

CAPISTRANO UNIFIED SCHOOL DISTRICT
33122 Valle Road
San Juan Capistrano, CA 92675
BOARD OF TRUSTEES
Regular Meeting

REVISED

March 2, 2022

Closed Session 5:30 p.m.
Open Session 7:00 p.m.

AGENDA

*Members of the public may attend the meeting in person. As a K-12 Public School District, we must follow the guidelines established by the California Department of Public Health specifically for schools. These guidelines act as our standard of care. Per CDPH and Cal/OSHA guidelines, masks are optional for fully COVID-19 vaccinated staff and members of the public when indoors at the District Office. Any individual who is not fully vaccinated (defined as two weeks after the last vaccination shot) will be required to wear a mask while indoors. By entering these premises without a mask, you are attesting that you are fully vaccinated with a COVID-19 vaccine. If participants choose to not attend the Board meeting in person the District has provided the following option for the public to address the Board telephonically. Please submit a request to address the Board telephonically by clicking [here](#), **register only if you are not attending in person**. Those who have registered to comment will receive an email prior to the meeting with information on how to join and comment via a Zoom link. If you are attending in person, a speaker card will need to be submitted prior to the agenda item per Bylaws of the Board 9323, Meeting Conduct. Members of the public shall have an opportunity to address the Board regarding items on the agenda to be considered during Closed Session prior to the Board adjourning the meeting to Closed Session. Individual presentations are limited to a maximum of three (3) minutes; however, the time assigned for individual presentations could be fewer than three minutes depending upon the total number of speakers who wish to address a specific agenda topic. Detailed guidelines and information on what to do if you wish to address the Board of Trustees is provided at the end of this agenda.*

CLOSED SESSION AT 5:30 P.M.

1. CALL TO ORDER

2. CLOSED SESSION COMMENTS

3. CLOSED SESSION (as authorized by law)

A. PUBLIC HEALTH EMERGENCY

Kirsten Vital Brulte/Gregory Merwin
Attorney – Anthony De Marco
Consultation with Agency Counsel
(Pursuant to Government Code § 54957(a))

B. CONFERENCE WITH LABOR NEGOTIATORS

District Negotiators: Kirsten Vital Brulte/Rich Montgomery/Clark Hampton
Employee Organizations:
1) Capistrano Unified Education Association (CUEA)
2) California School Employees Association (CSEA)
3) Teamsters
4) Capistrano Unified Management Association (CUMA)
5) Unrepresented Employees
(Pursuant to Government Code § 54957.6)

C. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Rich Montgomery
Four Cases
(Pursuant to Government Code § 54957)

**EXHIBIT C-1
EXHIBIT C-2
EXHIBIT C-3**

RECORDING OF SCHOOL BOARD MEETINGS

In accordance with Board Policy 9324, Board Minutes, all Regular School Board Meetings will be audio recorded.

OPEN SESSION AT 7:00 P.M.

CALL TO ORDER – ROLL CALL

PLEDGE OF ALLEGIANCE

ADOPTION OF THE AGENDA

REPORT ON CLOSED SESSION ACTION

BOARD AND SUPERINTENDENT COMMENTS

STUDENT BOARD MEMBER REPORT

ORAL COMMUNICATIONS (Non-Agenda Items)

Oral Communications will occur immediately following Board and Superintendent Comments. The total time for Oral Communications shall be twenty (20) minutes. Individual presentations are limited to a maximum of three (3) minutes per individual.

CONSENT CALENDAR

All matters listed under the Consent Calendar are considered by the Board to be routine and will be enacted by the Board in one motion in the form listed below. There will be no discussion of these items prior to the time the Board votes on the motion unless members of the Board or staff request specific items to be discussed and/or removed from the Consent Calendar. The Superintendent and the staff recommend approval of all Consent Calendar items.

