

March 7, 2019

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Via E-Mail: 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 47th Avenue
Sacramento, CA 95824

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

Dear Board Members:

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 have reason to believe that the Board violated the Brown Act, specifically Government Code sections 54953, 54956.9, and 54957.6.

We have reason to believe that the Board violated the above provisions of the Brown Act in February of 2019, including at but not limited to the February 28th closed-session Board meeting, when in closed session the Board had general discussions of the budget. These discussions were not authorized by any of the closed session agenda items listed on the agenda. Furthermore, the general budget discussion directly related to the later passage in open session of Resolutions 3053, Resolution to Eliminate Certificated Employees, Resolution 3054: Of Determination for Tie-Breaking Criteria, and Resolution No. 3055: (“Skipping Criteria”), making passage of these Resolutions void. Any Board questions about general budget, as well as answers to those questions, 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 eliminate over 150 teaching positions.

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

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*Labor and
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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. California Courts recently emphasized the critical importance of this public policy in a 2018 Court decision. The Second District Court of Appeal considered the application of the Brown Act to a City Council and stated,

City Council meetings like Norwalk's, where the public is afforded the opportunity to address the Council, are the focus of highly important individual and government interests. Citizens have an enormous first amendment interest in directing speech about public issues to those who govern their city.

Ribakoff v. City of Long Beach (2018) 27 Cal.App. 150, 174. Citizens' first amendment interests are equally present at each and every school board meeting.

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 discussion. Cal. Gov't Code § 54953. Here, the Board discussed matters (the general budget) in closed session that were necessary and preliminary to making a vote to reduce staffing and to passage of Board Resolutions 3053, Resolution to Eliminate Certificated Employees, Resolution 3054: Of Determination for Tie-Breaking Criteria, and Resolution No. 3055: ("Skipping Criteria").

Further supporting the Associations' position is the fact that the Board's open session discussion of Board Resolutions 3053, 3054 and 3055 was minimal. Between January 17, 2019 and February 28, 2019, the Board had seven closed session Board meetings (On January 17, January 24, January 30, February 7, February 19, February 21, and February 28) each scheduled to last at least one and a half hours. In contrast, the Board held only three open session meetings during this time, on January 17th, February 7th and February 28. The Board discussed Board Resolutions 3053, 3054, and 3055 at only one open session meeting, on February 28, 2019, prior to passing all three resolutions. Only three of the seven Board members asked any questions about the resolutions, and together the Board asked a total of six questions about the three resolutions. The entire discussion of all three resolutions combined on February 28,

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2019 took only 37 minutes, and that time included public comment from SCTA Vice-President Nikki Milevsky.

I am writing to comply with California Government Code sections 54960, 54960.1, 54960.2. In compliance with those sections, I am requesting that the Board cease and desist from any further violations of the Brown Act and recognize as void the actions taken on February 28 to pass Resolutions 3053, 3054, and 3055.

We are requesting that the Board remedy this error by ceasing and desisting from any further violations of the Brown Act. We do not believe that a vote on the March 7, 2019 meeting to pass further certificated layoff resolutions will cure the above-discussed Brown Act violations since the closed session discussions underlying passage of the layoff resolution (about the budget in general) have already occurred without the public being able to be present. If the Board does not cure and correct these issues, and does not recognize the February 28, 2019 vote taken as void, we will advise the Sacramento City Teachers Association to consider any further legal action available to it. We will also challenge the layoff itself through the administrative hearing process and in this letter we in no way waive that challenge.

Very truly yours,

LANGENKAMP, CURTIS & PRICE, LLP

A handwritten signature in blue ink, appearing to read "Lesley Beth Curtis", with the word "for:" written in smaller blue ink to the right of the signature.

LESLEY BETH CURTIS

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