

## Board Bylaws

~~BB 9005 (a) —~~

BB 9323.3

BB 9272

### **GOVERNANCE STANDARD AND SELF-GOVERNANCE AND BOARD CENSURE POLICY**

The Board of Education recognizes that as a governing board, one of its primary responsibilities is to promote and practice the highest standards of self-governance. Elected by the people, it must conduct its work in a fair, open and ethical manner, aware of both its powers and its limitations as defined by law. In conducting its business, the Board and its individual members must always act in a way that optimizes Board effectiveness in executing its goals, abiding by both ethical and legal standards and in a way that keeps its fundamental commitments to the people, including parents, students, District staff, and all District residents and taxpayers. The Board expects its seven members to strive to work together as a collective unit on behalf of the Board's and the District's success, and while also recognizing the distinctiveness of their collective role as a Board, with their appointed Superintendent as well. To this end, in order to drive effective self-governance, each individual Board member shall be committed to the following:

1. We regard student learning and achievement for all students as our primary focus.
2. We value, support and advocate for public education.
3. We recognize and respect differences of perspective and style on the Board and among staff, students, parents and the overall community. Self-governance in a democracy requires tolerance of the right to dissent and an understanding that the best decisions and sustainable and authentic Board alignment come from honest, robust debate and consideration of a diversity of opinions.
4. We work to assure fair treatment of all members. This requires avoiding scapegoating and bullying of Board members in both open and closed sessions of the Board. We strive to protect Board members and all members of our community from bullying and mobbing, including through the use of the District's institutional authority, such as engaging in workplace bullying or mobbing of individual board members, parents, students, staff or community members by District personnel, resources, committees, circulating of petitions at school sites, District comments to the news media or any digital means.
5. We strive to act with dignity and mutual respect, and to understand and to take responsibility for the implications of our own demeanor and behavior, whether intended or unintended.
6. We keep confidential matters confidential.

## **GOVERNANCE STANDARD AND SELF-GOVERNANCE AND BOARD CENSURE POLICY (continued)**

7. We participate in professional development and commit the time and energy necessary to be informed and effective leaders. With regard to self-governance, Board members shall specifically comply with Government Code § 12950.1, requiring training every two years on preventing abusive conduct, including the repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating or humiliating, and the gratuitous sabotage or undermining of a person's work performance.
8. We understand the distinctions between Board and staff roles, and we refrain from performing management functions that are the responsibility of the Superintendent and staff.
9. We understand that our authority rests with the Board as a whole and not with individual Board members.
10. We assume collective responsibility for building Board and District unity of purpose and for creating a positive organizational culture.

## **CENSURE POLICY AND PROCEDURE**

### **Background**

The Board of Education of the Morgan Hill Unified School District has a strong commitment to effective and ethical self-governance. The people expect and deserve to have the highest standards of ethics from all of those in public service. In order to be able to enforce effective and ethical self-governance, there may be times when the Board of Education has a means and a process by which it can censure its own members for violation of its policies or bylaws of the Board of Education.

In so doing, the Board of Education strives to prevent "abusive conduct" that is, conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests.

### **Purpose**

This Policy and Procedure is intended to provide the mechanism by which the Board of Education, acting as a whole, can sanction any of its members who violate state or federal laws applicable to the District or who violate the Board Policies or Bylaws of the Board of Education.

## **GOVERNANCE STANDARD AND SELF-GOVERNANCE AND BOARD CENSURE POLICY (continued)**

### **Policy**

It is the Policy of the Board of Education that all of its members shall abide by federal and state law that apply to members of the Board of Education, as well as to Board Policies or Bylaws. Violation of such laws, policies, or bylaws tends to injure the good name of the District can undermine the effectiveness of the Board of Education as a whole.

Censure is a formal resolution of the Board of Education officially reprimanding one of its members. Censure is an appropriate punitive measure when the violation of law or policy is deemed by the Board of Education to be a serious offense. In order to protect the overriding principle of freedom of speech, the Board of Education shall not impose "censure" on any of its members for the exercise of his or her First Amendment rights no matter how distasteful the expression was to the District and Board of Education. Furthermore, the Board firmly rejects public bullying and use of District resources, including school sites and District committees and the news media to collectively bully, or mob, individual members who may express views that diverge from that of the majority.