HUMAN RESOURCE SERVICES

1. **RECOMMENDATION OF TENTATIVE AGREEMENT WITH CAPISTRANO UNIFIED EDUCATION ASSOCIATION (CUEA), FOR JULY 1, 2019 – JUNE 30, 2022:** Page 1
EXHIBIT 1

This is a standing item that is presented to the Board of Trustees on an as needed basis. The purpose of this agenda item is to seek approval of the Tentative Agreement between the District and the Capistrano Unified Education Association (CUEA). In addition to the Tentative Agreement, the Public Disclosure of Collective Bargaining Agreement is included in the exhibit. The total fiscal impact of this agreement is approximately \$12,413,170. This is based on a total percentage increase of 5.17% which includes 3.1% (\$7,443,100) effective in March 2022 and retroactive to July 1, 2021 and 2.07% (\$4,970,070) contingent on funded COLA exceeding 5% for 2022-2023 and 1,500 additional ADA from first interim based on the enacted state budget and retroactive to July 1, 2021.

Contact: Rich Montgomery, Assistant Superintendent, Human Resource Services, Grades 6-12, K-8, Alternative Education

2. **RECOMMENDATION OF TENTATIVE AGREEMENT WITH CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, FOR JULY 1, 2021 – JUNE 30, 2024:** Page 18
EXHIBIT 2

This is a new item. The purpose of this agenda item is to seek approval of the Tentative Agreement between the District and the California School Employees Association (CSEA). CSEA will meet during the week of February 28, 2022 to vote for ratification of the Tentative Agreement. This item is presented for approval pending the ratification of CSEA's member vote. In addition to the Tentative Agreement, the Public Disclosure of Collective Bargaining Agreement is included in the exhibit. The total fiscal impact of this agreement is approximately \$4,430,690.

This is based on a total percentage increase of 5.17% which includes 3.1% (\$2,656,700) effective in March 2022 and retroactive to July 1, 2021 and 2.07% (\$1,773,990) contingent on funded COLA exceeding 5% for 2022-2023 and 1,500 additional ADA from first interim based on the enacted state budget and retroactive to July 1, 2021.

Contact: Rich Montgomery, Assistant Superintendent, Human Resource Services, Grades 6-12, K-8, Alternative Education

3. RECOMMENDATION OF REVISED EMPLOYMENT AGREEMENT WITH CAPISTRANO UNIFIED MANAGEMENT ASSOCIATION, JULY 1, 2021-JUNE 30, 2022: Page 37
EXHIBIT 3

This is a standing item that is presented to the Board of Trustees on an as needed basis. The purpose of this agenda item is to seek approval of revising the 2021-2022 employment agreement between the Capistrano Unified Management Association (CUMA) and the District. The employment agreement would provide management employees a 5.17% salary increase which includes 3.1% (\$973,400) effective upon CUSD Board of Trustees' adoption of the Second Interim Report in March 2022 and retroactive to July 1, 2021 and 2.07% (\$649,980) contingent on funded COLA exceeding 5% for 2022-2023 and 1,500 additional ADA from First Interim based on the enacted state budget and retroactive to July 1, 2021.

Contact: Rich Montgomery, Assistant Superintendent, Human Resource Services, Grades 6-12, K-8, Alternative Education

DISCUSSION/ACTION ITEMS

4. RESOLUTION NO. 2122-51, PRELIMINARY RESOLUTION LAYOFF OF CLASSIFIED MANAGEMENT EMPLOYEES FOR LACK OF WORK AND/OR LACK OF FUNDS: DISCUSSION/
ACTION
Page 38
EXHIBIT 4

This is a new item. Resolution No. 2122-51 initiates the process for the proposed reduction or elimination of certain services performed by classified management employees. It authorizes providing notice to impacted employees by the March 15, 2022 deadline required in Education Code § 45117 for the reasons specified in section 45308. All positively assured attrition which has occurred to date, including resignations, retirements, and other permanent vacancies, have been considered in reducing these services. In addition to the attrition already assured, the District finds it necessary to reduce additional particular kinds of services. Under the layoff statutes, classified employees who receive a preliminary layoff notice have the right to request a hearing before an administrative law judge provided by the California Office of Administrative Hearings, who acts as a factfinder on behalf of the Board. Ultimately, the Board has the final say regarding the reduction or elimination of services, and will be asked to take final action on any layoffs at a meeting to be determined in the month of May.

CUSD WIG 2: Communications – Communicate with, and engage students, parents, employees, and community members in Districtwide and community-specific decisions.

