

March 14, 2019

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Via E-Mail: [superintendent@scusd.edu](mailto:superintendent@scusd.edu)  
and U.S. Mail

Sacramento City Unified School District School Board  
c/o: Superintendent Jorge A. Aguilar  
Sacramento City Unified School District  
5735 47<sup>th</sup> Avenue  
Sacramento, CA 95824

**Re: Sacramento City Teachers Association  
CTA No. 190012 RIF  
Brown Act Violation Cure Demand**

Dear Board Members:

As you know, as a Group Legal Services attorney for the California Teachers Association, I represent the Sacramento City Teachers Association. I am hereby placing the Board on notice that we believe the Board violated the Brown Act, specifically Government Code sections 54953, 54954.2, 54956.9, and 54957.6, at or prior to its March 7<sup>th</sup> meeting.

We believe that the Board violated the above provisions of the Brown Act at or prior to the open-session Board meeting on March 7, 2019. At this meeting, the Board “presented” Board Resolution number 3060, titled on the Agenda as a “Special Presentation,” which concerned the Fiscal Solvency Plan and budgetary matters. The Board “presented” the Resolution by taking turns reading paragraphs of the brand new Resolution aloud, in serial style. After reading the Resolution, Board President Ryan provided a statement regarding the Resolution, clearly speaking on behalf of the entire Board and not attempting to facilitate any type of discussion. President Ryan then noted that there was no public comment<sup>1</sup> and asked for someone else to move to adopt the resolution. Board Vice President Woo then moved to adopt the

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<sup>1</sup> President Ryan stated that there were no public comments regarding the Resolution; however, the Board did not make this Resolution available in the Agenda Packet prior to the meeting, and only made copies available immediately before the open session began. The public did not have a legitimate chance to actually consider the Resolution, and presumably, the public likely assumed that the Board would actually have a discussion regarding the Resolution. Had the Board provided any information to the public within a reasonable amount of time prior to the meeting, surely the public would have questions regarding the Resolution.

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Resolution, and in the process proceeded to make his own statement regarding an article that was to be published the following day in the Los Angeles Times regarding state workers' unused vacation and its cost to California. The entire presentation took less than 13 minutes, with over 10 minutes of the time used to read the Resolution itself aloud.

The Board failed to have any open-session substantive deliberations regarding what this Resolution was, the substance of the Resolution, and whether or not to adopt it. The theatre style presentation the Board presented was clearly a fait-accompli to the public, which indicates that the discussions regarding this Board Resolution occurred in either a closed-session meeting or at an un-agendized meeting.

Considering the agenda for March 7, along with all of the agendas during the months of January and February, these discussions were not authorized by any of the closed session agenda items listed. Additionally, this Resolution relates directly to the Board Resolutions 3053, 3054, and 3055 regarding teacher layoffs, which we previously alleged were also void and in violation of the Brown Act,<sup>2</sup> showing further closed session illegal discussion of general budget principles in violation of the Brown Act. Any Board discussions regarding the general budget should have been made in open session where the public could hear the Board's thoughts and concerns and could have addressed those thoughts and concerns prior to the Board voting to pass this Resolution.

As you know, the purpose of the Brown Act is set forth in Government Code section 54950, and states,

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

Cal. Gov't Code § 54950. The Legislature further provided that the intent of the Brown Act is that the agencies' actions be taken openly and that their deliberations be conducted openly. Cal. Gov't Code § 54950.

The Brown Act defines "meeting" broadly and recognizes that when a quorum of the Board is present, "to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body" a meeting has occurred. Cal. Gov't Code § 54952.2. All meetings must be open and public unless a specific exception set forth in the Brown Act exists to allow a closed session

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<sup>2</sup> The statement, "Whereas, any cuts made to save our schools from a takeover will be based on parity relative to each bargaining unit's size and cost to the District" concerns the layoff of certificated employees in the District. See Resolution No. 3060 – Resolution on Fiscal Solvency Plan to Save Our Schools, page 2.

