

REMUNERATION, REIMBURSEMENT, AND OTHER BENEFITS

Remuneration

Note: Education Code 1090 and 35120 authorize County Board and Governing Board members respectively to receive remuneration, and specify allowable maximum amounts based on ADA. SB 214 (Ch. 401, Statutes of 2001) amended those Education Code sections to authorize a majority of the Board, on an annual basis, to vote to increase their remuneration in an amount not to exceed five percent, based on the present monthly rate of compensation. However, voters in the district may place a referendum regarding the increase on the ballot and the action may then be rejected by a majority of the voters. Because actions of a school Board have not been subject to referendum in the past, it is unclear which procedures in the Elections Code, regarding number of signatures required and other petition processes, should be used for this referendum. It is likely that clean-up legislation will be pursued. In the meantime, districts should consult legal counsel as appropriate.

Under the general waiver authority of Education Code 33050-33053, it is possible for the State Board of Education to waive Education Code 35120 at a district's request.

Each member of the Governing Board may receive a monthly compensation of no more than \$10.00.

Board members are not required to accept payment for meetings attended.

Reimbursement of Expenses

Board members shall be reimbursed for traveling expenses incurred when so authorized in advance by the Board. (Education Code 35044)

The rate of reimbursement shall be the same rate specified for district personnel.

(cf. 3350 – Travel Expenses

(cf. 9240 – Board Development

Health and Welfare Benefits

Note: Districts have the option of providing health and welfare benefits for Board members pursuant to Government Code 53205. Districts have flexibility in selecting the types of coverage and the methods of payment for such coverage. However, Internal Revenue Service Publication 571 indicates that school Board members are not eligible to participate in district programs for the purchase of tax sheltered annuities pursuant to 26 USC 403(b).

Government Code 53202 authorizes a Board member to choose his/her own plan and the district may, rather than contracting itself, approve such an arrangement. In 83 Ops. Cal. Atty. Gen. 124 (2000), the Attorney General opined that, once district approval is given, the district may pay for this benefit by way of reimbursement to the Board member who has paid for the benefit instead of direct district payment to the insurer. However, according to the Attorney General, a district may not make cash payments to Board Members in lieu of providing them with health insurance benefits. The Attorney General's opinion further states that, depending on the individual circumstances, making such unauthorized payments may constitute a criminal offense and a civil action may be brought by affected individuals or taxpayers against board members who received the unauthorized Payment.

Board members may participate in the health and welfare benefits program provided for district employees.

Board members who elect to participate shall pay the full cost of premiums.

Benefits for Retired Board Members

Note: Under Government Code 53201, the Board may allow retired Board members with at least one term of office to continue health and welfare benefits, provided the retired members pays the full cost of the premiums; boards choosing to offer this option may amend the following paragraph to require more than one term of service if desired. Government Code 53201 also provides that Board members whose first term in office began on or after January 1, 1995, may continue health coverage upon retirement only at their own expense.

Any member whose first term of office began on or after January 1, 1995, and any other member retiring from the Board after at least one term, may continue the health and welfare benefits program at his/her own expense if coverage is in effect at the time of retirement. (Government Code 53201)

The district shall pay health insurance premiums for retired Board members who served in office after January 1, 1981 and who have served a total of 12 years or more. These payments shall be made only if they were being made on behalf of one or more retired Board members before January 1, 1994, and under the same terms. The Board may grant the same or a lesser benefit upon retirement to current Board members, provided that they served 12 years or more on the Board, and provided that their first term began before January 1, 1995. This benefit shall not be granted to Board members whose first term of office began on or after January 1, 1995.

Legal Reference:

EDUCA110N CODE

1090 Compensation for members and mileage allowance

33362 Reimbursement of expenses (Department of Education and CSBA workshops)

35012 Board members; number, election and term

35044 Payment of traveling expenses of representatives of board

35120 Compensation (services as member of governing board)

35172 Promotional activities

44038 Cash deposits for transportation purchased on credit

ELECTIONS CODE

9140-9147 Referendum for county elections

9340-9342 Referendum for local public entities

17200 Preservation of referendum petitions

GOVERNMENT CODE

20322 Elective officers; election to become member

53200-53209 Group insurance

UNITED STATES CODE. TITLE 26

403(b) Tax-sheltered annuities

COURT DECISIONS

Thorning: v. Hollister School District. (1992) 11 Cal.App.4th 1598

Board of Education of the Palo Alto Unified School District v. Superior Court of Santa Clara County (1979) 93 Cal.App.3d

578 ATTORNEY GENERAL OPINIONS 83 Ops. Cal. Atty. Gen.; 124 (2000)

Adopted: 3-11-04

**GRAVENSTEIN UNION SCHOOL DISTRICT
Sebastopol, California**