The Board understands that this censure policy does not include Board imposing any limitations on the targeted Board member's duties and activities as granted by election by the people to this Board, including visiting school sites, District facilities or attending any public meeting as a Board member, unless prohibited by law enforcement or a court restraining order.

In order to ensure the right to a fair jury trial, the Board of Education shall not impose "censure" on any of its members for the violation of any law while criminal charges are pending. However, when the criminal proceedings are final, the Board of Education need not be bound by the conclusions of the Court and may hold a "censure" hearing.

### **Procedure**

1. The first step would be to attempt to informally resolve the issue with the Board President speaking to the individual Board Member who has acted in a manner that violates the Member's obligations under statute, regulations, Board policy or Board direction. The Board Member will be informed that if such behavior remains unchanged that it would constitute a request for a motion to censure.

**GOVERNANCE STANDARD AND SELF-GOVERNANCE AND BOARD CENSURE  
POLICY (continued)**

2. If the Board member's behavior remains unchanged, a request for a "censure" hearing may be submitted to the Superintendent in writing by no less than two nor more than three members of the Board of Education. The request must contain the specific charge(s) on which the proposed censure is based and the written material(s) which are the basis for the charge(s).
3. A copy of the request for censure and the charge(s) shall be sent by the Superintendent's office to all the members of the Board of Education at least five (5) business days prior the Board of Education meeting at which it will be considered. The request and charge(s) shall be agendized in accordance with the Brown Act for the meeting of the Board of Education.
4. The Board of Education shall determine with a two-thirds vote (five votes of its seven members) that either:
  - a. Further investigation of the charges is required; or
  - b. The matter is to be set for public hearing; or
  - c. No action is required.
5. Further investigation, if required, shall be done by an ad hoc Committee appointed by the Board President. If the Board President is the subject of the request, the Committee shall be formed by the Board Vice President.
6. If the matter is set for public hearing, it must be set no sooner than the next regularly scheduled Board meeting following the Board's determination under Section 3 of these procedures in order to give the accused member adequate time to prepare a defense. BB 9005(d)
7. At the public hearing, the member of the Board of Education subject to the censure request shall be given the opportunity to respond to the request and to provide the Board of Education information and material(s) relevant to the charge(s). The proponents of the request may also respond to the presentation and members of the Board of Education may ask questions pertaining to the matter at hand. The member subject to the charge(s) may be represented at his or her own personal expense and may have the representative speak on his or her behalf.

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BB 9323.3  
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**GOVERNANCE STANDARD AND SELF-GOVERNANCE AND BOARD CENSURE  
POLICY (continued)**

8. A decision to censure requires the adoption of a Resolution making findings with regard to the specific charge(s), based on substantial evidence, and approved by a two-thirds vote of the Board of Education. The member who is the target of censure may vote on the resolution.

*Legal Reference: (see next page)*

**GOVERNANCE STANDARD AND SELF-GOVERNANCE AND BOARD CENSURE  
POLICY (continued)**

*Legal Reference:*

EDUCATION CODE

*35010 Power of governing board to adopt rules for its own governance*

*35160 Board authority to act in any manner not conflicting with law*

*35164 Actions by majority vote*

GOVERNMENT CODE

*1090 Financial interest in contract*

*1098 Disclosure of confidential information*

*1125-1129 Incompatible activities*

*12950.1 Unlawful practices*

*54950-54963 The Ralph M. Brown Act*

*87300-87313 Conflict of interest code*

WEBSITES/RESEARCH STUDIES:

<http://www.mobbingportal.com/>

<https://www.sciencedirect.com/science/article/pii/S187704281300949X>

<https://www.tandfonline.com/author/Mikkelsen%2C+Eva+Gemze>

<https://www.betterhelp.com/advice/behavior/are-you-suffering-from-workplace-mobbing-heres-how-to-handle-it/>

Shallcross L (2003) The workplace mobbing syndrome, response and prevention in the public sector. Workplace Mobbing Conference, Brisbane Australia.