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discussion. Cal. Gov't Code § 54953. The Brown Act provides that, "At least 72 hours prior to a regular meeting, the legislative body of a local agency shall post an agenda containing a brief description of each item of business to be transacted or discussed at the meeting, *including items to be discussed in closed session.*" Cal. Gov't Code § 54954.2(a)(1). (Emphasis added.) Subject to enumerated exceptions that are not present here, should an item not appear on the posted agenda, no action or discussion shall be undertaken. Cal. Gov't Code § 54954.2(a)(3). Section 54954.5 provides the format in which closed session items may be described on the agenda.

Between January 17, 2019 and March 7, 2019, the Board had eight meetings, the majority of which were closed session. The only meeting agenda to mention Board Resolution 3060 was the March 7 meeting. Unless the Board passed a resolution which it never discussed, logic leads one to conclude that the discussions surrounding Resolution 3060 occurred outside of open session. Although there are exceptions to allow a closed-session discussion, an exception here that would apply to Resolution 3060 does not exist. Section 54957.6 allows for closed session with the District's labor negotiator for purposes of developing negotiation strategies, however, this does give the Board free reign to discuss anything related to funding solely because a negotiator is present. The exception in Section 54957.6 is narrow, and the law limits budget discussions when it specifically states that those discussions, "...may include discussion of an agency's available funds and funding priorities, *but only insofar as these discussions relate to providing instructions to the local agencies designated representative.*" Cal. Gov't Code § 54957.6(a)(emphasis added).

Further, as the Board knows, it must disclose items to be discussed during closed session through published agendas. There is no mention of Resolution 3060 at all in any of the closed-session meeting agendas, much less a description that meets the requirements under the Brown Act. Moreover, the fact that the agenda referred to the Resolution as a "Special Presentation" further solidifies that the Board had no plans to actually discuss this Resolution in front of the public. Rather, the term "presentation" implies that the Board is simply telling the public, Shakespearean-style, about the Resolution that it has decided to adopt, rather than allowing the public to view the Board's deliberations. Thus, because the Board failed to meet the requirements under the Brown Act, the passage of Resolution 3060 is void.

As mentioned above, Resolution 3060 relates back to layoffs of certificated employees. The letter we sent to the Board just last week placed the Board on notice that we believed the Board was violating the Brown Act by engaging in general discussions of the budget relating to Board Resolutions 3053, 3054, and 3055. The lack of discussion in open session surrounding Resolution 3060 provides further evidence that layoffs are indeed being discussed in closed session, in clear violation of the Brown Act, and is further evidence that not only is Resolution 3060 void, but that Resolutions 3053, 3054, and 3055 are void as well.

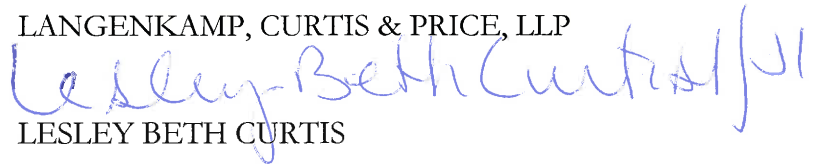
I am writing to comply with California Government Code sections 54960, 54960.1, 54960.2. In compliance with those sections, we are, again, requesting that

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the Board cease and desist from any further violations of the Brown Act and recognize as void the actions taken on March 7 to pass Resolution 3060. If the Board does not cure and correct these issues, and does not recognize the March 7, 2019 vote taken as void, we will advise the Sacramento City Teachers Association to consider any further legal action available to it.

Very truly yours,

LANGENKAMP, CURTIS & PRICE, LLP



LESLEY BETH CURTIS

cc: Raoul Bozio, SCUSD General Counsel  
Dulcinea Grantham  
John Borsos  
Nikki Milevsky  
David Fischer