOUR COMMUNITY!
10 Rules of Public Service

1. Approach your job as a service to the public.
2. Promise only good, fair, and honest service.
3. Pay for your own lunch.
4. Buy your own tickets to events.
5. Accept gifts from friends and family. Return gifts from others.
6. Ask the District to pay for your business travel expenses.
7. Do personal business outside of workplace.
8. Be open and transparent.
9. Be honest and fair in all your dealings.
10. Always do the right thing even when no one is watching.

Why do these rules matter?

- Because Doing the Right Thing is in the Public Interest.
- Spotting Issues Before They Become a Problem.
- Keeping Out of the Headlines.
Conflicts of Interest

- **Common Law**
- **Political Reform Act**

Presence or Appearance of Dual Loyalties

- Personal Financial Interest in a Board Decision

"An In-Depth Look at Public Corruption in California"

- August 2014 Report from United States Common Sense, a non-profit policy group dedicated to open government.
- On average, approximately 1000 public officials nationwide are convicted of corruption every year.
- Out of 70 California corruption cases studied, money was involved in over half, and the quest for power in all of them.

Political Reform Act

- "Open" or "public official" — catch-all term for elected or appointed officers & employees (includes consultants).
- "Designated employee" refers to an officer or employee who is covered by the disclosure & disqualification provisions of an agency’s Conflict of Interest Code.
A public official may not take part in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official’s economic interests, or on those of his or her immediate family.

Immediate family = spouse or domestic partner & dependent children.

Basic Conflicts of Interest Rule

Economic interests include:
• Investments or positions in business entities
• Interests in real property
• Sources of income
• Sources of gifts
• Personal finances

Does a disqualifying conflict of interest exist?
The “Four-step” Process
Cal. Code of Regs., title 2, § 18700(d)
Step One

Is it reasonably foreseeable that the governmental decision will have a financial effect on any of the public official's financial interests?

Step Two

Will the reasonably foreseeable financial effect be material?

Economic interests include:

- Investments or positions in business entities.
- Interests in real property/Leasehold Interests.
- Sources of income.
  - Income Received for Goods and Services Provided in the Ordinary Course of Business, including a Salary.
  - Income from the Sale of Personal or Real Property of the Official or the Official's Spouse if Community Property.
- Sources of gifts.
- Personal finances.
Step Three

Is the material financial effect on the public official’s financial interest indistinguishable from its effect on the public generally?

Step Four

Absent an exception, a public official may not make, participate in making, or in any way attempt to use his or her official position to influence the governmental decision.

Conflicts of Interest Code

- Every state & local public agency is required to adopt a conflict of interests code.
- It must designate positions which involve making or participating in decisions which may have a foreseeable material effect on the employee’s financial interests. (Gov. Code, § 87302(a).)
- Employees with broader decision making authority generally are required to disclose more.
- Consultants (e.g., attorneys) may be required to file Form 700.
Statement of Economic Interests (Form 700)

Information Reported on Form 700

• Investments
• Income
• Loans
• Real property interests
• Business positions
• Gifts ($50 or more per source per calendar year)
• Travel payments

Important Note

Every public official must refrain from making or participating in a government decision that has a reasonably foreseeable material effect on his or her financial interest, REGARDLESS of whether the individual is required to file an SEI/Form 700.
The Gift Limit

The gift limit restricts the total amount of gifts that officials & candidates may receive from a single source during a calendar year. At present, the limit is $500 annually.

Who is Subject to the Gift Limit?

- Elected local officials & candidates for local office.
- Persons specified in Government Code section 87200.
- Persons listed as "designated employees" in an agency's conflict of interest code if the source of the gift must be reported on the official's Statement of Economic Interests.

Rules for Gifts of Travel

As a general rule, transportation, lodging & accommodations are covered by the gift limit. However, there are a number of exceptions. The primary exception concerns when an official makes a speech, conducts a seminar or serves on a panel within California.
General Gift Exceptions

1. Return or Reimbursement of Gift.
2. Donation of Gift to Nonprofit Group.
3. Gifts from Family.
4. Informational Material.
5. Inheritance.
6. Campaign Contributions.
7. Plaques.
8. Ceremonial Role.

