



**GOVERNING BOARD AGENDA ITEM
AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10**

DATE OF MEETING: October 5, 2010

TITLE: **Review of Proposed Revisions to Governing Board Policies BBBB (Board Member Oath of Office); BE (School Board Meetings); BEC (Executive Sessions/Open Meetings); BEDA (Notification of Board Meetings); BEDG (Minutes) and its accompanying Regulation, BEDG-R.**

BACKGROUND: The Arizona School Boards Association ("ASBA") has recommended revisions to certain policies as a result of recently enacted legislation. This Board item will address only those revisions proposed for the B-series of policies concerning School Board Governance and Operation. Each policy is listed separately clarification.

The majority of proposed revisions reflect the additional obligations relating to the posting of meetings by public governing bodies that have been enacted by HB2209 into A.R.S. § 38-431.02. Among them is a proviso that the Secretary of State, city/town clerks, and county clerks must post on their websites open meeting law (OML) materials prepared and approved by the Attorney General. HB2209 also prescribes further requirements for the posting of all meetings of public bodies in the state.

Policy BBBB - Board member Oath of Office

Any person elected or appointed to a public body, including a member of a school district governing board, SHALL review the OML materials at least one (1) day before taking office. The Attorney General materials are also contained in Chapter 7 of the Arizona Agency Handbook, which may be accessed on the Attorney General's and the Secretary of State's websites.

Policy BE - School Board Meetings

This policy has been revised to direct the user to Policy BEDA which sets out the new notice posting requirements. Policy BE has been further adjusted to address a potential technical complication concerning the manner by which a scheduled board meeting may be postponed or cancelled.

Policy BEC – Executive Sessions/Open Meetings

Changes to A.R.S. § 38-431.02, also included in HB2209, adds another condition that MUST be met when an executive session is scheduled to be held during a Governing Board meeting. The notice of the meeting at which an executive session will occur SHALL state the provision of law that authorizes the Board to hold an executive session for the stated purpose.

Policy BEDA – Notification of Board Meetings

All governing bodies MUST post on their website a statement identifying all the physical and electronic locations where meeting notices will be posted. The restructured sentence at A.R.S. § 38-431.02(A)(2)(a) is unclear as to whether the retained language, "...and shall give such additional public notice as is reasonable and practicable as to all meetings" is intended to require that additional public notice is to be a part of the website posting or is to be in addition to the website posting. The same statement appearing again in (A)(2)(b) is no more clear.

The revised statute does specify that a technical problem with the district's website which prevents satisfaction of the website posting requirements does not preclude a given meeting from being held. However, the provision is conditioned on the Board having complied with all other public notice

requirements, now **REQUIRED** by 38-431.02. Duplicating the postings on the district's website, at other electronic locations, and at physical locations identified in the district's statement on its website should achieve district has compliance with the requirements.

Also in policy BEDA, the manner by which the twenty-four hour notice period can include Saturday (unless it is a legal holiday) clarifies the requirement that there **MUST** be a publicly accessible physical posting location in addition to any website posting.

BEDA now includes information relative to the conditions under which an emergency or recessed meeting may convene or continue with less than a twenty-four hour notice. Although not new, BEDA adds to policy the provision in statute that a governing body that intends to meet at a regular place and time for a specified calendar period, on a regular day, date or event during the calendar period, may post public notice of the meetings at the beginning of the calendar period so long as the period for which the notice is applicable is also stated in the notice.

Policy BEDG and new Policy Regulation BEDG-R – Minutes.

Policy BEDG has been substantially revised and expanded to take into consideration the records retention requirements of the department of Arizona State Library, Archives and Public Records.

New Regulation BEDG-R was developed and added as a recommended document model to further aid school systems and the personnel assigned minute taking, preparation, and maintenance responsibilities to know and accomplish at least the minimum legal requirements. Additionally, the often misunderstood issue of what a “meeting” is as defined in the law is described in the regulation to serve as a convenient reference for Board members and district personnel to answer questions on the topic.

RECOMMENDATION: The proposed revisions are presented to the Board for its study and discussion only at this time. Revisions to the attached policies will be presented to the Board for approval at a later date.

INITIATED BY:



Todd A. Jaeger, Associate to the Superintendent

Date: September 27, 2010



Vicki Balentine, Ph.D., Superintendent

B-1400.1 © BE SCHOOL BOARD MEETINGS

The Board shall transact all business at official meetings of the Board. These may be either regular or special meetings, defined as follows:

- ♦ Regular meeting - the usual official legal-action meeting, held regularly.
- ♦ Special meeting - an official legal-action meeting called between scheduled regular meetings to consider specified topics.

Every meeting of the Board, regular or special, shall be open to the public except for an executive session that is held in accordance with state law. A "meeting" is defined as the gathering of a quorum of members of a public body to propose or take legal action, including any deliberations with respect to such action, that has been properly noticed, pursuant to Arizona Revised Statutes.

