



# *Options for Providing a Voice to Board District 1*

Presentation to the Board of Education  
Office of the General Counsel

David R. Holmquist  
General Counsel



**KIDS FOCUS**

# Background

## Board of Education Meeting

- Board voted to call for a special election for the Board District 1 seat that was left vacant by the untimely death of Board Member Marguerite LaMotte
- Board asked the Office of the General Counsel to present potential options for providing a representative voice to Board District 1

1.7.14

## City Council

- Unanimously approved an ordinance that consolidates the special election approved by the Board of Education with the previously scheduled state primary election

1.10.14

## Board of Education

- Will receive presentation from the Office of General Counsel on available options per request made by the Board of Education at the January 7, 2014 Board Meeting

1.14.14

## Voters of Board District 1

- Will vote to fill the school board vacancy

6.3.14

## Voters of Board District 1

- Will vote in a run-off election if necessary

8.12.14

# Potential Options to Consider

1

## Current Board Member(s)\*

- One Board member becomes an advocate for Board District 1
- Multiple Board members take on role of advocacy
  - e.g., those whose Districts share a geographical boundary with District 1

2

## Committee Structure

- Board could convene a committee comprised of chairperson and committee members

3

## Advocate\*\*

- Board could select or establish a process for selecting an individual; this person could potentially be a/an:
  - Employee
  - Contract employee
  - Other

\*Board member(s) taking on responsibility would not receive an additional vote.

\*\*Advocate would serve as a non-voting representative only.

*NOTE: This presentation is not intended be an exhaustive list of options, because the options vary widely; it is intended to provide guidelines and examples that will help Board Members design and implement a solution with the assistance of staff.*

# Sample Duties/Responsibilities

| Item   | Potential Option            |                                   |              |
|--|-----------------------------|-----------------------------------|--------------|
|  | (1) Current Board Member(s) | (2) Committee                     | (3) Advocate |
| Participate in discussions at Board Meetings; sit adjacent to Board Members      | Yes                         | <b>Yes, at Board's Discretion</b> |              |
| <b>Committees</b>  |                             |                                   |              |
| <b>Chair</b>   | Yes                         |                                   |              |
| <b>Serve</b>   | Yes                         |                                   |              |
| <b>Non-Board Committees</b>  |                             |                                   |              |
| <b>Make appointments</b>   | Yes                         |                                   |              |
| <b>Sponsor a resolution</b>  | Yes                         |                                   |              |
| <b>Represent the Board of Education at conferences and similar/other events</b>  | Yes                         |                                   |              |
| <b>Interact with elected officials, government entities, and constituents</b>    | Yes                         |                                   |              |
| <b>Liaison between contractors and Facilities regarding contractual disputes</b> | Yes                         |                                   |              |
| <b>Maintain office hours</b>   | Yes                         |                                   |              |

# Sample Duties/Responsibilities, cont'd.

| Item  | Potential Option            |                                   |              |
|---|-----------------------------|-----------------------------------|--------------|
|   | (1) Current Board Member(s) | (2) Committee                     | (3) Advocate |
| Review OIG audits   | Yes                         | <b>Yes, at Board's Discretion</b> |              |
| Review contracts  | Yes                         |                                   |              |
| Receive compensation*                                       | Yes                         |                                   |              |
| Spend discretionary funds                                   | Yes                         |                                   |              |
| Initiate project scope for Facilities projects              | Yes                         |                                   |              |
| Initiate ribbon cutting activities                          | Yes                         |                                   |              |
| Initiate naming of new schools                              | Yes                         |                                   |              |
| <b>Ethics</b>   |                             | <b>Yes, by Operation of Law</b>   |              |
| Subject to the District's Code of Ethics**                  | Yes                         |                                   |              |
| Subject to Filing Form 700 Statement of Economic Interest** | Yes                         |                                   |              |
| <b>Brown Act</b>  | Yes                         |                                   |              |

\*For current Board Members—no additional compensation. For committee and/or advocate—by stipend and not under Ed. Code Section 35120; through employment or other contracts.