Conflicts of Interest in Contracts

Government Code section 1090 is aimed at preventing a public official from having a financial interest in a contract made in his or her official capacity.
Conflicts of Interest in Contracts

For the prohibition of section 1090 to apply, there must be a contract. Grants, expense reimbursements, or donations may qualify as contracts for purposes of section 1090.

Who & What Are Covered

Virtually all state & local officers, employees & multimember bodies such as boards or commissions, whether elected or appointed.

“Making” a contract includes every stage in the process – planning, negotiations, preparation – not just actually signing or approving an agreement.

Basic Analysis

1. Who is the individual with the potential conflict of interest?
2. Does the decision at issue involve a contract and is that contract ultimately executed?
3. Is the individual making or participating in making the contract?
4. Does the official have a financial interest in the contract?
5. If the official is a board member, does a remote interest exception apply?
6. For all officials, does a non-interest exception apply?
7. Can the limited “rule of necessity” be applied?
8. If a contract has been made in violation of section 1090, what are the consequences?

Basic Analysis Continued....

• Members of bodies with contracting power are conclusively presumed to participate in the making of all contracts under the body's jurisdiction.

• A contract cannot be made even if the member has disqualified himself or herself from participating in making the contract.

Multimember Bodies – Abstaining Is Not Enough!

• An employment relationship.
• Attorney, agent or broker of a contracting party.
• Supplier of services or goods to a contracting party.
• Landlord or tenant of a contracting party.
• Officer or employee of a nonprofit corporation that is a contracting party.
• Community property & separate property interests of the official's spouse.

Several Common Examples
What if a Red Flag is raised?

- Stop and confer: Supervisor, Attorney’s office, online resources, FPPC, etc.
- Often, a conflict of interest is not readily apparent.
- There are hundreds of constantly changing rules that apply. Know when to ask questions.

Brown Act Basics

- Actions & deliberations taken openly & in public.
- Meetings are public, unless closed session is allowed.
- Meeting agendas and packets must be available.
- Agenda posted on website.
Who is subject to the Brown Act?

- “Legislative bodies”
- Includes someone who has been elected but not yet assumed office
- Committees

Brown Act Basics—Committees

Subject to the Brown Act if they are created by resolution or other formal action by the governing board.

Gov. Code, § 54952 (b)

Standing Committees
Ad Hoc Committees

Brown Act Overview – What Is A Meeting?

- Any congregation of a majority of members at the same time and place to hear, discuss, or deliberate on any item within the District’s jurisdiction.
- Even if no action taken or no concurrence reached.
What Is Not a “Meeting”? 

The following scenarios are not “meetings” under the Brown Act:
- Individual Contact
- Public Conferences
- Community Meetings
- Other Local Agency Meetings
- Social Gatherings
- Attendance at Standing Committees as Observer Only
- Staff Meetings

Serial Meetings

LINEAR OR CHAIN MEETING  

HUB OR SPOKE MEETING

Where Can Governing Boards Meet?

Meetings must be held within agency boundaries except under limited circumstances.
Three Types of Meetings

- Regular - 72 hours notice
- Special - 24 hours notice
- Emergency

Agenda Requirements

- Brief description of each item.
- Specifies time and location.
- Posted in public location, freely accessible.
- Alternative format, if requested.
- Agenda recommendations in the era of COVID.

Board Meeting Agendas

**Action Items on Agenda typically have:**

- Staff presentation/recommendation
- Public comment
- Board discussion
- Action
Acting on Non-Agendized Items

- Generally, the legislative body may not discuss or take action on any item that does not appear on the posted agenda.

Meeting Minutes and Recordings

- If virtual meeting is recorded, it is a public record. 30 day rule
- Only requirement: record times and official actions.

Public Participation

- Board meeting IS:
  - Meeting of the Board in public to conduct the District’s business.
- Board meeting is NOT:
  - A meeting of the public.
  - A townhall meeting.
  - A press conference.
Public Participation Opportunities

- Public comment on open and closed session agenda items.
- Public comment on items not on the agenda.
- Special v. regular meeting public comment rules.

Materials Distributed During Open Session

Closed Sessions

Open session required unless closed session authorized by the Brown Act
Boards May Meet in Closed Session

- Real Property Transactions
- Litigation
- Personnel Exception
- Labor Negotiations
- Public Safety

Confidentiality of Closed Session Discussions

No person may publicly disclose information that has been received and discussed in closed session unless the information is authorized by law to be disclosed or the legislative body authorizes the disclosure.