Contact: Rich Montgomery, Assistant Superintendent, Human Resource Services, Grades 6-12, K-8, Alternative Education

Staff Recommendation

It is recommended the Board President recognize Rich Montgomery, Assistant Superintendent, Human Resource Services, Grades 6-12, K-8, Alternative Education to present this item.

Following discussion, it is recommended the Board of Trustees adopt Resolution No. 2122-51, Preliminary Resolution Layoff of Classified Management Employees for Lack of Work and/or Lack of Funds.

Motion by _____ Seconded by _____

5. **2022 BALLOT FOR CALIFORNIA SCHOOL BOARDS ASSOCIATION DELEGATE ASSEMBLY REGION 15:**

**DISCUSSION/
ACTION**
Page 43
EXHIBIT 5

This is an annual item. The California School Boards Association (CSBA) accepts nominations for their Delegate Assembly and calls upon each school district to take action to cast a vote. The Board may vote for up to the number of vacancies in Region 15 as indicated on the ballot whereby there are 7 openings for this delegation. Elected Delegates will serve a two-year term beginning April 1, 2022, through March 31, 2024. Trustees McNicholas and Bullockus are the current Delegates representing the District on CSBA. Together they are requesting the Board take action and recommend voting for the following seven candidates listed below, incumbents are denoted:

- Marilyn Anderson (Placentia-Yorba Linda USD)
- Lauren Brooks (Irvine USD)*
- Carrie Buck (Placentia-Yorba Linda USD)*
- Lynn Davis (Tustin USD)*
- Candice (Candi) Kern (Cypress ESD)*
- Barbara Schulman (Saddleback Valley USD)
- Michael Simons (Huntington Beach Union HSD)*

CUSD WIG 2: Communications – Communicate with, and engage students, parents, employees, and community members in Districtwide and community-specific decisions.
Contact: Martha McNicholas, Board of Trustees, Area 4
Contact: Judy Bullockus, Board of Trustees, Area 7

Trustee Recommendation

It is recommended the Board President recognize Trustee Martha McNicholas, to present this item.

Following discussion, it is recommended the Board of Trustees cast the Board’s vote for seven candidates on the 2022 Ballot for CSBA Delegate Assembly Region 15.

Motion by _____ Seconded by _____

6. **TRUSTEE REQUEST TO CONSIDER REVISING BOARD POLICY 9323, MEETING CONDUCT:**

**DISCUSSION/
ACTION**
Page 59
EXHIBIT 6

This is a new item. Per Board Bylaw 9322, *Agenda/Meeting Materials*, Board members may place any item on the agenda no later than ten days before the scheduled meeting date. If the Board decides to agendize the agenda topic, it shall do so at a future regular Board meeting. A Trustee requested revising Board Policy 9323, *Meeting Conduct*, to better meet the needs of the community by adopting a transparent, standardized, non-biased policy that allows for greater public participation and respects the necessity of conducting orderly efficient proceedings. This Board policy was last updated on August 23, 2017. The Trustee requested this item be brought before the Board at the March 16, 2022 Board meeting for consideration.

CUSD WIG 2: Communications – Communicate with, and engage students, parents, employees, and community members in Districtwide and community-specific decisions.
Contact : Krista Castellanos, Trustee Area 5

Trustee Recommendation

It is recommended the Board President recognize Krista Castellanos, Trustee Area 5, to present the item.

Following discussion, it is recommended by Trustee Castellanos that the Board hear her request to revise Board Policy 9323, *Meeting Conduct*, and bring it back for discussion action at the March 16, 2022, regular Board meeting.

Motion by _____ Seconded by _____

7. **TRUSTEE REQUEST – RESOLUTION NO. 2122-43, REAFFIRMATION OF CUSD RESOLUTION NO. 2122-20 AND REQUEST FOR CUSD FAMILIES TO RECEIVE INFORMATIONAL MESSAGES ABOUT CALIFORNIA SENATE BILLS 871 AND 866:** **DISCUSSION/ ACTION**
Page 65
EXHIBIT 7

This is a new item. Per Board Bylaw 9322, *Agenda/Meeting Materials*, Board members may place any item on the agenda no later than ten days before the scheduled meeting date. Two California Senate bills -- SB 866, authored by Senators Richard Pan and Scott Wiener; and SB 871, authored by Senator Richard Pan – are being considered by the Legislature. These bills have implications for California schools and school-age children. It is the desire of the board to reaffirm the message of Resolution No. 2122-43, which addresses the impact that will be felt by SB 871; to empower representatives to speak on our behalf regarding SB 871; and to provide District parents with impartial information about SB 871 and SB 866

CUSD WIG 2: Communications – Communicate with, and engage students, parents, employees, and community members in Districtwide and community-specific decisions.
Contact : Judy Bullockus, Trustee Area 7
Contact: Gila Jones, Trustee Area 6

Trustee Recommendation

It is recommended the Board President recognize Judy Bullockus, Trustee Area 7, to present this item.