Regular Board Meetings

The second and fourth Tuesdays of each calendar month are designated as the regular Board meeting dates.

A regular meeting may be rescheduled or canceled ~~by agreement of a majority of the Board;~~

- ♦ By majority vote of the Board when noticed as a meeting agenda item.
- ♦ By declaration of the Board President, or if the President is unavailable another member of the Board, in consultation with the Superintendent, when a significant event beyond the Board's control renders attendance at the meeting unsafe or unreasonable in light of the circumstances, such as:

♦ Significantly inclement weather, or

♦ A local, state or national emergency of a magnitude it intervenes to the extent that convening of the meeting is inadvisable.

♦ When the absence of a quorum of the Board will render the meeting impermissible.

~~Written notice of the date, hour, place, and subject (agenda) of each regular meeting of the Board shall be given as follows:~~

- ~~♦ Notice shall be posted at least twenty four (24) hours preceding the scheduled time of the~~

~~meeting, with the exception of an actual emergency, in which case such notice as is appropriate to the circumstances shall be given.~~

- ~~♦ Notice shall be posted at a prominent place, convenient to the public, as designated by the Board in its notice to the County Board of Supervisors.~~

Every regular meeting of the Board shall be open to the public, and the Board shall meet at the most convenient public facility in the District.

Special Board Meetings

Special meetings may be called whenever deemed necessary. Written or telephoned notice of all special meetings shall be given to the members of the Board, ~~and written notice shall be posted,~~ at least 24 hours prior to the time stated for the meeting to convene. Said notice shall indicate the subject (agenda) of the special meeting. No other business shall be transacted at such meeting.

~~Special meetings shall be open to the public.~~

Adopted: date of manual adoption

Revised: ~~March 6, 2007~~ _____

LEGAL REF.: A.R.S. 15-321
 15-843
 38-431 *et seq.*
 A.G.O. I79-045 (R79-023)

CROSS REF.: BEC - Executive Sessions/Open Meetings
 BEDA - Notification of Board Meetings
 BEDB - Agenda
 BEDC - Quorum

B-1550©BEC
EXECUTIVE SESSIONS / OPEN MEETINGS

The Board may enter into executive session after the following requirements have been met:

- ♦ A notice of the executive session has been provided to the Board members and the general public stating the provision of law authorizing the executive session in accordance with Board Policy BEDA.
- ♦ The Board has first been convened in open meeting, for which notice, stating the specific provision of law authorizing the executive session, has been given.
- ♦ The Board President has identified the section or sections of A.R.S. 38-431.03(A) and, if applicable, A.R.S. 15-342, that authorize the holding of the executive session and has stated the language of the section(s).
- ♦ The executive session is authorized by a vote in open session.

No final action, decision, or vote shall be taken while the Board is in executive session, except as provided by law.

The Board shall reconvene the open meeting after an executive session prior to adjourning the meeting.

During the executive session, all persons present in the executive session will be read the admonition on the confidentiality of the executive session minutes and deliberations. Minutes of executive sessions shall be kept confidential except from members of the Governing Board that met. No executive session may be held for the purpose of taking any final action or making any final decision.

Adopted: date of manual adoption

Revised: March 6, 2007_____

LEGAL REF.: A.R.S. 15-843
 38-431.01
 38-431.02
 38-431.03
 A.G.O. I79-45
 I79-49
 I79-126
 I79-136

AMPHITHEATER UNIFIED DISTRICT NO. 10

I80-118

I80-146

I81-058

I81-060

I81-090

CROSS REF.: BBB - Board Member Oath of Office
BEDA - Notification of Board Meetings
BEDG - Minutes
JKD/JKE/JIA - Student Suspension/Expulsion/
Due-Process Rights

B-1650©BEDA
NOTIFICATION OF BOARD MEETINGS

~~A statement of the posting place for all notices of meetings shall be filed with the clerk of the Board of Supervisors. A regular meeting may be canceled by agreement of a majority of the Board.~~

A statement shall be conspicuously posted on the District's website specifying where all notices of the Governing Board meetings are posted, including the physical and electronic physical and electronic locations, and give additional public notice as is reasonable and practicable as to all meetings.

The District shall post all Governing Board public meeting notices on its website and give additional public notice as is reasonable and practicable as to all meetings. When the District has complied with all other public notice requirements of A.R.S. 38-431.02, the Board is not precluded from holding a meeting for which notice was posted when a technological problem or failure either:

- ♦ prevents the posting of public notice on the District website, or
- ♦ temporarily or permanently prevents use of all or part of the District's website.

When an executive session of the Board is scheduled a notice of the executive session stating the provision of law authorizing the executive session and including a general description of the matters to be considered shall be provided to:

- ♦ the members of the Governing Board and
- ♦ the general public.