\*\*Volunteers may be exempt from certain requirements.

# Sample Duties/Responsibilities, cont'd.

| Item  | Potential Option            |                              |                              |
|---|-----------------------------|------------------------------|------------------------------|
|   | (1) Current Board Member(s) | (2) Committee                | (3) Advocate                 |
| <b>Varies by Option</b>                               |                             |                              |                              |
| <b>Vote</b>   |                             |                              |                              |
| <b>at Board Meetings</b>                              | Yes***                      | NO;<br>Advisory Only         | NO;<br>Advisory Only         |
| <b>at Committee Meetings</b>                          | Yes***                      | Advisory Only                | Advisory Only                |
| <b>Closed Session</b>                                 |                             |                              |                              |
| <b>Attend</b>   | Yes                         | NO<br>unless<br>employee**** | NO<br>unless<br>employee**** |
| <b>Receive briefings on closed session items</b>      | Yes                         | NO<br>unless employee        | NO<br>unless employee        |
| <b>Access to attorney-client privileged documents</b> | Yes                         | NO<br>unless employee        | NO<br>unless employee        |
| <b>OIG investigations</b>                             | Yes                         | NO<br>unless employee        | NO<br>unless employee        |
| <b>Hiring decisions, e.g., hire/fire staff</b>        | Yes                         | NO<br>unless employee        | NO<br>unless employee        |

\*\*\*Board member(s) taking on responsibility would not receive an additional vote.

\*\*\*\*An employee or authorized representative may attend closed session if they are necessary to assist the Board in making a decision.

# Questions?



# Appendix



# Overview of the Law

| Section  | Overview  |
|--|---|
| <b>California Education Code (§§5090, 5091)</b>                    | Mid-term school trustee vacancies in California school districts are usually filled pursuant to provisions of the California Education Code   |
| <b>California Constitution (Article IX- Education, Section 16)</b> | Where all or a part of a school district is within the borders of a charter city, the city charter may provide for the manner of election and appointment of board members, and for their qualifications, compensation, removal, and for the number constituting such board...<br><i>"It shall be competent, in all charters framed under the authority given by section 5 of Article IX, to provide...the manner in which, the time at which, and the terms for which the members of boards of education shall be elected or appointed...."</i><br>Article IX, section 16(a)   |
| <b>California Education Code (§5200)</b>                           | Provides that section 5091 (and other related statutes) do not apply where a city charter addresses school board elections and vacancies unless the charter so provides, or the charter fails to provide "for any or all of the matters specified" in the statutes. Section 5200 provides in pertinent part:<br><i>"Any unified school district that is coterminous within or includes within its boundaries a chartered city... Shall be governed by the board of education provided for in the charter.... Section[]... 5091 shall not apply to such unified school districts, except as follows:</i><br><i>(a) As provided for in the charter of the city...</i><br><i>(b) if the charter of the city ... fails to provide... for any or all of the matters specified in Section[] ... 5091, [that section] shall apply as to the matter not provided for in the charter."</i> |

# Overview of the Law, cont'd.

| Section  | Overview   |
|--|--|
| <b>Los Angeles City Charter (Article IV-Elections, Sections 400-440)</b> | The Los Angeles City Charter makes specific provision for election of Los Angeles Unified School District Board Members  |
| <b>Los Angeles City Charter (Article IV, Section 410)</b>                | Specifically addresses the filling of mid-term school board vacancies;<br>Addresses vacancies by providing two options, allowing the Board to fill a vacancy by appointment or by special election, but not both appointment and election; the preamble for Section 410 provides explicitly that the Board must choose either appointment or election:<br><i>“Vacancies in the office of Members of the Board of Education shall be filled by either appointment or election in the manner set forth in this section.”</i> |

- The City of Los Angeles is a charter city
- The Board has called for an election, as a result there cannot be an interim appointment of a voting Board Member to fill the vacant District 1 seat
- This conclusion reached by the Office of the General Counsel has been confirmed by outside counsel and the City Attorney for the City of Los Angeles