Following discussion, it is recommended by Trustees Bullockus and Jones that the Board vote to adopt Resolution No. 2122-43, Reaffirmation of CUSD Resolution No. 2122-20 and Request for CUSD Families to Receive Informational Messages about California Senate Bills 871 and 866.

Motion by _____ Seconded by _____

8. **TRUSTEE REQUEST, RESOLUTION NO. 2122-50, DIRECTING THE CAPISTRANO UNIFIED SCHOOL DISTRICT SUPERINTENDENT TO EXERCISE LOCAL RESPONSIBILITY IN ENFORCEMENT OF CLASSROOM MASK WEARING:** **DISCUSSION/ ACTION**
Page 70
EXHIBIT 8

This is a new item. Per Board Bylaw 9322, *Agenda Meeting Materials*, Board members may place any item on the agenda no later than ten days before the scheduled meeting date. Because suspending and excluding students from school when they refuse to wear masks in classrooms is in direct conflict with our mission to educate and prepare our students and our commitment to their success, it is proposed that the District exercise our permitted local responsibility, as explained by Governor Newsom, and modify the current policy of enforcement of mask-wearing in Capistrano Unified School District classrooms.

CUSD WIG 2: Communications – Communicate with, and engage students, parents, employees, and community members in Districtwide and community-specific decisions.
Contact: Judy Bullockus, Trustee Area 7
Contact: Gila Jones Trustee Area 6

Trustee Recommendation

It is recommended the Board President recognize Trustees Bullockus and Jones to present this item.

Following discussion, it is recommended by Trustees Bullockus and Jones that the Board vote to adopt Resolution No. 2122-50, Directing the Capistrano Unified School District Superintendent to Exercise Local Responsibility in Enforcement of Classroom Mask Wearing.

Motion by _____ Seconded by _____

9. **TRUSTEE REQUEST RESOLUTION NO. 2122-42, RESOLUTION OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, BOARD OF TRUSTEES, REGARDING MASK MANDATES FOR STUDENTS:**

**DISCUSSION/
ACTION**
Page 73
EXHIBIT 9

This is a new item. Per Board Bylaw 9322, *Agenda/Meeting Materials*, Board members may place any item on the agenda no later than ten days before the scheduled meeting date. A Trustee requested the Board to consider adopting a resolution regarding a policy of non-enforcement for mask wearing in schools and on District property. The District has the duty to adopt policies necessary and proper for the efficient administration of the affairs of the District. The District strongly values preserving student safety, and strives to balance that safety with the needs of students to engage in an in-person learning environment. The District was the leader in getting students back to school and staying open with in person learning during these past two years. It is our responsibility to offer equal access to the educational programs of the District for all students. The District acknowledges the growing mental health crisis among children and, will in all decisions, weigh the need for normalcy. The District acknowledges it is our responsibility to protect, not only the physical health of our students, but also the social, emotional, and mental health.

CUSD WIG 2: Communications – Communicate with, and engage students, parents, employees, and community members in Districtwide and community-specific decisions. Contact : Lisa Davis, Trustee Area 3

Trustee Recommendation

It is recommended the Board President recognize Lisa Davis, Trustee Area 3, to present this item.

Following discussion, it is recommended by Trustee Davis that the Board hear her request to adopt Resolution No. 2122-42, Resolution of the Capistrano Unified School District, Board of Trustees, Regarding Mask Mandates for Students.