At least twenty-four (24) hours' prior to a meeting notice shall be given to the members of the Governing Board and to the general public by posting, in the designated public place(s), the time and place, and the meeting agenda, or any change in the regular meeting agenda time or place, with the exception of an actual emergency, in which case such notice as is appropriate to the circumstances shall be given. The notice shall include an agenda of the matters to be discussed, considered or decided at the meeting, or include information on how the public may obtain a copy of the agenda.

The twenty-four (24) notice period:

- ♦ May include Saturday when, in addition to any website posting, the public has twenty-four

(24) hour access to the physical posting location.

♦ Does not include Sundays and holidays listed in A.R.S. 1-301.

A twenty-four (24) hour meeting notice is not required in the case of an actual emergency, however, notice shall be given and procedures followed in accordance with the requirements of 38-431.02 as are appropriate to the circumstances.

A meeting may be recessed and resumed with less than twenty-four (24) hours notice when proper initial meeting notice was given and, before recessing, public notice is given specifying the time and place the meeting will be resumed or identifying the method by which such notice shall be publicly given.

When the Governing Board intends to meet at a regular place and time on a regular day, date or event for a specified calendar period, the District may post notice of the beginning of the applicable calendar period and the period for which the notification is valid.

Adopted: date of manual adoption

Revised: ~~January 12, 2010~~ _____

LEGAL REF.: A.R.S. 1-301
 15-321
 15-341
 38-431.01
 38-431.02
 A.G.O. 179-45

CROSS REF.: BE - School Board Meetings
 BEC - Executive Sessions/Open Meetings
 BEDB - Agenda

B-2100©BEDG MINUTES

Written or recorded minutes shall be taken of all regular and special Board meetings including executive sessions, and shall include the information required by A.R.S. 38-431.01. The shall be recorded. If possible, complete written minutes or recording shall of each Board meeting will be available for public review in the District administrative office inspection three (3) working days after the date of the meeting, except for confidential executive session minutes. Written minutes or a recording not yet approved by the Governing Board shall be marked as "draft" or "unapproved." The minutes or recording shall not be withheld from the public pending approval and must be in a form readily accessible to the public. If this is not possible, the record of the meeting shall be available until the written minutes are prepared. In all cases, written minutes of each meeting shall be prepared as soon as possible, containing the information required by A.R.S. 38-431.01(B). The Board will take action at a subsequent meeting to amend and/or approve these minutes.

Copies of unapproved written minutes, in print or digital form, shall be distributed to all Board members prior to the next meeting. The Board will take action at a subsequent meeting to amend and/or approve these the written minutes. Minutes of regular or special meetings will be distributed to all Board members prior to the next meeting, and will be made available to the public upon request, as unconfirmed minutes. Under no circumstances shall written minutes be distributed to the Board for approval greater than one (1) month after the meeting.

The Superintendent shall assure that permanent archival files of all approved Governing Board meeting minutes and related required materials are maintained in accordance with A.R.S. 39-101 and standards established by Arizona State Library, Archives and Public Records (ASLAPR). Regular and Special Board meeting minutes shall be filed separately from Board executive session minutes. Written minutes of all executive sessions will be prepared, as required by A.R.S. 38-431.01(C), and will be maintained in a confidential file.

Adopted: date of manual adoption
Revised: June 13, 2000 _____

LEGAL REF.: A.R.S. 15-843
 38-421
 38-431.01
 38-431.03
 39-101
 39-121
 39-122
 41-1347

41-1351

A.G.O. I80-198

Attorney General Arizona Agency Handbook, Chapter 7, Open Meetings

ASLAPR General Retention Schedule for School Districts and Charter
Schools

CROSS REF.: BED - Executive Sessions/Open Meetings

AMPHITHEATER UNIFIED DISTRICT NO. 10

REGULATION**REGULATION****MINUTES****(Minutes of Open Session Governing Board Meetings,
Board Subcommittees and Advisory Committees)**

For meetings other than executive sessions, minutes are to contain at least the following information:

- Date, time, and place of meeting.
- Members of the Governing Board recorded as either present or absent.
- General description of the matter considered.
- An accurate description of all legal actions proposed, discussed or taken, and the names of the Board member who proposed each motion.
- Names of the persons, as given, making statements or presenting material to the Governing Board and a reference to the legal action about which they made statements or presented material.

A meeting, for the purposes of the open meeting statutes, is the gathering of a quorum of Governing Board members at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to such action. [38-431]

It is therefore necessary to remember that:

- the coming together of a quorum of Governing Board members:
 - in person or by technological devices such as speakerphone, internet, or other device,
 - including study sessions, work sessions, and retreats
 - regardless of whether or not any voting is scheduled to occur,
- or of a subcommittee or advisory committee appointed by or at the direction of the Board, or which is to report to the Board,
 - is a “meeting” and, therefore,
 - minutes must be taken and processed as required by statute and specified above.