Reports from Closed Session

- Must Reconvene in Open
- Must Report Action
- Must Report the Vote
Brown Act in the Virtual World

Electronic/Virtual Meetings: The COVID-19 Era

- Location must be open and accessible to the public.
- Agenda must identify all locations.
- Agenda must be posted at all locations.
- Public comment at all locations.
- Majority must be within the boundaries.
- All votes by roll call.
- Address potential technical problems.
- Provide ability to "observe and address ... telephonically or otherwise electronically".
- Provide notice of method(s).
- Indicate procedure for resolving accessibility requests.

Electronic/Virtual Meeting Models

- Videoconference options
  - Zoom
  - Google Hangouts Meet
  - Microsoft Teams
  - Webex Meetings
  - Skype
- Logistics of Videoconferencing
  - Maintaining confidentiality
  - Separate IDs for open session/closed session
  - Breakout sessions
  - Livestreaming videoconference to avoid inappropriate behavior (YouTube)

- New challenges
  - Hybrid meetings
  - Teleconferencing
  - Physical attendance
  - Compliance with existing law and new orders
  - Legal Uncertainty
  - "Observe and address"
  - "Sound discretion" and "reasonable efforts" to maximize transparency
  - Record creation and retention
Public Comment and COVID-19

- How does public comment work with virtual board meetings?
- No physical board meeting location required.
- Public must be able to comment "telephonically, or otherwise electronically".
- Agenda Considerations: Provide details.

Social Media

The Benefits of Being Connected

How can school employees and the Board use electronic communications to further their mission?

What are some ways that electronic communications can benefit the school environment?
Social Media as Teaching Tool

Online Professional Responsibility

Board Members and school staff are role models for students regarding media literacy and digital citizenship.

Serial Meetings Can Occur Through the Use of Technology

- Telephone
- Email
- Text message
- Chat room
- Social media
Potential Consequences of Online Activities

- Violation of district policies.
- Harassment and bullying.
- Inappropriate interactions between students, teachers, and other employees.
- Establish reasons for discipline or dismissal.

AB 992 (2020) - Board Member Use of Social Media

**PERMITTED**
- Individual Board member may engage in conversations or communications on a social media platform to:
  - (1) Answer questions from the public.
  - (2) Provide information to the public.
  - (3) Solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body.

**PROHIBITED**
- (1) A majority of the legislative body using a social media to discuss among themselves agency business of a specific nature that is within the subject matter jurisdiction of the agency; and
- (2) Any member of the legislative body responding directly to any communication from another member on an internet-based social media platform regarding a matter within their subject-matter jurisdiction.

Online Communication: Do's and Don'ts

1. Use social media as a part of the classroom and District communications.
2. Online content should always be reviewed before showing it in class.
3. Staff should be professional online and use good grammar.
4. Don’t use social media to undermine students or the District.
Online Communication: Do's and Don'ts

5. Staff should not “friend” or allow access for students to private accounts.
6. Respect students’ privacy online – don’t post photos or videos of students without parent permission.
8. Don’t allow online bullying, burning, or trolling.

9. Monitor materials posted on your social media pages by others. Remember you can control, edit, and delete what is posted.
10. Don’t post unless you’re comfortable with it being on the front page of the news.
11. Don’t assume that you can remove online content.
12. Respect others’ opinions in posts and comments.
13. Familiarize yourself with social media security settings and the District’s acceptable use/technology use agreements.

Public Records Act
Public Record Act Basics

- Access to agency records is a fundamental right.
- All records are open to inspection absent a statutory exemption.

Public Records Act

“Catchall” Exemption
Documents may be withheld if the district determines that “on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”

(Gov. Code, § 6255)

Emails/Text Messages As Public Records

City of San Jose v. Superior Court
Email/Text/Tweet Retention Policies

Basic Rule: Don’t put a statement in writing – in any form – unless you are prepared to have it quoted in the newspaper.

Thank you from Lozano Smith.
Together with you, we’re impacting communities and lives through:

- Professional development
- Volunteer projects
- Sponsorships and award programs
- Scholarships

#BlueHatProject
#LozanoSmithFoundation

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