

Bylaw 9011: Disclosure Of Confidential/Privileged Information

Status: ADOPTED

Original Adopted Date: 03/01/1988 | Last Revised Date: 06/01/2025 | Last Reviewed Date: 06/01/2025

CSBA NOTE: This Bylaw addresses the disclosure of confidential information by a Governing Board member. See Board Policy 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information for disclosure of confidential information by an employee.

The Governing Board recognizes the importance of maintaining the confidentiality of information acquired as part of a Board member's official duties.

CSBA NOTE: Government Code 54963 specifies that a person may not disclose confidential information acquired during the person's presence in a closed session. In addition, the California Attorney General has opined in 80 Ops.Cal.Atty.Gen. 231 (1997) that an individual Board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed. Therefore, it is recommended that the Board consult CSBA's District and County Office of Education Legal Services or district legal counsel before disclosing any confidential information acquired during a closed session. For more information regarding the reporting of information discussed in closed session, see BB 9321.1 - Closed Session Actions and Reports.

A Board member shall not disclose confidential information to any person, except as authorized by law, this Bylaw or other Board bylaws or policies, or the Board.

CSBA NOTE: Pursuant to Government Code 54963, a Board member may not disclose confidential information that has been acquired by being present in a closed session unless the Board authorizes disclosure of that confidential information. Given that Board members often receive confidential information in anticipation of a closed session or as a follow-up to a closed session, the following definition of "confidential information" extends this prohibition accordingly.

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:

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.

CSBA NOTE: Pursuant to Government Code 1098, it is a misdemeanor for any Board member to willfully and knowingly use or disclose for pecuniary gain, such as for monetary or financial gain, any confidential information acquired in the course of the Board member's official duties.

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

CSBA NOTE: Government Code 54963 provides examples of remedies that may be pursued for improperly disclosing information acquired during closed session and prohibits the Board from taking any such adverse action against a Board member for disclosing such information in certain circumstances. Given that this Bylaw defines confidential information more broadly than just information obtained in closed session, the following paragraphs

apply to the broader definition of confidential information as defined above and should be modified to reflect district practice.

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, 54963)

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

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

Ed. Code 35010

Description

[Control of district; prescription and enforcement of rules](#)

Ed. Code 35146

[Closed sessions regarding suspensions](#)

Evid. Code 1040

[Privilege for official information](#)

Gov. Code 1098

[Disclosure of confidential information](#)

Gov. Code 3549.1

[Meeting and negotiating in public educational employment](#)

Gov. Code 54950-54963

[The Ralph M. Brown Act](#)

Gov. Code 54956.8

[Open meeting laws](#)

Gov. Code 54956.9

[Closed meeting for pending litigation](#)

Gov. Code 54957

[Complaints against employees; right to open session](#)

Gov. Code 54957.1

[Subsequent public report and rollcall vote; employee matters in closed session](#)

Gov. Code 54957.5

[Public records](#)

Gov. Code 54957.6

[Closed session; representatives with employee organization](#)

Gov. Code 54957.7

[Reasons for closed session](#)

Gov. Code 54963

[Unauthorized disclosure of confidential information](#)

Gov. Code 7920.000-7930.170

[California Public Records Act](#)

Management Resources

Description

Attorney General Opinion

[80 Ops.Cal.Atty.Gen. 231 \(1997\)](#)

CSBA Publication

[Professional Governance Standards](#)

Website

[CSBA District and County Office of Education Legal Services](#)

Management Resources

Website

Description

[CSBA](#)

Cross References

0450

[Comprehensive Safety Plan](#)

0450

[Comprehensive Safety Plan](#)

1100

[Communication With The Public](#)

1312.3

[Uniform Complaint Procedures](#)

1312.3

[Uniform Complaint Procedures](#)

1312.3-E(1)

[Uniform Complaint Procedures](#)

1312.3-E(2)

[Uniform Complaint Procedures](#)

1340

[Access To District Records](#)

1340

[Access To District Records](#)

2120

[Superintendent Recruitment And Selection](#)

2121

[Superintendent's Contract](#)

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[District Records](#)

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[District Records](#)

4112.5

[Criminal Record Check](#)

4112.5-E(1)

[Criminal Record Check](#)

4112.6

[Personnel Files](#)

4119.23

[Unauthorized Release Of Confidential/Privileged Information](#)

4119.42

[Exposure Control Plan For Bloodborne Pathogens](#)

4119.42

[Exposure Control Plan For Bloodborne Pathogens](#)

4119.42-E(1)

[Exposure Control Plan For Bloodborne Pathogens](#)

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[Negotiations/Consultation](#)

4143.1

[Public Notice - Personnel Negotiations](#)

4143.1

[Public Notice - Personnel Negotiations](#)

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[Criminal Record Check](#)

4212.5-E(1)

[Criminal Record Check](#)

4212.6

[Personnel Files](#)

4219.23

[Unauthorized Release Of Confidential/Privileged Information](#)

4219.42

[Exposure Control Plan For Bloodborne Pathogens](#)

4219.42

[Exposure Control Plan For Bloodborne Pathogens](#)

4219.42-E(1)

[Exposure Control Plan For Bloodborne Pathogens](#)

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[Negotiations/Consultation](#)

4243.1

[Public Notice - Personnel Negotiations](#)

4243.1

[Public Notice - Personnel Negotiations](#)

4312.5

[Criminal Record Check](#)

4312.5-E(1)

[Criminal Record Check](#)

4312.6

[Personnel Files](#)

4319.23

[Unauthorized Release Of Confidential/Privileged Information](#)

Cross References

4319.42

4319.42

4319.42-E(1)

5125

5125

9000

9005

9010

9200

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9321

9321-E(1)

9321-E(2)

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