Motion by _____ Seconded by _____

ADJOURNMENT

Motion by _____ Seconded by _____

**THE NEXT REGULAR MEETING OF THE BOARD OF TRUSTEES IS
WEDNESDAY, MARCH 16, 2022, 7:00 P.M.
AT THE CAPISTRANO UNIFIED SCHOOL DISTRICT OFFICE BOARD ROOM
33122 VALLE ROAD, SAN JUAN CAPISTRANO, CALIFORNIA**

For information regarding Capistrano Unified School District, please visit our website:
www.capousd.org

INSTRUCTIONS FOR PRESENTATIONS TO THE BOARD BY PARENTS AND CITIZENS PRESENT AT THIS MEETING

We are pleased you can be with us at this meeting, and we hope you will return often. Your visit assures us of continuing community interest in our schools.

The members of the Board of Trustees of this District are locally elected state officials, who serve four-year terms of office, and who are responsible for the educational program of our community from grades kindergarten through twelve. They are required to conduct programs of the schools in accordance with the State of California Constitution, the State Education Code, and other laws relating to schools enacted by the Legislature, and policies and procedures, which this Board adopts.

The Board is a policy-making body whose actions are guided by the school district's Mission and Goals. Administration of the District is delegated to a professional administrative staff headed by the Superintendent.

The agenda and its extensive background material are studied by each member of the Board for at least two days preceding the meeting. Board Members can call the administrative staff for clarification on any item, and many of the items on the agenda were discussed by the Board during previous meetings. These procedures enable the Board to act more effectively on agenda items than would otherwise be possible.

WHAT TO DO IF YOU WISH TO ADDRESS THE BOARD OF TRUSTEES

If you wish to register to be a public speaker, please register by clicking [here](#).

CLOSED SESSION: In accordance with Education Code § 35146 and Government Code § 54957, the Board may recess to Closed Session to discuss personnel matters, which they consider inadvisable to take up in a public meeting.

Members of the public shall have an opportunity to address the Board regarding items on the agenda to be considered during Closed Session prior to the Board adjourning the meeting to Closed Session. Individual presentations are limited to a maximum of three minutes; however, the time assigned for individual presentations could be fewer than three minutes depending upon the total number of speakers who wish to address a specific agenda topic.

ORAL COMMUNICATIONS (Non-Agenda Items): Regular, scheduled meetings of the Board shall have a portion of each meeting devoted to Oral Communications. Oral Communications, will take place following Special Recognitions. The total time for the Oral Communications portion of regular meetings shall be twenty minutes. Individual presentations are limited to a maximum of three minutes per individual but could be less if there are a large number of Oral Communication speakers. Legally, the Board may not take action on items raised by speakers under Oral Communications. The Board may, however, at its discretion, refer items to the administration for follow-up or place topics on a future Board agenda.

ORAL COMMUNICATIONS (Agenda Items): Members of the public shall also have an opportunity to address the Board on Open Session agenda items before their consideration by the Board. Individual presentations for the Consent Calendar are limited to a maximum of five minutes for all Consent Calendar items. Individual presentations for Discussion/Action agenda items are limited to a maximum of three minutes however; the time assigned for individual presentations could be fewer than three minutes depending upon the total number of speakers, who wish to address a specific agenda topic. The total time for presentations shall be limited to twenty minutes per agenda topic, unless the Board grants additional time. The Board shall hear all presentations after any staff comments but prior to the formal discussion by Board members of the agenda topic under consideration.

Once an agenda item has been opened for public comment, no additional "Request to Address the Board of Trustees" cards shall be accepted for that topic unless otherwise approved by the Board. When addressing a specific item on the agenda, the Board may vote to allow additional public speaker time for an individual Discussion/Action item.

PUBLIC HEARINGS: Any time the Board schedules a separate public hearing on a given topic, it shall not hear speakers on that topic before the public hearing, except as to the scheduling of the hearing, nor shall it hear speakers after the hearing, except as to changes in the recommended action at the time of the hearing.

REASONABLE ACCOMMODATION

In order to help ensure participation in the meeting of disabled individuals, appropriate disability-related accommodations or modifications shall be provided by the Board, upon request, in accordance with the Americans with Disabilities Act (ADA). Persons with a disability who require a disability-related accommodation or modification, including auxiliary aids and services in order to participate in a Board meeting, shall contact the Superintendent or designee in writing by noon on the Friday before the scheduled meeting. Such notification shall provide school district personnel time to make reasonable arrangements to assure accessibility to the meeting.